

# START

0027243

## MEETING MINUTES

Subject: Expedited Response Action Weekly Interface

TO: Distribution

BUILDING: 740 Stevens Building

FROM: W. L. Johnson

CHAIRMAN: G. C. Henckel

Dept-Operation-Component	Area	Shift	Meeting Dates	Number Attending
Environmental Engineering	3000	Day	April 5, 1993	10

### Distribution

#### State of Washington Department of Ecology

J. Donnelly  
 L. Goldstein  
 D. Goswami\*  
 R. L. Hibbard  
 J. Phillips  
 D. D. Teel  
 N. Uziemblo  
 J. Yokel  
 T. Wooley\*

#### U.S. Army Corps of Engineers

Raimo Lias\* A5-20  
 Kevin Oates\*  
 Michael Sakai\*

#### U.S. Department of Energy, Richland Field Office

H. L. Chapman A5-19  
 J. K. Erickson A5-19  
 E. D. Goller A5-19  
 R. G. McLeod A5-19  
 P. M. Pak A5-19  
 R. K. Stewart A5-19

#### U.S. Environmental Protection Agency

P. R. Beaver\* B5-01  
 D. R. Einan  
 D. A. Faulk\*  
 L. E. Gadbois  
 P. S. Innis\*  
 D. R. Sherwood

#### Westinghouse Hanford Company

L. D. Arnold B2-35  
 M. V. Berriochoa B3-30  
 H. D. Downey H6-27  
 W. F. Heine B2-35  
 G. C. Henckel\* H6-04  
 W. L. Johnson\* H6-04  
 J. K. Patterson H6-27  
 D. L. Sickle H6-27  
 T. M. Wintczak H6-27  
 EDMC H6-08  
 ERAG Route H6-04  
 GCH File/LB



### \*Attendees

The weekly interface meetings on the expedited response actions (ERAs) was held to status the ERAs for the U.S. Department of Energy, Richland Field Office (RL), the U.S. Environmental Protection Agency, and the State of Washington Department of Ecology. The meeting was conducted in accordance with the attached agenda. Actions were formally reviewed and the attached action item list was updated. The status of the ERAs was discussed with a brief presentation by the U.S. Army Corps of Engineers as the possible regulatory framework applicable to the North Slope and Arid Lands Ecology Sites.

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Distribution  
Page 2  
April 5, 1993

**Attachments:**

1. Agenda
2. Action Item List
3. Decisions, Agreements & Commitments
4. Expedited Response Action Weekly Report, week ending 04/04/93
5. Property Transfer Document Summaries

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EXPEDITED RESPONSE ACTION INTERFACE MEETING

-ACTION ITEMS-  
April 5, 1993

ORGANIZATION

ACTION ITEM

WHC

WHC will provide RL, EPA, and Ecology copies of the GPR reports for the Riverland ERA site when it becomes available. (open) Note: North Slope, Sodium Dichromate, and Pickling Acid reports have been provided.

RL

RL will contact EPA to status the 618-9 closure report. (open)

EPA/Ecology

EPA and Ecology will examine available data for radiation background as it pertains to ERAs. (open)

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EXPEDITED RESPONSE ACTION INTERFACE MEETING

-DECISIONS, AGREEMENTS, & COMMITMENTS-  
April 5, 1993

DECISIONS:

AGREEMENTS:

No significant decisions, agreements or commitments

COMMITMENTS:

\_\_\_\_\_  
DOE Representative

\_\_\_\_\_  
EPA Representative

\_\_\_\_\_  
ECOLOGY Representative

*[Signature]*  
\_\_\_\_\_  
WHC Representative 4/5/93

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Weekly Report, Week Ending April 4, 1993  
EXPEDITED RESPONSE ACTIONS  
Technical and Management Contact - Wayne L. Johnson, 376-1721  
Environmental Division

North Slope Expedited Response Action - Preparation of the ERA Proposal continues. A tour was provided to personnel from Decommissioning Engineering who are developing the total landfill excavation alternative. Possible source for water to be used for dust abatement and asbestos control if excavation is necessary were located. The necessary approvals for using this water is being sought. Regulatory analysis was requested to review the appropriate regulations for determining if the demolitions wastes associated with the military outposts should be included in the excavation alternative.

