

**LONG BEACH NAVAL COMPLEX
RESTORATION ADVISORY BOARD
FINAL MINUTES FROM 21 JULY 1999 MEETING**

The Long Beach Naval Complex (LBNC) held a Restoration Advisory Board (RAB) meeting on 21 July 1999, at the City of Long Beach Community Room, 200 Pine Street, Long Beach, California.

RAB ATTENDANCE:

Thomas Macchiarella - Present
Martin Hausladen- Present
Alvaro Gutierrez - Present
Henry Brice - Absent
Mary Butler - Absent
Doug Carstens - Present
Carol A. Churchill - Absent
Greysen Edward Cooley - Absent
P. James Drake - Absent
John Essington - Present
Betsy Foley - Absent
Howard Hargrove - Present
Tom Johnson - Present
Loyd Klock - Present
Joseph Petway - Absent
Darwin Thorpe - Present
Karl A. Tiedemann - Present
Anna Ulaszewski - Present
Maria Vargas - Absent

OTHERS PRESENT:

Michelle Gallice, CDM Technical Support
Alan Lee, Navy
John Hill, Navy
Lee Saunders, Navy
Aaron Yue, Cal-EPA DTSC
Del Davis, City of Long Beach
Clyde Nash, Jr., City of Compton
Henry Winters, Williams Communications
Corky Kleven, Earth Tech
Allan Swaun, Earth Tech
Terry Ulaszewski, Community

MEETING BEGAN AT 6:30 PM – Thomas Macchiarella, Acting Navy Co-Chair, presiding as Chair.

The Chair welcomed the RAB members and members of the audience and later in the meeting reminded everyone to please sign in (PRINT LEGIBLY) - *"The sign-in sheet is the official record of attendance for each RAB meeting. It is the responsibility of each and every RAB member to sign into the official record. If you do not sign in, you did not attend the meeting."*

Mr. Macchiarella reminded the RAB members that the meeting was being tape recorded. No objections were voiced from the floor.

Administrative Issues

Ms. Ulaszewski stated that Ms. Mary Butler was not present at the meeting because she is attending the National RAB Caucus in Washington, DC.

Mr. Lee explained to the RAB that Kimberly Kesler has been promoted as the BRAC Operations Officer. Mr. Lee was detailed to take over the duties of the Base Closure Manager. Mr. Macchiarella was detailed to take over the duties of the BRAC Environmental Coordinator in addition to maintaining Lead RPM duties. This means that Mr. Macchiarella is the acting Navy Co-Chair for the LBNC RAB.

Mr. Gutierrez stated that there are some staffing changes at DTSC as well. Mr. Gutierrez has moved onto another project and Mr. Aaron Yue will be taking his place as the DTSC RPM for LBNC.

Ms. Gallice introduced Mr. Loyd Klock, a new RAB member, to the other members of the RAB.

Mr. Macchiarella asked for comments on the Draft 19 May 1999 meeting minutes. The meeting minutes were approved without changes.

Presentation of Early Transfer Process

Mr. Aaron Yue, California Environmental Protection Agency (Cal-EPA) Department of Toxic Substances Control (DTSC), presented the Early Transfer process. Mr. Yue began by presenting a brief history of the evolution of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). CERCLA was enacted in 1980 to provide for the cleanup of contaminated sites. CERCLA was amended by the Superfund Amendments and Reauthorization Act of 1986 that added Section 120 which directed Federal Entities to comply with CERCLA and imposed requirements prior to transfer of real property owned by Federal Entities. A covenant must be made by the Federal Entity as part of the 120(h)(3) requirements prior to transfer of real property to a non-Federal Entity:

- All necessary remedial actions have been taken
- Any further action found to be necessary will be conducted by the United States

In September 1996 an Amendment to CERCLA, Section 120(h)(3) allowed transfer of real properties by deferring the necessary covenant. Section 120(h)(3)(c) allows transfer even if:

- Remediation is not complete
- Remedy has not been demonstrated to be operating properly and successfully

The “covenant deferral transfer” or “Early Transfer” still requires the completion of all remedies with the oversight of regulatory agencies. There are several key requirements for the deferral.

