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MCAS EL TORO
SSIC # 5090.3

DRAFT MEMORANDUM

Date: July 24, 1995
From: Karen Goldberg
To: Bonnie Arthur
Subject: Comments on El Toro EE/CAs

TO: TIM LATAS
FROM: JASON
5 Pages

The following are my comments for El Toro EE/CAs. I reviewed the EE/CA for Site 11, but most of my comments are applicable to other EE/CAs as well. The more important comments are printed in boldface type.

General Comments:

page 1 last paragraph: the term "presumptive" should be deleted here and elsewhere throughout the EE/CA. This is a term of art that does not apply to the removal alternatives considered for this site.

page 11 first full paragraph: the third to last sentence appears to have words missing; also, in the last paragraph, the second sentence has a similar problem.

page 3-2 bottom paragraph: It is unclear why alternative actions are discussed here.

page 3-4 third full paragraph: DOW should explain whether it presented sufficient information to Cal/EPA for identification and evaluation of State ARARs.

page 3-6 second to last paragraph: the second to last sentence is confusing; it indicates that the recommended treatment alternative requires disposal off-site with or without further treatment.

The EE/CA does not discuss the statutory preference for treatment (CERCLA Section 120). Although this is a preference for remedial actions, rather than removals, the EE/CA should explain whether the off-site disposal of untreated contaminated soil is preferable to treatment.

Table 5-1: The information in this table would indicate that off-site thermal desorption is the best alternative, particularly if this alternative ranks "better" for "treated contaminant concentration" and "cost" whereas the recommended alternative, off-site landfill disposal, ranks "not applicable" and "average" for these two criteria. The text does not adequately explain why off-site disposal without treatment is recommended, particularly in light of the information in Table 5-1, and the statement on

page 6-1 that the residual risk of thermal desorption is acceptable under CERCLA, and the fact that economies of scale may be achieved if thermal desorption is selected at other sites.

Section 4.4.2: Specify who will have to approve the transportation plan. In general, the DON and its contractors should use the active voice in preparing the EE/CA and other site documents, to facilitate clarity about who has done or will do what.

page 6-1 second to last paragraph, first sentence: delete "that".

ARARs Comments:

o In general, ARARs analysis in EE/CAs should be tailored to the response action objectives to ensure that site-specific factors are considered. The ARARs analysis appears to be the same for each EE/CA despite the different responses evaluated in each. See, for example, the first comment below.

o It is unclear why the discussion of groundwater ARARs is included after the brief discussion in Section 2.2.1. The revised EE/CA should explain the relevance of the groundwater ARARs to the particular Removal Action or delete the discussion (except for Section 2.2.1).

o In the discussion of several potential ARARs, the specific requirement is dismissed as "not an ARAR" because it either does not regulate the contaminant of concern at the site or in some other way is not directly applicable. However, the EE/CA should discuss whether the requirement is relevant and appropriate, using the factors listed in Exhibit 1-7 on page 1-66 of the ARARs guidance "CERCLA Compliance with Other Laws Manual", EPA/540/G-89/006 (Draft August 8, 1988). I mention some examples of this below (see comment on page A1-11, Section 3.1.5). This comment should also be considered when revising the OU#1 Feasibility Study and preparing ARARs analyses for other response actions at MCAS El Toro.

o page A2-11, Section 2.2.1: what rights is DON reserving regarding interpreting SWRCB Resolution No. 68-16, evaluating technological and economic feasibility under 22 CCR 66264.94, and determining most stringent ARARs? The revised EE/CA should explain how these issues are relevant to the Removal Action, what rights the Navy is reserving and the effect of reserving these rights. Alternatively, this discussion should be deleted.

o Why was 40 CFR 300.400(g)(2)(iv) left out on page A1-2?

o In the discussion on p. A1-2, two items should be deleted from the list of requirements for a state ARAR: "substantive" and

"consistently applied". The former is explained on p. A1-3, and the latter doesn't render a requirement not an ARAR, it provides an opportunity for an ARAR waiver.

o page A2-18, Section 2.3.1:

First paragraph: the EE/CA should include the CFR citation for this federal register notice.

Second paragraph: The EE/CA should be revised to reflect that, if the removal will result in any discharges as defined in CWA Section 502(12), it must comply with the requirements of that Act, particularly Sections 301 and 402. CWA Section 402(p) requires regulation of storm water runoff. [I have a copy of the State General Construction Storm Water Permit, which contains the substantive requirements for a Storm Water Pollution Prevention Plan. These requirements are site-specific and relatively straightforward, e.g. a description of "management practices employed to minimize contact of construction materials, equipment and vehicles with storm water".] These comments are also applicable to sections 4.1.6 and 4.2.6.

o page A-19, Section 2.3.2: This section needs more explanation. Specifically:

First paragraph: explain why the Basin Plan excepts surface waters from the municipal and domestic use designation; explain why MCLs are not relevant or not appropriate -- MCLs may be considered relevant and appropriate for contaminated media other than sources of drinking water.

