

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket No. I/SE)
))
Benicia Arsenal)	IMMINENT AND/OR)
Benicia, California)	ENDANGERMENT DETERMINATION)
)	AND REMEDIAL ACTION ORDER)
Responsible Parties:))
))
Potter Property))
United States Department)	Health and Safety Code)
Sections 25358.3(a),))
C/O U.S. Army Corps)	25355.5(b)(3),)
Of Engineers)	58009, and 58010)
1325 J Street))
Sacramento, Ca 95814-2922))
))

I. INTRODUCTION

1.1 Parties. The State Department of Toxic Substances Control (Department) issues this Imminent and/or Substantial Endangerment Determination and Remedial Action Order (Order) to Potter Property and the United States Department of the Army (USDOA). Responsible Parties are herein referred to as Respondents. Respondents are jointly and severally responsible for carrying out all actions required by this Order, except for those actions expressly required only of another Respondent or group of Respondents.

1.2 Site. This Order applies to the Site, known as the Former Benicia Arsenal (Arsenal). The Site is located in the City of Benicia, Solano County, California. A map showing the Site is attached as Exhibit 1. The list of Assessor Parcel Number of the Site is attached as Exhibit 2.

1.3 Jurisdiction. Section 25358.3(a) of the Health and Safety Code authorizes the Department to issue an Order when the Department determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance.

Section 25355.5(b)(3) of the Health and Safety Code authorizes the Department to expend funds from the Hazardous Substance Account or the Hazardous Substances Cleanup Fund without first taking the action specified in H&SC Section 25355.5(a) of the Health and Safety Code, if the Department determines that removal or remedial action is necessary because there may be an imminent and substantial endangerment to the public health or welfare or the environment.

Sections 58009 and 58010 of the Health and Safety Code authorize the Department to commence and maintain all proper and necessary actions and proceedings to abate public nuisances related to matters within its jurisdiction which are dangerous to health.

II. FINDINGS OF FACT

The Department hereby finds:

2.1 Liability of Respondents.

2.1.1 Respondent USDOA was the owner and operator of the Site at the time when hazardous substances were released into the environment at or from the Site. The USDOA used the Arsenal as a disposal site for Munitions and explosives of concern (MEC) through the use of open burn/open detonation (OB/OD) or through burial. [Need to add EIRW issues.]

2.1.2 Respondent Potter Property is the current owner and operator of Building 50. USDOA was the previous owner and operator of Building 50. Both appear to have owned Building 50 at the time when hazardous substances were released into the environment at or from the Site. A known release of has occurred. (NEED TO REWORK TO BETTER DEFINE WHO WHAT AND WHEN)

2.2 Site History.

2.2.1 The Arsenal was established in 1849 and assigned several missions throughout its 115-year history. The Arsenal had a total of 2,728 acres and consisted of approximately 300 buildings, two motor pools, NIKE missile repair facilities and an explosives holding area, and a network of 109 storage "igloos" The Arsenal functioned as a site for storing, disposal, repairing, and testing of variety of military arsenal including MECs.

2.2.2 The Arsenal is bounded to the South by Carquinez Strait, to the East by Suisun Bay, to the West by City of Benicia, to the North by 2nd Street. The topography of the property ranges from the

tidal flats of the west shore of Suisun Bay, to hills and steep drainages throughout the Arsenal to the approximately 250-foot elevation of Sulphur Springs Mountains.

2.2.3 During the Civil War, the Arsenal tested gunpowder manufactured on the West Coast. A 12-mile siege gun firing range and 120 firing gallery for an experimental rifle powder proving ground were developed and located along the southern waterfront at the Arsenal. After 1900, the Arsenal engaged in the manufacture of powder for ammunition varying from 150,000 to 250,000 pounds annually. After World War II, the Arsenal took the role of storing chemical warfare materials on site.

2.2.4 Industrial shops within the Arsenal used acids and solvent and various other potential hazardous materials were used. Chemicals such boric acid, sulfuric acid, hydrochloric acid, phosphoric acid, potassium hydroxide, chromium hydroxide, ethyl ether, chromium trioxide, and chromium potassium used at the site. Other compounds used include methyl ethyl Ketone (MEK), Acetone, and trichloroethene (TCE).

2.2.4 During the Korean war, the arsenal operation expanded. In addition to other activities, the Arsenal conducted testing that included the measurement of burning times for 60 millimeter (mm) mortar illumination (a hazardous waste) and determining the effectiveness of low-grade, high-sulfur gasoline and high additive lubricating oils. Explosives were routinely burned at the Arsenal. In 1951, 1.8 million pounds of scrap were recovered from burned and small arms ammunition.

2.2.5 After the property was released back to the City and/or previous owners, or sold to interested parties once the Department of Defense was . The Potter's obtained the parcel known as the Building 50. Operations within the Building continued to use the same type of chemicals and releases have been document in and around the building. (NEED TO REWORK TO BETTER DEFINE WHERE, WHAT AND WHEN)

2.3 Substances Found at the Site. The following hazardous substances have been found at the site:

2.3.1 UNEXPLODED ORDNANCE (UXO) or Munitions and Explosives of Concern (MEC). UXO/MEC is a hazardous substance which has been released into the environment at or from the Site. Types of UXO/MEC found to date are intact or portions of a 37 mm high explosive (HE), 40 mm HE, 60 mm HE mortar, Stokes Mortars, fuzes, landmine, 155mm projectiles, Trinitrotoluene and others. UXO and MEC are hazardous waste pursuant to Title 22, Cal. Code of Regs., Section 66261.23.

2.3.2 2,4,6-Trinitrotoluene (TNT). TNT disposal strips were readily identified at the Tourtelot property which was part of the Arsenal by the lack of vegetation which was growing thickly adjacent to these locations in the north valley. TNT has been found at levels up to 5,400 mg/kg in the north valley of the Site and is listed as a hazardous waste constituent pursuant to Title 22, California Code of Regulations (Cal. Code of Reg.), Division 4.5, Chapter 11, Appendix X. It is unclear if other areas at the Arsenal contain similar TNT contamination.

