

Development Act pertaining to technical assistance to OEPA to develop ARP plans.

Proposed Action

The proposed action involves dredging (environmentally) approximately 750,000 cubic yards of contaminated material (approximately 300,000 cubic yards of which may be PCB TSCA) from the lower Ashtabula River and appropriate dewatering, treatment, transport and disposal in appropriately designed existing and/or developed confined disposal facilities (CDFs). Generally, contaminants of concern include metals such as chromium and lead and chlorinated organic compounds including PCBs in excess of 50 mg/kg. Some future disposal capacity for harbor operations and maintenance dredged material (not suitable for unrestricted open-lake disposal) will also be included.

Alternatives

The Ashtabula River Partnership and the U.S. Army Corps of Engineers, Buffalo District are investigating several associated alternative scenarios and have investigated some 36 sites for potential CDF development. The Project Siting Committee recently recommended that four upland sites, one in-lake CDF, and three existing landfill areas be assessed in further detail. The "No Action" alternative must also be a consideration.

Scoping Process

Study activities are being coordinated with government agencies, interest groups, and the general public. The intent is to gain assistance in: identifying and scoping problems, needs, and concerns; developing feasible alternative solutions; assessing/evaluating alternative solutions; and identifying the preferred and the selected plans. The public involvement process for the study incorporates a public involvement (outreach) program, written correspondence, telephone communications, public meetings/workshops, and draft and final report review procedures.

An initial local scoping meeting for this project was conducted in January of 1994. Subsequent meetings followed. In June 1995, supplemental scoping letters were coordinated with agencies and others known to have an interest in the study. Coordination continues. Additional scoping input from potentially affected Federal, State, and local agencies and interests is invited by this notice.

Significant Issues

The Ashtabula River Partnership, comprised of private citizens, government officials, and business and industry leaders, is dedicated to exploring how to effectively remediate the contaminated sediments in the Ashtabula River and Harbor. The goal is to look beyond traditional approaches to determine a comprehensive solution for remediation of the contaminated sediments not suitable for open-lake disposal. Successful remediation of contaminated sediments in the Ashtabula River and Harbor will ultimately enhance economic, environmental, and social development opportunities in the Ashtabula region. Alternatives will be developed and evaluated for engineering and economic feasibility, and environmental and social acceptability. The alternative selected will reflect the best overall response to meeting the developed project objectives. The U.S. Army Corps of Engineers, Buffalo District has taken the leadership role as a Partnership's project manager to prepare its Comprehensive Management Plan and Environmental Impact Statement to address sediment remediation. The study shall be conducted to comply with the various Federal and State Environmental Statutes and Executive Orders and associated review procedures. When the Draft Environmental Impact Statement is completed, it will be filed with the U.S. Environmental Protection Agency and coordinated and reviewed under the National Environmental Policy Act procedures.

Scoping Meeting: Since Federal, State, and local interests have been involved with initiation of the study, and adequate coordination is already being conducted, no new formal initial scoping meeting is scheduled.

Availability

It is expected that the Draft Environmental Impact Statement will be made available to the public about October 1997.

Dated: January 2, 1996.
Walter C. Neitzke,
Colonel, U.S. Army, Commanding.
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Department of the Navy

Record of Decision for the Disposal and Reuse of Naval Hospital, Long Beach, California, Parcel A

The Department of the Navy (Navy), pursuant to section 102(2) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, and the Regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR parts 1500-1508, hereby announces its decision to dispose of Parcel A of the property comprising the Naval Hospital at Long Beach, California.

Navy intends to dispose of the property in a manner that is consistent with the proposed reuse and redevelopment plan submitted by The City of Long Beach, the Local Redevelopment Authority (LRA), described as the Retail Sales Alternative in the Final Environmental Impact Statement (FEIS).

Background

The 1991 Defense Base Closure and Realignment Commission recommended closure of the Naval Hospital at Long Beach and Naval Station Long Beach. These recommendations were then approved by President Bush and the One Hundred Second Congress. Operations at the Naval Hospital ceased on March 31, 1994, and the property has been in caretaker status since that date. Operations at Naval Station Long Beach ceased on September 30, 1994.

The Naval Hospital property is located within The City of Long Beach, California, and consists of two parcels. Parcel A is a 30.5 acre site which contains the hospital buildings, associated barracks, and warehouses. Parcel B is an adjacent 34.7 acre site that contains a parking lot, helicopter landing pad, and Navy housing. Ownership of Parcel B reverted from Navy to The City of Long Beach on October 17, 1995, by operation of law under the terms of the original land acquisition agreement.

