

March 7, 2023

Honorable Lloyd J. Austin III, U.S. Department of Defense
1000 Defense Pentagon,
Washington, DC 20301-1000

Whidbey Environmental Action Network
Preservation Education Restoration
Box 53, Langley, WA 98260

Honorable Carlos Del Toro, United States Navy
1000 Navy Pentagon, Room 4D652
Washington, DC 20350-1200

Richard Abraham
2450 North Bluff Road
Greenbank, WA 98253

RE: Your Response to Complaint and Requests - PFAS Contamination on Whidbey Island, Washington

Dear Sirs,

We have received your November 28, 2022, joint response to our Complaint regarding the Navy's PFAS contamination on Whidbey Island. Mr. Ohannessian's letter, sent on your behalf, sends a clear and disappointing message to our community and hundreds of others impacted by the 'forever' toxic chemicals leaking from your installations.

You have denied all nine common-sense requests to reduce or eliminate PFAS exposures and to provide "transparency" now being denied. Our requests were supported by information that was largely ignored, and for reasons that are contradicted by the facts. Sadly, yours is the kind of response which would be expected from a corporate polluter avoiding accountability—not from a government entity sworn to protect the people it serves.

As author of the report attached to the Complaint, I offer the following comments. References to "you" include decisionmakers and response preparers under your command. The Whidbey Environmental Action Network signature follows mine and indicates agreement with these comments.

- **Your PFAS investigations and responses are *not* based on recognized risks to human health or the environment.**

Department of Defense (DoD) policy ignores EPA's current lifetime Health Advisory, the U.S. Department of Health's ATSDR Minimum Risk Levels, Washington State's PFAS Action Levels, and the Health Advisories of an increasing number of States. Your investigations and responses are based on outdated 2016 EPA drinking water advisories. You have chosen to ignore the overwhelming body of medical and scientific evidence pointing to health harms from exposures you deem to be acceptable.

The DoD can, when it wishes, provide for safer water if PFASs are found *below* EPA's 2016 Health Advisories. The Navy funded the Town of Coupeville's PFAS filtration system after its water supply was contaminated by PFAS from the Navy's Outlying Field (OLF). The levels of PFAS in the Town's water had *never* exceeded the EPA's 2016 Health Advisories. Coupeville got the relief that other communities and families with similarly contaminated water are still being denied. Its officials never criticized the Navy and supported the continued use of the OLF for controversial warfare training.

- **Your community PFAS investigations are not "consistent with CERCLA" as you claim. Neither are they designed "to understand where and how far PFAS has migrated into the environment.**

Nothing in CERCLA (Superfund Law) calls for your incremental “step-out investigations.” These investigations, which you choose to conduct in phases over long periods of time, allow for delayed responses and continued exposures. They also allow for some PFAS contaminated water supplies to be overlooked.

The DoD may use the CERCLA process to address contamination *on* the installations under its jurisdiction. Your off-site community investigations are designed and conducted as a matter of choice. These policies serve as self-imposed limitations on efforts to address the problem.

- **Your refusal to investigate areas where PFAS contaminated water systems were found by the State Health Department leaves families at risk.**

Your refusal is based on the assertion that these locations are “not in the direction of groundwater flow.” This is a convenient presumption, not an established fact. All potential PFAS “release areas” have not been identified and the direction of groundwater flow where the wells in question are located is uncertain. The DoD is still spending untold amounts of taxpayer dollars to characterize groundwater flow and direction.

While it may be reasonable to doubt that PFAS leaking from a DoD property has reached water supplies many miles away, the two contaminated water systems referenced in our Complaint, are not many miles away. One is across the street from one of your PFAS Investigation areas where other PFAS contaminated wells were found. It is also near a Navy waste disposal and Superfund site. The other contaminated system you want to ignore is located east of the Navy’s Outlying Field (OLF) but just as close as other contaminated wells the Navy has accepted responsibility for contaminating. The OLF sits on top of a dome from which water drains in all directions. The Navy says groundwater “generally” flows to the South. However, new “potential release areas” are still being discovered and the OLF’s monitoring wells reveal PFAS migrating in different directions—as does the groundwater modelling conducted by your contractors.

