

**Hunters Point Shipyard
Installation Restoration Program
Public Information Materials**

**December 7, 2000
Public Meeting/Restoration Advisory Board Meeting
Held at Bayview Police Station
San Francisco, California**

Materials/Handouts Include:

- • RAB Meeting Revised Agenda/Public Notice – December 7, 2000 RAB meeting.
- • Meeting Minutes from the October 26, 2000 RAB Meeting (*Minutes approved at the 12/07/2000 meeting*).
- • Reporter's Transcript of the December 7, 2000 RAB Meeting
 - The Hunters Point LUCIP: Technical Report & Evaluation
 - ARC Ecology comments on LUCIP (approximately 10 copies were available at the meeting)
 - Monthly Progress Report

Standard Handouts Not Included in this Packet:

- HPS List of Acronyms and Abbreviations
- HPS Mailing List Update Form
- HPS RAB Membership Application Form
- Fact Sheets 1 through 3
- HPS September 2000 Newsletter

REVISED

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**HUNTERS POINT SHIPYARD
RESTORATION ADVISORY BOARD (RAB) - MEETING AGENDA
DECEMBER 7, 2000**

Day/Date:

Thursday – December 7, 2000

Location:

San Francisco Police Department
Bayview Station Community Room
201 Williams Street
San Francisco

Time:

6:00 p.m. to 8:00 p.m.

Time	Topic	Leader
6:00 p.m. - 6:05 p.m.	Welcome/Introductions/Agenda Review	Richard Mach <i>Navy Co-Chair</i>
6:05 p.m. - 6:10 p.m.	Approval of Meeting Minutes from October 26, 2000/Announcements	Richard Mach
6:10 p.m. - 6:15 p.m.	Community Reports	Dorothy Peterson <i>Community Co-Chair</i>
6:15 p.m. - 7:15 p.m.	Technical Assistance for Public Participation (TAPP) review presentation of Parcel B Land Use Control Implementation Plan (LUCIP) with Questions and Answers	Joe Schilling
7:15 p.m. - 7:25 p.m.	BREAK	
7:25 p.m. - 7:35 p.m.	Parcel B Update	Dave DeMars <i>Lead Remedial Project Manager</i>
7:35 p.m. - 7:50 p.m.	Parcel E Landfill/Fire Update Emergency Response Plan Status	Richard Mach
7:50 p.m. - 8:00 p.m.	Future Agenda Topics	Richard Mach
8:00 p.m.	Adjournment	Richard Mach

HPS web site: <http://www.efdswnavfac.navy.mil/dep/env/pages/hpoint.htm>

RAB Navy Contact: Mr. Richard Mach (619) 532-0913 or voice mail at (650) 244-3144

- - - P U B L I C N O T I C E - - -
H U N T E R S P O I N T S H I P Y A R D
Restoration Advisory Board Meeting

◆ ◆ ◆
Thursday, December 7, 2000, 6:00 to 8:00 p.m.
Bayview Police Station - Community Room
201 Williams Street, San Francisco

The Restoration Advisory Board (RAB) is composed of concerned citizens and government representatives involved in the environmental cleanup program at Hunters Point Shipyard. Community participation and input is important and appreciated. Standard updates and discussion topics at the upcoming meeting will include community reports and Parcel B cleanup update. This meeting will feature the following activities and presentations:

- ◆ Technical Assistance for Public Participation (TAPP) review presentation of Parcel B Land Use Control Implementation Plan (LUCIP)
- ◆ Other Tenant Issues
- ◆ Parcel E Landfill Cap Update/Discussion

The interested public is welcome!

◆ ◆ ◆
For more information about this meeting and the Installation Restoration Program at Hunters Point Shipyard, please contact:
Mr. Richard G. Mach, Jr., BRAC Environmental Coordinator
Southwest Division Naval Facilities Engineering Command
1230 Columbia Street, Suite 1100, San Diego, CA 92101
(619) 532-0913 or voice-mail at (650) 244-3144

HUNTERS POINT SHIPYARD
RESTORATION ADVISORY BOARD (RAB) MEETING MINUTES
OCTOBER 26, 2000

These minutes summarize the discussions and presentations from the RAB meeting held at the Bayview Police Station (201 Williams Street) between 6:00 p.m. and 8:25 p.m. on Thursday, October 26, 2000. A verbatim transcript was also prepared for the meeting and will be posted on the web page (<http://www.efdsww.navy.mil/dep/env/PAGES/hpoint.htm>) and included in the Information Repository for Hunters Point Shipyard (HPS). The list of agenda topics is provided below. Attachment A provides a list of attendees.

AGENDA TOPICS:

- 1) Welcome/Introductions/Agenda Review
- 2) Approval of Meeting Minutes from September 28, 2000/Announcements
- 3) Community Reports
- 4) Parcel E Landfill/Fire Update Emergency Response Plan Status
- 5) Petroleum Program Update
- 6) Parcel B Update
- 7) Other (non-fire related) Tenant Issues (including lease agreements, post-transfer plans, and safety issues)
- 8) Future Agenda Topics
- 9) Adjournment

MEETING HANDOUTS:

- October 26, 2000 RAB Meeting Agenda
- September 28, 2000 RAB Meeting Minutes
- Parcel B Update - Overheads
- Monthly Progress Report
- Parcel E Landfill Fire Update Fact Sheet No. 3
- HPS List of Acronyms and Abbreviations
- HPS Mailing List Update Form
- HPS RAB Membership Application Form

Welcome/Introductions/Agenda Review

Mr. Richard Mach, BRAC Environmental Coordinator and RAB Navy Co-chair, brought the meeting to order at 6:10 p.m. All in attendance made self-introductions.

Approval of Meeting Minutes from September 28, 2000/Announcements

The September 28, 2000 RAB meeting minutes were approved as written.

The next RAB meeting will be held on Thursday evening, December 7, 2000, from 6:00 p.m. to 8 p.m. at the Bayview Police Department Community Room. This meeting will combine the November and December RAB meetings due to the holiday schedule.

Mr. Mach said that September 2000 monthly progress report is available to the RAB as a handout. The report lists the status of ongoing projects and covers the previous month, current month, and projected month timeframes. The Navy thought these would be helpful for the community and provide information on projects not discussed at RAB meetings.

Ms. Dorothy Peterson, RAB Community Co-chair, gave an update on the community alert committee. The first meeting is scheduled for October 27, 2000 at the Bayview Police Station and a plan will be prepared based on the results of the meeting. No other announcements were made.

Parcel E Landfill/Fire Update and Emergency Response Plan Status

Mr. Mach began by saying that a landfill fire fact sheet was mailed earlier in the week, and is available as a handout. Ongoing air monitoring detected polychlorinated biphenyls (PCBs) downwind of the landfill but were determined to be from an area of surficial contamination unrelated to the fire. Trucks used for landfill cap construction were displacing PCB-contaminated soil that was detected by the monitoring stations. The trucks have now been rerouted and dust control measures have minimized/eliminated PCB detections.

Progress on the landfill cap has recently slowed due to rains but the first layer of base material is in place and the liner layers are now being installed. The estimated completion date for the landfill cap is late November 2000. The Navy is maintaining and updating the HPS web page with the data for the landfill fire.

A community resident inquired about creosote railroad ties at the Parcel E landfill. The Navy is looking into having them moved but cannot address the railroad ties at this time because they are not a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) issue.

Ms. Marie Harrison, RAB member, asked about the air monitoring locations and requested that the Navy add additional monitoring stations in the neighborhood housing areas. Mr. Mach replied that the Navy is doing the most appropriate monitoring and that adding additional locations in the housing areas would not provide quality or conclusive data.

Mr. Raymond Tompkins, RAB attendee, questioned the frequency, dates, and locations of air sampling. Mr. Tompkins was concerned over chemicals that were initially released and any still being emitted. No samples were collected on the day of the fire, August 16, 2000. The Navy collected an air sample on September 1, 2000 in the only location where a hot spot/smoldering area was observed. Also, the Navy has collected daily wind direction measurements that indicate the predominant wind direction is from the west. Continuous daily air monitoring has been underway since September 8, 2000. Mr. Mach said that the HPS web page has all of the air data related to the Parcel E fire.

Ms. Jill Fox, RAB member, asked if there was a possibility that the symptoms the community residents are experiencing might be a result of the construction activity related to the landfill capping. Mr. Mach responded that they cannot determine whether this is true but that the Navy undertook dust control measures to minimize the possibility and that the removal action/capping is nearly completed.

Mr. Mach also said that the United States Environmental Protection Agency (US EPA) has requested the Agency for Toxic Substances Disease Registry (ATSDR) to review the Parcel E fire data and give an independent assessment of any potential cause-and-effect relationship. They are also being asked to update the 1993-1994 baseline air assessment of Hunters Point.

A RAB attendee inquired whether the fire was started underground through the mixing of sulfuric acid and chlorine wastes. Mr. Mach said that the investigator with the San Francisco Fire Department indicated that the fire started as a brush fire on the surface. The fire went subsurface due to the surface fire.

A RAB attendee asked about digging up the landfill and moving it elsewhere rather than covering it up. Mr. Brad Job, California Regional Water Quality Control Board (RWQCB), answered that the technology currently being used is the best available and would not exacerbate the problem. Mr. Mach reminded the RAB that the landfill cap is an interim remedy and the long-term remedy is yet to be determined.

Mr. Job pointed out that the Navy is thoroughly studying the landfill as required by the regulatory agencies. A RAB attendee asked what form of encapsulation was planned. Mr. Job said it was a composite cap that consists of a clay sandwich between two plastic layers, on top of that are two more plastic layers that are very thick (80 millimeters versus the normal 40 millimeters), a drainage layer, a soil layer, and a grass layer on top. Mr. Job pointed out that for most, if not all bay area landfills, the decision has been made to leave landfill waste in place. Mr. Mach elaborated that HPS landfill is an industrial landfill. Based on Navy activities conducted in the past the landfill contains volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), PCBs, and metals. To better identify what materials may be in the landfill, Mr. Mach said that the Navy is planning on interviewing past employees, using new technologies to see what is in the landfill, reviewing records, and doing additional sampling. The cap is being installed to ensure that the fire is out and at the same time the Navy is investigating the landfill more thoroughly.

Mr. Jesse Mason, Bayview Hunters Point Community Advocates, asked for more information on the ATSDR study. Ms. Claire Trombadore, US EPA, said that the ATSDR will review the Navy and the Air Board data. From those conclusions they may make recommendations for future sampling or additional monitoring. Ms. Trombadore said that the ATSDR is an independent third party group and will give a valid independent assessment, keeping in mind that there is no data for the first two weeks. Mr. Tompkins added that local physicians should be included in the review team.

Dr. Ahimsa Sumchai, a physician with the Department of Public Health, said that she believes there is so much concealment going on that the community does not trust the Navy or the agencies. Dr. Sumchai feels that the community needs emergency response training and called for including the city's Office of Emergency Services and fire department in doing the Neighborhood Emergency Response Training (NERT). Mr. Mach said that the Navy has held three meetings with the community as part of developing the Navy's emergency response training. The Navy is using the Emergency Response Plan developed by Pacific Gas and Electric (PG&E) as a model. The community emergency response committee portion will be discussed during tomorrow's meeting.

Mr. Mach said that Literacy for Environmental Justice has forwarded him 20 or 25 letters from students at Phoenix High School about their concerns surrounding the landfill fire. Mr. Mach is tentatively scheduled to meet with these students at the school on Friday, November 3, 2000.

Petroleum Program Update

Mr. Job presented an update on the petroleum program. Mr. Job is a Water Resources Control Engineer with the RWQCB and a member of the BRAC Cleanup Team (BCT). Mr. Job said that petroleum products are regulated by the RWQCB because petroleum is a non-CERCLA substance and therefore not regulated by other agencies. Mr. Job explained that total petroleum hydrocarbons (TPH) are a complex mixture of petroleum compounds including a variety of VOCs and SVOCs.

Mr. Job provided information comparing cleanup goals between HPS and other sites in the San Francisco area. The HPS cleanup levels are 3,500 parts per million (ppm) for TPH. This level is

lower than the Presidio (4,310 ppm), San Francisco International Airport (26,000 ppm), and Mission Bay (232,698 ppm). Pacific Refining Co. is more stringent at 2,500 ppm. The 3,500 ppm cleanup level for HPS is considered to be very conservative and Mr. Job feels that this level is appropriate to protect human health at HPS.

Mr. Tompkins asked how the cleanup goals were determined. Mr. Job and Ms. Christine Shirley, ARC Ecology, pointed out that these are cleanup goals set to stringent cleanup levels. Because the cleanup at Parcel B is furthest along in the process it is being used to set the initial standards for HPS. Mr. Tompkins expressed concern that Triple A Machine Shop pumped thousands of gallons of petroleum products from another site and discharged it at HPS. Ms. Harrison asked about a pipe in the ground that was used to pump petroleum sludge and stated that she had seen pictures that look like they went into an open area. Mr. Mach answered both questions by explaining that there was a large above ground storage tank (AST) by the boiler tank in Parcel E. Mr. Mach said the area is called Installation Restoration (IR) site 3 and is commonly known as the oil sludge ponds. Mr. Mach stated that he believed that most of that material went into oil sludge ponds or the AST. He requested that community members who have photos of past activities that affected the environment provide them for the Navy's records.

Mr. Job continued his presentation and talked about the underground storage tank (UST) fund that was established by the State as a result of problems identified with USTs in the early to mid-1980s. In the early days of this fund, the State found that remediating a site by cleaning up to undetectable levels was found to be so expensive as to exceed the benefits. In the mid-1990s the State relaxed cleanup requirements and found that residual petroleum contamination is generally consumed by petroleum eating bacteria in the soil within a short time.

Mr. Mason asked whether or not the Navy and the regulatory agencies were looking at cleanup goals for the safety of the current residents or the future residents. Ms. Trombadore responded that the risk assessment for Parcel E looked at current scenarios as well as future scenarios.

Mr. Job discussed the potential benefits of the Navy's proposed approach. In-situ remediation minimizes soil transportation and off-site disposal, resulting in less disturbance to the neighborhood. It also maximizes reliance upon natural processes to remediate pollution and allows the Navy to allocate resources to riskier problems. The potential drawbacks of the proposed approach include the need for future developers to manage soil appropriately. Also, the groundwater will take 10 to 20 years to be fully restored. Finally, Mr. Job said that there is a "stigma value" and people have a hard time allowing TPH-contaminated soil to be left behind.

Mr. Tompkins asked whether the Navy has charted the springs along the hills and asked if there is any information on the seeps in the area. He also asked if there was any relation to the groundwater at HPS and the springs. Mr. Mach said that there is not a connection between HPS and the springs/groundwater associated with Albion Springs.

Mr. Job summarized by saying that the Corrective Action Plan (CAP) was under revision and that he had attended a meeting earlier in the day. Also, an UST tracking database is being developed to track the location of each site and would be provided to the City once it is completed. Case closure for "low risk" UST sites will follow CAP approval. Floating product recovery operations are ongoing in two or three wells.

Future Agenda Topics

Two topics, the Parcel B Update and Other (non-fire related) Tenant Issues, were moved to the next RAB meeting since this meeting had a lengthier discussion on Parcel E than planned. Therefore, these two topics will be placed on next month's agenda, along with the standard agenda topics, and the following topics that were mentioned during the RAB meeting:

- Parcel B Land Use Control Implementation Plan (LUCIP) – Technical Assistance for Public Participation (TAPP) grant awarded to Mr. Joe Schilling. Mr. Schilling has reviewed the LUCIP and would like to make a presentation to the RAB. Ms. Shirley said that Mr. Schilling would like to meet with interested parties in the community to discuss the findings before making a presentation to the RAB.
- Parcel E Update

REMINDER: NEXT RAB MEETING IS THURSDAY, DECEMBER 7, 2000, FROM 6:00 P.M. TO 8:00 P.M. AT THE BAYVIEW POLICE DEPARTMENT COMMUNITY ROOM

**ATTACHMENT A
OCTOBER 26, 2000 - RAB MEETING
LIST OF ATTENDEES**

Name	Organization
1. Richard Mach	RAB Navy Co-chair
2. Dave DeMars	Navy Lead Remedial Project Manager
3. Terry Greiner	Navy Closure Liaison
4. Tom Pinard	Navy Public Affairs Officer
5. Dorothy Petersen	RAB Community Co-chair
6. Christine Shirley	ARC Ecology
7. Jesse Mason	Bayview-Hunters Point Community Advocates
8. Charmaine Cosky	Bechtel National, Inc.
9. Angela Williams	Bechtel National, Inc.
10. Chuck Pardini	Levine Fricke
11. Jill Fox	RAB Member
12. Charles L. Dacus Sr.	RAB Member
13. Marie Harrison	RAB Member
14. Laurie Espinoza	RAB Member/Labor Neighbor
15. Brad Job	Regional Water Quality Control Board (RWQCB)
16. James Robbins	IT Corporation
17. Stephanie Ricci	Property Owner PAC
18. Chein Kao	Department of Toxic Substances Control (DTSC)
19. Claire Trombadore	U.S. EPA
20. Gaynell Armstrong	SF Redevelopment Agency
21. Robin Bell	Young Community Developers
22. Kenneth Block	Young Community Developers
23. Barren Bullock	Young Community Developers
24. Erik Butler	Young Community Developers
25. Michelle Carrington	Young Community Developers
26. Derek Gaskin	Young Community Developers
27. Ricardo Harris	Young Community Developers
28. Douglas Johnson	Young Community Developers
29. Dwayne Jones	Young Community Developers
30. Fauvasa LaSalle	Young Community Developers
31. Justin Lee	Young Community Developers
32. Blinn Li	Young Community Developers
33. Andy Lio	Young Community Developers
34. Andre Ned	Young Community Developers
35. Joseph N. Relber	Young Community Developers
36. Rimoni Sailele	Young Community Developers
37. Renee Thomas	Young Community Developers
38. Kenneth Tyson	Young Community Developers
39. Mauria Williamson	Young Community Developers
40. Ulysses Wortham	Young Community Developers
41. Christine M. Niccoli	Court Reporter
42. Ahimsa Sumchai, M.D.	BVHEAP
43. Maurice Campbell	New California Media S.F. Bay View Newspaper
44. Lynne Brown	Communities for a Better Environment
45. Darnell Blackwell	Waste Solutions Group
46. Robert Cunningham	
47. Raymond Tompkins	
48. Shaaron Green-Peace	

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4 M E E T I N G
5
6
7 HUNTERS POINT SHIPYARD
8 RESTORATION ADVISORY BOARD
9
10 REPORTER'S TRANSCRIPT
11
12 December 7, 2000
13
14 San Francisco Police Department
15 Bayview Station Community Room
16 201 Williams Avenue
17 San Francisco, California
18
19
20 *****
21 NICCOLI REPORTING
22 619 Pilgrim Drive
23 Foster City, CA 94404-1707
24 (650) 573-9339
25 CERTIFIED SHORTHAND REPORTERS SERVING THE BAY AREA

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1 APPEARANCES [Cont.] FOR:
2 LEVINE-FRICKE FOR LENNAR: CHUCK FARDINI
3 RESIDENTS: STEPHEN LA PLANTE
LARRY SHOTKY
4
5 CITY AND COUNTY OF SF: RONA H. SANDLER,
City Attorney
6 SAN FRANCISCO HEALTH DEPT: JOHN CHESTER
7 SAN FRANCISCO
MAYOR'S OFFICE: JESSE BLOUT
8
9 SF REDEVELOPMENT AGENCY: GAYNELL ARMSTRONG
DON CAPOBRES
10 TETRA TECH EM INC.: CAROLYN HUNTER
JENNIFER RONK
MICHAEL J. WANTA, P.E.
11
12 US ENVIRONMENTAL
PROTECTION AGENCY: JACQUELINE A. LANE
CLAIRE TROMBADORE
13
14 WASTE SOLUTIONS GROUP: DARNELL BLACKWELL
15
16 Also Present: SHAARON GREEN-PEACE
NAEM HARRISON
OSCAR JAMES
ALEXA LA PLANTE,
U.C.-Santa Cruz student
17 KEITH TISDELL
18 COURT REPORTER: CHRISTINE M. NICCOLI, RPR

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1 APPEARANCES FOR:
2 UNITED STATES NAVY: RICHARD G. MACH JR.,
RAB Navy Co-chair
3 JOHN PELOSI
TOM PINARD, BRAC PAO
4
5 RAB MEMBERS: DOROTHY PETERSON,
RAB Community Co-chair
6 JILL FOX, India Basin
Neighborhood Association
MARIE HARRISON, San Francisco
Bay View Newspaper
7
8 ARC ECOLOGY: CHRISTINE SHIRLEY
9 BAYVIEW-HUNTERS POINT
COMMUNITY ADVOCATES: JESSE MASON
OLIN WEBB
10
11 BARBARY COAST TRUCKING
& BROKERS: JIMMIE POTTS
12
13 BECHTEL NATIONAL, INC.: RONALD KEICHLINE
ANGELA WILLIAMS
14
15 BUSINESS DEVELOPMENT
INCORPORATED: LAROY McDONALD
JOHN SCOTT
16
17 BVHP COALITION
ON ENVIRONMENT: AHIMSA SUNCHAI, M.D.
RAYMOND TOMPKINS
18
19 BVHP HEAP KAREN G. PIERCE
20
21 CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL: CHEIN KAO
22
23 CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD: BRAD JOB,
Remedial Project Manager
24
25 COMMUNITIES FOR A
BETTER ENVIRONMENT: LYNNE BROWN
26
27 IT CORPORATION: JAMES H. ROBBINS,
Project Manager
DENNIS STYLES, Procurement
28
29 LENNAR-BVHP PARTNERS TEAM: BOB HOCKER,
Engineering Consultant
BETSY McDANIEL

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1 SAN FRANCISCO, CALIFORNIA, THURSDAY, DECEMBER 7, 2000
2 6:02 P.M.
3 ---oOo---
4 MR. MACH: Wel- -- welcome, everyone, to the
5 Hunters Point Shipyard combined November and December
6 Restoration Advisory Board meeting.
7 I'd like to go ahead and make introductions
8 around the room.
9 My name is Richard Mach. I'm the BRAC
10 environmental coordinator with the Navy for Hunters
11 Point.
12 MR. SCOTT: Hi. I'm John Scott. I'm a guest
13 for tonight.
14 MS. PETERSON: What did you say? I'm sorry.
15 MR. ATTENDEE: We're introducing ourselves.
16 MR. MACH: This is the easy part, Dorothy.
17 MS. PETERSON: Sorry. I was talking. Please
18 excuse me.
19 Dorothy Peterson, RAB co- -- community chair --
20 co-chair.
21 MR. JOB: Brad Job, Water Board.
22 MS. FOX: Hi. I'm Jill Fox representing the
23 India Basin Neighborhood Association.
24 MR. CHESTER: I'm John Chester filling in for
25 Amy Brownell while she's out on maternity leave with the

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1 City and County of San Francisco.
2 MR. PINARD: Tom Pinard, public affairs officer
3 for the Navy in the Bay Area.
4 MR. PELOSI: John Pelosi with the Navy at
5 Hunters Point.
6 MR. McDONALD: Laroy McDonald with Business
7 Development, BDI.
8 MS. HUNTER: Carolyn Hunter with Tetra Tech.
9 MS. WILLIAMS: Angela Williams with Bechtel
10 National, Navy CLEAN.
11 MR. MACH: Bob? Bob?
12 MR. HOCKER: Bob Hocker from Lennar BVHP.
13 MR. PARDINI: Chuck Pardini with Levine-Fricke.
14 MR. TOMPKINS: Raymond Tompkins with Bayview
15 Hunters Point Coalition on the Environment.
16 MS. McDANIEL: Betsy McDaniel for Lennar.
17 MS. LANE: Jackie Lane, EPA community
18 involvement.
19 MR. SHOTKY: Larry Shotky [phonetic], resident
20 of Bayview-Hunters Point.
21 MR. WANTA: Mike Wanta with Tetra Tech.
22 MR. SCHILLING: Joe Schilling with ICMA, the
23 TAPP contractor.
24 MR. STYLES: Yeah. Dennis Styles with
25 procurement, IT Corp.

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1 MR. ROBBINS: Jim Robbins, IT Corp.
2 MR. KEICHLINE: Ronald Keichline, Bechtel
3 community relations.
4 MS. SHIRLEY: Chris Shirley with ARC Ecology.
5 MR. KAO: Chein Kao with DTSC.
6 MS. TROMBADORE: Claire Trombadore, EPA.
7 MR. MACH: And we have two more guests that
8 just entered in the back.
9 MS. LA PLANTE: I'm Alexa, a C.S.U. student.
10 MR. LA PLANTE: I'm Steve La Plante and I live
11 here.
12 MR. MACH: Great. Okay. First off on the
13 agenda is approval of the meeting Minutes from the
14 October 26th RAB meeting. Those were sent out. Has
15 everyone had a chance to read those? Does anyone have
16 any comments on those?
17 MR. JOB: Approval of the Minutes.
18 MR. MACH: If there are no comments, can I get
19 approval? A second?
20 MS. PETERSON: Second.
21 MR. MACH: All in favor of approving of the
22 Minutes as submitted --
23 MR. JOB: Aye.
24 MR. MACH: -- please say, "Aye."
25 ATTENDEES: Aye.

