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

JAN 6 2012

CERTIFIED MAIL

Mr. Lance R. LeFleur
Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110

Ms. Olga Dominguez
Assistant Administrator
Office of Strategic Infrastructure
National Aeronautics and Space Administration Mail Code 4G74
300 East Street, S.W.
Washington, D.C. 20546

Re: In the Matter of the U.S. National Aeronautics and Space Administration at George C. Marshall Space Flight Center (MSFC), Huntsville Alabama, Interagency Agreement Under CERCLA Section 120 and RCRA Sections 3004 (u), 3004 (v), 3008 (h) and 6001

Dear Director LeFleur and Assistant Administrator Dominguez,

On November 15, 2011, Mr. LeFleur wrote a letter in which he elevated a dispute to Administrator Jackson regarding the Record of Decision (ROD) for Operable Unit (OU)-12 at the Marshall Space Flight Center (MSFC). I have carefully read and considered your letter, including the attachment, and other relevant documents associated with the letter dated October 25, 2011, signed by Region 4 Administrator Gwendolyn Keyes Fleming setting out the Agency's position on the formal dispute, and have discussed them with the Administrator, who asked me to convey her decision in this letter, which affirms the Agency position issued by Regional Administrator Fleming.

As your letter points out, this dispute is about whether the ROD for OU-12 has the appropriate degree of specificity for identifying applicable or relevant and appropriate requirements (ARARs) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). The Administrator agrees with the position issued by Ms. Fleming, and believes that it accurately analyzes and is fully consistent with CERCLA, the National Contingency Plan (NCP) regulations, EPA's Superfund program policies and guidance, and the CERCLA section 120 Federal Facilities Agreement (FFA) governing environmental remediation at this site. Furthermore, the Administrator believes that position is consistent with

the Agency's overall goals and objectives regarding transparency and public participation in general.

Region 4 has not changed course or applied a new interpretation or methodology with regard to ARARs, the identification of ARARs, or the appropriate level of specificity in describing ARARs in a CERCLA ROD. Rather, the ARARs table for OU-12 is consistent with the meaning and intent of the following language, first published over twenty years ago in the preamble to the final NCP:

> Furthermore, the language of CERCLA Section 121(d)(2)(A) makes clear, and program expediency necessitates, that the *specific* requirements that are applicable or relevant and appropriate to a particular site be identified. It is not sufficient to provide a general "laundry" list of statutes and regulations that might be ARARs for a particular site. The State, and EPA if it is the support agency, must instead provide a list of requirements with *specific* citations to the section of law identified as a potential ARAR, and a brief explanation of why that requirement is considered to be applicable or relevant and appropriate to the site.[1] (Emphasis added.)

EPA values the close coordination we enjoy with Alabama and our other state partners in carrying out the Superfund and other federal environmental programs. An integral part of the federal-state cooperation needed to effectively manage CERCLA cleanups is the timely identification of the specific substantive state environmental and siting requirements which are more stringent than existing federal requirements and which should be used to carry out a remedial action, consistent with CERCLA, the NCP and existing guidance. Providing specificity and detail in identifying and describing federal and state ARARs ensures that there is an adequate level of transparency in the remedy selection process, meaningful and knowledgeable opportunities for public participation throughout that process, and informed buy-in by potentially responsible parties who are paying to clean up contaminated sites.

All stakeholders deserve to have sufficiently detailed information in a ROD in order to understand what the cleanup is designed to accomplish; this will avoid unclear decisions or unexplained changes in how the risks at a site are identified, evaluated, and addressed in a manner that protects human health and the environment. Such an approach also helps ensure that affected communities, as well as the liable parties funding a response, are fully aware of and supportive of the particular steps that need to be taken under CERCLA at a site. This approach also avoids confusion about the role of some provisions (e.g., procedural or administrative provisions) which are not ARARs as set forth in CERCLA and the NCP, and therefore, are not appropriately part of the CERCLA remedy selection and cleanup process. A ROD is a legal document that demonstrates that the lead and support agency decision-making has been carried out in accordance with statutory and regulatory requirements and explains the rationale by which a remedy was selected.

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[1] 55 FR 8746, March 8, 1990.