- Property is suitable to be transferred for the intended use by the transferee
- Transfer of real property to non-Federal Entity
- Transfer will not pose a risk to human health and the environment
- Transfer will not interfere with remedial response actions
- Federal agency responsible for the property is to provide public notice and provide a minimum of 30-days for written public comments on the suitability of the proposed Early Transfer.

The statute also requires documentation of the following to support the transfer:

- Necessary land use restrictions
- Assurance that all response actions will be taken
- Schedules for the investigation and completion of all response actions
- A provision that the Federal Entity submits a budget request to the Director of the Office of Management and Budget that adequately addresses schedules of the response actions

Mr. Yue discussed the State's interests. California wants to promote economic recovery impacted by base closures. California does not want Superfund liabilities associated with improper transfer of contaminated federal facilities. Most importantly, California wants to protect human health and the environment. California's protocol for this process is as follows:

- The Governor's approval is needed for all deferral requests; coordinated by the Governor's Office of Planning and Research
- Secretary of Cal-EPA (6 State Departments & Regional Boards), may designate one agency to evaluate the environmental suitability of the Early Transfer, and make recommendation to the Governor

Mr. Yue proceeded with a discussion of the application process, which is a three track approach for expedience.

- Application Track - where the Covenant Deferral Request is prepared
- Consent Agreement Track
- Land Use Covenant Track

The application track involves the transferring entity and reuse entity agreeing on the viability of Early Transfer. In addition, the transferring entity submits a "Letter of Intent" to the Governor's office. A Covenant Deferral Request is also prepared and involves the following.

- A cover letter with basis for covenant deferral
- An analysis of the intended use and remediation needed
- Funding arrangement and schedule for cleanup
- Financial assurance from transferee (if they perform the response actions)
- Finding of Suitability for Early Transfer (FOSET)
 - Modified FOST
 - Includes current stage of investigation/remediation
 - Statement of Early Transfer request
 - Projected impact on planned reuse
- Supplemental or Site Specific EBS
 - Includes BCT Screening Evaluation letter
- Environmental Response Obligations Addendum (EROA)
 - A transfer document, part of the contract for sale
 - Identifies conditions/clauses and provisions regarding hazardous substances and response actions to be included in the deed

The Consent Agreement involves the following.

- Provides an enforceable agreement to assure the State authority for oversight of response actions
- An agreement between Federal Entity, State, and Transferee
- Details the responsibility of each party
- Must be completed before Cal-EPA makes recommendation to the Governor

The purpose of the Land Use Covenant is to preserve the remedial action and minimize intrusion of the property. It also protects occupants during remediation and after its completion. It restricts the reuse to address hazards and is an enforceable document against future transferees, successors and assigns. The Land Use Covenant is as follows.

- Legal instrument that runs with the land
- Prepared by Federal Entity, reviewed and modified by State and transferee
- Negotiation must be complete before Cal-EPA makes recommendation to Governor
- Signed before the close of escrow and recorded with county recorder's office

Once all three tracks are completed the Cal-EPA will provide an environmental evaluation to the Governor. The Governor has sole discretion to approve or deny Early Transfer requests. Upon receipt of the Governor's approval, the property can be transferred.

When the cleanup of the property is complete the State will issue a certification of completion. The Federal Entity requests CERCLA 120(h)(3) concurrence from the US EPA. The Federal Entity working with the State and US EPA will revise the deed restrictions if necessary, and the Federal Entity issues a warranty to the transferee.

Questions and Answers

Mr. Thorpe asked for clarification about the Navy's responsibility for clean up activities at LBNC. Mr. Lee stated that the Navy is responsible for clean up of past releases, not future releases. The Navy will continue performing clean up activities at LBNC until the CERCLA process is completed, even after the property is transferred.

