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SEP 13 2004

MEMORANDUM

From: *Jay Manik*
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G-SEC

Reply to
Attn of: Mark Zill
202.267.2345

To: Distribution

Subj: LIGHTHOUSE PROPERTY DIVESTITURE POLICY: PHASE 2
ENVIRONMENTAL SITE ASSESSMENT REQUIREMENT

Ref: (a) CERCLA 120 (h) (42 U.S.C. § 9620(h))
(b) Real Property Asset Management Manual, COMDTINST M11011.10

1. Knowledge of the Coast Guard's past practices of blasting and/or using solvents to remove lead based paint (LBP) from exterior surfaces of lighthouse structures suggests the likelihood of a release of lead to the surrounding soil. Consequently, it shall be Coast Guard policy to conduct Phase II level soil sampling to determine whether actionable levels of CERCLA/TSCA substances exist in the soil of lighthouse properties being reported excess to GSA or otherwise transferred from the Coast Guard inventory.

2. If contaminated by CERCLA/TSCA substances, and if the property is to be conveyed to a non-Federal entity, the Coast Guard shall remediate the contamination using EC&R funds or, in coordination with the disposal agency,¹ establish an acceptable land use control (*e.g.*, deed restriction) that is protective of human health and the environment. In the case of the property's transfer to another Federal agency, CERCLA is not triggered and the extent of any remediation is then a matter of negotiation between the Coast Guard and the transferee agency. Of course, if the other agency agrees, the Coast Guard may transfer the property "as is."

3. Because we have institutional knowledge of past maintenance practices at lighthouse properties, the Coast Guard must conduct a Phase II sampling of all lighthouse properties being reported as excess property to GSA unless there is clear evidence that no releases of contaminants has taken place. Lighthouses located upon submerged lands or upland terrain that has no soil are exempt from this Phase II requirement.

4. Guidance in the form of a decision tree is attached in the event that contamination is found. Options include land use controls mandated via deed restrictions (in coordination with the

¹ Per a memorandum issued on 16 October 1998, GSA concluded that landholding agencies do not have authority to encumber the title to land under their administrative control with restrictive covenants, such as land-use restrictions, and that only GSA could take such an action. An exception occurs when the landholding agency has statutory authority to act as a real property disposal agency (usually in regard to a specific property)—under those circumstances, the DHS/Coast Guard may encumber the property's title with a restrictive covenant.

disposal agency); transfer to another federal entity who undertakes remediation; remediation before transfer by the Coast Guard; or, use of the reference (a) early transfer authority, that allows conveyance of contaminated property, with future cleanup to be paid directly by the Coast Guard.

5. Questions have been raised whether certain lighthouse properties can be characterized as residential properties. Such a status would make the property subject to the more rigorous HUD regulations, if such property can be further characterized as target housing (see subsection II.E., chapter 3 of reference (b), which is available on-line at http://cgweb.uscg.mil/g-c/g-ccs/g-cit/g-cim/directives/CIM/CIM_11011_10.pdf). Target housing requires abatement to a residential standard. It shall be Coast Guard policy to consider all lighthouse properties as non-residential properties, unless the lighthouse property, or a part thereof, falls within either of the following categories:

- a. the property, or a part thereof, is used as military family housing, a primary or elementary school, or child daycare/development center on the date that the Coast Guard reported the property excess to GSA or otherwise conveyed or transferred the property; or
- b. the property will be transferred to another armed service under Title 10, United States Code, and that property, or a part thereof, will be used by the other service as military family housing, a primary or elementary school, or child daycare/development center (the primary responsibility for abatement in this case can be imposed upon the transferee agency).

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Enclosures: (1) LPB Sampling Decision Tree

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