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LOCAL ECONOMY, ENVIRONMENT, AND INTERGOVERNMENTAL COOPERATION: WHAT CAN BE LEARNED FROM FORT ORD?

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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LOCAL ECONOMY, ENVIRONMENT, AND INTERGOVERNMENTAL COOPERATION: WHAT CAN BE LEARNED FROM FORT ORD?

TUESDAY, AUGUST 28, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Monterey, CA.

The subcommittee met, pursuant to notice, at 10 a.m., in the Monterey City Council Chamber, Monterey, CA, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representative Horn.

Also present: Representative Farr.

Staff present: J. Russell George, staff director and chief counsel; Mark Johnson, clerk; Darin Chidsey, professional staff member; and David McMillen, minority professional staff member.

Mr. HORN. The Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Among its oversight responsibilities, this subcommittee is charged with overseeing how efficiently and effectively Federal, State, and local government agencies work together. We have come to Monterey to learn how these agencies are handling the many challenges posed by the 1994 closure of Fort Ord.

Since 1988, the Federal Government has closed 97 of 495 military facilities across the Nation through the base realignment and closure process. Although these closures were deemed necessary, it is the local community that bears the economic burden of these decisions.

Fort Ord, which encompasses more than 27,000 acres, was an active Army post from 1917 of the First World War to 1994. It served as a training facility for infantry, as well as other branches of the Army, both active and Reserve in the 1930's, and then full capacity in the Second World War.

Although the facility was officially closed 6 years ago, several important issues in the reuse process are still unresolved. The 1994 closure of this installation cost the community an estimated 2,835 civilian jobs, in addition to secondary job losses attributed to the area's lost revenue.

In 1995, the California State University system began its classes on Fort Ord land, and that has resulted in the California State University at Monterey Bay. Although this has brought some 1,100

new jobs to the area, the local economies of adjacent cities, such as Seaside, Marina, and Del Rey Oaks have not enjoyed the same economic growth as those of other areas in Monterey and Monterey County.

The subcommittee also wants to examine the Federal Government's effort to cleanup the environmental hazards associated with Fort Ord's closure, primarily the removal of unexploded ordnance. Although most of the cleanup efforts involve used artillery shells, live ammunition still remains from the facility's former firing range.

The Army had proposed using controlled burns to explode the live ammunition and clear the surrounding flora, which made extraction of the artillery shells both easier and safer. However, local environmental concerns over the smoke created by the fires resulted in a lawsuit and a preliminary court ruling that temporarily halted the burns.

Although the court ultimately ruled that the controlled burns could take place, the U.S. Fish and Wildlife Service is currently conducting a new study to determine the most environmentally suitable method to accomplish the cleanup effort.

The subcommittee wants to know the status of this study and what efforts are being made to implement its recommendations. The community is understandably concerned over the delays involved in the base reuse process, and indeed, until these issues are resolved, redevelopment plans will continue to be on hold.

They're needed, however, to restore the local economy. This is neither efficient nor effective governing.

Today the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will hear testimony from leaders of the communities and various government agencies. The subcommittee wants to learn about the successes, as well as the failures that have occurred during the Fort Ord base closure and what actions the Federal Government can take to expedite the process.

We would also like to learn the degree of the decisions possible by many State, regional, county, and city agencies.

We welcome our witnesses. We have a wonderful group of public officials at all levels, and we look forward to your testimony.

[The prepared statement of Hon. Stephen Horn follows:]

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Opening Statement
Chairman Stephen Horn
Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
August 28, 2001

This hearing of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Among its oversight responsibilities, this subcommittee is charged with overseeing how efficiently and effectively Federal, State and local government agencies work together. We have come to Monterey to learn how these agencies are handling the many challenges posed by the 1994 realignment of the U.S. Army's Fort Ord.

Since 1988, the Federal Government has closed 97 of 495 military facilities across the Nation through the Base Realignment and Closure process. Although these closures were deemed necessary, it is the local community that bears the economic burden of these decisions.

Fort Ord, which encompasses more than 27,000 acres, was an active Army post from 1917 to 1994 and served as a training facility for infantry and other various arms of the Army. Although the facility was officially closed six years ago, several important issues in the reuse process are still unresolved.