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1 MR. MACH: Anyone opposed?
2 (No verbal response elicited.)
3 MR. MACH: Okay. The minutes are approved.
4 I do have a couple of short announcements.
5 First is -- hopefully, you were able to pick up all of
6 the handouts in the back. There are a lot of projects
7 that are underway at Hunters Point. We've got a number
8 of remediation projects going from Parcel B, which will
9 be updated this evening, through some early actions for
10 soil removal and pipeline removal on Parcels C and D.
11 We've got the continuation of the interim cap
12 on the landfill of Parcel E. We've got a soil vapor
13 extraction and a chemical oxidation treatability study
14 for both the soil and the ground water on Parcels C and
15 E.
16 We've got an upcoming removal action for
17 low-level radiation on D and E.
18 And there is a monthly progress report in the
19 back that goes through a lot of the documents from the
20 different meetings that we have had as well as those
21 that are planned for the next couple of months. So
22 hopefully, you are able to get a copy of those and keep
23 up to speed on what we're doing here.
24 And along those lines we are in the process
25 right now of starting to put together the next quarterly

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1 newsletter which will go out, and most of the project
2 that I just spoke of were in the last quarterly
3 newsletter that came out in September. So there will be
4 an update coming out, and we're looking at having that
5 out in the January time frame. So hopefully, that will
6 be out before the next RAB meeting. You all get to take
7 a look at that.
8 One final announcement. Based on how the last
9 couple RAB meetings have gone and me not keeping to the
10 schedule as facilitator because I've also been so much
11 of a participant from the Navy side, Dorothy has asked
12 me to look into the idea of getting a facilitator so
13 that I can be more involved in the meeting side, and
14 someone else who's more impartial can keep the meetings
15 on track and on schedule.
16 I know that -- that we do have some options on
17 how to do that with some local community folks. And
18 what I had spoken to Dorothy about was: If the
19 community would like to do that, we could put that to a
20 vote of the RAB. If the RAB approves that, then we can
21 go ahead and have an impartial local community
22 facilitator by the next RAB meeting in January.
23 So if --
24 MS. PETERSON: I make a motion.
25 MS. FOX: I have a couple of questions --

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1 MR. MACH: Yes.
2 MS. FOX: -- just about that. And you know,
3 I've been pushing for this for, like, a year. So I'm
4 so --
5 MR. MACH: Well, you --
6 MS. FOX: -- glad to see this.
7 MR. MACH: And it was -- it was you and Dorothy
8 that --
9 MS. FOX: No, it's great.
10 Can you explain, like --? I mean, I know at
11 the meeting what the facilitator would do. Can you let
12 people know if it's some community employment
13 opportunity, or is this something that you want done on
14 a volunteer basis from someone from the community or --?
15 MR. MACH: It would be a -- most likely a
16 contracted person, and we have discussed with BDI, since
17 they are doing some of the other work for us with the
18 emergency response plan, possibly having them do it; but
19 we would -- we could also open it up to other potential
20 bidders if there is enough interest in the community as
21 opposed to just going for a small contract with BDI.
22 MS. FOX: Well, I think it's important that
23 everyone here realizes -- and I don't have anything
24 against BDI, but BDI is a commercial enterprise. It is
25 a locally based business.

1 would be difficult.
2 And so the impartiality is something that we
3 definitely want to have. Otherwise, I could stand up
4 here and take the abuse.
5 Yes.
6 MR. TOMPKINS: I have to echo with you in terms
7 of your concern that it is important that you have --
8 put it out to the community at large that this is open.
9 And personally, yeah, you need to pay them to deal with
10 it, 'cause really to monitor to really deal with it, it
11 does take time, work, to make sure that all concerns are
12 met. It's just nothing that should be haphazardly
13 addressed --
14 MS. FOX: No. I just think --
15 MR. TOMPKINS: -- and really --
16 MS. FOX: -- it should be open.
17 MR. TOMPKINS: -- open it up, deal with it.
18 We also -- I'm very much for that, whether the
19 impartiality -- that should be a judgment of the Board is
20 review the candidates who show interest. If no one
21 does, that's fine. It's very open.
22 But then you also take a conflict of interest.
23 If you have a contractor working for the -- you wouldn't
24 want that conflict of interest. An outside entity,
25 especially in a volatile situation, is far more

1 But there are a lot of nonprofit community
2 groups who are interested in the RAB and who have put a
3 lot of effort into the RAB over the years. So I think
4 it's important that we look to a community-based
5 organization for this rather than a commercial
6 enterprise.
7 MS. PETERSON: Any suggestions?
8 MS. FOX: Well, we can look at Community
9 Advocates. We can also seek out if there's anyone who's
10 interested in doing it on a volunteer basis. I don't
11 know that -- that there is.
12 But -- but I do think that, you know, an
13 organization such as, you know, Community Advocates, who
14 have played a big role in Hunters Point cleanup issues,
15 might be a place to look at. I -- I think it would just
16 be good if we put it out to more than one organization
17 for -- for a bid or, you know, for an opportunity.
18 MR. MACH: And I have no problem in looking at
19 other alternatives. One of my concerns would be the
20 impartiality of whoever's chosen.
21 And, you know, I know there are a lot of groups
22 that are very involved in the -- the cleanup process,
23 and I can almost see that someone who's that involved
24 would wind up in the same situation that I am in that,
25 you know, trying to run the meeting and be a participant

1 important, universities or someone else's skills in
2 public administration.
3 We're in the Bay Area. There's universities,
4 institutions all over the place. There's a lot of
5 unemployed -- underemployed teachers that could step in
6 and deal with it and to bring a balance not so you may
7 have a conflict of interest, because it is a private
8 institution.
9 MR. MACH: Dorothy?
10 MS. PETERSON: And another thing, they must be
11 a facilitator, not just someone who is going to try and
12 run a meeting.
13 MS. FOX: Yeah, I think so too.
14 MS. PETERSON: You know, that's -- that's the
15 issue now. We are not staying with the agenda. We're
16 not -- We just need a trained facilitator and someone
17 who is objective.
18 MS. TROMBADORE: Yeah. Who's that guy we had
19 before? He was really great.
20 MR. ATTENDEE: Doug Kern.
21 MS. SHIRLEY: Doug Kern?
22 MS. TROMBADORE: Doug Kern.
23 MS. PETERSON: Where is he?
24 MS. SHIRLEY: He lives in the city. He runs an
25 organization now called -- the Presidio -- helping with

1 restored Chrissy Field.
2 MR. JOB: Presidio Trust?
3 MS. SHIRLEY: No, no, it's not the trust. It's
4 a small organization. But he might be available.
5 MS. PETERSON: Okay. Is that nonprofit?
6 MS. SHIRLEY: Yes, it is nonprofit.
7 MR. MACH: Okay. I guess I -- I would look
8 to -- to our contract with Bechtel who would be
9 subcontracting this entity. How much --? In order to
10 get a procurement to support the next RAB meeting, which
11 would be January 25th, when would you need to have a
12 list of prospective bidders, keeping in mind that the
13 holiday's coming up as well?
14 MS. SHIRLEY: By the first part of the second
15 week in January, do you think we could do it in that
16 time?
17 MR. KEICHLINE: I can get procurement on it
18 real quick, but I don't know if we can have it by the
19 January meeting if we're going out to bid.
20 MR. MACH: And we do have a couple of options.
21 We could say that, you know, we want to get someone
22 impartial, someone from the community to go out to bid
23 and -- and not get, like we've done, a Band- -- you
24 know, no Band-Aids in between; and I'll just suck it up
25 until we get someone, or we could get a Band-Aid, you

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1 MS. PETERSON: -- names and phone numbers; and
2 then he can go through the process of checking them,
3 submitting them, whatever.
4 MR. MACH: Okay.
5 MS. FOX: And can you give us a phone number
6 or --?
7 MR. KEICHLINE: I prefer to get direction
8 through Richard directly. It's easier if we have the
9 contract set up that way.
10 MR. MACH: No. They can give you the names
11 directly.
12 MR. KEICHLINE: All right.
13 MR. MACH: You just got direction from me.
14 MR. KEICHLINE: My phone number is area code
15 619-744-3603. I have some business cards after the
16 meeting if anybody needs them.
17 MS. FOX: And what's your last name?
18 MR. KEICHLINE: Keichline, K-e-i-c-h-l-i-n-e.
19 MS. FOX: Okay.
20 MR. MACH: Okay.
21 MR. BROWN: Who do you represent?
22 MR. KEICHLINE: Bechtel, Bechtel National.
23 MR. JOB: I think your tape's run out.
24 MR. MACH: No. That -- that's -- That has
25 something to do with the piping in here, and there's

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1 know, someone to just sit in for a meeting or two until
2 this is all worked out; and I'll leave that up to you as
3 well.
4 Yes.
5 MR. TOMPKINS: I would suggest, as you said,
6 rather than a Band-Aid solution, go through the process
7 and just carry on, but the intent is to get this person.
8 The process goes through, and do a thorough job and try
9 and build a better trust. So take a little bit more
10 time and --
11 MR. MACH: Okay.
12 MR. TOMPKINS: -- and be a little bit more
13 careful, leave a better taste in people's mouth.
14 MR. MACH: Is that --?
15 MS. SHIRLEY: I vote for that.
16 MR. MACH: Okay. Yes.
17 MS. PETERSON: Anyone who has any suggestions
18 should -- I'm sorry. I forgot his name. I don't have
19 his card in front.
20 MR. MACH: How come you don't have your card in
21 front of you?
22 MR. KEICHLINE: Oh. Ronald Keichline.
23 MS. PETERSON: Ronald. Maybe we could give the
24 suggestions, the names, to Ronald --
25 MR. MACH: Okay.

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1 nothing I can do about that, nor any other trained
2 facilitator that I'm aware of, as John can attest to
3 from November 17th when we were in here.
4 Okay. Those were the only announcements that I
5 had.
6 On to community reports with Dorothy.
7 MS. PETERSON: Well, that was one of the things
8 that I wanted to mention.
9 Also, we could use some more bodies on the
10 community alert system that we're putting together.
11 There is a meeting tomorrow at 9 a.m.; and if you want
12 to come, it's here, 9 a.m. We're putting together the
13 community portion of the emergency alert system because
14 there was none in place with the fire.
15 That's about it.
16 And Jill had -- would like some time.
17 MS. FOX: I just wanted to alert community
18 members that yesterday a group of us, ARC Ecology and
19 some other community members, spoke to the finance
20 committee of the board of -- San Francisco Board of
21 Supervisors; and we're working on a way to have a
22 community window about the Hunters Point Shipyard so
23 that we'll have -- it's -- it's a way for the community
24 to have more of an outreach to the -- to its -- to the
25 community, both the Hunters Point community and the city

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1 at large.
 2 So if you want more details, you can see me
 3 or -- or Lynne, and we can give you more details on it.
 4 It's just -- We're just starting the process. But if
 5 you're -- you're interested in helping us promote this
 6 at city hall, we'll be glad to talk to you or if you
 7 want more details.
 8 MR. MACH: Jill, is there something that you're
 9 looking at with Community First Coalition?
 10 MS. SHIRLEY: Yes.
 11 MS. FOX: Yes.
 12 MR. MACH: Okay. So that's the same thing that
 13 I spoke --
 14 MS. SHIRLEY: It's the same thing.
 15 MR. MACH: -- same thing I spoke to Olin about
 16 today.
 17 Olin and I met today for about an hour and a
 18 half, and we're talking about ways to interact better
 19 with the community as well. So the Navy, you know, is
 20 open to assist with that, providing, you know --
 21 MS. SHIRLEY: Great.
 22 MR. MACH: -- more information, possibly
 23 getting a better information repository --
 24 MS. ATTENDEE: Right.
 25 MR. MACH: -- put together. Since the library

1 MS. SHIRLEY: It's right up -- Kiska gym, for
 2 people that don't know, it's right up --
 3 MR. ATTENDEE: Milton Meyer center?
 4 MS. SHIRLEY: Yeah. It's right up on top of
 5 the hill; looks over the shipyard. And a lot of the
 6 affected people that look over the shipyard live up
 7 there.
 8 And there's been some request among people that
 9 are not now RAB members to move the RAB meeting out
 10 there where they can actually attend and see what it's
 11 all about and get more involved. It's hard to get out
 12 here.
 13 MR. MASON: And actually, it would probably be
 14 a better location because you have a great view --
 15 MS. FOX: And it's bigger.
 16 MR. MASON: -- on both sides, on both sides.
 17 MS. PETERSON: I would like to say something
 18 too. Now, we move it there because, like tonight,
 19 there's two things that I really wanted to go to, and it
 20 was moved from a Wednesday to a Thursday. And I don't
 21 have a problem with that. But the person who pushed for
 22 that attended two meetings, and I have not seen them.
 23 So now we're going to move it up there, and
 24 then goes back to nobody showing up. I -- That's the
 25 only -- or can we rotate --?

1 is so strapped on space, maybe come up with, like, some
 2 poster displays. And then you guys have many -- and we
 3 get notified last minute of, you know, we've got this
 4 health day this weekend or something, and if we could
 5 have a canned presentation of, you know, the success is
 6 in the works.
 7 MS. FOX: A lot of it is just having sort of
 8 one-stop shop for all the information that's -- that --
 9 you know, you go to this meeting, you find out this; you
 10 go to the RAB, you find out this.
 11 MR. MACH: Right.
 12 MS. FOX: It's kind of coming out of both the
 13 things that happened in the fire but also the things at
 14 the summer meetings that we had where we did the
 15 community outreach, and it's -- out of all of that is
 16 coming that we need a one-stop shop for information.
 17 MR. MACH: Okay. Great.
 18 Okay. If there are no other community re --
 19 MS. SHIRLEY: I've got something I'd like to
 20 bring up for the RAB to consider, and that is the old
 21 issue of moving the RAB meeting up to Kiska gym.
 22 MR. MACH: Okay.
 23 MS. SHIRLEY: Is --? I don't exactly know how
 24 to do that, but that --
 25 MS. HARRISON: You simply raise the issue.

1 MS. SHIRLEY: It's up -- It's basically up to
 2 us to decide that --
 3 MS. PETERSON: Yeah.
 4 MS. SHIRLEY: I'm just making the point that
 5 people have expressed interest in having the meeting up
 6 there on the hill.
 7 MS. FOX: I think that perhaps Bechtel or
 8 whoever is, you know, assigned this task to find out its
 9 availability, first of all, you know, to even know if
 10 they rent out to public meetings in the evening. I
 11 think they do. But --
 12 MR. ATTENDEE: Sure they do. It's Recreation &
 13 Parks Department.
 14 MS. FOX: -- you know, check on all of that and
 15 make -- you know, I -- I think it's definitely worth
 16 investigating, because we are getting -- this is an odd
 17 night for a meeting, and there's a lot going on in -- in
 18 the neighborhood. But in general, there is more
 19 interest in the shipyard than there ever has been in the
 20 five years I've been on the RAB, and we are going to
 21 have more bodies than this room can hold.
 22 MS. SHIRLEY: Right, I agree.
 23 MS. HARRISON: Adding to that, let me say that,
 24 personally speaking, if we are all attending here, there
 25 is no reason why if nobody else attends, we won't attend

1 there.
 2 My other concern is that, quite frankly, I'm
 3 tired of getting phone calls, okay. I -- I'm tired of
 4 getting the phone calls, and I can't answer them why we
 5 won't bring it up there.
 6 MS. PETERSON: I don't have problems -- Maybe
 7 we can rotate it. But, like I said, you know, there's
 8 two things I wanted to go to tonight, and I will be
 9 leaving early, because it was just insisted that it
 10 change from Wednesday to Thursday. And I said,
 11 "Well --"
 12 MS. SHIRLEY: I don't want to change the day.
 13 Just the place.
 14 MS. HARRISON: Excuse me. Am I --?
 15 MR. MACH: I would just like to echo for the
 16 ninth -- my ninth consecutive RAB meeting that the Navy
 17 doesn't care where the meeting is held. We will go
 18 wherever the community says they want it.
 19 MS. HARRISON: I have one other question. Let
 20 me finish.
 21 Wasn't this meeting scheduled for tonight
 22 simply because of the holidays on this particular night?
 23 MR. MACH: Yes.
 24 MS. HARRISON: I mean, this is not going to be
 25 an ongoing thing.

1 MS. SHIRLEY: So somebody needs to move that we
 2 move the meeting.
 3 (Simultaneous colloquy.)
 4 MS. FOX: -- check in and see and -- you know,
 5 is anybody really opposed to checking out Kiska and
 6 seeing if that works?
 7 MR. MACH: If -- if -- if he --
 8 MS. FOX: -- Milton Meyers gym?
 9 MR. MACH: If you like, since -- it may be
 10 difficult for us to say "Yes, next month let's go to
 11 Kiska" and then it's not available, and then we have
 12 to --
 13 MS. FOX: Right.
 14 MR. MACH: -- try and get ahold of everyone.
 15 MS. HARRISON: That's why we said to have
 16 them --
 17 MR. MACH: We --
 18 MS. HARRISON: -- check it out.
 19 MR. MACH: We -- we could go ahead and check
 20 that out; and if there are other locations you'd like us
 21 to check out as well, again, let -- let Ron know; and
 22 we'll come back to the January meeting with, you know,
 23 what the potential is for availability; and we'll look
 24 at, you know, not just January but for, you know, for
 25 the fourth Thursday type event, let you know what's

1 MR. MACH: The -- the meetings are the fourth
 2 Thursday of every month with the exception of the
 3 November-December meeting being combined so that
 4 everyone can have Thanksgiving and Christmas without us.
 5 MS. PETERSON: I'm talking about the Thursday,
 6 the day of Thursday. It was moved from Wednesday to
 7 Thursday.
 8 MR. MACH: And that -- and that was prior to my
 9 coming on, so . . .
 10 MS. PETERSON: Exactly.
 11 MS. TROMBADORE: The EPA cannot attend if it's
 12 on a Wednesday because neither one of us works on
 13 Wednesdays, and that's what it came down to.
 14 We spent five years making special
 15 arrangements, and we just asked if it could please be
 16 moved to another night, and folks said they would, and
 17 so that's --
 18 MS. HARRISON: Then under those circumstances,
 19 Richard, I must say that if we change the night of our
 20 meeting for EPA, then we damn well better change the
 21 night of our meeting for the people who live here in
 22 this community, or change the location.
 23 MR. MACH: Marie, my statement still stands:
 24 I'm not making the decision.
 25 MS. HARRISON: All right.

1 available, and we could put it to a vote at the next
 2 meeting.
 3 MR. JOB: And just for my general observations,
 4 I was previously working on a -- on a base that had a
 5 rotating location that we go from the, you know, city
 6 council chambers to -- to the chamber of commerce; and
 7 that -- that was very confusing. I would really
 8 strongly encourage us to pick one place and -- and go
 9 back to that same spot.
 10 MR. TOMPKINS: Try for a six-month period. You
 11 know, if it doesn't work, rotate it. But I'm a hundred
 12 percent agreement. Don't change every other month
 13 because somebody misses, don't know -- one thing you
 14 need is consistency in anything that you're doing and let
 15 people know you going to be there.
 16 MR. MACH: Okay. We will look into Ki- -- the
 17 availability of the Kiska gym for the next six months.
 18 If there's any other locations you want us to
 19 look into, please let Ron know or let us know right now,
 20 and we will report back on --
 21 MS. PETERSON: Okay, but first we need to find
 22 out where we would be meeting up there, because it is a
 23 gym.
 24 MR. MASON: That's going to be a part of it, in
 25 finding out what --

1 MS. PETERSON: Yeah, because is a gym --
2 MS. ATTENDEE: There's a gym; there's an --
3 MS. PETERSON: -- and that is one -- one of the
4 things that people are complaining about --
5 MR. MACH: Okay. One -- one -- one -- excuse
6 me. Excuse me. Excuse me. One conversation at a time,
7 please.
8 Dorothy?
9 MS. PETERSON: We need to look at the fact that
10 it is a gym, and that was one of the things that a lot
11 of people have complained about. When it gets noisy and
12 interruptions, they complain.
13 MR. MACH: Okay.
14 MR. MASON: Have we ever had it up there?
15 MR. MACH: Jackie?
16 MS. LANE: If -- Can we just leave it with the
17 contractor, and you can give him your suggestions and go
18 on to the next agenda item?
19 MR. MACH: Okay.
20 Okay. With that, I'd like to intro- --
21 Sorry. I didn't mean to wake you up.
22 With that, I'd like to introduce Joe Schilling.
23 Many of you may not know who he is, but he is the TAPP
24 contractor that we hired for the -- the RAB, and TAPP is
25 the Technical Assistance for Public Participation.

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1 California. I am not the EPA. I am not a developer.
2 I'm not an engineer, though I played one on television
3 once. And I'm not a current resident of San Francisco,
4 although I did go to school here many years ago.
5 So who I am is: I do have a background in
6 environmental and land use. I worked as a -- as a
7 deputy city attorney in San Diego for about ten years.
8 And in my role currently with ICMA is: I sort
9 of oversee a lot of research projects that relate to the
10 revitalization of communities and neighborhoods.
11 And one of the issues we focus on is how
12 communities are redeveloping, closing military bases
13 like Hunters Point, Superfund sites and brownfields.
14 And in my job I get the -- the wonderful
15 opportunity of going to a lot of cities throughout the
16 country and touring the -- the areas of the city that
17 are going under revitalization.
18 So that's sort of who I am and who I'm not.
19 And I just want to make that clear, 'cause in many ways
20 I have been either parachuted in here or beamed up, if
21 you want to think about Star Trek, in that as I looked
22 at this document, I looked at it as sort of, well, you
23 know, what are sort of the strengths? weaknesses? How
24 could it be improved, and not being part of a lot of the
25 negotiations and -- and history that you've all been

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1 MS. HARRISON: Excuse me, Richard. What is
2 that humming?
3 MR. MACH: That -- I believe that's probably
4 the steam system or the heating system. And -- and I --
5 I mentioned that before you came in that I have
6 absolutely no control over that.
7 Okay.
8 MS. HARRISON: This has been a rough day.
9 MR. MACH: Okay. Joe is here to -- to talk to
10 us about the Land Use Control Implementation Plan that
11 the Navy has put out in draft and draft-final format.
12 We are trying to finalize that very soon. And so to not
13 take any thunder away, Joe Schilling.
14 MR. SCHILLING: Thank you, Richard.
15 Well, one of the handouts that is in the back
16 that we'll -- I'll go through briefly is my technical
17 report. But one of the first things I learned is not to
18 go through a technical report in a lot of detail because
19 you'll be listening more to that sound than you'll be
20 listening to me.
21 In terms of introductions, maybe what might
22 help is to explain who I am not, and then I will explain
23 who I am.
24 I am not the Navy. I am not the City and
25 County of San Francisco. I am not the State of

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1 through. So hopefully, I'll give you some ideas that
2 you all can consider.
3 So, as Richard was saying, as part of the --
4 the Navy's TAPP contract program, the Navy has been
5 paying me to go look at this document and kind of make
6 this presentation for your benefit. So it's to help you
7 really kind of translate some of the legalese, some of
8 the process, again try to look at the strengths and --
9 and weaknesses.
10 And the result of that was kind of like my
11 weekend homework project, which was this report
12 [indicating]. And so what I'll do is really spend maybe
13 about ten minutes, kind of walk you through the big
14 picture of the report, kind of set the stage, and then
15 open it up for questions.
16 Some of the questions I may be able to answer,
17 give you some ideas on how you may be able to strengthen
18 that. But recognize that I may not have all the answers
19 since, you know, I'm not the city, I'm not the state,
20 I'm not the Navy. But it may be more of a -- of a
21 brainstorming session.
22 Okay. So maybe just to kind of set the -- the
23 stage a little bit -- I know the writing is a little
24 smaller, but this little chart up here talks about the
25 Hunters Point Parcel B, which is where the LUCIP

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1 focuses.
2 Oh. I can hit people with this [indicating].
3 And that's really what we're focusing on today.
4 So the LUCIP, which is the Land Use Control
5 Implementation Plan. That's why I've got it in a
6 circle. That's our target.
7 But you need to know all the different other
8 documents and also all the different players who should
9 be involved. And I've put up the -- you know, the
10 acronyms, because we are dealing with, you know, federal
11 laws and environmental laws. So there's lots of
12 acronyms. If you are not familiar with them, just let
13 me know or at any time just raise your hand.
14 We're starting at the top with the ROD, which
15 is the Record of Decision, and so that is essentially
16 the cleanup document that determines what the cleanup
17 remedy is going to be.
18 And as the ROD was negotiated amongst all the
19 environmental regulators for Hunters Point, they came up
20 with, I guess, a conclusion that they would leave
21 contamination in place, that there's going to be some
22 pollution left on Parcel B.
23 Now, without getting into the pros and cons of
24 that, what they decided to do is: In order to protect
25 public health and safety and in order to ensure that

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1 future landowners also know that there's contamination
2 down in the soil and ground water, they will require as
3 part of this ROD what's called a land-use control or
4 institutional control. Sometimes the two -- two terms
5 are used kind of interchangeably. And I won't get into
6 kind of the -- the distinction; but if you hear someone
7 say "institutional control" and "land-use control,"
8 sometimes they are used as being one and the same thing.
9 And often those institutional controls are
10 things like zoning ordinances or deed restrictions,
11 meaning there's some restrictive language in a -- in a
12 deed that is going to restrict the types of activities
13 that can be used on this property. Why? 'Cause you've
14 got contamination in place.
15 So there is -- there was this decision in the
16 ROD to use land-use controls, a deed restriction or
17 notice to the future owners so that people will know
18 about this contamination below.
19 And one of the ways or -- or the way that that
20 was -- that deed -- that land-use control was
21 implemented was through a Navy -- or a covenant between
22 the Navy and the State of California, or DTSC, the
23 Department of Toxic Substances Control.
24 So this is, again, kind of the -- the legal
25 document, tjos Navy/California covenant, that is going

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1 to require this land-use control. So that's kind of all
2 background and history just to set the stage.
3 But in order to -- I mean, you got these legal
4 documents, and these legal documents, where do you find
5 them? Anyone? Where do you find these legal documents,
6 covenants and deed restrictions?
7 MR. JOB: County Recorder's Office.
8 MR. SCHILLING: Yeah, County Recorder's Office.
9 I mean, anyone who's -- if you've bought property, you
10 bought your house, you go through escrow, you get all
11 these legal documents that, you know, your real-estate
12 agent helps you with; and they go to the County
13 Recorder's Office to make sure that, you know, if I'm
14 the owner, I don't want anyone challenging, you know, my
15 ownership. I have title of this place.
16 Well, that's good. These covenants are very
17 protective when there's transfers of ownership and
18 title. But what happens day to day, you know, when
19 there's not transfers of ownership?
20 And that's one of the things that this LUCIP is
21 supposed to work on. It's supposed to really focus on
22 what's going to happen on -- at Parcel B on a day-to-day
23 basis to ensure that people know that there's
24 contamination in place so that, you know, people don't
25 go off digging below 10 feet and, you know, come up with

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1 contaminated soils. So that's why it's called a Land
2 Use Control Implementation Plan.
3 And that's why I've also put it at the center,
4 because that's the document that should be, I mean, easy
5 to understand. It should be able to direct whoever
6 reads it to, you know, which agency is doing what,
7 where. I mean, this is -- is really a key document.
8 And I've listed the different players along the
9 sides of this Land Use Control Implementation Plan:
10 EPA, Navy, State of California, again DTSC, the
11 community, and the City of San Francisco.
12 Now, I've got this little box over here marked
13 in green. That is the City of San Francisco's, I
14 guess -- it's not final yet, but they have been
15 negotiating with all these different players about
16 putting a Soil and Groundwater Management Plan through
17 the city, because, again, on a day-to-day basis, who
18 regulates, you know, development in the city? I mean,
19 it's, you know, the Building Inspection Department,
20 Public Works . . .
21 Yes, you got a question?
22 MR. MASON: Who have they been negotiating with
23 in the community?
24 MR. SCHILLING: Well, that's a good question.
25 That, I don't know in terms of where the community's

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1 role has been. And I -- I mean, I've heard different, I
2 guess, comments that the community has not been included
3 in that.
4 MR. MASON: We haven't been informed of who are
5 included in that.
6 MR. SCHILLING: Okay. And that's -- that's a
7 good point, and that's a point that I'll come back to.
8 But yeah, in terms of this management plan,
9 this really needs to be working in partnership with the
10 LUCIP, because the LUCIP focuses on the covenants up
11 here, which is dealing with future owners.
12 And then the management plan would be working
13 kind of on the day-to-day activities that would
14 happen -- you know, again, if someone wanted to dig; if
15 someone wanted to develop, they would have to go through
16 the city and comply with these standards under the Soil
17 and Groundwater Management Plan.
18 MS. ATTENDEE: I just want to suggest that you
19 put a box up there somewhere for the owners, since these
20 deed restrictions apply to the owner.
21 MR. SCHILLING: Okay. So the owner -- yeah,
22 the owners will be involved in a number of areas. The
23 owners would be over here [indicating], because they
24 will have the covenant, and they'll also -- yeah, the
25 owner and I'll also put "developer" because you're at

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1 that stage where they could be one and the same;
2 different, but, yeah, they would be a key pla -- party.
3 So again, this just sort of gives you the --
4 the -- a general framework.
5 MR. MACH: And Jesse, to answer your question,
6 the Record of Decision was sent out public notice to the
7 community, the proposed plan and Record of Decision, a
8 couple years ago. So that -- that did go through
9 community review.
10 That's -- that's why we're digging and hauling
11 soil off instead of doing a lot of on-site treatment
12 that was originally proposed by the Navy back in the
13 '97-'98 time frame. So the community was very involved
14 in the --
15 MR. SCHILLING: -- up here with the ROD.
16 MR. MACH: Right.
17 As far as the LUCIP, if -- if you recall and if
18 you were in attendance at the meeting, we did talk about
19 the LUCIP coming out. I spoke about it in the
20 May-June-July time frame. That's when we were putting
21 together the -- the TAPP contract.
22 It was sent out to everyone on our mailing
23 list, including Chris Shirley and SAEJ, the developer,
24 the city. It was put in the information repository in
25 the library. Everyone was notified at the RAB meeting.

