

BRAC Talk

▲ Environmental Base Realignment and Closure News ▲

❄ Winter 1998 ❄

In This Issue

NAS Glenview reaches the 90% milestone	1
Covenants and indemnification in property transactions	3
Reader Survey Results	4
Navy signs historic agreement with Pennsylvania	5
Overlapping environmental regulations at NTC San Diego .	6
Philadelphia found suitable .	7
BRAC Talking	7
BRAC Installation web sites ...	8



NAS Glenview reaches the 90% milestone

By Ralph Watkins

On June 29, 1998, the Navy transferred the latest segment of the closed Naval Air Station Glenview (BRAC 1993) from Navy ownership to private ownership. The Village of Glenview, Illinois, the Local Reuse Authority (LRA), now owns over 90% of the closed and transferring portion of the base. The first transfer occurred in September 1997. The remaining 10% is scheduled to be transferred by October of 1999. This last 10% contains the remaining sites that require some form of remedial action. Of those sites remaining, some have fieldwork completed, while others are well into the planning stages. A mutual understanding of the needs of both the Navy and the LRA, enhanced by direct and regularly scheduled lines of communication, eased the transfer process by establishing turnover priorities. This will be discussed in more detail below.

The 90% milestone is important for two reasons. One is due to the fact that the operational closure of the base occurred in September of 1995, just two years after the base was selected for closure in BRAC III. Since then, much of the base property has been idle. The new use plan for the base is different from the previous airfield use, so much of the land and facilities will require extensive demolition and redevelopment before this area becomes productive again. A quick transfer of property means the idle real estate can soon be used for new economic development to replace the loss of the base contribution to the local economy. Since the LRA now owns most of the property outright, final redevelopment efforts, which have progressed beyond the planning phase, can now be executed in the field. The first phase of implementing redevelopment efforts, infrastructure construction, began shortly after transfer of Parcel One.

A second reason this milestone is important is because it also helps the Navy further reduce operational costs. The transfer marks the completion of the fourth major

parcel of property as drawn up in the Cooperative Agreement between the Navy and the LRA. With the transfer of Parcel Four comes the end of the Navy's funding for Caretaker Site Office costs. Under the Cooperative Agreement, the Navy had provided funds to the LRA to provide public works support while the base was closed, but still under Navy ownership. The funding amount decreased with each deed transfer of property, but ended completely with the transfer of Parcel Four.

The transfer of property from the Navy to Glenview has followed a planned phased turnover. The basis for this plan developed from meetings between the BRAC Cleanup Team (BCT) and representatives of the LRA. As soon as the community had an approved redevelopment plan, the BCT, consisting of a Navy representative, a U.S. EPA Region 5 representative, and an Illinois EPA representative, invited the LRA to meet with them to discuss the priorities of the LRA. The LRA took full advantage of the invitation and has been meeting with the BCT on a regular basis since June of 1995. This working relationship has allowed the BCT to focus the study and remediation efforts on those highest priorities of the LRA, resulting in a faster redevelopment effort for the Village of Glenview and its citizens. The BCT also advised the LRA that certain parcels would have to wait until transfer of Parcel Five (the last major deed transfer in the Cooperative Agreement). This allowed the LRA to plan around these areas.

The importance of the redevelopment effort is significant. NAS Glenview was located in the geographic center of the Village of Glenview and



continued on page 2

BRAC Talk

Environmental Base Realignment
and Closure News

Published By
NFESC



Using Appropriated Funds

Commanding Officer:
Captain Donald G. Morris

Environmental Department Head:
Stephen E. Eikenberry

Editor:
Ms. Joyce Patterson
NFESC 413/Patterson
(805) 982-5575
or DSN 551-5575
pattersonjl@nfesc.navy.mil

BRAC Cleanup Contact Updates
and Mailing List Updates:
Ms. Ernestine Rodriguez
NFESC 413/Rodriguez
(805) 982-4876
or DSN 551-4876
rodriguez@nfesc.navy.mil

"NAS Glenview reaches milestone" *continued from page 1*

contained 15% of the landmass. Once redevelopment planners decided not to use the existing infrastructure as an airfield, alternate plans were developed. The resulting plan called for a "mixed use" scenario providing open space and public land, senior and residential housing, recreational and sports areas, mixed retail areas, a business park with an area used as a "prairie reserve", and a new train station. Since the existing air base infrastructure had to be demolished to make room for a new supporting infrastructure, it was important for the LRA to develop the base in systematic stages to provide an orderly development at the lowest practical cost. This development plan resulted in some areas of the closed air station being of a higher transfer priority than other areas.

