

NOTICE OF EXEMPTION

To: Office of Planning and Research
State Clearinghouse
P.O. Box 3044, 1400 Tenth Street,
Room 212
Sacramento, CA 95812-3044

From: Department of Toxic Substances Control
Brownfields and Environmental Restoration
Program
5796 Corporate Avenue
Cypress, CA 90630

Project Title: Corrective Action Complete Determination for Carve-Outs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D identified in Finding of Suitability to Transfer (FOST) #4 and Change of Facility Boundary at Former Marine Corps Air Station El Toro, CA

Project Location: Former Marine Corps Air Station (MCAS) El Toro

County: Orange

Project Description:

The Department of Toxic Substances Control (DTSC) is making a determination that corrective action has been completed for approximately 18.8 acres of property at the former MCAS El Toro. The property is identified in FOST #4 as Carve-Outs (COs) I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D. FOST #4 addresses 13 COs, of which this Notice of Exemption (NOE) addresses 10. The 3 remaining COs (I-B, I-L, and I-M) identified in FOST #4, which comprise approximately 24.1 acres, include 6 underground storage tank sites that have on-going corrective action for petroleum releases. All other corrective action has been completed. Because COs I-B, I-L, and I-M have on-going corrective action, they are not included in this corrective action complete determination and will remain within the facility boundary. The Department of the Navy (DON), however, intends to transfer COs I-B, I-L, and I-M with restrictions in place, which will ensure that these COs are environmentally suitable for transfer and that post-transfer use of these COs is protective of human health and the environment. Under the oversight of the Santa Ana Regional Water Quality Control Board (RWQCB), DON will continue on-going corrective action for petroleum releases at COs I-B, I-L, and I-M post-transfer.

The 10 COs addressed in this NOE and identified in FOST #4, were subject to corrective action requirements of the California Hazardous Waste Control Law and the federal Resource Conservation and Recovery Act (RCRA) because they were part of the property of MCAS El Toro, which is an inactive RCRA hazardous waste facility. MCAS El Toro had a RCRA permit that expired in 2003. The RCRA corrective action requirements for COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D have been completed through investigation and cleanup actions overseen by the DTSC, the RWQCB, and the United States Environmental Protection Agency (U.S. EPA) under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and by underground/aboveground storage tank (UST/AST) investigation and cleanup actions overseen by the RWQCB and the Orange County Health Care Agency (OCHCA). This RCRA corrective action complete determination allows the DON to transfer identified COs to new owners without transferring the associated RCRA corrective action liability. There are no additional physical activities associated with this corrective action complete decision by DTSC for the MCAS El Toro COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D. There are building use restrictions associated with the property transfer due to the presence of lead-based paint and asbestos-containing building materials on buildings.

DON is retaining approximately 939.5 acres of the facility where closure and corrective action have not been completed. This retained property remains subject to RCRA closure and corrective action requirements. A map is included in FOST #4 which shows the new RCRA hazardous waste facility boundaries for the former MCAS El Toro after removing COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D. Consistent with its decision that RCRA corrective action has been completed, DTSC is changing the boundaries of the former MCAS El Toro RCRA hazardous waste facility property.

Background:

Construction of the former MCAS El Toro began in July 1942, and the Station was commissioned in March 1943. MCAS El Toro was a United States Marine Corps pilot's fleet operational training center and air station in support of Fleet Marine Forces, Pacific. Station activities included aircraft operations and maintenance. The 1993 Defense Base Realignment and Closure (BRAC) Commission recommended MCAS El Toro for closure. MCAS El Toro was operationally closed in 1999. MCAS El Toro occupied 4,712 acres until 1998, when 23 acres were transferred to the California Department of Transportation for an expansion of California Interstate 5. In 2001, 896.7 acres of the northeast portion were transferred to the Federal Aviation Administration. In 2004 (FOST #1) and 2005 (FOST #2) a total of 2,806 acres were transferred to a private developer. Earlier this year another 3.9 acres were transferred to the same private developer under FOST #3. FOST #4 includes 13 COs comprising approximately 42.9 acres. The remaining 939.5 acres are not currently suitable for transfer, and are being retained by the DON until environmental response actions, including closure and corrective action, are completed.

MCAS El Toro was listed on the U.S. EPA National Priorities List and a Federal Facility Agreement was signed under CERCLA in 1990. Since then, MCAS El Toro has been performing CERCLA environmental clean up and restoration under the guidance and regulatory authority of DTSC, the RWQCB, and the U.S. EPA.

The FOST #4 Carve-Outs:

FOST #4 summarizes the investigation and cleanup of releases of hazardous substances on the COs. The purpose of this FOST is to summarize how the requirements and notifications for hazardous substances, petroleum products, and other regulated material within the FOST #4 COs have been satisfied by the DON. The FOST COs are real property made available through the BRAC process and are suitable for transfer by deed through provisions of Section 120(h) of CERCLA. In addition, the FOST identifies use restrictions and disclosure notifications, as specified in the "Summary of Restrictions" and "Summary of Environmental Conditions and Notifications" sections, necessary to protect human health and the environment.

