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ALAMEDA POINT
SSIC NO. 5090.3



Gray Davis
Governor

September 1, 2000

Southwest Division
Naval Facilities Engineering Command
BRAC Office
Attn: Mr. Lou Ocampo
1230 Columbia Street, Suite 1100
San Diego, CA 92101-8517

DRAFT FINAL RECORD OF DECISION/REMEDIAL ACTION PLAN FOR MARSH CRUST AND GROUNDWATER AT THE FLEET AND INDUSTRIAL SUPPLY CENTER OAKLAND, ALAMEDA FACILITY/ALAMEDA ANNEX AND FOR MARSH CRUST AND THE FORMER SUBTIDAL AREA AT ALAMEDA POINT (AUGUST 18, 2000)

Dear Mr. Ocampo:

The Department of Toxic Substances Control (DTSC) has reviewed the Draft Final Record of Decision/Remedial Action Plan (ROD/RAP) for the Marsh Crust and Groundwater at the Fleet and Industrial Supply Center, Oakland Alameda Facility/Alameda Annex and for the Marsh Crust and Former Subtidal Area at Alameda Point, Alameda, California, (August 18, 2000).

The revised RAP/ROD includes new text that better explains the rationale for the focused FS, such as clarification that an exposure pathway could exist for workers or residents if contaminated marsh crust soil were brought to the surface and disposed of in an uncontrolled manner. Similarly, addition of quantitative information to the discussion of the risks has improved the justification for need for a remedy.

The enclosed comments address specific details discussed during a BRAC Cleanup Team teleconference on August 24, 2000. We anticipate that resolution of these comments and those of U. S. EPA (August 30, 2000) and subsequent incorporation into the final version will result in a version that DTSC will be prepared to sign.

Please contact me at (510) 540-3767 if you have any questions regarding this letter.

Sincerely,



Mary Rose Cassa, R.G.
Engineering Geologist
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enclosure

cc: Southwest Division
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DEPARTMENT OF TOXIC SUBSTANCES CONTROL
COMMENTS ON DRAFT FINAL RECORD OF DECISION/REMEDIAL ACTION PLAN
FOR MARSH CRUST AND GROUNDWATER AT THE FLEET AND INDUSTRIAL
SUPPLY CENTER OAKLAND, ALAMEDA FACILITY/ALAMEDA ANNEX AND FOR
MARSH CRUST AND THE FORMER SUBTIDAL AREA AT ALAMEDA POINT
(AUGUST 18, 2000)

1. Environmental Restrictions in Deed

The text in several places states, "The Navy has included Environmental Restrictions addressing marsh crust land use controls pursuant to California Civil Code Section 1471 in the deeds transferring title to the Alameda Facility/Alameda Annex and Alameda Point to the City of Alameda on July 20, 2000." As written, the text indicates that all environmental restrictions required by this RAP/ROD are already in place. It is true that the deed transferring FISC Annex is in place, but only the East Housing portion of Alameda Point has been transferred. Please correct all occurrences in the text to indicate that deeds transferring title in the future will also contain the appropriate environmental restrictions.

2. Covenant to Restrict Use of Property

The text in several places states, "On July 20, 2000, DTSC and the City of Alameda entered into a Covenant to Restrict Use of Property (Covenant) that includes Environmental Restrictions addressing marsh crust land use controls pursuant to California Civil Code Section 1471 and Health and Safety Code (HSC) Section 25355.5." As written, the text indicates that the cited covenant addresses all land use controls required by this RAP/ROD. The July 20, 2000 covenant between DTSC and the City of Alameda addresses only the FISC Annex and the East Housing portion of Alameda Point. Please correct all occurrences in the text to indicate that future transfers of property included in the marsh crust/subtidal area of Alameda Point will require a similar covenant.

3. History of Alameda Facility/Alameda Annex

Section 2.2.1 contains the following new text in reference to historic activities at the San Francisco Bay Airdrome: "The use, storage and uncontrolled disposal of these materials may have resulted in the contamination of groundwater at the site." Section 2.5.4 contains similar new text: "It is likely that the use, storage and uncontrolled disposal of hazardous materials and associated wastes from the Airdrome operations may be a source of this widespread contamination." The Navy has not presented information to substantiate either of these statements in any documents leading up to the RAP/ROD. These statements are not relevant to the selected remedy, and should

not be introduced at this point in the process.

4. Alameda Point East Housing Removal Action Workplan

The Removal Action Workplan for Marsh Crust at East Housing (May, 2000) should be included in the discussion of environmental investigations and remedial actions (Section 2.2.2) and added to the reference list.

5. Documentation of Significant Changes

As discussed during the conference call on August 24, 2000, Section 2.14, Documentation of Significant Changes, provides an opportunity to point the reader to several changes in the text, including deleting the qualitative discussion of risks in favor of a more quantitative discussion, and enhancing the discussions of permanent solutions and trade-offs (Sections 2.13.1 and 2.13.2). These changes, however, should not be confused with "significant changes" in the context of the NCP regarding changes to the remedy itself as a result of public comment.

