

BASE REUSE REPORT

JULY

Economic Development, Planning and Redevelopment of Military Bases

1995

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'95 BRAC recommendations

Criticism, conflict over last phase of closures

By Herbert A. Sample

Soon after Alan Dixon was appointed chairman of the Defense Base Closure and Realignment Commission, he said his panel would make the best decisions they could and sleep well afterwards even though they would disrupt the lives of tens of thousands of Americans.

While many would argue whether the commission did indeed make the right choices, there is little disagreement that the work of the last authorized base closing panel—the most controversial of the four base closure rounds—is keeping people up at night.

This year's closure recommendations became so contentious that President Clinton spent two weeks under intense pressure from Californians who disliked the panel's actions on several bases in their state. For a time, the administration sent signals that it would reject the closure list and ask the commission to spare McClellan Air Force Base in Sacramento, even though the panel members were intimating they would not change their votes. Then the White House and Pentagon began studying a privatization plan for McClellan.

Finally, on July 13, Clinton accepted the commission recommendations including the closure of McClellan and a sister depot, Kelly Air Force Base in San Antonio. The Pentagon also unveiled a "privatization-in-place" proposal to retain many of the jobs at the two logistic centers by contracting with businesses to take over the facilities.

The action sent the closure list to Congress, which has 45 days to reject it. A vote is not necessary to accept the recommendations.

Dixon, in a feisty press conference late last month, lauded the commission's work that will result in the closure of 79 installations and the realignment—which usually means substantial shrinkage—of 26 other facilities. The panel also altered 27 decisions of the 1991 and 1993 commissions, actions that usually changed the destination of units or workload that are to leave a closing base.

"Ladies and gentleman, in sum it's a prudent, sensible list, arrived at openly and fairly, and we're proud of our work," Dixon said, noting that the actions will save \$19.3 billion over 20 years, about \$323 million more than would have been saved under the Pentagon's original closure proposals.

Criticism of the panel's recommendations appears to be focused mainly on one issue, the closure of two of the Air Force's five logistic centers—McClellan Air Force Base in Sacramento, Calif., which employs about 13,300 workers, and Kelly Air Force Base in San Antonio, Texas, where about the same number work at the logistic center.

Air Force base closure officials early this year were leaning toward proposing the closure of one or both facilities, but Secretary of the Air Force Sheila Widnall

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The BASE REUSE REPORT is a primary source of current news and analysis of the issues surrounding the closure of U.S. military bases and their reuse for civilian purposes. The BRR will focus on the planning, economic development and redevelopment of closed bases.

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ANALYSIS

Mapping the path for productive reuse

By Randall Yim

BRAC has two equally important components: base closure and productive reuse. Creation of a peacetime based, more diversified strong local economy is as important, if not more so, than the cost savings from closing unneeded military facilities. BRAC '95 has just painfully brought home another round of cost-saving closures. The President, Congress, DoD and the local commu-

nities now must finish the job by cooperating on reuse planning and implementation. Before a comprehensive community reuse plan can be developed, opportunities and constraints must be realistically assessed and "mapped" for each base.

Opportunities, Constraints

Since military bases are typically self-contained cities, reuse planning involves all aspects of government decision making: compatible land use forms; social policy; revenue sharing; police powers; regulatory authority and politics. The availability of such large tracts of undeveloped property encourages widespread optimism that the closing base may solve many urban problems. However, most states have a surplus of property to be developed. In reality, military base property may be "negative assets"

Preliminary identification of opportunities and constraints

Input	Output
(1) inventory property available from military	(1) inventories and defines types of property
(2) federal property screening <ul style="list-style-type: none"> • McKinney Homeless assistance • excess/surplus determinations 	(2) helps design marketing and financing plans
(3) state property screening <ul style="list-style-type: none"> • Tidelands Trust 	(3) allows evaluations of necessary general plan amendments, CEQA/NEPA compliance
(4) personal property	(4) identifies potential jurisdictional disputes early
(5) consultants <ul style="list-style-type: none"> • human resources • market • fiscal • historic • geophysical • legal 	(5) provides basis for discussion and negotiation with military regarding potential comprehensive property disposal record of decision
(6) environmental <ul style="list-style-type: none"> • environmental baseline surveys • toxic cleanup information • air & water quality • habitats/endangered species 	(6) sets priorities for removal of constraints, such as cleanup
	(7) provides input to state & federal governments for integration of reuse plans into regional, state-wide or national programs

Bottlenecks

- (1) delayed federal or state property screening
- (2) late McKinney applications or challenges
- (3) disputes over property ownership, revisions or public trust easements
- (4) lack of toxic contamination data



ANALYSIS

or severely "disadvantaged" in comparison to other areas because of toxics, inadequate infrastructure, non-compliance with local building codes and the Americans with Disabilities Act, and lack of integration into the region.

Thus, it is crucial that the local reuse authority in cooperation with DoD and the regulators, quickly perform a preliminary screening of opportunities and constraints. The reuse plans must be realistic and implementable. Community enthusiasm and political "capital" should not be wasted on plans which have little or no chance of success.

Opportunities must be identified in relationship to the region, the state, and the nation in general. Planning at other nearby military facilities must be considered. Widespread input, including expert advice from consultants regard-

ing market, fiscal, homeless assistance and other socio-economic conditions must be received early to identify those opportunities which may be realistically exploited. What businesses will help the regional economy? How many public money incentives can we afford? What types of businesses will help us retain the skilled workforce and higher paying salaries? What type of these businesses can utilize base property? Are we just shuffling deck chairs, moving the same businesses from one part of our region to another? What constraints will toxics, air quality and sensitive resources place on

our reuse plan, both in terms of location and timing?

Constraints upon such opportunities must be identified early. Sites of special historic or environmental significance may present opportunities. These sites include vernal pools and wetlands, habitats for endangered species, and groundwater recharge basins. Regional parks or mitigation banks may incorporate these features to create valuable assets for the community. However, sensitive natural resources and environmental contamination pose constraints upon reuse which must also be evaluated. Toxic cleanup and natural resource protection should not be an afterthought or overlay to reuse planning. Toxic and resource issues must be evaluated initially just as any other geophysical constraint upon

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BRAC DEVELOPMENTS

'95 BRAC ...