Continue to wait for a response from the Army Corp of Engineers concerning appropriate ordinance survey techniques necessary for releasing the North Slope area.

N-Springs Expedited Response Action - WHC comments on the draft ERA proposal have been provided to IT Corp. for dispositioning. The NEPA categorical exclusion (CX) has been internally approved and transmitted to DOE-RL. DOE-RL has been asked to expedite review of the CX and determine if it is applicable. A plant forces work review has been submitted for determining who will be responsible for overseeing the construction activities associated with the ERA.

618-11 Burial Ground Expedited Response Action - The first draft of the *Transportation & Packaging Assessment* document was reviewed. Comments were generated and submitted for consideration. The *Historical Characterization Report* draft has not been delivered and is behind schedule. Anticipated delivery of this document is now early next week. Review will be expedited. The USRADS write-up was concluded and has been received for 618-11. No surface contamination or significantly elevated dose rates were detected.

Riverland Expedited Response Action - The Riverland ERA EE/CA is undergoing WHC review. A 15 foot wide strip on the Riverland Maintenance shop concrete pad was cleaned. A heavy black petroleum deposit between each of the two parallel rails was found. After returning the next day to perform a micro rad survey, the heavy petroleum deposits were gone. Photographic evidence supports this phenomena. Micro rad survey readings ranged from 8 to 12 micro rad (background levels) throughout the area.

White Bluffs Pickling Acid Crib Expedited Response Action - Groundwater data was collected and reviewed by Geosciences. This information did not indicate that the TCE contamination in F-Area wells was a result from the Pickling Acid Cribs. It does not completely rule out the possibility, however, since no contamination has been detected in the soils surrounding the cribs, the cribs are no longer considered to be a source of contamination. In discussions with the EPA, it was decided that the groundwater will be further investigated as part of the 100-IU-2 Operable Unit. ERA proposal is in preparation. (JMF)

Sodium Dichromate Expedited Response Action - Sodium Dichromate ERA cleanup activities were restarted after the brief delay caused by the discovery of the asbestos material. We only have 29 anomalies and zone left to check and

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Deepening of well 299-W18-96 within 216-Z-18 crib has been completed. The well's total depth is 147 ft. No radiological contamination was encountered. Deepening of well 299-W18-174 within 216-Z-1A tile field has been initiated.

C. Site Characterization (with VOC-Arid ID)

Revision 1 of the FY 93 Site Characterization Work Plan has been released. This revision includes adjustments to the sampling and analysis plan prior to initiating deepening of well 299-W18-174 within 216-Z-1A tile field; these adjustments were based on experiences in the deepening of well 299-W18-96 within 216-Z-18 crib.

Source Term Characterization - Engineering Surveillance and Testing (ES&T) staff is pursuing analysis of the sludge sample removed from line 840. ES&T provided a draft final report of the camera inspection of the effluent pipelines on March 26, 1993, for review and provided copies of the official videotapes on March 30, 1993.

Crib Boreholes - Deepening of 299-W18-174 within 216-Z-1A began March 17, 1993. The initial depth was 46 ft; as of March 30, 1993, the depth was 100 ft. The zone has been downgraded from an SCA to an RCA.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

*Scott*

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NOV 17 1992

NOV 13 1992

OFFICE OF ENFORCEMENT

MEMORANDUM  
Hazardous Waste Division

SUBJECT: Facilitating Property Transfers at Federal Facilities

FROM: Thomas L. McCall, Jr. *AD McCall*  
Acting Deputy Assistant Administrator  
for Federal Facilities Enforcement

TO: Deputy Regional Administrators, Regions I-X  
Waste Management Division Directors,  
Regions I-X  
Regional Counsels, Regions I-X

I am pleased to provide you with the September 22, 1992 Environmental Protection Agency (EPA) memorandum entitled "Facilitating Property Transfers at Federal Facilities" which addresses concerns relating to the manner in which federal facilities are listed on the National Priorities List (NPL) and the consequences of NPL listing on plans for the reuse of portions of federal facilities.