The 1994 closure of this installation cost the community an estimated 2,835 civilian jobs in addition to secondary job losses attributed to the area's lost revenue. In 1995, the California State University system began its new classes on the former Fort Ord land as part of its new CSU-Monterey Bay campus. Although this has brought some 1,100 new jobs to the area, the local economies of adjacent cities, such as Seaside and Marina, have not enjoyed the same economic growth as those of other areas in Monterey County.

The subcommittee also wants to examine the Federal Government's effort to clean up the environmental hazards associated with Fort Ord's closure, primarily the removal of unexploded ordnance. Although most of the cleanup effort involves used artillery shells, live ammunition still remains from the facility's former firing range.

The Army had proposed using controlled burns to explode the live ammunition and clear the surrounding flora, which would make extraction of the artillery shells both easier and safer. However, local concerns over smoke produced by the fires and their environmental impact halted the process. Today, the subcommittee would like to know the status of the clean up effort.

The community is understandably concerned over the delays involved in the base reuse process. And, indeed, until these issues are resolved, redevelopment plans continue to be placed on hold. This is neither efficient nor effective governing.

Today, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will hear testimony from leaders of the community and various government agencies. The subcommittee wants to learn about the successes as well as the failures that have occurred during the Fort Ord base closure, and what actions the Federal Government can take to expedite the process. Additionally, we would like to learn of the involvement of state, regional, county, and city agencies.

I welcome our witnesses, and look forward to their testimony.

Mr. HORN. And we will start, as a courtesy, with your able Representative Sam Farr, who has been in on this situation for years, and when I had problems in my city due to the closure of the most effective and efficient shipyard in the United States—they closed it because it was too efficient—and Sam I talked, and he had some very good suggestions.

We are delighted to have Representative Farr here today as an opening presenter, and then I will ask him as the Ranking Democrat to come and sit to my left, as a matter of fact. [Laughter.]

I just thought about that, Sam, and we are delighted to have you here because you have done so much to be helpful in bringing the community and agencies together.

So, Sam, give us the overview, and then the rest of the individuals will have 5 or 10 minutes or so, and I will get into that later.

STATEMENT OF HON. SAM FARR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. FARR. Well, thank you very much, Mr. Chairman.

I really appreciate you coming back to the region where you were raised, over in San Benito County, our next door neighbor in Hollister. You will find that almost every one of the panelists has some connection with Hollister. Even our Mayor coached teams that played against the Hay Balers to our other mayor, Jim Perrine——

Mr. HORN. Yes, we remember it well. Usually we were mauled. [Laughter.]

Mr. FARR. Jim Perrine, who works for the city of Hollister.

So we are all very fond of your home and again, welcome to Monterey where California's government began.

I would like to submit my written testimony for the record and just kind of speak off the cuff, if you do not mind.

Mr. HORN. Without objection, it will be in the record as will all statements. The minute the person is recognized their statement is automatically put into the record.

Mr. FARR. Thank you.

I think that if you look at Fort Ord, as the press keeps asking me, "How do you sum it up?" The Fort Ord experience, and probably for many military bases, could be summed up in two ways. We did some things right, and we did some things wrong.

Basically, we did the wrong thing, and I will get into more specifics, but the process is now too chaotic. There are just too many cooks in the kitchen. There are just too numerous agencies at the Federal level, at the State level, and some at the local level, all having independent legal jurisdictions and different budgets and different timeframes. To get them all on the same vision at the same time is practically impossible.

It takes too long. This base closed about 9 years ago. We should be finished and be out of there. We are not.

Last, one of the reasons we are not out of there is that we just have not put enough money into the cleanup process. That process is one that is low-ranking in the military's mission of things they have to do, but it is a strict liability responsibility. The difficulty is that they are only responsible, strictly liable in a sense, for what is underground, not for anything that they have built above ground.

And so the local community is left with the responsibility for cleanup of a base above ground with no revenue to do it. Essentially this was Federal land. There is no private ownership. There are no property taxes. There are no sales taxes. There is no revenue coming in to help pay for the cleanup of above-ground hazards.

And if you are going to have to do cleanup by speculating what can we reuse the land for, you drive up the prices of reuse for the private sector, for the community sector, and this area of California is where you really need affordable housing. We have to factor in the cleanup of about $70 million just to get rid of buildings out there that are contaminated.

That $70 million then has to be folded into the price of which they sell housing. So I think one thing we need to do right away this year is we have got to help bases like Fort Ord with some money for above-land disposal of facilities.