The CERCLA remedy selection process has proven to be flexible with regard to adapting to new information or changing site conditions. Over the past thirty years, we have often worked with dynamic site situations, and many times have had to contend with challenging, previously unknown conditions. When this occurs, the public needs to be fully involved and informed about how we address such circumstances. At complicated sites, it can be challenging to maintain schedules when confronted with such situations, but working together with our state partners and other stakeholders, we can achieve the twin goals of timely cleanup and full, meaningful public participation. Thus, if the ARARs table in an original ROD needs to be updated to reflect specific additional or different requirements that come into play because new conditions or data meaningfully influence the original remedy decision, a ROD amendment can be issued. In particular, in line with the purposes and objectives of our well-established RCRA/CERCLA integration policy (OSWER Dir. 9292.0-22, "Improving RCRA/CERCLA Coordination at Federal Facilities," December 21, 2005) and consistent with the FFA provision that reflects that policy, new or different provisions of an authorized state RCRA program that for purposes of carrying out a CERCLA cleanup become applicable, or relevant and appropriate, can be added to the original ROD's ARARs table where needed during the course of an ongoing cleanup through a ROD amendment.

The Administrator finds that Regional Administrator Fleming's analysis is thorough, thoughtful and complete, and her conclusions are correct. Her resolution of the issues is fair, balanced and consistent with the statute, regulations, existing policies and guidance, and helps ensure that the national program continues to follow good government practices and promotes proper Agency accountability. As such, the ARARs table in the MSFC OU-12 ROD (both Table 2-5 in the ROD and the Table as amended by Region 4 during this formal dispute) contains the appropriate degree of specificity for this operable unit. The table is consistent with the examples in *EPA's Compliance With Other Laws Manual Parts I and II* (OSWER 540-G-89-006, Aug. 8, 1989 and Aug. 1989) and other RODs issued in the Region which provide an exact citation to a requirement, the legal prerequisite to the regulation's applicability, a requirement summary, and a description of the triggering action or location characteristic. Furthermore, the OU-12 ROD ARARs include the specific regulatory citations to specific requirements related to the contemplated remedial activities and the requirement descriptions have an appropriate level of detail to inform the public of and ensure NASA's compliance with the selected remedy.

We appreciate your interest in these important issues and thank you for the considerable effort you have put forward in identifying and discussing your concerns, and we look forward to working closely together as we move forward with Superfund cleanups in Alabama.

Sincerely,

Cynthia Giles

Enclosure

cc: Lisa P. Jackson

Robert M. Sussman
Mathy Stanislaus
Scott C. Fulton
Gwendolyn Keyes Fleming

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OCT 25 2011

CERTIFIED MAIL

Mr. Lance R. LeFleur
Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110

Dear Mr. LeFleur:

This letter sets forth my decision providing the U.S. Environmental Protection Agency's position in the formal dispute related to the Final Record of Decision (ROD) for Operable Unit (OU)-12 at the National Aeronautics & Space Administration Marshall Space Flight Center (MSFC), regarding the Applicable or Relevant and Appropriate Requirements (ARARs) identified for the selected remedy. MSFC is a federal facility on the National Priorities List (NPL) and has an interagency agreement, i.e., Federal Facility Agreement (FFA), under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, between NASA, EPA, and the Alabama Department of Environmental Management. Pursuant to the MSFC FFA Section 25, Paragraph C.4., *Resolution of Disputes*, this letter serves as my written position on the dispute as the Senior Executive Committee (SEC) was unable to unanimously resolve the dispute.

Background

Pursuant to CERCLA §120(e)(4)(A) and the National Contingency Plan (NCP) regulations at 40 C.F.R. §300.430(f)(4)(iii)(A), selection of a remedial action at a federal facility on the NPL shall be made jointly by the head of the relevant agency and the EPA. As of May 2011, both NASA and the EPA had signed the OU-12 ROD. In a letter to NASA dated August 11, 2011 (Enclosure 1), ADEM stated that it concurred with the technical aspects of the selected remedy but not with the ROD itself.