2.3.3 Solvents. Solvents were used through out the industrial and manufacturing shops at the Arsenal. Methyl ethyl Ketone (MEK), Acetone, and trichloroethene (TCE). Are listed as hazardous waste constituent to Title 22, Cal. Code of Regs., Division 4.5. [Note: need to check the correct regs]

2.3.4 Acids. Acids were used through out the industrial and manufacturing shops at the Arsenal. Boric acid, sulfuric acid, hydrochloric acid, phosphoric acid, potassium hydroxide, chromium hydroxide, and chromium trioxide are listed hazardous waste constituents to Title 22, California Code of Regulations, Division 4.5. [Note: need to check the correct regs]

2.4 Health Effects.

2.4.1 UNEXPLODED ORDNANCE (UXO) or Munitions and Explosives of Concern (MEC). The improper handling, impact or presences of UXO or MEC could cause sudden death, blunt force trauma, or dismemberment. Additionally, smaller pieces of UXO or MEC shrapnel with explosive residue could cause injury if improperly handled.

2.4.2 TNT. TNT can produce both local and systemic toxicological effects as well as death and dismemberment due to TNT's sudden reactive capability. TNT has been identified as a potential human carcinogen.

2.4.3 Solvents.

2.4.3.1 Methyl ethyl Ketone. Poisonous by intraperitoneal routes.

2.4.3.2 Acetone. Irritation of eyes, nose and throat, headaches, dizziness and dermatitis.

2.4.3.3 Trichloroethene (TCE). TCE is toxic by inhalation, skin contact, and intraperitoneal routes.

2.4.4 Acids.

2.4.4.1 Boric Acid.

2.4.4.2 Sulfuric Acid

2.4.4.3 Hydrochloric Acid

2.4.4.4 Potassium Hydroxide

2.4.4.5 Chromium hydroxide

2.4.4.6 Chromium Trioxide

2.5 Routes of Exposure.

2.5.1 UNEXPLODED ORDNANCE (UXO) or Munitions and Explosives of Concern (MEC). Routes of exposure for humans are through direct dermal penetration, blunt force trauma, or dismemberment.

2.5.2 TNF. Routes of exposure are through inhalation, skin contact or ingestion.

2.5.3 Solvents. Routes of exposure are through inhalation, skin contact or ingestion.

2.5.4 Acids. Routes of exposure are through inhalation, skin contact or ingestion.

2.6 Public Health and/or Environmental Risk.

2.6.1

2.6.2

III. CONCLUSIONS OF LAW

3.1 Each of the persons listed in Section 1.1 is a "responsible party" or "liable person," as defined by Health and Safety Code Sections 25323.5 and 25385.1(g), herein referred to as Respondents.

3.2 Each of the substances listed in Section 2.3 is a "hazardous substance" as defined by Health and Safety Code Section 25316, and has been found at the Site.

3.3 A "release" or threatened release of the hazardous substances listed in Section 2.3 has occurred at or from the Site, as defined by Health and Safety Code Section 25320.

3.4 The actual and/or threatened release of hazardous substances at or from the Site may present an imminent or substantial endangerment to the public health or welfare or to the environment.

3.5 The actual and/or threatened release of hazardous substances at or from the Site is also injurious to public health or is an obstruction to the free use of property, and at the same time, affects the entire community where the Site is located.

IV. DETERMINATION

4.1 Based on the foregoing findings of fact and conclusions of law, the Department hereby determines that removal and remedial action is necessary at the Site because there may be an imminent or substantial endangerment to the public health or welfare or to the environment.

4.2 The actual and/or threatened release of hazardous substances at or from the Site constitutes a public nuisance as defined in Civil Code Sections 3479 and 3480.

V. ORDER

Based on the foregoing FINDINGS AND DETERMINATION, IT IS HEREBY ORDERED THAT Respondents conduct the following response activities in the manner specified herein, and in accordance with a schedule specified by the Department as follows:

5.1. All work performed under this Order shall be consistent with and based on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601 et seq.), as amended, the National Contingency Plan (40 Code of Federal Regulations (CFR) Part 300), as amended, the Health and Safety Code (H&SC) Section 25300 et seq., as amended, state laws and regulations, as amended, and other current and applicable U.S. EPA and Department guidance and standards.

5.1.1 Removal Actions. Respondents shall undertake removal actions if, at any time during the course of this Order, the Department determines that they are necessary to mitigate the release of hazardous substances at or emanating from the Site or to address UXO or MEC which should not be moved. The Department will require Respondents to submit a removal action workplan for the Department's approval. The workplan should include an implementation schedule. Either the Department or Respondents may identify the need for removal actions.

5.1.2 Fence and Post. The Respondents shall implement the following removal actions and be prepared to discuss it at the Site Remediation Strategy Meeting (Section 5.1.3). Within 20 days of the effective date of this Order, Respondents shall submit a workplan to the Department to evaluate the need for fencing and posting those parts of the Site where contamination has migrated beyond the currently fenced area. These known areas are the OB/OD area kick out zone and the TNF disposal strips. The workplan shall include an implementation schedule.

5.1.3 Site Remediation Strategy Meeting. The Respondents, including the Project Coordinator (Section 6.1) and Project Engineer/Geologist (Section 6.2), shall meet with the Department within 20 days from the effective date of the Order, to discuss the Site remediation strategy. The discussion

will include Site risks and priorities; project planning, phasing and scheduling, remedial action objectives, remedial technologies, data quality objectives, and the Remedial Investigation/Feasibility Study (RI/FS) workplan. Results of the discussion shall be included in the Scoping Document, required under Section 5.2.2(b) of this Order.

