



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
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March 24, 1997

Mr. Joseph Joyce  
BRAC Environmental Coordinator  
U.S. Marine Corps Air Station- El Toro  
P. O. Box 95001  
Santa Ana, California 92709-5001

Re: Additional U. S. EPA Comments on Draft Final Phase II Feasibility Studies Operable Unit  
2C- Sites 3&5, Marine Corps Air Station- El Toro, California

Dear Mr. Joyce:

The United States Environmental Protection Agency (EPA) has reviewed the above referenced documents dated February, 1997. Per my letter dated March 11, 1997, this letter contains additional comments mainly concerning ARRARs and institutional controls. Although this letter focuses on the Site 5 Feasibility Study, our comments also pertain to the Site 3 Feasibility Study, since these sites share similar characteristics and the Feasibility Studies are also similar if not identical.

Site 5 comments:

GENERAL COMMENTS:

1. The language in the FS that states that the DON policy allows deed restrictions to be established only through negotiation of a BRAC transfer is not acceptable. The FS and the ROD need to identify the restrictions on use and access that will be part of the remedy, e.g., restrictions on use of groundwater, restrictions on excavation, maintenance of integrity of cap, etc.
2. The DON seems to be identifying two sets of ARARs under RCRA, i.e., Subtitle C and Subtitle D which creates inconsistency problems. If the DON believes that there is hazardous waste at the Site, Subtitle C requirements are the ARARs; if the DON believes the site qualifies as a MSWLF, then Subtitle D requirements are the ARARs. The DON seems to think that designating Subtitle C as "relevant and appropriate" and Subtitle D as "applicable" resolves the inconsistency problem. It doesn't. Once you designate requirements as "relevant and appropriate requirements," these are like any other ARARs and must be complied with. In other words, they would be no different in weight than the applicable requirements. For instance, if you have an activity like landfill capping where the DON has designated both Subtitle C and D as ARARs (one as relevant and appropriate, the other as applicable), the question is which of these requirements regarding

landfill capping must be complied with?

SPECIFIC COMMENTS:

1. p.ES-9: As previously mentioned, alternative 1 (no action) also accomplishes remediation of groundwater through precipitation. On this page and all throughout the document, monitoring is described as an institutional control. Monitoring is really not part of institutional controls.

2.p.ES-10: First underlined paragraph - refers to State's acceptance of the different variations of alternative 4. What about State's acceptance alternatives 5 and 6? Also, what about EPA's acceptance of these alternatives? On the same page, first bullet under "Results of Remedial Alternative Evaluation," states that alternative 1 is not expected to comply with ARARs. A no action alternative does not trigger ARARs.

3.p.ES-13: Underlined section, last bullet - this sentence seems to contradict itself, i.e., the alternative will result in continued low-level releases of gas from the LF surface and decreased releases at the periphery of the LF.

4.p.ES-15: Table ES-3 - ranks the various alternatives. Since "Overall Protection of HHE" and "Compliance with ARARs" are threshold criteria that must be complied with, these should not be ranked (low, moderate, high). In other words, when looking at alternatives, the first question is - do these alternatives make it past the two threshold requirement? If an alternative does, you compare it with the other alternatives with regard the other balancing criteria. That's when the ranking of alternatives should take place.

5.p.2-6: Last paragraph - what is "no significant" surface drainage?

6.p.3-1: This section discusses the screening of presumptive remedy technologies. Did the DON look at the EPA Guidance on "Application of the CERCLA Municipal Landfill Presumptive Remedy to Military Landfills?" There is no mention of it here.

7.p.3-8: Last paragraph - first underlined section. The substantive portions of Article 7.8 are potentially applicable, not relevant and appropriate.

8.p.3-9: first paragraph - 40 CFR Part 258 are applicable (not relevant and appropriate); and change the reference here from Site 17 to Site 5. On the same page, the last paragraph - since production from Site 5 aquifer may be as high as 500 to 2,000 gallons per day, the provisions of Res. 88-63 DO apply to Site 5.

9.p.3-10: First row - how are the 66264.309(a) substantive environmental standards? The requirements in the second row are not cited in the text.

10.p.3-11: First row - 17774(g)(1) requirements are not in the text.

