



# Department of Toxic Substances Control

M60050.000349  
MCAS EL TORO  
SSIC # 5090.3



Edwin F. Lowry, Director  
5796 Corporate Avenue  
Cypress, California 90630

Gray Davis  
Governor

Winston H. Hickox  
Agency Secretary  
California Environmental  
Protection Agency

January 18, 2000

Mr. Dana Sakamoto  
Department of the Navy  
Southwest Division  
Naval Facilities Engineering Command  
1220 Pacific Highway  
San Diego, California 92132-5190

## LAND USE COVENANTS AND PROPOSED LANGUAGE FOR RECORDS OF DECISION AT NAVY BASES

Dear Mr. Sakamoto:

The Department of Toxic Substances Control (DTSC) received your letter of December 21, 1999 regarding DTSC's requirements for land use covenants for properties requiring institutional controls at transferring military installations. As a result, negotiations are currently ongoing between legal representatives of both our agencies to develop a model land use covenant. We are appreciative of the Navy's efforts in this regard, and await finalization of the model and of a Memorandum of Understanding (MOU) to be signed by the Navy and by DTSC. In addition, we have reviewed the Navy's related analysis of proposed State Applicable or Relevant and Appropriate Requirements (ARARs) and the proposed language for inclusion in Records of Decision (RODs) addressing the issue of land use covenants.

DTSC requests that one additional citation be added to both the ARARs analysis and the proposed ROD language. As you are aware, State Superfund laws were recently restored to the Health and Safety Code (HSC), but because they were sunsetted at the time of DTSC's comments last year, these sections were not included with our previous comments. Please add HSC Section 252355.5, to the ROD language and the ARAR analysis. This would also make these documents consistent with the proposed model land use covenant language, which also references HSC Section 25355.5. In order that decision document language and Land Use Covenant language be consistent and parallel, DTSC also requests that this proposed language be used in all appropriate decision documents, e.g. Remedial Action Plans (RAPs) and Action Memoranda, Findings of Suitability to Transfer (FOSTs), etc.

Mr. Dana Sakamoto  
January 18, 2000  
Page 2

DTSC is pleased with the Navy's efforts to address these issues, and we are hopeful that the agreements reached will facilitate our mutual efforts to proceed with finalization of RODs/RAPs at Marine Corps Air Station El Toro, Marine Corps Air Facility Tustin, and the Long Beach Naval Complex.

If you have questions or need further information, please contact me at (714) 484-5456 to discuss management issues. Please contact Mr. Garry Brown, at (818) 551-2981 to discuss legal issues, and Mrs. Sharon Fair at (714) 484-5433 or the designated project managers to discuss site-specific technical issues for the closing bases

Sincerely,



John E. Scandura, Chief  
Southern California Branch  
Office of Military Facilities

cc: Mr. Stan Phillippe, Chief  
Office of Military Facilities  
Department of Toxic Substances Control  
10151 Croydon Way, Suite 3  
Sacramento, California 95827

Mr. Steve Koyasako, Supervising Attorney  
Office of Legal Counsel HQ-8  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806