



DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5190

M60050.001525
MCAS EL TORO
SSIC #5090.3

5090
Ser 06CC.DG/0472
01 May 2001

Ms. Patricia Hannon
California Regional Water Quality Control Board
Santa Ana Region
Remedial Project Manager
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Subj: FEDERAL FACILITY AGREEMENT SCHEDULE, OPERABLE UNIT (OU)-1
(SITES 18), AND (OU)-2A (SITE 24), MARINE CORPS AIR STATION (MCAS)
EL TORO

Dear Ms. Hannon:

The purpose of this letter is to request an extension to the MCAS El Toro Federal Facility Agreement (FFA) Appendix A Schedule for primary documents. Operable Units (OU)-1 and (OU)-2A require a revised milestone deliverable date for the Draft Record of Decision, as discussed last week with members of the BCT. Enclosure (1) is a copy of the 26 April 2001 letter sent to the water districts. Enclosure (2) presents our FFA schedule with the revised primary milestone incorporated. This request will extend the deliverable date for the Draft Record of Decision by two weeks, and is made pursuant to Sections 9.2 (a) and (g) of the FFA. The Force Majeure reference is section 10.1 (k).

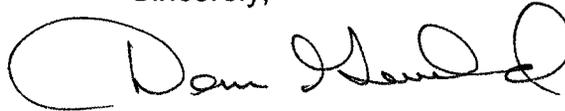
As briefed to the BCT, the primary purpose of this very limited extension request is to afford the Irvine Ranch Water District and Orange County Water District adequate time to respond to enclosure (1). It is critical that we know the intent and commitment of the water districts, prior to submitting any additional, and more substantial requests. The next extension request can be expected to account in detail for the publication of the proposed plan, public meeting, issuance of the Draft ROD, and all related review periods. While we remain hopeful that the water districts will respond favorably, indicating their commitment to resolve their issues in a timely manner, we are prepared to move forward with the BCT to seek alternative remedies as mentioned in enclosure (1).

As a result of the continuing water board and settlement processes, which truly are closer than ever to reaching finality, we request a two week extension for the Draft ROD for (OU)-1 and (OU)-2A. As such, the proposed date for submitting the Draft ROD will change from 01 May 2001, to 15 May 2001. We continue to share the BCT's concern

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over the length of this process, and will expedite it with every available opportunity. Thank you in advance for your support of this challenging process. Please call me at (619) 532-0784 should you have any questions, or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Gould". The signature is fluid and cursive, with a large initial "D" and "G".

DEAN GOULD
Base Realignment and Closure
Environmental Coordinator
By direction of the Commander

Enclosure: 1. 26 April 01 letter from SWDIV and Navy Litigation Office to OCWD &
IRWD Counsel
2. Appendix A FFA Schedule of Submittals

Copy to: (w/encl)
Ms. Nicole Moutoux, U.S. EPA
Mr. John Scandura, DTSC



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May 1, 2001

Ms. Nicole Moutoux
U.S. Environmental Protection Agency
Region IX, (SFD 8-2)
Hazardous Waste Management Division
75 Hawthorne Street
San Francisco, CA 94105-3901

Subj: FEDERAL FACILITY AGREEMENT SCHEDULE, OPERABLE UNIT (OU)-1
(SITES 18), AND (OU)-2A (SITE 24), MARINE CORPS AIR STATION (MCAS)
EL TORO

Dear Ms. Moutoux:

The purpose of this letter is to request an extension to the MCAS El Toro Federal Facility Agreement (FFA) Appendix A Schedule for primary documents. Operable Units (OU)-1 and (OU)-2A require a revised milestone deliverable date for the Draft Record of Decision, as discussed last week with members of the BCT. Enclosure (1) is a copy of the 26 April 2001 letter sent to the water districts. Enclosure (2) presents our FFA schedule with the revised primary milestone incorporated. This request will extend the deliverable date for the Draft Record of Decision by two weeks, and is made pursuant to Sections 9.2 (a) and (g) of the FFA. The Force Majeure reference is section 10.1 (k).

