



Department of Toxic Substances Control

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Arnold Schwarzenegger  
Governor

October 5, 2004

Mr. Jerry Vincent  
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INFORMATION CONCERNING FORMERLY USED DEFENSE SITES (FUDS) AND  
ACTIVITIES

Dear Mr. Vincent:

I am writing as a follow-up to our meeting on September 20, 2004, regarding the FUDS program. The discussion with United States Environmental Protection Agency (U.S. EPA), United States Fish and Wildlife Service (USFWS), United States Department of Interior (DOI), State Water Resources Control Board (SWRCB), State Department of Parks (DPR), Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), and numerous project managers from the United States Army Corps of Engineers (USACE) raised several issues that require further clarification.

First, you stated during the meeting that money previously dedicated to projects in California has been diverted to fund projects in Nevada because "California is not interested in cleaning up sites." You stated that you have moved approximately \$700,000 and \$2,000,000 from the California FUDS program to Nevada and Utah, respectively. I have been informed that you have made this same statement in other forums in the past. I want to be clear that this statement on your part is not accurate and that California is extremely committed to cleaning up sites. Cleanup and reuse of contaminated property is central to the mission of the DTSC.

As you are aware, California has the largest number of FUDS properties in the USACE district for which you are responsible for. Projects have gone unfunded for several years and we have been told repeatedly that there is a lack of funding.

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As I stated in the meeting, DTSC would like an accounting of all funds that were programmed for California projects that have been diverted to Nevada or other states. We would like information regarding the specific projects that were delayed as a result of this diversion and a discussion of the issues that were pending prior to your decision to divert the funding. We are concerned that disagreements over cleanup requirements between the State of California and USACE is the precipitating factor for diversion of funds and stopping work on projects in California. It is inappropriate to characterize a difference of opinion with regulatory agencies over cleanup requirements as "not being interested" in cleaning up sites. It is an even greater concern that funding would be diverted based upon this disagreement.

In the meeting it was acknowledged that the State and other stakeholders have not had an opportunity to provide input to USACE regarding prioritization of projects for the past two federal funding cycles. DTSC would like a commitment that, for future fiscal years, this opportunity will be provided.

You indicated during the meeting that several sites involving tank removal and remediation were delayed because of dual oversight by state agencies. To further our efforts to address this issue, DTSC requests a listing of the specific sites in question to allow us to coordinate with our sister agencies to ensure that the lead agency is clearly identified.

Another issue of concern is the designation of Potentially Responsible Party (PRP) and the cessation of work upon such designation. To insure that we can proceed on these sites as quickly as possible, please provide a list of all of the PRP sites, location, and status. We would also like a clear statement of the national criteria that is used for designation of sites as PRP sites. You have indicated in prior meetings that, if one molecule of contamination is found, that is not the responsibility of USACE; the site is referred to PRP status. We would like confirmation that this is a national policy and is not unique to the FUDS program being administered in California.

We briefly discussed the Benicia Arsenal and Hamilton NAF FUD sites. We have not been provided copies of the Site Ownership Operational History Report (SOOHR) or the Liability Analysis pertinent to the other PRPs, site inspections or other relevant information USACE relied upon for making the PRP determination for these sites. All information pertaining to the rationale for what contaminants and locations should be investigated/remediated by the post Department of Defense property owners should be made available to the State of California.

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In closing, DTSC is seeking improvements to the administration of the FUDS program in California. We have serious concerns with the diversion of funds from California to other states. We are also concerned with the criteria and decision making for the designation of PRP sites, the resulting delays to cleanup, and the impact on human health and the environment from these delays.

If you have any questions or would like to discuss these issues, please do not hesitate to contact me at (916) 255-6416 or Mr. Donn Diebert, Chief of Open Base Navy/Formerly Used Defense Sites, at (916) 255-3728.

Sincerely,



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Division Chief  
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cc: See next page.

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