

**NAVAL FUEL DEPOT, POINT MOLATE
RESTORATION ADVISORY BOARD (RAB)**

03 April 1997

Location: Richmond City Hall, Employment and Training Building
330 25th St., Conference Room 1
Richmond, CA

Purpose: To provide: 1) comments on last month's meeting minutes, 2) a presentation on the Campaign Against Military Pollution (CAMP), 3) an update on environmental projects, and 4) an opportunity to introduce new RAB member applicants.

These minutes summarize the items discussed during the RAB meeting. They are not a verbatim transcript.

RAB community members present: Don Gosney (RAB Co-Chair), Henry Clark, Torm Nompraseurt, Sarah Eeles, Nagaraja Rao, Bruce Beyaert, Allan Jensen, Lucretia Edwards, Gary Gruver, Steven Linsley, Don Kinkel (alternate), Jean Siri, Terry Werner

Government agencies present: Larry Douchand, Navy Co-Chair; Izzat Ahmadiyya, Navy Base Realignment and Closure (BRAC) Remedial Project Manager (RPM); Mary Rose Cassa, Department of Toxic Substances Control (DTSC); LaSandra King, FISC Oakland; Patricia McFadden, Navy.

Visitors present: Karen Hack, ARC Ecology, (415)495-1787, 833 Market Street, Suite 1107, San Francisco, CA 94103; Hank Bates, Sierra Club Legal Defense Fund, Inc., (415)627-6725, 180 Montgomery Street, Suite 1725, San Francisco, CA 94104-4209; Michael Lozeau, San Francisco Baykeeper, (914) 567-4401, Building A Fort Mason, San Francisco, CA 94123-1382; Will Siri, James Terrell, Armenta Ford, Darrell Taylor, Arnie Kasendorf, J.A. Vincent, Glenn Stephenson, Bill Wahbeh, Richard Frisbie, Lyle Fisher, Ellie Strauss

Attachment A provides the attendance list, Attachment B provides the meeting agenda, Attachment C provides amendment to the March meeting minutes, and Attachment D provides the presentation handout materials.

I. WELCOMING REMARKS/COMMENTS ON MINUTES

Don Gosney, Community co-chair, called the meeting to order at 7:00 p.m..

RAB members expressed satisfaction with the 06 March 1997 meeting minutes. The meeting minutes were approved with the changes as noted in the attached amendment (Attachment C). As a point of order, it was agreed that updates and comments by regulatory agencies would be maintained as a standing agenda item.

II. Update on Campaign Against Military Pollution (CAMP) Lawsuit

Mr. Gosney introduced CAMP, explained the Navy was in open litigation, and asked the RAB to respect the Navy's stance of not responding to questions about the litigation. Henry Clark asked the CAMP group to define the issues of concern posed by the Environmental Law Community Clinic and Sierra Legal Defense Fund against Point Molate. Karen Hack, ARC Ecology, stated two goals of the litigation: 1) to bring Point Molate into compliance with environmental laws and 2) to quicken the pace of environmental cleanup. ARC Ecology is an environmental nonprofit organization in San Francisco that focuses on environmental cleanup, restoration, and conversion of military bases in the Bay Area.

The San Francisco Baykeeper is a community group joining in this regional effort. Their representative, Mike Lozeau, explained that Baykeeper is a watchdog group that patrols the Bay spotting pollution incidents, investigating issues, acting as citizen advocates, and joining with other agencies in response to various Bay-related matters. He stated that CAMP arose from issues being addressed by ARC and Baykeeper at Hunters Point. Mr. Lozeau noted that CAMP negotiated a settlement with the Navy regarding storm drain discharges. A common concern regarding bases is ongoing discharge of pollutants into the Bay. Objectives of their litigation are to 1) stop interim pollution discharge, 2) expedite cleanup and 3) protect local governments from taking on additional liability with parcel transfer. He stated that enforcement actions have been issued and complied with in short periods of time.

Hank Bates, Sierra Club Legal Defense Fund, is handling legal action against Point Molate. Mr. Bates informed the RAB that during operational status, Point Molate had a storage capacity of 40-50 million gallons of petroleum. Leaks and overfills of petroleum have resulted in soil and groundwater contamination. These contaminants, he noted, are migrating into the Bay. He stated that Point Molate has a "long track record" of failure to comply with environmental law, and expressed hope that litigation will serve as an incentive to comply with the following regulations:

- 1) The Resource Conservation Recovery Act (RCRA) - that addresses underground storage tanks (USTs). The law stipulates that if a release is discovered from a UST, a report must be made to a regulatory agency. The responsible party will determine the extent of the leak and produce a cleanup plan.
- 2) Storm water Permits - He stated that the storm water system carries petroleum as well as rainwater into the Bay.
- 3) Regional Water Quality Control Board (RWQCB) Cleanup Order - In December 1995, an order from the RWQCB was issued to the Navy to contain petroleum on site. It also set up a schedule for compliance. Mr. Bates stated that the Navy has missed daily compliance deadlines totaling approximately a quarter of a million violations to date.