The selected remedy for OU-12 includes excavation of soils contaminated with polychlorinated biphenyls (PCBs), poly-aromatic hydrocarbons (PAHs), lead and iron to meet residential risk cleanup levels as well as the removal of an estimated 2,150 feet of a former industrial sewer line. Excavated soil/debris will be characterized, temporarily stored and then disposed off-site at a solid or hazardous waste landfill depending on its waste characterization. Soil contaminated with high concentrations of lead that is considered characteristic hazardous waste due to toxicity under 40 C.F.R. §261.24 must be managed in accordance with certain Resource Conservation and Recovery Act (RCRA) regulations. Soil or debris that is excavated and contaminated with PCBs is considered PCB remediation waste and must be managed in accordance with certain Toxic Substances Control Act regulations at 40 C.F.R. 761, *et seq.*

On June 13, 2011, ADEM invoked formal dispute under the FFA regarding the degree of specificity with which ARARs were identified in the MSFC OU-12 ROD. See ADEM letter dated June 13, 2011, (Enclosure 2). On July 25, 2011, ADEM sent the Dispute Resolution Committee (DRC) members

another letter which reiterated its position and included a generic table of potential ARARs which in ADEM's opinion were "broad enough to ensure that all applicable state requirements are met" (Enclosure 3). The DRC held discussions several times over the course of two months but were unable to unanimously resolve the dispute. On August 18, 2011, the DRC provided written notice of the elevation of the dispute to the SEC. On August 24, 2011, NASA responded to ADEM's August 11, 2011, letter by stating that, in accordance with MSFC FFA Section 9, it "fully intends to comply with all applicable state statutes and regulations to the extent required by Section 121 of CERCLA, 42 U.S.C. § 9621." NASA further stated that it "intends to comply with all state statutes and regulations deemed applicable or relevant and appropriate, as developed within the framework of the CERCLA process." (Enclosure 4). On September 13, 2011, the SEC representatives Lance LeFleur (Director of ADEM), Olga Dominguez (NASA Assistant Administrator, Office of Strategic Infrastructure) and I held a meeting in an effort to resolve the dispute. Additional discussions with Mr. LeFleur took place over the phone in late September and early October in a continuing effort to reach a mutually acceptable decision.

While the June 13, 2011, letter invoking the dispute stated that ADEM disagreed with the EPA as to whether particular requirements met the definition of an ARAR, ADEM indicated during the dispute resolution meetings that it was not making any such disagreements the subject of the dispute. Moreover, during the SEC discussions, ADEM agreed that Table 2-5 was an accurate list of the ARARs for the scope of the remedial action selected in the ROD and acknowledged that it had not identified any missing or incorrect ARARs for the OU-12 remedy. Given that ADEM has agreed that the selected remedy is appropriate and that the ARARs for that selected remedy are accurately identified in the ROD, the sole dispute at issue, and the sole subject of this decision, revolves around the degree of specificity with which the ARARs were identified in Table 2-5 of the ROD for OU-12.

Relevant Authority

CERCLA Section 121(d)(2) specifies that remedial actions shall attain any standard, requirement, criteria, or limitation under federal environmental law or any more stringent promulgated standard, requirement, criteria or limitation under state environmental or facility siting law that is legally "applicable" to the hazardous substance (or pollutant or contaminant) concerned or is "relevant and appropriate" under the circumstances of the release. In short, ARARs are enforceable substantive standards, requirements, criteria or limitations borrowed from other federal or state environmental statutes and regulations that guide in the selection of cleanup levels and implementation of the CERCLA response action.

Pursuant to 40 C.F.R. § 300.5 (*Definitions*), "Applicable requirements" means those promulgated cleanup standards, standards of control, and other substantive requirements, criteria, or limitations that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site. "Relevant and appropriate requirements" means those promulgated cleanup standards, standards of control, and other substantive requirements, criteria or limitations that, while not "applicable" to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site, address problems or situations sufficiently similar to those encountered that their use is well suited to the particular site. Only state standards that are promulgated, are identified by the state in a timely manner, and are more stringent than federal requirements may be applicable or relevant and appropriate. [CERCLA Section 121(d)(2)(A) and 40 C.F.R. § 300.400(g)(4)].

The ROD, which documents the selected remedy, is a legal document that demonstrates that the lead and support agency decision-making has been carried out in accordance with statutory and regulatory requirements and explains the rationale by which a remedy was selected.[1] It must include all facts, analysis and policy determinations considered during the course of developing the remedy and these must be documented in a level of detail appropriate to the site situation. [40 CFR §300.430(f)(5)(i)]. The ROD must describe the federal and state ARARs that the remedy will attain, or, where the remedy will not meet an ARAR, the waiver invoked, and the justification for invoking the waiver. [40 CFR §300.430(f)(5)(ii)(B) and (C)]. On-site[2] remedial actions selected in a ROD must attain those ARARs that are identified at the time of ROD signature or, if necessary, the ROD must provide grounds for a waiver [40 CFR §300.430(f)(1)(ii)(B)].

