

B R O W N   A N D  
C A L D W E L L

November 22, 1995

Mr. Ed Dienzo, Code 1832.ED  
Naval Facilities Engineering Command  
Southwest Division (SWDIV)  
1220 Pacific Highway  
San Diego, CA 92132-5187

52-1299/03

**Subject: Part A & Part B Permit Application and Building 314 Operation Plan, Long Beach Naval Shipyard (LBNSY); Response to Comments From California Department of Toxic Substances Control (DTSC) and Request for Direction from SWDIV**

**Ref.: Contract N68711-92-D-4673, Delivery Order 0027**

- Enclosure: 1) Meeting minutes, Long Beach Naval Shipyard, RCRA Part B PERMIT Renewal application, Notice of Deficiency meeting, DTSC-Long Beach, 13 November 1995**
- 2) Brown and Caldwell Record of Conversation, November 20, 1995 (1400 hours), Robert Senga, DTSC-Long Beach, 310.590.4882, Subject: RCRA Part B Permit Renewal Application, Notice of Deficiencies**

Dear Mr. Dienzo:

As you know, on November 13, 1995, Brown and Caldwell (BC) attended a meeting at DTSC's offices in Long Beach in order to discuss the substance of that agency's Notice of Deficiency (NOD) issued on October 6, 1995, and later amended on November 7, 1995, to include seismic analysis requirements recently imposed by DTSC's Sacramento office. Also present at that meeting was Mr. Mel Floria, representing the LBNSY. For your reference, minutes from that meeting are enclosed (1), as is a Record of Conversation from a BC/DTSC telephone call on November 20, 1995 (2).

As you will note in the enclosure, agreement was reached between DTSC and the Navy as to appropriate responses to NOD Items 1, 3, 4, 5, 6, and 7. Minimal effort is required either by BC or by the Navy to respond to these NOD items, and we anticipate no difficulty in meeting DTSC's requests for information. NOD Item 8 is associated with preparation of a detailed sampling and analysis plan as part of the Building 314 Closure Plan. While we do not concur with DTSC's finding that such a plan is warranted or appropriate, BC is prepared to develop the necessary information for NOD Item 8 within the time allotted by DTSC and within the context of the existing Scope of Work for this delivery order.

There remain, however, two major obstacles to a complete and satisfactory response to DTSC's requests for information: one of which is associated with NOD Item 2 and one of which bears upon the situation about which we wrote to you on October 17, 1995.

In the first instance, it is BC's position that the seismic hazard review outlined in DTSC's letter of November 7, 1995, is beyond the scope of Delivery Order 0027. In order to complete this work, which includes requirements for geological assessment, groundshaking assessment, seismic stability reports, and liquefaction/seismically-induced settlement analyses for the Building 314 site, BC will require a modification to Delivery Order 0027 to revise the Scope of Work, the Total Fee, and the Delivery Schedule. In support of our position that this work is beyond the scope of Delivery Order 0027 as it was awarded April 1994, please note that DTSC staff themselves freely admit that these are new requirements that were not in place when the Permit Application was being prepared by BC in 1994.

In second instance, BC's ability to assist the Navy to comply with DTSC's requests for information is severely hindered by the fact the Navy has modified the original document which comprised the October 31, 1994 submittal of the Part A/Part B permit application. These changes were made completely without BC's knowledge or concurrence. While we freely grant that the permit application document was and is the sole property of the Navy, as a result of the Navy's actions BC is now unable to provide revised material for submission to DTSC.

At this point, BC requests the following from SWDIV:

1. If the Navy intends for BC to conduct the seismic hazard review required by NOD Item 2, a revised Scope of Work, a Request For Proposal to prepare such, and, subject to successful negotiations, a modified Delivery Order. In the absence of a modified Delivery Order, BC does not intend to conduct any effort to complete the seismic hazard review;

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2. Written direction providing instructions for how BC is to provide supplemental information required by NOD Items 1, 3, 4, 5, 6, 7, and 8. As previously noted, BC is unable to provide such information in the form of "replacement pages" to the current permit application due to the Navy's unilateral revision of that document. Should the Navy intend for BC to provide such replacement pages, we request that this requirement be incorporated into a revised Scope of Work in a manner as described above.

Notwithstanding the difficulties we have experienced with this project effort at LBNSY, Brown and Caldwell continues to appreciate the opportunity to assist the Navy with its environmental services needs. We await your direction in order to continue in that endeavor. Please feel free to call us if you have any questions.