A Notice of Intent was published in the Federal Register on January 28, 1994, stating that Navy would prepare an Environmental Impact Statement that analyzed the impacts of disposal and reuse of Parcel A of the Naval Hospital property. A 90-day public scoping period was established, and two scoping meetings were held in the cities of Long Beach and Lakewood on April 5 and 6, 1995. An additional scoping meeting where Navy's presentation was translated into Spanish was held in the adjacent City of Hawaiian Gardens on July 19, 1994.

In February 1995, Navy distributed a Draft Environmental Impact Statement (DEIS) to Federal, State, and local agencies, elected officials, special interest groups, and interested persons. Navy held two public hearings on March 1 and 2, 1995, in Long Beach and the adjacent City of Lakewood. Navy had the Executive Summary of the DEIS translated into Spanish to facilitate participation in the NEPA process by the predominantly Hispanic population of Hawaiian Gardens. Federal agencies, California state agencies, local governments, and the general public submitted written and oral comments. These comments and Navy's responses were incorporated in the Final Environmental Impact Statement (FEIS), which was distributed to the public on August 18, 1995, for a review period that concluded on September 18, 1995.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for disposal and reuse of this Federal property. Navy's EIS process evaluated the environmental impacts of various proposed reuses that could result from disposal of the property. The City of Long Beach adopted a reuse plan for the Naval Hospital property that provided for development of the site as a retail shopping mall.

The scoping process identified more than thirty potential reuses which fell into eight categories. Navy determined that five of these categories, including the LRA's proposed reuse plan, constituted reasonable reuse alternatives. Each of these five "action" alternatives and the "no action" alternative were the subject of detailed environmental analyses. The process of narrowing the number of alternatives selected for detailed analysis from eight to six is set forth in Chapter One of the FEIS.

The six potential reuse alternatives considered in detail in the FEIS were: (1) Administrative use by the Los Angeles County Office of Education (LACOE). This alternative proposed rehabilitation of the existing hospital building and adjacent parking lots and consolidation of all LACOE offices on this site. (2) Health Care use as a Senior Health Care Center. This alternative proposed rehabilitation of the existing hospital building and adjacent parking lots for use as residential and non-residential care for senior citizens. (3) Retail use as retail stores. This alternative proposed demolition of existing buildings and construction of retail outlets and associated parking facilities. (4) Industrial use as an industrial park. This alternative

proposed demolition of existing buildings and construction of a low profile industrial park with associated delivery terminals and employee parking. (5) Residential use as single family housing. This alternative proposed demolition of existing buildings and construction of single family homes at a density of ten units per acre. (6) No Action, leaving the property in caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety.

Environmental Impacts

The potential impacts of each alternative were analyzed for their effects on land use, economics, environmental justice, traffic and transportation, aesthetics, recreation, public services, utilities, seismicity, biological resources, historic and archeological resources, water quality, air quality, noise, and hazardous materials. Each of the alternatives analyzed, except the "no action" alternative, has the potential for causing some adverse impact on traffic and air quality. This potential for adverse impacts on traffic and air quality arises from the additional motor vehicle traffic associated with each of the five "action" alternatives. Each of these "action" alternatives also has the potential for making a positive impact on the local economy. This potential for positive impacts arises from the new job opportunities and consumer spending associated with all five "action" alternatives.

Each proposed alternative, except the Senior Health Care Alternative, generated a significant adverse impact on traffic for part of the area around the Naval Hospital property. Specifically, the additional traffic associated with these proposals would cause some local intersections to operate below the levels of service established by the California Department of Transportation. These adverse impacts can be mitigated, however, by modifying the existing roadways and intersections.

Navy will not exercise control over the Naval Hospital property after it disposes of Parcel A. Thereafter, the property will be governed by local zoning regulations. Other than by imposing deed restrictions, Navy has no authority to restrict future use of the property or require future owners to take action to mitigate the effects of development, *e.g.*, to build or improve roads. Deed restrictions, however, are appropriate only when necessary to ensure that Federal statutory or regulatory obligations imposed on Federal agencies are satisfied, *e.g.*, the

duty to preserve endangered species, historic structures, and wetlands.

There are no such underlying statutory or regulatory obligations associated with Parcel A. Therefore, deed restrictions would not be appropriate here. The FEIS, however, identified and discussed mitigation measures which could be implemented under State and local laws. Applying these prescriptions, the local government could require the entity that acquires the property to build or improve roads and intersections as a condition of gaining approval for any redevelopment plan.