The infrastructure construction will be awarded in three or four phases in order to manage risk and to make best use of the redevelopment funds. This approach matches the infrastructure development with the proceeds from the sale of land. This phased approach also requires the transfer of Navy property to match the timing of construction efforts. This is where good communication between the Navy and the LRA became most important. This communication will continue to be important as the final bids come in on the property and some areas may become more urgent than others, all depending on the needs of the private developers. As the scheduled date for final transfer gets closer, there is more need to "get it right the first time" as there is less time left to correct a misunderstanding.

The LRA has made good use of the transferred sites. They have awarded a \$23 million contract to demolish and recycle the airfield pavement and to construct 80% of a large freshwater lake that will provide stormwater flood control and recreational activities.

This was the first step in the actual construction redevelopment efforts. The contract award followed closely the date of transfer of the first of five major parcels of real estate as described in the Cooperative Agreement. The airfield portion with its vast area of now unwanted concrete paving was the first priority for transfer. The BCT concentrated

on transferring as much of this area as possible, creating some smaller parcels with buffer zones containing some remediation sites that were not transferred in Parcel One. More recently, on July 15, 1998, the Village of Glenview received proposals for developing 21 sites on the closed base from 57 different companies. The award process is underway.

Although the original intent was to allow the BCT to help the LRA expedite the redevelopment efforts, the meetings have proven beneficial for both parties as some remediation efforts have been carried out at a reduced cost because of the coordination with the LRA. When the BCT learned that the LRA wanted to conduct a pilot project to determine the economic feasibility of recycling concrete removed from airfield pavement, it asked the LRA to conduct its concrete removal in an area that covered a petroleum pipeline remediation site, saving the Navy an estimated \$500,000 in excavation costs. The BCT and Navy needed clean soil to backfill underground storage tank excavations. Through cooperation with the LRA, the Navy was allowed to remove this clean soil for free from the exact location that the LRA needed to excavate to provide a lake for stormwater control and recreational activities, thereby saving \$780,000 of taxpayer's money while allowing the LRA to reduce its own excavation costs. Thus it pays to establish productive and open communications among interested parties as early as practical in the project life cycle.

Priorities often change along the way, so it is important to maintain the lines of communication throughout the project. This approach has benefited both parties since areas of mutual interest were discovered. Even if this method of communication had not found ways to save remediation funds, it still allowed the Navy to better perform its last official function in the community, that is to provide an orderly and timely transfer of property to the community impacted by base closure. It also provides the LRA with timing information on property transfer so it can adapt its redevelopment schedule to a realistic transfer schedule.

Ralph Watkins is the BRAC Environmental Coordinator for NAS Glenview, (843) 820-5689, DSN 583, rcwatkins@efdsouth.navfac.navy.mil

Covenants and indemnification in property transactions

By Bernard K. Schafer

Many of you are involved in property transactions where the party receiving the property (whether a sale, lease, easement, etc.) asks us for some sort of written assurances, guarantees, indemnification, covenant etc., against harm caused by contamination attributable to the Navy. The following chart may be of use. It reflects whether the protections of CERCLA 120(h)(3) or Sec. 330 of P.L. 102-484 (the exclusive sources of authority we possess for providing such assurances) are available at certain property transactions.

