

INFORMAL DISPUTE RESOLUTION MEMORANDUM
SS047 NIKE SITE SUMMIT
JOINT BASE ELMENDORF-RICHARDSON, ALASKA

Purpose: This document records the agreements reached during informal dispute resolution under the Federal Facility Agreement (FFA) on the draft final Record of Decision (ROD) (19 Mar 2014) for SS047 Nike Site Summit, Joint Base Elmendorf-Richardson (JBER), AK.

Background: The United States Environmental Protection Agency Region 10 (EPA) and the Alaska Department of Environmental Conservation (ADEC) submitted comments on the draft Nike ROD in December 2013/early January 2014. The Air Force (AF) Response to Comments (RTCs) and the draft final ROD were provided for review in mid-March 2014. After consideration of the RTCs and draft final ROD, EPA provided a list of primary issues to be discussed at the RTC meeting in mid-April 2014. Since a draft final ROD was provided before comments on the draft ROD were resolved, dispute was invoked according to the procedures outlined in the Fort Richardson FFA, dated 5 Dec 1994, Section 20.21 to delay finalization of the draft final document until consensus was reached.

Informal dispute was invoked during a 15 April 2014 meeting between the AF (represented by Kevin Thomas, Gary Fink, Donna Baumler and Steven Lufkin), EPA (represented by Deb Yamamoto, Sandra Halstead and Ted Yackulic) and ADEC (represented by John Halverson, Louis Howard and Jennifer Currie). Primary issues in dispute were:

- 1) Upper Site Summit (USS) Groundwater. The draft final ROD uses inconsistent terms for the subsurface water found in isolated pockets. The term groundwater is used, however it is not treated as a media of concern or exposure pathway. The draft final ROD includes a table with 14 contaminants found in groundwater that exceed Project Action Limits without a remedy to reduce volume, mobility, or toxicity.
- 2) Lower Site Summit (LSS) Groundwater Remedy. EPA and ADEC believe the draft final ROD fails to require action to satisfy the migration to groundwater soil cleanup levels in 18 Alaska Administrative Code (AAC) 75.340 and 341 which are listed as Applicable or Relevant and Appropriate Requirements (ARARs). The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) requires that ARARs must be met at the completion of remedial action or waived. The draft final ROD acknowledges that residual subsoil and groundwater contamination at LSS exceed proposed cleanup levels (PCLs), which are primarily based on ADEC's most stringent soil migration to groundwater cleanup levels. The selected remedy of excavation and offsite treatment of surface soils with Land Use Controls (LUCs) for subsurface soil and groundwater will not satisfy the soil migration to groundwater ARAR requirement.
- 3) Land Use Controls. The draft final ROD does not incorporate complete language from EPA's *Federal Facility Land Use Control ROD Checklist with Suggested Language* (LUC Checklist) per the Office of Solid Waste and Emergency Response (OSWER) Directive 9355.6-12.

- 4) **Petroleum Only Areas.** The draft final ROD includes remedies for petroleum only Area A and Area C and subareas at USS and LSS.

Resolution: The agencies met on 15 April, 23 April, 20 May and 18 June 2014 to resolve the dispute. The decision points below hereby document the agreements between the agencies and resolve the informal dispute.

- 1) **USS Groundwater:** The agencies agree groundwater does not exist at USS and that very limited subsurface water is held in bedrock depressions in areas of the former underground storage tanks (USTs). Subsurface water at USS will not be classified as groundwater and will be referred to as "pit" water. Cleanup levels for soils at USS will be based on 18 AAC 75.341, Method Two Table B1 (CERCLA compounds) direct contact (under 40" zone) and Table B2 (petroleum hydrocarbons) ingestion (under 40" zone).
- 2) **LSS Groundwater:** Groundwater at Lower Site Summit will be classified as IIIA, Insufficient Yield pending regulatory agency approval of a Supplemental Feasibility Study (SFS) that includes a technical description of LSS groundwater volume and any impacts to the watershed from contamination at LSS. Towards this goal, the AF will develop a groundwater basin transport model at LSS utilizing the existing well at Arctic Valley as a baseline condition as evidence that contamination that may migrate from LSS only results in de minimis impact to the watershed. The groundwater volume and basin transport model, as well as evaluation of expanded alternatives and costs, will be incorporated into a SFS. Following review and approval of the SFS by EPA and ADEC, the cleanup levels for soils at LSS will be based on 18 AAC 75.341, Method Two Table B1 (CERCLA compounds) direct contact (under 40" zone) and Table B2 (petroleum hydrocarbons) ingestion (under 40" zone).
- 3) **Land Use Controls:** The AF and EPA agree to use the LUC language contained in EPA's *Federal Facility Land Use Control ROD Checklist with Suggested Language* (LUC Checklist) per OSWER Directive 9355.6-12, as modified to incorporate checklist items #14 and #17 in the 24 April 2014 e-mail from Mr. Gerald Pease, Secretary of the Air Force/Installations, Environment and Logistics (SAF/IEE) office to Mr. Reggie Cheatham, Director, Federal Facilities Restoration and Reuse Office (FFRRO).
- 4) **Petroleum Only Areas:** The AF agrees to remove the petroleum only areas from the ROD for SS047. This will be done by listing a No Action Remedy under CERCLA for Areas A and C and subareas at USS and LSS where petroleum compounds are not collocated with CERCLA contaminants. The AF will prepare a petroleum-only decision document under the ADEC contaminated sites program for these areas.
The remedy for Subaction Area Q (LSS) and Subaction Area K (USS) will be evaluated in the SFS and submitted for public review and comment during the proposed plan phase.
- 5) The AF will prepare a new Proposed Plan and ROD for regulatory review and approval. A 30 day public comment period will be provided following issuance of the Proposed Plan.

- 6) The FFA schedule will be updated following the AF's award of a contract to prepare the SFS, Proposed Plan and ROD. The updated schedule will be coordinated with EPA and ADEC as required by the FFA.

For the Air Force,



28 July 2014

KEVIN B. THOMAS, P.E.
Chief, AFCEC Alaska
Air Force Civil Engineer Center

date

For the US Environmental Protection Agency,

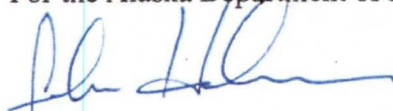


7/29/14

DEB YAMAMOTO
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Remedial Cleanup Program
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For the Alaska Department of Environmental Conservation,



7/28/14

JOHN HALVERSON
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date