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decided late in the process to instead propose that all five depots be retained but downsized. The new plan became part of the Pentagon's official closure plan, which was presented to the commission in early March.

That proposal, though, received a cold welcome from the commission, its staff and, later, the General Accounting Office (GAO), Congress' watchdog agency that is required to audit the closure decisions of each military service.

When commissioners met on June 22 to make their final decisions, the staff presented an analysis that showed the Air Force had overestimated the cost of closing a logistic center and underestimated the savings from closure. Presented with a plan for an affordable, five-year phased closure of one or two depots, and knowing that the five depots were currently operating at much less than optimal capacity, the commission voted 6-2 to eliminate McClellan. By the same margin, but with different members opposing, it ordered the termination of Kelly.

Dixon passionately defended the panel's decision to shut down the two repair facilities to the press. "We applied the same assumptions to the Air Force depots that the Army and the Navy used when they closed depots, and we got higher savings and lower costs than what the Air Force had wanted to do," he said.

The closure of Kelly provoked resigned acceptance from the Texas congressional delegation, who said they would immediately start devising a reuse plan for Kelly. California's delegation, particularly four Sacramento-area congressmen and the state's two U.S. senators, chose the opposite tack by railing at the action and pressuring Clinton.

The termination of McClellan and Kelly was just one of several decisions that seemed to question the Air Force's entire base closure process—something the GAO had criticized several weeks before. The panel expressed concern about shutting down some of the service's research facilities. So it refused a plan to close Rome Laboratory in up-

state New York and Brooks Air Force Base, a medical research installation in San Antonio. It also rejected the Air Force's original proposal to significantly realign Kirtland Air Force Base in New Mexico after the service subsequently

*It's a prudent,
sensible list,
arrived at openly
and fairly.*

—Alan Dixon

realized it had substantially underestimated the cost of that action and it asked the commission to retain the base as is.

The commission did disagree with a few major closure or realignment proposals from the Army and the Navy by, for example, choosing to realign the Red River Army Depot in Texarkana instead of closing it, and vetoing a plan to shutter the Naval Air Warfare Center in New Jersey. But far more Air Force recommendations were rejected.

The main concern of California lawmakers was the high job losses the state will suffer on top of employment cuts from previous rounds. This year's decisions, which also included a major downsizing of Onizuka Air Force Base in Sunnyvale and the elimination of the Long Beach Naval Shipyard, will impact 19,370 direct and 22,900 indirect jobs. Texas will lose a total of 32,860 positions. California's senior senator, Democrat Dianne Feinstein, called the panel's recommendations "a wipeout," while her colleague, Sen. Barbara Boxer, D-Calif., said the panel went "bonkers."

But Dixon noted that with huge populations, the commission's actions will affect only about three-tenths of one percent of the workforce in each state. Further, he said, "Economic consider-

ations are part of the process, but they are not the dominant feature."

The commission also called on Congress to authorize at least one additional base closure round in the year 2001—following two presidential and several congressional elections, and after the last official decommissioning of installations on the 1995 list.

The panel also submitted suggestions to improve Pentagon disposal and community reuse of shuttered bases. Among them were recommendations for the Pentagon to consider the long-term anticipated reuse of a closing base when making decisions on cleaning up toxic contamination, and for Congress to adequately fund environmental remediation and job training programs. (See News Briefs, p. 14)

Further, the commission said:

- The defense department should first clean up the most desirable portions of an installation and then leave the least desirable areas for later

- The General Services Administration should allow the transfer and lease-back of base property in limited circumstances where there are economic advantages to the community

- The defense department and other federal agencies need to better adhere to statutory deadlines for screening surplus real estate at closing bases and the Pentagon should quickly finalize rules to implement Clinton's five-point program to stimulate community reinvestment and job creation

- Communities surrounding targeted facilities should organize early, and quickly develop a reuse plan and form a redevelopment authority. That body should speak as the official voice of the community to avoid confusion about the future direction of the property. [E]

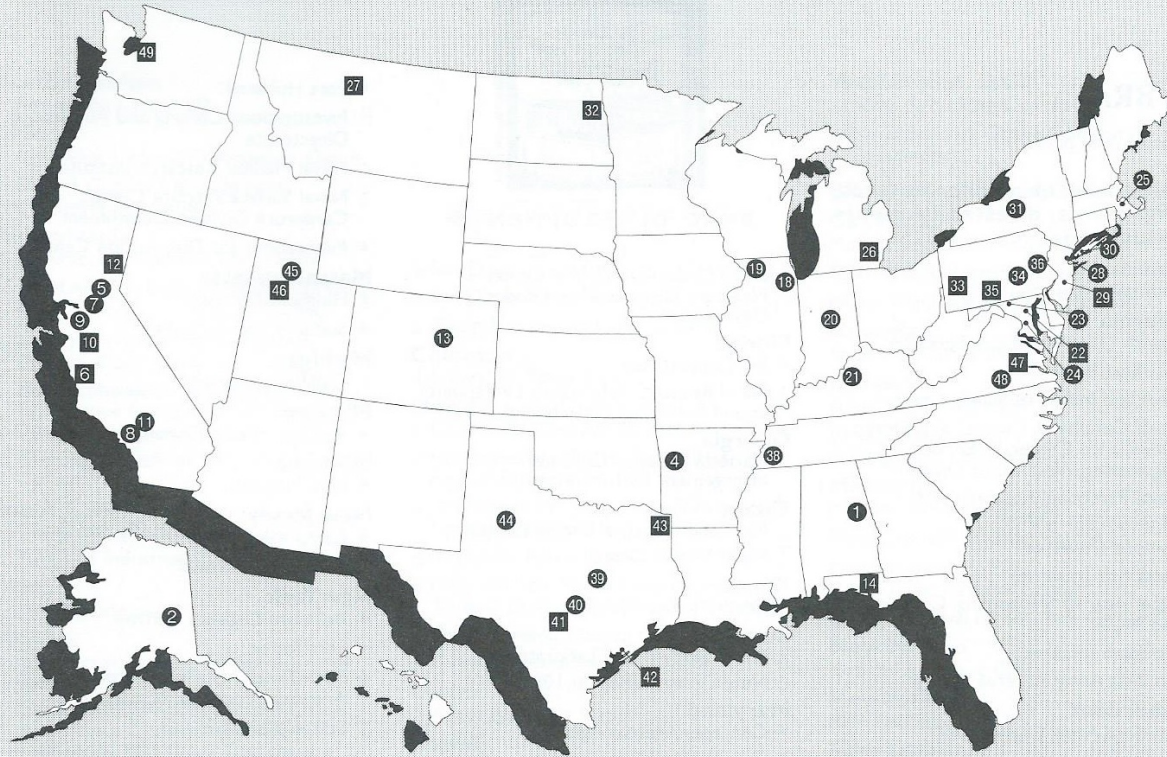
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U.S. Sens. Dianne Feinstein, D-Calif., 202-224-3841, and Barbara Boxer, D-Calif., 202-224-3553.