	CERCLA Sec. 120 (h)(3)	Sec. 330 P.L. 102-484
BRAC Property Transfers (Public Benefit Conveyances (PBCs), Economic Development Conveyances (EDCs) sales, etc.)	yes	yes
Non BRAC Transfers	yes	no
IntraFederal Transfers	no	no
Leases (LIFO = lease in furtherance of conveyance, where there is an underlying purchase agreement)	yes	yes
Leases in contemplation of conveyance (same as a LIFO but no purchase agreement)	yes	yes

What's the difference between these two laws? In short, CERCLA 120 provides protections against the transferee having to respond to the release – the Navy assumes responsibility for managing the contamination discovered after the transfer (assuming the contamination is attributable to the Navy), just as if the property had not been transferred; Sec. 330, in contrast, compensates the transferee for personal injury and property damage (including economic loss and death) for harms caused by the same contamination we would be cleaning up under CERCLA 120.

In those situations where we can't provide 120 or 330 assurances, it is possible for us to give the party in interest instructions on how to handle releases and claims attributable to our conduct which could give them some assurance similar to a formal 120 & 330. Finally, the model language for providing such assurances (120 & 330) is still "Louisville Lite" – this is joint-Service negotiated language that was provided to attorneys in the field in an email entitled "HW59" which was sent out in June 1997. "Louisville Lite" is available on the web at <http://www.nfesc.navy.mil/enviro/ps/pmil/>. If you are a project manager and find this issue being raised during discussions with your regulators or any public groups, you should first contact the appropriate Engineering Field Division/Engineering Field Activity counsel or installation attorney.

Bernard K. Schafer is Senior Counsel, Office of the Assistant General Counsel, (Installations & Environment), General Counsel of the Navy, (703) 604-8224, (703) 604-6990 fax, DSN 664 schafer.bernard@hq.navy.mil

BRAC Talk Reader Survey Results



Thanks to all who participated in the *BRAC Talk* Reader Survey. Here is a recap of the results.

We asked about your preference to read *BRAC Talk* on the Internet or in print because we may discontinue mailing printed copies in the future. It was a 50-50 split among those preferring Internet and those preferring a printed copy. If we do change distribution to the Internet, we will provide email notification to those of you with email so you'll know when a new issue has been posted. Until further notice, you can expect to keep receiving *BRAC Talk* in print.



Here are some of your comments. We really appreciate this input, and will follow through on your suggestions to increase *BRAC Talk's* value.

- ☞ *The contacts insert is great. Less PR material & more solutions would be an improvement. Less retrospective stories with more upcoming issues would be good too.*
- ☞ *Good overview with sufficient detail to inform readers of current events.*
- ☞ *Good newsletter! Informative. Useful.*
- ☞ *Good publication - however there seems to be a lack of input. There are some very good success stories. Seems that the BEC's at the respective bases would be lined up to have input. What about a statistical page on BRAC bases - # acres leased, transferred, new jobs, etc.?*
- ☞ *Great update. Nice to see lessons learned and how other closure/cleanups are progressing. Thanks for the efforts in putting newsletter together.*
- ☞ *I think it's very valuable. It might be worthwhile to invite stakeholders outside the BCTs (e.g., member of the LRA or community) to write articles about the positive experiences they have had in the BRAC process.*
- ☞ *A good source of information for finding out what's going on at other BRAC installations across the country.*
- ☞ *Receiving the updated list of BRAC Cleanup contacts is a real bonus. Enjoy reading the success stories. Would also like to read the latest and greatest in the BRAC regulatory arena, Navy policies, and how real estate and environmental are working together.*

Navy signs historic agreement with Pennsylvania

By Al Haring, P.E.