5.2 Remedial Investigation/Feasibility Study. A RI/FS shall be conducted for the Site. The RI/FS may be performed as a series of focused RI/FSs, if appropriate, based on Site priorities. The RI/FS shall be prepared consistent with the U.S. EPA's "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," October 1988. The purpose of the RI/FS is to assess Site conditions and to evaluate alternatives to the extent necessary to select a remedy appropriate for the Site. RI and FS activities shall be conducted concurrently and iteratively so that the investigations can be completed expeditiously. Because of the unknown nature of the Site and iterative nature of the RI/FS, additional data requirements and analyses may be identified throughout the process. The Respondents shall fulfill additional data and analysis needs identified by the Department; these additional data and analysis requests will be consistent with the general scope and objectives of the Order.

The following elements of the RI/FS process and those defined by the Department shall be preliminarily defined in the initial Site scoping and refined and modified as additional information is gathered throughout the RI/FS process.

- (a) Conceptual Site Model identifying contamination sources, exposure pathways, and receptors;
- (b) Federal, State and local remedial action objectives including applicable or relevant and appropriate requirements;
- (c) Project phasing including the identification of removal actions and operable units;
- (d) General response actions and associated remedial technology types; and
- (e) The need for treatability studies.

5.2.1 RI/FS Objectives. The objectives of the RI/FS are to:

- (a) Determine the nature and full extent of hazardous substance contamination of air, soil, surface water and groundwater at the Site and contamination from the Site, including offsite areas affected by the Site;
 - (b) Identify all actual and potential exposure pathways and routes through environmental media;
 - (c) Determine the magnitude and probability of actual or potential harm to public health, safety or welfare or to the environment posed by the threatened or actual release of hazardous substances at or from the Site;
- (d) Identify and evaluate appropriate response measures to prevent or minimize future releases and mitigate any releases which have already occurred;
- (e) Develop remedial action objectives for soil which are protective of adults and children in a residential exposure scenario;
- (f) Insure areas where Ordnance may have come to be placed, there is a minimum of 10 feet of UXO or MEC free soil to remain on or near surface or a minimum of 4 feet of UXO or MEC free soil at a depth beyond the lowest estimated area of excavation if any excavation extends beyond 6 feet; and
- (g) Collect and evaluate the information necessary to prepare a final remedial action plan (Final RAP) in accordance with the requirements of Health and Safety Code Section 25356.1.

5.2.2 RI/FS Workplan. Within 60 days from the date the Order is signed, Respondents shall prepare and submit to the Department for review and approval a detailed RI/FS Workplan and implementation schedule which covers all the activities necessary to conduct a complete RI/FS at or from the Site and any offsite areas where there is a release, may have been a release or threatened release of hazardous substances from the Site.

These RI/FS Workplans shall include a detailed description of the tasks to be performed, information or data needed for each task, and the deliverables which will be submitted to the Department. Either the Respondents or the Department may identify the need for additional work.

These RI/FS Workplan deliverables are discussed in the remainder of this Section, with a schedule for implementation, and monthly reports. The RI/FS Workplans shall include all the sections listed below.

- (a) Project Management Plan. The Project Management Plan shall define relationships and responsibilities for major tasks and project management items by Respondents, its contractors, subcontractors, consultants, and reporting relationships. The plan shall include an organization chart with the names and titles of key personnel and a description of their individual responsibilities.
- (b) Scoping Document. The Scoping Document shall incorporate program goals, program management principles, and expectations contained in the National Contingency Plan (NCP). It shall include:
 - (1) An analysis and summary of the Site background and the physical setting. At a minimum, the following information is required:

- (A) A map of the Site, and if they exist, aerial photographs and blueprints showing buildings and structures;
- (B) A detailed description of past disposal practices and earthwork;
- (c) A list of all hazardous substances, materials or wastes which were disposed, discharged, spilled, treated, stored, transferred, transported, handled or used at the Site, and a description of their estimated volumes, concentrations, and characteristics; and
- (D) A description of hazardous substance characteristics; and,
 - (E) If applicable, a description of all current and past manufacturing processes which are or were related to each hazardous substance, material or waste.
- (2) An analysis and summary of previous response actions including a summary of all existing data including air, soil, surface water, and groundwater data and the Quality Assurance/Quality Control (QA/QC) procedures which were followed;
 - (3) Presentation of the Conceptual Site Model;
 - (4) The scope and objectives of RI/FS activities; and
 - (5) Preliminary identification of possible response actions and the data needed for the evaluation of alternatives. Removal actions shall be proposed if needed based on the initial evaluation of threats to public health and the environment. If remedial actions involving treatment can be identified, treatability studies shall be conducted during the characterization phase, unless the Respondents and the Department agree that such studies are unnecessary;
 - (6) If applicable, initial presentation of the Site Remediation Strategy.
- (c) Field Sampling and Geophysical Plan. The Field Sampling Plan shall include:
 - (1) Sampling objectives, including a brief description of data gaps and how the field sampling plan will address these gaps;
 - (2) Sample locations, including a map showing these locations, and proposed frequency;
 - (3) Sample designation or numbering system;
 - (4) Detailed specification of sampling equipment and procedures;
 - (5) Sample handling and analysis including preservation methods, shipping requirements and holding times; and
 - (6) Management plan for wastes generated.
- (d) Quality Assurance Project Plan. The plan shall include:
 - (1) Project organization and responsibilities with respect to sampling and analysis;
 - (2) Quality assurance objectives for measurement including accuracy, precision, and method detection limits. In selecting analytical methods, the Respondents shall consider obtaining detection limits at or below potential ARARs, such as Maximum Contaminant Levels or Maximum Contaminant Level Goals;
 - (3) Sampling procedures;
 - (4) Sample custody procedures and documentation;
 - (5) Field and laboratory calibration procedures;
 - (6) Analytical procedures;
 - (7) Laboratory to be used certified pursuant to H&SC Section 25198;
 - (8) Specific routine procedures used to assess data (precision, accuracy and completeness) and corrective actions;
 - (9) Reporting procedure for measurement of system performance and data quality;
 - (10) Data management, data reduction, validation and reporting, including any computer algorithms. Information shall be accessible to downloading into the Department's system; and
 - (11) Internal quality control.
- (e) Health and Safety Plan. A Site-specific Health and Safety Plan shall be prepared in accordance with federal (29 CFR 1910.120) and state (Title 8 Cal. Code of Regs. Section 5192) regulations and

shall describe the following:

(1) Field activities including work tasks, objectives, and personnel requirements and a description of hazardous substances on the Site;

(2) Respondents key personnel and responsibilities;

(3) Potential hazards to workers including chemical hazards, physical hazards, confined spaces and climatic conditions;

(4) Potential risks arising from the work being performed including the impact to workers, the community and the environment;

(5) Exposure monitoring plan;

(6) Personal protective equipment and engineering controls;

(7) Site controls including work zones and security measures;

(8) Decontamination procedures;

(9) General safe work practices;

(10) Sanitation facilities;

(11) Standard operating procedures;

(12) Emergency response plan covering workers addressing potential hazardous material releases;

(13) Training requirements;

(14) Medical surveillance program; and

(15) Record keeping.