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1 There was a draft sent out on June 6th. There
2 was a draft final sent out September 5th, I think, and
3 that's -- the draft final is what Joe reviewed. So the
4 community was made aware of this and was invited to
5 review and comment on it.
6 MS. FOX: Well, and the community pushed for --
7 for Joe to review this, yeah.
8 MR. SCHILLING: So -- so my sense of this is
9 kind of an ongoing process, and we're -- we're
10 continuing.
11 So with that, I'll just go to walk you through
12 a little bit through of the report, of the preliminary
13 observations and findings; and then we'll open it up to
14 questions.
15 If you need to reach me, on the signature page,
16 it has my voice mail, my E-mail. And again, I'd be more
17 than willing to follow up with anyone with any
18 particular questions or comments that you have.
19 But let me start on the page 3 that talks about
20 preliminary observations.
21 Again, just hitting a couple of highlights is:
22 These land-use controls and these LUCIPs, this is new
23 stuff. I mean, deed restrictions have been around for a
24 long time, and we've started to clean up these
25 contaminated properties. But if you think about eight

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1 or nine or ten years ago, there weren't that many laws
2 on the books dealing with cleaning contaminated
3 properties.
4 So now we're getting to the point where we're
5 cleaning up these properties; but if we're leaving
6 contamination in place, we have to develop these
7 land-use controls and these Land Use Controls
8 Implementation Plans. It's new. I mean, it's new for
9 all of these players, all of the players up on this
10 board.
11 So, I mean, I -- I sort of commend the effort
12 in trying to put together this LUCIP, because not every
13 brownfield or Superfund site or base has a LUCIP. So, I
14 mean, again, I'm commending all of you to say, "Let's go
15 forward and, you know, work out these details."
16 The other thing to think about when you think
17 about all these issues is: Think about the short term
18 and the long term, so not only thinking, you know, the
19 short term, like what happens if I'm out there and I see
20 someone digging, who am I going to call?
21 But also think of a long term, which is, okay,
22 10, 20 years from now once there are new owners and
23 developers, what's going to happen? So you need to kind
24 of think about both when you think about the LUCIP and
25 the land-use controls.

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1 And the other thing -- and this is very common
2 here as it is in other cleanup efforts -- is: You're
3 trying to balance a lot of competing interest, and
4 that's tough.
5 I mean, you've got people who are concerned
6 about public health. You've got people who are
7 concerned about jobs. You've got people who are
8 concerned about, you know, making sure that the
9 development fits community needs. I mean, you've got a
10 lot of concerns and a lot of interest out there.
11 And, I mean, let's face it, it's not an easy
12 job to try to align all those interests to make sure
13 that everyone's happy. So, you know, this is -- this is
14 tough stuff. It's not -- it's not easy.
15 But also think about the goals. I mean, what
16 are you -- what are you trying to do here? You're
17 trying to, you know, give notice to new owners. You're
18 trying to make sure that the environment is -- is safe
19 and to protect public health.
20 But you're also thinking, Well, you know, if we
21 want to get, you know, small and local developers and
22 businesses to come in here, we don't want to make things
23 so restrictive that we push them out. So think about
24 these different goals for the LUCIP and for the land-use
25 controls.

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1 And one of my preliminary observations is:
2 From my perspective, when I was parachuted in to say,
3 "Oh, yeah, here's this five-page LUCIP; take a look at
4 it," this was more complex than what I anticipated.
5 It was -- you know, first there was the LUCIP,
6 and then find out -- finding out a little bit about the
7 players, and there was this soil management plan that
8 San Francisco has drafted, but it's not finalized. And
9 so it became a little bit more complex from my
10 perspective.
11 So what I was trying to do is: Well, how do I
12 evaluate the strengths and weaknesses of this LUCIP? I
13 mean, there isn't any sort of like template or any sort
14 of requirements. There are a lot of guidances,
15 guidelines that the different regulators have issued
16 about land-use controls.
17 The federal government, the Department of
18 Defense has issued some guidelines, some kind of
19 thoughts about how land-use controls should operate.
20 The US EPA has issued some guidelines about it. I'm not
21 sure about DTSC or the State of California, but I know
22 they have started some uniform practices, and they have
23 some guidelines.
24 But these are all guidelines. I mean, they are
25 not requirements. It's not saying, "Here is this mold,

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1 and you've got -- in each LUCIP you've got to have three
2 of these and two of these and one of these." So
3 there -- you know, there wasn't any kind of framework
4 that I could, you know, match this against the LUCIP and
5 say: "Oh, well, here it matches. Here it doesn't."
6 MS. HARRISON: Quick question.
7 MR. SCHILLING: Mm-hmm.
8 MS. HARRISON: Under those circumstances who
9 has the final say-so? Who approves the final plan?
10 MR. SCHILLING: The final LUCIP?
11 MS. HARRISON: Mm-hmm. Since no one really has
12 any set rules and they are all suggestions, as I
13 understand you to say, who has the final say-so?
14 MR. MACH: As in all of our primary
15 deliverables under the Federal Facility Agreement, we
16 would have to get consensus from the Navy, EPA, the
17 Water Board and DTSC. All four of us have to --
18 MS. HARRISON: Where does the community come in
19 on that approval?
20 MR. JOB: Hopefully through us.
21 MR. MACH: Right.
22 MR. KAO: Well, this is also a primary
23 document. Right now you are participating in input, and
24 you're --
25 MR. SCHILLING: Yeah, this is a draft.

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1 MR. KAO: Community representative is right
2 there, and he is reviewing for you and making comments.
3 MS. HARRISON: He doesn't have a final say-so,
4 though.
5 MR. KAO: No.
6 MR. SCHILLING: True.
7 MS. HARRISON: That's my problem.
8 MR. SCHILLING: Yeah. No. I'm giving you
9 ideas, my thoughts about what's good and bad about this
10 current draft.
11 MS. HARRISON: You know, please believe me, I
12 did understand that. I'm a little slow, but I'm not
13 quite that slow today. I did understand that.
14 I just simply wanted to know who had the final
15 say-so of where the community fit in on that final
16 say-so. Perhaps I didn't explain myself properly.
17 MR. JOB: That's -- that's why we come to these
18 meetings every month, so we can learn the community's
19 feelings and communicate those -- those to the Navy as
20 our ultimatum, basically. So we're not going to walk
21 out of here without -- without, you know, very
22 significant comfort levels with the communities being
23 protected.
24 MS. FOX: Do these have to follow the nine
25 criteria, then, you know, that -- it's not the same as

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1 that?
2 MR. MACH: The nine criteria only applies to
3 the feasibility study.
4 MR. JOB: Well -- well, but it --
5 MS. FOX: Well --
6 MR. JOB: But it does, because -- because this
7 is part of the remedy. And so --
8 MS. ATTENDEE: Yeah.
9 MR. JOB: So certainly, long-term
10 effectiveness, all of those things have been evaluated.
11 MS. FOX: And I just said that because
12 community approval is one of the nine criteria.
13 MS. SHIRLEY: Acceptance.
14 MR. MACH: But -- but that was -- but that was
15 taken care of in the ROD. The ROD already set out the
16 land-use controls, and now this is just how they are
17 going to be implemented. So it's not ch- -- it's not
18 changing the remedy.
19 MS. FOX: Right.
20 MS. TROMBADORE: Right.
21 MS. FOX: Okay.
22 MR. SCHILLING: But what I'm hearing is: You
23 definitely are going to need consensus with this group
24 and everyone in order to make this effective. And, I
25 mean, that's really the key to have any sort of

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1 long-term implementation success is getting everyone's
2 buy-in.
3 Okay. So let me give you some sort of
4 preliminary findings, which is on page 5. Again, just
5 hit some of the highlights. If there are questions,
6 just feel free to jump right in.
7 In terms of the LUCIP document, the framework
8 and the format, again, from my perspective as an
9 outsider coming in, I viewed the LUCIP as the center,
10 that this is the one document that should be as
11 accessible as possible to the community, that could be
12 put on a Web site; it could be in libraries.
13 I mean, it should be easy for people to read,
14 because that LUCIP, if that is the -- the central
15 document, and from that if there's one document that
16 everyone can understand and read; if that's the LUCIP,
17 then that can go a long way to achieving some of your
18 goals, both short term and long term, in terms of
19 protecting public health and safety and, you know,
20 helping to provide certainty for any redevelopment that
21 happens. So that was sort of my perspective.
22 Looking at that format I thought that the
23 format was -- was difficult to follow. It was a lot of,
24 I mean, thoughts that sort of jumped around; and there
25 was some good information in the LUCIP, but the format

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1 was -- was tough to follow.
2 Now, I did -- even though it wasn't required
3 but it was so closely connected, I did review the draft
4 of the San Francisco management plans; and that
5 framework, that format, is pretty good. It's on par
6 with a lot of other similar LUCIPs that I have reviewed.
7 So, I mean, if you took some of the information
8 that's in the LUCIP and use the format for the San
9 Francisco management plan, that would make it a much
10 more easy document to understand and read.
11 In terms of some of the questions, I think one
12 of the things that you have to define or some of the
13 issues that Marie was raising, which is "let's define
14 what is the LUCIP," you know, I mean, I kind of drew
15 this little diagram here; but as you read the document,
16 the document needs to tell you what it is. It needs to
17 explain how the LUCIP was created, the process.
18 As Marie was mentioning, well, you know, who
19 does have the final say? That needs to be explained in
20 the LUCIP so it gives a person an idea of what went on
21 before in order to get to that document. And it should
22 identify who the major players are -- EPA, Navy, owners,
23 community -- and identify what their roles and
24 responsibilities.
25 Again, the current version of the LUCIP, it's a

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1 little vague. I mean, they kind of mention, you know,
2 the Navy, you know the role of the State of California.
3 They don't really mention the community as in a role
4 with the LUCIP, and that's an area that definitely needs
5 to be strengthened.
6 But at the very beginning, you kind of want to
7 know who the players are, you know, and what their roles
8 are, what are they going to do and who they are. I
9 mean, those are really key issues.
10 In terms of one of the strengths of the LUCIP
11 is: For future long-term effectiveness, it relies a lot
12 on this covenant, this deed restriction that's going to
13 be between the Navy and the State of California that
14 will then be passed on to new owners.
15 And the good news is that you're in the state
16 of California. And the state of California, compared to
17 some other states, has strong legal statutes and
18 history, and you've got a strong support with the
19 real-estate industry and the title insurance companies,
20 and you have all that infrastructure in place to make
21 sure that when these restrictions, like "Don't dig below
22 10 feet," are listed on this covenant and it goes to
23 this new owner and then 15 years later it goes to
24 another new owner, that new owner 15 years from now
25 stands a prob- -- a pretty good chance of knowing that

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1 there is a restriction there and they can't dig below
 2 10 feet.
 3 So, I mean, that's the good thing is that
 4 California has a good tradition of dealing with
 5 covenants and deed restrictions. If we were in South
 6 Dakota, it might be a different story. I didn't offend
 7 anyone from South Dakota, did I? I figure if you were
 8 from South Dakota and you're here, you're probably
 9 feeling happy about that.
 10 So okay. The management plan. Without getting
 11 in too much detail, I see the relationship between the
 12 management plan and the covenant as being really
 13 essential, because the covenant kind of focuses on new
 14 owners. It's kind of looking forward.
 15 The management plan, it regulates the
 16 day-to-day activities that could happen on that property
 17 that might expose people to contamination.
 18 The management plan talks about, you know, no
 19 digging, no using the ground water for wells or any
 20 other use; and if you are going to dig, then you've got
 21 to get a special permit or approval by the San Francisco
 22 Building Inspection Department or Public Works
 23 Department in order to do that so that you do it in a
 24 way that doesn't expose people to contamination. So
 25 that's essential.

1 someone is developing, they know, ah, we got to call the
 2 city. The city says: "Ah, we've got to call DTSC.
 3 We've got to bring in the Navy."
 4 I mean, you know, so all that stuff happens
 5 like this as opposed to, well, we're not really sure
 6 what the LUCIP said and, you know, I mean, Richard's
 7 moved on; you -- some other people have moved on, and
 8 you know, you don't know what's going on, I mean, 'cause
 9 it's -- a lot of faces have changed.
 10 So implementation and enforcement has to be
 11 spelled out in greater detail identifying the legal
 12 authority for those enforcement actions. Each one of
 13 these levels of government -- the City of San Francisco,
 14 the Navy, the state, EPA -- they can bring different
 15 types of enforcement actions, depending on, you know,
 16 what happens with these covenants.
 17 But you want to know what those enforcement
 18 actions are and put those in the LUCIP. I mean, they
 19 don't have to be spelled in a lot of detail, but there
 20 should be some reference to that.
 21 Now, the \$64,000 question is: Who pays for
 22 this? And that is -- I mean, it's a sensitive issue.
 23 But I guess my -- my recommendation is: You need to
 24 have those discussions now.
 25 So if the City of San Francisco is going to

1 And again, as I understand it, the City of San
 2 Francisco has not made -- I guess with these
 3 negotiations with the environmental regulators, this is
 4 not a done deal. That's why I've got it in green and
 5 kind of a -- a dotted line.
 6 But if it's going to -- if this -- if this
 7 whole thing is going to work, you're going to need
 8 something like the management plan or like a zoning
 9 overlay ordinance, something at the local level that
 10 will help control the day-to-day activity.
 11 The key, though, if you turn to page 6, is
 12 implementation and enforcement. I mean, if I w -- I
 13 was just reviewing a similar document for a military
 14 base in Alabama. It was 25 pages; and almost, you know,
 15 two-thirds of that focused on implementation and
 16 enforcement.
 17 In the current draft for the LUCIP, there's
 18 maybe about two pages on implementation and enforcement.
 19 So that definitely needs to be beefed up. And again,
 20 it's something that can be done easily. It's just
 21 explaining the ground rules up front.
 22 I mean, that's really what this all boils down
 23 to is: You want all these different players have to
 24 identify their roles and what the ground rules are up
 25 front so that then, you know, five years from now when

1 have this management plan, they are probably going
 2 need additional staff to do something like this. If
 3 they are charging, say, a fee for someone to get that
 4 management plan and get the approval and all that, well,
 5 if that fee is so high that it prohibits community
 6 developers from coming in and working on it, you are, I
 7 mean, maybe competing against each other. At the same
 8 time, that's one of the big issues.
 9 I mean, the issue of cost here is no different
 10 than any other closing base that's focused on land-use
 11 controls or any other Superfund site or any other
 12 brownfield site as to who pays for this kind of
 13 safety-net system to make sure that you protect public
 14 health and the community in the short term and the long
 15 term.
 16 And I didn't go into a lot of depth. I mean,
 17 there's been a lot of discussion in different cities
 18 about different ways to pay for that. And again, I'd be
 19 happy to, you know, go in more depth.
 20 But in the current LUCIP, the question of who
 21 pays and how it's funded is not there. So that's
 22 another area where it needs to be strengthened.
 23 And the last thing I'll talk about is the
 24 concept of stewardship. Again, I said earlier, you hr
 25 to think not only the short term. Like, what's going to

1 happen four years from now when someone's out there
2 digging and trying to lay new Internet cable or
3 something along those lines?

4 But you've got to think about when you're not
5 here. I mean, whether it's you're not here in an
6 institutional position with the Navy or one of these
7 players or you're not here because you've moved on and
8 there's new communities and new families here, you've
9 got to be thinking about how you keep oversight, how you
10 keep the information to pass on to these future
11 residents of your community about this contamination.

12 And so I've kind of labeled some of those
13 thoughts under the concept of stewardship, because as
14 the comm- -- as members of your community, you are the
15 stewards of -- of your neighbor. You are the stewards
16 of your land. I mean, you have to be thinking about the
17 impact on future generations.

18 A couple of thoughts, again, just ideas that
19 I've heard other communities starting to explore, are
20 the concept of some type of ongoing advisory board, some
21 kind of, you know, group that would look at this LUCIP
22 and the issues with the land-use controls, you know, all
23 the time.

24 Now, whether there's some existing groups that
25 could take on that responsibility, you know, those are

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1 that community center museum helps pass down the
2 information that, you know, this housing development
3 over here where people lived used to be where ships were
4 being built and that we can use that property today for
5 housing development or community center, but we can't be
6 digging underneath it. We can't use the ground water,
7 but it's safe enough for us to use every day.

8 But by knowing what was there before, you help
9 pass on that legacy, that kind of history and sense of
10 community, about some of of these issues, which, I mean,
11 let's face it, right now it sounds like that's the last
12 thing you guys will probably want to remember is all the
13 contamination that's there. Sort of let's -- let's move
14 on. But again, years down the road this may be a way,
15 if it's done right, to pass on that stewardship.

16 So those are general ideas. What you find,
17 again, and for the rest of the report is on pages 8
18 through -- I think it's 12 are kind of my framework that
19 we have just worked through, some general criteria and
20 considerations about the selection of land-use controls
21 as well as LUCIPs and methods of implementation,
22 discussion like about databases and all that. So these
23 are just some general thoughts.

24 And then you get into the nitty-gritty, which
25 is the matrix. It's not the movie. But you could

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1 ideas for -- and considerations for you to think about.

2 But it would be great to come up with, you
3 know, this concept of an advisory board and put that in
4 the LUCIP to say, Yes, there will be a advisory group
5 that meets, you know, every six months and gets reports
6 from all the players about, "Well, what's going on with
7 our land-use controls and the LUCIP? Are we, you know,
8 monitoring the digging going out there or -- or
9 whatnot?" So that's one sort of concept under
10 stewardship, again, that some communities have been
11 considering.

12 Another one that I've heard is that of a
13 museum. And this has been more in the setting of the
14 Department of Energy-polluted cities. So I know you
15 think Hunters Point is bad; but if you start thinking
16 about some of these Department of Energy communities
17 that have got the radioactive material that is going to
18 last for, you know, I mean, millions of years, they
19 really have it bad in terms of what they can do with
20 their property.

21 But one of the things that those communities
22 and a few of the military communities have thought about
23 is the concept of a museum that pays tribute to what was
24 there before, that pays tribute to the building of ships
25 that helped, you know, fight the great wars and that

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1 equally get lost in this.

2 And this was the only way -- again, I said this
3 was a difficult task for me. So this was the only way I
4 could kind of keep everything straight was: These
5 matrices on the one column I just sort of paraphrased or
6 took kind of paragraphs from the current draft of the
7 LUCIP. So that is, again, not the exact quotes but just
8 sort of phrases on that first column.

9 So if you got the five-page LUCIP and you
10 started at page 1 and you just followed it all the way
11 through that right column, that's what you would see.
12 So that helped give me the framework.

13 Then the middle column is when I started making
14 more specific suggestions, you know, like "clarify
15 this"; "include the community," you know; "this seems
16 confusing."

17 And then the last column is kind of specific
18 recommendations that -- so you can kind of read this
19 from left to right. So that was how I sort of broke it
20 down. And again, it may be a little confusing.

21 And I did one for the LUCIP, which is the first
22 ten pages, and then there's a blue paper. And then I
23 did one on the current draft of the ground-water
24 management plan. Again, I know that I wasn't required
25 to do that, but I just thought it was so essential to

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1 the success of the LUCIP to look at that and give the
2 City of San Francisco some feedback as well.
3 Okay. So again, some questions, and I may not
4 be able to answer them, but some folks may.
5 Yes.
6 MR. ATTENDEE: My question: Can I get your
7 book, since there's no more?
8 MR. SCHILLING: Oh, this one here? Sure.
9 MR. ATTENDEE: Thank you.
10 MR. SCHILLING: I'm glad I don't have to take
11 it back with me.
12 MS. TROMBADORE: How do we get more copies?
13 MR. SCHILLING: I-- well, there's E-mails. I
14 can E-mail you the document.
15 MR. JOB: I'm willing to let somebody have mine
16 if they need it if I get an electronic copy.
17 MR. MACH: And, Claire, I do have E-mail with
18 the five attachments. I can send it out to all the BCT
19 members and the city and -- and those that I normally
20 have on distribution.
21 I also provided it to Nick, Nick Bollo, who's
22 our attorney who's doing our response to comments for an
23 upcoming meeting that we have next Thursday with the
24 regulatory agencies and the city. And the ten-page
25 matrix that you mentioned from the LUCIP is the one that

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1 for the potential uptake of contaminates into
2 vegetables, the 10-foot coincided with both the
3 potential excavation, normal construction excavation
4 depths, as well as plant uptake.
5 MS. HARRISON: Richard, how deep does an apple
6 tree root go?
7 MS. FOX: Come on, Richard. You don't know
8 that?
9 MR. MACH: You know, I don't know the exact
10 root depth of all the species out there.
11 MR. JOB: It's an important --
12 MR. MACH: But if you --
13 MR. JOB: It's an important thing to note that
14 the ground water out there is ultimately saline, and so
15 anything that's going to go down into the saline water
16 table is probably not going to be a very healthy plant.
17 So I wouldn't expect you to find terribly deep-rooting
18 plants in that particular ground-water situation.
19 MR. MACH: And you know, I have discussed very
20 briefly phytoremediation in -- in here, and I could -- I
21 could definitely get some experts to come in and talk
22 about phytoremediation. Although we're not using that
23 to remediate our sites, it can tell you what plants can
24 do and have been used to do for remediating different
25 type of sites. And then that --

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1 he's going to do the response comments on. He wasn't
2 going to respond on the city's ground water, but those
3 are the ones to us, so . . .
4 MS. TROMBADORE: Okay. What's --? I'm sorry.
5 Just to clarify a point. What's -- and what is the
6 software that you use?
7 MR. MACH: It was --
8 MR. SCHILLING: It's in Microsoft Word. Yeah,
9 it's Microsoft Word.
10 There was a question, gentleman with the hat?
11 MR. BROWN: My question is you kept mentioning
12 10 feet deep. What was the --? What qualified 10 feet
13 to be deep enough?
14 MS. HARRISON: Or too deep.
15 MS. FOX: Ground -- ground water, basically.
16 MR. MACH: No. The te- -- The 10-foot
17 depths -- The 10-foot depth on Parcel B had to do with
18 two scenarios. One -- and these are not exact sciences.
19 But everyone was concerned that if you dug down to
20 10 feet, that is about the maximum depth you would go --
21 you would dig for a swimming pool installation or for a
22 major utility corridor going down, so we want to make
23 sure that the upper 10 feet was clean.
24 Further, tomato roots can go up to
25 approximately 10 feet; and since we are cleaning up also

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1 MS. SHIRLEY: Some plants are just better at
2 taking stuff up than others. Is that what you're trying
3 to say?
4 MR. MACH: Well, some of them will -- will take
5 stuff up better. Some of them will -- will emit an
6 enzyme around the rootball, and that will actually treat
7 the stuff in place.
8 Some of them will pull the -- the contaminants
9 out of the soil into their -- their wood, their bark,
10 their -- basically their mass; and it just accumulates
11 there. And so as long as you're not eating the tree,
12 it's not a problem.
13 They actually use mustard to remediate lead
14 sites a lot. And they'll just harvest the mustard.
15 They'll go incinerate it. They reduce the mass of
16 contaminate, and then they send it to a landfill.
17 Some plants will pull up, like, volatile
18 organic compound, and they just shoot them right out.
19 It comes up through their -- through their -- the roots,
20 their trunk, out the leaves; and it -- and it goes out
21 untouched. Some of them transform it into CO2 and
22 water.
23 And then other times people are -- used
24 phytoremediation just because the plants like to suck
25 water. They need water to live; and if you don't

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1 I want -- you could either put in a bunch of wells and you
2 could pump the water up and treat it, or you can put in
3 a bunch of trees.

