



DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
ENVIRONMENTAL DIVISION
1220 PACIFIC HIGHWAY, RM 18
SAN DIEGO, CALIFORNIA 92132-5181

5090
Ser 183A/279
December 29, 1994

Mr. John Scandura
Department of Toxic Substances Control
Region 4
245 W. Broadway, Suite 350
Long Beach, CA 90802-4444

Dear Mr. Scandura:

The purpose of this letter is to request extensions of the deadlines set forth in Appendix A of the subject FFA under section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). We hereby request extensions of the deadlines associated with the Remedial Investigation (RI) for Operable Units (OU) #2 and #3, requiring a modification under Sections 8.4 and 9 of the FFA. These extensions are needed to accommodate the restructuring of the sites, expanded site characterization, broadened remedy selection and anticipated funding shortfalls. More specifically, the Department of the Navy (DON) is requesting that the resulting schedules be extended as shown on the proposed revised schedule attached.

This request for schedule extension is based on "good cause" referenced in provisions of Section 9.1(c) and (d), 9.2(a), (d) and (g) of the FFA. The following summarizes the issues and events that the Base Realignment and Closure (BRAC) Cleanup Team (BCT) have discussed throughout the year which supports granting this extension request.

Regulatory review requirements for information to supplement the Draft Phase II Work Plan caused the initial delay. The Draft Phase II Work Plan was submitted in November 1993, and reflected an \$8 Million increase in estimated costs for its implementation from \$12 million to \$20 Million. Regulatory comments received found the technical approach and field assumptions unacceptable and required additional technical information. The BCT agreed that the results of a soil gas survey would be helpful in satisfying this information gap and useful for revision of the Phase II work plan to address significant new/unresolved site conditions/assumptions, expedite investigation, resolve technical disagreements and reduce costs. The scoping of the soil gas survey required approximately three months. The agreed deadline for completion of the additional unscheduled soil gas survey work was September 1994, which was achieved, representing a ten month duration. Upon completion of the soil gas survey, the time required for analysis, evaluation, regulatory comment and incorporation into the revised Phase II work plan is approximately six months additional time. These events resulted in a cumulative delay of nineteen months

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to the overall schedule which was never envisaged or included in the previous FFA schedule. They represent the "good cause" for this nineteen month extension. As contemplated in FFA Sections 9.1(d) and 9.2(d) this delay impacts all subsequent deadlines by thirteen to sixteen months.

As discussed at the BCT meeting of December 14, 1994, we agreed to restructure OU #2 into three groups of sites (#2a, #2b, #2c) with three separate schedules (e.g., OU #2a and #2b submittal schedules were offset by one month to facilitate document reviews); reduce the priority of OU #2c and OU #3 based on the probable lack of funding until fiscal year 1998; divert existing funds from projects awarded last year for OU #2c to perform removal actions at OU #3 sites #4 and #13 and conduct additional groundwater sampling; and extend the schedules of affected milestones and deliverables as indicated in the attached table.

Insufficient funding is an additional delaying influence for OU's #2c and #3. The original fiscal year 1994 cost estimates and funded budget identified in the April 1994 BRAC Cleanup Plan (BCP) for OU #2 and #3 was for only \$12.4 million. Additional fiscal year 1994 funding was requested and received for the soil gas survey in the amount of \$2.3 million; \$1.1 million for revision of the Draft Phase II Work plan; and \$0.4 million for the QA/QC effort. However, funding for OU #3 (which was requested at the same time as for OU #2) was not received despite diligent and repeated requests for additional funds. Funding was, and still is, an unresolved critical issue for OU #2c and #3. Therefore, in addition to the nineteen month soil gas delay, an additional 39 month delay is anticipated (and extension is hereby requested) due to the current insufficient availability of appropriated funds which have been diligently sought, and the anticipated lack of full or adequate funding until fiscal year 1998. This lack of funds qualifies as a "force majeure" under Section 10.1(m) of the FFA, and therefore constitutes "good cause" for the supplemental 39 month extension requested for OU #2c and #3. While we will continue to request the required funding, we do not anticipate receiving it until fiscal year 1998 which is the basis for the dates we propose on the Revised Schedule.

Award of fieldwork implementing the Revised Phase II work plan when approved by your office should be a satisfying accomplishment as it has generally been innovative and time efficient, actually expediting the schedule on occasion. For example, several months were saved by awarding fieldwork based on presumptions and information available at the time. The fieldwork for OU #2 sites 24 and 25 was awarded on August 31, 1994 for \$3.9 million and for OU #2 landfill sites on September 20, 1994 for \$6.4 million. Preliminary work has already begun with actual full scale fieldwork to commence upon completion of the work plan.