11.p.3-12 and 3-13: The following are not cited in the text - 17777(a); 86264.117(b)(1) and (2); 17788(a); 17788.

11.p.3-16: First paragraph - states that because background levels for metals have not been prepared, attaining background levels is not considered feasible. That's a big assumption. On the same page, the third paragraph - mcls are the cleanup goals for this site, yet mcls may not be appropriate for other sites. Explain this. Also, last paragraph - please provide a citation for the Subtitle D requirement being referenced here.

12.p.3-19: First paragraph under Section 3.2 - talks about response actions for hazardous waste sites. Is Site 5 a hazardous waste site or a MSWLF?

13.p.3-20 and 3-23 - the bullet lists source area groundwater control but the text regarding this is deleted.

14.p.3-23: Last paragraph - states that leachate collection and treatment is ruled out at this time. What about if the golf course scenario happens? Will leachate collection and treatment still be ruled out then?

15.p.3-29: First underlined paragraph - the logic here seems sort of circular.

16.p.3-31: As mentioned above, its really not accurate to include monitoring as part of institutional controls. There should really be a separate section for monitoring since all the alternatives will require monitoring.

17.p.3-33: Section 3.6, Clean Closure - is this still part of the presumptive remedy?

18.p.3-34: Under Section 3.7 - reference is made to the sections which do not exist. These are 3.6.1, 3.6.6, 3.6.7.

19.p.3-43: Section 3.7.6, Disposal Actions - this is confusing. Clarify that this is not a stand alone remedy but part of a remedy, where groundwater is treated and the question then is, what to do with the treated effluent?

20.p.4-1, Section 4 - talks about the development of alternatives for the soil at Site 5? What about the groundwater?

21.p.4-2: First paragraph - inadvertently deletes sentence regarding the first type of control.

22.p.5-10 and 5-11: in p.5-11, it states that alternative 3 is expected to meet all ARARs and provide equivalency to the Title 14, Title 23 prescriptive cap. In the previous page, it says that this alternative will achieve an equivalent standard of performance to the Title 23 cap only in to

nonirrigated scenario.

23.p.5-11: Last paragraph - why was it necessary to discuss here in "Compliance with ARARs" the interest in monolithic caps?

24.p.5-16: Last paragraph - the discussion of HHE is limited to a discussion of the soil contamination. What about the groundwater?

25.p.5-17: Under "Long Term Effectiveness," the text leads one to conclude that compacted clay barrier layer will not work. The question then is, why are we considering this alternative?

26.p.5-22: Under State Acceptance - this is the only place where groundwater is discussed. Also on this page, under "Overall Protection of HHE," there is a sentence that states that the cap will also reduce infiltration into landfill contents, thus minimizing further impacts to groundwater. Why doesn't this sentence appear in p.5-16?

27.p.5-44: Why did the State not comment on alternative 5b?

28.p.5-49: Why did the State not comment on alternative 6a?

29.p.5-54: Why did the State not comment on alternative 6b?

30.p.6-1: Are there any RAOs for groundwater remediation?

31.p.6-5: Second row, alternative 4a - states that this complies with the Title 23 prescriptive cap. This wasn't clear in the text.

32.p.6-7: Third row, alternative 2 - states that implementability of this alternative is high because there are no construction activities. What about the implementability of the deed restrictions? Also on this page, last row - both 4b and 5b cost \$4.7 m. Yet, 4b is the second most costly and 5b is third most costly.

#### COMMENTS TO ARARs (Appendix A)

1.p.A1-5: Delete "significant provisions" in the first sentence that refers to Subtitle D requirements. Do this mean *substantive* provisions?

2.p.A1-6: Why is it necessary to have a separate RCRA corrective action section (specifically a section on CAMU) here? The other Subtitle C requirements are discussed on page A1-4.

3.p.A2-2: There should be a footnote here that clarifies that when stated "relevant and appropriate for all alternatives," it means all except alternative 1.

4.p.A2-3: Last row - TCLP regulatory levels applicable only if hazardous waste is generated.