Herbert A. Sample is a reporter in the Washington Bureau of THE SACRAMENTO BEE.

1995 Defense Base Closure and Realignment Commission recommendations



Major Base Closure and Realignment Recommendations—By State

Alabama

- ① ★ Fort McClellan

Alaska

- ② ★ Fort Greely
③ ↓ Adak Naval Air Facility *

Arkansas

- ④ ★ Fort Chaffee

California

- ⑤ ☐ McClellan Defense Dist. Depot
⑥ ★ Fort Hunter Liggett
⑦ ✈ McClellan Air Force Base
⑧ ↓ Long Beach Naval Shipyard
⑨ ★ Oakland Army Base
⑩ ✈ Onizuka Air Station
⑪ ✈ Ontario International Airport Air Guard Station
⑫ ★ Sierra Army Depot

Colorado

- ⑬ ★ Fitzsimons Army Medical Center

Florida

- ⑭ ✈ Eglin Air Force Base
⑮ ↓ Key West Naval Air Station *

Guam

- ⑯ ↓ Ship Repair Facility *
⑰ ↓ Naval Activities *

Illinois

- ⑱ ✈ Chicago O'Hare International Airport Air Reserve Station
⑲ ★ Savanna Army Depot Activity

Indiana

- ⑳ ↓ Indianapolis Naval Air Warfare Center, Aircraft Division

Kentucky

- ㉑ ↓ Louisville Naval Surface Warfare Ctr., Crane Division Detachment

Maryland

- ㉒ ★ Fort Meade
㉓ ★ Fort Ritchie
㉔ ↓ White Oak Naval Surface Warfare Ctr., Dahlgren Div. Detachment

Massachusetts

- ㉕ ↓ South Weymouth Naval Air Station

Michigan

- ㉖ ★ Detroit Arsenal

Montana

- ㉗ ✈ Malmstrom Air Force Base

New Jersey

- ㉘ ★ Bayonne Military Ocean Terminal
㉙ ★ Fort Dix

New York

- ㉚ ✈ Roslyn Air Guard Station
㉛ ★ Seneca Army Depot

North Dakota

- ㉜ ✈ Grand Forks Air Force Base

Pennsylvania

- ㉝ ★ Charles E. Kelly Support Center
㉞ ★ Fort Indiantown Gap
㉟ ★ Letterkenny Army Depot
㊱ ↓ Warminster Naval Air Warfare Center, Aircraft Division

Puerto Rico

- ㉟ ★ Fort Buchanan *

Tennessee

- ㊲ ☐ Memphis Defense Dist. Depot

Texas

- ㊳ ✈ Bergstrom Air Reserve Base
㊴ ☐ San Antonio Defense Dist. Depot
㊵ ✈ Kelly Air Force Base
㊶ ↓ Corpus Christi Naval Air Station
㊷ ★ Red River Army Depot
㊸ ✈ Reese Air Force Base

Utah

- ㊹ ☐ Ogden Defense Dist. Depot
㊺ ✈ Hill Air Force Base (Utah Test and Training Range)

Virginia

- ㊻ ★ Fort Lee
㊼ ★ Fort Pickett

Washington

- ㊽ ↓ Naval Undersea Warfare Center

Key

- ① = BRAC recommended closures
- ㉑ = BRAC recommended realignments
- ✈ = Air Force Installations
- ★ = Army Installations
- ↓ = Naval Installations
- ☐ = Defense Distribution Depots
- * = Not Pictured

Date: July 7, 1995

Source: BRAC

BASE REUSE REPORT map by Elizabeth A. Johnson. Map © BRR, 1995. Reproduction permission granted upon request—Chris Hart, BRR (916) 448-6168.



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Smaller base or activity closures, realignments, disestablishments or relocations

Alabama

- ✚ Huntsville (reserve)

California

- ★ Branch U.S. Disciplinary Barracks
- ★ East Fort Baker
- ✚ Fleet and Industrial Supply Center
- ✚ Naval Command, Control and Ocean Surveillance Center, In-Service Engineering, West Coast Division
- ✚ Naval Personnel Research and Development Center
- ✚ Pomona (reserve)
- ✚ Santa Ana (reserve)
- ✚ Supervisor of Shipbuilding, Conversion and Repair
- ✚ Stockton (reserve)
- ★ Rio Vista Army Reserve Center

Connecticut

- ★ Stratford Army Engine Plant

BRAC DEVELOPMENTS

- ✚ Naval Undersea Warfare Center—Newport Division, New London Detachment

Florida

- ★ Big Coppett Key
- ✚ Naval Research Laboratory, Underwater Sound Reference Detachment

Georgia

- ✚ Marietta Defense Contract Management District South

Guam

- ✚ Fleet and Industrial Supply Center
- ✚ Public Works Center

Kansas

- ✚ Olathe (reserve)

Louisiana

- ✚ Naval Biodynamics Laboratory
- ✚ New Orleans, (Region 10)

