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NAVAL STATION TREASURE ISLAND

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ENVIRONMENTAL RESTORATION ADVISORY BOARD MEETING

4

18 MARCH 1997

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7:00 P.M.

COPY

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CASA DE LA VISTA

7

TREASURE ISLAND

8

MEETING NO. 31

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TRANSCRIPT OF PROCEEDINGS

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REPORTED BY: STEPHEN BALBONI, CSR NO. 7139

A T T E N D E E S

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U.S. NAVY:

JAMES B. SULLIVAN (BEC and Navy Co-Chair)

ERNIE GALANG (RPM)

HUGO BURTON (NAVSTA TI)

PRC ENVIRONMENTAL MANAGEMENT, INC.:

SHARON TOBIAS

STACEY LUPTON

RICHARD KNAPP

REBECCA SUGERMAN

LYNNE SRINIVOSA - URIDE & ASSOCIATES

GUTIERREZ-PALMENBERG, INC.

DARLENE B. BROWN

SANDRA LUNCEFORD

BARRY GUTIERREZ

REGULATORY AGENCY:

CHEIN KAO (DTSC)

RACHEL SIMONS (US EPA)

MARTHA WALTERS (SFRA)

JENNIFER SMITH (DTSC SACRAMENTO)

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A T T E N D E E S (Continued)

REGULATORY AGENCY (Continued):

FRANCESCA D'ONOFRIO (DTSC SACRAMENTO)

COMMUNITY MEMBERS:

JAMES ALDRICH

JOHN ALLMAN

RICHARD HANSEN

PAUL V. HEHN (Alternate Community Co-Chair)

GARY JENSEN

KAREN MENDELOW

PATRICIA NELSON (Community Co-Chair)

HENRY ONGERTH

DALE SMITH

THOMAS THOMPSON

TI MUSEUM (LAURIE GLASS)

TI YACHT CLUB (HARLAN VAN WYE)

USHA VEDAGIRI

PUBLIC/GUESTS

JOHN M. BAAS

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1 CO-CHAIR SULLIVAN: Okay. I think we're
2 ready to start.

3 Welcome to our March Restoration Advisory
4 Board meeting. It appears that this might be the
5 second to the last meeting that we have in the Casa.

6 I learned earlier today that the Navy will
7 be closing this building at the end of April, and so
8 we will probably have our May meeting at the Nimitz
9 Center.

10 And then beyond that, we may be in the
11 former bachelor quarters, which is next door to the
12 Nimitz Center.

13 But the Navy will be closing this
14 facility.

15 It's possible at some future time some
16 other organization might be operating it, which we
17 might still be able to have meetings, but until we
18 get through the closure process of the Naval Station
19 at the end of September, and the presence of more
20 commercial operations, I'm not sure where our

1 regular meeting location will be.

2 But at any rate, we are here for this
3 month and next month.

4 We had a tour of the Casa prior to the
5 meeting. This building is in the Zone 1 FOSL. We
6 are also proposing to license, possibly license this
7 building. At an earlier time, it sounded like it
8 was going to happen relatively quickly, but that may
9 not occur as fast as we thought.

10 I will talk more about that later.

11 The first item is discussion and approval
12 of the agenda. There should be some additional
13 copies of the agenda at the back table.

14 CO-CHAIR NELSON: Everyone might have
15 noticed that the program updates are later on in the
16 agenda. This was a test.

17 We are experimenting tonight to see if
18 that works as well as having it up front.

19 CO-CHAIR SULLIVAN: I had some comments on
20 the agenda.

1 I was hoping to have a handout on
2 lead-based paint and asbestos, but I don't have a
3 written handout. I will take the opportunity to
4 talk about it a little bit, especially while we have
5 our DTSC representatives from Sacramento here.

6 I will also just do a talk about the
7 findings of suitability to license that we are
8 proposing to do ahead of the findings of suitability
9 to lease. The schedules for those are a little soft
10 right now, so I hope to have an opportunity to
11 present some written documentation at least at the
12 next interim community member meeting in early
13 April.

14 So those are the two changes that I have.

15 If there isn't any comment, we will
16 proceed into the agenda.

17 The next item is the discussion and
18 approval of the February meeting minutes.

19 There is also additional copies of the
20 February meeting minutes on the back table, if

1 anyone needs one. I think we mailed it out towards
2 the end of last week, so most people probably
3 received it yesterday or so.

4 Are there any comments on the February
5 meeting minutes?

6 MR. HEHN: I have a comment on it, Jim.

7 My recollection was that during the
8 discussion of organizational business on the RAB
9 support contract, there was a fair amount of comment
10 by our community co-chair, primarily, on the use of
11 a meeting facilitator. Now, that doesn't seem to
12 occur anywhere in the minutes.

13 Do you have anything beyond that? There
14 was a fair amount of discussion about that.

15 CO-CHAIR SULLIVAN: Okay. I think we will
16 have to review the transcript. I somewhat recall
17 that, but I think we will take a look at the
18 transcript and see if we may have missed that
19 passage.

20 Are there any other comments?

1 (No response.)

2 CO-CHAIR SULLIVAN: With that, we will
3 proceed into the public comment period. This is the
4 five-minute period that we provide at the beginning
5 of each meeting, if there are any members of the
6 public present who would like to take this
7 opportunity to speak on issues regarding the Naval
8 Station Treasure Island cleanup program.

9 I don't see any members of the general
10 public, other than our community members, so, with
11 that, I will close the public comment period.

12 CO-CHAIR NELSON: Point of clarification
13 on the minutes.

14 I don't believe that those were approved,
15 and I would like to, I guess, go back a step and say
16 that after the omissions are researched and then
17 included in the minutes, they could be approved at
18 the next meeting after we've seen them.

19 CO-CHAIR SULLIVAN: So then the action
20 item is to identify the information regarding the

1 facilitator in the transcript and incorporate that
2 into a written revision of the meeting minutes or
3 addendum.

4 CO-CHAIR NELSON: Second?

5 MR. ALLMAN: Second.

6 CO-CHAIR NELSON: Discussion?

7 All in favor?

8 Approved.

9 CO-CHAIR SULLIVAN: For those people who
10 are visitors, this RAB is not real heavy into
11 Robert's Rules of Order.

12 MS. JENNIFER SMITH: That's what I like
13 about San Francisco.

14 CO-CHAIR SULLIVAN: With that, we will
15 move into the BRAC cleanup process.

16 We are honored to have tonight two
17 representatives from DTSC's Sacramento office,
18 Jennifer Smith and Francesca D'Onofrio.

19 They were invited here as a result of the
20 RAB member comments on property transfer process and

1 the change that allows property, that might allow
2 property to transfer prior to remediation.

3 So with that . . .

4 MS. JENNIFER SMITH: Hi, everybody.

5 Francesca is going to handle the recent issues that
6 are on the table for tonight. I know there might be
7 questions about asbestos and lead in those things.

8 I'm going to talk about the early transfer
9 policy that's being developed.

10 My name is Jennifer Smith. I'm actually
11 born and raised here in this city, so it's nice to
12 be back.

13 I work for the California EPA Department
14 of Toxic Substances Control. My job is to oversee
15 the reuse as it integrates with cleanup in the
16 Northern California area.

17 So we have the large proportion of closing
18 bases in the northern part of the state where reuse
19 specialists work for me, and Francesca is one of
20 those. She's one of our most experienced reuse

1 specialists in the state, and so I rely on her a
2 lot. You're very lucky to have her here on the
3 base. She works on a lot of the Bay Area bases, as
4 a matter of fact.

5 She helped out early on when we didn't
6 have rescue specialists in Southern California, so
7 she has sort of a statewide perspective that's very
8 helpful, too, in working with the south end of the
9 Navy and the west end, so her perspective is very
10 broad.

11 Anyway, this evening, I wanted to share
12 with you a little bit about what's going on in the
13 early transfer arena.

14 Some of you may know that in September
15 there was a new law passed that allowed contaminated
16 properties to be transferred. Basically, it
17 provided for a deferral of a covenant that the
18 military has to make at the time of transfer.

19 And that covenant says, or promise or
20 warranty, that all remedial action has been taken.

1 Well, if you're transferring contaminated
2 property, it's hard to say that.

3 So the law allowed for that promise to be
4 deferred until that point in time when the property
5 actually was remediated.

6 And so it was left to the policy makers
7 and the regulatory agencies and DOD to look at how
8 to implement this policy. Members from each of
9 those organizations have been busily trying to
10 figure out how to do that.

11 Last Friday, we had a meeting in
12 Sacramento at McClellan Air Force Base with a lot of
13 representatives from the Air Force, because the Air
14 Force is looking at where they want to use this
15 policy first.

16 Different people are coming to them from
17 the private sector interested in property that still
18 has some remaining contamination issues. And so
19 they are considering which of the Air Force bases
20 this is going to happen at first.

1 I'm here to let you know where we are in
2 the process and what it looks like from our point of
3 view.

4 The state doesn't have an opinion about it
5 one way or the other. We are just working on how to
6 implement it. They don't pay me enough to have an
7 opinion about it. It's law, and we are dealing with
8 it. So we are neutral, and that's a good way to be.
9 Trust me.

10 So, anyway, I wanted to share with you a
11 little bit about what this law is and then open up
12 the floor for questions.

13 I would be happy to entertain any
14 questions you might have and go in that direction if
15 it's more to your liking to hear about some aspect
16 in particular. Just raise your hand and let me
17 know. Speak up.

18 My counterpart in Southern California,
19 Sharon Fair, is responsible for developing this
20 policy and procedure and has been the one most

1 involved with it. So I will use her briefing
2 document to speak from.

3 What do I want to tell you? Okay. I
4 already told you about the deferral.

5 Since California EPA designated our
6 department as the lead agency for cleanup issues, we
7 are also the point for making determinations about
8 transfer of property.

9 The unique thing about this law, which has
10 never happened before, is that Congress for the
11 first time said: We want the states to be involved
12 in making the determinations about transfers on both
13 super fund sites and nonsuper fund sites, NPL and
14 non NPL sites. So state super fund sites and
15 federal.

16 In the past, EPA has had the role
17 exclusively in saying: Yes, we agree. All remedial
18 action has been taken. And that remedy is in place
19 and proven to be working.

20 But, now, Congress is saying: States, we

1 want your governors to concur that, yes, this
2 property is okay to transfer, that it's suitable,
3 that there isn't any risk to the people who are
4 going to be using it.

5 So that's a really new step. We are
6 involved in every transfer of contaminated property.

7 An example of where you would apply such a
8 deferral is where you might have groundwater
9 contamination but clean soil above. You want to
10 move that property, and the deed restrictions would
11 just be, don't drink the water, basically. But go
12 ahead and use the property and there is no risk to
13 anybody above ground as long as you don't use the
14 water.

15 That would be a perfect case where you
16 don't have the pump and treat system in place and
17 proven to be working. Mayfair (phonetic) is looking
18 at such a property right now. They haven't got the
19 system to a place where it's pumping and treating at
20 the level they need it to.

1 There is nothing wrong with the soil and
2 the property is a highly desirous piece of housing
3 property.

4 It's a good example of where you would
5 want to use a law like this.

6 The factors that you would consider when
7 you're looking at an early transfer include:

8 The environmental suitability of the piece
9 of property.

10 What are the health risk levels for
11 humans, and also the biological receptors?

12 What's the nature and extent of the
13 contamination?

14 If you have contaminated soil with
15 exposure risks to people, you're not as likely to
16 want to see that property transferred until it's
17 cleaned up. It just doesn't make sense.

18 Part of our job is to say when we see
19 those kinds of contamination.

20 Some of the things they can do is draw a

1 line around those kind of contaminated areas and
2 have what you call a safety zone, if you want, to
3 give yourself enough space so that that remediation
4 can take place, and maybe use a property somewhat
5 away from that so that you are not putting anybody
6 at risk.

7 That's part of what the reuse specialists
8 do on the bases, is look for pieces of property
9 where people are not at any risk.

10 The same thing whether you're leasing or
11 transferring. We are always looking at the risk.

12 Another thing you consider in the
13 evaluation factors is the treatment alternatives:
14 How are you going to remediate or clean up this
15 piece of property? What will the impact be on the
16 users, depending on the kind of treatment you have?

17 Some kinds of treatment you can't use the
18 property. Say you're having bugs eat the soil. You
19 can't be using the property during that kind of
20 thing, but if you remove the soil and take it

1 somewhere else, then you could be using the
2 property.

3 So you have to take into consideration
4 what the alternatives are for treatment and how long
5 they will take. That's part of the assessment that
6 needs to be gone through.

7 Another thing is the cost and
8 practicability of the remedy, and also the design
9 and implementation schedules.

10 So how long is it going to take to get the
11 remedy in place? How much does it cost? How
12 practical is it? What is the schedule for all that
13 happening?

14 Is it just, you know, a few months, is it
15 years, and part of our concern, certainly to
16 transfer property, is what will happen to the
17 priority for the cleanup of this piece of property
18 once it gets transferred?

19 The Air Force was quite clear on Friday
20 that they felt it would still be on the fast track,

1 that they would still have pressure from the
2 community, and that things would still move along in
3 an expeditious manner.

4 But one of the requirements of this law is
5 that the military request funding from the Office
6 of -- OMB, Office of Management and Budgets? I
7 can't remember that abbreviation; is that right?

8 MS. WALTERS: That's it.

9 MS. JENNIFER SMITH: The military has to
10 request funding from OMB to handle the rest of the
11 cleanup at that piece of property.

12 But if you are at all familiar with how
13 funding goes in the military, then they're at the
14 mercy of Congress to designate funding dollars for
15 them, and once that service branch gets the money,
16 then they have to distribute it among all of the
17 people who have requested it, and it's never more
18 than you asked for.

19 So that process is one of those variables
20 you don't really have complete certainty about.

1 But it's something we are all struggling
2 with. It's not an us and them thing. It's
3 something we all recognize about how money gets
4 allocated for the cleanup of these sites.

