From:	Callaway, Rex CIV NAVFAC SW
To:	Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Cummins, John M CIV NAVFAC SW; Kito, Melanie R CIV NAVFAC SW; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West
Subject:	RE: Yesterday"s HP LTM etc Meeting
Date:	Thursday, May 6, 2010 2:06:00 PM

All:

I some additional points/clarifications to add to Thomas' write-up.

1. Thomas correctly captured the City's reluctance for the AOC to cover long-term O&M. The primary reason for their reluctance is their concern about their liability exposure for AOC stipulated penalties over the long haul. The City lawyers indicated this was a serious political problem with their senior clients. The City's preferred approach would be for the AOC to cover the actual active remediation but then have a separate enforceable O&M agreement with DTSC that would supersede the AOC and cover long-term O&M. The City prefers this approach because DTSC does not include stipulated penalty provisions in its O&M agreements. EPA indicated that this issue is still under review by EPA and DoJ.

2. There was some confusion in DTSC over the relationship between CRUP and Deed land use restrictions vs. affirmative O&M obligations (such as erosion control, patching weathered asphalt, repairing cracked revetments, etc.). By the end of the meeting all understood that these were separate categories of long-term obligations but both had been addressed in the appropriate RD documents, e.g., the O&M plan and LUC RD.

3. Barry's concern about including a mechanism in the deed for releasing deed restrictions when they are no longer needed for protectiveness may need some further discussion but not much. We have included such mechanisms in all of our deeds with land use restrictions that I am familiar with and the LUC RDs also require that we include release language in the deeds so Barry's concern will be adequately dressed.

-Rex

-----Original Message-----
From: Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West
Sent: Thursday, May 06, 2010 8:22
To: Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West; Callaway, Rex CIV NAVFAC SW; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Cummins, John M CIV NAVFAC SW; Kito, Melanie R CIV NAVFAC SW; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West
Subject: Yesterday's HP LTM etc Meeting

Recap of yesterdays meeting. Rex might say more.

There were a lot of people (north of 20). I don't know all the names, but they were all reps of EPA, DTSC, Lennar, City, SFRA. Waterboard was not there. There were plenty of lawyers.

Amy and Barry focused the meeting on long term issues. Barry basically ran the meeting.
It became apparent that the main point of the meeting was for SFRA/Lennar to get a better handle on specific long term requirements to that they can make better cost estimates for inclusion in the ETCA.

Barry kept pushing that the City is a governmental agency, and attempted to get DTSC and EPA to lower their long term regulatory approval requirements since the City has permitting controls. Bob Elliott pointed out that DTSC "is the top of the [oversight] pyramid" and other layering such as permitting is a bonus, but doesn't relieve DTSC's oversight role. Elaine said that the City is not against performing Long Term Ob's, as long as they are paid for it. Her worry is that if money isn't fenced off, then resource issues might not allow the City to comply.

Pre Approval:
A few people pointed out that the RMP needs work on clarifying "pre-approved" versus "requires approval"

actions. Amy said they tried, and they're working on it, implying that they realize there is still an issue.

Annual Reporting:
There was general consensous among the agencies (water board was not present) and SFRA that future HOAs (for residential) and individual land owners (commercial etc) will send annual inspection reports to SFRA/City/Developer (unclear which) who will then compile, summarize, and forward them to the necessary parties. Some percentage of sites, buildings or whatever will be field checked by SFRA/City/Developer. DTSC's newest "policy" is to at least annually visually check every site having Controls. Bob E pointed out that their visits are not to be used for annual inspections, rather as a check to the responsible party's annual inspections. Navy wasn't mentioned in the annual reporting dicussion and we kept our mouths shut. Ripperda did point out the the Navy typcially uses annual reports as the basis of 5 year reviews.

Another big ticket item raised by Barry was "how long does the AOC last?" The point was that he doesn't want the AOC to be a long term O&M deal (some thought that this was because of the stipulated penalties). DTSC and EPA are okay with having a single O&M agreement for both of them to sign. One idea was to sunset the stip penalties on O&M at some point in the future. The issue was not completely resolved.

Future Releases:
Jeff Austin pointed out that the EIR has a residential option on Parcel G, after the stadium and after the research/industrial options. So he wondered how the residential use restrictions could be lifted. Several people pointed out that the LUC RD discusses this. Barry said he'd like the deed to say that the Navy will prepare a release deed once the necessary approvals have been provided. I read him to mean that he wants a timeclock on the Navy to provide a release. (Nobody raised the point that the CRUP would also have to be released.)

Next meeting on RMP is May 11th.
Next meeting on ETCA et al is May 26, 27.

_____

Thomas L. Macchiarella, PE
Deputy Base Closure Manager
Barbers Point - Hunters Point - Treasure Island
BRAC Program Management Office West
1455 Frazee Rd, San Diego, CA 92108
Voice: (619) 532-0987
Fax: (619) 532-0983
thomas.macchiarella@navy.mil