



**DEPARTMENT OF THE NAVY**  
SOUTHWEST DIVISION  
NAVAL FACILITIES ENGINEERING COMMAND  
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SAN DIEGO, CA 92132-5190

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HUNTERS POINT  
SSIC NO. 5090.3

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Ser 06CH.RM/0425  
June 6, 2000

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Dear BCT members:

Enclosure (1) is provided for your review regarding the Land Use Control Implementation Plan (LUCIP) for Parcel B, Hunters Point Shipyard. Please provide comments to the undersigned by July 6, 2000.

The Navy has labored to address all of the concerns raised by the various parties at the April 13, 2000 scoping meeting. Further, the Navy has addressed additional legal and policy issues discussed at the May 23, 2000 meeting between the Navy and the City of San Francisco. Enclosure (1) is provided as the Navy's preferred compromise to all of the party's concerns.

Should you have any concerns with this matter, please contact the undersigned at (619) 532-0913.

Sincerely,

RICHARD G. MACH JR., P.E.  
BRAC Environmental Coordinator  
By direction of the Commander

Enclosure: ✓ (1) Draft Land Use Control Implementation Plan, Parcel B, Hunters Point Shipyard, June 6, 2000

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## HUNTERS POINT LAND USE CONTROL IMPLEMENTATION PLAN

**Introduction:** This document addresses the restrictions on the Parcel B property at Hunters Point Shipyard ("HPS") imposed by the Parcel B Record of Decision pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (42 U.S.C. Sec 9620 et. seq.) ("CERCLA"). This Land Use Control and Implementation Plan ("LUCIP") sets forth the respective roles and responsibilities of the Department of Navy, the regulatory environmental agencies including U.S. EPA, California Department of Toxic Substances Control ("DTSC") and the San Francisco Regional Water Quality Control Board. The LUCIP also describes the appropriate institutional controls and the monitoring protocols needed to support the remedial actions outlined in the Parcel B ROD. The involvement of the City of San Francisco is also described in this LUCIP. When the contents of the LUCIP have been agreed upon by with the Base Realignment and Closure ("BRAC") Cleanup Team ("BCT"), the team will record it's approval in a signed writing.

**Property Description:** Hunters Point Shipyard (HPS) is located on a promontory in southeast San Francisco. The promontory is bounded on the north and east by the San Francisco Bay and on the west by the Bayview-Hunters Point District of the City of San Francisco. Parcel B is located in the northeast portion of HPS occupying approximately 63 acres of property. Currently, no cadastral or other legal description sufficient for recordation of the property is available. Such a description will necessarily be included in the final document package needed for property transfer. Until that time, the following description defines the Parcel B boundaries: The following paragraph describes the Parcel B boundary as the summation of 14 segments using available points of reference at HPS and referencing segment endpoints in parentheses.

Parcel B is bounded on the northeast side by San Francisco Bay extending northwest from the northeast corner of Dry Dock Number 3 (starting point - 0) to the HPS property line (1). This line includes two piers (Pier B and C) and three submarine dry docks (Dry Dock Numbers 5, 6, and 7). The HPS property line bounds the northwest portion of Parcel B extending southwest from San Francisco Bay (1) almost to Innes Avenue, just west-northwest of the main gate to HPS (2). The southwest boundary line of HPS lies northeast of Innes Avenue extending southeast from (2) to a point northwest of Building 917 (3). From (3) the parcel boundary extends northeast to Hudson Street (4). Proceeding southeast from (4) the boundary extends down Hudson street to a point northwest of Building 916 (Dago Mary's Restaurant) (5). From (5) the boundary extends east behind Dago Mary's to the northwest corner of the intersection of Donahue Street and Galvez Avenue (6). From (6) the Parcel B boundary follows Galvez Avenue southeast to Robinson Street (7), and then follows Robinson Street east to the southwest corner of Robinson Street and Horne Avenue (8). The boundary line then continues from (8) southeast along the northern edge of Building 101 to the southeast side of Fisher Avenue (9). From (9) the boundary follows Fisher Avenue northeast to Lockwood Street (10). From (10) the property line turns northwest following Lockwood Street to the west