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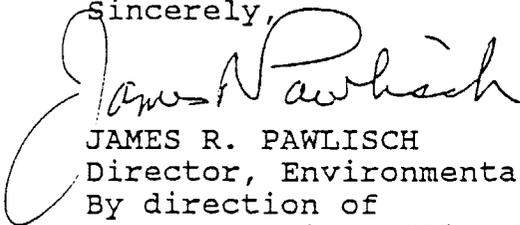
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As discussed between Mr. John Scandura of the Department of Toxic Substances Control, Ms. Jane Diamond of the Environmental Protection Agency, and Mr. Dana Sakamoto of this office, the Department of the Navy agrees to extend the seven day regulator response time under Section 9.4 of the FFA to thirty days.

We appreciate the team spirit and partnering shown by all FFA parties and the many innovative approaches that we have already implemented on this project. We look forward to your continual engagement and support in this project.

If you have any further questions, please contact Mr. Dana Sakamoto, Director, BRAC Division at (619) 532-2590.

Sincerely,



JAMES R. PAWLISCH
Director, Environmental Department
By direction of
the Commanding Officer

Copy to:
Mr. Larry Vitale
California Regional Water Quality
Control Board
Santa Ana Region
2010 Iowa Avenue, Suite 100
Riverside, CA 92507-2409

Ms. Julie Anderson
U. S. Environmental Protection Agency
Region IX
Code H-9-2
75 Hawthorne Street
San Francisco, CA 94105

**Federal Facility Agreement
Revised Schedule (12-15-94)
MCAS EI Toro**

Deliverable or Milestone	Original Completion Date	Proposed Completion Date	Length of Extension (Yr-Mo)
<u>Operable Unit 2A</u>			
Draft RI/FS Work Plan	30-Sep-93	N/A	
Phase I Technical Memo	7-May-93	N/A	
Draft Phase II Work Plan	9-Aug-93	20-Mar-95	01 yr.-07 mo.
Start Phase II Fieldwork	8-Mar-94	20-Jul-95	* 01 yr.-04 mo.
Draft RI Report	2-Jan-95	20-Feb-96	01 yr.-01 mo.
Draft FS Report	1-Jun-95	20-Jul-96	01 yr.-01 mo.
Draft Proposed Plan	1-Sep-95	20-Nov-96	01 yr.-02 mo.
Draft Record of Decision	12-Mar-96	20-Apr-97	01 yr.-01 mo.
<u>Operable Unit 2B</u>			
Draft RI/FS Work Plan	30-Sep-93	N/A	
Phase I Technical Memo	7-May-93	N/A	
Draft Phase II Work Plan	9-Aug-93	20-Mar-95	01 yr.-07 mo.
Start Phase II Fieldwork	8-Mar-94	20-Jul-95	* 01 yr.-04 mo.
Draft RI Report	2-Jan-95	20-Mar-96	01 yr.-02 mo.
Draft FS Report	1-Jun-95	20-Aug-96	01 yr.-02 mo.
Draft Proposed Plan	1-Sep-95	20-Dec-96	01 yr.-03 mo.
Draft Record of Decision	12-Mar-96	20-May-97	01 yr.-02 mo.
<u>Operable Unit 2c and 3</u>			
Draft RI/FS Work Plan	30-Sep-93	N/A	
Phase I Technical Memo	7-May-93	N/A	
Draft Phase II Work Plan	9-Aug-93	20-Mar-95	01 yr.-07 mo.
Start Phase II Fieldwork	8-Mar-94	20-Apr-99	* 05 yr.-01 mo.
Draft RI Report	2-Jan-95	20-Dec-99	04 yr.-11 mo.
Draft FS Report	1-Jun-95	20-Jul-00	05 yr.-01 mo.
Draft Proposed Plan	1-Sep-95	20-Nov-00	05 yr.-02 mo.
Draft Record of Decision	12-Mar-96	20-May-01	05 yr.-02 mo.
Sites 4 and 13			
Issue Draft EE/CA	N/A	20-May-95	**
Prepare Action Memos	N/A	20-Mar-96	**
Issue Final Action Memos	N/A	20-Jun-96	**
Issue Final EE/CA	N/A	20-Jul-96	**

* These completion dates are target dates (not enforceable)

** Removal Actions not controlled by the Federal Facility Agreement