(f) Other Activities. A description of any other significant activities which are appropriate to complete the RI/FS shall be included.

(1) The UXO or MEC remedial investigation work plan will incorporate the state of the art investigative techniques.

(2) The Ordnance investigation and remediation plan will be Site specific and be consistent with DOD 6055.9-STD (DOD AMMUNITION AND EXPLOSIVES SAFETY STANDARDS) and the Munitions rules for wastes to be transported offsite.

(3) The Feasibility Study will evaluate various treatment options for UXO or MEC anticipated to be found.

(g) Schedule. A schedule which provides specific time frames and dates for completion of each activity and report conducted or submitted under the RI/FS Workplan including the schedules for removal actions and operable unit activities.

(h) UXO/MEC RI/FS Workplan. Within 60 days of the effective date of this Order, the Respondents shall submit to the Department an UXO/MEC RI/FS Workplan to address the investigation and handling of UXO or MEC found during the investigation at the Site.

5.2.3 RI/FS Workplan Implementation. Respondents shall implement the approved RI/FS Workplan.

5.2.4 RI/FS Workplan Revisions. Prior to modifying the method or initiating new activities which have not been approved by the Department, the Respondents shall prepare an addendum to the approved plan(s) for Department review and approval for Field Sampling Plan, Health and Safety Plan, Quality Assurance Project Plan or other necessary procedures/plans to establish the activities.

5.3 Interim Screening and Evaluation of Remedial Technologies. At the request of the Department, the Respondents shall submit an interim document which identifies and evaluates potentially suitable remedial technologies and recommendations for treatability studies.

5.4 Treatability Studies. Treatability testing will be performed by the Respondents to develop data for the detailed remedial alternatives. Treatability testing is required to demonstrate the implement ability and effectiveness of technologies, unless the Respondents can show the Department that similar data or documentation or information exists. The required deliverables are: a workplan, a sampling and analysis plan, and a treatability evaluation report. To the extent practicable, treatability studies will be proposed and implemented during the latter part of Site characterization.

5.5 Remedial Investigation (RI) Report. The RI Report shall be prepared and submitted by the Respondents to the Department for review and approval in accordance with the approved RI/FS workplan schedule. The purpose of the RI is to collect data necessary to adequately characterize the Site for the purposes of defining risks to public health and the environment and developing and evaluating effective remedial alternatives. Site characterization may be conducted in one or more phases to focus sampling efforts and increase the efficiency of the investigation. The Respondents shall identify the sources of contamination and define the nature, extent, and volume of the contamination. Using this

information, the contaminant fate and transport shall be evaluated. The RI Report shall contain:

(a) Site Physical Characteristics. Data on the physical characteristics of the Site and surrounding area shall be collected to the extent necessary to define potential transport pathways and receptor populations and to provide sufficient engineering data for development and screening of remedial action alternatives.

(b) Sources of Contamination. Contamination sources (including contaminated media) shall be defined. The data shall include the source locations, type of containment, waste characteristics, and Site features related to contaminant migration and human exposure.

(c) Nature and Extent of Contamination. Contaminants shall be identified and the horizontal and vertical extent of contamination shall be defined in soil, groundwater, surface water, sediment, air, and biota. Spatial and temporal trends and the fate and transport of contamination shall be evaluated.

5.6 Health and Ecological Risk Assessment. The Respondents shall submit a Health and Ecological Risk Assessment Report within 30 days from the submittal of the RI Report. The report shall be prepared consistent with U.S. EPA and Department guidance and regulations, including as a minimum: Risk Assessment Guidance for Superfund, Volume 1; Human Health Evaluation Manual, December 1989; Superfund Exposure Assessment Manual, April 1988; Risk Assessment Guidance for Superfund, Volume 2, Environmental Evaluation Manual, March 1989; and Health and Safety Code Section 25356.1.5. The Health and Ecological Risk Assessment Report shall include the following components:

(a) Contaminant Identification. Characterization data shall be screened to identify contaminants of concern in order to focus subsequent efforts of the risk assessment process.

(b) Environmental Evaluation. An ecological assessment consisting of:

(1) Identification of sensitive environments and rare, threatened, or endangered species and their habitats; and

(2) As appropriate, ecological investigations to assess the actual or potential effects on the environment and/or develop remediation criteria.

(c) Exposure Assessment. The objectives of an exposure assessment are to identify actual or potential exposure pathways, to characterize the potentially exposed populations, and to determine the extent of the exposure.

(d) Toxicity Assessment. Respondents shall evaluate the types of adverse health or environmental effects associated with individual and multiple chemical exposures; the relationship between magnitude of exposures and adverse effects; and related uncertainties such as the weight of evidence for a chemical's potential carcinogenicity in humans.

(e) Risk Characterization. Risk characterization now includes the potential risks of adverse health or environmental effects for each of the exposure scenarios derived in the exposure assessment.

5.7 Feasibility Study (FS) Report. The FS Report shall be prepared and submitted by the Respondents to the Department for review and approval, no later than 45 days from submittal of the RI Report. The FS Report shall summarize the results of the FS including the following:

(a) Documentation of all treatability studies conducted.

(b) Development of medium specific or operable unit specific remedial action objectives, including ARARs.

