

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, January 21, 2010.

Comment No.	Location	Comment	Response
COMMENTS			
1.		<p>The Selected Remedy. Please provide additional information in the ROD, where applicable, e.g., Section 1.1 and Section 2.9.2 (especially the third paragraph and the second bullet), to (a) identify the party responsible for conducting monitoring and the 5-yr review both pre- and post-transfer, and (b) indicate that termination of monitoring must be approved by the FFA signatories, and the CIWMB regarding landfill gas (LFG) monitoring.</p>	<p>The information requested is provided in the Anomaly Area (AA 3) Record of Decision (ROD) in sections revised as appropriate, and as noted below:</p> <ul style="list-style-type: none"> The first two paragraphs of Section 2.9.2.1.2, Implementation, on page 2-18 state: <i>"The Navy shall address and describe IC implementation and maintenance actions including periodic inspections and reporting requirements in draft and final RD reports to be developed and submitted to the FFA signatories for review pursuant to the FFA (see "Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions" attached to the January 16, 2004 Department of Defense memorandum titled "Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA] Record of Decision [ROD] and Post-ROD Policy").</i> <i>The Navy is responsible for implementing, inspecting, maintaining, reporting on, and enforcing the land use restrictions selected in this ROD. Although the Navy may later transfer these procedural responsibilities to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for the remedy integrity."</i> <p>In accordance with the above-referenced Department of Defense memorandum, these Remedial Design (RD) reports will identify the responsibilities, both pre- and post-transfer, of the Navy, other government agencies, and the new property owners for implementing, monitoring, reporting on (including five-year reviews), and enforcing the institutional controls (ICs).</p> <ul style="list-style-type: none"> The last sentence in the last bulleted item in Section 2.9.2, Description of the Selected Remedy, on page 2-16 states: <i>"Once adequate data are collected, and with CIWMB concurrence, monitoring will be discontinued and land use restrictions relating to</i>

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, January 21, 2010.

Comment No.	Location	Comment	Response
			<p><i>LFG will be removed.</i></p> <ul style="list-style-type: none"> For clarity regarding the cessation of groundwater monitoring, the following sentence was added to the second bullet in Section 2.9.2, Description of the Selected Remedy, on page 2-16: <i>“Once adequate data are collected, and with the concurrence of the FFA signatories, groundwater monitoring will be discontinued.”</i>
2.	Page 2-18, Restricted Land Uses, First Sentence.	Please change it to read <i>“The following restricted land uses for AA3 are prohibited unless reviewed and approved in writing in advance by the FFA Signatories and CIWMB in accordance with the ‘Covenant(s) to Restrict Use of Property’ and ‘quitclaim deed(s):”</i>	<p>The first sentence under Restricted Land Uses on Page 2-18 was revised to read:</p> <p><i>“The following restricted land uses for AA3 are prohibited unless reviewed and approved in writing in advance by the FFA Signatories and the CIWMB in accordance with the ‘Covenant(s) to Restrict Use of Property’ and ‘quitclaim deed(s):”</i></p>
3.	Page 2-5, Figure 2-2 Site Plan.	Please provide a site plan that (a) is larger, and (b) shows the entire Carve-Out II-C (no cut-off at south tip).	The Site Plan has been enlarged to show the entire Carve-Out II-C area.
4.	Page 1-1, Footnote.	The Footnote explains the utility of the bold blue text. Since the bold blue text first appears on page 2-1, the Footnote should be move to that page. Also, please explain the utility of the regular blue text.	<p>The footnote explaining the bold blue text has been moved to the first page of Section 2 (page 2-1). The footnote was revised to read:</p> <p><i>“Bold blue text identifies detailed site information available in the Administrative Record File and listed in the References Table (Attachment 2). This ROD is also available on CD whereby bold blue text serves as a hyperlink to reference information. The hyperlink will open a text box at the top of the screen. A blue box surrounds applicable information in the hyperlink. To the extent there may be inconsistencies between the referenced information attached to the ROD via hyperlinks and the information in the basic ROD itself, the language in the basic ROD controls.</i></p> <p>In addition, a footnote explaining regular blue text has been added on the first page of Section 1 (page 1-1) as follows:</p> <p><i>“Regular blue text indicates an internal hyperlink (e.g., a link to a table,</i></p>

Document Title:**DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California**

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, January 21, 2010.