4 And they use poplar trees a lot because they
5 grow fast and they suck a lot of water. You just put
6 several rows of poplar trees, and they will -- by
7 feeding themselves, as long as your depth of ground
8 water is, I think -- it's got to be less than 20 feet,
9 they will suck the water up, and they will essentially
10 contain your water so it doesn't keep flowing.

11 MR. JOB: And as long as it's not salty. I
12 guess --

13 MR. MACH: And that's -- that's part of
14 phytoremediation --

15 MS. HARRISON: The smile on your face just
16 makes me want to ask more questions. Stop that.

17 MR. JOB: Question for -- for Joe.

18 So how many -- how many different bases have
19 you seen or not necessarily bases but -- but brownfield
20 sites that have -- have had land-use controls put into
21 place? And are you aware of any of them where they have
22 failed or where there's been problems with that not
23 being protected?

24 MR. SCHILLING: I mean, I've looked at, you
25 know, probably, you know, at least 50 or 60 different

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1 community. They are going to see something a little
2 suspicious.

3 Now, they don't want that person to go out and,
4 you know, be a cowboy and say, "Hey, stop that." I
5 mean, they want to be able to have that person in the
6 community be able to call someone, knowing who to call,
7 to say, "Look, I think something's going out -- you
8 know, wrong."

9 And if someone checks and say, "Oh, no, no,
10 they've got the proper permit; they are doing it right,"
11 okay, fine. But if they are not, then someone in the
12 community is going to say: "Hey, you know, there's
13 someone out there. We've got to stop them before they,
14 you know, get all this ground water flowing down the
15 sewer or where it's not supposed to be."

16 DR. SUMCHAI: I -- I wanted to bring us back to
17 a very, very basic question, and I refer everyone to
18 page 9 under the section of -- of "LUC Selection"; and
19 the last bullet point says, "to consider all options,
20 including complete cleanup and openly discuss the
21 appropriateness of land-use controls for the site and
22 then explain why land-use controls are the best option
23 when compared with complete cleanup."

24 And it also says that "ideally, the land-use
25 controls should minimize the risk to public health and

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1 brownfield sites. I would probably say with brownfield
2 sites, it's still pretty new in terms of land-use
3 controls and being ones that have failed.

4 There are probably more examples of where
5 Superfund sites that have land-use controls that, say,
6 prohibited any kind of development; and they go out
7 there and, you know, find that someone, in fact, is, you
8 know, developing without a permit. So there are some
9 examples of that.

10 And recognize that, you know, even with these
11 plans in place, they regulate people who follow the
12 rules, you know, I mean, in terms of developers and
13 builders. So if everyone comes in and gets a permit and
14 follows the rules, it's great.

15 Well, we also know that sometimes people don't
16 follow the rules, and that's where you need what's kind
17 of -- it's -- it's called layering. So you need
18 additional protections or something out there as a
19 safety net to catch those people who don't follow the
20 rules.

21 In my experience kind of working with the City
22 where I did a lot of code enforcement and slumlord
23 enforcement and all that, the best safeguard, or safety
24 net, for people who don't follow the rules is the
25 community. I mean, they are the ones who are in the

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1 the environment from exposure to individual
2 contamination, not only for today, but also in the
3 future."

4 So my understanding was that Parcel B was to be
5 cleaned up both under Proposition P to unrestricted use.
6 So we are talking about complete cleanup here. So why
7 do these apply to Parcel -- Parcel B?

8 MR. MACH: Nowhere do we ever say,
9 "Unrestricted use." It's to be fully -- to -- to
10 maximally utilize the site to -- to the reuse plan,
11 which is residential.

12 You know, I'll go into Prop P real quick,
13 because everyone is thinking that Prop P came out and
14 everyone wants unrestricted. And I can tell you right
15 now, there is no way that there will not be any
16 restrictions on the base. There will be restrictions on
17 ground water. There will be restrictions on soil below
18 10 feet, and in most areas there will be restrictions on
19 the creation of habitat. We didn't do the cleanup for
20 ecological creation of habitat.

21 And so there will be restrictions out there.
22 But that doesn't mean that we will not meet the reuse
23 plan, be fully protective of human health and the
24 environment if you keep -- you don't dig below 10 feet
25 and you don't pump ground water out and you don't go out

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1 there and make, you know, habitat for some endangered
2 species.
3 So there will be restrictions, but -- but
4 everyone will be safe for the intended reuse of the
5 property.
6 DR. SUMCHAI: Well, is complete cleanup of
7 Parcel B technologically unfeasible? Is it possible to
8 completely clean up Parcel B?
9 MR. MACH: To be unrestricted reuse in a
10 reasonable time frame and a reasonable cost? Probably
11 not. And --
12 MS. HARRISON: Bypass "reasonable" and just is
13 it possible?
14 DR. SUMCHAI: I'm just asking --
15 MR. MACH: Everything is possible.
16 DR. SUMCHAI: -- is it technologically
17 feasible?
18 MR. MACH: Everything is possible. Everything
19 is possible. It might mean we dig to 90 feet and remove
20 everything down to bedrock and then backfill with clean
21 soil, or you have a bigger bay. It's possible.
22 Everything is possible. You want to spend three billion
23 dollars to do that? Probably not.
24 DR. SUMCHAI: Well, I suggest --
25 ATTENDEE: Maybe.

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1 DR. SUMCHAI: -- people in the community think
2 about this, because this is kind of news to me. I mean,
3 I thought that we were looking at Parcel B as being a
4 site that, you know, could be at least brought to some
5 highest -- higher standard of -- of cleanup than -- than
6 other areas, other dirtier areas of the base.
7 MS. FOX: It is.
8 MR. MACH: It is.
9 Claire?
10 MS. TROMBADORE: I just wanted to, you know,
11 echo what you said. A risk assessment was done. We
12 required the Navy to look at the entire 0-to-10-foot
13 zone and imagine soil as deep as 10 foot right on the
14 surface and what that would do to somebody.
15 And, you know, folks, including the Navy, of
16 course, said: "Well, that's ridiculous. What's the
17 likelihood that one would come into contact with that on
18 the surface?"
19 And one of the reasons we have the LUCIP
20 case that would ever -- what are the ways that could
21 happen, doing construction that might get you down that
22 deep could expose you to it. So we want to make sure
23 that we are not bringing it up to the surface, that
24 we're not having people exposed without knowing it's
25 there. So there's this notification in this LUCIP.

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1 And frankly, the remedial investigation focused
2 on the 0-to-10-foot zone. And if the Navy wanted to go
3 back -- I mean, they would have to go back. They would
4 have to -- to basically take the areas where we know
5 have contamination and continue to characterize, I
6 guess, until they didn't see it anymore.
7 And they did -- they do have some deeper than
8 10-foot depth. But right -- But the focus of the
9 remedial investigation was on the 0-to-10-foot zone
10 because the thought was that if they clean up that whole
11 10 foot, you've got that -- that layer of clean soil
12 there. You've got this further control if there is
13 anything below 10 feet to protect exposures, and I think
14 there is just the fact of we would really have to stop
15 and -- and do a lot more investigation to figure out the
16 extent, you know, how deep it does go.
17 And I know bedrock in some places i- -- it's
18 90 feet and probably even greater in some portions. So
19 it's -- it's a big effort to figure it out. It's not
20 that it couldn't be done. But, you know, back in
21 1990 -- when --? I don't know. The proposed plan came
22 out probably in '90- --
23 MS. ATTENDEE: -- '5.
24 MS. TROMBADORE: -- '6, '95, that time frame.
25 You know, all of this was -- we were discussing what's

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1 the best thing to do, and the push was: Let's make it
2 safe for people to be able to live there and get it
3 turned over faster.
4 And so at some point the investigation stopped,
5 and the plan of how to make it available started going
6 into play. So that's a little history of why we're
7 here.
8 MS. FOX: As a community member who was there
9 in 1995 and we pushed hard to get it from 3 feet to
10 10 feet, 10 feet's really deep. It's much deeper than
11 anybody would dig, like an owner would dig.
12 MR. SCHILLING: How tall is this ceiling?
13 Like, probably 18?
14 MS. TROMBADORE: Plus, we have heard time and
15 time again --
16 MR. ATTENDEE: Twelve feet?
17 MS. TROMBADORE: -- this is the only site where
18 we have to go all the way to 10 feet, you know; and they
19 raised Cain about it, but we're making them do it.
20 MS. FOX: But my -- but my -- my thing that's
21 really helped me -- and I'm not sure that you know this
22 from the city, but the general -- okay, say there's an
23 old gas station around San Francisco that's cleaned up,
24 and now there's an apartment building on it. I mean, we
25 all see it all over town. How -- how deep are those

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1 cleaned up?
2 MR. CHESTER: There -- there are restrictions
3 on ground water in the city of San Francisco.
4 MR. JOB: The vast majority of the sites that I
5 work on, generally we use 0 to 4 feet to be the soil
6 that people are likely to come into contact with. So if
7 we're going to come up with a number that is protective
8 of human beings being exposed to soil, we usually apply
9 that to 0 to 4 feet.
10 Deeper than 4 feet we usually look at what
11 would be the impact to ground water into the bay from
12 water leaching through that soil and eventually
13 migrating out into some surface water body.
14 So -- so we -- there has been a much -- 6 extra
15 feet of protection applied to Hunters Point that -- that
16 isn't applied to any of the sites that I'm aware of
17 that -- that my agency works on.
18 MR. MACH: Okay. Keith and then Ray.
19 MR. TISDELL: I got a question to -- to --
20 MR. MACH: -- Brad?
21 MR. JOB: Sure.
22 MR. TISDELL: You know, you's talking about
23 water leveling 10 feet. Ground -- I mean, soil absorb
24 water, right?
25 MR. JOB: It's like a sponge, right.

1 MR. TISDELL: Yes. So it's going to keep going
2 up.
3 MR. JOB: Well, it doesn't quite work that way,
4 but --
5 MR. TISDELL: But -- okay. You mix
6 contaminated dirt with clean dirt. What's you going to
7 come up with? Dirty dirt.
8 MR. MACH: That -- That's why the restriction
9 is: You can't mix the dirt that's left -- that's below
10 10 feet with the dirt that's above 10 feet that's clean.
11 MR. TISDELL: But okay. Why -- why -- why are
12 these people going to go out there, dig and try and
13 plant something down even though --? 'Cause people are
14 going to be people. People make mistakes. They don't
15 go below 10 feet and grab some of that dirt, "Uh-oh, I
16 made a mistake."
17 MR. MACH: How are they going to go below
18 10 feet without getting a permit if they follow the
19 legal requirements?
20 MR. JOB: And -- and for most --
21 MR. TISDELL: You going to have somebody out
22 there watching them digging? People make mistakes. You
23 know, just like there's all kind of underground wires.
24 PG&E go down there and hit them by -- accidentally all
25 the time. When they knocked out all them phones, that

1 was an accident.
2 MR. SCHILLING: Right. The question I would
3 have -- and we may have folks who are more familiar who
4 are contractors -- I mean, to dig 10 feet down with,
5 like, a shovel is -- I mean, you know, it's probably not
6 going to happen. So it would be someone with some
7 equipment.
8 MR. TISDELL: Right.
9 MR. SCHILLING: And so the thing is that --
10 that's why I was talking about the safety net -- is that
11 if you see someone out there, you know, with some
12 equipment digging, then it's going to be up to the
13 community to say: "H'm, I wonder if, you know, they
14 have got a permit. I wonder if they're doing it right."
15 And if you know about this, the LUCIP and who
16 to call, and you're able to find out, I mean, quickly as
17 to, well, if they are doing it right, fine. But if the
18 city doesn't know, then the city or the Navy who whoever
19 then can go out and, you know, stop them, because you're
20 probably going to have someone who's out there about a
21 piece of equipment if -- in order to get down to that
22 10 feet.
23 MR. TISDELL: Just becau- -- okay.
24 MR. MACH: Go ahead. I'm sorry.
25 MR. TISDELL: Just because I go and call and

1 say "Hey, there's people out here digging"; "Oh, yeah,
2 we know. They got a permit." Okay. Something come up
3 screwed up. Then what?
4 MR. MACH: Well, if -- if the permit says they
5 can't dig below 10 feet and they dug below 10 feet, then
6 they will be responsible for the characterization and
7 off-site disposal of the soil.
8 If they found something between 0 and 10 feet
9 that was contaminated that we had missed, then the Navy
10 could be asked to come back and clean that up.
11 MR. TISDELL: Okay. Okay. Good point.
12 Now, between 0 and 10 feet.
13 MR. MACH: Right.
14 MR. TISDELL: Okay. Now, you going to tap
15 everything that you put out there and build homes on and
16 stuff, come back and take -- take all that up or replant
17 some more dirt on top of it?
18 MR. MACH: I'm sorry. Say that again.
19 MR. TISDELL: Okay. Zero, ten feet.
20 MR. MACH: Right.
21 MR. TISDELL: You know, they -- they get in
22 there and lay in cable wires.
23 MR. MACH: Right.
24 MR. TISDELL: Oh, they find something that's
25 not -- that's not supposed to be there, contaminated

1 dirt.
2 MR. MACH: Right.
3 MR. TISDELL: So they call you guys. You going
4 to come out there and tear down all the buildings that
5 you all done put up and everything and remove all the
6 dirt that's down there and put some more clean dirt on
7 it?
8 MS. HARRISON: I don't think so.
9 MR. CHESTER: The idea is: You wouldn't be
10 getting to the point where you would build on top of it
11 once you exposed the soil.
12 MR. MACH: I mean, mo- -- most constru- -- I
13 mean --
14 MS. SHIRLEY: That's the idea.
15 MR. MACH: But -- That -- that -- that could
16 be a requirement. But in -- in -- I mean, the way most
17 standard construction practices happen, they put the
18 deepest stuff in first. And so they would go in, and
19 they would put in their utility backbone first. They
20 would put in their -- their deep foundations. If they
21 start finding it at that point, you bet they'll be
22 calling us. I'm sure there'll be a --
23 MR. JOB: I want to make a --
24 MR. MACH: I'm sure there'll be a 1 -- 1-800
25 Navy come-back line, so . . .

1 And so you need to -- to use prudent caution
2 anytime you're digging on any old industrial facility,
3 Hunters Point, an old gas station, Mission Bay, the
4 Giants ballpark. I don't care. You still need to be
5 careful, and -- and we just need to get that ingrained
6 in our process. And that's -- that's what this
7 implementation plan is all about.
8 MR. SCHILLING: Well, you raised some really
9 good points.
10 MR. MACH: Wait.
11 MS. TROMBADORE: I also just want to add that
12 the majority of the contamination is in the 0-to-10-foot
13 zone. So we're addressing the majority of it.
14 Plus, on Parcel B, with the exception maybe of
15 a small section of IR 10, which is near building --
16 MR. MACH: 123. 123.
17 MS. TROMBADORE: -- 123, there aren't any acute
18 threats out there, you know, below 10 feet. It's
19 really -- you know, there's nothing that you would take
20 a breath and keel over. It would be, like, live in it.
21 You have to live in it.
22 MR. ATTENDEE: Right. So --
23 MS. TROMBADORE: So this is --
24 MR. MACH: The risk assessment, you're right.
25 For the -- for the cancer risk is based on exposure for

1 MR. JOB: And I -- I'd like to make a point
2 that -- that you are hitting on the exact weakness of --
3 of the process. That's exactly what Joe was talking
4 about is -- is the implementation and the stewardship.
5 You know, let's -- to give you another example,
6 Alameda, almost exactly the same hydrogeologic
7 conditions, another Navy base right across the bay,
8 right? They have a problem over there where there used
9 to be an old industry that wasn't Navy, but they -- they
10 spewed PAHs, a kind of chemical, all over the place.
11 And so you go down 8 to 12 to 14 feet deep, and
12 you come across a layer they call the marsh crust
13 that's -- that's full of bad chemicals.
14 The city came out with an ordinance, said,
15 "Okay, anytime you dig in this area you have to come and
16 get a permit." Well, you know, two months later who's
17 out digging without a permit but the city, you know.
18 So -- so we're aware -- we are aware that there are
19 significant issues about making these work.
20 But conversely, the alternative of -- of giving
21 you a piece of property that didn't have a restriction,
22 I would not feel -- I would not feel comfortable about
23 that because I would not feel as protective. Even --
24 even if we had made it "dig to 20 feet," we haven't
25 looked at every speck of soil on that site.

1 a 30-year lifetime. So, you know, if they hit something
2 during construction, someone's not going to be exposed
3 and get sick right there. You know, we could come in
4 and clean it up in a timely fashion.
5 MR. SCHILLING: But you raise some --
6 MS. TROMBADORE: We're trying to make sure none
7 of those things happen.
8 MR. MACH: Right.
9 MR. SCHILLING: Your -- your name, sir?
10 MR. TISDELL: Huh?
11 MR. SCHILLING: Your name?
12 MR. TISDELL: My name is Keith Tisdell.
13 MR. SCHILLING: Okay. Keith -- What Keith's
14 points, though, your -- the issues you're talking about
15 is what if, what if, which is good, is all of those
16 things are regulated by this management plan. They are
17 regulated by the LUCIP. And so that's why it's key that
18 those two things have got to work together in order to
19 create a safety net -- as strong a safety net as
20 possible.
21 MR. MACH: Okay. We do have two more people on
22 line for questions. Ri- --
23 You got to wait. You are not in line yet.
24 We all -- Also, according to the agenda, we
25 should be taking a break. I -- you know, we have asked

1 Joe to come out here all the way from the East Coast, so
2 some of the other stuff we have on the agenda I have no
3 problem pushing off. Do people want to take a break? I
4 kind of promised our court reporter that we'd let her
5 have a break, but we never let her have in the past,
6 so . . .

7 MS. PETERSON: Rest.

8 MR. MACH: I -- I would suggest we take a short
9 five-minute break, and then we come back to -- to Ray
10 for his next question. Is that okay with everyone?

11 MR. TOMPKINS: Before the break, only because I
12 have to go to the hospital. I have a very sick
13 relative.

14 MR. MACH: Okay. Let's have Ray's question,
15 and then we'll -- we'll take a quick break.

16 You're cutting into everyone's break, so make
17 it quick.

18 MR. TOMPKINS: Two things. One, in the
19 Redeveloping Agency's plan I reviewed a while back and
20 that using a 10-foot-heavy construction, for example,
21 inner structures, sewage pipes and the rest of it, how
22 far are we really going to plant that, and then how
23 deep? Will that not maybe go below 10 feet in terms of
24 a safety factor, and then are you dealing with
25 contamination? Because all of that has to be dug up.

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1 disparate difference here.

2 So if we plan building a new community, I think
3 given the acute effects in the population, we should
4 take these margins of safety and 'tend it's not that
5 safe, although I understand it's better than some. But
6 given where we are at and historical if we were to build
7 a museum, we definitely want to talk about theft.

8 That's another topic.

9 MR. MACH: Well, I can -- I can address -- I
10 can address some --

11 MR. TOMPKINS: But you understand how the
12 geological soil movement, the water table, the bay
13 affecting it?

14 MR. MACH: Okay. I --

15 MS. ATTENDEE: I think I'm after him. He hit
16 on what my issue is too.

17 On my block my sewer line is at 13 feet. So
18 this "we've made it safe at 10 feet" just leaves me
19 really cold, especially when we know in this city they
20 dig up the sewer lines about twice a year.

21 And if you go right over in front of the -- the
22 clinic right now, they are digging up the sewer line.
23 There is dirt and dust all over the place. We have been
24 calling and saying: "Clean this up. The patients are
25 tracking it into the health center."

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1 If you're talking about putting in a new development,
2 you going past that 10 feet safety factor that you have
3 built in.

4 Secondly, as a -- under the plan, as I
5 understand it, from residential and churches want to be
6 built there in that area as well in the community,
7 church is going to want a basement. That's where you
8 have the social activities. It's going to go below 10
9 or possibly in terms of your construction and digging
10 and laying the pipe. Then you dealing with exposure,
11 the risk.

12 We have, for example, already given the history
13 of -- the geological history of the community, that we
14 already have mold and fungus growing out the floors and
15 mushrooms because of construction people not
16 anticipating hydrolo- -- water tables moving and we're
17 next to the bay and the tide affects it and these
18 variables, let alone the earthquakes.

19 I think we should be a little bit more prudent
20 in measurements in terms of addressing this, because I
21 don't look at risk in terms of just high-risk factor,
22 but low-level cumulative effect when we look at the
23 current health condition of the population when life
24 expectancy for African male in Bayview-Hunters Point is
25 56 years, and the national average is 70. There is

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1 So when you know the sewer lines go down lower
2 than 10 feet, then it just sounds like you're selling us
3 a bill of goods that you're taking care of all of our
4 safety needs, because there's the very real possibility
5 that more than once in a lifetime and more like twice a
6 year people in the community who have no idea what's
7 going -- going on are going to be exposed.

8 MS. TROMBADORE: They won't because of this.

9 MR. MACH: Right.

10 MS. ATTENDEE: Right.

11 MR. JOB: Can I tell you what --? Can I tell
12 you what we have done in other -- other locations?

13 O -- other sites we -- we -- we have required
14 responsible party to go in and dig a clean utility
15 corridor. So wherever we know the utilities are going
16 to go, we say, "You need to go in and you need to clean
17 up all that soil."

18 They come in, bring it to the depth that it
19 needs to go to, put in the bedding material. Well,
20 actually, before they put in the bedding material, you
21 put in -- you know that orange fence you see around
22 construction sites? A lot of times you line that trench
23 with that orange construction fencing. That way when
24 they come back in and start digging the next -- the
25 next -- you know they have to repair the sewer line,

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1 they hit that orange construction fence, and they know
2 hey, we're getting into -- we're getting into old
3 contaminated soil.
4 So -- so there are ways you can -- you can put
5 in utilities and know that you're not digging into the
6 contaminated, you know, remnants.
7 MR. MACH: Well, I'll -- we -- I don't want to
8 go there right now since Jesse's smiling in the back.
9 But I'll tell you a couple of things to address many of
10 your concerns, Ray.
11 One, the -- you know, the utility corridors
12 are -- probably come down the main roads. And the main
13 roads are high. They are above ground water; and
14 especially coming between "A" and "B," there was no
15 contamination up there. So they can go deeper than 10
16 feet and not have a problem.
17 They would still have to abide by their own
18 written Soil and Groundwater Management Plan and our
19 LUCIP. But they could dig below 10 feet and probably
20 would not hit contamination. They could characterize it
21 and they could reuse it.
22 As far as the lower areas of Parcel B and
23 talking about putting churches there and deep basements
24 or any other building with a deep basement, when the ROD
25 was first written and it was first submitted, the -- the

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1 cleanup depth was 10 feet or ground water. And so if
2 you hit ground water before 10 feet, you stopped.
3 And there was an ESD that was done to the ROD
4 to amend that to require us to go to 10 feet even when
5 it went below ground water because we were hitting
6 ground water very shallow. And you are not going to put
7 a basement below 10 feet -- or below ground water
8 because, you're right, you're going to have the mold;
9 you're going to have to do ground-water dewatering,
10 which you're not allowed to do under this LUCIP. So
11 that issue kind of goes away.
12 One of the concerns that I have that we still
13 need to address in this LUCIP is: We know what the
14 surface is right now. We know that it's clean, or from
15 what we've investigated, when we're done, it will be
16 clean, as far as we know, from 0 to 10 feet. But what
17 happens when they redevelop? What if they take off the
18 top 2 feet? Now you've only got 8 feet of clean soil.
19 Now what happens?
20 So now we have to be able to survey in the top
21 surface. If you want to put deep basements, maybe, you
22 know, the developer can come in and say, "Hey, we'll
23 just raise the whole level of the base by 3 or 4 feet."
24 So they'd stay out of the ground water; they'd stay out
25 of the contamination. But there are going to be those

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1 surveys. That's why the Soil and Groundwater Management
2 Plan and the LUCIP are so important to protect the
3 remedy.
4 MR. TOMPKINS: The -- One point in case:
5 Given the current situation when HUD went up and build
6 the home and some of them builders are up here, guys
7 that started out building, they dealt with, you know, to
8 building projects the cheapest way, quickest way. They
9 didn't put barriers. Technology didn't permit. There
10 was no safety involved in it because they wanted to
11 build the unit quick for this amount of money and that's
12 it.
13 When you're dealing with this, given the
14 lessons of the past, what is -- how do we address that?
15 That's my concern --
16 MR. MACH: In or --
17 MR. TOMPKINS: -- and knowing that I'm sitting
18 next to the bay and the tide.
19 And then also, how do we protect residents?
20 One of the -- When I was at a RAB meeting, oh,
21 what, two, three years back when we were over at
22 1800 Evans over at the campus, they were talking about
23 pumping the mud over out of Parcel F and put it in the
24 old submarine pit. The engineer said, "Yep, this is
25 going to hold up and do great for si- -- for an

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1 earthquake of 6.2." We get earthquakes a little bit
2 stronger than 6.2 around here.
3 So how do we address in terms of moving the
4 soil or contamination, and has 10 feet been proven to be
5 a safety factor?
6 MR. MACH: Well --
7 MR. TOMPKINS: Geological --
8 MR. MACH: That -- That's what this does.
9 This does not allow you to go below 10 feet without
10 special permission. And so, you know, in order for them
11 to go through with their construction, they have got to
12 basically get a permit, abide by the Soil and
13 Groundwater Management Plan, address any soil they dig
14 below 10 feet, not mix it with the upper 10 feet of
15 soil, and possibly have to haul off material.
16 MR. SCHILLING: And I would say that some of
17 the contingencies you talked about, like earthquakes and
18 things like that, they are not mentioned in the soil and
19 ground-water plan, and that was one of my
20 recommendations.
21 Again, I don't know what the impacts are. I'm
22 not a hydrogeologist. I've survived a few earthquakes.
23 You know, I've just sort of identified that if that's
24 something that needs to be explored and researched and,
25 you know, maybe there's ways to enhance that so that it

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1 deals with some of the contingencies you're talking
2 about --
3 MR. MACH: Okay. Can --?
4 MR. TOMPKINS: What you just said, if we find
5 out for under a study of hydrogeology that we need to go
6 deeper, the Navy's already gone. And the developers put
7 in -- or if we have community organizations who want to
8 develop it, they're put at a handicap because of limited
9 resources to really go to the 12 feet or 15 feet for
10 security or 20 feet, whatever is needed for that.
11 MR. MACH: For most of Hunters Point, you're
12 going to hit ground water before 10 feet.
13 Okay. With that, I'd like to go ahead and take
14 a five-minute break, and I will start on time at --
15 MR. ATTENDEE: 7:36?
16 MR. MACH: -- 7:37.
17 (Recess: 7:31 p.m. to 7:38 p.m.)
18 MR. MACH: Okay. Can we take our seats again?
19 The five minutes is up. I am not going to offer again
20 that I'm going to stay past 8 o'clock because my
21 community co-chair does not want to stay past 8:00. So
22 the faster we get back into this, the more information
23 we can get out.
24 Is that right, Dorothy?
25 MS. PETERSON: Right.