- **Your failures to identify contaminated water supplies can’t be blamed, as you suggest, on previous laboratory analytical methods which have since been changed.**

Laboratory analytical methods have not changed in any way that makes a difference since the Navy began its PFAS investigations in 2016. Relevant changes have to do with your choice of the PFAS to be analyzed and your choice of detection and reporting limits to be used—*not the capability of laboratories*. As pointed out in our report, the Navy chose different (less sensitive) detection limits when it tested the community’s water than when it tested its own water. The Navy also tested for fewer PFASs in the community than it found in water beneath its own property. This deliberately skewed testing took place in the early “phase” of the Navy’s investigation pursuant to a plan that was withheld from the public. The results were used to determine eligibility for future testing.

- **You are not being “transparent” in your efforts and withhold information that would help people to better protect themselves, assess your progress, and advocate for change.**

As detailed in our Complaint, you once sampled your stormwater discharges, found high levels of six PFASs, and until getting caught, kept the information from the public, the State, and EPA permit writers. After this was reported in news articles, you stopped the sampling. You now refuse to resume sampling and make the results public. Your WNAS Commander told the public, on the record, that other toxic chemicals found in those discharges would be revealed. It never happened. Your contaminated discharges flow through farmland and waters classified by the State as “extraordinary” for aquatic life uses, protected shellfish harvesting, and threatened and endangered species. The last PFAS sampling results posted for public view were for September of 2019. This is not being transparent. This is coverup.

- **Your refusal to improve Coupeville’s PFAS filtration system will prolong preventable exposures. PFAS levels in the water distributed to homes, schools, and the hospital have been increasing since 2021.**

The Navy’s Outlying Field (OLF) is the source of PFAS in Coupeville’s water and area private wells. The public was led to believe that the filtration system would drop PFAS levels below EPA’s Health Advisory Limit, and probably below levels that could be detected by the laboratory. However, PFASs totaled 42.9 ppt in May of 2022 compared to less than 1 ppt in February of 2021. The May 2022 levels of PFOA (the last posted as of this report date) exceed EPA’s current Health Advisory Level for PFOA and are approaching Washington State’s proposed Action Level. Releases from the OLF are expected to continue, as are exposures and health risks.

- **You refuse to identify Public Water Systems contaminated with PFAS, including those that serve hundreds of homes and public facilities like schools and hospitals.**

You cited protection of “privacy” as the reason for refusing Freedom of Information Act requests for the results of your public water system sampling. Note that the State of Washington makes public the results of its PFAS water sampling, the identity of water system owners and operators, and the number of people served. The EPA also named the public water systems after it conducted nationwide PFAS sampling pursuant to its Unregulated Contaminate Monitoring Rule.

You can’t assume that owners of such systems will tell people what’s in the water they are paying for and drinking. Coupeville is a case in point, where its water customers were not told about all the PFAS in their water after contamination was first discovered. The PFAS sampling results you now provide to Coupeville are published on its website as you claim, but without summary information and in a way that can’t be understood. Coupeville has ignored requests to do otherwise.

- **Regulatory agencies and public officials are not your “Partners” in addressing PFAS problems.**

Our State agencies, the EPA and public officials don’t provide meaningful oversight. Instead, their names are invoked to legitimize whatever decisions you make. Citizens with questions about the PFAS problem here on Whidbey are always referred to the Navy. Yours is a relationship best described as the tail wagging the dog. It speaks to how much power and influence you have—which could easily be used to do a better job.

We ask that you reconsider our Compliant and Requests for Action. Your responses will be shared with interested parties, including public officials, public interest organizations, and PFAS victims in communities still waiting for safe water and clean-up.

Sincerely,

Richard Abraham

Marianne Edain, Steve Erikson (for Whidbey Environmental Action Network)

CC: Karnig Ohannessian
Deputy Assistant Secretary of the Navy

Captain Brent C. Paul, Commanding Officer Naval
Facilities Engineering Command Northwest

RADM Dean VanderLey, Commander Naval
Facilities Engineering Command