Comment No.	Location	Comment	Response
			<i>figure, or other section in the document).</i> "
5.	Page 1-3, Section 1.2.	The correct citation in this Section should be 42 § U.S.C. 9620(h) and not 42 § U.S.C. 96290(h).	The last sentence of Section 1.2 on page 1-3 was revised to read: <i>"If previously unknown contamination resulting from Navy activities is discovered after execution of this ROD, the Navy will conduct any necessary actions to ensure continued protection of human health and the environment, consistent with CERCLA Section 120(h) (42 U.S.C. § 9620[h])."</i>
6.	Page 1-4, Middle of Page.	The word "state" in "state of California" should be capitalized.	The sentence below the signature line for the U.S. Environmental Protection Agency was revised to read: <i>"The State of California, Department of Toxic Substances Control and Regional Water Quality Control Board had an opportunity to review and comment on the Record of Decision and their comments were addressed."</i>
7.	Page 1-4, DTSC Signature Block.	Please change "Brown Fields" to "Brownfields".	The signature block for Mr. John Geroch was revised to read: <i>"Unit Chief Brownfields and Environmental Restoration Program Department of Toxic Substances Control"</i>
8.	Page 2-15, Section 2.9.1	"This remedy protects human health by ..." should be changed to "This remedy protects human health and the environment by ...".	The second sentence in Section 2.9.1 was revised to read: <i>"This remedy protects human health and the environment by..."</i>
9.	Page 2-17, Last Sentence.	"wil" should be changed to "will".	The last sentence under Final Land Use Restrictions, now on page 2-18, was revised to read: <i>"The ARIC will be the entire area within CO II-C."</i>
10.	Page 2-19, Section 2.9.4, Second Bullet.	"requirement" should be changed to "requirements".	The second bullet in Section 2.9.4 (now on page 2-20) was revised to read:

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, January 21, 2010.

Comment No.	Location	Comment	Response
			<p><i>“Compliance with ARARs – The Selected Remedy meets all federal or state standards, requirements, criteria, or limitations that have been determined to be ARARs (Attachment 3) for AA 3.”</i></p>

Document Title:**DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California**

Reviewer: Thelma Estrada. U.S. Environmental Protection Agency Region 9, January 19, 2010.

Comment No.	Location	Comment	Response
SPECIFIC COMMENTS			
1.	Page 2-7, Section entitled "Groundwater:"	This needs a conclusory statement similar to what they have in the Soil section, i.e., "Therefore, based on the risk assessment, the site does not pose...."	The text has been revised to include the following sentence at the end of Section 2.5.1.2: <i>"Therefore, based on the risk assessment, groundwater at the site does not pose an unacceptable threat to human health."</i>
2.	Page 2-8, Section entitled "indoor Air:"	The same comment regarding this section needing a conclusory statement.	The following sentence has been added to the end of Section 2.5.1.3 (Indoor Air): <i>"Therefore, based on the risk assessment, potential migration of vapors from soil and groundwater into indoor air does not pose an unacceptable threat to human health."</i>
3.	Page 2-15, Section 2.9.2, second paragraph.	The list of abbreviations at the beginning of the documents states that CO stands for carve-out but the document does not discuss what this refers to or what it means.	Carve-out areas are first discussed and defined in the third paragraph of Section 2.4 (Current and Potential Future Land and Resource Uses) beginning at the bottom of page 2-5, which in part states: <i>"...areas that required further environmental investigation and/or response actions were retained by the Navy. These areas, known as carve-outs (COs), were leased to the developer in accordance with the Finding of Suitability to Lease (FOSL) under a Lease in Furtherance of Conveyance (LIFOC).</i> In addition, Figure 2-2, Site Plan, on page 2-5 depicts the Carve-out boundary associated with AA 3.
4.	Page 2-15, Section 2.[9].2, third paragraph.	It states that monitoring will be performed for 30 years but a sentence follows that states that monitoring requirements will be reevaluated at five year intervals. Please reconcile these two.	The second sentence of the third paragraph in Section 2.9.2, Description of the Selected Remedy states: <i>"Monitoring activities include LFG and groundwater monitoring which is currently planned to be performed for 30 years or until monitoring data indicate that the waste no longer presents a risk to human health and the environment."</i> The Navy currently anticipates that up to 30 years of LFG and groundwater monitoring may be required to show that the waste at the site no longer presents a risk to human health and the environment. During this 30 year time frame, however, five-year reviews will be used to evaluate the sufficiency of the monitoring data to this end, including the need for increasing or reducing the frequencies, or discontinuing the monitoring. For clarity regarding the cessation of groundwater monitoring, the following

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Thelma Estrada. U.S. Environmental Protection Agency Region 9, January 19, 2010.