Mr. Tiedemann stated that he understood it was a cradle to grave process. Mr. Tiedemann asked if the intended use of the land changes, does the Navy have to clean up to the new intended use? Mr. Lee stated that this is not the case. If the land use changes, the entity using the land would have to perform more studies and perform the needed clean up with regulatory oversight. Mr. Hargrove added that the deed restrictions state that the land is to be used for industrial use only, as was the Navy's previous use of LBNC.

Mr. Carstens asked when the public would be allowed to comment on the decision of the Early Transfer of Parcel No. 1 at LBNC. Mr. Yue stated that when the Covenant Deferral Package (CDR) is issued, the community will have 30 days to respond. Mr. Lee added that all comments will be reviewed and responded to in a Response to Comments table that will be added to the CDR which will be reviewed by the Governor and the Navy Headquarters before approval.

Ms. Ulaszewski asked if the public would still be involved in the CERCLA process after the Early Transfer takes place. Mr. Yue stated that the public will be involved until the CERCLA process is completed.

Mr. Thorpe asked what will happen if the problem at an IR site is discovered to be worse than originally anticipated. Mr. Yue stated that if the remedy for clean up of an IR site does not work, or if the problem is worse than anticipated, the Navy will work with the regulatory agencies to do further investigations and clean up the site.

Presentation of the Early Transfer for Parcel No. 1 at LBNC

Prior to the presentation, Mr. Lee reminded everyone that the forum of the RAB is not disposal and reuse, it is environmental cleanup. It is important that the environmental cleanup of the base be consistent with the local redevelopment plan and therefore an update is being provided to the RAB.

Mr. Hill the Deputy Base Closure Manager, SWDIV, presented an update of the disposal and reuse of Parcel No. 1 at LBNC. Mr. Hill stated that he works on closure issues for SWDIV. He provided an overview of the recent actions at LBNC.

The Final Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) was completed in May 1998. Upon finalization of the EIS/EIR the NEPA ROD was executed. The Navy recommended in the NEPA ROD the disposal of LBNC in accordance with the approved Reuse Plan from the City of Long Beach. The Reuse Plan outlines the development of a container terminal facility on LBNC as well as some other port ancillary uses.

Prior to ultimate conveyance, a Lease in Furtherance of Conveyance (LIFOC) has been executed between the Navy and the City of Long Beach. This includes the Long Beach part of IR Site 6A, the entire NAVSTA main base, the Mole (except for the Fuel Facility and associated pier), and entire LBNSY excluding Pier E. The LIFOC is good for 50 years or until such time as the conveyance deed can occur. The City of Long Beach can construct their container terminal facility, though they must comply with all environmental deed restrictions.

Pier E and the Long Beach Harbor West Basin were not included in the lease. The Long Beach Harbor West Basin excludes approximately 100 feet of submerged land that is referred to as the annulus. This area is legally described as part of the upland property. In 1963 when the federal government acquired this land there was a reversionary clause that stated that once 50% of the upland property was no longer being used for federal purposes the harbor would revert back to the City of Long Beach, excluding the 100 feet annulus. The 100 feet annulus has been retained by the Navy and is included in the LIFOC. Pier E has the same reversionary clause. Pier E and the Long Beach Harbor West Basin reverted back to the City of Long Beach on 11 August 1998, the same day the LIFOC was signed.

Under the terms of the LIFOC the Port of Long Beach has assumed complete responsibility for all environmental cleanup of the Long Beach Harbor West Basin. That includes the submerged lands and the land under the piers. The Navy has retained their responsibility for the environmental cleanup of all sites on the upland property, including those sites on Pier E.

The final disposal of the property will be in two parcels, which was agreed upon by all parties under the LIFO. Parcel 1 will be the first disposal action and is described as approximately 315 acres of upland property and the non-reversionary property in the Long Beach Harbor West Basin.