5 Another thing we look at is the proposed
6 reuse, and is this use that's being requested
7 compatible with the -- is it compatible with the
8 remedy? Is there any interference between the
9 remedy and the reuse that's proposed, and can that
10 proposed reuse operate during the remedy period?
11 That's another consideration, and I talked a little
12 bit about that.

13 The NEPA, the National Environmental
14 Protection Act, and CEQUA, the California equivalent
15 of that, documentation would need to be done,
16 because that's assessing the broad cumulative
17 environmental impacts and public notice to approve.
18 That's part of what would need to happen.

19 Also, deed restrictions would need to be
20 assessed and agreed to.

1 What we are looking at is a covenant or an
2 agreement between the military and the regulatory
3 agency, in our case, the state, and the transferee,
4 because one of our concerns is that deed
5 restrictions be complied with, be followed through
6 with, and deed restrictions can be anything, as I
7 mentioned, from not drinking the water to not
8 disturbing the soil, fencing a landfill area,
9 maintaining that area so people don't have access to
10 it.

11 Those are all very important, to
12 maintaining a cap over landfill, for example. And
13 if those things are disturbed, then the remedy is no
14 longer intact either, particularly like a landfill
15 example, is a good example of that.

16 We see that as part of the remedy, the cap
17 not be disturbed, that the fence stays in place, and
18 those kinds of things.

19 The military, as I mentioned earlier,
20 requests funding from OMB.

1 And the military also gives public notice
2 and provides response to the public comments that
3 they receive as a result of that public notice.

4 The Restoration Advisory Board is
5 continuing in its role to be involved during the
6 process, and that's an important part of it to us.

7 And the time frame for how long this
8 deferral period is going to be is also specified.
9 So if it's going to take another 18 months to
10 implement the remedy and install it and approve it
11 to be working, then that's the time frame that's put
12 out there and that's what we all work towards, as
13 far as the funding requests and everybody's target.

14 And it's important to specify that and
15 have a schedule or agreement up to that point so
16 that people stay on track.

17 Our expectation for processing one of
18 these, there is several things that need to be gone
19 through: Scoping by the base closure team and
20 review of the draft; findings of suitability, we

1 call it a FOST; finding of suitability for early
2 transfer, a FOST; and site specific EBS;
3 finalization of the documents; public notice;
4 negotiation of that FOST and EBS, and, let's see.
5 Deed restrictions and the consent agreement. That
6 could take up to 120 days for all those pieces to
7 be, from the scoping to the completion of that.

8 A lot of it depends on what kind of
9 property you're dealing with.

10 It may take less than that if you have a
11 piece of property that's real clear.

12 If you have some exposure issues, it could
13 take longer than that.

14 So that's sort of an outline of what we
15 are looking at for our policy.

16 I know that we are looking at having --
17 the easiest way to implement this is if we have a
18 record of decision in place, because then you
19 characterize the condition of the contamination, you
20 know what the remedy option is, and you can transfer

1 the property with that information.

2 It's very hard to consider transferring
3 the property when you don't know the extent of the
4 contamination.

5 For one thing, people aren't going to be
6 too likely to want it, not knowing that either.

7 So we see the cleanest place to implement
8 this is at the point of the record of decision or
9 after.

10 So that's just an overview.

11 Would anybody like to ask specific
12 questions?

13 MR. ONGERTH: Are copies of that federal
14 statute available through you?

15 MS. JENNIFER SMITH: We can get you a
16 copy, sure, yes.

17 MR. ONGERTH: Could it be available to
18 this RAB?

19 MS. JENNIFER SMITH: We can do that, no
20 problem.

1 MR. ONGERTH: Secondly, you talked about
2 policy and procedures having been drafted by the
3 Southern California branch of your operation.

4 That's drafted. Where does it go from
5 there? Will it ultimately become regulation?

6 MS. JENNIFER SMITH: Well, that's a good
7 question, actually.

8 It's going to be policy. U.S. EPA is
9 drafting a policy, and our organization is drafting
10 a policy to implement at the state level, and the
11 Department of Defense is also doing a policy.

12 But nobody is doing regulations at this
13 point that we're -- nobody has been designated to do
14 regulations at a federal level, so that's just the
15 way it is.

16 There isn't any provision for doing
17 regulations at this point.

18 MR. ONGERTH: How explicit is the federal
19 delegation of responsibility to the states?

20 MS. JENNIFER SMITH: I have the language.

1 MR. ONGERTH: Or authority, I should say.

2 MS. JENNIFER SMITH: That's a good
3 question.

4 It says, it's very clear: the transfer is
5 approved by U.S. EPA for NPL sites, and the transfer
6 is approved by the governor for NPL and non-NPL
7 sites.

8 MR. ONGERTH: So it's mandating the state
9 review and approval, is that the case?

10 MS. JENNIFER SMITH: Yes.

11 MR. ONGERTH: Normally, when regulations
12 are adopted, there is a procedure, complex procedure
13 for negotiations back and forth, and so on.

14 Applying only a policy, none of that
15 happens. What's the attitude of DTSC on that
16 matter?

17 MS. JENNIFER SMITH: Well, basically, the
18 law has been passed and people are starting to ask
19 for this.

20 There is different places where it's very

1 appealing to particular users to have a piece of
2 property even though the remediation is going to
3 take some period of time longer.

4 We are faced with having to develop a
5 policy to deal with it. There is a void there with
6 not having regulations -- you're exactly right --
7 but we can't wait until the regulations get
8 developed, whenever that is.

9 As far as I am aware, there isn't even any
10 plan for them at this point. And I know DOD is
11 developing their policy, EPA has drafted a policy,
12 and we have drafted a policy. We are all dealing
13 with it on a policy level. There is no regulations
14 to help guide us at this point.

15 The need is out there and we can't just
16 sit back and cross our arms and say there is no
17 regulation, so we aren't going to do anything.

18 MR. ONGERTH: There is a matter of due
19 process to be considered, if you understand what I
20 mean by that phrase.

1 MS. JENNIFER SMITH: Legally, you mean,
2 you have to follow --

3 MR. ONGERTH: No.

4 I'm suggesting that someplace along the
5 way, parties at interest have a right to due
6 process.

7 I'm not certain that there is a due
8 process built into this thing.

9 MS. JENNIFER SMITH: You mean the
10 parties --

11 MR. ONGERTH: Whoever is at risk and at
12 interest in the matter. I don't know who that might
13 be, but certainly there are going to be differences.

14 MS. JENNIFER SMITH: Well, I think one of
15 the things that we have looked at, as far as the
16 public being involved, which sounds like is your
17 concern, would be to have a public review period and
18 public comment period.

19 MR. ONGERTH: I'm not suggesting any
20 procedure whatever.

1 I'm just interested in what's being set up
2 and what it is considering in the whole arrangement.

3 MS. JENNIFER SMITH: And the due process
4 you're concerned with is the due process that would
5 come into the procedure if regulations were
6 developed?

7 MR. ONGERTH: Yes, right.

8 MS. JENNIFER SMITH: I understand.

9 MR. ONGERTH: Thank you.

10 MS. JENNIFER SMITH: I would be glad to
11 see if there is any --

12 Jim, are you aware of any plan to develop
13 regulations?

14 CO-CHAIR SULLIVAN: I'm not aware of any.

15 MS. JENNIFER SMITH: Yes.

16 That question has been asked in different
17 arenas.

18 It seems to me that I have not heard any
19 plan for regulations to be developed at this time,
20 and

1 I don't know why, to tell you the truth.

2 MR. ONGERTH: Thank you.

3 CO-CHAIR NELSON: Jennifer, let's take you
4 off the hook and fire another question.

5 MS. JENNIFER SMITH: All right.

6 CO-CHAIR NELSON: We had Martha and John
7 and Usha and Paul.

8 MS. WALTERS: I just wanted to ask you a
9 couple of questions.

10 First of all, are there any provisions to
11 address any kind of new contamination found after
12 you've done this early transfer?

13 MS. JENNIFER SMITH: Well, the covenant
14 that any additional remedial action found to be
15 necessary will be performed by the U.S.

16 MS. WALTERS: Because DOD has stated
17 publicly that they will not go back and clean up
18 anything that's been newly found.

19 MS. JENNIFER SMITH: That's different.
20 No, no.

1 What DOD said, they won't go back and
2 clean up anything once it's cleaned up to a certain
3 level.

4 But that's different than a new
5 contamination. They still have to make the covenant
6 that if something new is discovered that will be
7 cleaned up.

8 What that policy is that you're referring
9 to says, if we clean up something to an industrial
10 level for an industrial use, don't ask us to come
11 back in 15 years and clean it up to a residential
12 level.

13 That's what DOD has said.

14 But if you clean up something, at any
15 level, and you find some new contamination that
16 nobody knew about -- it could be anything -- and
17 it's, you know, a higher level than the level it was
18 cleaned up to, whatever it is, that is something the
19 DOD covenants that they will come back and clean up.

20 MS. WALTERS: And who is to enforce the

1 timeliness of the cleanup and the long-term
2 accountability of that cleanup?

3 MS. JENNIFER SMITH: Well, you remember my
4 discussion about requesting money from OMB?

5 MS. WALTERS: Yes.

6 MS. JENNIFER SMITH: That's what you would
7 have to do. You would have to say: This is what we
8 found and we want it cleaned up.

9 A request would have to be made for money
10 to clean that up.

11 It would depend on the severity of the
12 problem, I would think, on where it would get
13 prioritized, and maybe, also, especially in the Navy
14 priority, what the reuse is, too, that's another
15 high evaluating factor in the prioritization of the
16 funding.

17 MS. WALTERS: Right.

18 So let me put it simply: So the Navy goes
19 to OMB directly, they don't have to go through any
20 Congressional --

1 MS. JENNIFER SMITH: The same process you
2 go through now.

3 MS. WALTERS: Right.

4 MS. JENNIFER SMITH: You have to ask for
5 the money.

6 MS. WALTERS: But that's a very
7 time-consuming and laborious process.

8 That's what I'm saying, in terms of
9 streamlining it, you know, we really want to get
10 things going and we have a contract with such and
11 such a company to gets things going.

12 So there is no way you can sort of go from
13 A to B.

14 MS. JENNIFER SMITH: Do you know Randall
15 Yim?

16 MS. WALTERS: Yes.

17 MS. JENNIFER SMITH: Randall Yim is an
18 environmental attorney who was involved early on in
19 base closure and works on McClellan now.

20 Early on in the process, five years ago,

1 Randall used to say, "Let's create a fund so that if
2 you find contamination in the future, you can just
3 go to that fund and take money out."

4 The DOD said, "Nice idea, Randall, but
5 you've heard of the anti-deficiency act. We can't
6 put aside money unless there is, you know, we can't
7 put aside money. You have to know what the money is
8 going to be spent for. You can't ask for it, you
9 know, just keep it there."

10 So it's going to be one of those things
11 where, when it gets discovered, they're going to
12 have to ask for the money. Maybe that military
13 service branch will be able to come up with the
14 money and cover it some other way later. It's all
15 conjecture.

16 But there is no provision for being able
17 to create a fund for something that you don't know
18 about yet.

19 The covenant is actually by the U.S., and
20 unless our government goes, that is probably, as

1 I've been told, about as good a guarantee as you can
2 get.

3 CO-CHAIR NELSON: Okay. John?

4 MR. ALLMAN: Continuing on with that, if
5 you have, like with the Water Board, they have a
6 cleanup of UST sites that people can use that money
7 that private companies can't afford to clean up the
8 sites.

9 And I think you mentioned this Yim, what
10 was it, the attorney?

11 MS. JENNIFER SMITH: Randall Yim.

12 MR. ALLMAN: Now, couldn't you create a
13 fund if lead contamination was found, and another
14 fund for PCBs, and another fund for something else,
15 because I don't see -- the state is able to do that,
16 apparently, with the cleanup fund.

17 MS. JENNIFER SMITH: Jim, do you want to
18 explain the anti-deficiency act?

19 CO-CHAIR SULLIVAN: No.

20 (Laughter.)

1 CO-CHAIR SULLIVAN: Actually, I couldn't
2 really articulate it, other than for the most part,
3 our federal government is based on having to have
4 Congress, our elected leaders, approve spending
5 before it occurs.

6 MS. JENNIFER SMITH: Basically, it has to
7 be for, the military requests money for these things
8 that are problems at the base, not generically, but
9 specifically, and those go up to the base closure
10 plan, and then money gets allocated down for those
11 things.

12 But you can't say, it can't be for a
13 hypothetical thing, even if you categorize it
14 hypothetically. It has to be for known things.

15 MR. ALLMAN: Okay. Now I will go on to my
16 actual question.

17 MS. JENNIFER SMITH: That was a pretend
18 question?

19 MR. ALLMAN: No. It was just triggered by
20 Martha's question.

1 Now, the real one: There are a lot of
2 areas on TI where they are considered low risk
3 because they are paved and the use is going to be a
4 building sitting on pavement.

5 And down the road, so they may be cleaned
6 up to a certain level, based on what you can measure
7 in the air above the pavement, but at some point you
8 may have to repair potholes, you may have to tear up
9 and replace the parking lot, and then if you
10 suddenly find a high level of contamination that
11 actually existed under the pavement that wasn't
12 detected previously, would that be considered, you
13 would then go back and say, "Well, we thought it was
14 cleaned up but it really wasn't."

15 And in the case of San Francisco, should
16 the reuse plan say, "Well, we want the building but
17 we don't want any of the parking lots. Tear up all
18 the pavement and remove it. And then we will put
19 our own fresh pavement down so that we know what's
20 underneath the pavement in case we decide to change

1 what we're doing."

2 So would this covenant cover that, if the
3 ROD goes in and they say, it's determined that there
4 is low risk because there is pavement here and it's
5 found to be contaminated?

6 Can some covenant be set up to say, well,
7 then, the military will be responsible for cleaning
8 that back down to the level that it should have been
9 cleaned up to if the pavement was never there?