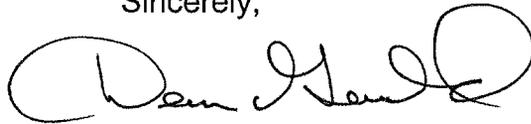
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Ms. Patricia Hannon, Cal RWQCB, Santa Ana Region



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Mr. John Scandura
California Environmental Protection Agency
Department of Toxic Substances Control, Region 4
Chief Office of Military Facilities
Southern California Operations
5796 Corporate Avenue
Cypress, CA 90630

Subj: FEDERAL FACILITY AGREEMENT SCHEDULE, OPERABLE UNIT (OU)-1
(SITES 18), AND (OU)-2A (SITE 24), MARINE CORPS AIR STATION (MCAS)
EL TORO

Dear Mr. Scandura:

The purpose of this letter is to request an extension to the MCAS El Toro Federal Facility Agreement (FFA) Appendix A Schedule for primary documents. Operable Units (OU)-1 and (OU)-2A require a revised milestone deliverable date for the Draft Record of Decision, as discussed last week with members of the BCT. Enclosure (1) is a copy of the 26 April 2001 letter sent to the water districts. Enclosure (2) presents our FFA schedule with the revised primary milestone incorporated. This request will extend the deliverable date for the Draft Record of Decision by two weeks, and is made pursuant to Sections 9.2 (a) and (g) of the FFA. The Force Majeure reference is section 10.1 (k).

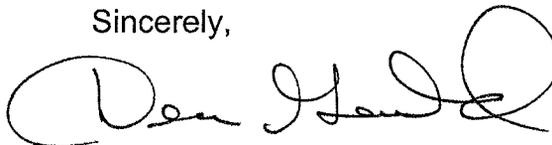
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DEPARTMENT OF THE NAVY
OFFICE OF THE GENERAL COUNSEL
NAVY LITIGATION OFFICE
720 KENNON STREET SE RM 233
WASHINGTON NAVY YARD DC 20374-5013

26 April 01

VIA TELEFAX

Clark Ide, Esq.
General Counsel
Orange County Water District
10500 Ellis Avenue
Fountain Valley, CA 92708

Malissa McKeith, Esq.
Loeb and Loeb
1000 Wilshire Boulevard, Suite 1800
Los Angeles, CA 90017-2475

Re: Former Marine Corps Air Station (MCAS) El Toro and Irvine Desalter Project (IDP)
Settlement Agreement

Dear Clark and Malissa:

As your clients are aware, the Department of Navy (DoN) obtained approval from the Federal Facility Agreement (FFA) regulators for the most recent of many FFA extension requests over the years relating to the IDP settlement negotiations only with the greatest of difficulty. DoN is concerned that it once again finds itself in a position where it must choose between requesting another FFA schedule extension or requesting termination of the IDP negotiations.

As we have explained many times in the past, the United States requires that the Irvine Ranch Water District (IRWD) and Orange County Water District (OCWD) sign the Settlement Agreement before the FFA process and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remedy selection process can move forward based upon an IDP settlement. The last FFA extension request granted by USEPA and CalEPA was based upon a schedule built around the assumptions that the water districts would sign the Settlement Agreement in mid-February of this year and be followed by Department of Justice (DoJ) signature by the end of March. Signature by all parties was required before DoN could publish a Proposed Plan or submit a Draft Record of Decision to the FFA regulators. The approved FFA extension request required the submittal of a Draft ROD by May 1, 2001. Progress in meeting these deadlines has been thwarted because the first step has not yet been achieved: the water districts have not yet signed the Settlement Agreement. This is despite the fact that we have reached an apparent agreement on all issues outstanding concerning the Settlement Agreement and the Shallow Groundwater Unit contract.

Mr. Rex Callaway spoke with Mr. Clark Ide last week and articulated DoN's continued and increasing concerns with delays in resolution of the above-referenced

Encl. (1)

matter. IRWD had recently urged DoN and DoJ to directly contact OCWD regarding its position on the final IDP Settlement Agreement and related Shallow Groundwater Unit Contract. This request from IRWD reflected a significant change in approach from the past couple of years during which both water districts requested that we negotiate directly only with IRWD, who would be speaking for both water districts in the negotiations. We were concerned about rumors that the recent requests by IRWD might be the result of disagreements that have developed between the water districts and which might in turn be the underlying cause of the recent delays in the water districts obtaining final approval for and signing the Settlement Agreement.