Now, let me just go into a couple of things. One of the right things we did is that we used the best of Federal and State government to say there are missions out there that we need to accomplish jointly. We created a new 4 year university, one that you can be proud of as being former president of 1 of the 21 campuses.

The front page of the paper has today the success of the student enrollment, of the freshmen enrollment in this school that is up to about 3,000 students now and growing very rapidly as the word gets out that this is a good school to go to. It has small classes, good instruction, high-tech, nice dormitory buildings, and so on. So that was done right.

The UC, University of California, also has a research park at Fort Ord. That was done right too, to combine both Cal. State and UC in one location, colocating them so that the best of both can be utilized for this State and Nation.

The new BLM, Bureau of Land Management park, is also well done. The Dunes out at Fort Ord will be dedicated to the public through a State park system. Again, well done.

Developing new schools, developing new childcare centers, developing the privatization of military housing, selling the golf courses which have been upgraded and are very, very popular, the commercial airport and more, those are the things that were done right.

Now, what was done wrong was in the process of the conversion. It is too much of a top-down process for the most part and really ignores local needs. If you think about it, all development in America is local, and the building permits and the planning process is local.

I think we have got to get away from the military thinking of top-down to realizing that even though they develop the real estate with top-down, they cannot dispose of the real estate without going bottom-up. We have to redesign the system that puts more emphasis into that.

The cleanup process is a major problem. It creates conflict rather than resolution. The difference is in how you cleanup each of the contaminates. You have one set of laws and rules for unexploded ordnances and totally different for groundwater pollution, for landfill sites, and so on.

As I said, the lack of funding for local reuse is a big problem. I think that what happened with Fort Ord—and this is what we

have got to dispel if we are ever going to have another BRAC around—is that local communities are fearful of the Federal Government coming in, the big Army, the big Navy, the big Air Force because they bring in a lot of big Federal agencies. These agencies really have not instilled confidence in the reuse, particularly when it goes to cleanup.

This was not just an Army problem. It was also EPA's problem, sort of misguided turf building. EPA essentially blocked an orderly cleanup process under the RCRA laws because it was using Fort Ord to build a case for EPA jurisdiction over base activities, including base closure.

The EPA fought and joined a lawsuit to force the Army to cleanup Fort Ord to Super Fund specifications, which prolonged the process, driving up the cost.

But out of this chaos come really good leaders, people that got in and rolled up their sleeves and realized that leadership is about getting results.

I mean, I think when Ray Clark, who at the time was the principal Deputy Assistant Secretary of Installations, came on, he took the unique nature of the problems at Fort Ord and decided that there were ways to handle it separately.

Out of that sort of desperation, what to do about Fort Ord, came the idea of a SMART team, SMART standing for Strategic Management Analysis Requirements and Technology.

This group basically worked on finding consensus among a myriad of agencies overseeing Fort Ord one issue at a time, and for that one person in the audience here today who really deserves credit, is Dick Wright. He heads up the SMART team, and has done a tremendous job of being able to sensitize the local needs, the State needs, and the Federal needs, and bringing in everybody to a one-stop consensus building process.

Keith Takata at the U.S. EPA plunged into the SMART team and with only one goal in mind, to make the conversion work. I think when you have people who are dedicated and have this idea that, look, we are all here for the same reason, to get this base cleaned-up and get it converted as fast as possible, the attitudes change tremendously.

I would also like to praise Pat O'Brien at OEA. Pat and I met when I was running for Congress and the base was being closed. He has really stuck through all of these years in our mission to build a new community out there.

I think these are the kind of people—and there are others—who really get base conversion. They understand you just cannot throw your hands up in the air in frustration and walk away from the problem. They know that lawsuits and threats do not build new communities. Only hard work and perseverance do.

Making it work is what I have been trying to do every single day I have been in Congress. There is just one real estate problem after another, day after day. As you said, the fort started in 1917. Things were built then, and things were built all along the way.

Some of the things meet modern standards, but most of it does not. Buildings were not built to code. We found out, as the California delegation, that the military is the biggest user of energy in California, and when you move to conservation efforts, which you

and I are doing in our own homes, you cannot transfer that to the men and women in uniform because they do not have any meters on their houses.