Maryland

- ★ Concepts Analysis Agency

- ★ Fort Holabird

- ✚ Investigations Control and Automation Directorate

- ✚ Naval Medical Research Institute

- ✚ Naval Surface Warfare Center, Carderock Division Detachment

- ★ Publications for Distribution Center

Massachusetts

- ★ Hingham Cohasset
- ★ Sudbury Training Annex

Michigan

- ✚ Cadillac (reserve)

Missouri

- ★ Aviation—Troop Command

Montana

- ★ Fort Missoula

New Jersey

- ★ Camp Kilmer
- ★ Camp Pedricktown

New York

- ★ Bellmore Logistics Activity
- ★ Fort Totten
- ✚ Real-Time Digitally Controlled Analyzer Processor Activity
- ✚ Staten Island (reserve)

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BRAC DEVELOPMENTS

North Carolina

- ★ Recreation Center #2

Ohio

- ▢ Columbus Defense Distribution Depot
- ▢ Dayton Contract Management Command International

Pennsylvania

- ▢ Letterkenney Defense Dist. Depot
- ↓ Naval Aviation Engineering Support Unit
- ↓ Naval Air Technical Services Facility
- ↓ Naval Air Warfare Center, Aircraft Division, Open Water Test Facility
- ↓ Naval Command, Control and Ocean Surveillance Center, RDT&E Division Detachment
- ▢ Philadelphia Defense Industrial Supply Center

South Carolina

- ↓ Charleston (Region 7)
- ↓ Fleet and Industrial Supply Center

Texas

- ↓ Laredo (reserve)

Virginia

- ★ Information Systems Software Center (ISSC)
- ↓ Naval Command, Control and Ocean Surveillance Center, In-Service Engineering East Coast Detachment
- ↓ Naval Information Systems Management Center
- ↓ Naval Management Systems Support Office

Washington

- ★ Camp Bonneville

Wisconsin

- ↓ Sheboygan (reserve)

Changes to previously approved BRAC recommendations

Arizona

- ↑ Williams Air Force Base

California

- ↓ Alameda Naval Air Station
- ▢ El Segundo Defense Contract management District West
- ↓ El Toro Marine Corps Air Station

- ↓ San Diego Naval Recruiting District
- ↓ San Diego Naval Training Center
- ↓ Tustin Marine Corps Air Station

Colorado

- ↑ Lowry Air Force Base

Florida

- ↓ Cecil Field Naval Air Station
- ↑ Homestead Air Force Base (301st Rescue Squadron)
- ↑ Homestead Air Force Base (726th Air Control Squadron)
- ↑ McDill Air Force Base
- ↓ Navy Nuclear Power Propulsion Training Center, Naval Training Center
- ↓ Orlando Naval Training Center
- ↓ Pensacola Naval Aviation Depot

Guam

- ↓ Agana Naval Air Station

Hawaii

- ↓ Barbers Point Naval Air Station

Maryland

- ★ Tri-Service Project Reliance, Army Bio-Medical Research Laboratory

Michigan

- ↓ Detroit Naval Air Facility

New York

- ↑ Griffiss Air Force Base (Airfield Support for 10th Infantry (Light) Division)
- ↑ Griffiss Air Force Base (485th Engineering Installation Group)

Pennsylvania

- ↓ Naval Shipyard, Norfolk Detachment

Virginia

- ↓ Naval Sea Systems Command
- ↓ Office of Naval Research
- ↓ Space and Naval Warfare Systems Command

Washington, D.C.

- ↓ Naval Recruiting Command
- ↓ Naval Security Group Command Detachment

BRAC rejections of DoD list

California

- Moffett Federal Airfield, AGS
- Naval Health Research Center
- North Highlands Air Guard Station

Georgia

- Robins Air Force Base

Illinois

- Price Support Center

Michigan

- Selfridge Army Garrison

Mississippi

- Meridian Naval Air Station
- Naval Technical Training Center

New Jersey

- Caven Point Reserve Center
- Lakehurst Naval Air Warfare Center

New Mexico

- Kirtland Air Force Base

New York

- Fort Hamilton
- Rome Laboratory

Ohio

- Springfield-Beckley MAP, Air Guard Station

Oklahoma

- Tinker Air Force Base

Pennsylvania

- Greater Pittsburg IAP Air Reserve Station

Texas

- Air Force Electronic Warfare Evaluation Simulator Activity
- Brooks Air Force Base
- Red River Defense Distribution Depot

Utah

- Dugway Proving Ground
- Hill Air Force Base

West Virginia

- Valley Grove Area Maintenance Support Activity (AMSA)

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INTERVIEW

BRR Interview: Paul Dempsey

Reuse planning agency aids communities facing closure

By Sigrid Bathen

Paul Dempsey has been director of the Office of Economic Adjustment (OEA) in the office of the Secretary of Defense since October 1992, previously serving as deputy director for nearly three years. The OEA assists communities in "mitigating the economic impact of U.S. Defense program changes," helping to plan and implement local "economic adjustment programs." Before joining DoD, Dempsey for 15 years was director of the Economic Development Administration (EDA) of the U.S. Department of Commerce.

BRR: What is the role of the OEA in the base conversion process?

Dempsey: Our role is to support a community-based process, the goal of which is to generate replacement jobs and economic activity. We work to form a broadly representative local organization, which assesses the impact, and to raise alternative reuse options. Then, we work with the domestic agencies to accord priority attention.

BRR: How do communities initiate OEA services?

Dempsey: We have a large amount of information which we have made available to every area that we are aware of that is impacted, not only by base clo-

tures but also by defense contractor cut-backs. On the base closure side, there is a project manager assigned to every significantly affected community.

BRR: There seems to be some confusion about services provided to communities with closed or closing bases by OEA and the Economic Development Administration in the U.S. Commerce Department. Could you briefly explain the differences?

The earlier they get started in advance of closure, the more time they have.