Very Truly Yours,

BROWN AND CALDWELL



Donald G. Whittaker  
Senior Project Manager

DGW:JF:ae

cc: Ms. Julia Garcia, Southwest Division, *w/o enclosures*  
Mr. Ted Avgerinos, LBNSY Code 1170  
Mr. Lou Smith, LBNSY Code 1171  
Mr. Mel Floria, LBNSY Code 1171  
Mr. George Khoury, Brown and Caldwell  
Mr. John Fields, Brown and Caldwell  
Mr. Mark Williams, Brown and Caldwell

**MEETING MINUTES**  
**LONG BEACH NAVAL SHIPYARD**  
**RCRA PART B PERMIT RENEWAL APPLICATION**  
**NOTICE OF DEFICIENCY MEETING, DTSC-LONG BEACH**  
**13 November 1995, 1000 hours**

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Attendees: Robert Senga, DTSC  
Robert Romero, DTSC

Mel Floria, LBNSY  
Mark Williams, BC

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1. Discussion began with a general perspective and overview of the revision process that has occurred since the original submittal in October 1994, prior to the regulatory deadline of November 1, 1994. DTSC voiced their desire to limit their review to a single document; they have since ignored the original submittal by BC because it has been superseded by multiple shipyard revisions. They will keep the original cover letter to attest to compliance with the regulatory deadline of November 1. The Navy's original cover letter indicates a submittal date of October 31, 1994.
2. NOD Item 1: Signatures were not provided in the revised sections provided independently by the shipyard. Mr. Williams noted that all appropriate signature blocks were signed in the original submittal. However, as noted above, DTSC views the revised document as a stand-alone, comprehensive operations plan, and should address and incorporate all required information and signatures. Mr. Floria volunteered to route the signature pages to the LBNSY CO for signing.
3. Mr. Floria gave Mr. Williams a copy of a DTSC-LB letter dated November 7, 1995, which attached a letter from Martha Merriam, CEG, of the DTSC Hazardous Waste Management Program, Permitting and Enforcement Geological Services Unit in Sacramento. Mr. Senga wanted to incorporate the information requested in this letter as part of the October 6, 1995 NOD response. Mr. Williams voiced concern regarding multiple deficiency notices by DTSC should be consolidated and submitted as a whole, and that we were unaware of any seismic evaluation concerns. Ms. Merriam's letter states: "Reviews of seismic hazards included in the documents provided are inadequate." Mr. Floria received this letter on November 10, 1995.

This seismic hazard review letter outlines geological assessments for the TSDF site at LBNSY, lists groundshaking assessment deficiencies, and requests that seismic stability reports and liquefaction/seismically induced settlement analyses be forwarded for review by a DTSC geotechnical engineer (identified as a Mr. "Ram" Ramanijam, 916.323.3635). A telecon ensued:

Mr. Williams emphasized that the requirements of the DTSC March 1994 RCRA checklist were strictly adhered to and were the focus of data requirements for the Part B operations plan. He also stated that the original permit application addressed issues concerning adequate engineering design and hazard assessment and the DTSC approval at that time remains valid. However, Ms. Merriam stated that although the Geotechnical Services Unit has been "behind the times" in the last few years, they are

now conducting independent geotechnical reviews for many Part B applicants, and are requesting this engineering assessment. They request further data, calculations, cross-sections, and any other ancillary information to conduct a seismic and static analysis. Apparently, newly published information indicates that the Compton Thrust Fault (said to be "directly beneath" the facility) poses a concerned hazard in DTSC's opinion, and the structural design adequacy of the TSDF at LBNSY needs to be confirmed in light of these new geological findings.

Mr. Williams questioned the appropriateness of such an analyses, given that the facility was already permitted in 1989 which would have incorporated a seismic review. DTSC insisted that the review was necessary based on this new information published by the Bulletin of the Seismological Society of America and a referenced *Science* article addressing earthquake potentials in the Los Angeles metropolitan region. Ms. Merriam suggested that a new seismic analysis be conducted and forwarded to DTSC for review and consensus.

Mr. Williams was concerned that continual requests for new information, analyses, or deficient items would continue in this fragmented fashion, and suggested that LBNSY compile all available supporting engineering information, forward it to DTSC-Sacto, and have DTSC make a finding on its adequacy, rather than conducting a new geotechnical evaluation at our cost. DTSC concurred. BC/LBNSY will compile previous geotechnical analyses (Earth Tech 1989) and forward it to DTSC-LB. However, in signing the new operations plan, the shipyard affirms that past engineering evaluations, calculations, and conclusions are correct and are defended (see NOD Item 2). The shipyard, in turn, accepts all responsibility for "old" engineering design criteria. Mr. Floria has assembled, and will forward, the requested expiration dates of the responsible Francais Engineering engineers. Again, in supplying these credentials and signing the operations plan, the shipyard asserts that "nothing has changed, and the certifications and analyses are still valid".

Prior to this meeting, Mr. Williams had requested Mr. Romero to supply all historical information regarding the LBNSY TSDF at this meeting (in particular the 1989 permit application document) so that BC could conduct offsite photocopying. No supporting information was provided at the meeting, however, Mr. Senga maintained that the 1989 operations plan (Earth Tech 1989) would be located within 2 days, and made available for extracting pertinent information.

4. NOD Item 3 and 4: These will be incorporated.
5. NOD Item 5: A paragraph referencing standard waste-minimization practices will be supplied by Mr. Floria, as extracted from the SB14 document attesting the shipyard-wide waste-minimization protocol.