10 CO-CHAIR NELSON: I guess to rephrase
11 that, if contamination on a particular site hasn't
12 been cleaned up, whether known or unknown, and of
13 the same genre as was determined in the
14 characterization, would that contamination be
15 cleaned up by the DOD after the covenant?

16 MS. JENNIFER SMITH: Well, I think I
17 understand the question.

18 I think I would like the base closure team
19 to just speak to how they do investigations,
20 because, really, what you're asking is, is that

1 investigation complete, and what if, you know, is
2 something further going to need to be done
3 underneath the parking lot later?

4 And I think maybe you three are probably
5 the best to speak to how you look at contamination
6 issues on the base, and maybe you can satisfy his
7 concern in that way.

8 MS. SIMONS: Well, I guess I'm a little
9 confused, because the way I understand the risk
10 assessment is put together is that when you do the
11 risk assessment, you look at the scenario of being
12 exposed. Even if there is pavement, you look at
13 what it would be if it was bare soil exposed.

14 I'm actually pretty sure that's the way
15 the risk assessment is done.

16 So I don't think there would be a
17 situation where we would say that part of
18 controlling the risk is the fact that pavement will
19 remain in place.

20 I mean, when we do the risk assessment, we

1 look at the risks if there was nothing there, no
2 buildings, no anything, if there is direct exposure.

3 MR. ALLMAN: Then how are you going to --
4 you can't bore every single square inch of the
5 parking lot to see what's under there.

6 MS. SIMONS: Right.

7 So you have to use your best judgment and
8 take, you know, as many samples as you think are
9 representative.

10 MR. ALLMAN: So my question is, when you
11 do remove the pavement and find out, oops, you
12 missed a spot, is the DOD then responsible for
13 cleaning that up and requesting money from OMB,
14 whatever is required?

15 CO-CHAIR SULLIVAN: Well, if the
16 conditions, if the pavement were removed and the
17 conditions are different than what had been
18 characterized in the report, then that would be
19 cause for DOD to relook at it.

20 MS. JENNIFER SMITH: So if they find a hot

1 spot, yes, your answer is yes, right?

2 Okay. Paul, did you have a question?

3 MR. HEHN: Yes, I did, actually a couple
4 of questions and a follow-up from the last
5 discussion.

6 As a part of the Phase II remedial
7 investigation on Treasure Island, some of the human
8 health risk evaluation was done or determined to be
9 not a problem for human health based on the fact
10 that there was pavement there, and, therefore, there
11 would be no exposure. So I don't think it's
12 something that we looked at that.

13 MS. SIMONS: Well, maybe afterwards you
14 can show me what you're talking about.

15 MR. HEHN: That's one of the things we
16 need to talk about that.

17 The other thing I wanted to bring up, in a
18 so-called dirty transfer like this, they -- and if
19 you're looking at the time of the ROD, you determine
20 the remedial alternatives, you determine what the

1 cleanup criteria are going to be, is this covenant
2 that then would be put into place between the state
3 and the Navy or DOD then tied to that covenant, a
4 specific schedule time frame funding those kinds of
5 issues that would make sure that all these things
6 would take place in an orderly fashion and not have
7 gaps in the process, because they decide not to fund
8 it in one year or for five years or whatever, and,
9 then, all of a sudden, you're stuck with a problem
10 down the line.

11 MS. JENNIFER SMITH: Yes. That's exactly
12 why we wanted a schedule and an agreement about what
13 the plan is for implementing the remedy, and the
14 time frame to clean it up.

15 Exactly right. You hit the nail on the
16 head.

17 MR. HEHN: So that would include that so
18 that there is a commitment by the DOD on both
19 scheduling remedial alternatives and funding?

20 MS. JENNIFER SMITH: Well, as I said, the

1 law requires funding requests be made, but what we
2 are looking for is a schedule, and the schedules are
3 in FFAs -- are you familiar with those, FFSRAs and
4 FFAs -- the agreements between the military and the
5 regulators.

6 And where there isn't one in place, we
7 would have to develop a schedule, because that's a
8 critical part of the success of this early transfer.

9 MR. HEHN: If you have an FFSRA, or other
10 agreement and covenant, and it turns out that they
11 are obviously not, there is not a budget attached to
12 this, but there is a schedule attached to this, what
13 is the remedy by the state if the DOD says, "We
14 don't have the budget for it this year or next year
15 or the year after that, but we will do it
16 eventually"?

17 What happens at that point? And what
18 happens to that property that's already been
19 transferred?

20 MS. JENNIFER SMITH: Well, if there is, I

1 mean, the state always has enforcement authority,
2 and that would be something that the state would
3 have to consider under those circumstances.

4 MR. KAO: Can I just add a little bit?

5 MS. JENNIFER SMITH: Yes, Chein.

6 MR. KAO: I think this is a very good
7 point that they change, quote, unquote, the name of
8 the game a little bit.

9 We do have FFSRA for these agreements, for
10 these base reorganizations that have a schedule,
11 which we think is enforceable.

12 I think by this newly acquired authority
13 to concur on the transfer, I think the department
14 should evaluate that a little and take this kind of
15 input in and build it into the concurrence procedure
16 so we can strengthen that requirement for the
17 compliance to the schedule a little more.

18 And I think that's what you want to see, I
19 think.

20 MR. HEHN: Yes, because I think we have

1 seen over the last three or four years that there is
2 a funding allocation that maybe never really
3 happened, or it doesn't get fully funded or
4 whatever.

5 So those things that are on the agenda or
6 on the schedule may or may not get completed in the
7 time frame which it was originally designed to, and
8 that's one of the things that I'm really concerned
9 about in a dirty transfer like this, because then
10 you have the pressure of developing that property.
11 The state or the local agency or the city, whatever,
12 has already made a commitment saying: Yes, okay, we
13 have this property. We are willing to transfer. We
14 will go ahead and accept the transfer to the city,
15 for instance, and we will develop this.

16 But then if there is something that delays
17 the process of remediation, what happens at that
18 point, and there is a lot of pressure to get it
19 done, but there is no money?.

20 MS. JENNIFER SMITH: Yes. I mean, we

1 asked the Air Force that question. I talked to Paul
2 Rorshack (phonetic) from the Navy about that.

3 Basically, they feel like the pressure
4 from the communities would be very great in that
5 kind of situation, that as Chein said, if you have
6 an agreement in place, like an FFA or an FFSRA, you
7 have a dispute resolution process. If you don't,
8 you consider enforcement authority.

9 But, ultimately, it's not going to look
10 very good if they drop the ball.

11 And so you would probably have a case like
12 that, a lot of community pressure from their
13 representatives to follow through.

14 It's a concern, we agree, but I think,
15 practically you're going to see, that you're
16 probably not going to see that happen, because they
17 want this policy to be successful.

18 MR. HEHN: That's a very grave concern on
19 my part on these particular transfers, because I
20 think it's a very dangerous position for the city in

1 this case to be in to have that happen.

2 MS. WALTERS: Absolutely.

3 MR. HEHN: And somebody is left holding
4 the bag.

5 MS. JENNIFER SMITH: Well, you know, the
6 other thing to keep in mind? Early transfers are
7 voluntary, and if you don't want one, don't ask for
8 it.

9 And that would be my advice to anybody who
10 had any doubt: Just wait until that remediation,
11 until that remedy is installed for it to be working.

12 CO-CHAIR NELSON: We have a lot of
13 interest in this topic, but we are behind schedule
14 and Usha, I think, was next.

15 MS. VEDAGIRI: I'm not clear on exactly
16 what your approval means.

17 There seems to be a lot of parallels with
18 this policy where property is owned by a private
19 entity or a city, and at the end of that process,
20 the state issues a covenant not to sue or something.

1 Essentially, they protect both the buyer
2 and the seller from liability.

3 And when you approve the transfer here, a
4 dirty transfer, does that approval mean that the
5 Navy is not liable?

6 MS. JENNIFER SMITH: No.

7 MS. VEDAGIRI: What is the weight attached
8 to it?

9 MS. JENNIFER SMITH: What is the
10 significance of it?

11 MS. VEDAGIRI: Especially in terms of
12 liability.

13 MS. JENNIFER SMITH: We don't take on the
14 military's liability for obligation to come back and
15 clean up the property if something is found in the
16 future. That's the military. That's what the
17 covenants are in the law for.

18 Our job is to say that it's appropriate to
19 transfer this piece of property, that there isn't
20 any risk to the public, that it can be done safely,

1 that it's not, it's not being done irrationally or
2 prematurely or anything like that.

3 But our job is not to provide liability
4 protection. That's not our role.

5 MS. VEDAGIRI: Right, but who is left
6 holding the bag if the transfer has already occurred
7 and there is a problem?

8 MS. JENNIFER SMITH: Left holding the bag
9 in what way, like needing to come back and do for
10 the cleanup or what?

11 MS. VEDAGIRI: Yes.

12 MS. JENNIFER SMITH: Yes, the military,
13 the U.S. government specifically.

14 MS. WALTERS: But there is sort of a
15 dichotomy going on here, because when you talk about
16 the enforcement authority -- sorry --

17 MS. JENNIFER SMITH: No, it's the same
18 thing. Go ahead.

19 MS. WALTERS: Because I'm really concerned
20 about this because under -- the state can sue the

1 federal government under RCRA, through the Federal
2 Facilities Compliance Act, but what other
3 enforcement authority does anybody else have? None.

4 I mean, I don't see EPA going after DOD.
5 I don't see anybody else, so I'm a little confused.

6 Can you clarify about what you mean by
7 "enforcement authority"?

8 And, also, there is no enforcement going
9 on, basically, across the nation with EPA, and very
10 little within the states.

11 I mean, I know because they want to sort
12 of like glad hand everybody right now. I mean, I
13 know in Boston they are doing something, but it's
14 under the Safe Drinking Water Act, and so that's an
15 anomaly. So I feel like there is this big loophole
16 here by saying enforcement authority.

17 MS. JENNIFER SMITH: No.

18 If the states were considering enforcement
19 authority, they would look at RCRA, as you
20 mentioned, 25187 is the authority, or substantial

1 endangerment, 25358.3.

2 MS. WALTERS: So what's the likelihood of
3 it really occurring, though?

4 MS. JENNIFER SMITH: It depends on the
5 situation.

6 But if the state doesn't have any problem,
7 you know, issuing an order, if there is a need or a
8 risk to public health, that's our job. That's why I
9 work for the state. My job is to protect the public
10 health and the environment.

11 MS. JENNIFER SMITH: Richard?

12 MR. HANSEN: Is there any question about
13 this having occurred in the United States?

14 MS. JENNIFER SMITH: Nobody, to my
15 knowledge, nobody in the United States has done one
16 yet, but somebody in another state is trying to.
17 It's not in California.

18 MR. KAO: Nothing has been done for
19 federal, but the private side.

20 Remember, the covenant is only private.

1 You mean, federal, right?

2 MR. HEHN: Right.

3 MS. JENNIFER SMITH: You mean for this
4 law, right? Do you mean for this law?

5 MR. HEHN: It's not a law, but a draft
6 policy.

7 MS. JENNIFER SMITH: As a result of the
8 law, though. You mean, as a result of this law for
9 federal facilities, none have happened in
10 California.

11 I think there is one that may be going
12 through somewhere else in the United States.

13 MS. WALTERS: I heard Illinois, Glenview.

14 MS. JENNIFER SMITH: Yes.

15 Rachel, you could probably ask.

16 MS. SIMONS: I talked to someone today and
17 they didn't know.

18 MS. JENNIFER SMITH: I think there is
19 proposals out right now, and there may be one going
20 through.

1 As far as I know, there isn't one that's
2 complete, but you might ask Kathleen Johnson to find
3 out.

4 MR. ALLMAN: Does this policy come with a
5 caveat? It sounds like you're saying it's
6 voluntary.

7 I guess I disagree with your statement
8 that, well, if you're worried about whether or not
9 you're going to be able to collect on the cleanup,
10 then just don't do it because it's voluntary.

11 I think that before such a policy should
12 even be put forward, it should have enough, it
13 should be tight enough that somebody could trust
14 that if the event occurs and contamination is found,
15 that they will have something to fall back on, to
16 stand on.

17 MS. JENNIFER SMITH: Well, I agree with
18 you, and that's why we decided to wait until the
19 record of decision because of that, and I think
20 you're right on.

1 MR. ALLMAN: Will these issues be cleared
2 up by the time the base gets the decision?

3 MS. JENNIFER SMITH: Yes. At the record
4 of decision stage, you know what the remedy is going
5 to be, you know what the contamination is, you would
6 save about 18 months because from the record of
7 decision until you install the remedy, it should be
8 18 months, right, Chein? It's more or less.

9 Okay. Thank you very much.

10 CO-CHAIR NELSON: I saw a hand pop up
11 here. Jim?

12 MR. ALDRICH: Can I ask a quick process
13 question?

14 MS. JENNIFER SMITH: Yes.

15 MR. ALDRICH: To what extent is Larry
16 Florin aware of issues like this and the risks?

17 MS. WALTER: He's very well aware of it.
18 Actually, we just spoke about it about a half an
19 hour before the meeting started tonight.

20 MR. ALDRICH: So he's not out of the loop

1 yet?

2 MS. WALTERS: He's not what?

3 MR. ALDRICH: He isn't out of the loop?

4 MS. WALTERS: No. He's very much in the
5 loop.

6 CO-CHAIR SULLIVAN: And the Department of
7 Defense has held periodic conferences with local
8 reuse authorities, usually once, or, I think, twice
9 a year.

10 I know the city has attended one or some
11 or all of those.

12 So there is a dialogue going on between
13 DOD and the local communities.

14 MS. JENNIFER SMITH: As a matter of fact,
15 we met with, at the governor's office, with all the
16 reuse entities from the state about two weeks ago,
17 on Friday, Sharon and I did.

