From:	Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West
To:	Kito, Melanie R CIV NAVFAC SW; "Hall, Steve"; Callaway, Rex CIV NAVFAC SW; Cummins, John M CIV NAVFAC SW; McCay, Patrick J CIV OASN (I&E) BRAC PMO West; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West
Cc:	"Kelly, Dennis"; "Merrifield, Campbell"; "ANDREW.L.LISSNER@saic.com"; "Cook, Kyle R."
Subject:	RE: Revised Draft HPS Project Schedule
Date:	Monday, September 22, 2008 7:27:34 AM

According to the BRRM, NEPA is not addressed in FOSTs -- that answers whether the NEPA ROD is required for agency approval of the FOST (the FOST needn't be aware of NEPA).

Regarding submittal of the CDR, I'm not sure, but I'm going to give my opinion. No, the CDR needn't be aware of NEPA. The CDR is a creature of early transfer, which is a creature of CERCLA. Granting the covenant that all necessary action has been taken is independent of NEPA.

Obvouisly, we have to be mindful of getting all our ducks in a row before we xfr property. Just because the FOST and the CDR don't need to be mindful of NEPA doesn't mean, of course, that we get to forget about NEPA.

John C and Rex, please concur, or not.

Tx, TLM.

-----Original Message-----
From: Kito, Melanie R CIV NAVFAC SW
Sent: Friday, September 19, 2008 14:44
To: Hall, Steve; Callaway, Rex CIV NAVFAC SW; Cummins, John M CIV NAVFAC SW; McCay, Patrick J CIV OASN (I&E) BRAC PMO West; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West
Cc: Kelly, Dennis; Merrifield, Campbell; ANDREW.L.LISSNER@saic.com; Cook, Kyle R.
Subject: RE: Revised Draft HPS Project Schedule

Steve,

I don't know this answer, I am hoping somebody else who has more transfer experience than I can respond.

Melanie

-----Original Message-----
From: Hall, Steve [mailto:steve.hall@ttemi.com]
Sent: Thursday, September 11, 2008 13:14
To: Callaway, Rex CIV NAVFAC SW; Cummins, John M CIV NAVFAC SW; McCay, Patrick J CIV OASN (I&E) BRAC PMO West; Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West
Cc: Kelly, Dennis; Merrifield, Campbell; ANDREW.L.LISSNER@saic.com; Cook, Kyle R.
Subject: RE: Revised Draft HPS Project Schedule

On that basis, should the NEPA ROD be required for agency approval of the FOST/FOSET or of the CDR package for submittal to the Governor?

Steve Hall, P.G.

Senior Project Manager
Tetra Tech EM inc.
1230 Columbia Street, Suite 1000
San Diego, CA 92101
Office: 619-321-6709
Cell: 713-829-5707
Fax: 619-525-7186

-----Original Message-----
From: Callaway, Rex CIV NAVFAC SW [mailto:rex.callaway@navy.mil]
Sent: Thursday, September 11, 2008 1:03 PM
To: Cummins, John M CIV NAVFAC SW; McCay, Patrick J CIV OASN (I&E) BRAC PMO West; Hall, Steve; Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West
Cc: Kelly, Dennis; Merrifield, Campbell; ANDREW.L.LISSNER@saic.com; Cook, Kyle R.
Subject: RE: Revised Draft HPS Project Schedule

All:

I agree with John on this, based on my NEPA experience at other installations.

-Rex

-----Original Message-----
From: Cummins, John M CIV NAVFAC SW
Sent: Thursday, September 11, 2008 13:01
To: McCay, Patrick J CIV OASN (I&E) BRAC PMO West; 'Hall, Steve'; Kito, Melanie R CIV NAVFAC SW; Callaway, Rex CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West
Cc: 'Kelly, Dennis'; 'Merrifield, Campbell'; 'Lissner Andrew (ANDREW.L.LISSNER@saic.com)'; 'Cook, Kyle R.'
Subject: RE: Revised Draft HPS Project Schedule

As Patrick points out, the "interim action" concept is described in 40 CFR 1506.1(C) - which states:

"(a) Until an agency issues a record of decision as provided in Sec.
1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:
(1) Have an adverse environmental impact; or
(2) Limit the choice of reasonable alternatives.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:
(1) Is justified independently of the program;
(2) Is itself accompanied by an adequate environmental impact statement; and
(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives."

It is my opinion that the decision to convey is final agency action and not interim action because, among other reasons, once the property is conveyed, there is no further federal action that can be taken. As such, a record of decision is required before transfer.