The FOST #4 COs include approximately 42.9 acres of developed and undeveloped land on portions of Parcels I, II, and III. Each of the parcels was evaluated for areas where a release is suspected to have occurred; where a documented release has occurred; or, based on the types of activities that occurred in an area, had the potential for a past release. These areas are identified as Locations of Concern, or LOCs. The types of LOCs present within the FOST #4 COs include: hazardous substances sites, RCRA Facility Assessment (RFA) sites, temporary accumulation areas (TAAs), aerial photograph feature/anomaly (APHO) sites, Installation Restoration Program (IRP) sites, ASTs, USTs, Oil/Water Separator (OWS) sites, Silver Recovery Units (SRUs), Radiological (RAD) sites, and polychlorinated biphenyls (PCB)-containing transformers and equipment. FOST #4 also identifies 6 Potential Release Locations (PRLs). FOST #4 documents that corrective action has been completed for all of the COs proposed for transfer, with the exception of on-going petroleum corrective action at 6 USTs in COs I-B, I-L, and I-M. As stated previously, COs I-B, I-L, and I-M are not included in this

NOE because they require additional documentation in order to satisfy the corrective action requirements under RCRA.

CO I-E – consists of approximately 0.9 acres and is located in the western portion of the former base. It contains 1 LOC and no buildings/structures.

CO I-G – consists of approximately 0.4 acres and is located in the western portion of the former base. It contains 2 LOCs and 1 building/structure.

CO I-H – consists of approximately 0.8 acres and is located in the western portion of the former base. It contains 1 LOC, 1 PRL, and no buildings/structures.

CO I-I – consists of approximately 1.1 acres and is located in the western portion of the former base. It contains 5 LOCs, 2 PRLs and no buildings/structures.

CO I-J – consists of approximately 0.7 acres and is located in the western portion of the former base. It contains 1 LOC and no buildings/structures.

CO I-P – consists of approximately 1.8 acres and is located in the northern portion of the former base. It contains 4 LOCs and no building/structures.

CO II-G – consists of approximately 7.7 acres and is located in the eastern portion of the former base. It contains 1 LOC and no buildings/structures.

CO II-I – consists of approximately 0.4 acres and is located in the eastern portion of the former base. It contains 12 LOCs and 3 buildings/structures.

CO II-P – consists of approximately 0.3 acres and is located in the eastern portion of the former base. It contains 4 LOCs and 1 building/structure.

CO III-D – consists of approximately 4.7 acres and is located in the western portion of the former base. It contains 10 LOCs and 1 building/structure.

FOST #4 includes warranted notifications and restrictions on certain activities to ensure post-transfer use of the FOST COs is protective of human health and the environment. Notifications are disclosures associated with each CO such as locations of the LOCs/PRLs and typical real property disclosures including but not limited to: use and storage of hazardous substances and petroleum products, closed CERCLA cleanup sites, former USTs/ASTs, OWSs, PCBs, schools, asbestos-containing materials (ACM) and lead-based paint (LBP). Since LBP and asbestos abatement has not been completed in all buildings, specific restrictions limit or prevent certain occupancy or use of these buildings pending either ACM and LBP surveys and abatement or proper demolition. Also, since 6 UST sites at COs I-B, I-L, and I-M have on-going corrective action for petroleum releases, specific restrictions limit or prevent certain activities or use of the property without prior review and written approval from the RWQCB until cleanup objectives have been achieved. These notifications and restrictions, which will be included in the deed(s) for transfer, will ensure post-transfer use of the FOST COs is protective of human health and the environment.

Finally, FOST #4 contains access provisions, and in accordance with CERCLA, FOST #4 provides for a covenant. The deed for transfer of COs I-B, I-E, I-G, I-H, I-I, I-J, II-G, II-I, and III-D, will include a CERCLA covenant, warranting 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 such transfer and that any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States. COs I-L, I-M, I-P, and II-P were only contaminated by petroleum or its derivatives, therefore, COs I-L, I-M, I-P, and II-P shall be conveyed "as is" without a CERCLA covenant.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control

Exemption Status: (check one)

- Ministerial [PRC, Sec. 21080(b)(1); CCR, Sec. 15268]
- Declared Emergency [PRC, Sec. 21080(b)(3); CCR, Sec.15269(a)]
- Emergency Project [PRC, Sec. 21080(b)(4); CCR, Sec.15269(b)(c)]
- Categorical Exemption: [State type and section number]
- Statutory Exemptions: [State code section number]
- General Rule [CCR, Sec. 15061(b)(3)]

Exemption Title: With certainty, no possibility of a significant environmental effect.

Reasons Why Project is Exempt:

1. The project does not involve any physical activities at the former MCAS El Toro. The project is an administrative decision by DTSC that previously completed investigations and cleanup activities conducted under the regulatory oversight of DTSC, RWQCB, U.S. EPA, and the OCHCA, on COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D, property identified in FOST #4, have satisfied the corrective action requirements under RCRA and the California Hazardous Waste Control Law. The boundary defining the former MCAS El Toro hazardous waste facility is being modified to exclude the property comprising COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D. No offsite impacts will occur as a result of moving the facility boundaries.
2. The entire former MCAS El Toro is listed on the Hazardous Waste and Substances Site List and on the Calsites List. However, for the property identified in FOST #4 as COs I-E, I-G, I-H, I-I, I-J, I-P, II-G, II-I, II-P, and III-D, all environmental studies and remedial action under CERCLA necessary to protect human health and the environment with respect to hazardous substances remaining on the property have been taken. Additionally, all investigations and cleanups conducted with RWQCB and OCHCA oversight, with respect to petroleum products and petroleum derivatives, have been taken. On this basis, DTSC finds that RCRA corrective action is complete for these COs.

Quang Than, Project Manager
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DTSC Performance Manager Signature

Date

John E. Scandura

Performance Manager

DTSC Performance Manager
Name

Title

TO BE COMPLETED BY OPR ONLY

Date Received For Filing and Posting at
OPR:

DRAFT