



Pete Wilson  
Governor

## Department of Toxic Substances Control

Jesse R. Huff, Director  
5796 Corporate Avenue  
Cypress, California 90630

August 5, 1998

N68311.001064  
NAVSTA LONG BEACH  
SSIC #5090.3



Peter M. Rooney  
Secretary for  
Environmental  
Protection

Mr. Duane Rollefson  
Southwest Division  
Naval Facilities Engineering Command  
1220 Pacific Highway, Room 18  
San Diego, California 92132-5181

Dear Mr. Rollefson:

### **LONG BEACH NAVAL COMPLEX COMMUNITY RELATIONS PLAN**

This letter is in response to a facsimile that was sent to Ms. Marsha Mingay from Ms. Michelle Gallice on July 28, 1998. In that facsimile, Ms. Gallice requested additional information regarding a few of Ms. Mingay's comments on the draft Community Relations Plan (CRP) for Long Beach Naval Complex (LBNC). Hopefully, the following comments satisfy that request.

Page 1-1, Paragraph 3, Last Sentence: Please change to read, "The IR program at LBNC, which is being conducted in accordance with federal and state requirements, is intended to: (1) identify, investigate, assess, characterize, and cleanup or control releases of hazardous substances and (2) reduce the risk to human health and the environment from past waste disposal operations and hazardous material spills."

Page 1-1, Paragraph 4: Please include the other regulatory agencies with whom the Navy works in partnership (i.e., Regional Water Quality Control Board and United States Environmental Protection Agency). Also, please define their roles.

Page 1-2, Paragraph 2: Please add the following bullet items, "California Health and Safety Code, Division 20", "Title 22, California Code of Regulations, Division 4.5" and Public Resources Code, Section 21068".

Page 2-1, Paragraph 3: Please add the following sentence to the end of the paragraph, "Also, CERCLA requires that all contaminated federal facilities which are not listed on the National Priorities List (NPL), such as LBNC, comply with all applicable state laws concerning removal and remedial actions." Also, please add "National Priorities List (NPL)" to the list of acronyms.

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Page 2-1, Paragraph 4, Last Sentence: Please change to read, "The IR program at LBNC, which is being conducted in accordance with federal and state requirements, is intended to: (1) identify, investigate, assess, characterize, and cleanup or control releases of hazardous substances and (2) reduce the risk to human health and the environment from past waste disposal operations and hazardous material spills."

Page 2-3, 2.3.2 Removal Action Process, Paragraph 1: Please add the following sentence after sentence one, "These removal actions are performed in accordance with federal and state requirements." Please change the last sentence to read, "The CERCLA Removal Action Process is as follows."

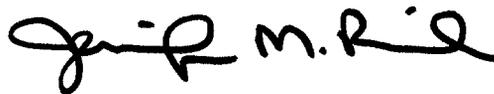
Page 2-3, Last Paragraph: Please change the last sentence to read, "Table 2-2 provides an overview of the community relations activities that typically take place during the CERCLA Removal Action Process."

Page 2-5, Table 2-1: Please delete "CERCLA" from the title. Please ensure that all community relations activities found in the California Health and Safety Code, Section 25356.1 (see enclosed) are added to Table 2-1.

Appendix E, Punctuation for David Nunenkamp at DTSC: "PO" should be "P.O."

If you have any questions, please call me at (714) 484-5415.

Sincerely,



Jennifer M. Rich  
Public Participation Specialist

Enclosure

cc: Mr. Alvaro Gutierrez  
Ms. Michelle Gallice

sites to one of the three tiers pursuant to subdivision (c). The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, the extent to which the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost, or in hazard to human health and the environment, and the criteria established pursuant to Section 105(8) of the federal act (42 U.S.C. Sec. 9605(8)). The criteria may include a minimum hazard threshold, below which sites shall not be listed pursuant to this section, if the sites are subject to the authority of the department to order removal or remedial action, or similar action, pursuant to Chapter 6.5 (commencing with Section 25100).

(b) The department shall publish and revise, at least annually, a listing of the sites subject to this chapter. The sites shall be categorized and placed on one of the following lists:

(1) A list of the hazardous substance release sites for which the department has identified a responsible party, and the responsible party is in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5. The department shall publish the list of sites under this paragraph in an appendix to the site-specific plan of expenditures prepared pursuant to Section 25334.5.

(2) A list of the hazardous substance release sites for which all of the following apply:

(A) The department has not been able to identify a responsible party or the responsible party is not in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5.