Although the memorandum was developed prior to the enactment of the Community Environmental Response Facilitation Act (CERFA), I believe that the approach is fully consistent with CERFA and that the identification of uncontaminated parcels mandated by CERFA (copy attached) is an appropriate mechanism for implementing the objectives of the memorandum.

If you have any questions concerning the attached material, please have your staff contact Bob Carr at 202/260-2035 or Linda Rutsch at 202/260-9806.

Attachments

HANFORD PROJECT OFFICE  
NOV 20 1992  
ENVIRONMENTAL AGENCY



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 22 1992

MEMORANDUM

**SUBJECT:** Facilitating Property Transfers at Federal Facilities

**FROM:** Don R. Clay  
Assistant Administrator for Solid Waste  
and Emergency Response

Herbert H. Tate, Jr.  
Assistant Administrator for Enforcement

Raymond B. Ludwiszewski  
Acting General Counsel

**TO:** Daniel McGovern  
Regional Administrator  
Region IX

This responds to your memoranda, dated January 28 and May 26, 1992, suggesting approaches for facilitating transfers of property at closing military installations by focusing on the extent or "boundary" of the NPL site. We found your suggestions helpful, and based upon them we have developed the following approaches which, we believe, may be useful in expediting property transfers without hindering any ongoing environmental response action.

In addition, as discussed in more detail below, we believe that confusion about the consequences of NPL listing is a factor that may impede property transfers. Therefore, we believe that careful explanation to potential property buyers of what NPL listing does and does not mean can remove artificial barriers to re-use of closing bases.

I. Site definition at listing

Your first suggestion is that the approach to defining future NPL sites be changed so that the site does not automatically encompass the entire installation. It is possible that some federal sites have been defined too broadly in the

past, and we believe that your suggestion has merit. We encourage your staff to examine the possibility of defining sites more precisely as they go through the process of listing additional military installations.

To avoid confusion, it is important to discuss in detail how such an approach should be carried out. As you know, the NPL is a list of releases. Therefore, when a site is listed, it is necessary to define the release (or releases) encompassed within the listing. The approach generally used at federal facilities is to delineate a geographic area (usually the area within the installation boundaries) and define the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation are not the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to which contamination from that area may have migrated or from which the contamination in that area may have come.<sup>1</sup>

As you have pointed out, the boundaries used to define the site at a federal installation need not be the same as the installation boundaries. A smaller (or larger) area could be used instead. Your suggestion, as we understand it, is to delineate the defining area more narrowly, so that less than the entire installation is included. In the past, this approach has not been used because of concerns that the information available at the date of listing was too sketchy to determine with any confidence where releases were or were not likely to have occurred. To ensure that all releases were addressed, and avoid the need for a subsequent rulemaking to enlarge the site, the entire installation was included.

However, federal sites may be defined more narrowly in appropriate cases. For example, where information is available indicating that releases are unlikely to have occurred within some portion of an installation, EPA could choose to exclude that portion in selecting the area that will define the site. As you pointed out in your May 26, 1992 memorandum, this possibility will be dependent, in large part, on the quality of site data furnished by the federal facility. The precise nature of the information required to make such a decision will have to be examined on a site-specific basis. In the absence of affirmative evidence showing releases to be unlikely in some area (which could range from records on historic uses to sampling data), the traditional approach of including the entire installation would

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<sup>1</sup> For purposes of the permit waiver in Section 121(e)(1) of CERCLA, the site also includes any area in very close proximity to the contaminated area that is necessary for implementation of the response action. See 40 CFR 300.400(e).

generally be appropriate for the reasons discussed above. Since the site listing process involves both Regional and headquarters staff, definitional approaches at individual sites should be coordinated.<sup>2</sup>

We wish to make clear that a decision to use a defining area smaller than the entire installation does not guarantee that some part of the remaining portion may not be part of the site. As noted above, the site includes any location outside the defining area to which contaminants from within the defining area have spread.

In addition, a decision not to include portions of an installation is not irrevocable. An area not initially included within the site might be determined on the basis of later information to warrant inclusion. In that case, EPA could change the defining area, or could list the new area as a separate site; in either case, a rulemaking would be required.