Making ARARs determinations is a significant component of selecting CERCLA remedies.[3] One of the specific purposes of the MSFC FFA is to ensure that NASA, with the consensus of the EPA and in consultation with ADEM, "[i]dentifies and integrates all federal and State ARARs into the response action process in accordance with this Agreement. CERCLA, the NCP, appropriate Superfund guidance and policy, RCRA and applicable State law" [MSFC FFA Section 7, *Purpose and Scope of Agreement*, Paragraph B.9.]. Under MSFC FFA Section 2. *Definitions*, Applicable or Relevant and Appropriate Requirement (ARAR) shall mean "legally applicable" or "relevant and appropriate" requirements, laws, standards, criteria or limitations as those terms are used in Section 121 of CERCLA.

The MSFC FFA Section 15.E. *Identification and Determination of Potential ARARs*, governs how the FFA parties are to identify and determine ARARs throughout the CERCLA RI/FS process until the ROD is issued for a particular site or OU. This process is consistent with the NCP provisions related to identification and communication of ARARs.[4] Importantly, when identifying a requirement as an ARAR, the lead and support agencies shall include a citation to the statute or regulation from which the requirement is derived. [40 C.F.R. § 300.400(g)(5)]. Relevant paragraphs of MSFC FFA Section 15 are provided below.

> 1. For those Primary or Secondary Documents that consist of or include ARAR determinations, prior to the issuance of a draft document, the Project Managers shall confer as early as possible to identify and propose, to the best of their ability, all potential ARARs pertinent to the document being addressed. ADEM shall coordinate with NASA on all potential State ARARs as early in the remedial processes as practicable consistent with the requirements of Section 121 (d)(2)(A)(ii) of CERCLA, 42 U.S.C. § 9621(d)(2)(A)(ii) and the NCP. NASA shall consider any written interpretation of

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[1] *See* Preamble to the Final NCP Rule, 55 Fed. Reg. 8666, 8731 (Mar. 8, 1990); *See also* Preamble to the Proposed NCP Rule, 53 Fed. Reg. 51394, 51430 (Dec. 21, 1988).

[2] 40 C.F.R. § 300.5, (*Definitions*) ("on-site" means the areal extent of contamination and all suitable areas in close proximity to the contamination necessary for implementation of the response action.).

[3] 55 Fed. Reg. at 8782.

[4] *See* 40 C.F.R. § 300.400(g) (*Identification of applicable or relevant and appropriate requirements*) and § 300.515(d) (*State Involvement in the RI/FS process*). Identification of ARARs is done on a site-specific basis and involves a two-part analysis. First, the lead and support agencies shall identify any requirements that are legally applicable to the release or remedial action contemplated based upon an objective determination of whether the requirement specifically addresses a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site. If it is determined that a requirement is not applicable to a specific release, the requirement may nevertheless be relevant and appropriate to the circumstances of the release.

proposed ARARs provided by ADEM. Draft ARAR determinations shall be prepared by NASA in accordance with Section 121(d)(2) of CERCLA, the NCP, and pertinent guidance and policy the application of which is not inconsistent with CERCLA and the NCP.

2. In identifying potential ARARs, the Parties recognize that actual ARARs can be identified only on a Site-specific basis and that ARARs depend on the specific hazardous substances, pollutants and contaminants at the Site, or OU, the particular actions proposed as a remedy and the characteristics of the Site or OU. The Parties recognize that ARAR identification is necessarily an iterative process and that potential ARARs must be re-examined throughout the RI/FS process until the ROD is issued.

Discussion of the Disputed Matter and EPA's Position

Summarized below are ADEM's primary bases for its objection to the specificity of ARARs identification in the OU-12 ROD, as reflected in its dispute statement letters, as well as my findings and the bases for my position. In resolving these matters, I considered the position of ADEM expressed in its letters and during dispute resolution meetings, input from NASA during dispute resolution meetings, Region 4 Superfund Program position documents, the MSFC FFA, as well as CERCLA, the NCP and pertinent EPA guidance documents.

