

APPENDIX B

Overview of Federal and State Disposal Laws and Regulations

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APPENDIX B OVERVIEW OF FEDERAL AND STATE DISPOSAL LAWS AND REGULATIONS

FEDERAL REUSE PLANNING PROGRAMS AND PROCEDURES

This section briefly highlights some of the key federal planning programs and procedures that guide the base closure process at NSTI.

Defense Base Closure and Realignment Act of 1990 (10 U.S.C. § 2687)

This act established procedures to minimize the economic hardships on local communities adversely affected by base closures and to facilitate the economic recovery of such communities. In order to maximize the local benefit from the reutilization and redevelopment of the installation, the Secretary of the military department must consider local economic needs and priorities in the disposal process.

For NSTI, the Treasure Island Development Authority (TIDA) is recognized as the local redevelopment authority (LRA). The LRA is the entity recognized by the DoD through its Office of Economic Adjustment to prepare and direct the implementation of the reuse plan. In determining economic needs and priorities, and in preparing the Record of Decision (ROD) for an EIS, the federal lead agency must take into account and give substantial deference to the reuse plan developed by the LRA for the installation. A reuse plan is provided for the reuse or redevelopment of the closed military installation.

President Clinton's Five Point Program

This program was announced by former President Clinton in July 1993 in an effort to offset the negative effects of military base closures on local communities. The program emphasizes expeditious disposal of federal property for uses that will create new jobs for the local community. Job creation and economic development are given the highest priority in the reuse of closed military bases.

National Defense Authorization Act of 1994 (Pub. L. No. 103-160, 107 Stat. 1547)

This act is an amendment to the DBCRA of 1990. Under this act, the federal government should attempt to facilitate the economic recovery of communities that experience adverse economic circumstances as a result of base closure or realignment. The federal government works with such communities to identify and implement means of redeveloping and revitalizing closed military installations in a beneficial manner and accelerate the environmental cleanup and restoration of closed military installations. The federal government may also make real property at closed military installations available to local communities at less than fair market value, or without consideration, if appropriate.

Stewart B. McKinney Homeless Assistance Act of 1987, as amended (Public Law No. 100-77)

Under this act, a homeless services provider may prepare and submit an application to acquire surplus federal property for purposes of assisting the homeless. As authorized by the act, DON must report the potential availability of all underutilized, unutilized, excess and/or surplus buildings and land to HUD. The suitability of these properties for use by the homeless is then determined by HUD. Homeless assistance providers have 60 days after the notice of availability is published in the Federal Register to express interest in the property to HHS and 90 days to submit an application. HHS has 25 days from receipt of the application to review and approve/deny it. With extremely limited exceptions, once an application is submitted to and approved by HHS, the holding agency (in this case DON) must assign the property to HHS for conveyance to the approved applicant.

An assignment of real property to another federal agency is categorically excluded under NEPA. However, under the provisions of 45 C.F.R. § 12.10, the other federal agency would be required to complete an environmental evaluation and to otherwise comply with NEPA prior to making a final conveyance of the property.

Base Closure Community Redevelopment and Homeless Assistance Act (42 U.S.C. § 11411)

The provisions of the Base Closure Community Redevelopment and Homeless Assistance Act, passed as part of the National Defense Authorization Act of 1994, support and put into law the intent of the President's efforts to support local communities affected by closure. This act, also referred to as the "Redevelopment Act," creates a locally controlled reuse process for redevelopment of a closing base. The act requires that the DoD recognize a local redevelopment authority for each closing installation in order to develop a reuse plan for each installation. The LRA is responsible for completing the screening and use of the base for state, local government, and homeless uses. The Department of Housing and Urban Development (HUD) reviews the community redevelopment plan to ensure that homeless needs have been adequately considered.

Surplus Property Act of 1994 (50 U.S.C. app. § 1601) and Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471)

These acts established the authority for the transfer of excess real property to other federal agencies and the disposal of surplus property. The acts and implementing regulations provide for public benefit conveyances for health, education, and other purposes to tax exempt, nonprofit organizations, and public entities. The acts and regulations establish the process for the disposal of property through negotiated sales to public entities and through advertised competitive bidding.

STATE AND LOCAL PLANNING PROGRAMS AND PROCEDURES

This section briefly highlights some of the key local planning programs and procedures that guide the reuse process of NSTI.

California Planning and Zoning Law (Government Code Title 7, Division 1, §§ 65000-66037)

This law established regulations for long-term policies for use of property and related improvements, as well as the framework for zoning and subdivision regulations to implement those policies by city, county, and other local government agencies. California State law requires each city to adopt a comprehensive, long-term general plan for its physical development.

California Community Redevelopment Law (Health and Safety Code, § 33000 et. seq.)

This law establishes regulations for use by cities and counties to revitalize deteriorating and blighted urban areas. It authorizes a city or a county to establish a redevelopment agency and one or more redevelopment project areas. The law provides a redevelopment agency with powers that are typical for a local governmental agency and two unique powers: the ability to use the power of eminent domain (condemnation) to acquire property for resale to another private entity or organization; and the power to collect property tax increment in order to finance the redevelopment programs of the community, including the provision of public infrastructure and other improvements. Most of the NSTI reuse planning area is within the boundaries of a proposed redevelopment project area.

California Local Military Base Recovery Area Act (Government Code § 7105-7117)

In order to stimulate business and industrial growth in areas affected by military base closures, the State Legislature established the concept of local military base recovery areas (LAMBRA) that could provide relaxed regulatory controls, tax credits, and other economic incentives to private sector investors. Local jurisdictions can apply for LAMBRA status for a base, provided it is not already within a state-designated enterprise zone. The act authorizes the California Trade and Commerce Agency (CTCA) to designate no less than one LAMBRA in each of the state's five regions, and limits the Agency to designating no more than eight LAMBRA.

Governor Wilson's Executive Order W-81-94

This Executive Order by Governor Pete Wilson directs State agencies to pursue successful economic conversion of military bases by implementing State programs, regulatory pursuits, and allocation of resources for State-funded capital outlay projects. It includes provisions to expedite economic assistance and regulatory and resource reviews. It also designates the Director of the Office of Planning and Research (OPR) as the State lead public contact for redevelopment of military bases, and directs OPR to coordinate a comprehensive program to implement recommendations provided by the Governor's Military Base Reuse Task Force through state and federal legislation. All State departments and agencies are directed to cooperate in this effort.

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