Significant impacts on air quality were related to emissions generated by mobile sources, *i.e.*, the increased vehicular traffic associated with all "action" alternatives except the Senior Health Care Alternative. As discussed above, after conveyance, Navy does not possess the authority to mandate or control mitigation measures. Thus, to the extent that air quality impacts must be mitigated in order to maintain emission levels established by the local Air Quality Board, that mitigation will be administered by local regulators. These regulators could require the acquiring entity to implement mitigation measures developed by the local Air Quality Board before issuing construction permits or other necessary authorizations. Short term impacts on air quality would also occur during the demolition and construction phases of all five "action" alternatives, but these may be mitigated readily through the use of construction techniques demonstrably effective in Southern California.

The most environmentally significant consequence of implementing The City of Long Beach's proposed Retail Sales Alternative is the increase in traffic flow and congestion and the related effects on local air quality. Without mitigation, the Retail Sales Alternative would significantly affect six intersections on Carson Street between the Los Coyotes Diagonal and Norwalk Boulevard. However, the FEIS identified feasible mitigation measures that would accommodate present and projected future traffic flows, achieve and maintain acceptable service levels, and improve the traffic flow on Carson Street. California State and local authorities bear the responsibility for implementing these and any other appropriate mitigation measures.

Federal actions arising out of the transfer of land and facilities are exempt from compliance with the Clean Air Act General Conformity Rule, 40 CFR parts 51 and 93, when, as here, the Federal agency will not retain continuing

authority over the property. These actions, however, must comply with National Ambient Air Quality Standards (NAAQS) and the State Implementation Plan (SIP). Since vehicles will be the source of more than 98 percent of the project-related air emissions, mitigation measures that reduce traffic congestion would also reduce the impact on air quality. Implementation of the Retail Sales Alternative will require compliance with the California Environmental Quality Act, the SIP, and local air quality rules and regulations.

Implementation of the Retail Sales Alternative would not have any impact on historic or archeological resources. The State Historic Preservation Officer agrees with this finding.

In compliance with Executive Order 12898 concerning Environmental Justice, the potential environmental and economic impacts on minority and low income persons and communities were also assessed. Public notices, scoping meetings, and hearings to solicit comments on the DEIS were translated into Spanish to accommodate a local population of citizens who speak only Spanish. Generally, any impacts caused by the proposed development of Parcel A will be experienced equally by all groups within the overall regional population. However, employment opportunities created by the proposed development may favor lower income persons. It is not likely that the minority or low income population will experience disproportionately any adverse environmental, health, or economic impacts.

Comments Received on the FEIS

After the Final Environmental Impact Statement was distributed on August 18, 1995, Navy received seven comment letters. Three of these letters set forth the authors' preferences. Four letters presented comments regarding traffic mitigation measures, air quality, impacts on local schools, and the adequacy with which the Senior Health Care Alternative was treated in the FEIS. The comments did not raise any new issues concerning the potential problems associated with traffic congestion and did not identify or discuss any mitigation measures other than those described in the FEIS. The California Department of Transportation identified the property rights that must be transferred to undertake mitigation measures that would modify intersections and relocate traffic control devices.

The U.S. Environmental Protection Agency (EPA) expressed concern that Navy had identified the Retail Sales Alternative as the preferred alternative

even though vehicular traffic arising out of the retail use would bear the greatest potential for affecting local air quality. EPA asked Navy to consider selecting an alternative with less potential for affecting air quality.

While Navy considered the environmental impacts of each proposed reuse alternative under NEPA, Navy also applied Federal statutory and regulatory standards governing the disposal of Federal property and the economic considerations mandated by the Defense Base Closure and Realignment Act of 1990 and the Department of Defense's implementing Regulations in determining that the highest and best use of the Naval Hospital property was the proposed Retail Sales Alternative. Although this use has a higher potential for affecting local air quality, any retail development would be controlled by emission standards prescribed by California State and local air quality regulations. Thus, the local Air Quality Board could preclude development of the property unless the developer incorporates mitigation ensuring that local air quality standards are satisfied. In light of California's demonstrable record of seeking cleaner air for its citizens, there is no reason to conclude that appropriate mitigation measures will not be imposed on the development of this property.

The local school district reported that the creation of new jobs by the proposed retail use would produce a corresponding increase in school enrollments. The district expressed concern about a possible increase in enrollment, because the school district's budget and construction planning had not considered this possibility. Based upon the economic analysis in the FEIS, it is likely that new jobs created by the proposed Retail Sales Alternative will be filled largely by those already residing in the local area. Consequently, it is not likely that the local school district will experience any significant increase in new student enrollments.

Proponents of the proposed Senior Health Care Alternative expressed concern that this alternative had not been adequately considered in the FEIS. They asserted that the projected revenue for the Senior Health Care Alternative discussed in the EIS was understated and thus did not permit an accurate evaluation of its economic feasibility. Initially, economic information was relevant to the extent that the economic feasibility of a proposed alternative helped identify the range of alternatives that would be analyzed in detail. Once an alternative was selected for detailed analysis, however, the focus shifted

from economic to environmental issues. The FEIS evaluated the environmental impacts associated with the proposed Senior Health Care Alternative in the same manner and to the same extent as other alternatives and adequately analyzed its environmental impacts.