As stated in both the June 13, 2011, and July 25, 2011, letters, ADEM's primary concern with the degree of specificity in ARARs Table 2-5, is that facilities will believe they do not have to meet state requirements not specifically listed as ARARs. In both letters, ADEM maintains that facilities must meet state requirements regardless of whether these requirements are identified in the ARARs table. [*See* Enclosures 1 and 2]. ADEM's position is that the ARARs table in the OU-12 ROD must be less specific to ensure that no state regulations are excluded. ADEM included an example ARARs table in its July 25, 2011 letter, which lists most of ADEM's major regulatory programs and provides regulation citations mainly at the Chapter or Section level. ADEM also proposed that CERCLA documents include a statement that all state requirements must be met regardless of whether they are identified in the ARARs table.

As an initial matter, I have determined that ADEM's underlying premise that parties should have to meet all state requirements regardless of whether they are identified as ARARs in the ROD for a selected remedy is incorrect and, therefore, inclusion of ADEM's recommended statement in CERLCA documents is inappropriate. As noted above, neither CERCLA, the NCP nor the MSFC FFA requires NASA's compliance with all state standards when conducting a CERCLA response action on-site. [*See* Relevant Authority above]. Instead, as provided in the FFA, NASA is required to comply only with those regulations that have been properly identified in accordance with CERCLA Section 121(d)(2) as site-specific ARARs for the selected remedy. [5]

[5] By contrast, any day-to-day waste management activities conducted by NASA at MFSC which are not a part of a CERCLA response action would need to comply with any applicable Federal or State environmental laws or regulations, including administrative requirements such as obtaining permits. [*See* MSFC FFA Section 10, Paragraph A.]. Additionally, for the portion of remedial actions conducted off-site, such as the transport to and disposal of hazardous waste at an off-site facility, a party must comply with both substantive and administrative provisions of any legally applicable requirements. [*See* MSFC FFA Section 10, Paragraph C.].

As the existing OU-12 ROD language, below, already described, there are various mechanisms available to identify additional ARARs, in appropriate situations, after the ROD is signed. The existence of these mechanisms provides a reasonable means to address ADEM's concerns that requirements could be missed during ROD development while still satisfying the need for specific ARARs identification in the ROD. To address concerns raised by ADEM with regard to the timing of such identification, the EPA directs NASA to revise the ROD to include the additional bracketed language below to the existing language in the *Compliance with ARARs* Section of the OU-12 ROD related to post-ROD identification of ARARs.

> The ARARs table contains those requirements and standards that have been identified as clearly meeting the definition of an ARAR for the selected remedy at OU-12 at the time the OU-12 ROD is finalized. Further design and development and/or changes in the selected remedy may result in the identification of additional ARARs in the Remedial Design and Remedial Action Work Plan documents. Identification of additional or revised ARARs may be deemed a significant change to the selected remedy and require issuance of an Explanation of Significant Differences or ROD Amendment. In addition, the Remedial Action Work Plan must identify and address any additional standards and requirements in accordance with Section 10.B. of the NASA MSFC (2001) FFA, regardless of whether or not they are included in the ARARs table. [The FFA parties will work in an expeditious manner to identify and incorporate any additional/revised ARARs in the appropriate CERCLA document.]

With regard to ADEM's proposed example ARARs table, the EPA specifically opined on the level of sufficient detail required for the identification of ARARs in the preamble to the 1990 revisions of the NCP:

> [T]he language of CERCLA Section 121(d)(2)(A) makes clear, and Program expediency necessitates, that the specific requirements that are applicable or relevant and appropriate to a particular site be identified. It is *not sufficient* to provide a general "laundry" list of statutes and regulations that might be ARARs for a particular site. The state, and EPA if it is the support agency, must instead provide a list of requirements with specific citations to the section of law identified as a potential ARAR, and a brief explanation of why that requirement is considered to be applicable or relevant and appropriate to the site.[6]

ADEM's proposed approach of listing major regulatory programs at the chapter or section level would not satisfy the specificity of ARARs identification required by CERCLA and the NCP. The use of such a generic list of ARARs in CERCLA decision documents would be problematic for numerous reasons, among which are: 1) site-specific requirements that the selected response action would actually be expected to meet will not have been identified; 2) absent the identification of the specific ARARs for the response action, the public will not be able to discern the requirements which the selected remedy must satisfy; 3) costing out potential remedies during the remedy selection phase will not be possible unless the specific requirements which the remedial alternatives will have to meet have been identified; 4) assessing compliance with ARARs during the response action will not be possible if entire chapters/sections are cited because responsible parties will not know the precise requirements that must be attained; 5) citing an entire chapter/section would require the party conducting the remedial action to