Mr. Hill discussed the Finding of Suitability for Early Transfer (FOSET) for LBNC. The purpose of the FOSET is to provide sufficient evidence to support a finding by the Governor that property is suitable for transfer prior to completion of all remedial actions and to identify factors of environmental concern associated with the proposed transfer. The FOSET contains:

- Property Description
- National Environmental Policy Act Compliance
- Nature and Extent of Contamination
- Analysis of Intended Future Use/Risk Analysis
- Response/Corrective Action and Remedial Action-Operations Requirements
- Deed Language

The nature and extent of contamination covered under this FOSET are for IR Site 1 & 2, IR Site 7, IR Site 14, Building 401, Building 816, and AOPC SWS 2. A risk analysis was performed that measured against the reuse scenarios consistent with the future reuse of the property. Residential use is restricted. There are specific use restrictions at sites pending the completion of remedial activities. Interference with any assessment, monitoring, or remediation efforts of the Government is prohibited.

Mr. Hill continued the presentation with a discussion of the Environmental Response Obligation Addendum (EROA). The purpose of the EROA is to ensure the protection of human health and the environment. It also ensures that required remedial investigations, response actions, and oversight activities will not be disrupted and all necessary response actions will be taken. In addition, it states that adequate funds for investigation and completion of all necessary response actions have or will be obtained. The EROA contains:

- Hazardous Substances Notification
- Covenant- Additional Remedial Action
- Right of Access
- Disruption of Remedies
- Grant of Covenant
- Residential Use Restriction
- Soil and Groundwater Management Requirements
- Groundwater Wells
- Use Restrictions at Sites not yet Remediated
- Asbestos and Lead Based Paint Notices
- Polychlorinated Biphenyls, Radon, Natural Resources
- Health and Safety

- **Conditions for Disposal**
Port of Long Beach has responsibility for performing all remediation necessary with respect to any hazardous substances that may exist on the submerged lands within the West Basin (IR Site 7)

Mr. Hill stated that the Navy is completing the FOSET and EROA for LBNC Parcel No. 1. These documents will be issued for public review in mid-August. There will be a 30-day review period.

Questions and Answers

Mr. Carstens asked if the Coastal Act is why residential use is restricted at LBNC. Mr. Hill stated that both the California Coastal Act and the POLB Master Plan have restrictions that prohibit residential use of LBNC.

Mr. Klock stated that he was surprised that the Navy doesn't have to return the area to it's original condition. Mr. Hargrove and Mr. Tiedemann explained that this would not be possible because the area was almost all water before the Navy filled in the area to make LBNC. Mr. Lee added that the Navy is performing cleanup to meet reuse. The priority is to protect human health and the environment. Mr. Kleven stated that the clean up level is being driven by the POLB Master Plan.

Open Forum for RAB Members and Members of the Audience

Mr. Klock asked if the POLB was held to the same restrictions as the Navy. Mr. Lee stated that the regulators provide oversight for all remediation at LBNC, whether it is performed by the Navy or the POLB. The CERCLA process must be followed by both the federal and private sectors. There are different forums for public involvement, but both follow CERCLA.

Mr. Saunders stated that California just passed Senate Bill 47 which allows the community to form a Citizen Advisory Board, which is similar to a RAB. If anyone has a question, they can contact Mr. Saunders at 619-532-3100.

Having no additional comments, the RAB meeting was adjourned at 8:15 P.M.

The next LBNC RAB meeting is scheduled for **18 November 1999** (the 15 September 1999 meeting was canceled) at the City of Long Beach Community Room at 200 Pine Street. (Subsequent to the meeting, the Navy was informed that the City of Long Beach Community Room can no longer be used for Public Meetings. The next RAB meeting will be held at the City of Long Beach Gas Department.)

These minutes were recorded by Michelle Gallice of CDM Federal Programs Corporation acting as the RAB Technical Support at 858-268-3383, and reviewed and approved by all members of the Long Beach Naval Complex Restoration Advisory Board.

Approved meeting minutes for the Long Beach Naval Complex (LBNC) RAB can be found at:

- (1) The LBNC Information Repository located at the Long Beach Public Library, Government Publications Department; and*
- (2) The Internet at the Southwest Division Naval Facilities Command Web page at <http://www.efdsw.navfac.navy.mil/DEP/ENV/default.htm> - SWDIV Point of Contact: Mr. Lee Saunders (619) 532-3100.*