



DEPARTMENT OF THE NAVY

THE ASSISTANT SECRETARY OF THE NAVY
(ENERGY, INSTALLATIONS & ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON DC 20350 - 1000

DEC 21 2010

The Honorable Anna G. Eshoo
House of Representatives
205 Cannon Building
Washington, DC 20515

Dear Representative Eshoo,

Thank you for your letter of December 9, 2010 expressing concerns about recent news reports regarding vapor intrusion issues at Moffett Field, the National Aeronautics and Space Administration (NASA) Research Park, Mountain View, California. I am responding on behalf of Secretary Mabus.

Let me assure you that the Navy is not avoiding any of our cleanup responsibilities, pursuant to terms of a 1992 Memorandum of Understanding (MOU), which governed property transfer to NASA in 1994. The cleanup we conduct is also consistent with our existing interagency agreement with the U.S. Environmental Protection Agency (EPA) and the State of California regarding prior Navy environmental contamination. Despite our compliance, EPA recently invoked a formal dispute with the Navy, arguing it is our responsibility to remedy vapor intrusion on NASA's property. However, the dispute does not recognize NASA's role as the federal facility owner and operator, with exclusive authority over the operation of NASA Research Park.

Over the past decade, NASA has successfully been sampling indoor air for vapor intrusion concerns and taking other steps to mitigate vapor intrusion risks in its buildings. NASA does so to further its reuse and facility improvement objectives. NASA already has mechanisms in place to ensure that facility operations and proposed construction, demolition, and infrastructure improvement projects do not expose personnel to unacceptable levels of contaminated soil or groundwater. These mechanisms include measures to minimize risk associated with vapor intrusion.

In practical terms, the vapor intrusion remedy prescribed by EPA cannot be implemented by the Navy. There are requirements for new construction, operation of ventilation systems, and implementation of institutional controls that apply to NASA's facility management and planning documents. As such, the remedies extend beyond the environmental cleanup responsibilities we retain and are best handled by NASA. (NASA controls all aspects of facility reuse including leasing existing buildings to private parties to generate income.) Additionally, federal fiscal policy (Interdepartmental Waiver

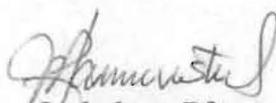
Doctrine) does not allow a federal department or agency to pay for operation and management of real property held by another department or agency.

These issues highlight the challenges faced by the Navy and NASA due to the misalignment of environmental program responsibilities and federal facility ownership. To mitigate these challenges, then Assistant Secretary of the Navy (Installations and Environment) and NASA Deputy Assistant Administrator for Infrastructure entered into a 2008 MOU, superseding the 1992 MOU. The 2008 MOU prescribed terms for the transfer of remaining Navy environmental responsibilities at Moffett Field to NASA under a budget-based transfer. Both parties had determined that aligning remaining environmental responsibilities with NASA would be the best way to achieve NASA's desired outcome of "enhanced levels of involvement in the remedial action and selection process to ensure consistency with NASA's master plan for reuse and ongoing operations." Unfortunately, to date NASA has not been willing to comply with the MOU they signed and acquire the environmental program.

As for the Navy, we will comply with the formal dispute process and will work to reengage NASA on the 2008 MOU. If your staff has any questions, please feel free to contact: Ms. Kimberly Kesler, Director, Department of the Navy Base Realignment and Closure (BRAC) Program Management Office, at (619) 532-0993.

Thank you again for taking the time to share your concern and seek clarification. If I can be of further assistance, please let me know.

Sincerely,



Jackalyne Pfannenstiel

Copy to:

The Honorable Lisa Jackson, EPA

The Honorable Charles F. Bolden, Jr., NASA

Dr. Pete Worden, NASA