On July 17th, 1998 at a ceremony held at NAS Willow Grove Pennsylvania, the Navy—along with all of the other military services—signed an agreement with Pennsylvania pledging cooperation cleaning up contaminated military sites within the Commonwealth. Ms. Elsie Munsell, the Deputy Assistant Secretary of the Navy (E&S), signed the agreement on behalf of the Navy and Marine Corps; James Seif, the Secretary of the Pennsylvania Department of Environmental Protection (PADEP), signed for the Commonwealth. The voluntary Multi-Site Agreement (MSA) is the first of its kind and will be a model for future agreements with other states. Unlike Federal Facilities Agreements (FFAs), the MSA is not an enforceable document. It stresses a cooperative approach needed to address the assessment and remediation of many other military sites by the Year 2010. It is written with the flexibility to incorporate new concepts and ideas on an ongoing basis. Emphasis is placed on implementing a problem-solving process rather than relying on rigidly defined procedures. Provisions of Pennsylvania's Land Recycling and Environmental Remediation Standards Act (Act 2), will be used, including cleanup standards, site assessment procedures, and the option to use site-specific, risk-based remediation criteria. The Act 2 processes are intended to ensure protection of human health and the environment while streamlining review and approval of cleanup

documentation. Deputy Under Secretary of Defense (Environmental Security), Ms. Sherri Goodman, commenting on the agreement, said, "By working in partnership, we can safely accelerate the cleanup of our sites, protect people and the environment, and save federal and state tax dollars. That has always been the goal of our cleanup program. This agreement demonstrates both the Commonwealth's and DoD's commitment to improve the way we do business"... "by finding ways to do it better."

Service representatives will meet with PADEP each January to focus on cleanup plans and schedules for the upcoming execution year and budget years.

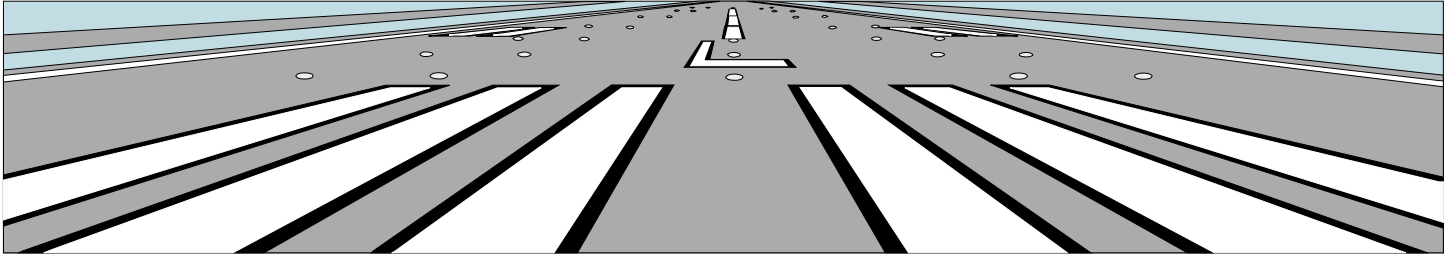
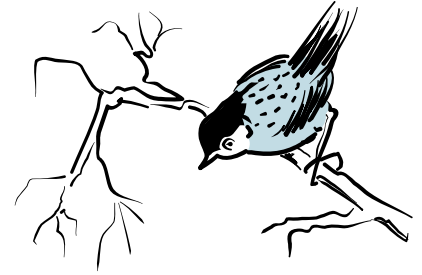
The negotiation of such a complex, multi-party agreement was a challenging, intensive 6-month undertaking. Discussions have already begun on a New Jersey MSA.

Al Haring is the Director, Environmental Restoration Division at Northern Division, Naval Facilities Engineering Command (610) 595-0567 ext. 143, DSN 443, aeHaring@efdnorth.navy.mil

Reprinted from Environmental News, Fall 1998, Northern Division, Naval Facilities Engineering Command

Overlapping environmental regulations at NTC San Diego

Endangered Species Act and CERCLA meet on the airfield



Federal laws concerning both endangered species *and* environmental contamination must be met if a 51-acre parcel at the former Naval Training Center San Diego (BRAC IV) is to be reused. The 51-acre site contains an inactive Navy landfill, a portion of which is occupied by the California Least Tern, a bird listed as endangered pursuant to the federal Endangered Species Act (ESA).