Dempsey: OEA is not an economic development organization. We don't have that as one of our missions. The EDA has that as its primary mission, and it really has been the principal source, dating way back to the early '60s, of assistance to communities to undertake the third step in the process, which is the implementation phase. The DoD directly supports organizing and planning,

and the EDA assists primarily in the implementation of the plan once the community has articulated one.

BRR: Is there any conflict in terms of funding priorities in the federal budget process?

Dempsey: We support the first two phases—reorganizing and planning—and then they support the third step in the process, which is the implementation phase. The DoD directly supports organizing and planning, and the EDA assists primarily in the implementation of the plan once the community has articulated one.

The costs of reuse are significant. You have to reconfigure the utilities, revamp the interior road structure. There are a lot of capital improvements necessary in order to attract private-sector investors.

BRR: Not to mention the costs of toxic cleanup.

Dempsey: Which is another category of the expense that the Defense Department does handle. The military departments are responsible for closure, cleanup and disposal. We work with the domestic agencies [and] with communities on reuse... The demand for what I call the "heavy lifting," which is the significant resources [needed] to carry out the plans, exceeds the resources available from the domestic agencies. We recognize that as a challenge, and we

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INTERVIEW

recognize that both the Senate and the House have called for the elimination of the Department of Commerce in which the Economic Development Administration is located.

BRR: *How might more private sector money be brought into the process?*

Dempsey: I like to say that the process is community-based, primarily private-sector driven, with government support from all levels. As it happens, there are limited federal resources, and in a number of states budgets are equally tight and municipal budgets are constrained. So I think all of us [in government]—federal, state and local—have to contribute to the extent of our resources and abilities. But, truth be told, these are going to be private sector jobs, and the private sector's got to be making most of the capital investment in these assets . . . You try to strategically phase your development so you make capital improvements for a portion of the facility, particularly in a large facility. You encourage private-sector investors to come in, and over a period of time you build out the entire facility.

BRR: *Some reuse experts say the OEA needs to provide more implementation assistance.*

Dempsey: We are equipped and able to provide what I call the small resources necessary to get organized and to plan. It is clear that the major gap is in helping the communities in their need to implement those plans. Defense's major mission, obviously, is to defend the shores. We are not an economic development organization. There are domestic departments and agencies that have that as their mission.

BRR: *Are there ways to expedite the reuse process and avoid some of the jurisdictional disputes?*

Dempsey: The strength of the program is that it is community based, and you could also say that the liability or weakness of the defense economic adjustment program is that it is community based.


It is true that if a community can not come together, then the process doesn't work very well. But there are just a very, very small handful of places that can not come together. If they can not, it does drag out the process significantly. If they do come together, things, can happen very quickly. We have had consensus reuse plans put together in as little as 90 days, which I think is about as fast as you would conceivably want to go.

BRR: *Other than consensus, what distinguishes a successful reuse plan?*

Dempsey: In real estate, it's "location, location location." In base reuse, [because] there are any number of things that come up that you have to work

through. But if you lay out a game plan, and you're focusing on problem resolution rather than on internal differences, that really is the key.

BRR: *Communities fighting closure often seem to have no "Plan B" for possible reuse. Is that, as some have said, myopic?*

Dempsey: We strongly support a "dual track" approach. Communities should launch as robust and aggressive a "save the base" effort as they possibly can. If the odds are long it's still, perhaps, a therapeutic process to go through. We also feel that on a contingency basis, they should consider the second track as well. My office supports base reuse efforts even if the community is aggressively pursuing a "save the base" effort. The principal reason is that the earlier they get started in advance of closure, the more time they have, and the better the reuse results seem to be. 

Sigrid Bathen is the editor of the BASE REUSE REPORT.



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New EDC regulations— new benefits, burdens

By Raymond Takashi Swenson
Lt Colonel, USAF (Ret.)

Lt. Colonel Swenson is an attorney in the Salt Lake City office of Ballard Spahr Andrews & Ingersoll. He is a former Air Force Regional Counsel for the Western U.S. who practices environmental law and represents communities in base reuse negotiations with the DoD. He helped establish the California Base Closure Environmental Committee and taught courses on base closure in Washington, D.C., San Francisco, Monterey and Irvine, Calif. He belongs to the California and Utah State Bars.

When the Pryor Amendments were passed in 1993,¹ creating legal authority for "economic development conveyances" (EDCs) of real and personal property at less than market value, local redevelopment authorities (LRAs) viewed it as a major breakthrough in taking local control of the base redevelopment process. However, the interim implementing regulations issued on April 6, 1994² were a disappointment, since they appeared to give priority to "cherry picking" of valuable portions of base property for sale on the market (such as golf courses), while LRAs would be left with the less marketable parcels.

DoD responded to this criticism with a revised interim regulation issued October 26, 1994.³ The final regulation is due to be issued in mid-July, 1995 (simultaneous with HUD interim regulations on accommodating the homeless in base reuse plans), and incorporated in a new DoD Base Reuse Guidance Manual that will be published around the first of August. A number of changes are expected, but the basics of the new EDC process should not be altered.

The new regulations give a clear "right of first refusal" to the LRAs, and significant flexibility in negotiating the terms of payment to DoD. With sufficient jus-



LEGAL ISSUES

tification to satisfy DoD, the LRA's payment for property can be delayed, made in installments, made by in-kind payments other than cash (perhaps including the cost savings to DoD from not having to maintain the facilities), and involve mortgages or other financing arrangements. The amount of payment can be calculated as a percentage of rental

With the best intentions, the DoD evaluators could be "arbitrary and capricious" in their decisions.

received by the LRA from a business tenant. The price may even be reduced substantially below appraised market value.

However, in return for giving LRAs more control over land conveyance arrangements, DoD has added a requirement that they submit a detailed EDC application to justify the proposed payment terms, including reductions in price. This is a substantial new task, and LRAs may need to use grant funds from the DoD Office of Economic Adjustment in order to hire expert consultants to prepare the applications. Performing the needed predictive analysis for a typical military base, with hundreds of acres of varying kinds of facilities, will be a formidable challenge.