## II. Defining the extent of currently listed sites

Your second suggestion relates to facilitating transfer of parcels that are not part of the "site" by determining that those parcels are not contaminated and thus not part of the site as defined. Your point is based on the fact that, as noted above, the "site" at a federal installation usually consists of the contaminated portion of the installation, so that a noncontaminated parcel is not, by definition, part of the site.

This point also has merit, and can be used as the basis for efforts to facilitate transfers in ways that will be discussed in detail below. At the same time, it is essential that all parties involved (including DOD and any potential purchasers) understand the distinction between re-defining the site (which can be done only by rulemaking) and expressing the Agency's view, based on available information, as to whether a particular parcel appears to be contaminated and thus falls within the site as defined.

The definition of an NPL site is established by rulemaking. A federal site is typically defined to include all contaminated areas within the boundaries of the facility, and all areas to

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<sup>2</sup> One site-specific consideration will be weighing the value of obtaining additional information against any delays in listing that may result. For some federal facility sites, EPA is potentially subject to litigation if a listing decision is delayed.

which or from which that contamination has spread.<sup>3</sup> Changing the definition of the site would require amending the rule.<sup>4</sup> While such an amendment might theoretically be possible, it is generally not advisable and we do not understand this to be your proposal.<sup>5</sup>

Rather, your suggestion is that "when a consensus is reached that a given property on a closing base is uncontaminated", EPA should "go on the record that the clean property is not, nor has been, part of the NPL site." This is a useful insight, and as discussed below an approach along these lines may be valuable.

Any such statement by EPA would not, of course, be a rulemaking, and thus would not alter the legal definition of the site. The site would still consist of the contaminated areas within the boundaries of the installation (or the prior boundaries, if the parcel were transferred). Rather, a statement as to whether a particular parcel is contaminated would amount to an opinion by the agency, based on its understanding of the facts, as to whether the "rule" (that is, the site listing) applied to a given parcel. Providing such a statement would be similar to advising a regulated party whether its activity was in compliance with an EPA regulation. As you know, the Agency is generally cautious about giving such opinions, and the scope of

<sup>3</sup> Listing packages may not be this precise; however, this is how EPA would interpret a listing that designates an identified installation as an NPL site and does not expressly limit the site to a smaller portion of the installation.

<sup>4</sup> To avoid confusion, such an amendment would not be a "deletion"; sites are deleted from the NPL only under the criteria in 40 CFR 300.425(e), which in general requires either that remedial action under CERCLA have been completed, or that a finding be made after completion of the remedial investigation that the site does not present a significant threat. Moreover, it is the Agency's policy not to delete portions of sites.

<sup>5</sup> No such amendment of a site definition has ever been adopted in the past. Amending the site definition would be administratively burdensome. As discussed below, it is very difficult to establish definitively that a parcel is uncontaminated, and should the parcel be found contaminated after an amendment, it would take yet another rulemaking to make it part of the site again. Finally, it may be more attractive to prospective purchasers to have the assurance that, if a transferred parcel is found to be contaminated, it will be addressed as part of an ongoing response action pursuant to an IAG between EPA and DOD rather than as a non-NPL site which may have lower priority for DOD and at which EPA would have little or no role.

any such opinion is limited to EPA's understanding of the facts. EPA would also be free to revise its opinion if its understanding of the facts changed.

EPA's ability to provide such an opinion will depend upon how certain the Agency is of the facts at the site. Where there is a consensus that property is clean, as presumed in your proposal, a fairly strong opinion could be stated. In other cases, it may be difficult if not impossible to determine with any certainty where contamination is located both in soil and in groundwater. The latter is particularly likely to be the case at facilities where a variety of activities potentially involving releases of hazardous substances have taken place over a long period of time, and where it is difficult from available records to determine with certainty where all such activities occurred. Furthermore, because contamination can migrate a statement at any given time as to the location of the "site" would not necessarily be accurate later.