18 Sharon did a briefing on the early
19 transfer policy for all the reuse entities and the
20 mayors who were there from the state.

1 Larry was there in the morning. I don't
2 know if he was there when Sharon did her
3 presentation, but it was on the agenda, and I
4 believe he was there in the morning.

5 MR. ALLMAN: Who is Larry?

6 CO-CHAIR NELSON: Redevelopment, San
7 Francisco.

8 CO-CHAIR SULLIVAN: He's the Mayor's
9 project manager for the Treasure Island project.

10 MR. ALDRICH: So he works on leases.

11 CO-CHAIR SULLIVAN: Actually, his office
12 is physically in Building 1.

13 MR. ALDRICH: So if this board has a
14 concern that gets to him.

15 MS. WALTERS: He is very, very well aware.
16 Like I said, I saw him a half an hour before this
17 meeting, and he talked about that.

18 CO-CHAIR SULLIVAN: I know, Jennifer, when
19 you opened, you briefly mentioned about lead-based
20 paint, and while you're here, not to get into

1 another long discussion, but if there was anything
2 you wanted to briefly say about that, other than the
3 fact that the Department of Defense and the state
4 and federal regulatory agencies have been in a
5 dialogue about the question of lead-based paint, and
6 that that dialogue is continuing.

7 MS. JENNIFER SMITH: What context are you
8 thinking about -- in leasing, in transfer, in
9 residential, in investigation and cleanup? Give me
10 a focus.

11 CO-CHAIR SULLIVAN: I think, basically, I
12 think there is probably, we have a general or a
13 consensus on residential, because DOD is following
14 the HUD guidelines.

15 But word has gotten less clear as to how
16 the issue is addressed in nonresidential properties.

17 MS. JENNIFER SMITH: That's true.

18 That's very good, Jim.

19 CO-CHAIR SULLIVAN: I wanted to
20 acknowledge that, you know, for the RAB members.

1 It's an ongoing discussion.

2 MS. JENNIFER SMITH: As a matter of fact,
3 I share in a group that works with the military and
4 the regulatory agencies in the governor's office,
5 and we've worked on it, particularly for residential
6 areas.

7 That document is 90 percent done. Stacey
8 Lupton and I were just talking about that. We hope
9 it will be done soon.

10 So that's an agreed upon approach as to
11 how to approach an investigation of residential
12 areas, assessment of lead contamination in the soil
13 in residential areas.

14 There is a difference of opinion about
15 jurisdiction that applies.

16 The state and the EPA believe that CERCLA
17 funds, super fund law applies when you have lead in
18 the soil, regardless of the source; and the military
19 follows the Housing and Urban Development guide, and
20 those tracks don't necessarily meet in

1 nonresidential areas.

2 So there is a difference of opinion about
3 how to investigate or whether to investigate and
4 clean up in other areas.

5 And it's actually in the D.C. arena being
6 discussed on how to resolve that.

7 MS. D'ONOFRIO: I heard today the DOD
8 draft is out on lead-based paint.

9 Do you know anything about that?

10 CO-CHAIR SULLIVAN: I think I may have
11 seen some drafts.

12 MS. JENNIFER SMITH: But, anyway, I don't
13 know where you want me to go with that, Jim.

14 CO-CHAIR SULLIVAN: No, I think that's
15 perfect. I just wanted it for the benefit of the
16 community members.

17 They acknowledged that there is a general
18 consensus on residential, but there is still
19 discussion on nonresidential.

20 And then on asbestos, I don't think there

1 are any issues between DOD and the regulatory
2 agencies, basically, with asbestos, which is a
3 little different than lead-based paint.

4 Basically, the Navy and DOD are following
5 procedures to repair damaged asbestos containing
6 material and to disclose where that material is
7 present at the time of either lease or eventual
8 transfer.

9 Thank you very much.

10 MS. JENNIFER SMITH: You're very welcome.

11 And if you have any further questions, let
12 Francesca know or Chein know, and we will be glad to
13 get the answers back to you.

14 In the meantime, we will get a copy of the
15 statute to you.

16 MR. ONGERTH: It would also be nice to see
17 the policies and procedures document.

18 MS. JENNIFER SMITH: I agree with you
19 completely.

20 (Laughter.)

1 MS. JENNIFER SMITH: Good night,
2 everybody.

3 CO-CHAIR SULLIVAN: The lead-based paint
4 question is still open-ended between DOD and the
5 regulatory agencies.

6 But I did want to at least briefly state,
7 and I will put that into some form of a handout for
8 the future, that, basically for asbestos, asbestos
9 containing material is present in most buildings,
10 except for those probably constructed in the last 20
11 years or so.

12 Here on Treasure Island, we have many
13 buildings from the 1970s and earlier, and one can
14 presume that there is asbestos containing material,
15 principally, tile, floor tile and pipe insulation
16 present in most of these buildings.

17 We are inventorying, we are surveying for
18 asbestos containing material, and where that
19 material is damaged and accessible to the public, we
20 would repair that damage.

1 In some cases, if there is a gouge in some
2 pipe lagging, the most practical thing to do is
3 repair it.

4 In other cases, the material may be so
5 badly damaged that the only reasonable approach is
6 to completely remove it.

7 There may also be some areas where the
8 asbestos containing material is not readily
9 accessible, like in a crawl space, and so there is
10 the option of just signing or otherwise preventing
11 entry to an area where damaged asbestos material may
12 be present.

13 But the primary objective is to prevent
14 public exposure to any damaged asbestos material,
15 and that applies whether it's residential or
16 nonresidential.

17 On the issue of lead-based paint, there is
18 a HUD guideline that's used for government owned
19 housing that we follow, and part of that, elements
20 of that have now gotten into law regarding privately

1 owned housing, but, basically, likewise, we
2 inventory, survey for lead-based paint, and we are
3 proceeding in an abatement project, and that applies
4 to housing, older housing.

5 Even some housing of more recent vintage
6 may have lesser amounts of lead-based paint, but
7 there is a cutoff year of 1960 beyond which we would
8 disclose the presence if it was present.

9 Prior to 1960, we would likely take some
10 abatement action.

11 But either way, it's a step to protect the
12 health of any occupants.

13 And then the issue of lead-based paint in
14 nonresidential structures is still in discussion. I
15 will try to formulate that into some, into a
16 handout.

17 CO-CHAIR NELSON: Laurie, you had a
18 question?

19 MS. GLASS: Jim, you mentioned with
20 respect to asbestos that there might be some crawl

1 space or something where there might be some
2 suspected presence of asbestos.

3 Is there a thought given to the need to
4 use some of these crawl spaces, in other words, some
5 crawl spaces are like never going to be used and
6 other crawl spaces might be important to use to
7 rewire buildings or do stuff like that if the
8 building were going to be demolished?

9 And so the question is, is there some kind
10 of thought given to that relative to the crawl
11 spaces, if it's not in the public area?

12 CO-CHAIR SULLIVAN: You're entirely right.
13 That is something that would have to be taken into
14 consideration.

15 Now, if someone were to continue to own a
16 piece of property, they would probably make an
17 economic decision because you could properly equip
18 someone to go into an area to, say, do plumbing or
19 electrical where there was damaged asbestos
20 material.

1 You could do that, but the cost of doing
2 business would be slightly higher.

3 In the case of transferring the building,
4 it would probably be a joint decision between the
5 person transferring the property and the person
6 receiving it.

7 So far, we haven't run into that. We
8 haven't encountered that situation yet.

9 MR. ALLMAN: Who regulates that? Is that
10 any of the regulators?

11 CO-CHAIR SULLIVAN: Asbestos is regulated,
12 well, I know it's regulated at the federal level
13 under TSCA, and then probably also at the state
14 level, too.

15 MR. ALLMAN: And this sort of thing goes
16 back with the dirty transfer discussion earlier, if
17 it's determined that asbestos is discovered at some
18 point, when they do do some work under the building,
19 since it's not a site that comes under DTSC's
20 control, then is there a mechanism to where the Navy

1 can be called back to clean that up later?

2 CO-CHAIR SULLIVAN: No. I mean, asbestos
3 and lead-based paint, as far as being a part of a
4 structure, is a different situation than soil and
5 groundwater, because, technically, if you have
6 damaged asbestos inside a building, if it hasn't
7 reached the ground, at least as far as CERCLA type
8 law goes, it's actually not a release into the
9 environment, if it's still contained within the
10 structure.

11 Our basic obligation is to repair damaged,
12 in the case of asbestos, is to repair damaged
13 material and to provide a good faith disclosure of
14 where that material may be in the building.

15 In the case of where the material might
16 be, say, inside a wall or might not be otherwise
17 identifiable, all we can do is a best professional
18 effort.

19 But it would be generally understood that
20 someone renovating an older building would just have

1 to be cognizant of where the asbestos containing
2 material might be.

3 Okay. Next item was presentation of a map
4 and schedule for zone FOSLs.

5 Hugo, I think we had the maps in the back.
6 I only had 15 of the custom colorized maps. We are
7 having a meeting with the regulators tomorrow, so
8 there will be additional maps provided with that.

9 (Co-Chair Sullivan passing out a handout.)

10 CO-CHAIR SULLIVAN: Actually, I think the
11 regulators have seen either the black or white or
12 color copies of these already.

13 Okay. We passed out a handout that I put
14 together to briefly describe the four zones, and
15 also the schedule.

16 What we have done is color coded the
17 island into four zones that we're proceeding on the
18 FOSL process for.

19 There's also a fifth zone which is
20 basically kind of a miscellaneous area.

1 And then a sixth area or zone that we
2 don't have any plans to do a finding of suitability
3 to lease at this time.

4 So areas 5 and 6, at this point, are
5 unscheduled. The first four zones, however, we are
6 in the process of actively preparing the FOSLs for
7 these. Our first meeting with the regulators is
8 tomorrow, and then we will be starting to provide
9 the draft FOSLs beginning next month with a new
10 draft, with another draft FOSL each and every month
11 for the next four months.

12 So the first zone is Zone 1. It's
13 basically this area of the island, the southwest
14 corner of the island (indicating).

15 However, it also includes the marina area,
16 but it also includes some nongeographic contiguous
17 areas. These are areas that the city wanted us to
18 be able to lease to them at an earlier stage.

19 So, principally, so basically for
20 scheduling reasons, we put them in Zone 1 rather

1 than in the area that they might be geographically
2 connected to.

3 So these noncontiguous areas include the
4 fire station, what we call fire station number 1,
5 which right now is our only fire station and will be
6 the main fire station for the island.

7 What we call the child development center,
8 which is the child care center.

9 Building 217, which is up here in the
10 corner.

11 Zone 1 is all the blue areas. This is an
12 area that's adjacent to the brig and the sheriff's
13 department has requested this additional building to
14 support, to provide them additional parking and
15 office space to support their jail operations and
16 the brig.

17 The Nimitz Conference Center.

18 And then three buildings, Buildings 96, 99
19 and 260, which are warehouses for warehousing
20 purposes.

1 And then Building 1, the theater, and
2 Building 229, which, at one time, was the enlisted
3 men's club and was generally suitable as a catering
4 facility.

5 So it also includes Building 1.
6 Regardless of whether we do an earlier finding of
7 suitability to license, Building 1 would still be
8 fully included in the Zone 1 FOSL.

9 The draft would be available on the 18th
10 of April and there would be a four-week comment
11 period.

12 Zone 2 is the southeast area of the
13 island, of Treasure Island, and, basically, the
14 purpose of this zone is fill in to complete the
15 FOSLs for this area of the base.

16 Principally, this would be to support the
17 movie studios, although it could be used for other
18 purposes, too.

19 And then that draft would be available in
20 May and comments due in June.

1 And Zone 3 is on Yerba Buena Island. Zone
2 3 includes all of the housing except for the Nimitz
3 House Complex, which we are still working on a
4 separate FOSL for.

5 It excludes, though, the eastern tip of
6 Yerba Buena which includes IR Sites 8 and 11 and the
7 warehouse building at the end of that.

8 It also excludes property that's otherwise
9 being transferred to the Coast Guard as a federal to
10 federal transfer.

11 There is a total of 96 housing units
12 included in Zone 3. That's 96 units, all of them or
13 most of them are multifamilies, so the actual number
14 of buildings is somewhat less than 96. Most of them
15 probably have an average of four units per building.

16 And that draft will be available in June
17 and the comments due in July.

18 And, then, lastly, the Zone 4 is the
19 Treasure Island housing area. That includes a total
20 of 904 units of housing, averaging about six units

1 per building. So there is about 150 buildings on
2 this FOSL zone.

3 We described these, we generally refer to
4 these housing areas in terms of the series that they
5 were built in, which is used in their house numbers,
6 1100, 1200 and 1300 and the 1400 series. And this
7 leads to a note at the very bottom of the page
8 there.

9 The fact that we are evaluating an entire
10 zone doesn't mean that every building and every acre
11 on that zone is going to be leased.

12 What it means is, or I should say, we
13 would find -- it doesn't mean that we are
14 necessarily going to find every building and every
15 acre suitable for lease.

16 The zone is a process for us to go
17 through, and it's possible, particularly where IR or
18 UST sites are involved, that some portions of those
19 zones, both acreage and specific buildings, may not
20 be suitable for lease, or may have different use

1 restrictions.

2 So even within a given zone, you know, so
3 far we have been FOSLing, basically, individual
4 buildings or fairly small amounts, so most of the
5 discussion and the use restrictions apply to the
6 entire area. This case with very large zones, we
7 may find ourselves with varying levels of
8 restrictions on use within the zone.

9 So the zone is just a process, but,
10 ultimately, each acre and each building is going to
11 have to be found to be suitable for that specific
12 use.

13 And then the draft for that is available
14 in July and the comments in August.

15 Karen?

16 MS. MENDELOW: Within the FOSL, there is a
17 section about what is known to be contaminants and
18 all that kind of stuff, or in the FOSL, right?

