



UNITED STATES MARINE CORPS

HEADQUARTERS MARINE CORPS AIR STATION EL TORO
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SANTA ANA CA 92709-5000

IN REPLY REFER TO:

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April 24, 1998

State of California Environmental Protection Agency
Department of Toxic Substances Control, Region 4
Attn: Mr. Tayseer Mahmoud
Site Mitigation Branch
Base Closure Unit
5796 Corporate Avenue
Cypress, CA 90630

**FINAL PROPOSED PLAN FOR LANDFILL SITES AT MARINE CORPS AIR
STATION (MCAS) EL TORO**

Dear Mr. Mahmoud:

We received the Department of Toxic Substances Control (DTSC) letter dated February 25, 1998, regarding the Draft Final Proposed Plan for landfill sites at MCAS El Toro. Based on the Federal Facility Agreement (FFA), Section 7.9, the Proposed Plan is considered final, and ready to submit to the public for comment under CERCLA.

Based on the language DTSC requested to be inserted in the Proposed Plan in the February 25 letter, there appears to be a misunderstanding regarding the status of the Community Reuse Plan (CRP), and in general, the planning process currently being undertaken by the LRA. The CRP and associated Environmental Impact Report (EIR) were completed in December 1996. It is the Department of Navy (DoN), as well as County of Orange's understanding that, although the EIR is being revised in response to a judge's ruling in a legal challenge, the CRP was not invalidated by the court so that the December 1996 CRP remains in effect. This is an approved final plan, not a draft reuse plan.

DTSC is correct in identifying the specific page in the landfill FS report for Site 5 that discusses irrigation. DoN proposed Alternative 3, as well as all variations of Alternative 4 restrict irrigation, and are therefore not compatible with an irrigated golf course. DTSC's preferred alternative for Site 5 has the same land use restrictions as our preferred Alternative 3. The golf course is planned in a parcel designated for recreational golf use that is comprised of 271 acres. The landfill at Site 5 is approximately 2 acres providing ample opportunity to design the golf course to avoid the constraints of the landfill. DTSC also stated that Alternative 5B or 6B, asphalt caps, would have a better likelihood of supporting future light industrial/ commercial reuse at Site 3. Both of these alternatives have the same land use restrictions as Alternative 3, including a restriction on excavating or disturbing the final cover. Again, DTSC's preferred alternative for Site 3 has the same land use restrictions as our preferred Alternative 3.

The LRA is currently initiating work on a more detailed level of reuse planning in developing an Airport Layout Plan (also referred to as Airport Master Plan) and associated "second tier" EIR in

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support of an application for Federal Aviation Administration (FAA) approval of a Public Benefit Conveyance for public airport use. Although the CRP is a conceptual plan which identifies broad, very generally defined land use planning zones, the Airport Master Plan will contain more detail regarding future reuse of the proposed airport and immediately surrounding lands.

As previously stated in response to comments on the Draft Proposed Plan, the DoN is presenting the proposed remedy early in the LRA's planning process, well in advance of the LRA's efforts to comply with CEQA and various public participation requirements regarding discussion of the details of the second tier plan for the parcels that include Sites 3 & 5. After completion of this second tier of planning, it is expected that the LRA would develop site specific plans for the areas that include Sites 3 & 5.

It is in the interest of DoN, the LRA and the public that there be no unnecessary delays in selecting and implementing the remedies for the landfill so that base closure can proceed. A Federal agency or department must comply with the provisions of CERCLA Section 120(h)(3) before conveying any real property on which any hazardous substances were known to have been released or disposed of. CERCLA Section 120(h)(3) provides that a deed conveying such real property must include a covenant that all remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the property has been taken before the date of transfer. Before DoN can make such a covenant and transfer the real property containing the landfills by deed, a remedy must be selected in a Record of Decision (ROD) and then implemented.

Even after issuance of the ROD, it is possible to propose a restricted use, although it might be necessary to amend the ROD and conduct additional remedial actions. As stated in the feasibility study reports for Sites 3 & 5, future landowners or users will have to submit a written request to the DoN and regulatory agencies to undertake restricted uses, and shall be liable for the cost of any additional remedial action required to facilitate such restricted uses (Enclosure 1). Modification to the final remedy is predicated here on the assumption it would be approved by the DoN and regulatory agencies because it would remain protective of human health and the environment. We have met with the LRA staff to provide and discuss briefings on the status of the environmental program, site specific remedy selection, institutional controls and site tours. We will continue our efforts and look forward to maintaining our excellent working relationship established by our Marine Corps team.

The subject letter indicated DTSC verbally requested a 60-day extension during a BRAC Cleanup Team (BCT) meeting, in order to resolve reuse issues with the LRA. Section 9.1 of the FFA states that any request for extension be submitted in writing. The DoN did not receive an extension request in accordance with the FFA, which outlined the length of the extension sought by DTSC, the affect on related schedules and the good cause for such an extension request. In

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our BCT meeting February 23, 1998, a proposal presented by DTSC for a 60-day extension was discussed. DTSC was not able to support the discussion with good cause outlined in Sections 9.1 and 9.2 of the FFA, and no final decision was made during our discussions.

The majority of the BCT supported finalizing the Proposed Plan as written. The LRA submitted a written request to the Marine Corps for delay in going to the Public with our Final Proposed Plan and the DoN preferred alternative. The request was granted and we continue our coordination with the LRA staff. We remain optimistic we will achieve consensus among stakeholders interested in the environmental cleanup program at MCAS El Toro.

If you have any questions or would like to schedule a management meeting to discuss the DoN preferred remedy, please contact me at (949) 726-3470.



JOSEPH JOYCE
Base Realignment and Closure
Environmental Coordinator
By direction of the
Commanding General

Enclosure: 1. Under Secretary of Defense Memorandum of July 25, 1997

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