In short, EPA may be able to assist DOD and its prospective transferees by providing its current view as to whether a particular parcel is, or is likely to be, contaminated. At the same time, the precise content of any such statement will necessarily depend on the nature and the extent of the information available at the time the advice is given. Where the information available to EPA warrants, a relatively strong statement might be made indicating, for example, that based on the known history of the site and the location of all known contamination, EPA has no reason to believe that the parcel is contaminated. Where the information is more limited, the advice would necessarily have to be qualified accordingly. In any case, it should be noted that if the parcel should later be found to be contaminated it would still be considered part of the site.

To avoid excessive administrative burdens, it would be desirable to limit the occasions for providing such statements. The most appropriate vehicle for giving such advice is the process currently being developed by EPA and DOD for identifying parcels suitable for transfer under section 120(h) of CERCLA. It is envisioned that this process will, among other things, identify parcels at which the transferring agency may properly conclude that section 120(h) does not apply because there has been no storage of hazardous substances for a year or more, no known release, and no disposal of hazardous substances. In connection with that process EPA may, if the evidence warrants, provide a statement, as discussed above, as to its current view of whether the property appears to have been contaminated. As you note, such a determination is linked to a specific statutory requirement for federal property transfers, and would not set a precedent for defining site "boundaries" at other sites.

Again, it is important to note that such a statement would not alter the legal definition of the site. For the same reason, a determination by DOD that a parcel is transferable for purposes of section 120(h) would not constitute a definitive finding that the parcel is not part of the "site."<sup>6</sup>

We recognize that the kind of statement suggested here may be less attractive to potential buyers of property than a binding determination that the parcel in question is not part of the NPL site. However, the Agency cannot make such a determination without a rulemaking which, for reasons discussed above, we would not consider generally advisable. We believe that the best way to address remaining concerns is to correct some common misunderstandings about CERCLA liability, which are likely the source of the concern private parties have about purchasing property that is considered "part of" an NPL site.

Most important, whether a parcel is part of an NPL site is unrelated to CERCLA liability. Liability under CERCLA is determined under section 107, which makes no reference to NPL listing (or, for that matter, to the status of property under section 120(h)). NPL listing does not create CERCLA liability where it would not otherwise exist. Rather, liability on the basis of property ownership arises if the property is part of a CERCLA "facility" (i.e., an area to which contamination has come to be located).

Confusion may arise because, where a release has been listed on the NPL, whether a particular parcel is part of the "site", and whether it is contaminated (and thus part of a CERCLA facility), amount to the same question. Such confusion may be compounded where a geographic area is used to define an NPL site; in such cases, the entire area is commonly, but incorrectly, referred to as "the site". However, the fact that a parcel lies within the area used to define an NPL site does not impose liability on the purchaser; what imposes liability is the presence of contamination. Therefore, what purchasers should be concerned about is not whether the parcel is within the area used to define a "site", but whether the parcel is contaminated.

The presence or absence of contamination is a factual matter that can be assessed by purchasers or by selling agencies, as well as by EPA. While EPA's informal view of the facts may be of interest, it is not a regulatory determination that would alter the definition of the site.

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<sup>6</sup> Nothing in CERCLA precludes transfer of parcel that is or may be, part of an NPL "site," so a finding of transferability is not inconsistent with considering the parcel to remain potentially part of the site.

To the extent that purchasers still have concerns about liability due to the possibility that a parcel thought to be clean is in fact contaminated, we believe that those concerns can best be addressed by pointing out that DOD would almost certainly remain liable for any contamination it caused, even after the transfer occurred. Moreover, the transferred parcel would presumably remain part of the facility for purposes of section 120(e) of CERCLA, so that DOD would be required under that provision as well (and under the IAG for the site) to address any newly discovered contamination as part of the response at the NPL site. Since the principal damages recoverable under CERCLA are response costs, and most response costs at a former DOD property would be incurred by DOD itself, a scenario under which cost recovery would be sought from such purchasers seems extremely remote. Moreover, purchasers may, depending upon the degree of investigation prior to the transfer, be able to argue that they are "innocent landowners" protected from liability under section 101(35) of CERCLA. Finally, any residual concerns could be resolved to the extent that selling agencies have the ability to offer indemnification against claims for CERCLA response costs (and agree to assume the burden of undertaking future response actions).