The EDC application must include a copy of the LRA's reuse plan. Since the conveyance itself cannot be made until after the environmental impact state-

ment (EIS) analyzing the reuse plan is completed, the application should be submitted as soon as possible after the reuse plan is submitted, so that DoD can process the application while preparing the EIS. This still delays conveyance until almost two years after the official decision to close the base, even if the property has no history of contamination.

The EDC application must also contain a description of the property sought, the intended uses of the property, an analysis of the potential for redevelopment of the property within the community's economic environment, and a description of the consistency between the proposed conveyance and the reuse plan.

One of the most difficult requirements is for a projection of the number and type of new jobs which will be created through the conveyance. There must also be a detailed timetable for business development on the property, including estimated cash flow available, and an analysis of the financial feasibility of the planned use of the property, with estimates of income on the property and proposed terms of payment to DoD. The regulation requires a cost estimate for infrastructure improvements needed on the property and a description of strategies for financing the development, including identification of local sources of investment funds.

DoD shows that EDCs are still the least-favored method of transfer by requiring a justification for why alternate transfer methods, including negotiated sales at fair market value and public benefit transfers for public health, education and welfare purposes, are inadequate for reaching the same goals. There must also be justification for any discount below market value for real and personal property sought by the LRA.

The regulations do not specify the level of detail required in the application, and the LRA bears the burden of

THE BASE REUSE REPORT



LEGAL ISSUES


justification to overcome the regulation's assumption that an EDC should only be used as a last resort. This ambiguity might not be a problem if the DoD evaluators were experts in the field of economic and market analysis. However, that is not the case. The EDC applications will be evaluated by attorneys and civilian employees who were hired for their knowledge of real estate and environmental regulations; these people, capable as they are in their own fields, do not have any special expertise in the areas which are most crucial to justifying an EDC.

Recognizing this problem, the Army and Navy are hiring consultants to design the evaluation process and perform some exemplary evaluations, while the Air Force is using consultants to train its people. Even with special training for these DoD personnel, the likely result is that there will be wide

variation, at least at first, in DoD's evaluation of EDC applications. With the best of intentions, the DoD evaluators are likely to be "arbitrary and capricious" in their decisions.

It will therefore be important for LRAs to ensure that their EDC applications are written in a style that is comprehensible to non-experts, and accompanied by assurances of the expertise of the consultants and local government employees who prepared the applications. The burden of the application process will be a significant factor in pushing LRAs to ask for the transfer of large parcels of land and facilities, in order to limit the number of costly financial and market analy-

ses. The application requirements will add several months to the land transfer process.

The best news is the statement of Rob Hertzfeld, of the DoD Office of Economic Adjustment, at a recent conference on base reuse sponsored by the BASE REUSE REPORT and the National Council on Urban Economic Development. Hertzfeld reassured everyone that DoD will not be looking for the "best possible financial deal" maximizing proceeds to DoD, but will approve any "reasonable deal" proposed by an LRA. 

Citations

¹. *National Defense Authorization Act for Fiscal Year 1994, title XXIX, codified at 10 USC §2687 note, analyzed in the author's previous article, supra note 1.*

². *32 CFR Parts 90 and 91, 59 FR 16123.*

³. *59 FR 53735.*

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NEWS BRIEFS

News Briefs

Washington, D.C.

Public Power Association calls on DoD to pay for transfer costs

The **American Public Power Association** has adopted a resolution that calls on **Congress** to direct the **DoD** to make all needed changes for integrating base electrical systems with their new utility providers. The resolution states that these changes to the electrical transmission and distribution systems should be made "at federal expense".

The resolution, which was adopted at the association's annual meeting in June, also called on the **Defense Base Closure and Realignment Commission** to measure the impact of a base closure on the installation's electrical utility provider and the local community.

Source: *The Bond Buyer*

Chicago, Ill.

Closure of Air Force Reserve wing facility welcomed by many

When the **BRAC Commission** added the **Air Force Reserve Wing** at **O'Hare International Airport** to its closure list, the move was surprisingly welcomed by many local officials. In fact, according to a *Chicago Tribune* editorial, local leaders have tried for years to dislodge the military from the 356-acre facility because they anticipate that the reuse of the facility will add vitality to the airport, create more jobs and generate significantly more tax revenue.

In 1993, the **BRAC Commission** gave Chicago permission to relocate the unit but at its own expense. Since then, the costs and necessary arrangements have delayed the city in initiating the move.

The 1993 arrangement has been superseded, though, by the 1995 commission's decision to realign the O'Hare wing to **Scott Air Force Base**. By directing the military to relocate the

unit, Chicago will not have to spend up to \$200 million in projected relocation costs.

Oakland, Calif.

Future of bases discussed in business, community summit

A summit conference of business and government leaders, sponsored by the **East Bay Conversion and Reinvestment Commission**, was held in Oakland June 10 to discuss the future of closing military installations in Alameda County.

Participants in the conference included **U.S. Rep. Ronald V. Dellums**, **Alameda County Supervisor Keith Carson**, **Alameda Mayor Ralph Appezato** and numerous military, redevelopment and business leaders. The summit was held, according to organizers, to "establish a forum for continuing dialogue and partnership between the private and public sectors" in the base conversion process.

Addressing private sector concerns about the reuse process, Dellums said it is important to "demystify the process for the business community" to ensure a smooth and successful conversion. When business leaders expressed concern about government red tape being a barrier to commercial development, Dellums urged them to "be a catalyst in reversing this process."

For further information on the forum, contact **Lorraine Giordano** at the **EBCRC**, (510) 834-6928.

Maine

Paul Dempsey discusses funding with local officials at Loring AFB

Paul Dempsey, director of the **Office of Economic Adjustment**, (see BRR Interview p. 8), and several

congressional representatives toured **Loring Air Force Base** on June 27 and met with local officials to suggest methods of maintaining the installation while efforts are made to market and reuse the facility during a 20-year marketing period.

According to the *Bangor Daily News*, the **Loring Development Authority of Maine** and state officials said that the reuse of Loring could not be implemented without a \$35 million commitment from the federal government. In addition, they requested that the transfer of the base be made as a whole, rather than in parcels.