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1 MR. MACH: Okay. I'd like to resume with any
2 additional questions, if there are, on the LUCIP.
3 Yes, Christine.
4 MS. SHIRLEY: I have couple of questions. I
5 have looked through all this stuff, and what I found
6 lacking was consequences. There weren't -- there --
7 There's all -- There was some talk about enforcement
8 but no talk about what happens if there was a violation.
9 So I found that to be lacking.
10 MR. JOB: Well, to -- to tell you what we did
11 to the City of Alameda, we levied a \$40,000 fine against
12 them.
13 MS. SHIRLEY: Okay. Well, that needs to be
14 discussed, because it's not in there now.
15 MS. TROMBADORE: It's not in the covenant that
16 the state laws and fines and so on just apply.
17 MS. SHIRLEY: I'm not -- I'm talking mostly
18 about the city's plan --
19 MS. TROMBADORE: Oh, I see.
20 MS. SHIRLEY: -- what -- There's nothing in
21 the city's plan, and there's nothing in the LUCIP
22 that -- that strengthens that.
23 MR. SCHILLING: Right. I think that Christine
24 makes a good point that the LUCIP should, if it explains
25 what the enforcement consequences are, what's the

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1 enforcement authority that, you know, Regional Quality
2 Control Board can do this, the city can do this, and
3 what the enforcement process is.
4 MS. FOX: I notice you have it on page 6 of the
5 text part "implementation and enforcement." And where
6 is that in the matrix? If we're going to use --
7 MR. SCHILLING: If you --
8 MS. FOX: -- the matrix as the --
9 MR. SCHILLING: Yeah. If you look at the
10 matrix, it's probably -- 'cause it's, again, sequential:
11 You do implementation and then enforcement. It's
12 probably, like, page 8 or 9.
13 MS. HARRISON: It's not 8. It's not 9.
14 MR. MACH: I don't remember seeing it when I
15 read it last night.
16 MR. SCHILLING: Yeah. It's says -- sort of --
17 It's the top of page 9. It says those are the provisions
18 of the LUCIP that deal with enforcement. And if you
19 look --
20 MS. FOX: Covenant agreement?
21 MR. SCHILLING: Yeah. It says, "Enforcement,"
22 Roman numeral three, at the top.
23 MS. FOX: Okay.
24 MR. SCHILLING: And if you look down where it
25 says, like, "tiered enforcement role," the LUCIP says

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1 the DTSC, the State of California, has the primary
2 enforcement role for the land-use controls as defined in
3 the covenant to restrict the property.
4 And my questions are, "Well, what about
5 enforcement of the management plan? Is not the plan
6 part of the tiered enforcement? What's the enforcement
7 process? Who's the point of co- --?" I mean those kind
8 of issues that Christine is talking about.
9 MS. SHIRLEY: And then I had a couple of
10 other -- couple suggestions. One is: It would be
11 really nice to have a one-page summary of all this that
12 basically says what the restrictions are and who to
13 call. That would be passed along at property transfer
14 to renters, to construction workers, to anyone that
15 would be using the site.
16 And then another suggestion I had is: There's
17 an annual report associated with the LUCIP that --
18 MR. SCHILLING: The -- the management plan.
19 MS. SHIRLEY: Well, the -- the LUCIP requires
20 that an annual report be --
21 MR. SCHILLING: Oh.
22 MS. SHIRLEY: -- distributed to the regulators,
23 and that report should also go to communities so people
24 in the community can see what the regulators are seeing
25 and also add information if they have it.

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1 MR. MACH: Okay.
2 DR. SUMCHAI: Well, I want to commend you.
3 Obviously, you've done a lot of work on the document.
4 You -- you very much need to have a table of acronyms.
5 There's terms here that even if you're familiar with --
6 MS. ATTENDEE: There is.
7 DR. SUMCHAI: Oh, okay. I'm sorry.
8 What is the "CERCLA CAP" and "SGMP" under --?
9 On page 3 you have "SGMP sets forth specific procedures
10 and protocols and apply to contamination issues
11 associated with past operations under Navy control and
12 CERCLA CAP."
13 MR. SCHILLING: Right. It -- Again, that's
14 the language of the plans in the LUCIP, not my language.
15 But they are talking about the cleanup remedy under
16 CERCLA, which is the Superfund law. That's what CERCLA
17 is, and that's a particular remedy of capping --
18 MR. MACH: No.
19 MR. SCHILLING: -- the pollution.
20 MR. MACH: No, no, no. The cer -- "CERCLA" is
21 Superfund law, which is Comprehensive Environmental
22 Response, Compensation, and Liability Act; and that is
23 in there.
24 The CAP is the petroleum program, the
25 corrective action plan, which is a similar --

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1 MR. MACH: That -- that list is a very
2 comprehensive list of almost every environmental and
3 Navy acronym that we have been able to find, and a lot
4 of them don't even pertain to anything that's going o
5 out here. So that would be --
6 MS. HARRISON: Well, why would you more
7 complicate matters by putting them on there?
8 MR. MACH: Because we use it for all of our
9 Navy bases; and if I was on an active base, I might be
10 more worried about a NESHAP or a --
11 MS. HARRISON: Or whatever.
12 MR. MACH: -- SPCC --
13 MR. SCHILLING: Marie --
14 MR. MACH: -- or an SPC or whatever, so . . .
15 MR. SCHILLING: -- if -- if you look -- and
16 again, since the San Francisco management plan is still
17 sort of draft, but in their draft they do have a good
18 one-page list of acronyms that you can follow, and it --
19 it kind of covers everything that's pretty relevant to
20 this.
21 MR. MACH: Yes.
22 MS. SHIRLEY: Well, that brings up another
23 concern, or issue, is that the LUCIP I don't think was
24 ever distributed to the RAB, the five pages, nor I don't
25 think was the ground -- soil and ground-water plan. So

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1 MR. SCHILLING: Oh.
2 MR. MACH: -- program under the underground
3 storage tank petroleum law.
4 And then the "SGMP" is the Soil and Groundwater
5 Management Plan. So --
6 MR. SCHILLING: So you were talking CAP as
7 C-A-P capital.
8 MR. MACH: Yes.
9 MR. SCHILLING: Oh, oh --
10 MR. MACH: Yes.
11 MR. SCHILLING: -- okay.
12 MR. MACH: And so the acronym list you have is
13 something the Navy had put together, you know; and we
14 continue to update it as more acronyms are developed.
15 There is -- there is a quota every year that we have to
16 develop new ones. So "SGMP" is not -- probably not in
17 there.
18 MS. HARRISON: I have a good way how to stop
19 this. Can you provide to me not only what these
20 acronyms are but who uses them --
21 MR. MACH: No.
22 MS. HARRISON: -- what they mean?
23 Hey, come on, you going to keep adding onto it,
24 then you need to let me know. I need to be totally
25 aware of what you're talking about.

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1 it's pretty hard to follow what's going on if I -- you
2 know?
3 MR. MACH: The -- the LUC -- the LUCIP was put
4 in the library --
5 MS. SHIRLEY: Okay.
6 MR. MACH: -- in the repository. The soil and
7 ground- -- The city's Soil and Groundwater Management
8 Plan, I think it's actually more of an outline than a
9 plan.
10 MR. JOB: Yeah, I haven't seen that.
11 MR. MACH: That was submitted by the city to
12 the Navy as part of their comments to us on the draft
13 LUCIP that we submitted on Jul- -- on June 6th. So I
14 don't believe that they have ever submitted it to
15 anyone. And they have left, so they can't.
16 MR. CHESTER: Well, the -- the Soil and
17 Groundwater Management Plan was submitted to the Navy in
18 an effort to help -- or to the BCT to help focus what we
19 thought would be a workable way to approach soil and
20 ground-water management.
21 And I'll make my comment that I was trying to
22 make earlier and maybe in regards to you that soil and
23 ground-water management plans are not something new to
24 the city.
25 And myself being employed by the City for the

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1 last six years on a -- bay city projects like the
2 Barneveld street when they did the -- it was Contract C,
3 a big sewer box construction, or the Moscone Center
4 expansion or the Embarcadero roadway and other city
5 projects where the City knows it's going to do work in
6 contaminated areas or old industrial areas, the contract
7 specification for the city project will have a Soil and
8 Groundwater Management Plan built into the contract
9 spec, and the City does go out and enforce.
10 So -- and that has been my job in the past.
11 I've actually been out there in the field telling the
12 contractor to stop digging when they get to 10 feet or
13 remove that layer of contaminated dirt. So they are --
14 it does work. And that's been my job. I mean, I've
15 done it. I've had -- you know, physically been out
16 there. So there is hope for this system. And the City
17 has -- has experience in doing it. So . . .
18 MR. MACH: Well, John, you --
19 MR. CHESTER: All city-sponsored and funded
20 projects.
21 MR. MACH: You've got long-term job security
22 here at Hunters Point.
23 MS. TROMBADORE: I guess when we're -- we're
24 meeting again next week with the players, and I think we
25 all -- I think we all are agreeing that the Soil and

1 Groundwater Management Plan is probably a good thing. I
2 think we all said that in comments, and we do now need
3 to go to the next step of probably flushing it out and
4 sharing it with everyone.
5 But it really is just a skeletal outline that
6 the city very nicely provided, and it just hasn't -- we
7 haven't gone to that step of --
8 MR. JOB: And one more thing, that they --
9 usually bugs the Navy when I bring it up, but -- but I
10 feel that --
11 MS. PETERSON: Don't bring it up.
12 MR. JOB: I feel that -- that the Navy should
13 be compelled to provide to the city all of the -- the
14 information that they can put together in a -- in a GIS,
15 a searchable format, so that -- that the guy sitting
16 behind the permit counter can say "Okay, you want to
17 build at the old -- you know, you want to dig a hole at,
18 you know, such-and-such spot," and they can tell exactly
19 what's gone on there, whether or not there's any
20 residual contamination, what the samples we got in the
21 bottom of the hole.
22 A lot of these holes that we've dug haven't
23 gone to 10 feet because we took a sample at 7, and it
24 came out clean, you know.
25 So -- so all that we're saying, "to 10 feet,"

1 there's -- there's many instances where it's actually
2 clean to the center of the earth, at least based on the
3 data we have. And so -- so, you know, I mean, we always
4 have to put that caveat there.
5 MR. CHESTER: But when you get close to the
6 center --
7 MR. JOB: So -- But my point is, that that's
8 something I'm not going to -- that's something I'm not
9 going to drop. I think that the city and the Navy need
10 to work together to put together that permit tracking
11 kind of -- of technology, whatever it is, Internet
12 based, whatever.
13 That -- that, I feel, is going to be the saving
14 grace, because, you know, ten years from now I've been
15 fired by the Water Board and I'm handing out permits to
16 the city, you know, I -- I'm not going to -- I'm not
17 going to have it in my head where it's contaminated and
18 where it's not. I need to have some strong tool to help
19 me figure that out.
20 MS. TROMBADORE: And they shouldn't have to go
21 back to a report, you're right. It should be this, you
22 know, very quick, easy --
23 MR. CHESTER: Database.
24 MS. TROMBADORE: -- database.
25 MR. MACH: Okay. And we -- we are going to

1 provide our GIS system to whoever wants one when we are
2 done. And we did discuss this two days ago.
3 And what you said didn't really bother the Navy
4 a whole lot.
5 But, like I said, on Tuesday as well, you know,
6 all the data that we are using to rely upon to make our
7 decision is pretty much in the GIS system, or it's being
8 put in there. All the new data that we are generating
9 right now is automatically going in there and even for
10 some of the upcoming work that we're doing on "C" and
11 "D" with the sa- -- the sampling for the removal
12 actions.
13 Tetra Tech has gone a long way to come up with
14 a very innovative program that automatically produces
15 the sample labels. It produces the chain-of-custody
16 sheets, the lab data. It comes in -- all in a
17 standardized format. It automatically uploads from the
18 GIS system. You don't have manual input of this data.
19 So, you know, all the future stuff is going to be even
20 more efficient than what it is right now.
21 But as far as going back to the history of time
22 of data being generated, we are not looking at pulling
23 every single sample that's in a hard report into the GIS
24 system. That would be extremely time consuming,
25 expensive; and then you've got to have all that manual

1 input, and someone's got to weed out the quality of that
2 data. Was it screened data? Was it good data?
3 So stuff that we are relying upon for our
4 decisions is what's going to be provided.
5 MS. TROMBADORE: And we want to know what's
6 left.
7 MR. MACH: Right.
8 MS. TROMBADORE: I mean if you have data about
9 what's left --
10 MR. JOB: What's in 10, 10 to --
11 MS. TROMBADORE: Right. You should put it in
12 there.
13 MR. JOB: -- however deep, right.
14 MS. TROMBADORE: So we're still discussing
15 that.
16 MR. MACH: Right.
17 MS. HARRISON: Can I get to ask my question
18 now?
19 MR. MACH: You were next, yes.
20 MS. HARRISON: I thought so. I'm sorry. I'm
21 just in that kind of mood today.
22 These two documents, the management plan and
23 LUP-LUP you said that your co- -- your -- what you did
24 was a LUP -- say this word for me.
25 MR. SCHILLING: LUCIP.

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1 MR. CHESTER: Nobody -- Every -- Most of the
2 BCT --
3 MR. JOB: Yeah, we've seen -- we've seen the
4 outline.
5 MR. CHESTER: It's just an outline, and it just
6 needs to be built on, and a lot of the outline comes
7 from contract specifications that BCT has worked on in
8 the past. So it's --
9 MS. HARRISON: As -- as a nonscientific
10 person -- and I say that openly -- dealing with simply
11 common sense and a little logic and then with the trust
12 factor that I have or I don't have, I really would like
13 to see those documents provided to someone in the
14 community. Maybe perhaps I'll volunteer Chris to get
15 them and because I happen to trust her for her judgment,
16 and she can review those and --
17 MS. TROMBADORE: And she has.
18 MS. SHIRLEY: Actually, I do have a copy of it.
19 MS. HARRISON: Good. Then you had a chance to
20 do it.
21 MS. SHIRLEY: But I'm never quite sure if it's
22 the most recent one. So I haven't been anxious to
23 distribute it.
24 MR. MACH: If you are look -- if you're look --
25 if you're looking at the draft final LUCIP, it's the

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1 MR. MACH: LUCIP.
2 MS. HARRISON: LUCIP -- God, I'll get it
3 right -- is in the li- -- okay, okay -- is in library,
4 Richard?
5 MR. MACH: I'm sorry. What?
6 MS. HARRISON: You said that our copy for the
7 community is in the library?
8 MR. MACH: It was put in there, and I will -- I
9 will have Bechtel go back and double-check that --
10 MS. HARRISON: Okay.
11 MR. MACH: -- that no one stole it.
12 MS. HARRISON: Very quickly, how --? Excuse
13 me. How big of a document is that?
14 MR. MACH: Five pages. It's probably about
15 that [indicating] thick.
16 MS. FOX: But it's only the draft.
17 MR. MACH: Draft --
18 MS. FOX: It's just the draft final.
19 MR. MACH: It's the draft final.
20 MS. TROMBADORE: You could send it out with the
21 Minutes of this meeting.
22 MS. HARRISON: If it's only five pages, how
23 many pages is this management thing that nobody's seen?
24 MR. SCHILLING: It's about 15.
25 ATTENDEE: It's about 14.

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1 September 5th version.
2 MS. SHIRLEY: Well, I have that.
3 MR. MACH: Okay.
4 MS. SHIRLEY: Okay.
5 MR. MACH: If you're looking at the Soil and
6 Groundwater Management Plan outline, I believe that was
7 submitted by the city in their July 5th or 6th comments
8 on the June 6th Navy draft LUCIP.
9 MS. HARRISON: Okay. My -- my --
10 MS. SHIRLEY: So I have one dated June 21st.
11 MR. MACH: That's --
12 MS. HARRISON: That's --
13 MR. MACH: -- probably it.
14 MS. TROMBADORE: Yeah, that's all there is,
15 yeah.
16 MS. SHIRLEY: Okay.
17 MS. HARRISON: June?
18 MR. CHESTER: Well, there's money issues. I
19 mean, it's not necessarily the City's obligation at that
20 point in June to do the soil and ground manage -- Soil
21 and Groundwater Management Plan. What we were doing is
22 trying to bring this to the table and discuss it with
23 the BCT and see if we could work it in and see how we
24 might get --
25 MS. HARRISON: Have you worked it in?

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1 MR. CHESTER: This is it. I mean, we're
2 talking about it right now.
3 MS. HARRISON: Okay.
4 MS. SHIRLEY: Also, I just want to finish my
5 thought. I did sort of rewrite the five-page LUCIP, and
6 I have my rewritten copies. Unfortunately, I rewrote it
7 in color so you can see what I changed, but it didn't
8 copy in color, 'cause --
9 MS. HARRISON: That's okay.
10 MS. SHIRLEY: So I will -- I will --
11 MS. HARRISON: Give the color to a dummy.
12 MS. SHIRLEY: I can give color copies to anyone
13 that wants them. I just don't have enough of them
14 today. But I do have black and white. But
15 unfortunately, I'm not sure how useful they are going to
16 be.
17 MR. MACH: Can you -- can you just E-mail them?
18 MS. SHIRLEY: We also submitted official
19 comments.
20 MS. TROMBADORE: She submitted official
21 comments.
22 MR. MACH: Wait. Can we just have one --?
23 And Chris, can you E-mail this to us too,
24 please?
25 MS. SHIRLEY: Yes.

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1 MR. MACH: Thank you.
2 Jill?
3 MS. FOX: Actually, my question goes to this.
4 MR. MACH: I'm sorry.
5 MS. FOX: We are in the period -- and just to
6 catch people up who I know missed some meetings lately,
7 this is a draft final, so you're accepting comments,
8 right?
9 MR. MACH: Well, we --
10 MS. FOX: Including --
11 MR. MACH: The way -- the way it's supposed to
12 work is: You submit a draft. You get comments. You
13 respond to those comments. You submit a draft final.
14 And if the regulators don't disapprove it, it becomes --
15 it is the final.
16 But since everyone had so many comments on it,
17 we are in what's called technically informal dispute,
18 which means we need to resolve those comments; and
19 that's what we are in the process of trying to do right
20 now.
21 MS. FOX: Right. Now, comments that -- that we
22 have gotten -- that we have been discussing tonight,
23 your matrix of recommendations, are those going in as
24 formal comment that will be incorporated during this
25 dispute period?

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1 MR. MACH: The ten -- the ten-page comments,
2 that table that Joe put together on the LUCIP, not the
3 ground management --
4 MS. FOX: Right.
5 MR. MACH: -- but on the LUCIP we are going to
6 address, yes.
7 MS. FOX: Okay. Great. So all of his -- his
8 recommendations will be incorporated in.
9 Now, who is --?
10 MR. MACH: They will all be addressed.
11 MS. FOX: Okay. I'm not done yet.
12 MR. MACH: Okay.
13 MS. FOX: Okay. Who is --? Because I know you
14 had a contract, and you've done your job, and by the
15 way, I really like the part where you said "in plain
16 English" over and over again.
17 MS. HARRISON: Thank you.
18 MS. FOX: Who is going to be the advocate for
19 these comments during your dispute discussions?
20 MR. MACH: Dorothy told me at the beginning of
21 the meeting that you were going to come to the meeting
22 next week.
23 MS. PETERSON: No, I didn't.
24 MS. SHIRLEY: She was going to be asked.
25 MS. FOX: It would be nice. I mean --

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1 MR. MACH: Oh, I'm sorry. You were going to be
2 asked, but --
3 MS. PETERSON: And she doesn't --
4 MS. SHIRLEY: And I also -- I mean, we can
5 decide that amongst ourselves. But generally, I've been
6 going to those meetings.
7 MS. PETERSON: Yeah, Chris --
8 MS. SHIRLEY: But that doesn't mean I have to
9 go. Someone --
10 MS. PETERSON: It's an all-day thing.
11 MS. FOX: But my point was -- really was: An
12 advocate for these points will be invited to this
13 meeting and will be part of this discussion? We can
14 work out who that advocate is.
15 MR. MACH: Yeah, for all -- for all the trying
16 to set up this meeting, which has been a very arduous
17 task for the last couple months --
18 MS. PETERSON: Richard, the answer is yes.
19 MR. MACH: -- we have been copying -- we have
20 been copying, both Dorothy and Chris, on all the
21 correspondence.
22 MS. TROMBADORE: I know Joe's out from back
23 East, but can he possibly appear by phone for any of it?
24 MR. SCHILLING: On the 14th?
25 MR. MACH: 14th.

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1 MR. SCHILLING: Which is what?
2 MR. MACH: Thursday.
3 MR. SCHILLING: Yeah, let's see. Thursday, the
4 14th? If there's a certain time, it probably doesn't
5 make sense --
6 MS. PETERSON: It's a all-day thing.
7 MR. SCHILLING: Well, it probably doesn't make
8 sense for me to monitor long distance all day. But if
9 there's -- what I would say, if there's a time during
10 the discussion, just let me know. I mean, I'm, you
11 know, pretty open, so the sooner you say, "Okay, maybe
12 it's going to be 1:00 to 2:00 your time," which is, you
13 know, from 4:00 to 5:00 my time, something like that.
14 So --
15 MR. MACH: We have a BCT meeting on Tuesday of
16 next week, so we can discuss -- by the time I discuss it
17 with, you know, our legal staff and -- and with the BCT,
18 we can get back to you on Tuesday and by a potential
19 time.
20 MR. SCHILLING: Okay.
21 MR. MACH: Now, Olin, you had your hand up
22 several times, and I keep missing you. I'm sorry. You
23 still have a question?
24 MR. WEBB: My question is not to you.
25 MR. MACH: Oh, good.

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1 is the prime contractor, whoever the prime developer,
2 that comes back in the Shipyard has to take the
3 community as a partner."
4 Now, when we were talking about back in those
5 days, oh, you guys don't qualify for the bonding. Well,
6 right now that's where this big prime contractor is
7 supposed to do, make sure that community contractor do
8 qualify for the bonding.
9 Now I'm saying the same thing. Lennar, you
10 guys are going to have to start working with the
11 community so we can start working with you with our
12 contractor, not the one you picked, our contractor that
13 we picked, that you work with them and saying you would
14 help them obtaining those permits.
15 MR. BROWN: And bonding.
16 MR. WEBB: And bonding. Because that's what it
17 was when they closed. The Navy made that statement
18 that -- The Navy said, "Whoever come back --" that's
19 why Lennar has Bayview-Hunters Point partners. So we
20 going to get the real partners involved, because the
21 partners you got now you call "partners" are not from
22 Bayview. So you need to take the Bayview-Hunters Point
23 partners out of there right now and just strictly call
24 them Lennar.
25 MR. MACH: Okay. With that, we are at

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1 MR. WEBB: It's to the city, because all this
2 LUCIP and all this stuff that they talking about is
3 going to be a process of obtaining permits. Those
4 permits are going to be sky high. So how is --? The
5 city, they here?
6 MR. CHESTER: (Raising his hand.)
7 MR. MACH: There.
8 MR. WEBB: How can you make this stuff work for
9 the small contractor? Because right now what you're
10 talking about on that restricted land, those permits are
11 going to be way up there, and that's going to price out
12 the small contractors; and we want the small contractors
13 to have an opportunity to -- to develop out in that
14 community -- I mean out in the Shipyard. So the city's
15 going to have to start working with the community.
16 MR. CHESTER: Right.
17 MR. WEBB: So we have to work out some kind of
18 a way to get those fees down.
19 MR. CHESTER: Right. So your permit cost, I
20 don't have an answer to that, but that's something that
21 need to be worked out too.
22 MR. WEBB: I give you part of an answer because
23 when the base closed -- and this is what I keep telling
24 everybody in the meeting. My brother-in-law can verify
25 that -- when they closed the base, they said, "Whoever

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1 8 o'clock. I don't think there are probably any more
2 questions.
3 I'd like to thank you Joe very much for -- for
4 coming out here. It was a great report.
5 (Applaud.)
6 MR. SCHILLING: Good luck.
7 MR. MACH: And I am going to cancel the
8 discussion on the Parcel B update and the Parcel E
9 landfill update. There's really not a whole lot new.
10 Everything is --
11 MS. HARRISON: I have -- I have one question
12 about "E."
13 MR. BROWN: Nice try.
14 MR. MACH: Okay. What's your one question,
15 Jill?
16 MS. FOX: I have one question.
17 MR. MACH: Okay.
18 MS. FOX: Is the --?
19 MR. MACH: Wait.
20 MS. FOX: You're next.
21 Is the fire out?
22 MR. MACH: I promise you, when I know a hundred
23 percent that it's out, I will let you know.
24 Okay. Marie? Same question?
25 MS. HARRISON: Sh.

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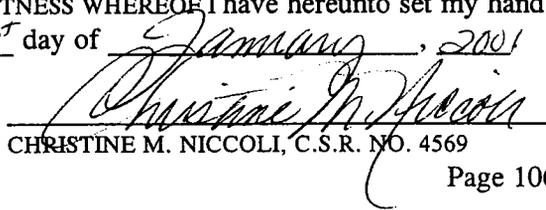
1 Are you still putting dirt, clay, and plastic
2 on that landfill?
3 MR. MACH: Yes. Okay. That was it. That was
4 your question.
5 This meeting is adjourned, and I will
6 coordinate with Dorothy Peterson for the next agenda
7 and --
8 MS. HARRISON: Richard, there is a question
9 from the floor. You got to entertain --
10 (Simultaneous colloquy.)
11 MS. HARRISON: -- the community. I'm part of
12 of the Board. You need to entertain the question from
13 the floor.
14 MR. TISDELL: I would like to raise agenda for
15 the next meeting that you have all concerning the RAB
16 Board meeting.
17 MR. MACH: Okay.
18 MR. TISDELL: I'd like to be put on the agenda
19 because it's something very, very urgent that I have to
20 say, and it's concerning the RAB Board.
21 MR. MACH: Okay.
22 MR. TISDELL: Thank you.
23 MR. MACH: You and I can talk.
24 With that, meeting adjourned.
25 (Meeting adjourns at 8 p.m.)