[6] 55 Fed. Reg. at 8746. (Emphasis added).

meet, or specify an appropriate ARAR waiver for, every provision of that lengthy and detailed regulation(s); 6) citation to entire chapters could inappropriately include administrative requirements which are not required to be satisfied during CERCLA response actions; and 7) ADEM's generic list of regulations, most of which are equivalent to EPA regulations in accordance with ADEM authorization to implement these regulatory programs, does not constitute the identification of more stringent state requirements that would appropriately be designated as ARARs. For all of these reasons, I have determined that the less specific listing of ARARs that ADEM has proposed is unacceptable.

The OU-12 ROD ARARs Table 2-5 includes the specific regulatory citations to specific requirements related to the remedial activities contemplated by the OU12 remedy (i.e., excavation, waste characterization, temporary storage, preparation for transport and off-site disposal). Table 2-5 is also consistent with the examples in the EPA's *Compliance With Other Laws Manual Parts I and II* [OSWER 540-G-89-006, Aug. 8. 1989 and Aug. 1989] and other RODs issued in the Region which provide an exact citation to a requirement, the legal prerequisite to the regulation's applicability, a requirement summary, and a description of the triggering action or location characteristic. The descriptions of the requirements contained in the Table have an appropriate level of detail to inform the public of, and ensure NASA's compliance with, the selected remedy.

During the SEC's dispute resolution meeting, NASA representatives stated that they prefer the detailed ARARs as currently listed in Table 2-5 of the ROD because they need to know exactly what is required in conducting the remedial action, for purposes of both estimating costs and assessing compliance. Also, in SEC dispute resolution discussions, ADEM agreed that Table 2-5 was an accurate list of the ARARs for the scope of this remedial action and it has not identified any missing or incorrect ARARs for the OU-12 remedy.

Nevertheless, in an effort to accommodate ADEM's concern with the specificity of the ARARs citations to the extent possible, changes have been made by the EPA to some of the entries on Table 2-5 dealing with the description of requirements and the level of citation. Specifically, a number of citations were adjusted to reflect a higher level of regulatory citation in instances where all of the requirements listed as multiple regulatory citations by sub-paragraph could be appropriately captured by listing only the paragraph or section level citation. However, most of the entries on the ARARs table remain unchanged because they are distinct regulatory provisions that cannot appropriately be identified at a higher level of citation without adding requirements that are not appropriate for the scope of this remedial action. One additional change made to Table 2-5 is the removal of the regulatory requirements related to temporarily storing waste in staging piles. Those requirements were stricken from the ARARs table because NASA has determined since the ROD was signed that any RCRA hazardous waste or PCB waste generated during the cleanup will be stored in containers, and not in staging piles. Accordingly, NASA should include the revised Table 2-5 in the OU-12 ROD [See Enclosure 5].

For all of the reasons expressed herein, it is my position that the OU-12 ROD ARARs Table 2-5 contains an appropriate listing of site-specific ARARs for the selected remedy as required by CERCLA, the NCP, and the MSFC FFA [*See* Relevant Authority above].

I want to thank you for your participation in the dispute resolution process. I hope that the FFA parties will be able to move forward promptly to address the revisions to the ROD as identified in this letter and begin implementation of the OU-12 remedy as soon as possible in order to ensure protection of human health and the environment. It is my expectation that, in moving forward with other CERCLA projects at

MSFC, the FFA parties will continue to work in a collaborative and timely manner to reach appropriate clean up decisions.

Sincerely,

Gwendolyn Keyes Fleming
Regional Administrator

Enclosures (5)

cc: Ms. Olga Dominguez, Assistant Administrator
Office of Strategic Infrastructure, NASA
Mr. Wm. Gerald Hardy, Chief,
Land Division, ADEM
Ms. Robin Henderson, Associate Director,
MSFC, NASA
Mr. Franklin E. Hill, Division Director,
Superfund, EPA
Ms. Mary Wilkes, Regional Counsel and Director,
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