6. Preliminary Nonbinding Allocation of Responsibility

The revised preliminary Nonbinding Allocation of Responsibility is enclosed.

RESPONSIVENESS SUMMARY

Comment 1. Fruits & Vegetables

It appears that the commenter is largely concerned about homegrown produce, which sounds different from "food crops" protected by government restrictions on irrigation wells. This response should also include information addressing volatilization of benzene during overhead irrigation and anticipated low (or no) uptake of the COC by plants through leaves and other surfaces. For drip irrigation, that pathway would not exist, and root uptake issues could be addressed using an argument extracted from the pre-existing "fruits&nuts" document.

Comment 4. Removal Action Workplan for East Housing

The August 18 version of the RAP/ROD did not include the requested reference to the East Housing RAW in the appropriate location (Section 2.2).

Comment 5. Community Acceptance

Please revise the second sentence of the comment summary as follows: "AE gave the example of a recently passed resolution by the Alameda Facility/Alameda Annex ~~Alameda Naval Air Station~~ Restoration Advisory Board (RAB) on ~~dated~~ April 4, 2000 that notified ~~notifying~~ the City of Alameda that the excavation ordinance, which is one of three components of the selected alternative, suffers from significant deficiencies."

Insert "Alameda Naval Air Station" before "RAB" in the fourth sentence and delete the parenthetical information.

Comment 7. Scope of Remedy

The response lacks information responding to CRC comments 4, 5, and 6. To address CRC comment 4 (extent of marsh crust groundwater contamination), the response should state that all data used to define the nature and extent of the marsh crust/subtidal area are contained in the relevant RI reports. To address CRC comment 5 (northern boundary of subtidal area), the response should state that the marsh crust and subtidal deposits have a specific definition. Contamination identified in areas previously believed to be "clean" is not within the scope of this document; however, such identification is useful and will be considered as the investigations at Alameda Point progress.

Comment 8. Contamination . . .

Please check the use of "benzo(a)pyrene" in the last sentence; it appears that the word should be "benzene." Please revise the second sentence of the response as follows: "The Navy acknowledges that additional investigation might result in a more definitive description of the distribution of contamination in the marsh crust/subtidal area."

The response should address Arc's concern (4.e.) about marsh crust contaminants in the soil column other than the marsh crust, e.g., something to this effect: "In the conceptual model, the marsh crust is a discrete depositional layer of a unique and definable soil type. In the model, some areas within this definable layer are contaminated. The processes that resulted in the marsh crust layer, and the processes that resulted in contamination in some regions of the marsh crust, are distinct from processes that resulted in the presence of other soil layers and processes that may have resulted in contamination of those other soil layers. PAH contamination in soil above the marsh crust is not within the scope of this RAP/ROD."

The response should also address Arc's concerns (3) about groundwater, e.g., something to this effect: "Areas outside of the FISC Annex (e.g., the Alameda Naval Air Station property impacted by the benzene plume) are not within the scope of the

RAP/ROD. The groundwater-to-indoor air pathway for the Alameda Naval Air Station will be evaluated during ongoing investigations.”

The last sentence in the first paragraph could be recast to eliminate reference to a specific review period (e.g., “remedy review process”).

Comment 9. RAOs

DTSC has determined that notes on bore-hole logs regarding “hydro-chloride” are not an error on the part of CRC. The term is present on at least 17 boring logs. Rather, the term “hydro-chloride” is probably an artifact of transcription in which “hydrocarbon” was incorrectly typed as “hydro-chloride.” (Similarly, inspection of the logs indicates that “HC” as shorthand for hydrocarbon was probably incorrectly transcribed as “HCl.”) To complete the response, some information will have to be added about common occurrences of petroleum odors, sheen, etc. in bore holes and how these occurrences are interpreted.

Comment 10: Proposed Remedy

The statement of the comment does not adequately address the scope of the cited comments. CRC comment 19 addresses prohibition of wells for monitoring and cleanup. The response about future excavations/cleanup actions does not accurately address CRC's comment. The comment reads, in part, “The proposed CERCLA remedy for the marsh crust imposes a permit requirement on future cleanup excavations that may be conducted at the Alameda Point Superfund site.” This can be interpreted to say that CRC believes the remedy, as stated, imposes permit requirements on excavations related to cleanup activities. The Navy seems to have interpreted the comment to say that future excavations (e.g., public works operation and maintenance or infrastructure replacement activities) would be perceived as cleanup actions. An alternative, perhaps more appropriate, response would be something to the effect that CERCLA cleanup activities are exempt from obtaining permits, but the activities must meet the substantive requirements of any relevant permits.

In the last paragraph of the response to Comment 10, please insert “covenant and” before “Environmental Restrictions in Deed.” To complete the response to Arc's concerns, a statement should be added that includes volatilization of benzene, little or no uptake by plants anticipated, and overwatering is not anticipated to result in significant discharges to the storm drain system and, subsequently, the Bay.