Under the ESA, federal agencies are required to determine whether a proposed action, in this case the closure and reuse of the former Navy base, is likely to adversely affect a threatened or endangered species. If an adverse effect is likely, the federal agency must consult with the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the ESA concerning the action to be taken. As a result of such informal consultation with the Navy and discussions with the City of San Diego and the Port District, the USFWS has concurred with the Navy that the closure and reuse of properties at NTC would not likely adversely affect the Least Tern population *provided* that a number of measures are implemented as part of the base closure action being undertaken by the acquiring entities.

Among the steps to be taken is the reservation of a conservation easement on the 10-acre tern nesting colony and an adjacent 15-acre buffer area for the sole purpose of protection and management of the tern. The City and Port will assign this easement to the USFWS.

Additionally, for purposes of protecting the Least Tern site, the City and the Port will record a form of deed restriction on about 195 acres of the 430-acre NTC to include a limit on construction activities, building height, noise, and lighting. These restrictions would be extinguished in the event the protected tern nesting site is no longer required (as determined by the USFWS) or an alternative nesting site is created for the Least Tern that is acceptable to USFWS.

The San Diego Port District has proposed to reuse the 51-acre site adjacent to San Diego's Lindbergh Field. An alternative nesting location for the endangered Least Tern is being pursued by the Port

District and discussions are currently underway with the USFWS concerning a suitable land exchange. Should a land exchange be made, the Port District would then have to address issues concerning the inactive landfill.

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), military services are required to remediate hazardous waste contamination on military bases and to ensure that all necessary remedial actions have been taken prior to transfer by deed to a non-federal entity. To facilitate remediation of the landfill, the Port may request use of the "early transfer" authority of Section 334 of the Defense Authorization Act of 1997, which allows the federal transferring agency to transfer property before it is environmentally clean, or before remediation is in place and operating. If the Port were to accept the property under the "early transfer" provision, it could then remediate and redevelop the site simultaneously.

In a related development, the California Regional Water Quality Control Board, San Diego Region, has assumed the lead role for state regulatory oversight at NTC. Responding to Department of Defense concerns about overlapping regulatory jurisdiction by state agencies, the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board/Regional Water Quality Control Boards have apportioned among themselves DoD oversight work at specific DoD installations in California. Petroleum contamination and other water quality issues at all sites will be handled by the regional water quality control board, as is the case at the NTC.

For further information, call Betsy Weisman with the City of San Diego at (619) 235-5205.

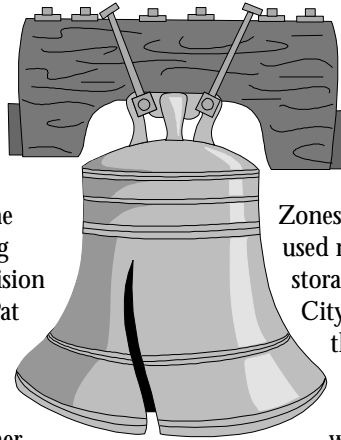
Reprinted with permission from California Base Closure News, October 1998, a bi-monthly publication of the Governor's Office of Planning and Research, State of California

Philadelphia found suitable

By Joe Roche, P.E.

On 4 September 1998, a Finding of Suitability to Transfer (FOST) was signed for over 700 acres of the former Naval Station Philadelphia. The Commanding Officer of the Naval Facilities Engineering Command's Northern Division (NORTHDIV), Captain Pat Fogarty, signed the FOST. A few weeks earlier, Captain Fogarty signed a FOST for the 49-acre former Naval Hospital Philadelphia. With the cleanups and FOSTs completed, the planned transfer of the Naval Hospital and Naval Station can proceed forward.