(c) Identification and screening of treatment options for UKO/MEC treatment onsite or offsite.

(d) Identification and screening of general response actions, remedial technologies, and process options on a medium and/or operable unit specific basis.

(e) Discussion of any required deed restrictions, or other institutional controls.

(f) Evaluation of alternatives based on the criteria contained in the National Contingency Plan and H&SC Section 25356.1 including:

Threshold Criteria:

(1) Overall protection of human health and the environment.

(2) Compliance with all applicable state, federal and local requirements.

Primary Balancing Criteria:

(1) Long-term effectiveness and permanence.

(2) Reduction of toxicity, mobility, or volume through treatment.

- (3) Short-term effectiveness.
- (4) Implement ability based on technical and administrative feasibility.
- (5) Cost.

Modifying Criteria:

- (1) State and local agency acceptance.
- (2) Community acceptance.
- (3) Other Proposed remedial actions.

5.8 Public Participation Plan (Community Relations). The Respondents shall work cooperatively with the Department in ensuring that the affected public and community are involved in the Department's decision-making process. Any such public participation activities shall be conducted in accordance with H&SC Sections 25356.1(e) and 25358.7, the Department's Public Participation Policy and Guidance Manual, and with the Department's review and approval.

The Respondents, in coordination with the Department, shall assess the community and develop a Public Participation Plan (PPP) which describes how, under the Order, the public and adjoining community will be kept informed of activities conducted at the Site and how the Respondents will be responding to inquiries from concerned citizens. Major steps in developing a PPP are as follows:

- (a) Develop proposed list of interviewees;
- (b) Schedule and conduct community interviews; and
- (c) Analyze interview notes, and develop objectives.

The Respondents shall submit the PPP for the Department's review within 40 days of the effective date of the Order.

The Respondents shall develop and submit fact sheets to the Department for review and approval when key milestones are projected and/or completed or when specifically requested by the Department. Respondents shall be responsible for distribution of fact sheets using the approved community mailing list.

5.9 California Environmental Quality Act (CEQA). The Department will comply with the California Environmental Quality Act (CEQA) for all activities required by this Order that are projects subject to CEQA. Respondents shall provide, upon the Department's request, all information necessary to facilitate the Department's preparation of the CEQA documentation. Based on the results of an Initial Study prepared by the Department, a Negative Declaration or Environmental Impact Report (EIR) shall be prepared. If the Department determines that an EIR is required, Respondents shall either enter into a third party Memorandum of Understanding with the Department to facilitate the preparation of the EIR, or reimburse the Department for all costs associated with the preparation of the EIR.

5.10 Remedial Action Plan. No later than 30 days after Department approval of the FS Report, the Respondents shall prepare and submit to the Department a draft RAP. The draft RAP shall be consistent with the NCP and H&SC Section 25356.1, et seq. The draft RAP public review process may be combined with that of any other documents required by CEQA. The draft RAP shall be based on and summarize the approved RI/FS Reports, and shall clearly set forth:

- (a) Health and safety risks posed by the conditions at the Site.
- (b) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.
- (c) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses.
- (d) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.
- (e) Cost-effectiveness of alternative remedial action measures. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.
- (f) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.
- (g) A statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted and evaluate the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (d) of H&SC Section 25356.1, if these factors are not otherwise adequately addressed through compliance with the federal regulations. The statement shall also include

a proposed Nonbinding Preliminary Allocation of Responsibility (NBAR) for all identified responsible parties.

(h) A schedule for implementation of all proposed removal and remedial actions.

(I) The implementation activities conducted pursuant to the Interim UXO/MEC RAP as approved by the Department under Section 5.10.1 of this Order.

In conjunction with the Department, Respondents shall implement the public participation process specified in Health and Safety Code Sections 25356.1 (e) and 25358.7. Within 10 days of closure of the public comment period, Respondents shall submit a written Responsiveness Summary of all written and oral comments presented and received during the public comment period.

Following the Department's review and finalization of the Responsiveness Summary, the Department will specify any changes to be made in the RAP. Respondents shall modify the document in accordance with the Department's specifications and submit a final RAP within 15 days of receipt of the Department's comments.

5.10.1 Interim UXO/MEC Remedial Action Plan. No later than 30 days after Respondents receive the Department's approval of the UXO/MEC RI/FS Workplan, Respondents shall prepare and submit to the Department a draft Interim UXO/MEC RAP. The draft Interim UXO/MEC RAP shall be consistent with the MCP and H&SC Section 25356.1, et seq. If feasible, the draft Interim UXO/MEC RAP public participation process may be combined with that of any other documents required by CEQA. The Draft Interim UXO/MEC RAP shall be based on and summarize the approved UXO/MEC RI/FS Workplan, and shall clearly set forth:

(a) Health and safety risks posed by the conditions at the Site.

(b) The effectiveness of alternative investigative techniques.

(c) Site specific characteristics and criteria will be used in deciding whether to dig and blow in place (BIP) or removal of the waste for offsite disposal, including the potential for impacts to the surrounding neighborhoods, schedules of the activities (digging/BIP), and duration.

(d) Cost-effectiveness of alternative investigative techniques (Multi-spectral towed arrays, remote sensing or other advance technology).

(e) OD/OB for UXO/MEC disposal which is found shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost. All options need to be evaluated from onsite treatment (e.g. closed treatment systems, blast boxes) to offsite treatment/disposal.

(f) A statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted and evaluate the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (d) of H&SC Section 25356.1, if these factors are not otherwise adequately addressed through compliance with the federal regulations. The statement shall also include a proposed Nonbinding Preliminary Allocation of Responsibility for all identified responsible parties.

(h) A schedule for implementation of all proposed removal and remedial actions. Respondents shall implement the Interim UXO/MEC RAP as approved by the Department in accordance with the Department - Approved schedule.