Local officials also strongly recommended to the congressional representatives that they support an amendment to the defense authorization bill that would provide the Air Force with statutory ability to provide funding to rural bases. Further, the amendment would extend the time limit for receiving funding.

During the meeting, one of the proposals discussed was a 55-year lease between the **LDA** and the Air Force that could be terminated by the state at any time, under certain conditions.

Washington, D.C.

CUED releases practical guide to successful reuse strategies

The **National Council for Urban Economic Development (CUED)** has released a comprehensive **Practitioner's Guide to Successful Strategies and Programs** for communities wrestling with the realities of base closures.

The 218-page report was edited by **Karl F. Seidman**, deputy director of the **Massachusetts Government Land Bank**, where he is coordinating the Land Bank's efforts to implement the **Fort Devens** Reuse Plan, and contains chapters by experts in virtually all aspects of base reuse.

"It's hard to remember, when you're up to your waist in alligators, that the original purpose of the exercise was to



NEWS BRIEFS

drain the swamp," **Roy E. Green**, a senior analyst for the **U.S. General Accounting Office**, writes in the introduction. Green says the report was prepared in order to "contribute to an improved, practical dialogue among all parties with a vested interest in addressing these important defense downsizing and conversion challenges," and offers "perspective as well as advice." Each chapter includes a detailed bibliography for base reuse strategists looking for additional information.

Among the many topics covered in the report are sections on:

- Planning for base redevelopment
- Community organization
- Job creation through interim use leases
- Acquisition of property
- Managing the labor force transition
- Defense industry adjustments and adaptation to civilian markets
- Federal, state and local resources for conversion

Copies of the report can be obtained from the National Council for Urban Economic Development, 1730 K St. N.W., suite 915, Washington, D.C. 20006, phone (202) 223-4735. Cost is \$60.00.

San Diego, Calif.

House blocks efforts to halt transfer of nuclear carriers

Congress has rejected, by a 294-137 vote, efforts by two Los Angeles County congressmen to block Navy plans to berth three nuclear aircraft carriers in San Diego.

The House rejected legislation—regarded as a last-ditch effort to keep the **Long Beach Naval Shipyard** open—by **Reps. Steve Horn, R-Long Beach**, and **Esteban Edward Torres, D-Valinda**, to cut nearly \$100 million budgeted for the first phase of upgrading **North Island Naval Air Station** to handle the carriers.

The carriers are being placed in San Diego as a result of the closure of the **Alameda Naval Air Station**. The three carriers will bring \$2.5 billion an-

nually to the local economy, according to estimates by the **Greater San Diego Chamber of Commerce**.

"I don't think Long Beach will try this again," said **Rep. Duncan Hunter, R-El Cajon**, after the amendments were defeated.

Sacramento, Calif.

Privatization plan proposed to keep jobs at McClellan AFB

The **Department of Defense** is reportedly considering a privatization plan for **McClellan Air Force Base**, ordered closed by the **Base Realignment and Closure Commission**, according to reports in the *Sacramento Bee*.

In a July 8 story, one source said that, under the plan, "Sacramento could lead the parade" as a test project for privatizing other closed bases nationwide.

The proposal, reportedly advanced by **Deputy Defense Secretary John White**, according to the *Bee*, would enable the base and many of its 11,000 civilian workers to continue maintenance and repair duties as the base is converted over the next six years. The Pentagon would slowly privatize the base, with private-sector employees doing much of the same work now being performed at the facility. (See '95 BRAC, p. 1.)

U.S. Rep. Vic Fazio, D-West Sacramento, cautioned that the plan is in its early stages, and would have to be approved by **President Clinton**.

Washington, D.C.

Most communities facing closure fail to make plans for reuse

Most communities do not anticipate "their" base closing, "and therefore no capital planning was done to enable reuse," **Brian O'Connell**, executive di-

rector of the **National Association of Installation Developers (NAID)** testified in May before the **House Subcommittee on National Parks, Forests and Lands**.

"Compounding the situation is that most municipal budgets are straining and one of the near-term consequences of closure is declining tax revenue," O'Connell said. "States aren't much better off." In addition, O'Connell noted, federal budget cutbacks have further hampered funding for base conversion.

"The dominant source of funding for reuse investment, therefore, is from private capital, and many would prefer that to be the case," he added. "It may mean, however, that in some locations reuse and its attendant economic recovery will be slower than anyone—least of all the displaced DoD workers who 'helped win the Cold War' would like."

Continued on Page 14

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NEWS BRIEFS

Washington D.C.

BENS questions 'bubble gum fix' for maintenance operations

In a July 11 media advisory, **Business Executives for National Security** questioned the wisdom of rushing into privatization solutions. **Paul Taibl**, Director of **BENS Economic Security Program** said, "Maybe the Pentagon should learn to walk before it runs. Privatizing military maintenance operations hold the promise of freeing up defense resources for other pressing military requirements, but it ought to be entered deliberately, not as a bubble-gum fix to a complex infrastructure adjustment problem."

The focus of Taibl's comments are the "save the jobs" privatization plans for **McClellan AFB, Calif.** and **Kelly AFB, Tex.** that have been proposed since the **BRAC Commission's** recommendation to close them. Taibl asks, "Can the Pentagon—which has, by law, six years to put a closure plan into effect—come up with a scheme in a matter of days that will, at once, preserve jobs, satisfy community leaders, mollify the defense industry, and pass legal muster?"

Taibl said that the problem is that "privatizing major depots like McClellan or Kelly not only has never been done, it has never been attempted...If, indeed, privatization is the wave of the future, the strategy needs to be well thought through, not rammed through by political expediency."

For additional information on their media advisory or their national, non-partisan organization, BENS can be contacted at (202) 296-2125 or at 1615 L Street, NW, Suite 330, Washington, DC 20036. (In addition, see the June issue of the Base Reuse Report for an interview with BENS Founder Stanley Weiss.)

Chicago, Ill.