The way the military has built these houses not to be like other communities has got to change. I think we have got to get the military out of the land disposal process. Their job is to train our men and women in uniform, not to serve as real estate brokers.

I think we need to make it easier for locals to receive the land. These no cost EDCs are really a valuable tool. There is the carrot with the no cost EDC, but it does not come with any cleanup money, and we need to add cleanup money to the EDC.

I think we need to provide seed money for local reuse authorities to use in rebuilding infrastructure so that economic development can take place. Everybody looks at Fort Ord and says, "You are getting an awful lot of real estate free," but when you come down to it—this was just so classic for me to be out there—to look at this housing that was built in the 1980's, this is modern housing. But that housing was built under military specifications.

And so going through it with the local fire chief, he said, "You know, these windows do not meet California fire standards."

I said, "Well, they are modern windows. Why can't you leave them in there?"

He said, "Because then we cannot get fire insurance on these buildings."

Then you go to the local water guys, and they say, "You know, this is the wrong size pipe to bring the water in, and it does not meet code standards, and there is no meter on the house for watering. There is no meter on the house for gas and electricity, and the piping coming in has to be changed."

And then you have, of course, none of the housing was built for ADA standards. So you get into all of these issues, and people think, well, you know, at the outside, they think this is a Washington thing. We are going to give all of this real estate.

But they do not realize that this real estate comes with an incredible number of liabilities that are not difficult to fix, but that requires money. In a closed base there is no pot of money at the local level. They do not have that much discretionary funding.

So we have got to figure out how we can get funding to get the infrastructure approved, and once it does, you build it and they will come. I hope we could continue a policy at the Federal level from a public standpoint that the first people in these houses that have been lived in by men and women in uniform, essentially a middle class payroll, that those houses ought to be preserved for like kinds of people in the civilian sector, people who can pay $500 to $800 a month rent. We should not allow this just to be turned over to developers who would take that same housing and rent it out to high-income earners so that the local communities have a bigger tax base.

That is the fear of what is happening out there. I sympathize with the local community because they say we need this higher income in order to pay for the cleanup. So if we can play a better role in the cleanup, they can bring their housing prices down.

I think that if we streamline the process, we clean it up faster, we are smarter about it, one size does not fit all, then we can, in-

deed, turn over these military bases to nothing but success to the local community.

But Fort Ord is not the model for how it should be done, nor is it the model for how it should not be done. It is a little bit of both, and we need the Fort Ord models and the Long Beach models in order for Congress to learn how to do its job better.

I thank you for coming back to the area of your origins, and I appreciate your coming to the city of Monterey, and I look forward to joining you on the dais and hearing from my colleagues.

[The prepared statement of Mr. Farr follows:]

SAM FARR
17TH DISTRICT, CALIFORNIA

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Rep. Sam Farr
Before the House Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
August 28, 2001
Monterey, California

Mr. Chairman, Thank you for holding this hearing in what I consider the birthplace of California democracy. As you know, Monterey was where our State Constitution was drafted and where California's government began. Holding a hearing in this hallowed hall is testament to the "staying-power" of the ideals founded here.

And to you, welcome, Mr. Chairman, to the region of your birth! Though your home town of Gilroy is just over the border of my congressional district, your high school alma mater in Hollister -- which is in my district -- still remembers you fondly, I'm sure, so welcome home!

I appreciate what you are trying to do here, Mr. Chairman. By taking a close look at the base closure and base conversion processes we can determine what works, what doesn't, and what needs fine tuning. You will find all of the above at Fort Ord.

If I could reduce the experience at Fort Ord to one sentence, it would be: too many cooks in the kitchen. Decision-making in the base conversion process is chaotic, to put it simply. It is rife with contradictory missions on the part of the agencies overseeing land disposal; conflicting desires on the part of land recipients; and too few resources to support the activities that must happen before conveyance can occur. I hope you will join with me in re-writing federal law that now leads to awkward outcomes.

I will not comment on the process that decides what bases should be downsized or closed; that is a different matter from the process that happens *after* a base is selected for closure. It is this second process to which I'd like to address my remarks.

- **Military Real Estate.** To start, the military should not be in the real estate business. Their mission is training America's servicemen and -women. The military, which is used to a chain of command decision making process, finds itself like a fish out of water when it tries to impose on non-military entities a top-down decision structure for base conversion. Their one-size-fits-all strategy is inherently flawed and quite frankly, doesn't fit anyone at all. Local governments are not subject to military fiat.