6. NOD Item 6: The "expected" closure date of the shipyard's TSDf will be stated as "December 31, 2006." This date was at the request of DTSC such that if the TSDf were not to close in February 1997 (with the rest of the LBNC), a new RCRA Part B permit renewal would be required. The forthcoming Part B permit has a lifespan of 10 years.
7. NOD Item 7: This statement will be incorporated, stating that an independent registered professional engineer will routinely inspect the TSDf closure progress, and state the frequency and content of inspections in the closure report.
8. NOD Item 8: A closure plan must be provided in the operations plan. Regardless of when the closure of the TSDf occurs, consensus and approval of a closure plan is required with this submittal. This approach is designed to pre-authorize closure activities and eliminate rework/reauthorization by DTSC at the actual time of closure. Mr. Senga summarized the requirements of the closure scope: background boring samples at random offsite locations (3), soil boring sampling at each waste-category storage location, selective soil boring samples from outside areas within the facility boundaries, etc. Mr. Romero stated that a minimum of three samples are desired for soil borings: at the concrete/soil interface, and at 3 feet and 6 feet below grade. The closure plan should also state: "site conditions will be remediated to background concentrations or AHERA health risk-based values, which will be determined at the time of closure". There was no comment regarding groundwater sampling, and none was offered.
9. The meeting concluded with Mr. Williams summarizing that once we are supplied with the 1989 Part B operations plan (Earth Tech), BC will compose a letter stating our intention to satisfy the DTSC October 6, 1995 NOD requirements within 30 days of receiving that material, and that supporting data/information regarding seismic/stability/liquefaction analyses will be compiled and forwarded to DTSC at a later date, expecting to occur within 30 days of the NOD response letter (i.e., 60 days from the receipt of the 1989 operations plan). Mr. Romero stated that the RCRA checklist should also be updated to reflect the location of newly incorporated information.
10. Meeting concluded at 1250 hours.

**BROWN AND CALDWELL**  
**RECORD OF CONVERSATION**

*November 20, 1995 (1400 hours)*

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**TO:**           *Robert Senga, DTSC-Long Beach*  
                  *310.590.4882*

**FROM:**       *Mark Williams, Irvine*

**SUBJECT:**   *RCRA Part B Permit Renewal Application, Notice of Deficiencies*

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**SUMMARY OF DISCUSSION:** Left a phone message at 1100 hours - no response; repeated call at 1400.

Called Robert to reach a response time consensus for addressing the requests of DTSC in their NOD letter of October 6, 1995, and their November 7, 1995, letter requiring additional geotechnical analyses for Building 314 (TSDF) at LBNSY. The following outlines that discussion:

- ▶ DTSC cannot locate the 1985 Earth Technology Part B submittal. Thought was that this document may include appropriate seismic information to satisfy DTSC-Sacramento; DTSC had concurred at the November 13, 1995, meeting. Mr. Senga now states that he *knows* that there was no seismic analyses in this 9-year-old document, and that we should press ahead to address the issue. He has circulated a memo among his staff attempting to locate this document. [I have since located this document in BC-SDO archives and confirm that it is essentially of no use as a geotechnical support document.]
- ▶ In arguing that the Navy had met the letter of the law by addressing each requirement in the March 1994 DTSC RCRA checklist, Mr. Senga had no defensible testimony as to why these recent data requests were not incorporated into the checklist. However, we are held to these requests and must either adequately address them within an acceptable time frame or expect permit revocation.
- ▶ The Navy's response time for addressing NOD issues will be reliant on DTSC judgement. The Navy is to submit a letter requesting an NOD extension for the seismic analysis, referencing the time needed to amend/modify existing consultant contractual agreements and ultimate work approval. **He will consider no more than a 60-day extension from the time of the letter submittal.** Mr. Senga or other designated DTSC representative will respond with a letter which will identify a submittal

deadline. However, the October 6 NOD requirements should be prepared and submitted in the interim.

- ▶ Should the DTSC seismic analyses review reflect that Building 314 requires retrofitting to bring it up to current applicable building code standards, DTSC would entertain a economic feasibility analysis, and could possibly exempt seismic requirements based on the potential operational lifetime of the facility and the cost of building-code compliance. This language would be included in the permit.
- ▶ Plans for progressing include preparing NOD responses for the October 6, 1995, letter within 30 days, compiling geotechnical analyses/documents to support the engineering design, and submitting a Navy letter outlining the steps necessary for addressing the geotechnical issues and the response time needed (not to exceed 60 days).
- ▶ Offering it ultimately as a Part B supplement, the geotechnical analyses would be forwarded to DTSC-LB in the form of a brief discipline-specific report. Findings from DTSC-Sacto would then be forwarded to the Navy, the report revised to address any deficiencies, and a final report prepared and incorporated into the Part B document by reference.

NOD items of the October 6, 1995, letter should be incorporated and submitted as replacement pages for the Part B document. Seismic analyses can be referenced in the Part B document as a stand-alone supplement, once it has been deemed adequate.