(B) The nature and extent of the hazardous substance release at the site has not been adequately characterized by the responsible party or the department.

The department shall characterize a site on the list before ranking the site on the list described in paragraph (3).

(3) A list of the hazardous substance release sites which were previously listed pursuant to paragraph (1), if the sites have been adequately characterized but the responsible parties are not in compliance with an order or enforceable agreement issued or entered into pursuant to subdivision (a) of Section 25355.5, or sites which were previously listed pursuant to paragraph (2) but which have since been adequately characterized by the department. Sites on the list specified in this paragraph shall be ranked numerically in accordance with the criteria adopted for the priority ranking of sites.

(c) The department shall assign each site listed pursuant to paragraphs (2) and (3) of subdivision (b), sites listed on the National Priorities List pursuant to the federal act, and sites which are federal military facilities to one of three tiers for the purpose of informing the public of the relative hazard of the sites. The listing of sites by tiers shall be widely disseminated to the public. The "priority one" tier shall include any site that poses a known or probable immediate threat to public health through direct human contact, explosions, fires, or acutely serious air emissions, has a high potential to contaminate or to continue to contaminate groundwater resources that are present or possible future sources of drinking water, or any site for which the costs for removal and remedial action pose the risk of

increasing rapidly if removal or remedial action is deferred. The "priority two" tier shall include any site that poses a substantial but less immediate threat to public health and safety or the environment. The "priority three" tier shall include any site that will require removal and remedial action, but presents only a limited and defined threat to human health or the environment. Priority two and three tiers may contain sites formerly listed in tiers one or two for which direct human health threats have been removed and at which physical deterioration in environmental quality has been stabilized. For the purpose of this subdivision, in informing the public of the relative environmental and public health threats posed by a site, the department shall list sites alphabetically within each of the three tiers. The department shall periodically update the list of sites by tiers to reflect new information regarding existing sites or the addition of new sites requiring removal and remedial action. No site listed pursuant to paragraph (1) of subdivision (b) shall be listed pursuant to this subdivision.

(d) The department's development and publication of the listings of sites, pursuant to subdivision (b) and the adoption of a minimum hazard threshold and the classification of a site as within that threshold pursuant to subdivision (a), are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites, as established on the list of sites specified in paragraph (3) of subdivision (b), except that funds appropriated for remedial action may be expended without conforming to the priority ranking if either of the following apply:

(1) The funds are necessary to monitor removal or remedial actions conducted by private parties listed pursuant to paragraph (1) of subdivision (b) or the state funds are necessary for the state share of a removal or remedial action pursuant to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)).

(2) The funds are used for either of the following purposes:

(A) To assess, evaluate, and characterize the nature and extent of a hazardous substance release on sites listed pursuant to paragraph (2) of subdivision (b).

(B) To carry out activities pursuant to paragraph (2) or (3) of subdivision (b), or subdivision (c) or (d) of, Section 25355.5.

(f) Funds may be expended on more than one site on the list specified in paragraphs (2) and (3) of subdivision (b) at any one time. In addition, funds may be expended for oversight of any activities conducted by a responsible party on more than one site on the list specified in paragraph (1) of subdivision (b) at any one time.

(g) This section does not require the department to characterize every site listed pursuant to paragraph (2) of subdivision (b) before the department may begin removal or remedial actions at sites listed pursuant to paragraph (3) of subdivision (b).

(Amended by Stats. 1988, Ch. 1387, Sec. 6. Repealed on January 1, 1999, pursuant to Section 25395.)

**25356.1.** (a) For purposes of this section, "regional board" means a California regional water quality control board and "state board" means the State Water Resources Control Board.

(b) Except as provided in subdivision (h), the department, or, if appropriate, the regional board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(c) A potentially responsible party may request the department or the regional board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356, if the department or the regional board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the regional board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(d) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.61 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or the regional board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do not use this treatment. The department or the regional board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures. In evaluating the cost-effectiveness of proposed alternative remedial action measures, the department or the regional board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(e) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the

basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (d) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(f) After complying with subdivision (e), the department or the regional board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional board shall then issue the final remedial action plan.

(g) (1) A potentially responsible party named in the final remedial action plan issued by the department or the regional board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date that the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date that the final remedial action plan was issued.

(g) In any civil action brought pursuant to this chapter in which a temporary restraining order or a preliminary or permanent injunction is sought, the department shall prove that the defendant is a responsible party and that there is a release or threatened release of a hazardous substance. It shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order or the preliminary or permanent injunction not be issued, or that the remedy at law is inadequate; and the temporary restraining order or the preliminary or permanent injunction shall issue without those allegations and without that proof.