Comment No.	Location	Comment	Response
			<p>sentence was added to the end of the second bullet in Section 2.9.2, on page 2-16: <i>"Once adequate data are collected, and with the concurrence of the FFA signatories, groundwater monitoring will be discontinued."</i></p> <p>For clarity regarding the cessation of LFG monitoring, the last sentence in the third bullet in Section 2.9.2, Description of the Selected Remedy, on page 2-16 states: <i>"Once adequate data are collected, and with the CIWMB concurrence, monitoring will be discontinued and land use restrictions relating to LFG will be removed."</i></p>
5.	Page 2-17, the second sentence at the top of the page (the one that introduces the bullets)	Please insert the phrase at the start of the sentence for clarity: "As provided for in the LIFOC, the following land uses and activities are prohibited...."	The second sentence at the top of page 2-17 (introducing the bulleted items under Interim Land Use Restrictions), was revised to read: <i>"As provided for in the LIFOC, the following land uses and activities are prohibited...."</i>

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: John Broderick, California Regional Water Quality Control Board, Santa Ana Region, January 5, 2010.

Comment No.	Location	Comment	Response
SPECIFIC COMMENTS			
1.		We have no comments on this draft record of decision.	The Navy thanks the Water Board for its continued support of this program.

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, April 06, 2010.

Comment No.	Location	Comment	Response
COMMENTS			
1.		<p>The two paragraphs in Section 2.9.2.1.2 address the Navy's responsibility regarding the Institutional Controls (land use and access restrictions). In our original comment, DTSC requested that the Navy addresses its responsibility regarding the environmental monitoring in Sections 2.9.2 and Section 1.1.</p> <p>DTSC requests that the third paragraph of Section 2.9.2 be expanded to identify the party responsible for conducting and reporting on (including five-year reviews) environmental monitoring and how a future transfer may affect this responsibility.</p> <p>DTSC also requests that this information be added to the end of Section 1.1. We recommend that the following text, or similar text, be used: "The Navy is responsible or implementing, inspecting, maintaining, reporting on, and enforcing the land use restrictions selected in this ROD. The Navy is also responsible for conducting and reporting on (including five-year reviews) environmental monitoring. Although the Navy may later transfer these responsibilities to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for the remedy integrity".</p>	<p>The Navy understands and accepts its responsibility to implement the remedial action selected in the Record of Decision (ROD) as required by Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Federal Facility Agreement (FFA). However, the Navy does not agree that it is necessary to use express language in the ROD to the effect that the Navy is responsible for specific items such as monitoring and five year reviews. This language is generally not included in RODs because the parties have always understood and agreed that the law is clear that the Navy is responsible for implementing remedies selected in RODs. The language in the third and fourth paragraphs of Section 2.9.2 adequately describes the monitoring and five-year review requirements of the ROD.</p> <p>The only limited exception to this approach that we are aware of is for institutional controls (ICs) where language has been used to address the possibility that the Navy may seek the assistance of other parties in implementation of ICs while the Navy remains ultimately responsible. This ROD language was agreed to by senior Navy Headquarters managers in the course of negotiating the 2004 "LUC Principles" document with USEPA Headquarters (this document is referenced in the first paragraph of Section 2.9.2.1.2 on page 2-18 of the ROD). This language was tailored for the IC component of remedial action, however, and was not intended to apply or serve as a template for language addressing other components of remedial action.</p> <p>Furthermore, the Navy is concerned that if "The Navy is responsible..." language is used for monitoring and five-year reviews there would soon be requests to say the same for all other ROD components addressed in other portions of the RODs. This language would make the documents longer and less clear at a time when the FFA signatories are cooperating in an effort to make RODs shorter, more succinct, and more focused.</p> <p>Consistent with USEPA ROD Guidance (February 2009) and recent RODs finalized by the Navy and concurred with by DTSC, the above information is not required or applicable in Section 1.1. However, to</p>

Document Title:

DRAFT RECORD OF DECISION (ROD) FOR ANOMALY AREA 3 (AA 3), FORMER MARINE CORPS AIR STATION (MCAS) EI TORO, IRVINE California

Reviewer: Quang Than, Remedial Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control, April 06, 2010.

