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

M60050.001081
MCAS EL TORO
SSIC # 5090.3

5090
Ser 09E/357
January 26, 1995

Mr. William R. Mills, Jr.
General Manager
Orange County Water District
P.O. Box 8300
Fountain Valley, CA 92728-8300

Dear Mr. Mills:

The Department of the Navy (DON) has received and reviewed the Orange County Water District's (OCWD's) letter of December 23, 1994, responding to DON's letter of December 16, 1994. OCWD's December 23 letter indicates that OCWD agrees with DON's plans to expand the scope of the Feasibility Study for Operable Unit No. 1 at MCAS El Toro to address additional remedial alternatives, including one or more of groundwater extraction, VOC treatment and reinjection alternative(s). DON is moving forward with that plan. Initial technical work is already in progress.

DON is continuing to refine the revised schedule for the MCAS El Toro Operable Unit No. 1 RI/FS to reflect the necessary time to evaluate the new alternatives. DON's contractor has recently estimated that the draft Feasibility Study will be available for comment in August of 1995. DON is currently reviewing that proposal and will keep you informed of progress.

In DON's letter of December 16, 1994, DON requested that OCWD clarify whether OCWD intended to proceed with the Irvine Desalter Project with or without DON financial participation. DON interprets your letter of December 23, 1994, as indicating that OCWD no longer intends to do so. Because of the technical and financial concerns referenced in DON's letter of December 16, 1994, a "hard look" will be given in the Feasibility Study to remedial alternatives other than the Irvine Desalter Project that have the potential to remediate the VOC groundwater plume more effectively and at lower cost to the Federal taxpayers. DON will also retain and evaluate remedial alternatives that incorporate the Irvine Desalter Project in the Feasibility Study.

DON remains concerned about OCWD's recent demands for an increased share of DON financial participation in the proposed Irvine Desalter Project. In recent correspondence and discussions, OCWD has not acknowledged the multiple purposes of the proposed project as OCWD had done in the initial phases of preliminary settlement discussions with DON and in ample publicly available documentation generated by OCWD in the past. I am referring to the purposes of: 1) capture and treatment of agriculturally created and naturally occurring total dissolved solids (TDS), 2) capture and treatment of volatile organic compounds (VOCs), and, 3) development of a local drinking water supply system. In addition, OCWD has not addressed DON's related concern that these multiple purposes must play a key role in cost allocation.

Nonetheless, DON is willing to consider OCWD's request for another "partial settlement" along the lines of the August 1993 settlement agreement addressing monitoring costs. If another partial settlement is pursued, DON believes that it should be limited to the costs associated with interim plume control (e.g., extraction well ET-1) and any relevant monitoring and analytical costs incurred to date and not covered by the August 1993 settlement agreement. DON invites OCWD to submit a proposed settlement agreement within the scope set forth above accompanied by a supporting cost summary and cost documentation (e.g., contracts, invoices, purchase orders, etc.).

It is premature to address OCWD's request for payment of $13.4 million for costs associated with the Irvine Desalter Project. The CERCLA remedy selection process is not yet complete and there is not sufficient consensus that the Irvine Desalter Project will be selected as a remedial action. In addition, the recommendation for agreeing to binding arbitration is premature. Such arbitration cannot substitute for or preempt the formal remedy selection process, including public participation, that is mandated by CERCLA and the NCP. DON is willing to consider continuation of formal negotiations with OCWD regarding Irvine Desalter Project cost allocation issues following development

and evaluation of the additional remedial alternatives referenced above if and when it appears that the Irvine Desalter Project will be incorporated into the likely remedial alternative to be selected. We will be seeking OCWD's assistance and collaboration as we address the additional remedial alternatives.

As always, we remain willing to discuss these issues.

Sincerely,

WILLIAM A. DOS SANTOS
Commander, CEC, U.S. Navy
Environmental Officer
By direction of
the Commanding Officer

Copy to:
Commanding General
Assistant Chief of Staff Environmental
Marine Corps Air Station, El Toro
P.O. Box 95001
Santa Ana, CA 92709-5001

Commander
Marine Corps Air Bases, Western Area
MCAS El Toro
Santa Ana, CA 92709

Commandant of the Marine Corps
Headquarters, U.S. Marine Corps (LFL)
Washington, D.C. 20380

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Cheryl Kandaras
Principal Deputy, ASN (I&E)
1000 Navy Pentagon Room 4E765
Washington, D.C. 20350-1000

Elsie L. Munsell
Deputy Asst Secy of the Navy
(Environmental and Safety)
1000 Navy Pentagon room 4A686
Washington, D.C. 20350-1000