- **EDC Issues.** The demand that the military be paid for surplus property by the receiving local reuse authority (LRA) is absurd. The conversion process at Fort Ord was held up for years by disagreements and lengthy negotiations over the relative value of the land. Thankfully, Congress changed the law so that the land can now be conveyed at no cost. Still, there exists within the Pentagon a mind set that the military is "giving away" millions in assets and there ought to be, if not outright compensation, then acknowledgment that somehow the military is "losing" something. Frankly, it's not. If

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the military thought that base was so valuable to it, perhaps they shouldn't have closed it. In truth, those lands belong to the taxpayers of the United States. They invested the money to build those bases. They deserve to get that land back; they paid for it once, they shouldn't have to pay for it twice.

- **Reinvestment for Community Building.** Current base conversion policy does not accommodate the financial investments required of local communities to rebuild a closed base into a new community. Though the Army at Fort Ord is responsible for cleaning up the property before it transfers it to new owners, that is all. Anything above-ground is left to the recipient to deal with. In essence, DOD takes care of the mess in the dirt, but nothing they built or used on top of the dirt. This leaves huge clean up costs to the local communities.

Let me illustrate this with a quick example: among hundreds of other buildings, the Army left behind 1200 2-story barracks at Fort Ord. They are contaminated with lead-based paint, asbestos and some PCBs. The Army provides no assistance to the local jurisdiction for removing these structures (which are not earthquake-safe nor ADA compliant). Yet the cost of removing them and remediating their environmental hazards is significant. Most communities do not have the financial wherewithal to undertake such a project, meaning the property sits vacant, undeveloped, ugly, and useless to a conversion effort. The goal of the local communities is to re-use the land for affordable housing, but the clean up costs are estimated to be approximately 70 million dollars. When you factor that into the sales price of housing, it drives them out of the affordable housing market. One federal law gives the local communities free land, another says locals have to pay for the military mess. The end result is nothing gets done.

Another example is the need for serious modernization of utilities and roadways. These items are conveyed in "as-is" condition and are not sufficient to support a new community dependent on heavy traffic, high tech connections for phone, computer and cable, or pipelines for water recycling and conservation. All these infrastructure improvements must be undertaken by the recipient, but where do they get the resources to do that?

- **The Environment Affects Everyone.** Clean up protocols were (and to some degree continue to be) dictated by cost rather than by best practices or end use. Though it is unfair to assume a "zero tolerance" for clean up under all conditions, a more transparent process would eliminate suspicion or fear from the community that the land they are receiving is somehow not safe.

- **Who's In Charge Here?** Agencies who "have a say" in signing off on conveyances often have contradictory missions. This creates policy conundrums for everyone involved. No single agency is in control and no single law or policy guides the process.

Here is a good example for you: At Fort Ord, the agencies who "have a say" on signing off on land to be conveyed *number 3 dozen or more*! This includes EPA, BLM, FWS, and DOD, at the federal level (among others) and CalEPA, DTSC, the Water Board, and the Air Board, at the state/local level. Among these agencies are some with contradictory missions: EPA and the Air Board oppose burning brush on the land for fear of environmental contamination. But FWS demands burns occur regularly in order to meet its mandate under the Endangered Species Act for habitat management. Without being able to remove the brush, the Army can't clear the

unexploded ordnance -- meaning none of the land can be conveyed because it hasn't been cleaned up! This is a contradictory regulatory mess which your committee can remedy with one stop decision making.

I have attempted to streamline some of the basic problems in base conversion at Fort Ord, but I am sure they occur elsewhere. But just as Fort Ord may provide good examples of what can go wrong in base conversion, it also serves as a role model in what can go right in base conversion.

In particular, I praise the Army for setting up a one-of-a-kind working group to attack the Fort Ord conundrum intensively. Called the SMART Team (Strategic Management Analysis Requirements and Technology Team), this group basically worked on finding consensus among the myriad agencies, one issue at a time. I give great credit to Dick Wright, the Director of the Army Environmental Policy Institute, who heads up the SMART Team and has pushed the Fort Ord community to find consensus on next steps. Without the SMART Team or Dick Wright, the conveyances that occurred last August and those about to occur this Fall would not have moved.