For completeness, the response should restate the geographic scope of the remedy (FISC Annex and a specific portion of Alameda Naval Air Station) and that the City's ordinance encompasses a much larger area (“former Naval Air Station Alameda and

Fleet Industrial Supply Center, Alameda Annex and Facility" [sic]).

Comment 11. Risk Assessment

The premise of the response is inaccurate. Future construction and development are precisely the rationale for the remedy selected in the RAP/ROD. The response should articulate the concept that development carried out within the constraints of the selected remedy and pursuant to the laws of the State of California is not expected to result in adverse impacts to endangered species or their habitats.

In the response, 4th sentence, please consider replacing "site investigation" with "remedial investigation." Please consider rewriting the last sentence of the response as follows: "Although CRC's argument that other parameters could be used is valid, the Navy believes that excess ecological risk is low, considering the limitations of the exercise."

Comment 12. Summary of Site Risks

In the second sentence of the response, please consider replacing "... into schools" with "... into indoor air, and included a school scenario." In the fourth sentence, please consider replacing "... a school site is formally proposed ..." with "... certain conditions are met." This sentence could cite the California Education Code, Sections 17210-17224. Please consider adding the following before the last sentence: "Some photodegradation may have occurred, but was likely not sufficient to significantly deplete the large masses of PAH in the waterways and marshes." Consider changing the last sentence as follows: "...encapsulation, further photodegradation of PAHs would not have occurred."

Suggested revision:

"... The air quality risk assessments reported in the RI/FS used commonly accepted and conservative assumptions to determine the potential risk from volatilization of benzene into schools ~~indoor air and included a school scenario~~. The results clearly showed that volatilization would not create an unacceptable risk for either school students or adult school workers. In addition, the requirements of the state code identified by CRC are not triggered until a school site is formally proposed ~~certain conditions are met (California Education Code, Sections 17210-17224)~~ and are not considered applicable or relevant and appropriate requirements (ARAR) for this remedial action.

"... San Francisco Bay. ~~Some photodegradation may have occurred, but was likely not sufficient to significantly deplete the large masses of PAH in the waterways and marshes~~. Because of this deep encapsulation, ~~further~~ photodegradation of PAHs would

never **not** have occurred.”

Comments 14 and 15. Community Member Requests for Information

Please ensure these members are on the mailing list. If already on the list, please state that this has been verified. If not already on the list, please state that they will be added, and *make the addition*. Has the Navy forwarded any previous fact sheets or other information to the writer of Comment 15?



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PRELIMINARY NONBINDING ALLOCATION OF RESPONSIBILITY

Health and Safety Code (HSC) section 25356.1(e) requires the Department of Toxic Substances Control (DTSC) to prepare a preliminary nonbinding allocation of responsibility (the "NBAR") among all identifiable potentially responsible parties (PRPs). HSC section 25356.3(a) allows PRPs with an aggregate allocation in excess of 50% to convene an arbitration proceeding by submitting to binding arbitration before an arbitration panel. If PRPs with over 50% of the allocation convene arbitration, then any other PRP wishing to do so may also submit to binding arbitration.

The sole purpose of the NBAR is to establish which PRPs will have an aggregate allocation in excess of 50% and can therefore convene arbitration if they so choose. The NBAR, which is based on the evidence available to the DTSC, is not binding on anyone, including PRPs, DTSC, or the arbitration panel. If a panel is convened, its proceedings are de novo and do not constitute a review of the provisional allocation. The arbitration panel's allocation will be based on the panel's application of the criteria spelled out in HSC section 25356.3(c) to the evidence produced at the arbitration hearing. Once arbitration is convened, or waived, the NBAR has no further effect, in arbitration, litigation or any other proceeding, except that both the NBAR and the arbitration panel's allocation are admissible in a court of law, pursuant to HSC section 25356.7 for the sole purpose of showing the good faith of the parties who have discharged the arbitration panel's decision.

For the marsh crust and subtidal areas at the FISC Annex and Alameda Point and shallow groundwater at the FISC Annex, the Navy agrees that the preliminary NBAR may designate that the Navy will be 100% responsible for the implementation of the required Navy activities covered in this RAP. The Navy does not concur with the findings of the NBAR and reserves any and all rights that it may have to challenge the findings of the NBAR in any future proceedings. DTSC's preliminary NBAR is without prejudice to the Navy's right to challenge such allocation in any subsequent proceedings, except the right to seek binding arbitration pursuant to HSC section 25356.3(a) which right is expressly waived. The Navy has further agreed that it reserves its rights to seek recovery of its costs against any party whether currently identified as a PRP or otherwise. Consistent with the agreement of the Navy, DTSC's preliminary NBAR allocates 100% of the responsibility for implementation of the required Navy activities covered by this RAP to the Department of the Navy.

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