5.11 Remedial Design. Within 60 days after Department approval of the final RAP, Respondents shall submit to the Department for review and approval a Remedial Design describing in detail the technical and operational plans for implementation of the final RAP which includes the following elements, as applicable:

(a) Design criteria, process unit and pipe sizing calculations, process diagrams, and final plans and specifications for facilities to be constructed.

(b) Description of equipment used to excavate, handle, and transport contaminated material.

(c) A field sampling and laboratory analysis plan addressing sampling during implementation and to confirm achievement of the performance objectives of the RAP.

(d) A transportation plan identifying routes of travel and final destination of wastes generated and disposed, and including approvals from California Department of Transportation, California Highway Patrol and any other local, state, or federal agency.

(e) For groundwater extraction systems: aquifer testing results, capture zone calculations, specifications for extraction and performance monitoring wells, and a plan to demonstrate that capture is achieved.

(f) An updated health and safety plan addressing the implementation activities.

(g) Identification of any necessary permits and agreements.

(h) An operation and maintenance plan including any required monitoring.

(I) A detailed schedule for implementation of the remedial action consistent with the schedule contained in the approved RAP including procurement, mobilization, construction phasing, sampling, facility startup, and testing.

5.12 Deed Restrictions. If the approved remedy in the Final RAP includes deed restrictions or other institutional controls. Respondents shall sign and record deed restrictions or implement other institutional controls approved by the Department within 90 days of the Department's approval of the final RAP. If Respondent does not own the property then the Respondent will need to negotiate with the current property owner to insure the deed restrictions or other institutional controls will be implemented by the owner.

5.13 Implementation of Final Remedial Action Plan. Upon Department approval of the Remedial Design (RD), Respondents shall implement the final RAP as approved. Within 30 days of completion of field activities, Respondents shall submit an Implementation Report documenting the implementation of the Final RAP and RD.

5.14 Operation and Maintenance (O&M). Respondents shall comply with all operation and maintenance requirements in accordance with the final RAP and approved Remedial Design (RD). O&M Agreements, which include financial assurance, must be entered into with the Department prior to certification of the Site.

5.15 Five-Year Review. Respondents shall review and reevaluate the remedial action after a period of one (1) year and every other year thereafter until the fifth year, then every 5 years thereafter. The review will start after the completion of construction and startup. The review and reevaluation shall be conducted to determine if human health and the environment are being protected by the remedial action. Within thirty (30) calendar days before the end of the time period approved by the Department to review and reevaluate the remedial action, Respondents shall submit a remedial action review workplan to the Department for review and approval. Within sixty (60) days of the Department's approval of the workplan, Respondents shall implement the workplan and shall submit a comprehensive report of the results of the remedial action review. The report shall describe the results of all sample analyses, tests and other data generated or received by Respondents and evaluate the adequacy of the implemented remedy in protecting public health, safety and the environment. As a result of any review performed under this Section, Respondents may be required to perform additional work or to modify work previously performed.

5.16 Changes During Implementation of the Final RAP. During the implementation of the final RAP and RD, the Department may specify such additions, modifications, and revisions to the RD as deemed necessary to protect public health and safety or the environment or to implement the RAP.

5.17 Stop Work Order. In the event that the Department determines that any activity (whether or not pursued in compliance with this Order) may pose an imminent or substantial endangerment to the health or safety of people on the Site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation of this Order for such period of time needed to abate the endangerment. In the event that the Department determines that any Site activities (whether or not pursued in compliance with this Order) are proceeding without Department authorization, the Department may order Respondents to stop further implementation of this Order or activity for such period of time needed to obtain Department authorization, if such authorization is appropriate. Any deadline in this Order directly affected by a Stop Work Order, under this Section, shall be extended for the term of the Stop Work Order.

5.18 Emergency Response Action/Notification. In the event of any action or occurrence (such as a fire, earthquake, explosion, or human exposure to hazardous substances caused by the release or threatened release of a hazardous substance) during the course of this Order, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such emergency, release, or immediate threat of release and shall immediately notify the Project Manager. Respondents shall take such action in consultation with the Project Manager and in accordance with all applicable provisions of this Order. Within seven days of the onset of such an event, Respondents shall furnish a report to the Department, signed by the Respondents' Project Coordinator, setting forth the events which occurred and the measures taken in the response thereto. In the event that Respondents fail to take appropriate response and the Department takes the action instead, Respondents shall be liable to the Department for all costs of the response action. Nothing in this section shall be deemed to limit any other notification requirement to which the Respondents may be subject.

5.19 Discontinuation of Remedial Technology. Any remedial technology employed in implementation of the final RAP shall be left in place and operated by Respondents until and except to the extent that the Department authorizes Respondents in writing to discontinue, move or modify some or all of the remedial technology because Respondents has met the criteria specified in the final RAP for its discontinuance, or because the modifications would better achieve the goals of the final RAP.

5.20 Additional Work. The Department may determine that in addition to tasks defined in the initially approved workplan or plans, other additional work may be necessary to accomplish the objectives of this Order. The Department may require Respondents to perform these response actions in addition to those required by the initially approved workplan or plans, including any approved modifications, if it determines that such actions are necessary. Respondents shall confirm their willingness to perform the additional work in writing to the Department within seven (7) days of receipt of the Department request's. Respondents shall implement the additional tasks which the

the CCP to the Department. Failure of any Respondent to sign the CCP will constitute a violation of the Order by that Respondent.

The Respondents shall submit all proposed changes or amendments to the CCP to Department for approval.

The CCP as approved by the Department shall be incorporated into and enforceable under the Order.

VI. GENERAL PROVISIONS

6.1 Project Coordinator. Within 10 days from the date the Order is signed by the Department, Respondents shall submit to the Department in writing the name, address, and telephone number of a Project Coordinator whose responsibilities will be to receive all notices, comments, approvals, and other communications from the Department. Respondents shall promptly notify the Department of any change in the identity of the Project Coordinator.