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corner of Building 134 (11). From (11) the line turns northeast along the building foundation to the north corner of Building 134 (12). From (12) the boundary line extends southeast to an intersection with Dry Dock Number 3 (13). The boundary line extends east-northeast from (13) along the northern edge of Dry Dock Number 3 to San Francisco Bay

**Parcel B Anticipated Uses:** On July 14, 1977, the San Francisco Redevelopment Agency, the Local Reuse Authority for Hunters Point, published a Redevelopment Plan for the installation. Subsequently, on December 17, 1999, after it was selected as the master developer for Hunters Point, Lennar/BVP published a Preliminary Development Concept for a portion of Hunters Point including the area encompassed in Parcel B. While the two publications put a slightly different emphasis on the mix of uses; they agree that the categories of anticipated use include mixed use (which can include residential use), educational and cultural use, research and development and open spaces including the restoration of a wetland.

**Conditions Requiring Restrictions Through Institutional Controls** For Parcel B, the Department of Navy conducted a Human Health Risk Assessment (HHRA) to describe the nature and extent of contamination and prepare conceptual site models of contaminant fate and transport and potential exposure by human receptors. In evaluating the potential risk presented by contamination at Parcel B, the Navy with the Base Realignment and Closure ("BRAC") Cleanup Team ("BCT") considered exposure pathways for residents and others on the property that might present an unacceptable risk to human health. In determining the potential exposure pathways, the BCT considered a residential reuse scenario allowing homegrown produce for human consumption. Soils located ten ("10") or less feet below ground surface ("bgs") would meet 10<sup>-6</sup> excess cancer risk (the most protective portion of the range of acceptable risk) and a hazard index of one ("1") or less. Soils located at depths below 10 feet would pose unacceptable risk only if raised to the surface where residential exposures may occur. The BCT selected a remedial action for Parcel B that is protective of both human health and the environment. The Redevelopment Plan submitted by the San Francisco Redevelopment Agency on July 14, 1997 provides descriptions and reuse plans that help define the reasonably anticipated future land uses. The selected remedy is protective of site activities that are consistent with the reasonably anticipated future land uses. The Feasibility Study ("FS") for Parcel B defined the remedial action objectives for soil as preventing ingestion of, direct contact with, or inhalation of hazardous substances in soil. The BCT concurred that under the Redevelopment Plan, no exposure pathway existed for soils 10 feet bgs. The FS identified two remedial action objectives for groundwater which include prevention of inhalation of volatile organic compounds from A-aquifer groundwater that enter into buildings, and prevention of exposure of aquatic receptors to contaminated groundwater migrating to San Francisco Bay. During development of the ROD, the BCT concurred

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that cleanup of the A-aquifer to drinking water standards is neither applicable nor relevant and appropriate because there is no consumption pathway. The selected remedy while protective of human health and the environment under the Redevelopment Plan may result in a residual risk from exposure to soils deeper than 10 feet bgs or water in the A-aquifer. Potential activities that could result in exposure include well installation and/or excavation/construction activities deeper than 10 feet bgs. Although the likelihood of these activities is low based on the findings of the HHRA, the conclusions presented in the Parcel B ROD, and the reuse scenario proposed in the Redevelopment Plan, institutional controls are necessary to regulate these activities to limit the possibility and effects of any potential exposures.

**Institutional Control Language:** In accordance with the Parcel B ROD, the Department of the Navy proposes the following language for groundwater and soil restrictions be included in the quitclaim deed transferring title in the Parcel B property to the Grantee, the City of San Francisco. As to groundwater:

Pursuant to this environmental restriction, the Grantee, its successor or assigns, shall not discharge groundwater to the surface nor shall the Grantee construct or permit to be constructed any well, and shall not extract, utilize, consume or permit to be extracted any groundwater from within the shallow water-bearing zones to 90 feet below ground surface for the purpose of human consumption, or other use.

