

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

REGION 4

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L BEACH, CA 90802

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December 19, 1991

Commander S. E. Tower, CEC , U.S. Navy
Head Facilities Management Department
Southwest Division
Naval Facilities Engineering Command
1220 Pacific Highway
San Diego, California 92132-5190

Dear Commander Tower:

REQUEST FOR EXTENSION FOR DELIVERABLES OF THE DRAFT RFA REPORT
AND DRAFT RI/FS WORKPLAN FOR OPERABLE UNIT 4 FOR MCAS EL TORO

The Department of Toxics Substances Control received a fax copy of your letter of December 13, 1991 to Ms. Julie Anderson of the U. S. Environmental Protection Agency, Region 9. In your letter you request time extensions for deliverables of the Draft RFA Report and the Draft RI/FS Work plan for Operable Unit 4 (which was due December 15, 1991) for the Marine Corps Air Station El Toro (MCAS) in accordance with Section 9 of the Federal Facilities Agreement (FFA).

According to Section 9.1 of the FFA, timetables, deadlines and schedules shall be extended upon receipt of a timely request for extension and when a good cause exists for the requested extension. The Department received the facsimile of your letter at 17:40, Friday, December 13, 1991 and could not make it available to our staff until Monday, December 16, 1991. Therefore, your request lacks the timeliness specified in the FFA.

Furthermore, Subsection 9.1 (d) stipulates that any request for extension by a party shall specify the extent to which any related timetable and deadline would be affected if the extension were granted. The Draft Detailed Project Schedule should have been attached to your request.

The Department disagrees with your basis of "good cause" provision of Subsection 9.2 (a). It is the Department's opinion that no event of Force Majeure exist to justify delay in the deliverables specified in the FFA. The Department is aware of the Navy's complicated contract procurement process which might have caused delays in meeting deadlines in this project. However, neither proof of the exercise of reasonable diligence in seeking funds nor proof of insufficient availability of appropriated funds which have been diligently sought have been provided to the FFA parties.

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Based on the above mentioned issues, MCAS El Toro has failed to submit two primary documents and failed to submit a timely request for extension. Therefore, the Department denies your request for extension and recommends that the U. S. Environmental Protection Agency asses penalties stipulated in Section 14.1 to MCAS El Toro.

If you have any questions, please contact Mr. Manny Alonzo at (213) 590-4904.

Sincerely,



Albert Arellano, Jr., P.E.
Unit Chief
Federal Facilities Unit
Site Mitigation Branch

cc: Mr. John Hamill
Remedial Project Manager
U. S. Environmental Protection Agency
Hazardous Waste Management Division, H-7-5
75 Hawthorne Street
San Francisco, California 94105

Mr. Ken Williams
Water Resource Control Engineer
Regional Water Quality Control Board, Santa Ana Region
2010 Iowa Avenue, Suite 100
Riverside, California 92507

Mr. Andy Piszkin, Code 1811
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Commandant of the Marine Corps
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