In short, we believe that to facilitate transfers careful explanation to potential buyers of what NPL listing does and does not mean may be as effective as, or even more effective than, than efforts simply to declare certain parcels not to be part of an NPL site.

BILL TEXT Report for H.R.4016  
As finally approved by the House and Senate (Enrolled)

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H.R.4016  
One Hundred Second Congress of the United States of America  
AT THE SECOND SESSION

Began and held at the City of Washington on Friday, the third day of January,  
one thousand nine hundred and ninety-two

An Act

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Environmental Response Facilitation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, and corrective actions at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States in accordance with applicable law, should make available without charge such excess real property.

(5) In the case of any real property owned by the United States Government transferred to another person, the United States Government should be responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including

aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) Identification of uncontaminated property.--(A) In the case of real property to which this paragraph applies (as set forth in subparagraph (E)), the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, in the case of real property that is not part of a facility on the National Priorities List, from the appropriate State official. In the case of a concurrence which is required from a State official, the concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(C)(i) Except as provided in clauses (ii), (iii), and (iv), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made at least 6 months before the termination of operations on the real property.

"(ii) In the case of real property described in subparagraph (E)(i)(II) on which operations have been closed or realigned or scheduled for closure or realignment pursuant to a base closure law described in subparagraph (E)(ii)(I) or (E)(ii)(II) by the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after such date of enactment.

"(iii) In the case of real property described in subparagraph (E)(i)(II) on which operations are closed or realigned or become scheduled for closure or realignment pursuant to the base closure law described in subparagraph (E)(ii)(II) after the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date by which a joint resolution disapproving the closure or realignment of the real property under section 2904(b) of such base closure law must be enacted, and such a joint resolution has not been enacted.

"(iv) In the case of real property described in subparagraphs (E)(i)(II) on which operations are closed or realigned pursuant to a base closure law described in subparagraph (E)(ii)(III) or (E)(ii)(IV), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date on which the real property is selected for closure or realignment pursuant to such a base closure law.

"(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain--

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E)(i) This paragraph applies to--

"(I) real property owned by the United States and on which the United States plans to terminate Federal Government operations, other than real property described in subclause (II); and

"(II) real property that is or has been used as a military installation and on which the United States plans to close or realign military operations pursuant to a base closure law.

"(ii) For purposes of this paragraph, the term 'base closure law' includes the following:

"(I) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(II) The Defense Base Closure and Realignment Act of 1990 (A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(III) Section 2687 of title 10, United States Code.

"(IV) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of enactment of the Community Environmental Response Facilitation Act.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property.

owned by the United States."

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) Clarification.--Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property."

(b) Access to Property.--Paragraph (3) of such section is further amended--

(1) by striking out " and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof " and"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer."

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 3, is further amended by adding at the end the following new paragraph:

"(5) Notification of states regarding certain leases.--In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property."

Speaker of the House of Representatives.

Vice President of the United States and  
President of the Senate.

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ALE Status

North Slope

Property Transfer WA to USACE  
Tasks

Property Transfer WA to WHC  
Tasks

Funding Pending for;

Funding in Place

- Cultural Resources Survey
- Flora/Fauna (PNL Historical)
- Characterization (Phase I Environmental Audit)
- GSA Requirements ???
- Excavation Permits
- Ordnance Survey

- Cultural Resources Survey
- Flora/Fauna Survey
- Characterization
- GSA Requirements ??
- Excavation Permits
- Ordnance Survey

Next

Next

- Contact Mechanism
- Removals
- Cleanup Certification
- Real Estate Transfer

- EE/CA
- Contract Mechanism
- Removals
- Cleanup Certification
- Real Estate Transfer

PROCESS ISSUES

1. CERCLA/MTCA requirements throughout ALE/North Slope ?

- Other Standards

- Combinations

2. Public Participation...when, how.

3. NEPA.

4. GSA Requirements.

5. SHIPO.

6. How Clean is Clean ? S & A, Documentation for 1 - 5.

7. Everything Else

8. October 1994 for Completion of Cleanup Activities.

9 5 1 2 2 0 0 1 3 2