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CERTIFICATE OF REPORTER

I, CHRISTINE M. NICCOLI, Certified Shorthand
Reporter of the State of California, do hereby certify
that the foregoing meeting was reported by me
stenographically to the best of my ability at the time
and place aforementioned.

IN WITNESS WHEREOF I have hereunto set my hand
this 21st day of January, 2001


CHRISTINE M. NICCOLI, C.S.R. NO. 4569

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The Hunters Point LUCIP

Technical Report & Evaluation

**For the
Hunters Point Restoration Advisory Board**

**By Joseph Schilling
Director of Community & Economic Development
International City/County Management Association**

November 30, 2000

Memo

To: Hunters Point Shipyard Restoration Advisory Board (RAB)
Attention: Christine Shirley, RAB Contact

From: Joseph Schilling, Director, Community and Economic Development, ICMA

Subject: Parcel 'B' Land Use Controls Implementation Plan (LUCIP)

Date: November 30th, 2000

CC: David Demars, RPM, and Joyce Howell-Payne, Contract Specialist, Naval Facilities Engineering Command--Southwest Division

As your TAPP contractor (Technical Assistance for Public Participation), my scope of work includes two primary tasks:

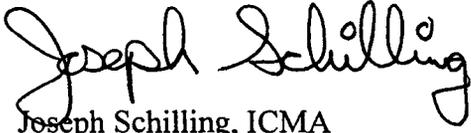
- 1. Technical Review of the Draft Final Land Use Controls Implementation Plan (LUCIP) for Parcel B (Dated September 5th, 2000):** evaluate the LUCIP's effectiveness in the implementation of the land use controls (LUCs) from a community perspective; assess the completeness and adequacy of the LUCIP and make recommendations for revisions; prepare a report that details all comments and assessments.
- 2. RAB Meeting Presentation:** present my technical review report to members of the Hunters Point RAB at one of their regularly scheduled meetings. That meeting has now been set for Thursday evening, December 7th, 2000.

The following technical report contains four parts: (1) Preliminary Observations and Findings; (2) LUC Framework and Criteria; (3) LUCIP Matrix; and (4) San Francisco's Management Plans Matrix.

My apologies for any confusion about the timing and due dates for this report. I appreciate your flexibility. Since this TAPP Contract was not awarded until September 21st, 2000, it was not possible to meet the original deadlines for completing the technical review by September 28th, 2000. Given my travel schedule in October, I was unavailable to attend the RAB's next meeting and they did not meet in November. The Navy was generous in granting a contract extension so I could have

adequate time to review the LUCIP, complete my report, and deliver copies of this report roughly one week before the December 7th RAB meeting. I am now organizing a presentation of my technical report to share with RAB members at this meeting. While all work on this contract must be done by December 8th, 2000, I am open and available for follow-up conversations and phone calls with you and any other interested stakeholders.

Sincerely,



Joseph Schilling, ICMA
Director of Community and Economic Development

P: 202-962-3663

F: 202-962-3605

Jschilling@icma.org

Preliminary Observations

Before reading the respective matrices on the LUCIP and SF Management Plans, it is important to understand the process I designed for reviewing the LUCIP and related documents as well as the larger context of land use controls. Here are a few preliminary observations for everyone to consider:

LUCs and LUCIPs Are New Concepts: We have little “collective” experience with the implementation and enforcement of LUCs at contaminated properties (brownfields, closing military bases, and Superfund sites). These concepts and the underlying legal and policy principles are yet untested in practice. I commend all of the stakeholders for taking the initiative to set forth their roles and responsibilities into a single document—the draft LUCIP.

Short and Long Term Considerations: We need to think about both the short term and the long-term issues when assessing LUCs and their overall effectiveness. What types of day-to-day activities are the LUCs designed to regulate? What types of long term institutions do we have in place to ensure overall effectiveness?

Balancing Competing Interests and Visions: Most sites involve a wide array of stakeholders with different interests and different levels of understanding about LUCs. Regulators may be principally concerned about protecting public health. Development entities tend to focus on economic development objectives. Community residents may have both interests—the need for jobs and the benefits of economic development, but also worries about residual contamination and possible health risks. The challenge is to create a process that aligns these competing interests and achieves a reasonable balance among them.

Goals of LUCs and LUCIPs: LUCs are essential to minimizing the risks to public health and the environment from possible exposure to residual contamination, not only for today, but also in the future. Because LUCs such as deed restrictions, zoning, and building permits were not specifically designed to protect the public from coming in contact with hazardous materials, effective LUCs must work in tandem with other institutions and processes (i.e., the LUCIP). In many respects we should simply treat LUCs and the LUCIP as we would any other cleanup remedy or engineering control—evaluate, design, select, record, implement, monitor, and fund them in an effective and proper manner.

A Complex Task: Evaluating the LUCIP for Parcel B was more complex than I anticipated. For example, I had to carefully review other documents, not just the five-page LUCIP. The LUCIP’s effectiveness will depend significantly on the San Francisco Soil and Groundwater Management Plan. Thus, review of the SF Plan was absolutely necessary to thoroughly evaluate the LUCIP. Given the extensive meetings among the stakeholders, I also examined the notes and comments they produced about the LUCIP and SF Management Plan to gain a better understanding of the issues and the players.

Lack of Comprehensive Criteria: No uniform criteria exist by which to evaluate land use controls and LUCIPs. Several federal agencies and state environmental regulators have issued and refined their guidance on how they think land use controls should be implemented, but there is no consistency or uniformity in their guidelines. Nor do any of these regulatory bodies mandate or require that all LUCs adhere to these guidelines—they are purely advisory at this stage. As part of my analysis, I did review recent guidance by Department of Defense (DoD) and the Environmental Protection Agency (EPA) for both federal facilities and brownfields as well as the Memorandum of Agreement (MOA) between the Navy and California's Department of Toxic Substances & Control (DTSC). Since none of these documents provide a comprehensive perspective, I devised a matrix that applies ICMA's four-stage framework from our recent publication, *Beyond Fences: Brownfields and the Challenges of Land Use Controls*. This framework is explained further in Part Two of my report.

My Role and Perspective: My goal is to provide you with a neutral perspective on the LUCs and the LUCIP for Parcel B at Hunters Point. I am not a stakeholder nor have I participated in any meetings about the LUCIP or Hunters Point prior to the award of this TAPP Contract. I essentially tried to review the LUCIP and Management Plans with completely "fresh eyes," as a prospective owner or new building official might do dozens of years from now. What would they think or understand reading through the LUCIP in 2010? My goal was to give the LUCIP a reality test since it will undoubtedly be a critical document in the overall effectiveness of the LUCs at Hunters Point.

Adopting this role, however, does create certain trade offs. For example, my analysis in the matrix may raise questions and identify issues without necessarily providing an answer. As I have not been part of the LUC and LUCIP process over the past year, I may identify certain issues that were thoroughly addressed in these meetings and conversations among the key stakeholders and environmental regulators. I may also raise an issue or two that they have not yet considered. It is likely that I may misapply the relevant law or regulations. I could have spent time researching the question or calling the environmental regulators, but I thought my approach might yield better insights into the LUCIP's durability. While I practiced law as a deputy city attorney for over ten years, I must stress that as an inactive member of the California bar I am not offering any legal advice, but presenting policy analysis to the RAB as part of this TAPP Contract.

Since one of my obligations under this TAPP Contract is to evaluate the LUCIP and its long-term effectiveness, some readers may find my comments too critical. Obviously, as an outsider I have a far easier job to come in and raise possible problems without having the obligation to present realistic solutions. My goal, however, is sincerely positive as I want to help you enhance the LUCIP and to generate ideas on how to improve this process here at Hunters Point and at other future facilities.

Preliminary Findings

Attached to this cover memorandum are two matrices: 1) Hunters Point LUCIP; and 2) SF Management Plans. While the matrices provide a more detailed evaluation and assessment of these two documents, here are a few overall findings to consider:

LUCIP Format and Framework: From the outsider's vantage point, the LUCIP is the critical document that links the LUCs with the real world. It explains the cleanup history, refers to the ROD and important property transfer documents, and describes the language found in the deed restrictions. In many respects, if the average citizen is going to read and understand only one of these documents, it seems the LUCIP would be the principle source of information. Given this importance, the current LUCIP needs a more detailed and comprehensive framework that integrates all of the relevant documents and explains in depth the process for LUC administration and enforcement. The format for the SF Management Plans provides a good model to adopt.

LUCs and the LUCIP: The LUCIP explains how the LUCs were designed and selected and generally discusses the language found in the deed restrictions. However, it does not sufficiently explain the LUCIP itself. What is it? What is the legal authority for the LUCIP? How was the LUCIP created? Who were/are the major players and what are their specific roles and responsibilities for administering the LUCIP and for the LUCs? For the LUCIP to be successful, it should clarify its interrelationship with the LUCs. See Matrix One for more detailed comments and questions.

Strength of the Deed Restrictions (LUCs): Compared with other states, California statutes provide for a relatively strong legal foundation for land use controls through restrictive covenants or deed restrictions. California's title insurance and real estate industries, along with metropolitan county recorder offices, further provide a comprehensive support system for the recordation and processing of deed restrictions. Such institutional support and customary real estate practices bode well for the effectiveness of the deed restrictions in providing new owners/tenants with notice of the residual contamination on Parcel B.

SF Management Plans: While the deed restrictions ensure notice to new owners and tenants, the SF Management Plans for groundwater and soils seek to regulate the likely activities that could result in exposure to the residual contamination. Given its importance, the LUCIP must provide essential information about the Management Plans, explain their role, and direct parties to key contact agencies and personnel within the City. The Management Plans should also include mechanisms to provide notice and perhaps even a protocol for City workers and private contractors who may do work in the various public rights-of-way on Parcel B.

LUCIP Implementation & Enforcement: The heart and soul of any LUCIP is the sections on implementation and enforcement. The LUCIP should spell out in great detail the ground rules for who is going to do what, and to the extent possible, how they are going to do it. Since the LUCIP is essentially an agreement among governmental entities, it is critical to explain upfront the responsibilities of each key player (Navy, DTSC, SF, others?) and their legal and fiscal commitments over the short and long term. Do they have sufficient resources and personnel to follow through on their commitments? The current LUCIP only provides the most general information about LUCIP implementation and enforcement. While the LUCIP cannot include every possible contingency, it could provide a greater level of detail on the fundamental roles and responsibilities. Information that is explained now will minimize the confusion and potential for conflict in the future. More explicit details will also help increase trust and credibility with the citizens and general community.

Layering & Stewardship Activities: Because LUCs and LUCIPs are relatively recent stewardship and risk management strategies, we do not have much experience predicting their long-term effectiveness. While the restrictive covenants (i.e., deed restrictions), together with the SF Management Plans and a more comprehensive LUCIP, provide a solid foundation to protect public health, it is not a fail-safe system. Changes in land use and the introduction of new activities are inevitable. Most people will play by the rules, but a few will try to avoid them or even intentionally ignore these restrictions and requirements. Therefore, it becomes necessary to design additional mechanisms, especially those that are legally enforceable and durable. For example, should SF codify the permit requirements for the Management Plans, it would provide an additional enforcement layer to protect public health.

Another stewardship mechanism is to formally engage the community in the active monitoring of Parcel B and its restrictions. Most local code enforcement efforts begin with citizen complaints. Thus, it makes sense to engage the citizens who live and work in the Hunters Point community in the long term monitoring of the site. There are many different models that could be explored with the community to accomplish this level of monitoring (i.e., River Watchers or Oversight Advisory Board). Again, the role of the community and the ground rules for their involvement could be easily integrated and explained in the LUCIP.

Since the contamination will likely remain for many years, the LUCIP should provide a regular process for the key players to meet and report on the status of the site and/or the effectiveness of the LUCs. Regular and routine communication becomes critical should natural attenuation decrease the amount or toxicity of the contamination, new cleanup technologies become available, or the environmental regulators modify the cleanup standards. The LUCIP currently mentions EPA's Five Year Review process and requires SF to do an annual report on the Management Plan. These reporting requirements alone are insufficient. What happens during the interim when there are no formal review

mechanisms should an emergency arise or major changes occur on the property? The LUCIP should include a more comprehensive approach towards long-term stewardship by requiring regular communications and/or meetings among the key players to discuss new developments and check-in on recent activities on Parcel B. Regular communications will be imperative during the initial design and redevelopment stages of Parcel B. Any communications and/or meetings must include interested members of the community and surrounding neighborhood, as they are likely to have first hand information about current and past activities on the site.

Land Use Controls Framework And Evaluation Criteria¹

Before reviewing the matrices for the LUCIP and the SF Management Plan, this section provides a framework and a set of general criteria for evaluating the effectiveness of LUCs. These concepts and ideas apply equally to LUCIPs and are integrated throughout both matrices.

Given the relatively recent developments and application of LUCs and LUCIPs, it is difficult to measure their overall effectiveness or to test systems for their implementation and enforcement. The true test will occur when these contaminated properties change hands and when land use evolves over time. The following four-stage framework should provide both the expert and the novice with a more complete understanding about how LUCs can or should work in a more holistic or integrated fashion. Overall, we should treat LUCs as we would any other cleanup remedy—evaluate, design, record, implement, monitor, enforce, and fund LUCs in an effective and proper manner.

I. LUC SELECTION

One can view the selection of LUCs through two interrelated vantage points: 1) Process; and 2) Criteria. Both are necessary to ensure the long-term effectiveness of LUCs.

A. Process: How the LUCs are selected and who is involved in that decision are equally as important as the nature and scope of the land use control itself. By engaging in a more collaborative and open process, the various stakeholders develop a stronger sense of ownership in the final decision, thereby increasing the likelihood for better implementation and administration of the LUCs over the long term. The process itself is governed by the applicable regulatory scheme (federal and state environmental laws, regulations, and guidance, etc.) that shifts depending on the type of the site (brownfields, Superfund, military base, etc.). Despite these variations, the following general principles adapted from basic models of collaborative decision making have special relevance for the selection of LUCs at any type of contaminated site:

- Include all relevant stakeholders in the decision-making process, not only the environmental regulators and government officials, but also the community and citizens, especially those who live and/or work near the site.
- Include all stakeholders early in the decision making process so that all possible options and alternatives are thoroughly discussed and evaluated.
- Conduct an open and transparent process to the extent possible.

¹ Adapted from ICMA's Recent Publication, *Beyond Fences: Brownfields and the Challenges of Land Use Controls* (2000).

- Consider all options (including complete cleanup) and openly discuss the “appropriateness” of LUCs for the site; explain why LUCs are the best option when compared with complete cleanup; is complete cleanup too costly or technologically infeasible?

B. Selection Criteria: Ideally, the LUCs should minimize the risks to public health and the environment from exposure to residual contamination, not only for today, but also in the future. Unfortunately, LUCs such as deed restrictions, zoning, and building permits, were not specifically designed to protect the public from coming into contact with hazardous materials. Effective LUCs must work in tandem with other institutions and processes to achieve this objective of reducing risk. Here are a few criteria to consider when selecting LUCs in order to increase their long-term effectiveness:

- **Risk Assessment Information:** Future exposure scenarios along with future land use scenarios should be developed and discussed to ensure integration of risk reduction goals with the local land use regulatory system. One way to tie LUCs directly to risk is to include more information regarding the risk assessment in the LUC record. Such information would allow implementers of LUCs to make more informed decisions about land use changes in the future.
- **Suitability:** Whether a particular type of LUC will be effective depends on the specific site and the nature of the contamination as well as its predicted lifetime.
- **Duration:** LUCs try to minimize risk by regulating certain pathways or activities that may likely result in exposure to the residual contamination. Thus, the LUC itself, whether a private deed restriction or a public zoning overlay ordinance, should have sufficient legal duration to ensure that changes in future land use do not increase the risks of potential exposure.
- **Removal:** Regulators should design a process to modify or remove the LUC to accommodate changing circumstances such as when contamination might attenuate, a full clean up happens, or when the clean up standards or the land use changes.
- **Redundancy or Layering:** Because of the rapidly changing nature of land use and the relative uncertainty about the long term effectiveness of LUCs, most experts agree that layering two or more LUCs and spreading implementation and enforcement burdens across different parties or levels of government creates a better safety net.
- **Oversight and Implementation:** Once a series of LUCs are imposed at one or more sites, a coordinated system must be in place that outlines the respective roles and responsibilities of the relevant players, provides them with guidelines, and allocates sufficient resources and personnel over the life cycle of the LUC. Decision makers should consider the costs of

implementation up-front when they select the particular type of LUC.

- **Enforceability:** What happens when someone violates the LUC? Who conducts the investigation? How does information about the violation get to the responsible entity? What legal remedies are available? Who or what agency is going to take the lead in enforcing the LUC? Decision makers should consider these questions along with costs and resources.
- **LUC Funding and Financing:** Once decision makers narrow down their LUC options, they should estimate the costs to adequately implement and enforce LUCs over the projected lifetime that residual contamination will remain. How are LUC costs going to be financed or funded? Who is going to pay for these costs? How do these life cycle costs compare with the costs of complete and full cleanup?

II. METHODS OF IMPLEMENTATION AND OVERSIGHT

Once appropriate LUCs have been chosen, they must be applied to particular parcels and a system established to support the LUCs. A comprehensive system, with multiple layers, is ideal to effectively respond to the changes inherent in our land use and property deals. LUC implementation will demand a high degree of flexibility to accommodate such changes and still protect human health over the long term. Implementation includes two interconnected steps: 1) information and records management; 2) inspection and monitoring.

A. Information and Records Management: A principle entity (e.g., a city department or state agency or division) should be designated to oversee the day-to-day responsibility to collect, maintain, and disseminate accurate information about LUCs at the contaminated properties. Several state and local governments have invested in creating their own LUC registries, GIS tracking systems, one-stop shops, and one-call notification programs as ways to enhance the long-term effectiveness of LUCs. Effective data management demands that the right people get the right information in a timely manner, especially those parties involved in typical real estate and development transactions. LUC information and documents should be managed in such a way that:

- All future owners and users of the site get legal notice that such controls exist and that contamination remains on the property.
- Recordation of certain key documents happens routinely to ensure sufficient notice as well as to enhance the enforceability of the LUC.
- Local governments become aware of LUCs since they have the primary legal responsibility for land use.
- Citizens and community groups directly affected or involved with the site need easy access to the various types of LUC information. This requires that information be stored in a simple and easy to understand format. Additionally, the format must be flexible enough so that updates are possible.

B. Inspection and Monitoring: A principle entity should be officially designated to take the lead responsibility for inspecting and monitoring LUC compliance in the field. As part of any Memorandum of Agreement (MOA) or LUCIP, the environmental regulators and local government should create a regular inspection protocol and monitoring schedule. These guidelines will help ensure that inspectors know what they are looking for and how often. The reports from these inspections should be shared among all of the key stakeholders, including community groups and citizens who live or work near the contaminated sites.

III. LUC ENFORCEMENT PROCESS AND REMEDIES

After a system is put in place to regularly monitor LUCs, what happens when someone discovers possible violations of a “deed restriction” or local zoning/building ordinance? Enforcement is the process of selecting and imposing legal remedies or options available to the property owner, environmental regulator or local government to correct a LUC breach or violation. While fines and punishment may have a deterrent effect on future violations, the ultimate goal of any enforcement action is to obtain swift and immediate compliance. Effective LUC enforcement involves several variables:

- **Enforcement Entity & Resources:** effective enforcement requires the presence of a reliable agency with sufficient staff, resources, and expertise to handle LUC violations. A key question is whether they have the proper legal authority to take enforcement actions and seek appropriate remedies.
- **Type of Contaminated Site:** Is the property with the LUCs a brownfield governed by the state VCP or a federal Superfund site? The underlying legal framework will strongly influence the relevant legal remedies and procedures.
- **Type of LUC (public versus private):** The remedies and procedures will vary depending on whether the LUC is a “deed restriction” governed by the state’s VCP and real property laws or a local zoning ordinance within the province of municipal code enforcement.
- **Enforcement Remedies:** each remedy has certain characteristics or qualities with different advantages and disadvantages. The enforcement entity generally selects from an array of judicial (criminal and civil) and administrative remedies, depending on the type of the LUC and the circumstances surrounding the breach or violation. Given these variables, it is difficult to discuss and evaluate enforcement options in depth or to address all of the possible scenarios.²

² For more information about enforcement remedies and process consult *Beyond Fences* at pages 35-49.

- **Enforcement Process:** A generic process for land-use and environmental enforcement by an agency includes five basic steps: (1) discovery; (2) investigation; (3) informal enforcement actions, notices of violation, and negotiations; (4) formal enforcement actions (administrative or judicial); and (5) compliance monitoring and evaluation.

IV. LONG TERM STEWARDSHIP

Stewardship includes those activities that complement and often go beyond the fundamental roles and responsibilities for selection, implementation, and enforcement of LUCs and LUCIPs. Stewardship implies a long-range vision of how the site and its risks will be managed. Stewardship also seeks to involve those who will live and work on or near the site as they are the people most directly affected and who have the most invested in what happens on the property years after the regulators and owners have left. Here is a sampling of possible programs and activities that promote long-term stewardship:

- **Museums and Visitor Centers:** a public place that celebrates the history of the site's previous industrial uses and also educates the public about the environmental contamination that was produced on site and still remains. This may have special relevance for former military bases and other federal facilities that played a vital role during our nation's wars and the cold war.
- **Educational Outreach:** regular forums and events that teach residents, especially students in local schools, about the hazards and risks surrounding the site and its residual contamination as well as the policy and legal issues behind the LUCs and the LUCIP.
- **Oversight Advisory Boards:** Local residents often play a key role in driving the clean up process. However, after the formal cleanup is complete and LUCs are put in place, our existing regulatory system does not provide them with a formal role in the long-term oversight and management of the site. In most cases, these same residents have a great deal of knowledge and expertise about the site and the LUCs. They will likely be the first group to discover LUC violations. Why not form a citizens advisory group to assist the regulators in the implementation and enforcement of the LUCs? For example, this group could follow successful models of community volunteers who monitor water quality in local rivers.

Matrix One
Hunters Point Draft Final LUCIP for Parcel B
(September 5, 2000)

The first column below outlines and summarizes the basic text from the LUCIP starting from page one and moving forward to the end. General comments and recommendations to each part of the LUCIP then flow across to columns two and three.

LUCIP Framework & Issues	Analysis & Comments	Recommendations
<p>LUCIP's Preamble and Preliminaries</p> <p>Goals & Objectives: LUCIP will set forth roles and responsibilities of the key environmental regulators along with describing appropriate ICs and monitoring protocols.</p>	<ul style="list-style-type: none"> • What is a LUCIP? No concise definition present. Does the LUCIP help create a link between the remedy/ROD and LUCs? Should the LUCIP be the one document most likely to be read and understood by the average citizen? • Other possible goals that should be mentioned in the LUCIP, such as the paramount objective to protect public health, facilitate notice to future landowners and tenants once the property changes hands, etc. 	<ul style="list-style-type: none"> • Devise a definition that also sets forth the legal authority and basis for the LUCIP. • Ensure that the roles of other key stakeholders, beyond the environmental regulators, are also explained and clarified. • Format the LUCIP so that key aspects are broken down into logical sections, similar to the format for the SF Management Plans; include a Table of Contents and List of Acronyms.
<p>LUCIP Scope: addresses land use controls (i.e. deed restrictions) imposed in Record of Decision (ROD) for Parcel B.</p>	<ul style="list-style-type: none"> • What about the LUCIP's relationship with key documents (i.e., the ROD itself; SF's Management Plan or other Parcels at Hunters Point)? 	<ul style="list-style-type: none"> • LUCIP should clarify its relationship with other key environmental documents (i.e., the ROD and deed restrictions) and also provide background info about other parcels/cleanup activities on Hunters Point.

LUCIP Framework & Issues	Analysis & Comments	Recommendations
<p>LUCIP Process: how will the LUCIP be initially put into action and finalized? What is the overall process to implement and monitor the LUCIP? What is the process to amend or change it years down the road?</p> <p>The Base Cleanup Team (BCT) agrees on the LUCIP and it will formalize its approval in writing.</p>	<ul style="list-style-type: none"> • Process is somewhat unclear. • Is there a need for regular communications among all of the stakeholders? If so, is there a relatively easy forum or process to ensure communication happens, such as a semi-annual meeting? • What about stakeholders other than the BCT? Do they get a say about the terms of the LUCIP? • Dissemination and sharing of the LUCIP; how will it be done? 	<ul style="list-style-type: none"> • Should outline the entire process early in the LUCIP so that all parties have a clear understanding. • Set up a regular communication process, e-mails and meetings, among the relevant stakeholders (Navy, City, DTSC, EPA, community, etc.). • Should ensure that all relevant stakeholders have a chance to give input on the LUCIP. • Disseminate the LUCIP broadly, perhaps via the web?
<p>Legal Authority and Enforceability of LUCIP:</p>	<ul style="list-style-type: none"> • What is the legal authority for the Navy, DTSC, RWQCB, and City/County of SF to enter into the LUCIP? • What happens if someone violates the LUCIP? • Should the LUCIP be recorded to ensure another avenue of notice to new owners? 	<ul style="list-style-type: none"> • Clarify the sources of legal authority and explain it in the LUCIP; assuming the LUCIP is more of a memorandum of understanding (MOU) among the levels of government and environmental regulators.
<p>Property Description</p>	<p>Very thorough and detailed</p>	<p>Include reference to a simple map of Parcel B and its relationship to the entire Hunters Point site.</p>
<p>ROD for Parcel B</p>	<ul style="list-style-type: none"> • LUCIP thoroughly describes the remedy selection process for Parcel B and the BCT's considerations re the types of contamination and the reasonably anticipated future land uses proposed in the SF reuse plan • Does the ROD say anything about the ICs and LUCIP? If not, is it too late to attach such language to the ROD without technically reopening it? 	<ul style="list-style-type: none"> • Since the LUCIP and ROD are linked, perhaps key provisions of the ROD should be attached as an appendix to the LUCIP. • Ideally the ROD should also refer to the LUCIP.