19 CO-CHAIR SULLIVAN: Yes.

20 MS. MENDELOW: How does that, like, I mean

1 there is an article here in the Chronicle that was
2 handed out. And they are making it seem all rosey
3 and there is all these places here that have
4 contaminated soil.

5 And you're saying those places may be
6 taken out of the lease.

7 CO-CHAIR SULLIVAN: Yes. I saw the
8 article that you're referring to. I think that was
9 just a very broad brush discussion of housing.

10 MS. MENDELOW: I don't understand. In a
11 rental unit, you're not buying these things.

12 Is there disclosure to the residents about
13 what the possible contaminants are? I mean, is the
14 city going to be the landlord?

15 MS. WALTERS: I think that it's a very
16 overambitious statement that Larry probably said
17 about how many units are going to be available
18 within a year, frankly.

19 So, you know, things change, and literally
20 here on a daily basis concerning what's going to be

1 really happening.

2 But I know that I have been working with
3 Jim representing the city, and our concerns about,
4 you know, what rental units would be available and
5 where they are located, you know, what needs to get
6 done, where the environmental contamination is.

7 So, I mean, I know that Jim and I are
8 working on it together, and Larry is very well aware
9 of that.

10 I'm not sure why he said 1100 units,
11 frankly.

12 MS. MENDELOW: Plus the fact that these
13 units are in areas that are seismically unsound.

14 MS. WALTERS: Well, that's something that
15 the city is going to have to address.

16 I can't answer for Larry Florin
17 specifically. I know that I'm dealing with the
18 issues, the environmental cleanup issues. He knows
19 about the seismic concerns.

20 We are just trying to deal with the, if

1 you will, the straight stuff, and I think that it's
2 basically sort of a marketing ploy at this juncture
3 to get people interested in Treasure Island, which
4 is okay, but it's a little overblown.

5 MS. VEDAGIRI: That's a good question,
6 though. Is there a duty to disclose to a renter as
7 opposed to a buyer?

8 MS. WALTERS: Oh, sure.

9 MS. MENDELOW: Yes.

10 CO-CHAIR NELSON: Richard?

11 MR. HANSEN: Presumably, you cannot rent
12 out in good conscience a house where there is an
13 imminent danger, where there is loose, friable
14 asbestos in the floor tile or insulation in the
15 basement, or if there is damaged lead-based paint on
16 the window sills.

17 But will the city contemplate renting them
18 out even if they know there is asbestos in the tile
19 floor which is not presently damaged, but might get
20 damaged two weeks from now when a small child runs

1 his bike over the asbestos?

2 MS. WALTERS: Well, I think you just said
3 it: there will be a disclosure form saying there is
4 asbestos in the building, or whatever the rental
5 unit is going to be.

6 There is only so much, you know --

7 MR. HANSEN: Well, my question is, does
8 the city contemplate renting out the buildings prior
9 to the complete removal of all the asbestos?

10 MS. WALTERS: No, of course not.

11 CO-CHAIR SULLIVAN: What I want to
12 clarify, though, we are not going to completely
13 remove the asbestos containing material.

14 MR. HANSEN: The Navy will not, and you
15 will turn it over to the city in that form where all
16 the damaged asbestos floor tile has been removed by
17 the Navy, but then the undamaged asbestos containing
18 floor tile is still on the floor.

19 Will the city rent that space out?

20 MS. WALTERS: The city is going to take

1 the Navy's information, and if it's identified there
2 is material in there, it will be part of the rental
3 package. It's like with any other place that you're
4 renting out. It's a matter of disclosure, legal
5 disclosure.

6 I don't know what else you're asking. I
7 mean, are you asking, is the city be liable two
8 weeks after?

9 MR. HANSEN: Will the city remove the tile
10 prior to renting it out?

11 MR. VAN WYE: Aren't we perhaps getting a
12 little beyond the scope of the discussion?

13 CO-CHAIR NELSON: I think we are, and I
14 think we will have an opportunity to discuss those
15 buildings and their condition when the FOSLs come
16 up.

17 We do have two that we will be commenting
18 on tonight. I know we are a little over schedule.
19 I'm wondering if people want to take a quick
20 five-minute break and come back and talk about these

1 FOSLs.

2 MS. WALTERS: That's a good idea.

3 CO-CHAIR NELSON: Is that agreeable?

4 MS. WALTERS: Sure.

5 (Short break taken from 8:30 to 8:50 p.m.)

6 CO-CHAIR NELSON: The suggestion has been
7 made either to shorten our discussion on the
8 remaining agenda items or shorten the agenda.

9 And for those RAB members that need to
10 leave, they are invited to leave as the meeting is
11 in progress. We certainly understand the time
12 constraints that the members may have.

13 MR. ALLMAN: Can I make a suggestion? I
14 guess the upcoming report review, that we just skip
15 that without any discussion.

16 CO-CHAIR SULLIVAN: Yes.

17 MR. ALLMAN: That would save us a few
18 minutes.

19 CO-CHAIR NELSON: Yes.

20 Any other suggestions?

1 There are two items on the agenda that the
2 Navy would like our input on tonight, and it's our
3 only opportunity to provide input, and that would be
4 for the FOSLs for Building 1 and 271.

5 So I would propose that those be a higher
6 priority on the agenda and for discussion.

7 Any other suggestions?

8 Should we try to get through as much as we
9 can on those items that we can?

10 MS. WALTERS: Definitely.

11 MR. HANSEN: Patricia, could you speak a
12 little louder? It's a big room.

13 CO-CHAIR NELSON: Did you hear what I
14 said?

15 MR. HANSEN: Just barely.

16 CO-CHAIR NELSON: I will try.

17 So I guess we can proceed with the
18 findings of suitability to license, which is new for
19 us, and the FOSLs for the buildings listed.

20 CO-CHAIR SULLIVAN: Okay. I can make this

1 fairly brief, and I apologize to Pat that there has
2 been some changes in which we may not be licensing
3 out Buildings 1 and 271 quite as quickly, although
4 it will probably occur during the April time frame.

5 I had wanted to come here with more
6 written documentation, but I don't have it yet, and
7 so I wanted to verbally go through it, and I hope to
8 have some additional information at the April
9 interim meeting, and, possibly, it might even extend
10 to the April regular meeting.

11 Finding of suitability to license, this is
12 not really an official term. You won't find that
13 written anywhere.

14 I have been directed by management not to
15 call it a FOSLY. But, basically, there may be
16 times, and this has been acknowledged in
17 discussions, in some of the discussions with the
18 regulators, that there may be a need for the city to
19 use a building or a part of a building, and it
20 really doesn't impact very much, you know, and that

1 we would at least, we would make a good faith
2 evaluation and determine, are there any risks to the
3 use of this structure?

4 I will just jump over to Building 271,
5 which is this building right here, the Casa de la
6 Vista. About a month ago, well, a little over a
7 month ago, the city had indicated that there might
8 be a pressing need to bring a restaurant operator
9 into this building. It turns out that that
10 schedule, it could happen as early as the beginning
11 of the April. It appears now that that will
12 probably be a little later than that.

13 But we did start to look at this building,
14 and that's why we offered the cook's tour of the
15 building at the beginning of the meeting.

16 Basically, I don't feel that there is a
17 lot of issues in this building. It's not on a
18 CERCLA site. We do have some UST sites in the
19 general vicinity, but the levels in the soil and
20 groundwater are not high.

1 In general, this is about the cleanest
2 part of the base. We may be proceeding to license,
3 and a license is basically a short-term lease that
4 we use. We've used it with the movie companies, and
5 so it's possible that we may license this to the
6 city for some period of less than a year, and then
7 eventually that license would turn into a lease.

8 But I don't feel that there are any real
9 significant issues in the use of this structure. We
10 have been continuing to use it for many years.

11 We would, as discussed, if there was
12 damaged asbestos containing material, we would take
13 care of that. We would disclose asbestos containing
14 material and lead-based paint to the city as the
15 potential licensee.

16 I just don't feel that there is a whole
17 lot involved with being able to say this building is
18 suitable to use on a short-term basis, plus the fact
19 that we would still be considering this building and
20 the surrounding area completely within the Zone 1

1 FOSL.

2 So any licensing we do on this building is
3 really only short term, and that eventually we will
4 be covered in the FOSL that will be ready in a
5 couple of months.

6 MS. SIMONS: Could I ask a quick question?

7 I know that when we licensed a few years
8 ago Building 2, I think it was, originally, in order
9 to make a license acceptable, they had pretty
10 conservative, I guess, license restrictions in terms
11 of just automatically assuming, since the FOSL
12 hadn't been done, that you couldn't dig, you
13 couldn't use the groundwater, you couldn't make any
14 changes to the building or anything, just make it
15 very conservative.

16 So that way, if we come back, we could
17 change it later; is that what they wanted to do?

18 CO-CHAIR SULLIVAN: Yes, and, actually,
19 even our restrictions on our leases, finding of
20 suitability to lease so far have been pretty

1 restrictive, really, just the use of the building in
2 an as-is condition with no allowance for doing any
3 site work around the building.

4 And so we would be at least that strict
5 with any short-term license of the building.

6 MR. ALLMAN: So, basically, with these, I
7 mean, we will have the opportunity in a couple of
8 months to look at the FOSL for Zone 1.

9 CO-CHAIR SULLIVAN: Right.

10 MR. ALLMAN: And at that point, if some
11 major discrepancy is found, well, then, will there
12 be something in the license to say if it's
13 determined when the FOSL comes out that there is a
14 problem, then we might automatically revoke your
15 license until we actually clean it up and take care
16 of it?

17 So, basically, this is an end-all license
18 that could be pulled in the next couple of months.

19 CO-CHAIR SULLIVAN: Basically, the finding
20 of suitability to license is a real informal

1 process, and it's basically incumbent on us as the
2 Navy to, you know, to make sure that what we are
3 allowing somebody to occupy is in a safe condition,
4 environmentally wise, and if we further down the
5 road in the FOSL process, if we did find that there
6 was an identifiable risk associated with the
7 building, maybe if we were using a risk scenario of
8 several years or something like that, then that
9 might cause us to have to, you know, go in and take
10 some remedial action, or to maybe otherwise restrict
11 the use of the building.

12 But, you know, we wouldn't expect in a
13 building like this, on this part of the base, at
14 some point, we make a subjective judgment.

15 We wouldn't expect that this area would be
16 a concern, especially since we will have the benefit
17 of the basewide environmental baseline survey.

18 So we have the benefit of having a lot of
19 the data. It's just that, due to time constraints,
20 we may not be able to get through the entire FOSL

1 process prior to allowing some limited occupancy of
2 the building.

3 MR. ALLMAN: So because this is less
4 formal, there is no, like we usually see FOSLs that
5 are documents that state what's there and all the
6 conditions.

7 In this one, you, basically, will have an
8 agreement with them saying that they can't do the
9 normal terms of the lease.

10 CO-CHAIR SULLIVAN: Well, basically what
11 the Navy needs to do is to be able to document that
12 we follow reasonable process, that, you know, some
13 were ranging from a page to a couple of pages, or
14 however much information, and then I would expect to
15 append the environmental baseline survey, the parcel
16 description that's in the environmental survey. I
17 would pull out the applicable portion.

18 So it's really just a way to document that
19 we have made a reasonable decision to allow the use
20 of this building, which we, ourselves, have used.

1 MR. ALLMAN: So are we commenting on that
2 process?

3 CO-CHAIR SULLIVAN: No, no.

4 Basically, I hope to actually bring in
5 more documentation.

6 MR. ALLMAN: Okay.

7 CO-CHAIR SULLIVAN: And I hope to bring
8 that to the interim meeting.

9 It turns out that the urgency to license
10 this building is not quite as urgent as it first
11 sounded.

12 MR. HANSEN: Jim, are you saying that you
13 are going to do that unilaterally, and, as a
14 courtesy, you are just going to give that to us to
15 take a look at it?

16 CO-CHAIR SULLIVAN: Basically. I don't
17 think we really have, we don't really have, even
18 with the regulators, a real defined process for very
19 short-term uses of buildings.

20 MS. DALE SMITH: How short-term is "very

1 short-term"?

2 CO-CHAIR SULLIVAN: Actually, that's a
3 good question.

4 There is no specific answer, and I think
5 the fact that we were already embarking on a finding
6 of suitability to lease that was really going to
7 lead us to a FOSL in the next, you know, less than
8 three months, gives us more confidence of being able
9 to do this, take the short-term action.

10 If we weren't going to have a full FOSL
11 done for a year or two or something, then maybe this
12 process of licensing the building, we would have to
13 spend a lot more time on it.

14 MS. DALE SMITH: You originally licensed
15 Building 3 -- I think it was Building 3 -- and 180.

16 CO-CHAIR SULLIVAN: Yes.

17 MS. DALE SMITH: Without any kind of FOSL
18 whatsoever.

19 There were two studios there for, I
20 forget, one was six months, and one was eight or

1 nine months.

2 CO-CHAIR SULLIVAN: Well, actually, we
3 licensed Building 2 and 180. Those were the first
4 two, and we did do that without a FOSL.

5 MS. DALE SMITH: And then you came back
6 around to the problems.

7 CO-CHAIR SULLIVAN: And we actually did
8 get a letter of concern from the state.

9 And as a result, we did do, or we were
10 substantially complete with the FOSL for Building 3
11 before actual use started in that building.

12 MS. DALE SMITH: Are we going to follow
13 that process with this building also?

14 CO-CHAIR SULLIVAN: Well, we are going to
15 document the decision so that we can show that we
16 have made some good faith evaluation of the building
17 prior to usage of it.

18 So this finding of suitability to license,
19 and basically just documenting our decision.

20 MR. HEHN: Can you tell us what those good

1 faith efforts will be or have been?

2 CO-CHAIR SULLIVAN: Well, it's been an
3 evaluation of the parcel information and the
4 environmental baseline survey, as well as an
5 inspection for asbestos containing material in the
6 building, and, where necessary, some repairs, and
7 that's basically it.

