

Congress of the United States
Washington, DC 20515

April 14, 2009

The Honorable Robert M. Gates
Secretary, Department of Defense
1400 Defense Pentagon
Washington DC 20301-1400

Dear Secretary Gates:

We write regarding the U.S. Government Accountability Office (GAO) report addressing the listing and oversight of Superfund sites at DOD facilities, Superfund: Greater EPA Enforcement and Reporting are Needed to Enhance Cleanup at DOD Sites (GAO-09-278), urging you to rapidly take all steps necessary to remediate contaminated DOD sites.

The GAO report reached several disturbing conclusions:

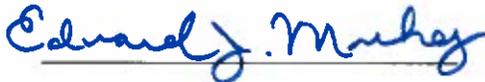
- While the number of DOD sites considered for placement into the Superfund program has declined over the past decade, DOD sites still account for 9 percent of all Superfund sites.
- Despite years of negotiations, DOD and EPA have not finalized Interagency Agreements setting out the terms for clean-up of 11 of the 140 DOD Superfund sites, despite the statutory requirement to do so, reportedly because DOD disagreed with the terms contained in the Agreement documents and simply refused to sign the documents. These sites include (1) Air Force Plant 44 (Tucson, AZ) (2) Andrews Air Force Base (MD) (3) Brandywine Defense Reutilization and Marketing Office (MD) (4) Fort Meade (MD) (5) Hanscom Field (Bedford, MA) (6) Langley Air Force Base (VA) (7) McGuire Air Force Base (Trenton, NJ) (8) Naval Air Station Whiting Field (Milton, FL) (9) Naval Computer Telecommunication Area Administrative Master Station (Wahiawa, HI) (10) Redstone Arsenal (Huntsville, AL) and (11) Tyndall Air Force Base (Panama City, FL).
- Despite the requirement for Interagency Agreements to be signed at all federal Superfund sites, the Superfund statute (Section 120 of CERCLA) contains no enforcement mechanism that could be used if a federal agency refuses to do so. Although EPA may initiate administrative enforcement actions under other laws (such as the Resource Conservation and Recovery Act and the Safe Drinking Water Act) to compel DOD to clean up contaminated sites, EPA chose not to pursue enforcement actions until 2007, more than 10 years after these sites were first placed into the Superfund Program. Currently, there are EPA Administrative orders in place at 4 sites: Fort Meade (MD), McGuire Air Force Base (Trenton, NJ), Tyndall Air Force Base (Panama City, FL), and Air Force Plant 44 (Tucson, AZ).

We believe that the Department should immediately enter into the appropriate Interagency Agreements and expedite the cleanup of these sites. We request that you provide us with a detailed description of your plans to do so, including:

- Specific timeframes for when Interagency Agreements will be signed at each of the DOD Superfund sites currently lacking them, and the status of any negotiations regarding their text, including who is participating in these negotiations.
- Milestones agreed to by EPA and DOD that are expected for inclusion in Site Management Plans for the cleanup of each of these sites;
- Any outstanding issues that may impact these schedules and milestones.

Thank you very much for your attention to this important matter. Please provide your response no later than close of business on Friday May 1, 2009. If you have any questions or concerns, please have your staff contact Michal Freedhoff (Rep. Markey, 52836), or Derrick Ramos (Rep. Green, 51688).

Sincerely,



Rep. Edward J. Markey



Rep. Gene Green