I. SELECTION AND DESIGN OF LUCs	Analysis & Comments	Recommendations
Deed restrictions to protect public health based on reasonably anticipated future land uses	Reasonably anticipated future land uses as established in the approved Redevelopment Plan. The plan includes mixed land uses, such as residential, cultural, educational, research & development, and open space.	Include an appendix of the Redevelopment Plan or diagram of the areas with an overlay of the proposed land uses. Mixed land uses carry greater challenges to ensure protection of public health over the long term as the varied levels of activities could increase the risks for exposure; easier when the entire parcel's future land uses are industrial.
LUC Decision Making Process: done by the BCT	Who were the members of the BCT? How was the decision made? Did it include input from other stakeholders, such as the community, DTSC, US EPA? Was it a transparent process?	Include a brief description of the process, as it will help promote understanding from those groups who were not part of that decision-making process.
<p>Criteria for the BCT Decision (Risk-based decision making):</p> <p>Considered potential exposure pathways for unrestricted or residential uses that would allow for homegrown produce</p> <p>Above 10 ft Risk was found acceptable</p> <p>Below 10 feet Risk was found not acceptable</p>	<ul style="list-style-type: none"> • What were the possible pathways considered for both Soil and GW? • What cleanup standards applied? State law? 	<ul style="list-style-type: none"> • Clarify in plain English; consider the community perspective when communicating past, present, and future risk of exposure. • Clarify
<p>Why LUCs? The BCT, in consultation with EPA Region 9 and DTSC, selected a cleanup remedy with LUCs (based on the Feasibility Study (FS)) that protects human health and the environment given the anticipated uses under SF's proposed Redevelopment Plan:</p> <p>Soil Below 10 ft: prevent the ingestion, direct contact or inhalation of hazardous substances in soil.</p>	<p>Was there detailed analysis about other alternatives/remedy selection without ICs or LUCs? Such as Life cycle costs for LUC implementation over the years vs. costs of full cleanup? Is "technical infeasibility" the primary reason why the Navy cannot do a full cleanup or is it the costs for full cleanup?</p> <p>What are those cost estimates and how long would it take to remove the contamination under 10 feet and the groundwater contamination?</p>	Compare the costs of full cleanup with the costs of LUC implementation and enforcement for the same period of time.

	Analysis & Comments	Recommendations
<p>LUC Design/Nexus: What types of activities are the LUCs designed to prevent so they can minimize the potential for exposure to the contamination below 10 feet:</p> <ul style="list-style-type: none"> • Well installation • Excavation • Construction 	<ul style="list-style-type: none"> • How set is the 10-foot line? What about variable migration that would cause contamination to rise above 10 feet? • Possible natural conditions re tides/GW? • Possible implications of extraordinary natural events, such as earthquakes or torrential rains (El Nino)? 	<p>Should explain in plain English the types of activities and behaviors that the ICs are designed to prevent, perhaps provide possible examples or scenarios.</p>
<p>Type of LUC: Deed restrictions re land uses and activities to minimize the potential for exposure to both contaminated GW and Soil below 10 feet.</p>	<ul style="list-style-type: none"> • Deed Restrictions: long history and well established private and public institutions that oversee deed restrictions, such as title insurance companies, real estate firms, county recorders, etc. • Under California law, deed restrictions done through DTSC appear to be enforceable in case of a violation. • Deed restrictions slated for Parcel B would come into play when a real estate transaction (lease or sale) occurs. At that time they put the new people on notice about the restrictions. • What does the LUCIP say about providing notice beyond the land transactions? What mechanism can the LUCIP employ to put people on notice for day-to-day activities on Parcel B, such as planting a tree or digging for a swimming pool, etc. 	<ul style="list-style-type: none"> • Layering: Consider other, more direct mechanisms to regulate likely day-to-day activities that could result in exposure: Such as Building Permit Data Bases and Registries; public right of way permitting; notice to public and private utility workers; One Stop Shop or One Call Programs. • SF Management Plan appears to be the principle method for layering; however, does it cast a sufficiently wide net to capture in other possible activities, such as those by public and private utility workers? If so, the LUCIP should more clearly explain this link. • Consider informal outreach and education to residents and workers in the area.

	Analysis & Comments	Recommendations
<p>GW Deed Restriction Language</p> <ul style="list-style-type: none"> • Prohibits Discharges to the Surface • Prohibits Well Construction • Prohibits extraction, any use, and consumption <p>• Scope: applies to the grantee/lessee with notice for direct actions and for allowing others to act</p> <p>Duty to maintain integrity of the lined storm drains</p> <ul style="list-style-type: none"> • Dewatering activities for accumulated groundwater are controlled by the Groundwater Management Plan, the NPDES permit, and must be disposed of in accord with applicable laws. • Categorical prohibition of dewatering that increases migration of contaminants 	<ul style="list-style-type: none"> • Does the language require proof of intent or would violations be considered strict liability? What if a natural disaster, earthquake caused a fissure that caused GW to discharge to the surface? Would the owner/tenants be strictly liable for this discharge? • What about people/actors who do not play by the rules? A contractor who fails to get the proper building/zoning approvals (sneaks in a light pole for security?) or a contractor with a permit drills an extra two feet by accident? • Somewhat confusing. First time storm drains are mentioned? Can a deed restriction also include affirmative obligations—is such a format enforceable under California real property law? • How does the City's NPDES permit for the storm water system come into play? • Another strict liability offense? 	<ul style="list-style-type: none"> • Clarify the legal requirement for intent to prove a violation of the deed restriction. • Clarify • Clarify • Could these details be explained in LUCIP and not the actual deed language? • Define dewatering activities in plain English and provide an example or two; explain how dewatering could result in exposure to contaminated GW. • Clarify

	Analysis & Comments	Recommendations
<p>Soil Deed Restriction Language</p> <ul style="list-style-type: none"> • General prohibition against disturbing subsurface below 10 feet and against mixture and/or placement of soils above 10 feet • Exception: in the course of redevelopment/construction if done in compliance with Soil Management Plan • Manage all disturbed soils in accord with applicable environmental laws. 	<ul style="list-style-type: none"> • Strength of legal authority under California law and DTSC's Restrictive Covenant • "Disturb" seems to be an expansive legal term of art • Intent: are these strict liability prohibitions? What happens during a natural disaster, such as an earthquake? 	<ul style="list-style-type: none"> • Clarify "disturb"
<p>Duties to Notify Grantees and future owners agree to notify all tenants and subsequent owners about:</p> <ol style="list-style-type: none"> (1) Prohibition to alter certain storm drains without getting proper state/federal approvals; (2) The existence of the Soil and GW contamination 	<ul style="list-style-type: none"> • Good approach to reinforce and make clear affirmative duty to notify. • Good idea to include tenant notification too! • Under California law, how enforceable is this affirmative duty to notify in a negative covenant? What types of action can be taken for a failure to notify? • Mention of Remedial Action Closeout Report: what and where is it? 	<ul style="list-style-type: none"> • How do you ensure that such notice was provided at the time of the transaction? Perhaps require the parties to provide written notice of the recorded document (with County Recorder's Stamp or Seal) with copies sent to DTSC or the Navy? • Explain this document and attach a copy to the LUCIP as an appendix if necessary.
<p>Miscellaneous Permissions and Notices in the Deed:</p> <ul style="list-style-type: none"> • Navy's duties under CERCLA as required in any property conveyance • Right of Entry to inspect and monitor LUCs viability and undertake response actions 	<ul style="list-style-type: none"> • Good to mention the legal requirements under CERCLA 120(h) • Is the right to inspect or to maintain the LUCs and/or the engineering controls? 	<ul style="list-style-type: none"> • Spell out the precise language about inspections or make a more direct reference to these important restrictions and permissions.

II. IMPLEMENTATION	Analysis & Comments	Recommendations
<p>Preamble: intent that monitoring of the two ICs will be a collaborative effort</p> <p>Players: Navy, DTSC, and City of SF</p> <p>Primary responsibility of the Navy and DTSC to monitor only if SF declines to take the property (page 4 of the LUCIP); after transfers of Parcels A&B, Navy presence on these sites to do remedial action on other parcels (top of page 5); if SF does not take the property, then each future grantee (future developer?) would then have to submit a completed Soil and GW management plan to DTSC for approval (middle of page 5)</p>	<p>Good overarching and positive statement about collaboration, but how are they going to monitor? Is monitoring the two deed restrictions the only duty? What are the tools available to help them monitor? Is monitoring their only role? What about enforcement? Who does that?</p> <ul style="list-style-type: none"> • What is the role of the community? • Somewhat confusing, seems to imply that that if SF does take the property, Navy and DTSC are NOT that important. Yet, Navy wants/needs a right of entry and access to finish remedial action on other parcels. • What if SF later transfers part of Parcel B to a CDC or to the Port Authority? While the deed restrictions kick in to require SF to provide notice about the contamination to the new owner, what happens to SF's duty to maintain these management plans? 	<p>Expand statement of intent. Clarify all of the players and their roles upfront. The LUCIP should focus on the broad array of "implementation" issues since it is an implementation plan.</p> <ul style="list-style-type: none"> • Possible roles may include volunteers to monitor activities on site or participate in some type of Advisory/Oversight Board? • Clarify and update. If City has now officially accepted the property (which they just did, right?), then the long-term roles and duties of the Navy and DTSC should be clearly stated upfront in the LUCIP preamble. • Update and clarify on-going responsibility of the city to maintain and have sufficient resources to administer these management plans?
<p>Trigger: finalization and preparation of the deed along with other conveyance and transfer documents.</p>	<p>What about recordation of these documents to make them legally binding? Has this happened yet?</p>	<p>Clarify that finalization includes recordation of the key documents and perhaps share copies with all stakeholders, including the community.</p>
<p>ROD and Remedy Implementation: five-year reviews to verify successful performance of the remedy and monitoring compliance with the LUCs.</p>	<p>Is this the EPA's five year reviews required by CERCLA? Who will do it for Hunters Point? Region 9 personnel? Is it monitoring just the LUCs or does it include the LUCIP itself?</p>	<p>Define who it is and what they will do? While five years is the requirement, most EPA staff and experts agree that five years is too long of a period. Consider providing greater protection than the bare minimum requirements of CERCLA.</p>

	Analysis & Comments	Recommendations
<p>SF Soil and GW Management Plans: Enforcement of the deed restrictions and implementation of the SF Management Plans are the prerequisites for EPA to certify successful operation of the remedy AND for final approval of the LUCs. BCT review and approval of the plans is required.</p> <p>Purpose: provide a framework for ensuring compliance with the LUCs.</p> <p>City of SF will have an integral role in monitoring, reporting, and enforcing LUCs through "administration" of these two plans.</p> <p>Regulatory Authority of the Plans: based on the city's police powers to regulate land use, building and development</p> <p>Process: plans will require SF to advise applicants about the environmental restrictions on Parcel B and then monitor their compliance</p> <p>Annual Reporting: SF will send an annual written report to the Navy, EPA, DTSC, and RWQCB on all activities, including violations, involved with the plans.</p>	<p>When the LUCIP says "implementing the LUCs" and ensuring compliance with the "LUCs," does it mean just the deed restrictions (restrictive covenants) and affirmative duties written in the deeds? Or should it also include the LUCIP itself as the necessary and final aspect of implementing AND enforcing the LUCs?</p> <ul style="list-style-type: none"> • General goal of the management plans is to provide a framework for compliance/implementation of the LUCs, but isn't that also a key role of the LUCIP? • Good general statement of intent about SF's role. <p>What is the legal basis for the management plans? Will they be codified as a local ordinance or will they be general development policies that SF staff must follow when issuing development permits for Parcel B at the former Hunters Point Naval Shipyard?</p> <p>How does SF intend to implement the plans? Which departments in the City will oversee the management plans? Do they have sufficient resources and expertise to take on this added responsibility?</p> <p>Annual reporting requirement is great--a more realistic time period. Who at the City is the point person responsible for doing these reports? Who are their principle points of contact in the respective agencies?</p>	<ul style="list-style-type: none"> • Should formally incorporate the Plans into the LUCIP and attach as an appendix. • Clarify terminology when using deed restrictions, referred to earlier as ICs, and then here as LUCs or land use controls. • Need to clarify and distinguish the purposes and goals of the SF Plans from the LUCIP; Seems as if the LUCIP is the more important document as it should provide a very detailed roadmap of the who, what, where, how, and why of LUC implementation and enforcement. <p>Strongly recommend that the plans be codified as a local ordinance to provide the City with independent enforcement authority; perhaps not codify the entire plans, but pass an ordinance that makes it a violation of the municipal code to disturb the soil or extract the GW without first obtaining an approved management plan.</p> <p>Provide more details about the management plans in the LUCIP; don't want to repeat the details found in the Plan itself, but if the LUCIP is the central link, it should outline the framework of the plan, incorporate a copy in its appendix, and provide a point of contact.</p> <p>Copies of this annual report should be sent to concerned citizens in the neighborhood or their designated representatives; perhaps post it on a Web site?</p>

III. ENFORCEMENT	Analysis & Comments	Recommendations
<p>Navy and DTSC Land Use Covenant Agreement:</p> <p>Based on DTSC/Navy MOA of March 16, 2000.</p> <p>Recordation of this Agreement protects the Navy's and DTSC's interests based on shared responsibility for "enforcement" of the LUCs</p> <p>Tiered enforcement role: DTSC having primary enforcement role for the LUCs as defined in the Covenant to Restrict Use of the Property.</p> <p>Navy could independently exercise its own enforcement authority to compel adherence to the deed restrictions if DTSC fails to take action to claimed violations of a restriction.</p>	<ul style="list-style-type: none"> • What is the precise relationship of the Navy/DTSC Covenant Agreement with the LUCs, the LUCIP and SF Management Plans at Hunters Point? Is the Covenant a separate document that is attached to the deed to Parcel B? • The Covenant Agreement governs enforcement for the LUCs, right? What about enforcement responsibility for the LUCIP? What happens if one of the parties ignores/violates one of these terms? What recourse does the public have for failure of DTSC or the Navy to honor their promises in these documents? • What about enforcement of the Management Plans? Is not the plans part of tiered enforcement? What is the enforcement process? Who is the point of contact for DTSC? Is it someone within the region? Who is a citizen going to call when they see someone digging? What should a city inspector do when they suspect a breach? • Under what circumstances would the Navy do this? What enforcement powers would the Navy undertake? Who is their point of contact? 	<ul style="list-style-type: none"> • Clarify and explain in the LUCIP as well in other related documents. Clarify the Covenant for Parcel B (which is essentially the deed restrictions) vs. the DTSC/Navy Covenant Agreement. • Clarify the implications for failure to adhere to the LUCIP vs. failure to adhere to the Covenant Agreement or Parcel B Deed Restrictions/Covenants (LUCs). If a future owner/developer follows the LUCIP, does that provide them with an absolute defense to any enforcement action by Navy/DTSC or is it merely a rebuttable defense? • Clarify relationship of the LUCIP to the SF Management Plans. The LUCIP should explain in depth the enforcement process and contacts and which agencies are taking the lead for enforcement of the LUCs on Parcel B. It should also provide some reference to the enforcement process for the Management Plans since they are so dependent on each other. • Clarify and explain.

<p>Recording Requirements: Record the Quit Claim Deed along with the covenant respecting enforcement of the deed restrictions with the County Recorder in SF; provide copies to all parties with an interest</p>	<p>Important to record all documents as a means to bind future property owners and provide notice.</p> <p>Confusing terminology (covenant respecting enforcement of the deed restriction). Does this mean the Navy/DTSC Covenant or the covenant agreement? Should the LUCIP be recorded to make it an enforceable agreement?</p>	<p>Recommend that you record all documents: the LUCs (deed restrictions) or Navy/DTSC Covenant for Parcel B, the LUCIP, and the SF Management Plans as a way to ensure that prospective owners have notice about the contamination and the respective responsibilities and roles. Recordation strengthens long-term enforceability and also long term effectiveness.</p>
<p>IV. LONG TERM STEWARDSHIP</p>	<p>Analysis & Comments</p>	<p>Recommendations</p>
<p>LUCIP does not include references to long-term stewardship activities, such as outreach, education, and community involvement with the LUCs.</p>	<p>Beyond the fundamental roles and duties surrounding the LUC and the LUCIP, stewardship activities seek to today with a long-range vision of the site and how its risks will be managed years down the road. Stewardship also seeks to involve and educate those who will live and work near the site.</p>	<ul style="list-style-type: none"> • Explore the formation of an Oversight Advisory Board that would provide a regular forum (i.e., quarterly meetings) for communication between the environmental regulators, local government, developers, businesses, and local citizens. • Museum and Community Centers: are there ways to design and create public places in the redevelopment of Parcel B that not only celebrate the history of the Shipyard, but also provides a forum to educate residents about the residual contamination, the LUCs, and the LUCIP?

Matrix Two

SF's Soil and Groundwater Management Plan (SGMP) Hunters Point Shipyard, Parcel B

The first column below outlines and summarizes the basic text from the Management Plan starting from page one and moving forward to the end. General comments and recommendations to each part of the Plan then flow across to columns two and three.

Management Plan: Framework & Issues	Analysis & Comments	Recommendations
<p>Preamble & Preliminaries:</p> <p>Table of Contents & Attachments or Figures</p> <p>Acronyms & Abbreviations</p>	<p>Format is somewhat comprehensive and easy to follow and understand.</p> <p>Important to have such a table given the amount of complex regulatory and engineering terminology.</p>	<p>None</p>
I. INTRODUCTION		
<p>Background & Enforcement: Discussion of NPL listing and cleanup process for Parcel B that should be complete by some day in 2001.</p> <p>Determination by the EPA and the Navy re the cleanup remedy that requires "institutional controls" to limit activities that could possibly result in potential exposure to residual contamination left on Parcel B.</p> <p>The institutional controls are stated in the "amended" ROD and documented in the "covenant to restrict use of property" between the Navy and DTSC.</p>	<p>Good background info by providing the big picture; we know Parcel B is one of five parcels. What about the official documents that transfer the base from the Navy to the City?</p> <p>When cleanup is officially complete will the ROD be amended or is there another document that is recorded to reflect completion of cleanup?</p> <p>Consistency of terminology: ICs vs. LUCs.</p> <ul style="list-style-type: none"> • When the Plan mentions the covenant it means the Navy/DTSC Covenant, which is the actual deed restriction found in the title to Parcel B? • Where is the LUCIP? How does it relate to the Plans and the Covenant? 	<p>Enhance and refer reader to Section 3.0 where you provide more background information. By reading the Plan, some people will be learning about the cleanup history at Hunters Point for the first time, thus, include as much background as you can. Refer to the base transfer documents too!</p> <p>Clarify what happens when cleanup is done and ensure that such event is reflected in the LUCIP or Management Plans.</p> <p>Incorporate/refer to the official cleanup documents to provide more information about the reasoning behind the decision for institutional controls. Explain and define both terms (LUCs and ICs) to minimize confusion.</p> <ul style="list-style-type: none"> • Clarify. Somewhat confusing b/c the deed restrictions under general real property law can also be referred to as covenants. • If the DTSC/Navy Covenant is the legal basis for the LUCIP and the Plans, then make an explicit link between the Plans and LUCIP.

	Analysis & Comments	Recommendations
<p>Enforcement: introduces the key players, the Navy and the environmental regulators (EPA and DTSC), and briefly mentions their enforcement roles:</p> <p>Covenant and the Plans are subject to enforcement by both DTSC and Navy</p> <p>Failure to comply with provisions of the Plan could result in enforcement actions by the DTSC and the Navy</p> <p>Compliance with plans is a “precondition” of any building or grading permit issued by the SF BID and or street use permit issued by SF DPW.</p> <p>Failure to comply with the Plans will constitute a violation of the building permit that could result in the imposition of fines by SF.</p>	<p>What is the role of the City? Why mention enforcement upfront before oversight and implementation of the Plans themselves?</p> <ul style="list-style-type: none"> • What is the legal authority that supports the enforcement powers of the Navy and DTSC? They both can enforce b/c the Plans are essentially part of their Covenant? • A good example of layering by including local government enforcement of building or street permits. Compliance with the plans is not the same as compliance with an ordinance, right? The plans are merely building conditions or protocols. Is there a code section that makes violations of “building conditions” a violation of the SF Muni Code? 	<p>Clarify. It seems confusing to start with enforcement of the plans before identifying the players, their roles, and explaining the development process under the Plans.</p> <ul style="list-style-type: none"> • Clarify the legal authority for enforcement, i.e., the Navy and DTSC could step into the shoes of the city and enforce the Plans against a violator b/c the covenant requires the plans? If so, such enforcement would depend on whether the violator had legal notice of the DTSC/Navy covenant, right? Recommend that someone be designated a lead enforcement entity, Navy or DTSC, in both the LUCIP and the Plan, to avoid future problems. • Clarify the City’s legal authority and the enforcement process. How could the city take enforcement action unless compliance with the plans is somehow incorporated into its municipal code? Perhaps amend the code to ensure/enhance enforceability of the Plans • Why only fines? Does the SF Muni Code allow the City to also seek civil penalties and/or an injunction if necessary?
<p>Modification Process:</p> <p>The Navy and DTSC can only make amendments to the Plans and to the Covenant</p> <p>DTSC can approve or issue a variance to the Plans</p>	<p>Very strict modification process. Does it require both entities to approve? What are the steps for proposing such changes or variances? What can the City do? What happens if the City Zoning Board approves a variance to a land use on Parcel B that might conflict with these Plans?</p>	<p>Clarify the process for making changes to the Plan and/or issuing variances to the Plans. Include some avenue for the City to formally petition DTSC for variance review and identify a point of contact or division with DTSC who will review such requests.</p>

	Analysis & Comments	Recommendations
<p>Purposes and Objectives: SGMP sets forth specific procedures and protocols that apply to contamination issues associated with past operations under Navy control and CERCLA CAP</p> <p>A party must follow them when planning any activity at the Site that might result in exposure</p> <p>Flow Charts</p>	<p>What type of enforcement action can the City bring when someone violates a "procedure or protocol?"</p> <p>Does "Party" also include their agents and employees? Would adding "person" help expand the scope? Would the plans also apply to city public utility workers?</p> <p>Great idea!</p>	<p>Make a clear reference to those provisions of the SF Muni Code that would authorize the City to bring an enforcement action for failure to adhere to the procedures and protocols.</p> <p>Clarify and perhaps expand definition of party so that it includes all possible actors. Might consider adopting a separate protocol that advises city workers on what to do if they are doing work in this area</p>
II. APPLICABLE NOTICES & RESTRICTIONS	Analysis & Comments	Recommendations
<p>Insert institutional controls language (deed restrictions) that require notice and restrict certain activities</p>	<p>Good idea to refer and incorporate the language.</p>	<p>Make sure the language is also easily understandable and in plain English; minimize the legalese.</p>
III. PREVIOUS INVESTIGATION & REMEDIATION	Analysis & Comments	Recommendations
<p>List of important documents that describe the Navy's investigation and remediation of the site under CERCLA.</p> <p>GIS System</p>	<p>Great to integrate as much cleanup info as possible and also help people find them!</p> <p>GIS is a critical tool in making any LUC system effective for the long-term. Provide as much information about the GIS system here and in other aspects/areas of the City's building and development departments and processes.</p>	<p>A few generic considerations to think about re GIS:</p> <ul style="list-style-type: none"> • Make sure the data is in a format that is easily understood and readily accessible to the general public. • Will the format and the system be compatible with databases maintained by DTSC and the NAVY? • Make sure the right people can get the right information. • Allocate adequate staff time and resources to maintain and update the database.

IV. SOIL & GROUNDWATER PLAN REQUIREMENTS	Analysis & Comments	Recommendations
<p>Persons must obtain written approval before they can plan/conduct any activity that could disturb the soil/groundwater at the Site and thus, result in possible exposure to the contamination.</p> <p>Activities include: grading, trenching, pile driving, excavation, installation and maintenance of utilities, construction of subsurface structures.</p> <p>Process: in consultation with the permittee, including a review of the GIS system, the City determines whether the activity requires a "site specific" management plan. If so, such site-specific plan must comply with this document and be approved by the City.</p> <p>Site Specific Plans: permittee must further define the precise area (permitted work area) within the plan using GIS coordinates; depending on the scope of the permitted work, the City may require the plan to include any one of seven additional plans:</p> <ul style="list-style-type: none"> • Soil Screening Plan • Excavation • Stockpile • Stockpile Sampling • Saturated Soils • Groundwater • Contingency Plan <p>Reporting Requirement: Final report submitted to the City after completing the activity, with possibility of interim reports.</p>	<p>The Plans apply only when persons are required to obtain a building or grading permit from the City's BID or the PWD. What types of activities could happen at the site that would NOT require such permits? Could these activities also lead to possible disturbances of the soil and groundwater?</p> <p>Within the general permit process, what avenues do the general public have to comment on the typical grading or excavation permit?</p> <p>Would the city consult with DTSC or EPA in making this decision? If not, are there sufficient criteria to help the City's BID/DPW officials make a decision that protects public health?</p> <p>Great concept to require more detailed plans depending on the scope and nature of the work.</p> <p>How and who will have access to these reports?</p>	<p>Review those activities that do not require a permit to ensure that they would not lead to possible exposure; and if so, design a way to close that LUC gap.</p> <p>Consider ways to include public comment on the issuance of the permit by those residents who live or work on or adjacent to the site where the proposed work would happen. Spell out in the Plan.</p> <p>Does the City have adequately trained staff to review these plans as submitted by the applicants and then inspect and monitor the activities in the field to ensure the permittee follows the approved plans? The City may need to provide city staff (building inspectors with training) and develop protocol for these types of inspections.</p> <p>Ensure the general community will have easy access to review such reports as a way to keep them informed and actively engaged in the stewardship of the site.</p>

<p>Additional Plans: City may require additional plans.</p> <p>Historical Data: City will provide historical data to the permittee using the GIS system; GIS will also provide soil and groundwater analysis collected at the site and surrounding neighborhood areas.</p>	<p>What is the Health and Safety Code Plan per 29 CFR?</p> <p>How does the City intend to finance the maintenance and update of the GIS system? Will there be a user fee? Will the City dedicate sufficient staff to accomplish their tasks? What happens if permittee relies upon bad data supplied by City's GIS system?</p>	<p>Clarify this requirement.</p> <p>Additional issues for the City to consider in the design and maintenance of their GIS Data System.</p>
<p>Soil Screening Plan</p> <p>Can require permittee to sample soil in work area if data is absent or inadequate.</p> <p>Permittee must remediate or mitigate if soil cleanup goals are not met</p>	<p>Excellent Safeguards. Good to attach the Parcel B Soil Cleanup Levels. What is the process if EPA and/or DTSC change the soil cleanup standards for relevant constituents?</p>	<p>Clarify the process for modifying the cleanup standards.</p>
<p>Excavation Management Plan</p> <p>Must prepare the EMP for all excavation activities and provide sufficient details of how the soil will be managed in compliance with the following specified procedures.</p>	<p>Procedures seem very extensive for handling surface soil and soil deeper than 10 feet (highest level of contamination). Good idea to require help from independent underground utility locating contractor</p>	<p>None</p>
<p>Stockpile Management Plan & Stockpile Sampling/Analysis Plan</p> <p>Must prepare plan if soils are going to be stockpiled on the site and can only be stockpiled in locations approved by City.</p>	<p>Procedures seem very extensive.</p>	<p>None</p>
<p>Saturated Soil Management Plan</p> <p>Must prepare plan if saturated soils are likely to be encountered during the excavation</p>	<p>Procedures seems very extensive</p>	<p>None</p>
<p>Groundwater Management Plan</p> <p>Must prepare plan for all dewatering activities involving excavations and saturated soils.</p>	<p>Procedures seem very extensive</p>	<p>None</p>

	Analysis & Comments	Recommendations
Contingency Plan All Permittees must prepare a site-specific contingency plan: <ul style="list-style-type: none"> • Unanticipated Conditions • Emergency Response Procedures • Emergency phone numbers and directions to Hospital • Notification of 911 • Work will temporarily halted if exposure or injury occurs 	Good idea to make such contingency plans mandatory. Includes the major list of contingencies, but it is hard to anticipate all such conditions.	May want to mention or provide guidance on natural disasters that might happen on site, such as earthquakes.
V. REPORTING	Analysis & Comments	Recommendations
All permittees must submit report to he City within 60 days AFTER completing all permitting work, unless the scope of work necessitates interim reports	Reporting requirements appear fairly extensive. Interim reporting seems more likely given the rather lengthy period of 60 days work is done.	Ensure that members of the public, especially those citizens who live or work on or near the site have access to these reports.

