



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

SEP 13 2010

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Terry A. Yonkers
Assistant Secretary for Installations, Environment, and Logistics
United States Air Force
1665 Air Force Pentagon, 4E996
Washington, DC 20330-1665

Dear Mr. Yonkers:

I am writing to express very serious concern over your August 19, 2010, memorandum (Memorandum) on "Environmental Restoration Program ERP Progress at Tyndall AFB, FL." I believe your Memorandum contains inaccuracies about the progress of cleanup and the potential risks to human health and the environment at Tyndall that are likely to confuse and mislead the public. Accordingly, I urge you to immediately issue clarifications that will more accurately portray potential risks to human health and the environment at this location and fully disclose the Air Force's noncompliance with federal environmental requirements.

Your Memorandum directs Tyndall Air Force Base (Tyndall or Base) to proceed with environmental cleanup outside of the legally required oversight framework established by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Memorandum also supports the Air Force's continued refusal to comply with EPA's Resource Conservation and Recovery Act (RCRA) Section 7003 imminent and substantial endangerment order (ISE Order or Order) which became effective at Tyndall in May 2008. Under these unprecedented circumstances, EPA cannot provide the oversight CERCLA mandates when a federal agency is responsible for the cleanup of a National Priorities List (NPL) site, nor can EPA ensure that Air Force action is consistent with the requirements of CERCLA and protects human health and the environment.

Moreover, the Air Force News Service article released on August 30, 2010, titled: "Officials Moving Forward with Cleanup at Tyndall" gives the incorrect impression that cleanup work at Tyndall is proceeding in an appropriate manner and at an acceptable pace. The article states that 25 sites at the Base have been restored and "received 'no further action' determination from the Environmental Protection Agency and/or the Florida Department of Environmental Protection," when, as you know, EPA's RCRA Order directs the Air Force to perform additional investigations at these sites. In fact,

some of the “no further action” determinations referenced in the article were made before the site was even listed on the NPL and have been disputed by EPA. Further, the Air Force is currently out of compliance with more than two dozen provisions of the Order. Due to this compliance failure at Tyndall, the Agency and the public lack critical hazard and risk information regarding site conditions – information which is typically available to the public at other federal facility or private Superfund sites and information which is necessary for EPA to oversee the cleanup consistent with the law.

As you must know, Tyndall was placed on the NPL in 1997 for investigation and cleanup of DDT and other contamination found in sediment samples from Shoal Point Bayou (Bayou). The Bayou, used for recreational fishing and wading, has DDT concentrations in sediments some 200 times greater than EPA risk-based standards – so high that the Air Force concluded in 2002 that consumption of fish from the Bayou presents a risk to children and adults. In addition to DDT in the Bayou, nearby contaminant sources include several landfills, a drum disposal area, ditches that drain potentially contaminated water from the airport operations area, an area formerly used for pesticide operations, and soil piles along the shoreline that were removed from the bottom of the contaminated Bayou during maintenance of the boat channel. There are also a variety of potential contamination sources upgradient of the Bayou, including a drum burial area discovered at the airport in 2009. Further, waste releases from historical operations are widespread across this 29,000 acre facility, and waste areas across the Base are, or have the potential to be, a source of serious contamination. Contamination at Tyndall must be evaluated, characterized, and cleaned up consistent with CERCLA which mandates that the cleanup occur with EPA oversight.

Tyndall is one of only a few of more than 170 federal facility Superfund sites where EPA rates both “current human exposures” and “groundwater migration” as “not under control.” The groundwater at Tyndall, only 3-4 feet below the surface, is a drinking water resource and is ecologically vital to some 40 threatened or endangered plant and animal species in the facility's bays, bayous, and wetlands.

By EPA's current information, concentrations of vinyl chloride and TCE in groundwater are hundreds of times greater than EPA's drinking water standards. Although the majority of Tyndall is served by the Bay County public water system, the Air Force has reported to EPA that at least 7 active water wells supply drinking water to remote areas of the Base, and 4 emergency backup drinking water wells are maintained in the event the Bay County system fails. We understand that all of these wells are vulnerable to infiltration and potential contamination. Further, EPA is concerned that military personnel, family members who live at the facility and civilian workers have access to areas of contamination, including soils at the Base's elementary school and at the newly constructed 1st Air Force Headquarters complex that may be contaminated with lead. Finally, the Base does not have a land use control program or physical barriers such as fences to prevent unacceptable risks due to exposure from contamination in all these areas of concern.

You indicate in your Memorandum that the Air Force at Tyndall will continue to proceed unilaterally with a variety of actions. This approach in the past has included ignoring EPA's comments, violating EPA's RCRA 7003 Order requirements, and failing to comply with CERCLA Section 120's clear, mandatory duty to enter into an interagency agreement with EPA at this site. Such unilateral action is clearly contrary to the intent of Congress and inconsistent with arrangements at other federal facility and private cleanup sites nationwide.

You describe, in the Memorandum, your interest at Tyndall to "move forward expeditiously and in accordance with the framework established under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)." That framework requires an interagency agreement, or FFA, with EPA, which is long-overdue at this location and without which the Air Force is not in compliance with CERCLA. Moreover, a recent U.S. Government Accountability Office (GAO) report stated that "...in the absence of a signed IAG [interagency agreement or FFA], Tyndall has delayed cleanup progress by generally demonstrating a pattern of not complying with federal laws and regulations concerning environmental cleanup under CERCLA."¹ The GAO concludes that "informal approaches" in the absence of an FFA at Tyndall "contributed to disagreements between the agencies, further delayed cleanup, and resulted in a lack of transparency and accountability to Congress and the public."²


In conclusion, we urge the Air Force to immediately issue clarifications that will more accurately portray potential risks to human health and the environment at Tyndall, to fully comply with the RCRA 7003 Order and to sign the standard FFA at Tyndall which I provided in my April 8 communication and which has been used successfully at more than 100 defense facilities nationwide over the past 20 years. In fashioning these FFAs, EPA has been sensitive to the national security and military readiness concerns at Department of Defense (DOD) sites. As you know, EPA has successfully addressed military needs at those other sites while protecting health and the environment. EPA has pledged to do the same at Tyndall by following long standing EPA policies. Neither the Air Force nor DOD has given EPA any reason to treat Tyndall differently than the Agency treats other DOD sites, and we do not believe there is any credible basis for doing so. Absent compliance and this required agreement, EPA will consider additional actions necessary to ensure that a protective cleanup takes place at Tyndall.

¹ U.S. Government Accountability Office. *SUPERFUND: Interagency Agreements and Improved Project Management Needed to Achieve Cleanup Progress at Key Defense Installations*. GAO-10-348. July 2010, p. 29.

² *Id.* at 37.

If you would like to discuss this matter, Matt Bogoshian, EPA's Deputy Assistant Administrator for Enforcement and Compliance Assurance, and I can be reached at 202 564-2440.

Sincerely,



Cynthia Giles
Assistant Administrator

cc: Dorothy Robyn, Deputy Under Secretary of Defense, Installations and Environment, United States Department of Defense

John Conger, Deputy Assistant Under Secretary for Defense, Installations and Environment, United States Department of Defense

Robert S. Taylor, Principal Deputy General Counsel, United States Department of Defense

Matt Bogoshian, Deputy Assistant Administrator, United States Environmental Protection Agency

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