The SMART Team concept is one that is flexible enough to be formatted for a particular community's needs. I know that a SMART Team is operating in Rep. Don Manzullo's district in Illinois and it is moving at light speed. This is an approach to base conveyance that ought to be more widely used.

Too often we run into the attitude of 'let-someone-else-make-the-hard-decisions-so-I-don't-get-the-blame' for unpopular - but necessary - steps in the process. Parties who believe that veto power is something that should be wielded at every turn unless an outcome is 100 percent in their favor are not advancing their cause or anyone else's; they're just grinding the process to a halt. Part of the reason the SMART Team approach works so well is that it requires agencies to take responsibility for their actions -- or inactions -- that impact the conversion process. Accountability is key.

I would offer these suggestions for the future:

- Get the military out of the business of property disposal. A federal land trust-type of arrangement or agency ought to be created whose sole mission is to dispose of property in a manner that meets the needs of the new local owners (LRAs).

- Bring common sense management practices to disposal efforts. The circular inter-agency battles over who has control of a specific parcel of land and its clean up miss the big picture and slow down the process for all involved. Someone has to have the command leadership to get the outcome done.

- Set up a "bank" to which LRAs can apply for grants and loans to finance their new communities. Without the seed money to rebuild closed bases and create the kind of economic activity that will sustain a community, these areas will sit vacant and unused for years.

Mr. Chairman, this testimony barely scrapes the surface of what could be said about improving the process for base conversion. But knowing we have limited time I will end my

remarks with this one last thought: let's give local communities the tools and resources they need to rebuild once a base is closed. Let's create a process that responds and is accountable to the needs of local interests. Building a new American community from the ground up is what base conversion is all about. Let's do it right.

Thank you for coming to Monterey.

Mr. HORN. We thank you very much, Sam, and without objection, Mr. Farr will be a member of this panel, able to ask questions of the various witnesses.

Now, let me bring panel two, which is the Honorable Dan Albert, the mayor of the city of Monterey, and, Mr. Mayor, we appreciate having this wonderful historic room in which we could have this hearing, and your people who have been the city manager and all the staff have just been very helpful with us, and we thank you for that.

We also have the Honorable James E. Perrine, mayor, city of Marina, and the Honorable Jack Barlich, mayor, city of Del Rey Oaks, and the Honorable Jerry G. Smith is mayor of the city of Seaside.

Michael Houlemard is the executive officer of the Fort Ord Reuse Authority.

Jeffrey Simon is the past president of the National Association of Installment Developers.

Now, let's see how many we have here. Mr. Barlich could not make it. Anybody else?

OK. Let's see. We have got Mr. Simon, and Mr. Houlemard, and Mr. Smith, and Mr. Perrine, and Mr. Dan Albert.

Now, let me tell you the ground rules here. We have your statements. I have read every one of them, and we appreciate that. What we would like you to do is just look us in the eye and summarize it. We are going to install the 5-minute portion, and we want to get a dialog between you, and the next panel, panel three, the experts from the Federal side. We would like to have you at the same operation that they are going to talk about, and we will get some dialog there.

And since we are an investigating committee, gentlemen, if you will stand and will raise your right hands.

[Witnesses sworn.]

Mr. HORN. Thank you.

And the clerk will note five witnesses have taken the oath.

And we will now start with the mayor of Monterey, Mr. Albert.

STATEMENTS OF DAN ALBERT, MAYOR, CITY OF MONTEREY; JAMES E. PERRINE, MAYOR, CITY OF MARINA; JERRY G. SMITH, MAYOR, CITY OF SEASIDE; MICHAEL HOULEMARD, EXECUTIVE OFFICER, FORT ORD REUSE AUTHORITY; AND JEFFREY SIMON, PAST PRESIDENT, NATIONAL ASSOCIATION OF INSTALLATION DEVELOPERS

Mr. ALBERT. Yes, Mr. Chairman. I would like to welcome you to the city of Monterey and to remind everyone that is here and also to let you know that this is really where California government began, just right next door, and that we are very proud that the constitution of California was developed right here and signed right here. We became part of the United States.

So we are proud of that, and we are proud of that history, and also to let you know that we are very, very proud to call ourselves the language capital of the world. We have tremendous language assets that are here. Approximately 15 percent of all of the languages that are taught and interpreted in the world are done right here on the Monterey Peninsula with the Defense Language Institute, the Monterey Institute.