6.2 Project Engineer/Geologist. The work performed pursuant to this Order shall be under the direction and supervision of a qualified professional engineer or a registered geologist in the State of California, with expertise in hazardous substance site cleanup. Within 15 calendar days of the effective date of this Order, Respondents must submit: a) The name and address of the project engineer or geologist chosen by the Respondents; and b) in order to demonstrate expertise in hazardous substance cleanup, the resume of the engineer or geologist, and the statement of qualifications of the consulting firm responsible for the work. Respondents shall promptly notify the Department of any change in the identity of the Project Engineer/Geologist.

6.2.1 Project Ordnance and Explosive Safety Expert. The UXO/MEC work performed pursuant to this Order shall be under the direction and supervision of a qualified professional with expertise in the recognition, detection, handling and disposal methods of UXO/MEC. The professional should have an adequate understanding of the Department of Defense Explosives Safety Board Guidelines and be recognized by the United States Corps of Engineers as capable to do the necessary UXO/MEC work required under this Order. Within 15 calendar days of the effective date of this Order, Respondents must submit: a) The name and address of the Project Ordnance and Explosive Safety Expert chosen by the Respondents; and b) in order to demonstrate expertise in UXO/MEC cleanup, the resume of the Ordnance and Explosive Safety Expert, and the statement of qualifications of any consultants responsible for the work. Respondents shall promptly notify the Department of any change in the identity of the Project Ordnance and Explosive Safety Expert.

6.3 Monthly Summary Reports. Within 30 days from the date the Order is signed by the Department, and on a monthly basis thereafter, Respondents shall submit a Monthly Summary Report of its activities under the provisions of this Order. The report shall be received by the Department by the 15th day of each month and shall describe:

(a) Specific actions taken by or on behalf of Respondents during the previous calendar month;

- (b) Actions expected to be undertaken during the current calendar month;
- (c) All planned activities for the next month;
- (d) Any requirements under this Order that were not completed;
- (e) Any problems or anticipated problems in complying with this Order; and
- (f) All results of sample analyses, tests, and other data generated under the Order during the previous calendar month, and any significant findings from these data.

6.4 Quality Control/Quality Assurance (QC/QA). All sampling and analysis conducted by Respondents under this Order shall be performed in accordance with the QC/QA procedures submitted by Respondents and approved by the Department pursuant to this Order.

6.5 Submittals. All submittals and notifications from Respondents required by this Order shall be sent simultaneously to:

Mr. Anthony J. Landis, P.E., Chief
Department of Toxic Substances Control
Northern California-Office of Military Operations
10151 Croydon Way, Suite 3
Sacramento, California 95827-2106
Attention: David Price-Project Manager

Executive Officer Loretta Barsamian [Confirm name]
Central California
Regional Water Quality Control Board
2101 Webster Street, Suite 500
Oakland, California 94612
Attention: Dennis A. Mishek

Mr. Birgitta Corsello, Director [Confirm name]
Solano County Environmental Management
601 Texas Street
Fairfield, California 94533-6301

Ms. Heather McLaughlin, City Attorney
City of Benicia
250 East L Street
Benicia, California 94510

6.6 Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondents in writing by the Site Mitigation Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions or comments by the Department regarding reports, plans, specifications, schedules or any other writings by Respondents shall be construed to relieve Respondents of the obligation to obtain such formal approvals as may be required.

6.7 Department Review and Approval. (a) If the Department determines that any report, plan, schedule or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- (1) Modify the document as deemed necessary and approve the document as modified; or
 - (2) Return comments to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.
- (b) Any modifications, comments or other directive issued pursuant to (a) above, are incorporated into this Order. Any noncompliance with these modifications or directives shall be deemed a failure or refusal to comply with this Order.

6.8 Compliance with Applicable Laws. Respondents shall carry out this Order in compliance with all applicable state, local, and federal requirements including, but not limited to, requirements to obtain permits and to assure worker safety.

6.9 Respondents Liabilities.

6.9.1 Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current or future operations of Respondents. Nothing in this Order is intended or shall be construed to limit the rights of any of the parties with respect to claims arising out of or relating to the deposit or disposal at any other location of substances removed from the Site. Nothing in this Order is intended or shall be construed to limit or preclude the Department from taking any action authorized by law to protect public health or safety or the environment and recovering the cost thereof. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as are necessary to protect public health and the environment.

6.9.2 Identification of Additional Respondents. If during the investigation of the site by the current respondents identifies tasks believe that additional parties should be named as part of the order, the respondent shall provide sufficient information to identify the Respondents liability as an owner or operator and identify the release of a hazardous substances including volume and location to the Department. The Department will evaluate the information and if necessary provide the appropriate modifications to the order.

6.10 Site Access. Access to the Site and laboratories used for analyses of samples under this Order shall be provided at all reasonable times to employees, contractors, and consultants of the Department. Nothing in this Section is intended or shall be construed to limit in any way the right of entry or inspection that the Department or any other agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including, but not limited to: inspecting records, operating logs, sampling and analytic data, and contracts relating to this Site; reviewing the progress of Respondents in carrying out the terms of this Order; conducting such tests as the Department may deem necessary; and verifying the data submitted to the Department by Respondents.

If the Site, or any off-site area to which access is needed for any work required by this Order, is owned in whole or in part by parties other than Respondents, Respondents shall obtain, or use their best efforts to obtain, site access agreements from the present owner(s). Such agreements shall provide access for the Department and its authorized representatives in accordance with Section 6.10 of this Order, and such agreements shall specify that Respondents are not Department representatives with respect to liability associated with site activities. Copies of such agreements shall be provided to the Department prior to Respondents' initiation of field activities. Respondents' best efforts shall include providing reasonable compensation to any off-site property owner in consideration of access. If Respondents are unable to obtain any access agreements required in this Order to comply with the schedule approved by the Department, Respondents shall immediately notify the Department of their failure to obtain access. The Department may obtain access for Respondents to perform those tasks or activities, and Respondents shall reimburse the Department for all costs and attorney fees incurred by the Department to obtain access for Respondents pursuant to this Section.

6.11 Site Access for Respondents. The Respondents who are owners or operators of the Site shall grant access to other Respondents who are in compliance with this Order for the purpose of conducting activities pursuant to this Order or for activities deemed necessary by the Department to meet the objectives of this Order.