Mr. Rao questioned the utility of the lawsuit in truly expediting clean up and wondered if it may serve to hinder the process. Mr. Bates answered that the cleanup was already progressing very slowly, and that litigation at other sites like Hunters Point had proved to speed up the process.

Mr. Gosney asked why CAMP believes the Navy will follow the orders of a judge if they have been negligent in following environmental laws in the past. Mr. Bates responded that the court has power of contempt and that it was his hope the Navy would comply.

Mr. Gosney noted that the lawsuit had been filed in October, and asked what kind of progress had been made so far. Mr. Bates stated that a court-sponsored mediation session had been set for 08 May.

Mr. Clark asked about the response given to the regulatory agencies by the Navy regarding the violations. Mr. Bates said he did not know but speculated that the Navy's response may be that they are not in violation of the law.

Harold Logwood stated that although its sometimes necessary to seek legal remedies, answers to these issues lie with Congress, since they approve Department of Defense funding. He advocated that building an adversarial position with the Navy may not be to the RAB's advantage. Progress with funding, he suggested, may be found through discussion of the issues with regulatory agencies and the Navy.

Ms. Hack suggested that a court order may provide a stimulus for Congress to channel money to Point Molate on behalf of regulatory compliance.

Jean Siri suggested that the RAB contact their congressional representatives and senators; their names and addresses may be found in the *West County Times*.

Mr. Rao requested updates on the lawsuit.

III. Update of Environmental Projects

Izzat Ahmadiyya, Remedial Project Manager (RPM), reviewed the four IRP sites: 1) the waste disposal area, 2) the sandblast grit area, 3) the treatment ponds, 4) and the shoreline. He updated the RAB on the following environmental projects:

1. Seawall Repair Project - The cement bag wall was built to contain fuel that seeps out of the truck loading area. Contaminated fill in the area was removed and riprap was used to reinforce the seawall. The RWQCB has inspected the repair and is pleased with the work.
2. Wetland Restoration - Undesirable plants have infiltrated the wetlands because natural water flow patterns have been impeded by the collection of debris. Debris and undesirable plants were removed. The area was graded to facilitate water flow and augment natural, desirable plant growth. A monitoring program has been established that will cover a three year period.
3. Package Groundwater Treatment Plant - Groundwater will be pumped from the extraction trench, treated, and discharged. Installation has been completed, and discharge will start later this

month. A National Pollution Discharge Elimination System (NPDES) permit required for this action was approved by the Water Board on 19 March.

4. Storm water Treatment Ponds (STP) - The STPs were upgraded with new equipment that treats storm water collected from French drains and valve boxes around USTs. Discharge of water is governed by the approved NPDES permit. Full treatment is expected to begin by next month. Water sampling will be conducted as stipulated by the permit.

5. Site 2 Removal Action (RA) - Site 2 is the location of past sandblasting activities. A plan is being developed that addresses removal and disposal of residual grit; the expected date of plan completion is 21 April 1997.

6. Site 4 Removal Action - This project addresses free floating petroleum product. A trench has been built that extends beyond the truck loading area. A wall will be built to more efficiently contain the product. The work is expected to be completed this summer. Currently, pumps are being used to control the flow of the contaminated water. As part of the Remedial Investigation (RI), the Navy will assess the extent of Site 4 contamination and perform a risk assessment. Areas requiring cleanup will be determined by these studies.

Mr. Ahmadiyya stated that all four IRP sites are part of the Remedial Investigation (RI) and will be assessed for extent of contamination. The Navy hasn't awarded a contract for the RI yet, but expects to do so in the next month.

Bruce Beyaert asked if regulatory agencies were satisfied with the Site 4 Removal Action Plan. Mr. Ahmadiyya stated that they were not. Mary Rose Cassa, DTSC, said that the Navy is not meeting the requirements of the order. Mr. Ahmadiyya stated that this is a removal action not a remedial action. He stated the Navy's belief that the situation requires containment of floating product at this stage. Patricia McFadden, of the Navy, noted that the Navy would rather put money into the risk based removal action rather than the containment of groundwater. Ms. Cassa explained that a draft Site 4 RA plan was submitted to the regulators and that DTSC provided comment. DTSC considers the Navy's approach to be inadequate to contain the free floating product and groundwater and believes a risk is posed to the aquatic environment.

Mr. Clark asked when the treatment ponds were built, and whether they are lined. Mr. Ahmadiyya said that the ponds, which provided containment for contaminated oil prior to 1973, are unlined.

A community member asked about the anticipated time frame for cleanup. Mr. Ahmadiyya stated that containment of the free-floating product is the Navy's first priority followed by removal. He said that imminent risk was being immediately addressed through the RA, and further remedial action will be developed to continue addressing clean up of Site 4.

Sarah Eeles commented that she is skeptical about the outcome of the Site 4 RA because of the differences cited by the regulatory agencies and the Navy.

Frequency of sampling Site 4 monitoring wells was questioned by Mr. Clark. Mr. Ahmadiyya and Patricia McFadden stated that sampling takes place twice a year as required by the Water Board.

