



Department of Toxic Substances Control



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M60050_003384
MCAS EL TORO
SSIC NO. 5090.3.C

Gray Davis
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August 10, 2000

Mr. Dean Gould
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Marine Corps Air Station El Toro
Base Realignment and Closure
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FINDING OF SUITABILITY TO LEASE (FOSL) FOR MASTER LEASE WITH THE COUNTY OF ORANGE, MARINE CORPS AIR STATION (MCAS), EL TORO

Dear Mr. Gould:

The Department of Toxic Substances Control (DTSC) reviewed the above document. The text of the FOSL was received by this office by electronic mail on July 28, 2000 and the tables were received by electronic mail on July 31, 2000. The FOSL documents the determination that MCAS El Toro can be leased to the County of Orange for use or sublease in a manner protective of human health and the environment subject to specified restrictions based on currently available information relating to the environmental condition of the Station. The master lease is intended to encompass the entire Station with the exception of three parcels. The proposed lease will be effective for five years with no option for extensions.

After review of the document, DTSC has the following comments.

1. In general, please verify that references to Table and Figure numbers in the text are accurate.
2. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 120(h) requires notification of hazardous substances stored for one year or more, known to have been released, or disposed of. The notification shall include the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place. CERCLA 120(h) applies when the United States enters into any contract for the sale or other transfer of real property. DTSC maintains that these requirements apply to

leases as other transfer of real property. Additionally, the *DOD [Department of Defense] Policy on the Environmental Review Process to Reach a Finding of Suitability to Lease (FOSL)* (DOD FOSL Policy), dated May 18, 1996 requires hazardous substance notification. Section III.C. of the policy states, "hazardous substance notice will be given of the type and quantity of hazardous substances or petroleum products, and the time at which storage for one year or more, release, treatment or disposal took place."

Please include notification of hazardous substances as described in CERCLA 120(h) and the May 1996 DOD FOSL policy.

2. Section 2.0 Property Description: This section provides the total acreage of MCAS El Toro (4,738 acres) and exceptions that will not be included in the lease (971 acres for Parcel 5a, 22 acres for Parcel 13e, and an unknown acreage for part of Parcel 2b).

It would be helpful to have a summary (possibly in a tabular format) that accounts for the total acreage of the station so that the acreage to be included in the master lease to the County of Orange is clear. The information in the table can include the parcel numbers, status (federal control and management or existing leases) and acreage of the parcels excluded from the proposed master lease. Additionally, please clarify how the grand total of 4,692.38 acres shown on Figure 3, Preferred Land Use Summary, correlates to the area discussed in the text.

3. Section 2.1 Property and Facilities Previously Found Suitable To Lease: It is unclear whether the buildings and land referenced in this section (from the June 17, 1999 FOSL and agricultural leases) are included in Table 1.
4. Section 2.1 Property and Facilities Previously Found Suitable To Lease: The first paragraph describes the June 17, 1999 FOSL that was prepared for parcels that were leased to the County of Orange from July 2, 1999 to July 1, 2000.

For completeness, it is recommended that the extension of the lease granted by the Department of the Navy (DON) be included.

5. Section 2.1 Property and Facilities Previously Found Suitable To Lease: The second paragraph states, "Parcel 7, while not under an agricultural lease, is completely encumbered by an easement for the Marshburn Retaining Basin, recently constructed by Orange County."

Since this paragraph addresses parcels that are currently used for agricultural purposes, it is suggested that the information for Parcel 7, that is completely encumbered by an easement, be separated from this paragraph for clarity.

6. Section 2.2 Parcels With Additional Facilities To Be Used: The second sentence in the first paragraph states, "The parcels include 2a . . . and 13f and the facilities"

Parcel 16 includes 300 units associated with the San Joaquin Housing. Please include "16" after "13f."

7. Section 2.2 Parcels With Additional Facilities To Be Used: A description for Parcel 11b is not included in Section 2.2.

For consistency, it is recommended that a description for Parcel 11b be included.

8. Sections 5.0 and 6.0: Access restrictions are mentioned for most sites/locations. For consistency it is recommended that access restrictions be included for each site/location.
9. Section 5.1.1 Operable Unit 1 and 5.1.2 Operable Unit 2: The text describes the parcels affected by the contaminated groundwater plumes associated with Sites 18 and 24.

It would be helpful to illustrate this relationship on a new or existing figure that shows the groundwater plumes and parcel designations.

10. Section 5.1.2 Operable Unit : Toward the end of the second paragraph it is stated, "Site 25 was cleared and included in a No Action ROD . . . thus eliminating it from the cleanup program."

Site 25 was determined to require no further action through the Installation Restoration Program (IRP) and were not removed from the cleanup program. Please make this distinction by deleting the reference to "eliminating it from the cleanup program."

11. Section 5.1.2 Operable Unit 2: The fifth sentence states, "A radiological survey is scheduled for Site 3 in 2000."

Please include Site 5 in this sentence.

12. Section 5.1.3 Operable Unit 3: The last sentence of the second paragraph in Section 5.1.3 states, "Thus, these 10 IRP sites were removed from the cleanup program."

The 10 IRP sites were determined to require no further action through the IRP and were not removed from the cleanup program. Please make this distinction by removing the reference that these sites were removed from the cleanup program.

