



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE
 San Diego National Wildlife Refuge Complex
 2376 Loker Avenue - West, Suite A
 Carlsbad, California 92008

May 17, 1999

Mr. Joseph Joyce
 BRAC Environmental Coordinator
 MCAS El Toro
 BRAC Operations Office
 Southwest Division, Naval Facilities Engineering Command
 1420 Kettner Blvd., Suite 507
 San Diego, CA 92101-2404

RECEIVED

MAY 17 1999

US FWS
 CARLSBAD FIELD OFFICE, CA

Dear Joseph:

Thank you sending me a copy of your recent *Draft Response to Comments, Draft Record of Decision (ROD), Operable Unit (OU) 2B Landfill Sites 2 and 17, MCAS El Toro*. I really appreciate your effort in getting those out to us by FEDEX. It was totally appropriate that you sent the comments directly to Jim Bartel, as he was the signatory of our agency comments on the Draft ROD.

The *Draft Response to Comments* is under review by our Solicitor and Contaminants Branch specialist. I know that you want to issue the Final Draft ROD this month, and we will make every effort to respond to your comments in a timely fashion.

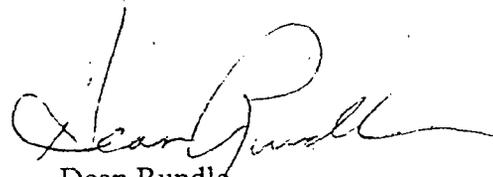
I do not have the technical expertise to personally evaluate all of the language in the ROD and your response to our earlier comments. However, one area is very important and requires our immediate attention - your response to our General Comment No. 1. In our several discussions, I have been happy to hear your verbal assurances that the Department of the Navy (DON) accepts full and perpetual responsibility for all actions regarding management of Landfill Sites 2 and 17. Hence, I assume that your response to General Comment No. 1 that the ROD will state "that the DON is the Federal lead agency responsible for remedial action at Sites 2 and 17" is meant to include **all** necessary landfill management actions.

Our General Comment No. 1 requested that the ROD expressly state that DON is the Federal lead agency (pursuant to Executive Order 12580) "for any present or future remedial action, operation, monitoring, maintenance, and corrective action associated with Sites 2 and 17". It is extremely important to the U. S. Fish and Wildlife Service (Service) that your statement in the Final Draft ROD include DON acceptance of responsibility for not only *remedial action*, but also for *operation, monitoring, maintenance, and corrective action*. Our Solicitor advises me that these words have specific legal meanings. To meet the needs of the Service those words must be included in your ROD statement accepting responsibility for perpetual landfill management.

This language is very important to us, and we will not be able to consider future transfer of the landfill sites into the Refuge System if this language is not placed in the ROD. I know it is likely that your response to our comment was prepared in general terms, and you have acknowledged DON responsibility for all future management actions. I just need to emphasize this point to avoid the possibility that the necessary language gets left out of the ROD. We need the specific language requested in our original comments. The ultimate decision on whether the Service will eventually accept the transfer of the landfills has not been made. It will be made by the appropriate Service executive upon completion of all require reviews. However, I can tell you that failure to include the language requested in our General Comment No. 1 would be a "deal killer".

Thank you for your attention to this matter. I appreciate your continued cooperation in all aspects of planning for the proposed El Toro National Wildlife Refuge. I know DON wants to convey this land to the Service, and we want to be in a position to accept it. Please call me whenever you have questions or need to discuss these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Rundle", written in a cursive style.

Dean Rundle
Refuge Manager

cc: Jennifer Grove
Judy Gibson
Chuck Houghten
Jim Bartel