Bruce Beyaert extended an initial motion to note that *the RAB is severely disappointed with the Navy's foot dragging and resistance to comply with the Water Board's order concerning flow of free floating product and contaminated groundwater which present an imminent threat to the waters of San Francisco Bay and its marine organisms.* The motion was seconded.

Larry Douchand, Navy Co-Chair, responded by stating the order requires the Navy to perform hydraulic containment on the shoreline but does not provide specifics. The Navy recognizes the fact that there is free-floating product and agrees that it poses an imminent risk. The Navy currently is addressing that imminent risk. The project, Mr. Douchand explained, extends the wall approximately 100 feet down; agreement has been reached on that extension. Disagreement rests on how much further the wall should be extended lengthwise. He stated the regulators would like to immediately extend the wall another 1000 ft. The Navy does not see the extension happening immediately. The issue will be addressed shortly in the upcoming remedial investigation (RI) and feasibility study (FS). The RI will be awarded to a contractor in April. Currently, funds will be focused on the imminent threat of the free-floating product.

Mr. Clark asked if the Navy considered itself in compliance with the Water Board and whether the order is legally binding. He questioned who is in authority when the Navy does not heed regulatory agency orders.

Mr. Douchand explained that the order does not specify the length of the wall; members of the BRAC Cleanup Team (BCT) are addressing this issue.

Mr. Logwood issued a substitute motion that requested the RAB members to read the order issued by the Water Board before expressing their dissatisfaction with progress of negotiations and resolution of the order. The motion was seconded.

Mr. Ahmadiyya stated that the contamination levels of the groundwater is in question, not the free-floating product. Further tests of the groundwater indicated that contamination didn't exceed ambient groundwater levels. Based on these tests, the Navy is considering air sparging as a treatment option instead of extending the wall; wall extension entails a costly commitment to pump and treat water for 20-30 years.

Mr. Gosney asked for a vote on Mr. Logwood's substitute motion; the substitute motion was defeated by a vote of 11 to 3. A vote was taken on Mr. Beyaert's original motion, which was carried by margin of 9 in favor and 3 against.

IV. BCP Tour

Ms. Cassa deferred her presentation to the next RAB meeting due to lateness of the hour.

V. Update on Native Plant Survey

Bruce Beyaert apprised the RAB of the status of the Native Plant Survey. He stated that the Navy had previously destroyed a salt marsh and there exists potential for further destruction. He noted that a June 1985 survey conducted by the Navy found 66 native plant species at Point Molate, yet a subsequent California Native Plant Society survey found three times as many species. Another survey is scheduled to commence in April. Mr. Beyaert stated that the RAB had requested the scope of work, methodology for conducting the survey, and qualifications of the contractor, however the Navy has not released this information to the RAB.

Mr. Beyaert submitted a *Resolution of No Confidence* to the RAB and motioned for its adoption (see Attachment D). The motion was seconded. Sarah Eeles requested wording in the last sentence of the resolution to include, "...the RAB which represents the community..."

Thomas Cowling stated his disagreement with the resolution, indicating that it was too extreme to deliver a statement of no confidence to the Navy.

Terri Werner noted the importance of recognizing RAB requests in small matters to ensure the RAB is heard when discussing larger issues.

Mr. Gosney asked how the contractor would address the summer-blooming Santa Cruz tar plant in the spring surveys. He also noted that the spring survey should be underway now, but the scoping session isn't scheduled to take place for three to four more months.

Larry Douchand stated the contractor will be Uribe & Associates who will follow Department of Fish and Game protocol through procedures established by the National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA). They have performed reputable plant surveys for the Naval Hospital and Mare Island. An open public scoping meeting will take place in August. Draft environmental documents will be made available for public review and comment.

RAB members adopted the resolution with a vote of 12 in favor, 1 against, with 1 abstention.

Mr. Douchand agreed to find information about the destruction of the salt marsh and report back to the RAB.

VI. RAB Membership Applications Update

LaSandra King, FISC Oakland, stated that she had so far received 11 returned applications for RAB membership, and was expecting two more. She asked the ten new RAB member applicants in attendance to introduce themselves. She noted that there are currently three RAB member openings available, as well as their alternate positions. Mr. Gosney pointed out that, for those not selected this time for board positions, their applications would remain active for future openings.

Mr. Gosney noted Philip Lawson's absence from five consecutive meetings. Pursuant to the Charter, the Community Co-Chair has determined that Mr. Lawson's membership on the RAB is now vacant; his position is one of the three currently available. An amended charter is now available which cites the rules of membership. To remain active on the board, members cannot miss three meetings in a row or four within a 12 month period.

VII. New Agenda Items

1. The BCP Tour will be rescheduled for the next meeting (please bring distributed handouts).
2. Nagaraja Rao requested the Navy comment on his request for a newsletter.
3. Update by Regulatory Agencies
4. Progress with CAMP - if any

VIII. Other Topics

Mr. Rao announced that he provided an update to the Richmond Parks and Recreation Commission on progress at Point Molate and encouraged all RAB members to continue the same effort in their associated communities.

The meeting was adjourned at 9:05 p.m

The next meeting will be held at the same location, Thursday, May 1st, at 7:00 p.m.