(Amended by Stats. 1992, Ch. 1344, Sec. 14. Effective January 1, 1993. Repealed on January 1, 1999, pursuant to Section 25395.)

**25358.4.** The analysis of any material that is required to demonstrate compliance with this chapter shall be performed by a laboratory accredited by the department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

(Amended by Stats. 1996, Ch. 1023, Sec. 240. Effective September 29, 1996. Repealed on January 1, 1999, pursuant to Section 25395.)

**25358.5.** Any removal or remedial action taken or contracted by the department pursuant to Section 25354 or subdivision (a) of Section 25358.3 shall be exempt from the following provisions:

(a) State Contract Act (Chapter 3 (commencing with Section 14250) of Part 5 of Division 3 of Title 2 of the Government Code).

(b) Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(c) Section 14780 of the Government Code and Article 4 (commencing with Section 14830) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

(d) Article 5 (commencing with Section 14831) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1983, Ch. 1044, Sec. 15. Effective September 23, 1983. Repealed on January 1, 1999, pursuant to Section 25395.)

**25358.6.** (a) The department may prequalify bidders for remedial or removal actions taken pursuant to Section 25354 or subdivision (a) of Section 25358.3. The department may reject the bid of any prospective bidder that has not been prequalified.

(b) To prequalify bidders, the department shall adopt and apply a uniform system of rating bidders. In order to obtain information for such rating, the department may require from prospective bidders answers to questions, including, but not limited to, questions about the bidder's financial ability, the bidder's experience in removal and remedial action involving hazardous substances, the bidder's past safety record, and the bidder's past performance on federal, state, or local government projects. The department may also require prospective bidders to submit financial statements.

(c) The department shall utilize the business financial data and information submitted by a bidder pursuant to subdivision (b) only for the purposes of prequalifying bidders pursuant to this section and shall not otherwise disseminate this data or information.

(d) The system of rating bidders may be adopted by the department as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, when these regulations are adopted as emergency regulations pursuant to Section 11349.6 of the Government Code, the regulations shall be deemed to be necessary for the immediate preservation of the public peace,

health and safety, and general welfare. It is the intent of the Legislature that emergency regulations adopted pursuant to this subdivision shall remain in effect until the regulations are adopted as final regulations, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1983, Ch. 1044, Sec. 16. Effective September 23, 1983. Repealed on January 1, 1999, pursuant to Section 25395.)

**25358.7.** (a) The department shall provide any person affected by a removal or remedial action taken pursuant to this chapter with the opportunity to participate in the department's decisionmaking process regarding that action by taking all of the following actions:

(1) Provide that person with access to information which the department is required to release pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), relating to the action, except for the following:

(A) Trade secrets, as defined in subdivision (a) of Section 25358.2.

(B) Business financial data and information, as specified in subdivision (c) of Section 25358.6.

(C) Information which the department is prohibited from releasing pursuant to any state or federal law.

(2) Provide the person notification, upon request, of any public meetings held by the department concerning the action.

(3) Provide the person the opportunity to attend and to participate at those public meetings.

(b) The department shall develop and make available to the public a schedule of activities for each site for which remedial action is expected to be taken by the department pursuant to this chapter and shall make available to the public any plan provided to the department by any responsible party, unless the department is prohibited from releasing the information pursuant to any state or federal law.

(c) In making decisions regarding the methods to be used for removal or remedial actions taken pursuant to this chapter, the department shall incorporate or respond to the advice of persons affected by the actions.

(d) This section does not apply to emergency actions taken pursuant to Section 25354.

(Added by Stats. 1983, Ch. 1044, Sec. 17. Effective September 23, 1983. Repealed on January 1, 1999, pursuant to Section 25395.)

**25358.9.** (a) To the extent consistent with the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the department may exclude any portion of a response action conducted entirely onsite from the hazardous waste facility permit requirements of Section 25201 if both of the following apply:

(1) The removal or remedial action is carried out pursuant to a removal action workplan or a remedial action plan prepared pursuant to Section 25356.1.

(2) The removal action workplan or the remedial action plan requires that the response action complies with all laws, rules, regulations, standards, and requirements, criteria, or limitations applicable to the construction, operation, and closure of the type of facility at the hazardous substance release site and with any other condition imposed by the department as necessary to protect public health and safety and the environment.

(b) The department may enforce in the court for the county in which a response action exempted pursuant to subdivision (a) is