Developer tries to buy 300 acres of lakefront land at Sheridan

Chicago developer **Richard Stein** hopes to purchase lakefront land at **Fort Sheridan** and develop a 300-acre com-

munity. Purchasing the land presents formidable challenges because federal law prohibits military departments from making land deals with private developers. **Congress** must approve legislation to allow the current owners, the **U.S. Army Reserve** and the **U.S. Navy**, to negotiate the sale of the land.

Congress may balk at such legislation because it would appear to favor one developer. As a result, Congress may opt to block the legislation or sell the land by open bidding. Stein objects to open bidding. "We have something unique here," he said. "For four years nobody came up with an idea to get rid of the Army and the Navy. We've spent capital—financial and otherwise—so why would I be willing to step aside when we've created this?"

Stein, who has invested hundreds of thousands of dollars in the project, has the support of local officials. According to a *Chicago Tribune* article, the towns of Highland Park and Highwood would be relieved of an annual \$2 million school budget shortfall incurred by the cost of educating children of military dependents who pay no property taxes.

In addition, Stein has offered to provide, at his expense, the Navy and Army Reserve with first-class replacement facilities at locations of their choice and following their specifications.

The **Fort Sheridan Joint Planning Committee** seeks to create a nature preserve and renovated historic district on the remaining 400 acres on the northern portion of the 700-acre closed base.

"This legislation could fail even if we all back it," said county commissioner **Robert Buhai**, a member of a consortium of Lake County communities working on a redevelopment plan for the former military base.

Stein plans to personally lobby congressional leaders and said "It's a difficult road ahead, but we're confident that we are up to the task and confident we can build a great development." Stein reportedly has the support of Illinois' two Democratic senators, **Paul Simon** and **Carol Moseley-Braun**.

Washington D.C.

BRAC makes recommendations for expediting base reuse

Included in the recommendations of the **Base Closure and Realignment Commission** to the President and Congress was a list of recommendations for base reuse. A summary follows:

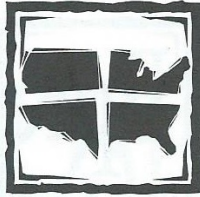
To Congress

- Allow **DoD** to consider the long-term anticipated land use when making cleanup decisions.
- Provide flexibility in the choice of remediation methods.
- Provide **EPA** with authority not to place bases on **National Priority List** if sufficient progress is being made towards cleanup.
- Allow **CERCLA** to make long term leases on contaminated land.
- Amend **CERFA** to clarify that storage of hazardous material does not automatically prevent a parcel from being clean.
- Provide adequate funding for community planning and economic development and job training and retraining.
- Review and provide adequate funding for environmental restoration of bases.
- Allow all parties interested in bases to present their requests at the same time, rather than allowing them to be "picked apart".

To the Executive Branch

- **DoD** should clean up the most commercially viable contaminated base areas first, as long as the sites are stabilized and no public health treats are imminent.

THE BASE REUSE REPORT




NEWS BRIEFS

- **DoD** and other departments should adhere to deadlines for completing the screening process of surplus real property.
- **GSA** should allow the transfer and leaseback of base property in limited circumstances.
- **DoD** should act expeditiously to promulgate the final rules and regulations to implement the President's Five Point Plan.
- **DoD** should act expeditiously to promulgate an emissions trading policy to clarify who retains air emission credits.
- **DoD** and **EPA** identify factors that will encourage environmental personnel to remain at bases throughout the cleanup process.
- Give **Base Transition Coordinators** authority to make more decisions in a more timely fashion.

- **DoD** should take a more proactive role in helping organizations form a reuse strategies.

To Communities

- Contact federal agencies for help.
- Organize early.
- Early formation of a **local reuse authority** is critical.
- The authority should speak as a single body.
- The authority should solicit early support from surrounding impacted jurisdictions.
- Identify all real and personal properties that the authority wishes to retain.

- Authorities should work with the military to develop an effective marketing strategy for base reuse.
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Mapping the path ...


continued from page 3

development, such as the existence of ravines, seismic zones or flood plains, or soil compaction characteristics. Constraints must be evaluated geographically as well as temporally: specific areas may be restricted in use, but these restrictions may only be temporary as cleanup proceeds. The timing for reuse will affect marketing and financing strategies.

A realistic inventory of property available from the military for reuse planning must be made. The federal property screening process must be completed early so that McKinney Act determinations, and excess/surplus property findings identify those properties available to the local reuse authority for direct reuse. Similarly, state property screening must be encouraged at an

early stage so that jurisdictional disputes involving application of the Tidelands Trust Doctrine, or other similar issues may be resolved early. The nature of property conveyances to the military must be examined to determine if reversions, easements, or other special issues exist which affect the ability of the local reuse authority to determine property uses and to control military base property. Personal property must be assessed along with real property, so that military bases are not "stripped" hampering reuse.

In summary, property available from the military for reuse planning must be accurately inventoried and a prelimi-

nary identification of opportunities and constraints must be identified and "mapped" for the base property. These maps should include a "time" component, showing when constraints may be removed and when interim and/or long term reuse may be expected to occur. Accurate property inventories and realistic opportunity and constraint "maps" are necessary prerequisites to development of an intelligent preliminary reuse plan. 

Randall Yim is Contributing Editor of the
BASE REUSE REPORT

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August 18-19: NAID Regional Seminar on Military Base Reuse Grant Proposals—Chicago, IL (703) 836-7973

August 20-22: National Association of Installation Developers (NAID) 1995 Conference, Chicago, IL (703) 836-7973

September 21-22: NAID Regional Seminar on Military Base Reuse Grant Proposals—Monterey, CA (703) 836-7973

September 25-28: National Association for County Community and Economic Development (NACCED) Conference, Salt Lake City, UT (202) 429-5118

September 28: NSIA Annual Meeting/Luncheon. (202) 775-1440

October 1-3: National Council on Urban Economic Development Summit—Arlington, VA (202) 223-4735

October 12-13: Executive Enterprises, Conference on Military Base Reuse—Washington, DC (212) 645-7880

October 19-20: NAID Regional Seminar on Military Base Reuse Grant Proposals—Jacksonville, FL (703) 836-7973

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