6.12 Sampling, Data and Document Availability. Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring or other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Order. Respondents shall submit all such data upon the request of the Department. Copies shall be provided within 7 days of receipt of the Department's written request. Respondents shall inform the Department at least 7 days in advance of all field sampling under this Order, and shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order.

6.13 Record Retention. All such data, reports and other documents shall be preserved by Respondents for a minimum of ten years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request or deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing, at least six months prior to destroying any documents prepared pursuant to this Order.

6.14 Government Liabilities. The State of California shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or related parties specified in Section 6.24, Parties Bound, in carrying out activities pursuant to this Order, nor shall the State of California be held as party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Order.

6.15 Additional Actions. By issuance of this Order, the Department does not waive the right to take any further actions authorized by law.

6.16 Extension Requests. If Respondents is unable to perform any activity or submit any document within the time required under this Order, Respondents may, prior to expiration of the time, request an extension of the time in writing. The extension request shall include a justification for the delay. All such requests shall be in advance of the date on which the activity or document is due.

6.17 Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify a new schedule in writing. Respondents shall comply with the new schedule incorporated in this Order.

6.18 Cost Recovery. Respondents are liable for all of the Department's costs incurred in responding to the contamination at the Site (including costs of overseeing response work performed by the Respondents) and costs to be incurred in the future. Cost recovery may be pursued by the Department under CERCLA, Health and Safety Code Section 25360, or any other applicable state or federal statute or common law.

6.19 Payment of Costs. The Department will bill Respondents quarterly. Respondents shall pay

the Department within sixty (60) days of receipt of the Department's billing. Any billing not paid within sixty (60) days is subject to interest calculated from the date of the billing pursuant to H&SC section 25360.1. All payments made by the Respondents pursuant to this Order shall be by cashier's or certified check made payable to the "Department of Toxic Substances Control," and shall bear on the face the project code of the Site and the Docket number of the Order. Payments shall be sent to:

Department of Toxic Substances Control
Accounting/Cashier
400 P Street, 4th Floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of all payment checks shall also be sent to the person designated by the Department to receive submittal under this Order.

6.20 Severability. The requirements of this Order are severable, and Respondents shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

6.21 Indemnification. Respondents shall indemnify and hold the State of California, its agencies, departments, agents, and employees, harmless from any and all claims or causes of action arising from or on account of acts or omissions of Respondents, or related parties specified in Section 6.27 (Parties Bound), in carrying out the activities under this Order. The State of California or authorized representative thereof shall not be held as a party to any contract entered into by Respondents in carrying out activities under this Order.

6.22 Financial Responsibility. The requirements of Section 6.22 are in addition to the financial assurance requirements for Operation and Maintenance pursuant to Section 5.14 of this Order. Prior to commencement of any work under this Order, Respondents shall secure, and shall maintain in force for the duration of this Order, and for two years after the completion of all activities required by this Order, comprehensive general liability (CGL) and automobile insurance with limits of \$10 million dollars, combined single limit, naming the Department and the State of California as additional insured. The CGL insurance shall include contractual liability insurance in the amount of \$5 million dollars per occurrence, and an umbrella liability insurance in the amount of \$20 million dollars per occurrence. Respondents shall secure, and maintain in force for the duration of this Order and for 2 years after the completion of all activities required by this Order, the following:

(a) Professional errors and omissions insurance in the amount of \$5 million dollars per occurrence, and \$20 million dollars annual aggregate.

(b) Pollution liability insurance in the amount of \$5 million dollars per occurrence, and \$20 million dollars annual aggregate, covering as appropriate both general liability and professional liability arising from pollution conditions.

If Respondents demonstrate by evidence satisfactory to the Department that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Respondents need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

Prior to commencement of any work under this Order, and annually thereafter on the anniversary of the effective date of this Order, Respondents shall provide the Department a copy of each insurance policy required in order to comply with this Order, as well as certificates of such insurance.

6.23 Incorporation of Plans, Schedules and Reports. All plans, schedules, reports, specifications and other documents that are submitted by Respondents pursuant to this Order are incorporated in this Order upon the Department's approval or as modified pursuant to Section 6.7, Department Review and Approval, and shall be implemented by Respondents. Any noncompliance with the documents incorporated in this Order, shall be deemed a failure or refusal to comply with this Order.

6.24 Modifications. The Department reserves the right to unilaterally modify this Order. Any modification to this Order shall be effective upon the date the modification is signed by the Department and shall be deemed incorporated in this Order.

6.25 Time Periods. Unless otherwise specified, time periods begin from the effective date of this Order and "days" means calendar days. The effective date of this Order is the date the Order is signed by the Department.

6.26 Termination and Satisfaction. Respondents' obligations under this Order, except for the Respondents' obligation to pay all past and future costs incurred by the Department in responding to the contamination at the Site pursuant to Section 5.15, Five-Year Review and Section 6.18, Cost Recovery, shall terminate and be deemed satisfied upon Respondents' receipt of written notice from the Department that the Respondents has complied with all the terms of this Order.

6.27 Parties Bound. This Order applies to and is binding upon Respondents, and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors and assignees, including but not limited to, individuals, partners, and subsidiary and parent corporations, and upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Order.

VII. PENALTIES AND PUNITIVE DAMAGES
FOR NONCOMPLIANCE

7.1 Respondents may be liable for penalties of up to \$25,000 for each day Respondents refuse to comply with this Order and for punitive damages up to three times the amount of any costs incurred by the Department as a result of Respondents' failure to comply, pursuant to H&SC Sections 25359, 25359.2, 25359.4, and 25367(c). H&SC Section 25359.4.5 provides that a responsible party who complies with this Order, or with another order or agreement concerning the same response actions required by this Order, may seek treble damages from Respondents who fail or refuse to comply with this Order without sufficient cause.

DATED: _____

Anthony J. Landis, F.E. Chief
Office Of Military Facilities
Northern California Operations
Department of Toxic Substances Control