13. Section 5.1.3 Operable Unit 3: A Record of Decision for no further action at Sites 4, 6, 9, 10, 13, 15, 19, 20, 21 and 22 was signed in September 1997. DOD FOSL Policy states that a determination that the property is suitable to lease can be made where a response action has been completed. As a result, information regarding any response actions should be included.

Specifically, please describe the removal action completed for Site 19. Apparently, as part of this removal action, the bottom of the excavation (approximately 11 to 15 feet below ground surface) was backfilled with soil from Site 8 that contained polychlorinated biphenyls (PCBs). Will a restriction for intrusive subsurface activities or excavation be placed on this site?

14. Section 5.3.2 Aboveground Storage Tanks [ASTs]: Please include a reference to Figure 7, Above-Ground Storage Tank Site Locations.
15. Section 5.3.3 Oil/Water Separators [OWSs]: Please include a reference to Figure 6, Oil/Water Separator Site Locations.
16. Section 5.3.7 Aerial Photo Features/Anomalies: Please include a reference to Figure 9, Aerial Photograph Anomaly (APHO) Site Locations.
17. Section 5.3.7 Aerial Photo Features/Anomalies: The second sentence in the second paragraph states, "(APHOs 59, 60, . . . and 65 known as APHO Area 3"

Please insert ")" after "65."

18. Section 5.3.8 Pesticides: This paragraph states, "Pesticides were stored in AST 753 . . . a report requesting no further action status has been submitted to the RWQCB [Regional Water Quality Control Board]."

As a point of clarification, if the pesticides stored in AST 753 include hazardous substances as defined by CERCLA, DTSC must be involved in decisions

regarding this site. Additionally, although a report requesting no further action status has been submitted to the RWQCB, access should be restricted until the appropriate regulatory agency concurs with the request.

19. Section 5.3.8 Pesticides: Please include the status for the former pesticide storage areas near Buildings 1687 (MSC P1) and 484 (MSC P2) located in the vicinity of the golf course.
20. Section 6.1 Environmental Factors That Require Restrictions or Notification: The last sentence of the first paragraph states, "The lease also includes provisions for property access by the Government and State to conduct investigations, surveys, sampling, inspections, and remedial activities."

Please note that access by the State may also include, but is not limited to, the California Integrated Waste Management Board and the Department of Health Services in addition to DTSC and the RWQCB.

21. Section 6.2.1 Asbestos-Containing Material [ACM]: The second sentence states, "Table 3 also indicates whether the asbestos is friable, accessible or damaged, or whether the building requires resurvey to determine whether there is a potential for ACM to be present and friable, accessible and damaged."

Table 3 indicates whether ACM is friable; however, information regarding the accessibility or damage is not shown. Also, it appears that a resurvey is not required for any of the buildings in Table 3. Please verify that this information is correct.

22. Section 6.2.2 Lead-Based Paint [LBP], Nonresidential Buildings: This paragraph states that a total of 450 buildings were constructed prior to 1980 and according to Navy policy should be assumed that they contain lead. Further, "Prospective lessee will be provided with a lead hazard information packet and lead warning statement."

DTSC maintains that lead from lead-based paint is a CERCLA release. Unless the DON screens for the presence of LBP and provides data relative to the level of lead on the structures and/or the surrounding environment, DTSC does not have sufficient information to agree that the structures and/or surrounding environment can be leased in a manner that is protective of human health and the environment.

23. Section 8.0 Summary of Environmental Lease Restrictions and Conditions: The second bulleted item states, "Lessee shall not move . . . , or lysimeter."

Please add "or other monitoring equipment."

24. Section 8.0 Summary of Environmental Lease Restrictions and Conditions: The fourth bulleted item states "lessee is prohibited from occupying UST [Underground Storage Tank], OWS or AST sites except for normal grounds maintenance and security activities."

All locations of concern that have not been designated as requiring no further action should be included in this list.

25. Table 1, MCAS El Toro Facilities for Lease: Building 799, the Quickstop Store in Parcel 9b is identified as having restrictions.

However, the restrictions or special conditions for use of Building 799 are not included in Table 8, Restriction on Facilities to be Occupied. Please clarify.

26. Figures 4 through 12 and 15 through 19: The legend for these figures should include planning areas, parcel numbers and any other designations shown on the figure (e.g. PBC designations).

27. Figure 20, Buildings Included in FOSL for Master and Interim Lease and Parcel Boundaries: The legend for Figure 20 is unclear. It would be helpful to include parcel number designations, building designations, colors and line types in the legend so that the differences can be discerned. Additionally parcel boundaries are not clear on the figure.

28. Figure 20, Buildings Included in FOSL for Master and Interim Lease and Parcel Boundaries: Based on the text in Section 2.0, it appears that the facilities or land included in the master and interim lease are listed in Table 1 and should be shown on Figure 20. Many of the buildings or land listed on Table 1 are not shown on Figure 20. Please verify that the information listed in Table 1 is shown on Figure 20.

Mr. Dean Gould
August 10, 2000
Page 7

If you have any questions, please contact me at (714) 484-5395.

Sincerely,



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Mr. Dean Gould
August 10, 2000
Page 8

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