Second paragraph: as discussed above, State law may require limitations and monitoring of any pollutants discharged to surface waters, not just contaminated groundwater; the EE/CA should explain what State requirements apply to such discharges.

Third paragraph: the EE/CA should explain how the water quality objectives would apply or be relevant and appropriate, and whether the Judicial Council Proceeding invalidates them.

o page A2-19, Section 2.4: The last sentence has a typo ("goals...is"). [Bonnie -- I would like to look at the Phase I RI for Site 11 re soil not being a hazardous waste].

o page A2-20, -21, Section 2.5.1: The EE/CA should mention that U.S. EPA approved the California SIP (it isn't a federal requirement otherwise). The statement that RCRA air emissions requirements would be relevant and appropriate if organic concentrations exceed 10% by weight should be explained (do the state regulations themselves say this?) Could these requirements be relevant and appropriate if the concentrations are lower? This comment applies to section 4.1.5.1. as well.

If SCAQMD rules are State ARARs, the last paragraph in this section should be moved to the next section. The EE/CA should explain why the listed SCAQMD rules are applicable State ARARs when several paragraphs earlier the EE/CA states that substantive

provisions of the SCAQMD rules are potential federal ARARs because they are incorporated into an EPA-approved SIP.

o Bonnie -- are we comfortable with the statement that the site doesn't contain any RCRA restricted wastes for purposes of evaluating LDRs as ARARs? For all removal sites?

o Section 3: Location restrictions in 40 CFR Parts 257 and 258 and the EPA-approved State solid waste program should be considered potential location-specific ARARs for disposal of contaminated soil that is not hazardous waste. ☹

o page A3-1: The EE/CA should explain the statement that location-specific ARARs for unidentified treatment locations will be the same as the ARARs identified in Section 3.

o Table A3-1: DON should determine whether Site 11 is within 200 feet of a fault.

o Table A3-1: The EE/CA should identify efforts (past or proposed) to determine the presence or absence of managed fisheries.

o page A3-11, Section 3.1.4: The EE/CA indicates that "there will be no dewatering effluent discharged from Site 11". However, the trigger for the FWCA is an "action that could affect fish or wildlife in nearby surface waters". The EE/CA should indicate whether any such action is involved in any of the removal alternatives.

o page A3-11, Section 3.1.5: The EE/CA states that Site 11 is not in the coastal zone and therefore the CZMA is not ARAR. In this instance, the EE/CA dismisses a requirement because it is not applicable; the EE/CA should explain whether the requirement is relevant and appropriate. This comment also applies to Sections 3.1.4, 3.1.6 and 3.2.2. (It may appear obvious, but it is important to consider whether provisions that are not applicable are relevant and appropriate).

o page A3-36, Section 4.1.1.2: This section does not explain how 23 CCR regulations are either applicable or relevant and appropriate to clean closure. This comment also applies to Section 4.3.1.2 on page A4-46.

o page A4-38, Section 4.1.3.2: The first paragraph is confusing - if the State HWCA provisions "are part of the authorized state program under RCRA", why are they "not considered potential federal ARARs"? [Note the opposite statement is made in Section 4.1.4.2]. The same comment applies to Section 4.2.3.2 on page A4-43.

o page A4-39, Section 4.1.6.1: The cite to section 2.2.1 is

incorrect -- surface water ARARs are discussed in 2.3.1.

o page A4-40, Section 4.1.7: This section indicates the possibility of waste leaching to groundwater. Is this likely, if groundwater is 120 bgs? If so, further ARARs discussion is needed. This section refers back to Section 2.2, but that section (in particular, section 2.2.2.5) does not discuss the possibility that the remedy will cause leaching of soil contaminants to groundwater. This comment also applies to section 4.2.7.

o page A4-42, Section 4.2.2.1: This section refers to Section 1.4.1, but there is no such section in the EE/CA. If the reference is to the Phase I RI or some other document, the EE/CA should indicate that. Also, there is a typo in the first sentence -- "for" and "to" should be switched.

o page A4-43, Section 4.2.4.1: This section refers to Alternative 1. Is that a typo?

o page A4-44, Section 4.2.6.1: Reference to 2.2.2 should be changed to 2.3.1.

o page A4-47, Section 4.3.3: This section states that under Alternative 4, untreated soil will be disposed as backfill or landfill cover material. However, the discussion of Alternative 4 (Text Section 4.4, page 4-17) states that untreated soil will be disposed in a TSCA-approved landfill. This section of the ARARs analysis should be revised to reflect requirements associated with transportation of untreated soil and disposal in a TSCA landfill.