Mr. Callaway learned in the course of his discussion with Mr. Ide that the Metropolitan Water District (MWD) subsidy for the water that would be produced by the Non-potable component of the IDP is at risk. Mr. Ide indicated that OCWD and IRWD would be meeting this week to try to work out this local financial issue. We are very concerned that this issue only surfaced at this late date, after all other issues with the United States were resolved. It appears to us that this issue could have been and should have been dealt with long before today.

We appreciate OCWD's candor in informing us of the MWD subsidy issue but are concerned that such issues are not yet resolved at this late date. We hope that the water districts will successfully resolve this and any other issues that remain between them so that the negotiations can be concluded and the settlement can move forward in accordance with the time-frame outlined below. USEPA, CalEPA, and DoN are anxious to complete the long-deferred process of selecting a remedial action for the TCE contaminated groundwater plume.

Despite the continued delays, our clients are reluctantly prepared to make a request for a two week FFA extension request in order to seek and obtain a firm written assurance from both water districts that they will move forward and resolve the IDP settlement issues. This assurance must be in the form of a written commitment for either IRWD and OCWD signatures on the Settlement Agreement and OCWD signature on the Shallow Groundwater Unit Contract or written rejection of those documents no later than June 22, 2001, three days after the June 19, 2001 IRWD Board meeting. If such assurance is not received within the two week extension period, DoN is prepared to work with the FFA regulators to move forward with the CERCLA remedy selection process

without the IDP. If you have any questions, please feel free to call Mr. Callaway at (619)-532-0988.

Sincerely,



Helen D. Rosen
Assistant Director
Navy Litigation Office
Office of the General Counsel



Rex Callaway
Associate Counsel
(Environmental)
Southwest Division
Naval Facilities Engineering Command

Copy to:
David Thompson, DoJ
Thelma Estrada, USEPA
Garry Brown, DTSC
06CC.DG

APPENDIX A

MCAS El Toro Schedule

<u>Operable Unit (OU)-1: Site 18</u>	<u>Current Completion Dates</u>	<u>New Completion Dates</u>	<u>Change in Dates</u>
Phase I Tech Memo	7 May 93	No Change	
Draft Phase II Work Plan	9 Nov 93	No Change	
Draft Remedial Investigation	30 Dec 94	No Change	
Draft Interim Action Feasibility Study	15 Oct 95	No Change	
Draft Final Interim Action Feasibility Study	9 Aug 96	No Change	
*Agency Approval of Draft Final	11 Oct 96	No Change	
*Response to Regulatory Draft Final Comments	15 Jan 98	No Change	
Draft Proposed Plan	18 Dec 95	No Change	
*re-Draft Proposed Plan	24 Nov 98	No Change	
3 rd Draft Proposed Plan	31 Mar 00	No Change	
Draft Final Proposed Plan	11 Aug 00	No Change	
Draft Record of Decision	01 May 01	15 May 01	+2 Weeks
 <u>OU-2A: Site 24 (Vadose Zone)</u>			
Phase I Tech Memo	7 May 93	No Change	
Draft Phase II Work Plan	20 Mar 95	No Change	
Start Phase II Field Work	20 Jul 95	No Change	
Draft Remedial Investigation	20 Feb 96	No Change	
Draft Feasibility Study	9 Aug 96	No Change	
Draft Proposed Plan	11 Mar 97	No Change	
Draft Record of Decision	1 Jul 97	No Change	
Draft Final Record of Decision	24 Sep 97	No Change	
Draft Remedial Design/Remedial Action Work Plan	6 Jan 98	No Change	
Draft Final Remedial Design	11 Aug 98	No Change	
Draft Construction Quality Assurance Plan	11 Aug 98	No Change	
Draft Construction Quality Control Plan	11 Aug 98	No Change	
Draft Contingency Plan	11 Aug 98	No Change	
Draft Project Closeout Report	22 Apr 02	No Change	
 <u>OU-2A: Site 24 (Groundwater)</u>			
Phase I Tech Memo	7 May 93	No Change	
Draft Phase II Work Plan	20 Mar 95	No Change	
Start Phase II Field Work	20 Jul 95	No Change	
Draft Remedial Investigation	20 Feb 96	No Change	
Draft Feasibility Study	9 Aug 96	No Change	
Draft Final Feasibility Study	5 Dec 97	No Change	
*Agency Approval of Draft Final	23 Mar 98	No Change	
Draft Proposed Plan	24 Nov 98	No Change	
2 nd Draft Proposed Plan	31 Mar 00	No Change	
Draft Final Proposed Plan	11 Aug 00	No Change	
Draft Record of Decision	01 May 01	15 May 01	+2 Weeks
 <u>OU-2B: Sites 2 & 17</u>			
Phase I Tech Memo	7 May 93	No Change	
Draft Phase II Work Plan	20 Mar 95	No Change	
Start Phase II Field Work	20 Jul 95	No Change	
Draft Remedial Investigation	20 Mar 96	No Change	
Draft Final Remedial Investigation	6 Sep 96	No Change	
Draft Feasibility Study	6 Sep 96	No Change	
Draft Final Feasibility Study	18 Mar 97	No Change	
Draft Proposed Plan	18 Sep 97	No Change	

