From:	Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West
To:	Cummins, John M CIV NAVFAC SW; Dunn, Jacqueline E CIV NAVFAC SW, PACO; Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Callaway, Rex CIV NAVFAC SW; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West
Cc:	Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West
Subject:	RE: B&G FOSET Questions - based on agency comments
Date:	Tuesday, March 1, 2011 7:57:16 AM

JC, thanks for sending solomente the changed pages. Very efficient.

-----Original Message-----
From: Cummins, John M CIV NAVFAC SW
Sent: Friday, February 25, 2011 16:51
To: Dunn, Jacqueline E CIV NAVFAC SW, PACO; Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West; Callaway, Rex CIV NAVFAC SW; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West
Cc: Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West
Subject: RE: B&G FOSET Questions - based on agency comments

My comments concerning the RTCs are annotated to the attached.

Also, I have a couple of additional comments which were included in my e-mail message of March 2010.

1. Paragraph 4.1 of the FOSET states that "The Parcel G ROD identifies the future uses of Parcel G as mixed uses, educational and cultural, and open space (Navy 2009a)." This is not accurate. Paragraph 2.4 of the Parcel G ROD identifies "Current and Potential Future Site Uses" as residential, industrial and recreational, stating:

"The reuses defined in the San Francisco Redevelopment Agency's 1997 Reuse Plan were evaluated by the following exposure scenarios: residential (mixed-use and research and development blocks), industrial (industrial and educational/cultural blocks), and recreational (open space block). The groundwater in the A aquifer, as discussed in the Feasibility Study, is not suitable for use as (drinking water(13)). Exposures to the A aquifer were evaluated based on indoor air inhalation and transport to the Bay. The groundwater in the B-aquifer was evaluated as a drinking water source, though it has low potential for use as drinking water."

There is no mention in the FOSET of residential or industrial uses even though such uses are expressly stated in the Parcel G ROD. Please note that the term "mixed use" need not include residential (see San Francisco Planning Code, Article 8, Section 843).

2. Paragraph 6.1.1, fails to include the information required by CERCLA Section 120(h)(3)(A)(i)(III) - a description of the remedial action taken, if any.

John

-----Original Message-----
From: Dunn, Jacqueline E CIV NAVFAC SW, PACO
Sent: Friday, February 11, 2011 19:43
To: Kito, Melanie R CIV NAVFAC SW; Forman, Keith S CIV OASN (EI&E), BRAC PMO West; Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West; Callaway, Rex CIV NAVFAC SW; Cummins, John M CIV NAVFAC SW; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West
Cc: Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West
Subject: B&G FOSET Questions - based on agency comments

Team:

Attached are the RTCs for the agency/city/public comments on the B&G FOSET. Review and input by February 18 would be appreciated. The current working draft/forecast B&G FOSET schedule (unpublished internal schedule) has us submitting the Preliminary Draft Final FOSET to the agencies & the City by April 8, 2011. To make this date, we need to resolve any remaining issues by the end of March.

A few items specifically needing the team's input...

1. EPA Comment 13: In the text (section 1.1 - page 4), we list all of the items that are included in the Covenant Deferral Request package. We note that in addition to the FOSET and its attachments the deferral request pkg also includes a variety of documents, including the LUC RD & RMP. EPA (Mark Ripperda) asked why these items were listed as part of the deferral request pkg. Is this correct? Are the LUC RD & RMP part of this package?

2. EPA Comment 42 / DTSC Comment 11 / City Comment 36 / City Comment 40 / City Comment 41:
EPA's comment notes: " This language is overly broad, FOSET should describe allocation between Navy and Respondents." -> I'm not sure what EPA is trying to get at here. Is there better language that we should be using?
DTSC's comment notes: "This section does not discuss any conditions for which the Navy retains responsibility and should either be expanded to discuss them consistent with the transfer documentation, or removed from the document." -> Can we use more specific language here? If so, what should we use?
The City notes: "More generally, this section does not fully explain what has been done by Navy and what will be done by SFRA. Please revise the text accordingly."

CURRENT FOSET TEXT: Section 5.3 CONDITIONS FOR WHICH THE NAVY RETAINS RESPONSIBILITY - states: "Responsibility for all known environmental conditions requiring regulatory closure, is being transferred to the SFRA, with accompanying appropriate funds to allow for completion of remaining regulatory obligations pursuant to an ETCA."

3. EPA Comment 47: EPA's comment notes: "Limitation on covenant is not correct. Please clarify that the limitation refers only to transferee's status at the date of transfer." -> Is this correct?

CURRENT FOSET TEXT: 6.3.1 Remedial Obligation - states: "The deed from the Navy to the SFRA will include a covenant by the United States, made pursuant to the provisions of CERCLA § 120(h)(3)(A)(ii)(II), warranting that the United States will conduct any additional remedial action found to be necessary after the Early Transfer Property has been transferred. The covenant will not apply in any case in which the person or entity to whom the real property is transferred is a potentially responsible party with respect to such property."

4. EPA Comment 49: EPA's comment notes: "The FOSET should include the Navy's commitment to provide the Warranty when all remedial actions have been taken."

In the FOSET text, are we supposed to have a commitment to provide a CERCLA warranty post-remedial action completion? I'm not sure the FOSET is the appropriate place for this - but I don't really know.

5. City Comment 35.a.: Amy notes: "Please revise the first sentence to state that land use and activity restrictions, enforceable through ICs, have been identified. Also, at the end of the first sentence of section 4.2, "Parcels and G" should be "Parcels B and G." The second sentence states that the ICs are necessary during the covenant deferral period, but that is not accurate. In fact, the activity restrictions will remain in place even after the covenant deferral period. This section then goes on to describe the RMPS, but the RMPS are not ICs. A much clearer explanation is needed of what "special" requirements, ICs or other measures, are in place during the covenant deferral period versus after remediation is complete."

I'm thinking this goes back to how we discuss ICs in the UC1/UC2 FOST text that we just did. What type of information do y'all want to see here?

6. City Comment 46: Amy notes: "In the first sentence, in (1), please change "the SFRA will remediate contamination" to "the SFRA will complete remediation." The second paragraph should be edited down to read: "Under the planned ETCA, the Navy will provide funds for the environmental remediation. These funds will include the cost of an environmental insurance policy insuring against cost overruns and paying for cleanup of previously undiscovered conditions for which the Navy does not retain responsibility." This paragraph can also be merged with the first paragraph."

I think this may actually go hand in hand with the CERCLA warranty question that EPA posed (Item #4 above). How do y'all want to handle this? I don't know how the insurance stuff actually works.

7. City Comment 59: Amy notes: in reference to App A Table A-1a - "The footnote indicates that the petroleum products listed fall within the scope of the CERCLA Petroleum exclusion (CERCLA Section 101(14). If this is the case, why is this table included in this appendix?

ChaduxTt was directed to follow a FOST for MCAS El Toro which included a similar table which include petroleum products. ChaduxTt specifically asked about this table and why it would be included, and the Navy mentioned a lawsuit at Alameda where the deed didn't provide notice for something non-CERCLA related. Please confirm that table should remain.
Rex/John - were you a part of this conversation? Is this correct?

Thanks,
V/r,
Jackie

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Jacqueline E. Dunn, P.E.
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"You do not lead by hitting people over the head - that's assault, not leadership." -Dwight D. Eisenhower-

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