Regulations Governing the Disposal Decision

Since the proposed action constitutes a disposal action under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101-510, selection of the proposed Retail Sales Alternative was based upon the environmental analysis in the FEIS and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR part 101, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DOD Rule), 32 CFR parts 90 and 91.

Section 101-47.303-1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the highest and best use of the property. The FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values, and utilization factors such as zoning, physical characteristics, other private and public uses in the vicinity, former Government uses, access, roads, location and environmental considerations.

After Federal property is conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations and building codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth at §§ 101-47.1

through 101-47.8 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under the 1991 Defense Base Closure and Realignment process to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, e.g., the economic development conveyance authority established in 1993 by section 2905(b)(4) of the DBCRA, may Navy apply disposal procedures other than the FPMR's prescriptions.

In section 2901 of DBCRA, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In § 2905 of DBCRA, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. In particular, under § 2905(b)(2)(E), Navy must consult with the Local Redevelopment Authority before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in § 90.4 of the DOD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, e.g., reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, § 91.7(d)(3) of the DOD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action.

The FPMR and DBCRA identify several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR § 101-

47.303-2); by economic development conveyance (DBCRA § 2905(b)(4); by negotiated sale (FPMR § 101-47.304-8); and by competitive sale (FPMR § 101-47.304-7). The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The Retail Sales Alternative proposed by The City of Long Beach presents the highest and best use of Parcel A of the Naval Hospital property. The City of Long Beach, as the LRA, has determined in its proposed reuse and redevelopment plan that the property should be used for retail sales outlets. The adjacent land owned by The City of Long Beach (Parcel B) will also be used for development of the retail shopping mall. Environmental impacts can be mitigated through State and local processes. The property's physical characteristics are suited to commercial development. The Retail Sales Alternative responds to local economic conditions, promotes rapid economic recovery from the impact of base closure, and is consistent with President Clinton's Five Point Plan, which emphasizes job creation and economic development as the means to revitalize base closure communities.

If only environmental considerations were determinative, the proposal with the least potential for adverse environmental impacts would be the Senior Health Care Alternative. This alternative, however, does not constitute the highest and best use of the Naval Hospital property. While the Senior Health Care proposal presents a reasonable reuse which could benefit residents of the local community, this alternative does not provide for the highest and best use of the property because it is not compatible with the LRA's proposed reuse and redevelopment plan; it is not consistent with the proposed use of adjacent property; and it would not foster rapid economic recovery for this base closure community through redevelopment of the closing military installation and job creation.

The decision to dispose of the Naval Hospital property in a manner consistent with the LRA's proposed

plan also has the effect of denying the Los Angeles County Office of Education's (LACOE) request, certified by the U.S. Department of Education, that Navy convey Parcel A to LACOE at no cost as a Public Benefit Conveyance. Public Benefit Conveyances are initiated through a request to the sponsoring agency, here the U.S. Department of Education, which was responsible for validating LACOE's request. Navy, as the disposing Federal agency, evaluated this request in light of the requirement that its disposal constitute the highest and best use of the property.

The use proposed by LACOE does not constitute the highest and best use of the Naval Hospital property. While consolidation of LACOE's offices to a single location could provide some benefit to the local community by making LACOE's operations more cost effective, it would not foster the rapid economic recovery, job creation and redevelopment for this base closure community that Congress mandated in DBCRA. Most of the jobs associated with consolidation of LACOE's offices would be moved to Long Beach from several nearby communities and would not constitute new jobs that could help offset those lost as a result of base closure. Additionally, the LACOE Alternative is not compatible with the LRA's proposed reuse and redevelopment plan and is not consistent with the proposed use of adjacent property.

Questions regarding the Final Environmental Impact Statement prepared for this action may be directed to Ms. Jo Ellen Anderson (Code 232JA), Naval Facilities Engineering Command, Southwest Division, 1220 Pacific Coast Highway, San Diego, CA 92132-5190; Telephone (619) 532-3912.

Dated: December 22, 1995.

Robert B. Pirie, Jr.,

Assistant Secretary of the Navy (Installations and Environment).

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Naval Research Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee will meet on January 30, 1996, at the Office of Naval Research, 800 North Quincy Street, Room 915, Arlington, Virginia. The meeting will commence at 9:00 a.m. and terminate at 4:30 p.m. on January 30, 1996. All sessions of the meeting will be open to the public.