8 MR. HEHN: Is there a risk evaluation?

9 CO-CHAIR SULLIVAN: If there was a
10 significant UST site, say, right outside the door of
11 the building, and if we felt that there was some
12 potential that there could be some potential air
13 problem, then it would be incumbent on us to go
14 further.

15 So it really depends on the location. Not
16 only the duration of the short term of use, but also
17 the location of the building. I mean, no matter how
18 short the use, we would probably, for example, if
19 somebody wanted to license to sit in the middle of
20 the old fire fighting school, no matter how short

1 the usage, we would probably not want to allow that.

2 MS. SIMONS: Definitely.

3 MR. HANSEN: As part of that evaluation or
4 the FOSL, I mean, this is years since 1942, did you
5 also look at the previous uses of the building or
6 anything else that might be impacted by that?

7 CO-CHAIR SULLIVAN: The EBS, well, the
8 basewide EBS looked at prior uses of the site. That
9 was part of that process.

10 MR. HEHN: So that would have been
11 something that would have been established in that
12 EBS?

13 CO-CHAIR SULLIVAN: Yes.

14 MR. HEHN: One of the things I was
15 wondering about, as we did this cook's tour, there
16 is kind of a room back there that has sort of
17 ventilated doors that looked like at one time it
18 could have been an electrical equipment room and
19 it's now just storage. Is that something that shows
20 up in the EBS? I don't recall.

1 CO-CHAIR SULLIVAN: For the parcel, for
2 the basewide EBS, it might not have looked to that
3 detail, but we would be looking closer in the
4 finding of suitability to lease.

5 MR. HEHN: Okay. So if you get to the
6 license, there wouldn't be any kind of building
7 modifications at that point until you got to the
8 FOSL process.

9 CO-CHAIR SULLIVAN: Yes.

10 And even in the FOSL, so far in all of our
11 FOSLs, all of our findings of suitability to lease,
12 there have included restrictions that no
13 modifications to the building can take place without
14 Navy concurrence.

15 And, actually, that would probably extend,
16 no matter what the environmental condition is, as
17 long as we are still the owners of the building.
18 Even if there were zero environmental concerns, for
19 just basic building management, we, as the landlord,
20 would probably need to approve any modifications to

1 the building, until the point that the deed to the
2 building is actually transferred.

3 CO-CHAIR NELSON: Richard?

4 MR. HANSEN: Jim, if this hypothetical
5 restaurant were established here, say, six months
6 from now, hypothetically, and presuming by that time
7 the City of San Francisco would be running the fire
8 department, and the fire inspector would come out
9 and say, "You need a fire sprinkler," or whatever
10 they need, and the city's health department would
11 inspect the kitchen to be sure it was free from
12 termites, and you had all those normal city controls
13 as part of the City of San Francisco, but,
14 meanwhile, one might liken -- and, Harlan, I would
15 appreciate your comment on this -- one might liken
16 Treasure Island to be, it's not exactly like a Value
17 Jet airplane, but it's kind of like a ship that has
18 a slight leak in it because of the seismic problems.

19 Does anybody step up and say, "Yes, but
20 it's not a real sound base," because we all heard

1 all the seismic reports and all the dangers and the
2 causeway floating, and all these things, but is this
3 a safe place to have a public restaurant for future
4 use?

5 CO-CHAIR SULLIVAN: Well, as far as the
6 finding of suitability to lease, and perhaps -- and
7 maybe for the same reason I started calling the RAB
8 originally, and I've kept, to this date, calling it
9 the Environmental Restoration Advisory Board, the
10 finding of suitability to lease or transfer is
11 strictly an environmental suitability, and using
12 "environmental" in the sense of chemical hazards, it
13 doesn't address at all any issues, any OSHA type
14 issues, or any Building Code type issues, so that's
15 totally outside the realm of either a FOSL or a
16 FOST.

17 Now, the city or any other entity who is
18 leasing or accepting a building, that's another
19 whole consideration that they would have to, they
20 and their lawyers would have to take into account.

1 MR. HANSEN: I'm very satisfied with that
2 response, but suppose the new restaurateur would
3 like to have a little playground outside of this
4 window so that the children can play, and we knew
5 that that soil was contaminated.

6 At that point the RAB should say, "No, no,
7 we don't think you should do that because the kids
8 might eat the dirt outside the restaurant."

9 CO-CHAIR SULLIVAN: Well, it would be part
10 of our lease restriction if we had an indication
11 that the soil may be contaminated and that it
12 couldn't be used for playground type activities, and
13 then we would have to enforce that lease restriction
14 over the period of the lease.

15 MR. VAN WYE: I think what one would have
16 to do is sort of put in the lease restriction the
17 requirement that when the waiter comes up, that they
18 remind them to put the tray tables and seat backs in
19 an upright configuration, so that in case of an
20 earthquake, the seating can be used as a flotation

1 device.

2 I'm not sure I know all the answers.

3 Again, I think we are trying to micro hypothesize
4 well beyond perhaps what we are here to do.

5 CO-CHAIR NELSON: One more question and
6 then I'm going to exercise the right to get the
7 agenda moving.

8 MR. ALLMAN: Although it's
9 uncharacteristic of me following a less formal Bob's
10 Rules of Order, I would like to suggest that, since
11 these things, we don't have anything to look at or
12 comment on until the interim meeting, that anybody
13 that's interested in these licensing agreements go
14 to the interim meeting and discuss it then.

15 And, then, since 1400 housing area, around
16 1400 area housing is going to be commented on also
17 in April, we don't have to make a decision now, and
18 we also table that until the next meeting if nothing
19 is going to be done before then, so that we can sort
20 of move along with the agenda.

1 Second the suggestion?

2 MS. WALTERS: Absolutely. This is a
3 comment.

4 I just wanted to address some of your
5 concerns and, hopefully, allay some of your
6 concerns, Richard.

7 The City of San Francisco is in the
8 process of hiring a property management company to
9 oversee the management of the property here, and I
10 know that they're just not only looking at
11 environmental issues of building codes, OSHA, but
12 the whole gamut, so I really do believe that those
13 issues will be addressed satisfactorily.

14 CO-CHAIR NELSON: Thank you.

15 MS. DALE SMITH: Can I just ask a quicky:
16 Did we receive a document on the housing?

17 CO-CHAIR SULLIVAN: No, but you will. And
18 I have a schedule for that.

19 MS. DALE SMITH: Okay.

20 MR. ALLMAN: Time for a break?

1 (Laughter.)

2 CO-CHAIR NELSON: I need everybody to help
3 me on the agenda.

4 With that segue into the schedule, Jim, do
5 you want to distribute that?

6 CO-CHAIR SULLIVAN: Well, we are seguing
7 into the discussion of the process.

8 CO-CHAIR NELSON: Yes. We are doing two
9 things at once. We're getting a schedule for
10 reports upcoming.

11 CO-CHAIR SULLIVAN: Actually, the
12 schedule, without, hopefully, confusing things, I
13 actually have a separate schedule for reports, but
14 then some of the same reports that are germane to
15 the remedial investigation report, those schedules
16 are repeated in other documents, but I have one
17 general schedule document and then one that just
18 addresses the RI related reports.

19 CO-CHAIR NELSON: I know that you had a
20 schedule that identified the FOSLs, which you had

1 given us.

2 Is that what you wanted?

3 MS. GLASS: While we are talking about
4 schedule issues, is there any interest, and you may
5 have already discussed this, not having the April
6 meeting on April 15th but on the following?

7 CO-CHAIR SULLIVAN: Actually, we discussed
8 this.

9 MS. GLASS: You did discuss it?

10 CO-CHAIR SULLIVAN: Yes.

11 MR. THOMPSON: You have two hours after
12 the meeting to get to the post office.

13 MR. ALLMAN: Get the automatic extension.
14 Don't worry about it.

15 MR. VAN WYE: Yes, get the automatic
16 extension or do it beforehand.

17 (Laughter.)

18 CO-CHAIR SULLIVAN: What we handed out was
19 the overall upcoming document schedules, and even
20 the two-page agenda has gotten so full now, I can't

1 cram into the schedule all the documents.

2 So at least for tonight, I have made it a
3 separate document. I guess we will have to reach
4 the big decision at some point as to whether the
5 agenda goes beyond two pages or not.

6 Upcoming document schedules, I will just
7 real quickly go down the list. Some of these are
8 related to the remediation investigation report.

9 The very first document, which is
10 available later this week, is the additional site
11 investigation for Sites, IR Sites 12 and 17.

12 And then followed next week by groundwater
13 monitoring results.

14 And then in the beginning of April by the
15 TPH toxicity testing.

16 Then is the first draft on the suitability
17 to license for the 1400 series housing, the 104
18 units of the 1400 series.

19 Now, because it was housing, we are taking
20 a little more formal process towards this finding of

1 suitability to license. And that's where we are.

2 We will come out with a report.

3 The time period for comment, though, is
4 only one week, due to the desire or request by the
5 city to have the housing potentially available at
6 the beginning of May.

7 Whether someone actually starts occupying
8 it or not at the beginning of May, we don't know
9 yet, but we made a commitment to make it available,
10 environmental wise.

11 It's actually 200 units, and we are
12 looking at the 104 units that are as far south of IR
13 Site 12 as you can get, and, basically, this is the
14 104 units that are south of the auto hobby site,
15 which is IR Site 20, but they are bordered on their
16 south by clean parcels.

17 So it would be considered the cleaner area
18 of housing would be these 104 units.

19 Then other suitabilities to license, the
20 schedule for that is informal and ad hoc.

1 Then the revised RI recommendations in
2 April.

3 And the beginning of barrage of zone
4 FOSLs, in April, May, June, and July.

5 And then we expect to have the draft
6 Corrective Action Plan in July, and then followed by
7 the draft final RI report.

8 Some of the RI documents have 60-day
9 comment periods.

10 Yes, John?

11 MR. ALLMAN: Is it going to be possible to
12 get, even though the draft 104 units, I mean, this
13 is one thing that I just asked to be put off until
14 April, but how can we discuss the April meeting that
15 occurs the day after the comments are due?

16 Is it possible to get a draft of the draft
17 available at the interim meeting?

18 CO-CHAIR SULLIVAN: I think the draft
19 could be sent to people -- well, of course, it could
20 be sent to anybody. I do have a sign-up sheet. I

1 mean, it would be sent to anybody who wanted it at
2 the time it's available.

3 And, actually, that 14 April, I think, I
4 can certainly make that 15 April. I didn't notice
5 that when we sent the comments.

6 MR. ALLMAN: Could it be available a week
7 earlier than the 8th?

8 CO-CHAIR SULLIVAN: No.

9 MR. ALLMAN: I mean, to discuss it at the
10 interim, at least, as a partial group?

11 CO-CHAIR SULLIVAN: It's too tight.

12 I may have the benefit of -- I will
13 probably have at least some information that comes
14 out of our meeting with the regulators tomorrow that
15 I can share at the 1 April meeting, but there is no
16 way you could have a draft of the document available
17 a week earlier.

18 MR. ALLMAN: It's kind of hard, because we
19 are getting a document to review and return between
20 meetings.

1 CO-CHAIR SULLIVAN: I realize that.

2 And, again, because this is a license
3 rather than a lease, we are trying to accommodate
4 the city that we are not always, as much as we can,
5 I have been trying to keep a 30-day comment period
6 to be within the window of regular meetings, but
7 that's just not always the case, especially with the
8 short term actions.

9 Now, these same 104 units will all still
10 be covered in the Zone 4 FOSL, which will have a
11 30-day comment period, so we are not going to use
12 the license to eliminate the need for a full FOSL.

13 CO-CHAIR NELSON: Jim, do you know when
14 the ROD, the draft ROD is going to be prepared?

15 Somewhere I recall that being September of
16 this year and that happens to also coincide with the
17 draft final RI report.

18 But maybe I got the years wrong.

19 CO-CHAIR SULLIVAN: Well, the schedule,
20 however the schedule changes for the RI, the

1 schedule for the FS and ROD, we would have to change
2 with it, because they are all in sync with each
3 other.

4 So I don't know if we have a revised
5 schedule yet for the ROD.

6 CO-CHAIR NELSON: Can we make that an
7 action item? Can you report back either at the
8 interim meeting or the next meeting when the draft
9 ROD will be issued?

10 MS. LUPTON: There is a new schedule that
11 we got tonight.

12 Figure 5-1, and in there, it lists a new
13 schedule based on a new RI report.

14 And in there, there is a ROD date. I
15 don't know what that is, or draft date.

16 CO-CHAIR SULLIVAN: But I think, in answer
17 to any concerns, if the RI date changes, then the FS
18 and the ROD have to change.

19 We couldn't be at a point where we're just
20 finishing the RI, and then be out with the ROD,

1 because there has to be sufficient time.

2 CO-CHAIR NELSON: It appears, looking at
3 this figure of 5-1, that the ROD would be issued in
4 March of '98. Does that sound right?

5 MR. ALLMAN: Basically, six months after
6 the RI.

7 CO-CHAIR NELSON: That's helpful.

8 Well, the next item on the agenda is the
9 discussion of the process for resolving the RI
10 comments that the RAB had provided two months ago.

11 I think at the last meeting, the Navy had
12 proposed a series of meetings to discuss various
13 topics. And the RAB had committed to discussing
14 that a little more fully at the interim meeting,
15 which we did, and the Navy was going to draft, as
16 part of that, some ground rules for those meetings.

17 So we have a schedule of proposed meetings
18 and ground rules.

19 However, Paul and I would like to report
20 on what happened at the interim meeting and the

1 subsequent meeting that we had with DTSC.

2 At the interim meeting, we were going to
3 think of a process by which we could somehow
4 organize the comments into discrete topics to
5 discuss with the Navy.

6 And we had thought that it might be useful
7 to go through the exercise and find a commonality
8 between the RAB comments and the agency comments,
9 and then in the interests of time, reduce the
10 meetings to those subject areas that were not common
11 between the regulatory agency and the RAB comments.