APPENDIX A

MCAS El Toro Schedule

<u>OU-2B: Sites 2 & 17 (continued)</u>	<u>Current Completion Dates</u>	<u>New Completion Dates</u>	<u>Change in Dates</u>
Draft Final Proposed Plan	28 Jan 98	No Change	
Draft Record of Decision	4 Nov 98	No Change	
Draft Final Record of Decision	17 Jun 99	No Change	
 <u>OU-2C: Sites 3 & 5</u>			
Phase I Tech Memo	7 May 93	No Change	
Draft Phase II Work Plan	20 Mar 95	No Change	
Start Phase II Field Work	20 Jul 95	No Change	
Draft Remedial Investigation	20 Apr 96	No Change	
Draft Final Remedial Investigation	8 Oct 96	No Change	
Draft Feasibility Study	8 Oct 96	No Change	
Draft Final Feasibility Study	13 Feb 97	No Change	
Draft Proposed Plan	18 Sep 97	No Change	
Draft Final Proposed Plan	28 Jan 98	No Change	
Draft Record of Decision	15 Mar 99	No Change	
Draft Final Record of Decision	15 May 01	No Change	
 <u>OU-3: Sites 4, 6, 9, 10, 13, 15, 19, 20, 21 & 22 and OU-2A: Site 25</u>			
Draft Remedial Investigation	20 Nov 96	No Change	
Draft Feasibility Study	20 Mar 97	N/A	
Draft Proposed Plan	15 Apr 97	No Change	
Draft Record of Decision	21 Aug 97	No Change	
 <u>OU-3: Sites 8, 11, & 12</u>			
Draft Remedial Investigation (included Site 16)	20 Nov 96	No Change	
Draft Feasibility Study (FS)	10 Jul 97	No Change	
Draft Final Feasibility Study	13 Jan 98	No Change	
*Agency Approval of Draft Final	22 Jun 98	No Change	
Draft Proposed Plan	28 Jul 98	No Change	
Draft Final Proposed Plan	17 Mar 99	No Change	
Draft Record of Decision	7 Jun 99	No Change	
 <u>OU-3: Sites 7 & 14</u>			
Draft Remedial Investigation	7 Sep 99	No Change	
Draft Feasibility Study	N/A	No Change	
Draft Proposed Plan	9 Mar 00	No Change	
Draft Record of Decision	22 Nov 00	No Change	
 <u>OU-3: Site 16</u>			
Draft Remedial Investigation	20 Nov 96	No Change	
Draft Feasibility Study	18 Feb 00	No Change	
Draft Proposed Plan	23 May 01	No Change	
Draft Record of Decision	09 Nov 01	No Change	
 <u>OU-3: Site 1</u>			
Draft Remedial Investigation	19 Feb 02	No Change	
Draft Feasibility Study	07 Dec 02	No Change	
Draft Proposed Plan	19 Mar 03	No Change	
Draft Record of Decision	26 Aug 03	No Change	

This schedule reflects current/proposed FFA milestones.

* Not an enforceable FFA deliverable