Joseph M. Schilling

Mr. Schilling manages the economic and sustainable development programs for the International City/County Management Association (ICMA) in Washington, D.C. Many of these research projects focus on the role of local governments in the cleanup and reuse of brownfields, Superfund sites, former military bases, and vacant residential properties. At ICMA he coordinates two ICMA member consortiums: Brownfields/Superfund and Revitalizing Vacant Properties. He recently completed a special report, *Beyond Fences – Brownfields and the Challenges of Land Use Controls*, that documents ICMA's work on institutional controls over the past three years.

Mr. Schilling brings over fifteen years of professional experience in the fields of land-use, environmental law and policy, state and local government relations, and dispute resolution. He is a public policy facilitator and environmental lawyer with a LL.M. from George Washington University and J.D. from Hastings College of the Law in San Francisco. Mr. Schilling currently teaches State and Local Government Law at George Washington and Land Use Law for the University of Virginia's Northern Center.

Through his teaching and research, Mr. Schilling has written several articles on environmental policy, including *Special Forces: Local Governments as the Next Generation of Environmental Stewards* (Environmental Law Institute Forum, November/December 2000) and *The Challenges of Land Use Controls at Brownfield Sites*, State & Local Law News (ABA Section of State and Local Government Law, Spring 2000). Mr. Schilling also writes regularly on the topics of land use and dispute resolution. He is the co-author of the definitive text on land use enforcement, *Code Enforcement--A Comprehensive Approach* (Solano Press Books, 1994).

Prior to relocating to Washington, D.C., Mr. Schilling worked for over ten years as a Deputy City Attorney for the City of San Diego, managing a fifteen-person land use enforcement unit. In that capacity, he conducted high profile civil and criminal enforcement actions, advised the city council and city manager on municipal law issues, and created innovative ordinances, policies, and programs. One of those programs, the Center for Municipal Dispute Resolution, provided mediation and public policy facilitation services for local governments to resolve land use and environmental conflicts. As Program Director for the Center, Mr. Schilling trained city officials, planners, attorneys, and law students in mediation skills, designed dispute resolution and public participation programs, and also facilitated working group meetings, public workshops, and community task forces.

415-495-1786
From Arc Ecology

Introduction:

Needs broader introduction. Document addresses restrictions, ICs, responsibilities, etc. This document addresses the restrictions on the Parcel B property at Hunters Point Shipyard (HPS) imposed by the Parcel B Record of Decision ("ROD") (October 7, 1997) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. Sec 9620 et seq.) ("CERCLA").

ROD Language

Soil: Deed notification indicating that soil below 10 feet below ground surface in remediated areas, as specified in the remedial action close-out report, may be contaminated. All future soils excavated from below 10 feet in remediated areas must be managed in accordance with federal, State and local laws and requirements including the San Francisco Public Works Code. In addition, any owner and/or tenant of Parcel B who excavates soils containing levels of contamination in excess of the cleanup goals presented in Table 8 of this ROD will be restricted from placing the excavated soils onto the ground surface and restricted from mixing the excavated soils with soils present in the surface to groundwater zone.

Groundwater: Deed restriction on Parcel B such as prohibiting all uses of groundwater within the shallow water-bearing zone(s) to 90 feet below ground surface, and notification of the lining of storm drains as detailed in the selected remedy section of this ROD.

Deed notification indicating that contamination may be present in the groundwater in the remediated areas as specified in the action close-out report. Surface discharge of contaminated groundwater is prohibited.

Section xx of This Land Use Control and Implementation Plan ("LUCIP") sets forth the respective roles and responsibilities of the Department of the Navy, the regulatory environmental agencies including United States Environmental Protection Agency ("USEPA"), California Department of Toxic Substances Control ("DTSC") and the California San Francisco Regional Water Quality Control Board, San Francisco Bay Region "RWQCB").

The LUCIP also describes the appropriate institutional controls and monitoring protocols needed to support the remedial actions outlined in the Parcel B ROD.

The possible involvement of the City of San Francisco is also described in section xx of this LUCIP.

When the contents of the LUCIP have been agreed upon by with the Base Realignment and Closure ("BRAC") Cleanup Team ("BCT"), ~~the team will record its approval in a signed writing~~ as shown on the signature page.

Property Description: no comment

Parcel B Anticipated Uses:

On July 14, 1997, the San Francisco Redevelopment Agency, the Local Reuse Authority for Hunters Point Shipyard, approved a Redevelopment Plan for the installation which became effective August 17, 1997 after approvals by the Board of Supervisors and the Mayor.

The categories of anticipated use include mixed use (which can include residential use), educational and cultural use, research and development and open spaces including restoration of a wetland.

Risk and Anticipated Land Uses

Location A

In evaluating the potential risk presented by contamination at Parcel B, the Navy with the ~~Base Realignment and Closure ("BRAC") Cleanup Team ("BCT")~~ considered exposure pathways ("unrestricted use scenario") for residents and others using on the property that might present an unacceptable risk to human health.

In determining the potential exposure pathways, the BCT considered an unrestricted residential reuse scenario allowing homegrown produce for human consumption. The assumptions used to evaluate the unrestricted use scenario are available in the Parcel B Remedial Investigation Report. Specific soil concentrations that reflect the acceptable risk criteria may be found on Table 8 of the Parcel B ROD, and are included as appendix A of this LUCIP.

Soil

Table 8 of the ROD sets forth soil concentrations for Soils located ten (10) or less feet below ground surface ("bgs") ~~would~~ that meet 10-6 excess cancer risk (the most protective portion of the range of acceptable risk) and a hazard index of one (1) or less. The Navy has remediated soils located 10 or less feet bgs. In the event that new contamination is discovered in soil located 10 feet or less bgs ... then what???

Soils located at depths below 10 feet have not been remediated and could ~~would~~ pose unacceptable risk ~~only~~ if raised to the surface where residential exposures may occur. The land use controls described in this document are meant to protect people and the environment from exposure to this residual contamination.

Groundwater

Groundwater at Parcel B has not been remediated. Groundwater may be encountered near the surface. Groundwater could pose an unacceptable risk if exposure pathways are created. Potential activities that could result in exposure include well installation and/or excavation/construction activities below the groundwater table where activities create complete exposure routes and bring receptors into contact with the residual contamination at Parcel B.

Move to location A: The BCT selected a remedial action for Parcel B that is protective of both human health and the environment. The Redevelopment Plan for Hunters Point provides descriptions and reuse scenarios that help define the reasonable anticipated future land uses. The selected remedy is protective of site activities that are consistent with reasonably anticipated future land uses.

This following section is unnecessary.

~~Conditions Requiring Restrictions Through Institutional Controls:~~

~~The Feasibility Study ("FS") for Parcel B defined the remedial action objectives for soil as preventing ingestion of, direct contact with, or inhalation of hazardous substances in soil.~~

~~The FS identified two remedial action objectives for groundwater which include prevention of inhalation of volatile organic compounds from A-aquifer groundwater that enter into buildings, and prevention of exposure of aquatic receptors to contaminated groundwater migrating to San Francisco Bay.~~

~~The selected remedy is protective of human health and the environment for anticipated uses under the Redevelopment Plan.~~

~~However, there is residual contamination in soils below ten feet and the groundwater and thus a potential risk from exposure to soils deeper than 10 feet bgs or water in the A-aquifer.~~

~~Potential activities that could result in exposure include well installation and/or excavation/construction activities deeper than 10 feet bgs where activities create complete exposure routes and bring receptors into contact with the residual contamination at Parcel B. Note: groundwater can be encountered above 10 feet bgs.~~

~~Although the likelihood is low that these activities will create unacceptable risk to human health or the environment, the conclusions presented in the Parcel B ROD and the reuse scenario proposed in the Redevelopment Plan indicate institutional controls are necessary to regulate these activities to limit the possibility and effects of any potential exposures arising from such activities or contact.~~

Institutional Control Language:

As part of the selected remedy set forth in the Parcel B ROD, the Department of the Navy proposes the following language for groundwater and soil restrictions as well as notifications be included in the quitclaim deed transferring title in to the Parcel B property to the Grantee, the City of San Francisco.

GROUNDWATER DEED RESTRICTION

The Grantee, its successors or assigns, shall not discharge nor allow to be discharged groundwater to the surface. Grantee, its successors or assigns shall not construct nor allow to be constructed any well, and shall not extract, utilize, consume nor allow to be extracted any groundwater from within the shallow

water-bearing zones to 90 feet below ground surface for the purpose of human consumption or any other use.

The Grantee, its successors or assigns, shall maintain the integrity of any portion of the storm drains that were lined as part of the remedial action as shown in attached Figure ____.

Dewatering activities for groundwater which accumulates on the surface of excavations shall be managed pursuant to a Groundwater Management Plan approved by USEPOA, DTSC, and the RWQCB. All accumulated groundwater will be discharged in compliance with requirements for Publicly Owned Treatment Works or NPDES permits, or disposed of in accordance with local, state and federal hazardous waste laws. Any dewatering activity which increases the migration of contaminants through groundwater is categorically prohibited.

SOIL DEED RESTRICTION

The Grantee, its successors or assigns, shall not disturb the subsurface of the Parcel B property below a depth of (10) feet in any manner except in the course of redevelopment or construction when soil below (10) feet may be disturbed pursuant to and in compliance with a Soil Management Plan approved by USEPA, DTSC, and the RWQCB. All soils disturbed shall be managed in full compliance with all applicable Federal, State and local laws. Soil excavated below ten (10) feet shall not be mixed with or placed in contact with any soil located at any depth from above ten (10) feet below to the surface of Parcel B.

GRANTEE'S OBLIGATION TO NOTIFY

Grantee, its successors and assigns, as a condition of acceptance of the property, agrees to provide to all tenants and the subsequent owner of the property or any portion thereof the following notification:

Portions of the storm drains underlying the property, as shown on the attached Figure ____, which were lined as part of the remedial action shall not be altered without approval from USEPA, DTSC and RWQCB. Contamination may be present in the groundwater and in soils ten (10) feet below ground surface in remediated areas as specified in the remedial action closeout report.

The preceding clauses represent the form of the institutional controls based on the restrictions set forth in the Parcel B ROD. Other restrictions or notices will be placed in the deed pursuant to the Department of the Navy's responsibilities under CERCLA.

These responsibilities require a right of entry-in-the-deed to allow the Department of the Navy to enter and inspect the property to ensure the viability of LUCs or to perform any additional required response actions.

These clauses are very standard in their language and are a required part of any property conveyance in accordance with CERCLA sections 120(h)(3)(A)(iii).

Land Use Control Monitoring, Reporting and Enforcement:

It is expected that monitoring of the two restrictions will be a collaborative effort between among the Department of the Navy, DTSC, and the City of San Francisco.

Show diagram

If the City declines to take the property, the monitoring of the restrictions will be the primary responsibility of the Navy and DTSC. Should read DTSC and Navy?

~~Part of the remedial activities at Hunters Point will be finalization and preparation of the deed with its restrictions along with other conveyance documents.~~ Is this a placeholder? Why is this sentence needed?

As an integral part of the conveyance package, agreed-upon soil and (if necessary) groundwater management plans are necessary for USEPA to certify that successful operation of the remedy.

Location B

~~Even after the transfer of the remediated Parcels A and B, there will still be a Navy presence on the property as remedial activities go forward on the other parcels.~~

Five Year Review

As part of any ROD implementation, USEPA will conduct five year reviews ~~will be conducted~~ to verify the successful performance of the remedy. Consider shorter review period for this untested program.

Monitoring of compliance with the Land Use Controls ("LUCs") will be a formal part of USEPA's the review.

Soil and Groundwater Management Plans

As the Grantee, the City of San Francisco will have an integral role in monitoring, reporting and enforcing the LUCs through its administration of the a soil and groundwater management plans.

~~These~~ This plans, which is subject to BCT review and approval both when prepared and revised, will provide the framework for ensuring adherence to the LUCs. Explain how the BCT will come to review revisions, particularly after RODs have been signed on all parcels. For how long will the BCT continue to exist?

The City of San Francisco, through its authority to regulate such activity within city limits, ~~can~~ will use a soil and groundwater management plans to first advise applicants of

the nature of the environmental restrictions on Parcel B and then monitor compliance with the plan's provisions.

The plans will establish a requirement to report annually in writing to the Navy, USEPA, DTSC and RWQCB regarding all activities, including violations, related to the administration and enforcement of the plans.

If the City of San Francisco does not wish to take the property, soil and groundwater management plans will still be developed by the grantee.

In that situation ~~it is expected that~~ the plans will require that ~~applicants~~ grantees submit a completed soil or groundwater management work plan to DTSC for review and approval. Shouldn't a specific office or person be identified?

Move to Location B Compliance with the terms and conditions set forth in approved plans are a prerequisite for activities on the parcel that disturb or displace groundwater or soil below ten feet.

Enforcement

The final and necessary aspect of implementing the land use controls is the enforcement of deed restrictions and the implementing management plans.

The Department of the Navy intends to enter into a Land Use Covenant Agreement with DTSC using the Memorandum of Agreement and model Land Use Covenant agreed to by DTSC and the Navy on March 16, 2000.

In essence, execution and recordation of this covenant protects the Department of the Navy and DTSC interests based on a shared responsibility for the enforcement of the LUCs. Enforcement on City? Surely not on individuals...

Department of the Navy also believes that a tiered enforcement role is appropriate with DTSC having primary enforcement role for the LUCs defined in and exercised through the Covenant to Restrict Use of Property. Note: the proposed structure is not tiered, but delegated, because DTSC will rely on information reported to it from the City – DTSC will not provide any independent oversight.

If, for some reason, DTSC, upon notice, fails to respond to a claimed violation of a restriction, the Department of the Navy could independently exercise its own enforcement authority to compel adherence to the environmental restrictions in the deed. How would the Navy come to know of a claimed violation that DTSC did not act upon?

Recording Requirements:

The Parcel B quitclaim deed as well as any covenant respecting enforcement of the deed restrictions would be recorded in of the Recorder's Office of the County of San Francisco.

After recordation, official copies would be provided to all parties of interest.

Needs

1. A one page summary for public distribution and to distribute at property transfer, to tenants, construction workers, etc.
2. Consequences. What would enforcement action by DTSC look like? By the Navy? How does it compare to City's consequences?
3. Community oversight. Oversight advisory board. PAID, not volunteer, at least at first during redevelopment.
4. Will City's plan be an ordinance, or a regulation?
5. Copies of annual report should be made available to the public.
6. Public needs to be more involved in crafting and reviewing the City's Plan.

**Hunters Point Shipyard
Monthly Progress Report
October 2000**

This monthly progress report (MPR) summarizes environmental restoration activities conducted by the Navy at Hunters Point Shipyard (HPS) during October 2000. This MPR is prepared in accordance with the HPS Federal Facility Agreement, Section 6.6. The MPR is presented in three sections: Section 1, Parcel Updates, summarizes key activities at each parcel completed during the past month and planned for the upcoming 2 months; Section 2, Schedule, identifies submittals, meetings, and field activities completed during the past month and planned for the upcoming 2 months; Section 3, Other, is intended for special announcements, changes in personnel, basewide issues, or other topics not included in Sections 1 or 2.

1.0 PARCEL UPDATES

Parcel B October 2000 Activities

- Continued delineation and confirmation soil sampling at excavations not currently meeting the cleanup goals.
- Continued perimeter air monitoring and cleanup actions at delineated remedial action areas.
- Conducted soil vapor extraction (SVE) well installation and treatment equipment installation for the Phase II SVE treatability study at Building 123 (limited field activities in Parcel B)
- Conducted the Parcel B, Year 2, 1st quarter sampling event October 2 – 6, 2000.
- Submitted the draft annual groundwater monitoring report on October 13, 2000.
- Negotiated new aesthetic cleanup criteria for petroleum at Parcel B.

Parcel B November - December 2000 Activities

- Prepare the final Bay Mud aquitard technical memorandum.
- Prepare final remedial design amendment.
- Continue perimeter air monitoring and cleanup actions at delineated remedial action areas.
- Determine the submittal date for the final storm drain infiltration study memorandum at the December BCT meeting.
- Begin preparation of the remedial action report after a scoping meeting to be scheduled at the December BCT meeting.
- Begin system startup for Phase II SVE treatability study at Building 123.
- Initiate preparation of the Parcel B petroleum corrective action plan (CAP) to address agency comments and new aesthetic criteria.

Parcel C October 2000 Activities

- Installed and developed wells in the A- and B-aquifer for the Phase I groundwater data gaps investigation.
- Conducted soil gas sampling and SVE well installation for the Phase II SVE treatability study at volatile organic contaminant (VOC) areas (also includes portions of Parcels B and E)
- Prepared the draft sampling and analysis plan for Parcel C soil removal action for submittal on November 16, 2000
- Submitted the final groundwater treatability study work plan on October 20, 2000.

Parcel C November - December 2000 Activities

- Initiate groundwater field treatability activities at VOC areas.
- Continue to install wells B-aquifer wells for Phase I groundwater data gaps investigation.
- Continue SVE well installation, and begin system startup for Phase II SVE treatability study at VOC areas.
- Continue to prepare the draft sampling and analysis plan for Parcel C soil site delineation for submittal on November 16, 2000.

- Prepare for fuel line and steam line removals to be initiated in early 2001.
- Continue to prepare the draft CAP for Parcels C, D, and E for submittal in 2001
- Prepare Phase I groundwater data package and beneficial use letter for submittal on November 17, 2000.

Parcel D October 2000 Activities

- Prepared for fuel line and steam line removals to be initiated in November 2000.
- Completed installation of remaining B-aquifer wells and sampling of new A- and B-aquifer wells for Phase I groundwater data gaps investigation.
- Prepared the responses to comments (RTC) on the draft sampling and analysis plan for the soil removal action and initiated preparation of the final document for submittal on November 9, 2000.

Parcel D November - December 2000 Activities

- Submit final sampling and analysis plan for the soil removal action.
- Continue to prepare for fuel line and steam line removals to be initiated in November 2000.
- Continue to prepare the draft CAP for Parcels C, D, and E for submittal in early 2001.
- Prepare Phase I groundwater data package and beneficial use letter for submittal on November 17, 2000.

Parcel E October 2000 Activities

- Analysis of groundwater concentrations in preparation for submittal of information packet on October 16, 2000.
- Collected continuous air samples around the landfill fire area.
- Began emergency removal action to cap the smoldering area of the landfill as an interim action.
- Began preparation of the action memorandum for the emergency removal action to cap the smoldering area of the landfill.
- Submitted the draft radiation removal work plan on October 6, 2000.

Parcel E November - December 2000 Activities

- Submit the final radiation removal work plan.
- Continue to prepare the CAP for Parcels C, D, and E for submittal in 2001.
- Continue to assess soil data gaps investigation work for Parcel E.
- Continue groundwater analysis in preparation of a meeting with the BCT on November 7, 2000.
- Continue air monitoring adjacent to the fire burn area.
- Complete installing the cap covering the fire burn area.
- Conduct soil gas sampling and soil vapor extraction (SVE) well installation for Phase II SVE treatability study at Building 406 (limited field activities in Parcel E)

Parcel F October 2000 Activities

- Prepared a revised schedule for the Parcel F remedial activities.

Parcel F November - December 2000 Activities

- Submit a RTC packet for the draft final VS workplan.
- Prepare the Human Health Risk Assessment workplan for submittal in 2001.

2.0 SCHEDULE

This section presents meetings, deliverables, and field activities conducted and planned during this reporting period.

Activities Conducted	Date
Parcel C soil COC meeting	October 3, 2000
Submitted Parcel E draft radiation removal work plan	October 6, 2000
Submitted Parcel B draft annual groundwater monitoring report	October 13, 2000
Submitted Parcel E groundwater information packet	October 16, 2000
Initiated groundwater treatability study field activities	October 18, 2000
Completed Parcel D new monitoring wells installation and sampling	October 19, 2000
BCT monthly meeting	October 19, 2000
Submitted final groundwater treatability study work plan	October 20, 2000
RAB meeting	October 26, 2000
Parcel E soil data gap meeting (2 days)	October 31, 2000 November 1, 2000
Continued Parcel C and D well installation activities	through November 2000
Continued installation of the cap at the Parcel E landfill fire smoldering areas	through December 2000
Continued SVE treatability study field activities	through May 2001

Activities Planned	Date
Submit Parcel B final remedial design amendment	TBD*
Submit Action Memorandum for capping the Parcel E landfill smoldering areas	November 7, 2000
Submit Parcel D RTC and final sampling and analysis plan for soil removal action	November 9, 2000
BCT monthly meeting	November 14, 2000
Submit Parcel C draft sampling and analysis plan for TCRA soil cleanup activities	November 16, 2000
Meet to discuss RTC on the draft final (rev. 1) Parcel B remedial design amendment	November 16, 2000
Parcel B RA Report scoping meeting	TBD
Submit groundwater beneficial use evaluation letter	November 17, 2000
Submit Parcel F VS workplan RTC	November 23, 2000
Initiate remedial action at Parcel C and D fuel line and steam line areas	November 28, 2000
Initiate pre-excavation confirmation sampling for the Parcel D soil removal action	November 28, 2000
Submit Parcel B final Bay Mud aquitard technical memorandum	November 28, 2000
Submit Parcel E final radiation removal work plan	TBD
Complete installation of Parcel C new monitoring wells	November 2000
Submit Phase I groundwater data package	December 1, 2000
Phase I groundwater meeting	December 5, 2000
Submit the final Parcel B annual groundwater monitoring report	December 5, 2000
RAB meeting	December 7, 2000
BCT monthly meeting /Parcel D FS scoping meeting	December 12, 2000
Meet to discuss RTC on the draft final Parcel B LUCIP	TBD
Initiate the radiological removal action work at Parcels D and E	December 2000
Submit soil/groundwater screening proposal for Parcel E soil	December 15, 2000

* The revised date will be set at a later date.

3.0 OTHER

- The Navy continued removal of 25 above ground storage tanks and closure in place of two underground storage tanks in Parcels C, D, and E.
- The Navy continued to address the current status of the tenants at HPS and potential issues related to upcoming remedial actions
- The Navy is preparing an integrated emergency response plan for the installation.



BECHTEL ENVIRONMENTAL, INC.

CLEAN 3 TRANSMITTAL/DELIVERABLE RECEIPT

Contract No. N-68711-95-D-7526

Document Control No. CTO-007/0197

File Code: 0208, 0216.1, 0216.2, 0216.3

TO Contracting Officer
Naval Facilities Engineering Command
Southwest Division
Mr. Richard Selby, 02R1
1220 Pacific Highway
San Diego, CA 92132-5190

DATE: 29 January 2001
CTO #: 007
LOCATION: Hunters Point Shipyard

FROM: Jerald F. Bailey, Project Manager

DESCRIPTION: Public Information Material Packet for 7 December 2000 Restoration
Advisory Board (RAB) Meeting, Hunters Point Shipyard, Including Reporter's Transcript

TYPE: Contract Deliverable (Cost) CTO Deliverable (Technical) Other: X

VERSION: N/A REVISION No: 0
(e.g., Draft, Draft Final, Final, etc.)

ADMIN RECORD: Yes [X] No [] U.S. EPA Category Confidential

SCHEDULED DELIVERY DATE: N/A ACTUAL DELIVERY DATE: 29 January 2001

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O = Original Transmittal Sheet
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** = R. Keichline to deliver 2 enclosures directly to IR



CLEAN 3 Program
Bechtel Job No. 23818
Contract No. N-68711-95-D-7526
File Code: 0208, 0216.1, 0216.2, 0216.3
IN REPLY REFERENCE: CTO-007/0197

29 January 2001

Contracting Officer
Naval Facilities Engineering Command
Southwest Division
Mr. Richard Selby, Code 02R1
1220 Pacific Highway
San Diego, CA 92132-5190

Subject: Public Information Material Packet for 7 December 2000 Restoration
Advisory Board (RAB) Meeting, Hunters Point Shipyard, Including Reporter's
Transcript

Dear Mr. Selby:

Enclosed for your review, please find copies of the Public Information Material Packet for the Hunters Point Shipyard, Restoration Advisory Board meeting held on 7 December 2000. This Public Information Material Packet contains the final Reporter's Transcript from that meeting.

Please forward the AR File Number to Ronald Keichline for placement on the IR copies. If you have any questions, please contact me at (619) 744-3095 or Ronald Keichline, CTOL, at (619) 744-3603.

Very truly yours,

Jerald F. Bailey
Project Manager

JFB/rk

Enclosure