12 I think the Navy was going to go back and
13 try to correlate the agency comments, the RAB
14 comments.

15 Individual members on the technical
16 committee had gone through that exercise and then
17 met the following week with Chein at DTSC offices.

18 What we decided is that the comments
19 literally are different in text, but they are trying
20 to get at the same issue.

1 So we decided that it probably isn't
2 worthwhile to discuss those comments that are not
3 common because the points that, I guess, all parties
4 were trying to make kind of lead down one path or
5 two, actually.

6 So we rather abandoned that idea at the
7 last meeting with DTSC, and thought that as an
8 alternate to that method was to respectfully request
9 that the RAB comments be responded to in writing as
10 the agency comments would be and have the comments
11 at the other RABs. The Hunter's Point RAB comments
12 had apparently been responded to in writing by the
13 Navy.

14 And then to have meetings with the Navy
15 and their consultant to talk about these, the common
16 threads through these comments. And those common
17 threads we determined were just three or four.

18 The first issue was one of the data
19 validity. We found that what we were really trying
20 to get at in our comments is that we don't believe

1 there is enough valid soil and groundwater data from
2 the field work from which the IR sites can be
3 characterized.

4 And we actually entered into constructive
5 dialogue as to how to use the data that does exist
6 to get to the next step, which is characterizing the
7 different IR sites on the island.

8 And as an example, we would propose that
9 as a topic area to discuss with the Navy and their
10 consultant, and also enter into again constructive
11 dialogue as to how best to use the data that does
12 exist and determine what needs to happen from there
13 on out.

14 I guess I would like to have the RAB
15 consider that and maybe enter into some discussion,
16 if that would be a worthwhile approach.

17 It would be helpful, certainly, before
18 entering into these meetings with the Navy to have
19 some written comments on those that we have
20 submitted thus far, recognizing that there are going

1 to be four new chapters of the RI that we will be
2 reviewing in the subsequent months.

3 So we also need to put some boundaries
4 around a time frame in which this work is performed
5 by the RAB to review those documents and some
6 indication from the Navy as to what it considers the
7 closure of the comment period.

8 For instance, if these four chapters were
9 opened for comment, are our reviews restricted to
10 those four chapters or would the Navy also accept
11 additional comments on the chapters that were issued
12 last October?

13 So we need some boundaries around that,
14 but we thought we could elicit tonight.

15 John?

16 MR. ALLMAN: Yes. I think that as far as
17 whether we would comment on other areas of the RI, I
18 mean, if we are changing the ground rules for how
19 the comments are going to be made, I think that's
20 going to affect the amount of commenting that will

1 be done.

2 In other words, in the past, it seemed
3 like some of the comments go into the Navy and then
4 we might get a verbal response or presentation on
5 it, but I think that sort of affects the way that
6 people will comment on the document. If they feel
7 like their comments are going to be taken a little
8 more seriously, or I don't know what the word I
9 would use for that, certifiable, or something like
10 that, they might be tending to comment more than
11 they might otherwise.

12 So I think that it should be left open to
13 the whole RI, if we do change the rules on how to
14 respond to those.

15 CO-CHAIR NELSON: Okay.

16 MR. HEHN: Pat?

17 CO-CHAIR NELSON: Yes.

18 MR. HEHN: I think the other thing is that
19 if we are going to go back in and try to incorporate
20 the additional information that's being generated by

1 the groundwater modeling results, that sort of
2 throws out how that affects all of the sites at that
3 point. We haven't seen the results yet of how they
4 will be presented.

5 But it seems like that would bring up the
6 question of how those all interact. So that would
7 be an issue of bringing up any other previous RI
8 investigation.

9 So it seems like we have to go back to the
10 entire report.

11 CO-CHAIR NELSON: Other comments?

12 MS. VEDAGIRI: I have a question.

13 We had a 60-day, well, it was extended to
14 90 days comment period on that, but that was
15 essentially an incomplete document.

16 Does that same 60-day review period apply
17 to all the chapters?

18 CO-CHAIR SULLIVAN: Well, any additional
19 documentation that's provided that wasn't otherwise
20 provided in the RI, in the original RI, like this

1 additional investigation of Sites 12 and 17, we are
2 mandated to provide to the regulatory agency, 60
3 days, because it's a new document. And so we are,
4 likewise, provided the same amount of time to the
5 community members.

6 And then once you move to a draft final
7 document of any type, then the time period is
8 reduced to 30 days because you have already gone
9 through a 60-day period.

10 MR. ALLMAN: So does that basically say,
11 then, by the draft final stage, then the whole thing
12 is open?

13 I mean, if a section wasn't changed and it
14 shows up in the final draft, the draft final, then
15 anything in the draft final can also be commented on
16 in 30 days.

17 So, essentially, you're saying that all
18 those areas can be commented on at least at some
19 point in the process.

20 CO-CHAIR SULLIVAN: Yes. Well, you would

1 comment on the draft final report in order for it to
2 go to final.

3 MS. SIMONS: Usually, though, if you
4 didn't comment on something in the draft, then, I
5 mean, I guess you could comment on it in the draft
6 final.

7 But, usually, we have the protocol of
8 commenting on it when you first see it. It hasn't
9 changed.

10 MR. ALLMAN: Plus, we are making our own
11 rules here, too, right, as far as the regulator
12 comments.

13 I mean, obviously, we are trying to set up
14 a whole new set of rules for the RAB comments.

15 CO-CHAIR SULLIVAN: Well, we are trying to
16 set up procedures since we have a legal mandated
17 procedure with the regulatory agencies, but there
18 isn't a legal procedure with the RAB.

19 MR. ONGERTH: I'm sympathetic to Rachel's
20 statement there.

1 Certainly, if you had a go at it in a
2 preliminary form and you didn't bother to look at
3 it, or you missed it, it gets pretty dubious whether
4 you're going to wait for the final and then make
5 your comments.

6 It's a problem, but I think with all due
7 respect to the problems of the people who are
8 administering this, you would be sympathetic to
9 their hope that the comments would be on the latest
10 material that you were seeing, not something you had
11 seen before, if I make myself clear.

12 MR. HEHN: Unless some of the new data
13 that's been presented, for instance, like the
14 groundwater modeling --

15 MR. ONGERTH: If it's new, yes, certainly.

16 MR. HEHN: Yes.

17 MR. VAN WYE: In these RI documents, does
18 area 27 come into play? In fact, I thought we were
19 going to have a discussion on that.

20 CO-CHAIR SULLIVAN: No, because this is

1 strictly -- and I apologize for not, when we just
2 had one RI, we didn't have to distinguish it.

3 But now, in fact, we really have two RIs.
4 This could be called the onshore remedial
5 investigation report, only the onshore sites.

6 And now we are going to have a separate
7 offshore remedial investigation report for which we
8 haven't even issued the draft yet.

9 So the offshore report would consist of
10 Site 13, which is the storm water outfalls around TI
11 and YBI, and Site 27, which is the skeet range.

12 We are taking or doing sampling now, so
13 the draft RI for the offshore sites is due
14 approximately when?

15 MR. GALANG: December.

16 CO-CHAIR SULLIVAN: December.

17 So really we are, the two RIs are going to
18 remain on separate schedules.

19 In fact, we'll have separate RODS. They
20 will never, probably they will never be married back

1 up together again.

2 In fact, we were somewhat in a little
3 anomaly here in TI, that, at many other sites, you
4 have multiple, operable units, like Hunter's Point,
5 who, I think, there is five or six all moving at
6 different schedules.

7 Until recently, we kept everything moving
8 up on one schedule. We finally had to split off the
9 offshore from the onshore.

10 MR. VAN WYE: Will BCDC be involved in the
11 offshore?

12 CO-CHAIR SULLIVAN: They do receive some
13 documents.

14 To the extent that it's really not a
15 development type issue, I'm not sure that they play
16 a big role.

17 MR. VAN WYE: No. They have a
18 conservation there, too.

19 CO-CHAIR SULLIVAN: But, actually, there
20 is quite a number of regulatory agencies that are

1 involved in some aspects of the program, like NOAA,
2 Fish and Wildlife and Fish and Game.

3 CO-CHAIR NELSON: Is there any more
4 discussion on the RI process?

5 Paul?

6 MR. HEHN: I just wanted to make a comment
7 on sort of the reason why we would like to get
8 comments from the Navy based on our input.

9 Prior to going into these discussions
10 about the RI process and the report, it would be
11 very beneficial if we knew sort of how they stood on
12 various issues that we brought up.

13 Rather than just coming in and throwing
14 things out on the table, that gives us a starting
15 point to know what things we really need to discuss
16 where our differences are, where our similarities
17 are.

18 Maybe we are very close in a lot of
19 issues, but, at this point, we don't have any idea.
20 We don't have a response. So by having a written

1 response, we do have a starting point to work from.

2 I would really strongly recommend that
3 that be done so that we now have a basis for our
4 discussions.

5 And I think that the RAB and the members
6 of the technical subcommittee are very willing and
7 able to bring in constructive comments to try to
8 make that process move forward, but I think that
9 it's helpful to have that basis from which we work.

10 So I would really strongly recommend that
11 we get those, if that's at all possible, and prior
12 to our first meeting.

13 And I don't know, Pat, do you want to
14 cover those other areas that we had as far as our
15 discussion issues?

16 CO-CHAIR NELSON: I do, but I would kind
17 of like to reach closure on the process here before
18 we do.

19 Karen?

20 MS. MENDELOW: I would like to recommend

1 that if the Navy is willing to do it, it would be
2 very interesting and a good policy to have some
3 response, because I feel that we are spending a lot
4 of time reviewing these things, and it would be
5 having someone actually read it and respond to it.

6 It would really make sure that somebody
7 was actually paying attention to the comments.

8 CO-CHAIR NELSON: In responding, you mean
9 written response?

10 MS. MENDELOW: Yes.

11 MR. ALLMAN: Can we just, then, I mean, at
12 this stage, we have our next, the first discussion
13 would be the week after our next . . .

14 CO-CHAIR NELSON: We are not into the
15 discussion meetings yet in terms of scheduling.

16 MR. ALLMAN: But when you ask us, do we
17 have any more comments on the RI process, does that
18 say that, do we have questions about this draft
19 thing or is there going to be more discussion on it
20 at the next meeting?

1 CO-CHAIR NELSON: Well, I guess I had
2 thought I brought up two points.

3 One is at our meetings, we determine that
4 we would like a written response from the Navy on
5 our comments, so that item is out for discussion.

6 The other item that's out for discussion,
7 and I haven't heard any closure around is, what does
8 the schedule need for reviewing the additional
9 components for the RI?

10 Does that mean that we can also comment on
11 areas that we have before, and probably areas that
12 may be a necessity because we're getting things like
13 groundwater whirl and some additional information
14 for Sites 12 and 17 that we didn't have before?

15 So we would need to go back and review and
16 add to comments on at least Sites 12 and 17, if not
17 all of the sites, and have the groundwater model as
18 applied in those areas.

19 So those were the two items I had out for
20 discussion.

1 If it's the pleasure of the RAB to request
2 written responses, then we need to find out from the
3 Navy when those responses would be available to us
4 and schedule subsequent meetings.

5 And as a topical area, certainly the data
6 validity is an item that the technical committee is
7 willing to discuss, as well as the different random
8 and nonrandom sampling techniques and the human
9 health risk assessment. Those were the other
10 topical areas.

11 But rather than talk about the content of
12 these, I want to be clear on the procedure.

13 If we are going to request written
14 responses and give Jim and Ernie a chance to respond
15 to that and then find out what the schedule is, and
16 then subsequent to that, we can set our meeting
17 schedule for these topical areas.

18 And the ground rules, I really kind of
19 think the ground rules and the topical areas are
20 something that can be discussed at the next interim

1 meeting.

2 But, anyway, let's reach closure on those
3 first two items, if we can.

4 MR. HEHN: I would like to make a motion,
5 then, that we, as a RAB, if we so desire, that we
6 request written comments from the Navy on our
7 technical comments on the RI report.

8 CO-CHAIR NELSON: And I would guess I
9 would like to modify that, if I may, just to add:

10 If written comments are not something the
11 Navy can agree to, that they write the RAB a letter
12 indicating that they will not be responding to our
13 comments in writing, and the reasons for that, since
14 precedent currently seems to have been set at
15 Hunter's Point, which was a point brought out by
16 another RAB member.

17 MS. MENDELOW: Second.

18 CO-CHAIR SULLIVAN: Well, let me clarify
19 where we are.

20 CO-CHAIR NELSON: We do have a second.

1 MS. DALE SMITH: Paul, is that amendment
2 okay?

3 MR. HEHN: That's fine with me.

4 MS. LUPTON: Hunter's Point, I think there
5 is some confusion.

6 And, Martha, I know you have been at the
7 meetings.

8 What has been responded to in writing,
9 point by point, at Hunter's Point, is part of the
10 responsive summary to the proposed plan. It's part
11 of the legal requirements. It's way outside of the
12 RI.

13 There is no legal requirement to respond
14 in writing to the public comment on the RI.

15 When you have an FS and a proposed plan,
16 then you have an entire public participation
17 process. You go out and propose to the public. You
18 have a formal 60-day comment period, public meeting,
19 and they are responding to in comments. The
20 comments are responded to in writing and a

1 responsive summary.

2 That's what you're hearing about at
3 Hunter's Point.

4 MR. HEHN: I guess that's all very well
5 and good, however, I think the motion still stands,
6 and I still would like to get a response.

7 CO-CHAIR SULLIVAN: Can I ask a
8 clarification to the motion?

9 Is the motion to ask for a response to the
10 comments, a written response to the comments,
11 period, or a written response to the comments prior
12 to the discussion meeting?