5.p.A2-8: First paragraph - ACLs under CERCLA are not analyzed as part of the ARARs process. Also on this page, I believe the federal water quality standards promulgated by EPA for California were for toxic pollutants. In the same section (Clean Water Act), it states that FWQC are potentially relevant and appropriate only in the absence of promulgated mcls or mclgs. Is that the case here? Primary and Secondary State mcls are ARARs only if they are more stringent, and in the case of secondary mcls, if they have been promulgated by the State.

6.p.A2-10: Please delete the last sentence in the first paragraph that starts with the word "Authorizes..." The second paragraph refers to implementation plans to meet water quality objectives. Many of these implementation plans are not ARARs. In the Citation section on this page, it cites 13241, 13243, 13263(a) and 13360 of the Water Code. The only one cited in the narrative text is 13263(a).

7.p.A-2-11: First row - cites Res. 89-42. What is this? This was also not cited in the text.

8.p.A2-14: Top of the page - states that the aquifer is estimated to have a production rate of greater than 200 gallons per day. This means that the groundwater is a potential municipal or domestic water supply.

9.p.A2-16: First paragraph - states; because Res.92-49 incorporates and relies upon the provisions of Title 23 which are not more stringent than Title, Res. 92-49 is not a valid State ARAR. This seems inconsistent with the "stand alone" approach advocated in the previous page (p.A2-15).

10. p.A2-18: - First bullet under Groundwater Chemical ARARs - refers to waste discharge limitations. It is my understanding that waste discharge requirements are permits issued by the Water Board. If they are indeed permits, one should be careful in citing them as ARARs.

11.p.A4-5: First row - there will be no placement of hazardous waste at all? On the same page, last row, Title 22 closure performance standards are relevant and appropriate only if there is hazardous waste in Site 5.

12.p.A4-7: First row - this was struck out. I am assuming it is because this is not landfill containing RCRA hazardous waste. Yet, there are other requirements in the ARARs Table and text that pertain to Subtitle C requirements. This goes to my general comment above regarding the inconsistent approach taken by the DON. Also on this page, last row - is the requirement for a map a substantive requirement?

13.p.A4-8: Here it appears that the controlling ARARs are Title 14 and 23, not Title 22. Please see my general comment above.

14.p.A4-9: Second row - states that the requirement to continue to operate leachate collection is not an ARAR because the landfill is not fitted with a leachate collection system. The question is, is there a need for a leachate collection system, not whether or not one currently exists.

15.p.A4-14: Last row - states that 40 CFR Part 258.61 is not an ARAR because it is not more stringent than Title 23. Its the other way around: the starting point is Part 258, the federal ARAR. Then, the issue is whether Title 23 is more stringent than Part 258.

16. p.A4-16: Why is there no citation of the Title 22 regulations here regarding CAMU?

17. p.A4-17: Why is it necessary to cite this? Isn't there already an ARAR that addresses point of compliance? If so, the DON should just consolidate all the citations to the same requirement in one place.

18.p.A4-18: Dept of Transportation requirements are offsite requirements. They can be discussed in the text but should be taken out of the ARARs discussion because it can be confused with ARARs requirements.

19.p.A4-24: Last row - please see comment above regarding waste discharge requirements.

20.p.A4-27: Last row - corrective action is not an ARAR because the CERCLA response action is equivalent to a corrective action.

21.p.A4-33: Second row - both Title 14 and Title 23 contain the State of California's Subtitle D requirements. So, in a way, they are both the controlling ARARs for Subtitle D but only if they are more stringent than 40 CFR Part 258. Also, on this page, last row - this one states that Title 22 is the controlling ARAR. This illustrates the point made earlier about the confusing and inconsistent approach to Title 22 (Subtitle C) and Title 14/Chapter 15 (Subtitle D) requirements.

23.p.A4-39: What are the substantive requirements in closure certification?

24.p.A4-47: Why are these stormwater requirements TBCs instead of ARARs?

25.p.A4-49: Last row - what is this CA. Water code, chapter 5, Article 1 requirement? Please give specific citation.

26.p.A4-53: Why were the Clean Air Act requirements deleted?

If you have any questions concerning the comments above, please feel free to contact me at (415) 744-2210.

Sincerely,



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cc: Tayseer Mahmoud, DTSC  
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