Reaching the FOSTs required completion of comprehensive environmental studies, designs and cleanup actions. This entailed the extensive efforts of a cleanup project team comprised of representatives from NORTHDIV, the Caretaker Site Office (CSO), Resident Officer in Charge of Construction (ROICC), the Navy Public Works Center Detachment, Naval Ship Systems Engineering Station, Naval Station Philadelphia, Naval Shipyard Philadelphia, Naval Hospital Philadelphia, consultants, contractors, the Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection, and the City of Philadelphia, including the Philadelphia Industrial Development Corporation. The team executed a fast-track cleanup of Installation Restoration sites, RCRA Solid Waste Management Units/Areas of Concern, Environmental Baseline Survey (EBS) areas, storage tank areas, PCB remediation areas and asbestos lead-based paint-contaminated areas. Initiatives for accelerating the cleanup process included early removal actions, innovative technology (Site Characterization and Analysis Penetrometer System (SCAPS), streamlined completion of environmental studies, risk assessments and



cleanup actions, accelerated contract actions, and frequent cleanup-team meetings.

The Naval Station consists of Zones II, III, and IV. Zone II was used mainly as a warehouse and storage area. Consistent with the City of Philadelphia's Reuse Plan, this area would become part of the proposed Girard Point Industrial Park. As such, it would support the League Island

Center operations by providing an area for storage and/or distribution for industrial ventures servicing the Center. Zone III, previously used for housing, offices and research and development facilities, will become the proposed League Island Center. Planned facilities include family entertainment such as restaurants; research laboratories and product development facilities; university branches or consortiums of education and research institutions; and manufacturing, storage, and office facilities. Zone IV was used as an airfield and was later converted into recreational areas and family housing. Exclusive of the off-base Capehart Housing area, Zone IV will become the proposed East End Commerce Park, an intermodal terminal serving as an exchange point among truck, rail and port traffic; specialized ship-to-rail interchange; and other industrial and/or research and development (R&D) facilities. The Capehart Housing area is proposed for residential reuse.

Joe Roche is the BRAC Environmental Coordinator for Philadelphia, Pennsylvania (610) 595-0567 ext. 112, DSN 443, jmroche@efdnorth.navy.mil

Reprinted from Environmental News, Fall 1998, Northern Division, Naval Facilities Engineering Command.

BRAC Talking

By Joyce Patterson



Thanks to everyone who participated in our *BRAC Talk* Reader Survey. See the survey results on Page 4.

Our focus remains environmental cleanup at Navy BRAC installations. Tell us what's going on at the BRAC base you're involved with. Submit articles to me at the address below.

We're counting on you to keep the BRAC contacts list up to date. This list is included as an insert in every other issue of *BRAC Talk* (it's not in this issue, but will be in the next!).

We have extra copies of the publication [Department of the Navy Environmental Restoration for Fiscal Years 1998-2002](#). Plans for environmental cleanups at all Navy installations, BRAC and non-BRAC, are detailed in this book. If you would like a copy, or if you would like to be added to the mailing list, please send your request to:

Commanding Officer
Naval Facilities Engineering Service Center
Attn: ESC Code 413/Patterson
1100 23rd Avenue
Port Hueneme, California 93043-4370

805 982 5575 voice
805 982 3694 fax
DSN 551
pattersonjl@nfesc.navy.mil

BRAC Installation web sites

NAS Barbers Point, Hawaii

www.bptnas.navy.mil/bptbrac.html



Non-Navy Sites:

NAS Cecil Field, Florida

cecilfield.com/

NTC Orlando, Florida

www.ci.orlando.fl.us/departments/planning_and_development/ntc.html

NTC San Diego, California

www.firesafe.com/ntc.ntc_overview.html

NAF Adak, Alaska

www.adakisland.com/

NSY Philadelphia, Pennsylvania

www.netreach.net/~data/yarbird.htm

NSY Long Beach, California

www.lbnsy.com/

NSY Mare Island, California

www.geocities.com/SouthBeach/Boardwalk/5147

MCAS El Toro, California

eltoroairport.org/index.html



BRAC Talk on the World Wide Web

Don't forget! All *BRAC Talk* issues are posted on the Internet in an Adobe Acrobat PDF (Portable Document Format) file at:

www.navy.mil/homepages/navfac/env/

DEPARTMENT OF THE NAVY

Commanding Officer

NFESC Code 413/Patterson

1100 23rd Avenue

Port Hueneme, CA 93043-4370



Printed on recycled paper