Comment No.	Location	Comment	Response
			<p>address DTSC’s concerns, the Navy will add the following language to the end of the sentence in Section 1.1 immediately preceding the “bullet point” list of remedy components on page 1-2 of the ROD:</p> <p><i>“... which are described in more detail in Section 2.9.2.”</i></p>
2.		<p>In quoting these two paragraphs, the RTC left out the last sentence of the second paragraph as present in the draft ROD. Please ensure that the sentence is restored in the next version of the ROD.</p>	<p>The last sentence in Section 2.9.2.1.2 (referenced below) that was not included in the RTC, was not meant to indicate that it would be removed from the ROD. It will be present in the next version of the ROD as was in the Draft ROD:</p> <p><i>“Should any of the IC objectives fail, the Navy shall ensure that appropriate actions are taken to reestablish the protectiveness of the remedy and may initiate legal action to either compel action by a third party(ies) and/or recover the Navy’s costs for mitigating any discovered IC violations(s).”</i></p>
3.		<p>It is not clear whether the last sentence/paragraph (non-italicized font) in the first bullet in RTC#1 [in accordance with the above-referenced.....and enforcing the institutional controls (ICs)] will be included in the next version of the ROD. Please clarify whether or no the text was intended to be included in the ROD.</p>	<p>The following text in the first bullet in RTC#1 was only meant for clarification purposes and not for including in the next version of the ROD.</p> <p><i>“In accordance with the above-referenced Department of Defense memorandum, these Remedial Design (RD) reports will identify the responsibilities, both pre- and post-transfer, of the Navy, other government agencies, and the new property owners for implementing, monitoring, reporting on (including five-year reviews), and enforcing the institutional controls (ICs).”</i></p>



TRANSMITTAL/DELIVERABLE RECEIPT

Contract No. **N68711-03-D-5106**

Document Control No. BAI.5106.0006.0008

TO: Crystal Irvin
 NAVFAC, Southwest Division
 1220 Pacific Highway
 San Diego, CA 92132-5183

DATE: 9/18/10
 CTO: 006
 LOCATION: Former MCAS El Toro, CA

FROM: *Parveen Kumar*
 Parveen Kumar, Project Manager

DOCUMENT TITLE AND DATE: **Response to Comments for Record of Decision
 Operable Unit 2C - Anomaly Area 3
 Former Marine Corps Air Station El Toro, California**

TYPE: Contractual Deliverable Technical Deliverable (DS) Other (TC)

VERSION: Final (e.g., Draft, Draft Final, Final) REVISION #: NA

ADMIN RECORD: Yes No CATEGORY: Confidential

SCHEDULED DELIVERY DATE: NA ACTUAL DELIVERY DATE: 9/18/10

NUMBER OF COPIES SUBMITTED TO NAVY: 1O/2C/6E/6CD

O = original transmittal form
 C = copy of transmittal form
 E = enclosure
 CD=compact disc

COPIES TO: (Include Name, Navy Mail Code, and Number of Copies)

Navy:
Crystal Irvin, 1O
Mr. Jim Callian, 1C/3E/3CDs
Admin Record, 1C/3E/1CD

U.S. EPA:
Mary Aycock, 1E/1CD

BAI:
File 1C/1E/1CD

DTSC:
Quang Than, 1E/1CD

Others:
Ms. Marsha Rudolph, 1E/1CD
Mr. Robert L. Woodings, 1E/1CD
Mr. Tom Sreenivasan, 1 CD
Mr. Ossama Abu-Shaban, 1E/1CD
Mr. Michael B. Wochnick, 1E/1CD
Mr. Glen Worthington, 1E/1CD
Mr. James P. Werkmeister, 1E/1CD
Mr. Crispin Wanyoike, 1E/1 CD

RWQCB:
John Broderick, 1E/1CD

Date/Time Received