John

-----Original Message-----
From: McCay, Patrick J CIV OASN (I&E) BRAC PMO West
Sent: Thursday, September 11, 2008 10:26
To: 'Hall, Steve'; Kito, Melanie R CIV NAVFAC SW; Callaway, Rex CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West; Cummins, John M CIV NAVFAC SW
Cc: Kelly, Dennis; Merrifield, Campbell; Lissner Andrew (ANDREW.L.LISSNER@saic.com); Cook, Kyle R.
Subject: RE: Revised Draft HPS Project Schedule

I wish we could do transfer before the SEIS, but the transfer itself is tied to the reuse which is part of the proposed action in the SEIS.

The Final SEIS must be filed with EPA published in the Federal Register (FR). We must wait 30 days before irreversibly committing resources (i.e. transfer).

Best case, we would sign the ROD then transfer. This is the safest way.

In the interest of pushing the time envelope. There may be an opportunity to transfer 30 days after the Final SEIS FR notice and before ROD signature. I believe this is commonly called an interim action. See 40 CFR 1506.1. The transfer itself, being more administrative with no adverse impacts and does not effect the choice of reasonable alternatives (there is only one transfer alternative), could possibly go forward before the ROD. Perhaps John Cummins, our NEPA attorney could provide an opinion on this.

Patrick

-----Original Message-----
From: Hall, Steve [mailto:steve.hall@ttemi.com]
Sent: Thursday, September 11, 2008 9:42
To: Kito, Melanie R CIV NAVFAC SW; Callaway, Rex CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West; McCay, Patrick J CIV OASN (I&E) BRAC PMO West
Cc: Kelly, Dennis; Merrifield, Campbell
Subject: RE: Revised Draft HPS Project Schedule

I didn't set the NEPA documents (Supp EIS or ROD) as predecessors for the transfer document, as they shouldn't affect the property transfer, only the property redevelopment/construction schedule. Please let me know if this assumption is incorrect and if the schedule should reflect that the transfer documents (FOSTs/FOSETs and CDRs) should be held until the NEPA documents are finalized.

Steve Hall, P.G.
Senior Project Manager
Tetra Tech EM inc.
1230 Columbia Street, Suite 1000
San Diego, CA 92101
Office: 619-321-6709

Cell: 713-829-5707
Fax: 619-525-7186

-----Original Message-----
From: Kito, Melanie R CIV NAVFAC SW [mailto:melanie.kito@navy.mil]
Sent: Thursday, September 11, 2008 8:21 AM
To: Callaway, Rex CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West; Kayaci, G Hamide CTR OASN (I&E) BRAC PMO West; Jensen, Dane C CIV NAVFAC SW; Koppel, Sarah A CIV NAVFAC SW; Urizar, Lara L CTR OASN (I&E), BRAC PMO West; Gilkey, Douglas E CIV OASN (I&E) BRAC PMO West; Macchiarella, Thomas L CIV OASN (I&E) BRAC PMO West; McCay, Patrick J CIV OASN (I&E) BRAC PMO West
Cc: Hall, Steve
Subject: FW: Revised Draft HPS Project Schedule

Hot of the presses!

Attached is the new ET schedule. Notice that the NEPA schedule shows a ROD date of 3/2/2010, which may cause some concern at Monday's meeting.
(We told everyone that Parcel G could be transferred in Feb 2010)

Steve and I will be looking at some of the City's requests and how it affects the schedule this week so we will be prepared for Monday's meeting.

Melanie

-----Original Message-----
From: Hall, Steve [mailto:steve.hall@ttemi.com]
Sent: Wednesday, September 10, 2008 17:06
To: Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (I&E) BRAC PMO West
Cc: Merrifield, Campbell; Kelly, Dennis
Subject: Revised Draft HPS Project Schedule

Keith and Melanie,
Attached is the revised draft project schedule. I included some of the word changes requested by the City. I put in the City obtaining environmental insurance for each Parcel as a single line item requiring
4 to 6 months, rather than inserting the detailed breakdown of negotiating and finalizing the policies. I did not specify that LUC and AOC reviews would be by attorneys as requested by the City.

I could not make date changes that the City requested as the City ignored project constraints that must be conducted prior to proceeding with phases of the specific transfer documents, or constraints related to development and finalizing the CDR packages. A few items such as early portions of the ETCAs and RMPs could be moved if the parties are going to proceed with the preparation at the time requested by the City; however, speeding up these transfer document tasks (such as the ETCA or
RMP) won't make the CDR happen any quicker. In several instances, the City requested finalizing documents prior to the CDR package approval.
Currently, we get agreement on the draft final versions, and wait for finalizing the documents until after the Governor approves the CDR.

Steve Hall, P.G.
Senior Project Manager
Tetra Tech EM inc.
1230 Columbia Street, Suite 1000
San Diego, CA 92101
Office: 619-321-6709
Cell: 713-829-5707
Fax: 619-525-7186