For soils management, the following:

Pursuant to this environmental restriction, the Grantee, its successor or assigns, shall not disturb the subsurface of the Parcel B property below a depth of ten (10) feet in any manner except in the course of redevelopment or construction when subsurface soil below ten (10) feet may be disturbed but then only after receipt of a permit issued by the City of San Francisco, pursuant to a Soil Management Plan approved by the Grantor and administered by the City. All soils permitted to be disturbed shall be managed at no cost to the Grantor in full compliance with all applicable Federal, State and local laws and considered to be potential Hazardous Waste. Soil excavated below ten (10) feet shall not be mixed with or placed in contact with any soil located at any depth from above ten (10) feet below to the surface of Parcel B. Groundwater that accumulates in soil excavation trenches at any depth may be a hazardous mixture and should be properly characterized for appropriate disposal. Annually, on October 1<sup>st</sup>, Grantee, its successors or assigns shall report to the Grantor on its activities related to the enforcement of this environmental report. The report shall list, at a minimum, reported incidents of violation of this environmental restriction and subsequent resolution of the violation as well as the names, telephone numbers and addresses of applying for permits pursuant to the requirements of the soil management plan.

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The preceding clauses represent the form of the institutional controls based on the restrictions set forth in the Parcel B ROD. Other restrictions or notices will be placed in the deed pursuant to the Department of Navy's responsibilities under CERCLA. These responsibilities require a right of entry in the deed to allow the Department of Navy to enter and inspect the property to ensure the viability of LUCs or to perform any additional required response actions. These clauses are very standardized in their language and are a required part of any property conveyance in accordance with CERCLA Section 120(h)(3)(A)(ii)(II).

**Land Use Control Monitoring, Reporting and Enforcement:** It is expected that monitoring of the two restrictions will be a collaborative effort between the Department of Navy, DTSC, and the City of San Francisco. Part of the remedial activities at Hunters Point will be the finalization and preparation of the deed with its restrictions along with other conveyance documents. Part of the conveyance package necessary for U.S. EPA to certify the successful operation of the remedy will be agreed-upon soil and groundwater management plans. Even after the transfer of the remediated Parcels A and B, there will still be a Navy presence on the property as remedial activities go forward on the other parcels. As part of any ROD implementation, five year reviews will be conducted to verify the successful performance of the remedy. Monitoring of compliance with the Land Use Controls will be a formal part of that review. The City of San Francisco will have an integral role in monitoring, reporting and enforcing LUCs through its administration of the soil and groundwater management plans. The plans are presently being prepared for BCT review by the city of San Francisco. These plans, which are subject to BCT review and approval both when prepared and revised, will provide the framework for insuring adherence to the LUCs. The City of San Francisco through its authority to regulate such activity within the city limits, can use the soil and groundwater management plans to first advise applicants of the nature of the restrictions and then monitor compliance with the plan's provisions. The third element centers on the enforcement of the deed restrictions and the implementing management plans. Unless the City of San Francisco elects to do so, the Department of Navy intends to enter into a Land Use Covenant Agreement with DTSC using the Memorandum of Agreement and model Land Use Covenant agreed to by DTSC and the Navy in March 16, 2000. This agreement was widely distributed and has received considerable attention. Additional copies of the applicable covenant are available upon request. In essence, execution and recordation of this covenant protects the Department of Navy and DTSC interests based on a shared responsibility for the enforcement of the LUCs. Department of Navy also believes that a tiered enforcement role is appropriate with DTSC having a primary enforcement role for the LUCs defined in and exercised through the Covenant to Restrict Use of Property. If for some reason DTSC upon notice fails to respond to a claimed violation of a restriction, after an appropriate period of time (such as thirty days), Department of Navy could independently exercise its own enforcement authority to compel adherence to the environmental restrictions in the deed. Arrangements for

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additional tiering are possible if other regulatory agencies seek to participate in the enforcement process through the covenant. If the City of San Francisco elects to enter into a separate covenant with DTSC to ensure enforcement of the environmental restrictions in the Parcel B ROD, such an arrangement would be, subject to the covenant provisions being acceptable, a reasonable alternative to the Department of Navy's covenant agreement.

**Recording Requirements:** The Parcel B quitclaim deed as well as any covenant respecting enforcement of the deed restrictions would be recorded in of the Recorder's Office for the Country of San Francisco.