13 MR. HEHN: Prior to the discussion meeting
14 so that we have a basis on which to base our
15 discussion.

16 CO-CHAIR NELSON: Thank you for that
17 clarification.

18 Any second as the motion stands modified?

19 MS. DALE SMITH: No. Karen seconded it.

20 MS. MENDELOW: I second it.

1 CO-CHAIR NELSON: Further discussion?

2 Thank you.

3 MR. HEHN: Shall we vote?

4 CO-CHAIR NELSON: All those in favor? All
5 Opposed?

6 Motion carried.

7 CO-CHAIR SULLIVAN: Well, can I respond,
8 then?

9 I understand what you're saying, and I
10 understand the need for it.

11 Our original idea was that we would make a
12 presentation at the discussion meeting, so we would
13 prepare that presentation and kick off the meeting
14 with that to, hopefully, clarify our position and
15 maybe even answer some of the questions as part of
16 that presentation.

17 But what I understand is, your need to
18 have something ahead of the meeting.

19 Now, whether or not we could do a complete
20 written response to all of the comments prior to any

1 discussion meeting, I think we were kind of relying,
2 in part, on the discussion meetings and the
3 interchange to help us formulate our ultimate
4 responses.

5 So I would propose that we could prepare
6 some things, some partial responses ahead of the
7 discussion meeting, but that we wouldn't necessarily
8 be able to do a complete response prior to even
9 having the discussion.

10 MR. ALLMAN: Would you, though, then be
11 willing to, after the discussion, to then make a
12 final set of comments?

13 CO-CHAIR NELSON: In writing.

14 MR. ALLMAN: In writing, which would then
15 be able to go to the administrative record?

16 CO-CHAIR SULLIVAN: And that was actually
17 our, that's what we discussed, actually, a couple of
18 meetings, or a meeting or two ago, that we did have
19 an intent to make a written response to the
20 community members' comments, and we somewhat had a

1 model for that back in the RI work plan comments
2 where we did have a letter.

3 Whether or not it would be exactly the
4 same type of response format as with the regulators,
5 where we do have to go, you know, exactly question
6 by question, blow by blow, or whether or not it
7 would address some issues on a broader basis, but
8 also address some questions on a specific basis, I
9 couldn't necessarily make a commitment that we would
10 address each and every question separately.

11 But I did feel that we could say that we
12 could address the issues, some of which or many of
13 which would be addressed individually.

14 CO-CHAIR NELSON: I guess our expectation
15 and discussion is that each of our comments would be
16 responded to in writing.

17 CO-CHAIR SULLIVAN: Yes.

18 CO-CHAIR NELSON: Generally and
19 specifically, not a discussion of the issues that
20 responds to issues that may have been brought up by

1 our comments.

2 I don't know that I'm making that part
3 clear.

4 MR. ALLMAN: I see a distinction, too,
5 with what you're saying, because as far as, like,
6 the fourth point on the Navy draft for the ground
7 rules of placing the comments in the administrative
8 record, because I think it's a general feeling that
9 we want our comments to be included to make sure
10 that they are addressed, just like -- because our
11 assumption is that, when we go to the trouble of
12 reading these things, that our comments are being
13 used to make the final decision for the cleanup.

14 And, then, typically, the comments that
15 the regulators put in, they get responded to, those
16 get incorporated into what's going to be used for
17 making the final decision, which has to be
18 maintained, and I think that's an important issue,
19 too.

20 CO-CHAIR NELSON: Yes.

1 I think we need to be clear of what our
2 expectation is, that you respond to our comments in
3 writing. That assumes you are going to go point by
4 point as you would with an agency set of comments.

5 So if you're asking if you wanted to
6 provide responses to our comments in general terms
7 prior to a meeting to discuss the issues in more
8 detail so you could respond a second time in
9 writing, revising the first responses, it might be
10 better, then, rather than doing that, just to write
11 us a list of questions what isn't clear in our
12 comments so that we can give you that feedback
13 without spending a lot of meeting time.

14 One of the things we are trying to address
15 in our process here, we have four documents coming
16 up to review for the RI, so we are going to be
17 meeting as a technical RAB committee to review those
18 documents.

19 We will not have excess time to have
20 interim meetings with the Navy or its consultants to

1 clarify the comments that we had submitted in
2 January. That's just the way it is.

3 MR. ALLMAN: Where Jennifer Smith from
4 DTSC in Sacramento was saying earlier, she doesn't
5 get paid enough to worry about it, she's basically
6 paid to worry about the regulations that apply to
7 environmental risk at a certain site.

8 My impression the reason the RABs were
9 formed was to give another viewpoint from the
10 community, which is, I don't think the comments we
11 put in, the ones I read, are so off the wall and
12 weird things that don't really matter.

13 They are issues that you deal with, things
14 that are of interest to the city or the interest to
15 public health, and so that they should be given a
16 similar kind of weight, not because they have to,
17 but because they recognize it as being useful in the
18 process.

19 MR. HEHN: I think that when you go
20 through those comments, too, even the specific

1 comments, you will find as we did in our review of
2 our own comments that there are a lot of common
3 threads there, and maybe by responding to one or two
4 of the major points, you can also refer back to some
5 of the specific comments.

6 So I'm not sure if that's going to be as
7 huge a process as you might perceive it to be.

8 So you might want to address it that way.

9 CO-CHAIR NELSON: In fact, you might want
10 to spend time with your consultants to talk about
11 this and maybe report to us at the interim meeting a
12 plan to address the comments and get the
13 clarification that you need from the commenting RAB
14 members so that you can respond.

15 CO-CHAIR SULLIVAN: Yes. I think we are
16 going to have to spend a little more time thinking
17 about that.

18 I think our basic sensitivity on the issue
19 is, and I'm trying to frame it in the right words,
20 is that we, the Restoration Advisory Board is

1 advisory, and we are sensitive to the notion that it
2 not evolve into another regulatory type activity.

3 So we want to have a dialogue. We want to
4 address the community concerns, but we don't
5 necessarily want to create a regulatory type
6 environment.

7 Where we draw that, you know, where we put
8 that line is somewhat subjective. So we want to
9 address the comments fully, but the actual format of
10 that and whether it is every question, a specific
11 response, I'm not sure right now I can make a
12 commitment to that.

13 CO-CHAIR NELSON: Okay.

14 MR. ALLMAN: Could you justify why you
15 don't want to respond to a particular comment in
16 writing?

17 CO-CHAIR NELSON: Yes, because if you
18 don't feel it's appropriate to respond in writing,
19 all we are asking for is that you put that in
20 writing to us.

1 MR. ALLMAN: And then we can always say,
2 "Well, we disagree and would like you to look into
3 it," but that's the next step.

4 CO-CHAIR SULLIVAN: But there is no doubt
5 that there would be a written response, and we would
6 hope that that response would adequately address the
7 question.

8 CO-CHAIR NELSON: We are getting close to
9 10:00, so I do want questions.

10 MR. ALDRICH: Just to clarify: Who the
11 response comes from, we are asking for response from
12 the Navy, but does the response come from the BCT or
13 consultant or just the Navy? Who do you have in
14 mind, Jim, as responding to our request?

15 CO-CHAIR SULLIVAN: That's a good
16 question.

17 I think primarily the response is coming
18 from, you know, the Navy, but there may be some
19 involvement of the BRAC Cleanup Team, too.

20 I think in our original response, there

1 was discussions we had on the work plan. I think
2 there was BRAC Cleanup Team involvement on that.

3 But you raise a good question as to what
4 extent the regulatory members of the BRAC Cleanup
5 Team be involved in the responses.

6 MR. ALDRICH: Especially if there is a
7 disagreement.

8 MR. HEHN: I guess where we've gotten to
9 in this thing, in my perception, we made a formal
10 request as a RAB for a written response from the
11 Navy to our comments, and I guess the next thing is
12 you said, yes, you would make some kind of response.

13 And the next step is to get the response
14 and see if that fills the bill and that gives us a
15 starting point for the meetings. There we are.

16 CO-CHAIR NELSON: Right.

17 MR. HEHN: Whatever that may be.

18 CO-CHAIR NELSON: And it would be helpful,
19 Jim, if you could identify for us a time frame in
20 which the Navy was intending to respond, not only to

1 the RAB comments, but the agency comments, so that
2 we can have an idea in mind in our planning process
3 at the interim meeting what to expect in the next
4 several months what we are commenting on in the new
5 sections of the RI.

6 CO-CHAIR SULLIVAN: Okay. It sounds like
7 we will probably have to have some dialogue between
8 now and the 1 April meeting, because I'm concerned
9 that if we don't get things resolved by the 1 April
10 interim meeting, our schedule for having discussion
11 meetings, as well as the comments for these
12 additional documents, is going to be coming down the
13 pike. It could conceivably affect our schedule for
14 getting the draft final RI out.

15 MR. HEHN: That sounds fine, and we are
16 ready to move ahead as quickly as possible.

17 As soon as we get that, we are ready to
18 go.

19 CO-CHAIR NELSON: And, I guess, as part of
20 what we will do at the next RAB meeting, we will

1 consider the schedule for the meetings and the
2 topics and the ground rules.

3 We have some program updates.

4 CO-CHAIR SULLIVAN: We didn't actually
5 have, we didn't have a BRAC Cleanup Team meeting
6 this month. We are going to have it in, probably in
7 a couple of weeks.

8 We did have one meeting, a short, or a
9 half day meeting, and that was really just to
10 discuss issues for this meeting, and then to go over
11 the RAB agenda.

12 CO-CHAIR NELSON: All right. There seems
13 to be some activity on the EIS/EIR that, really,
14 Chris Shirley had been privy to.

15 I don't know if you had something to
16 report for the city on that, but, apparently, there
17 was a meeting a couple of weeks ago.

18 MS. WALTERS: There is going to be another
19 meeting tomorrow, so, I mean, it's premature for me
20 to say anything.

1 There is going to be an update to the EIS.

2 CO-CHAIR SULLIVAN: Well, basically, the
3 process is moving forward.

4 We are in the process of finalizing the
5 alternatives in order to finish the draft EIS, which
6 is, we expect to have the draft out in the summer
7 and probably a public hearing in probably the
8 September time frame for the draft EIS.

9 That will be the next big milestone, and
10 moving towards finalizing the EIS, probably sometime
11 in the early part of '98, probably January, February
12 time frame.

13 CO-CHAIR NELSON: Under other business, I
14 think most of our organization business can be
15 deferred, but I'm wondering if Ernie had a report on
16 the RAB membership?

17 CO-CHAIR SULLIVAN: Actually, we've
18 been -- well, Ernie, we have pared down some of the
19 members by calling and getting their indication that
20 they no longer wanted to participate.

1 MR. GALANG: It's still at 21.

2 I called Tim, and he said he is still
3 interested.

4 And I called Mr. Alcedo, and he's still
5 interested.

6 And I called John, and John is here.

7 MR. ALLMAN: He broke out the brass
8 knuckles.

9 CO-CHAIR SULLIVAN: But we're probably
10 going to have, we have to make a decision of those
11 21 who we are still keeping on the list.

12 The attendance, percentage of attendance
13 kind of varies from once or twice a year to almost
14 every meeting.

15 So we have to define at some point a cut
16 off at which people aren't coming to enough meetings
17 to be considered a viable member, even though they
18 may still be interested in the process.

19 MR. GALANG: I guess it's up to you to
20 prepare that. Maybe it's three meetings missed or

1 unexcused time.

2 CO-CHAIR SULLIVAN: And then we are
3 working on the advertisements for the new RAB
4 membership.

5 Since Dan isn't here, we will probably
6 have to contact him offline, because he participated
7 in the drafting of the announcements the last time
8 we did it.

9 So it's likely we would probably advertise
10 by the time we get through the contracting process,
11 probably in April.

12 We will have to make a decision as to
13 whether to go full coverage like we did last time,
14 but that could cost now upwards of \$10,000, or
15 whether to, you know, limit it as to whether we
16 advertise in both the Sunday and both daily papers,
17 or whether it's baywide or limited coverage.

18 MR. ALLMAN: Well, if you're not required
19 to do either, you just list them on a small scale
20 and see how the response is you get.

1 If you get 15 back where you decide to
2 only take 6, there is no sense in blowing the money.

3 But you could always just extend the time
4 to bring people on.

5 CO-CHAIR SULLIVAN: Well, we were going to
6 lay out the options for Dan and the costs and get
7 his feedback on that.

8 But we definitely will advertise. It's
9 just a question of how much advertising.

10 CO-CHAIR NELSON: Anything else? I think
11 not. Maybe we should all hurry home.

12 Thank you very much.

13 MR. KAO: Could I?

14 CO-CHAIR SULLIVAN: I'm sorry. Chein
15 wanted to make an announcement.

16 MR. KAO: I just wanted to make a short
17 announcement.

18 As you all know, Mary Rose Cassa has
19 completed her training and development assignment,
20 and she's ready to come back.

1 This will be my last RAB meeting with you.

2 I just wanted to say that it was a
3 pleasure and a privilege to work with this RAB, with
4 this caliber.

5 I am really encouraged to see your
6 dedication and your effort, voluntary effort, and I
7 wish you well.

8 Don't be a stranger. I'm still around.
9 Anything you think that I can be of any help, just
10 give me a call. Same phone number. Same office.
11 Thank you.

12 CO-CHAIR SULLIVAN: We want to say thank
13 you.

14 (Applause.)

15 CO-CHAIR NELSON: I think we can all say
16 that it's been a pleasure working with Chein, and
17 you will be very much missed.

18 MR. KAO: Thank you.

19 CO-CHAIR SULLIVAN: So the next interim
20 meeting is on the 1st of April.

1 The next regular meeting is on tax day,
2 the 15th of April.

3 And we will be back at the Casa for the
4 regular meeting, and in Building 1 for the 1st of
5 April meeting.

6 Thank you.

7 (The meeting adjourned at 10:00 p.m.)

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CERTIFICATE OF REPORTER

I, the undersigned, a duly authorized Certified Shorthand Reporter, do hereby certify that the within proceedings were taken down by me in stenotype and thereafter transcribed into typewriting under my direction and supervision, and that this transcript is a true record of the said proceedings.

Stephen Balboni