So I just briefly say that because it is important to us, and I will get on with what I have to say, but that is important to us because of the installations that are still here that play a dominant role in the U.S. Government and our defense.

Mr. HORN. I might just want to add that in the back stairs leading to the House of Representatives, there is a wonderful painting by the German painter Berstadt, and the Congress gave him $10,000 on that particular painting. And it is the landing of the explorers at Monterey, CA.

And most people do not even know that because they do not go up the back stairs, but we all look at it when we are going to get a vote, and Monterey and dually represented.

Mr. ALBERT. We are going to have to move that to the front part of the building. [Laughter.]

Mr. HORN. Well, you would displace George Washington. So we are not going to do that. [Laughter.]

Mr. ALBERT. Well, you have asked us not to read this, but I think what I would like to do is I would like to read, and then maybe as we move along make some comments.

I have been actively involved with the base closure deliberations in 1988, 1991, 1993, and 1995. And later on Michael Houlemard will give you the specifics of the Fort Ord closure and our recovery efforts there.

What I would like to do is address the more general subjects that I think should be kept in mind by the Congress and by the Defense Department as we move toward what appears to be the next round of base closures.

The environmental cleanup of the property is critically important. I have a growing sense that the Military Department may look at a dollar spent on cleanup support, the base reuse plan, as a dollar not spent on its core missions. If there is an unwillingness on the part of the military departments to budget for and Congress to appropriate the sufficient funds to adequately cleanup the defense sites, we should postpone another round of base closures until we are able to do it the right way.

Basically, we are talking about another round of base closures, and the sense that we have here is that they are pretty good at closing down the base, but where we really have the big problem is once that base is closed, it then becomes the communities that are mostly affected. Then we have the problem then of what do we do with those bases.

It seems to me what Congress should be doing, first, instead of talking about closing bases what you should be doing is let's move on with the bases that are closed. Let's get those fixed. Let's get that right, and then you could start talking about more base closures.

What I would say as your process and as you are going through the process and saying we want to close more bases, along with that there should be some kind of legislation; there should be something out there that says not only are we going to close them, but this is what is going to happen after. This is how we are going to help the local community.

I think that is important. You can imagine the city of Monterey and what we are thinking now and the region, what we are think-

ing now. We have got a base that has been closed. We have got two other bases, two great schools here. I do not even want to think about them closing because they add so much not only to this community, but to the Nation and what they bring to the Nation.

But if you can think what a community like we are going through now, when they are talking about other base closures, we still have one in the situation that Fort Ord is in. It does not raise the comfort level of a community at all.

The environmental cleanup of the property is critically important. Here in Monterey, for example, we are still dealing with the cleanup of a closed World War II, Korean War Navy activity, our local airport. Currently the groundwater under the residential and neighborhood is contaminated with TCE.

The discovery of this contamination was far too late in coming, but worse now that it is known. The cleanup is being driven not by the technical cleanup process, but by the dollars available in our community from the formerly used defense site program.

This is causing tremendous pain in our community and is an unacceptable way to do the public business. Please insure that the resources necessary to cleanup previously closed bases are available prior to closing more bases. I mean that just seems like it should be an essential part of a base closure, is how are we going to deal with the cleanup process after. I mean, that should go right along with the idea that we are going to clean a base, and then what is going to happen with it.

Future reuse planning must be centered on the community's priorities, not on the Federal Government's. Federal agency or agencies they sponsor should not be allowed to cherry pick high value properties unless the proposed uses are consistent with the community's reuse plan.

All the work done by the military departments' environmental work, cooperative agreements, and so on, must be done in coordination and consultation with the community. There should be no secrets from the community. There should not be environmental impact statements done by the military departments that are separate from the community's environmental work.

The services should not be allowed to develop their own view of what is appropriate. Reuse should be studied in the department EIS as happened at Fort Ord. NEPA should be waived for the purpose of the BRAC's property disposal action.

The State requires an EIS/EIR for the reuse plan as strong as at NEPA. This one act will save millions of dollars that are spent by services, and basically what we are saying is, is there an overlap. I mean, I am always asking my constituents to be aware of the warning on the red light, and now I am getting the red light.

Mr. HORN. No, go ahead.

Mr. ALBERT. But it is OK. It is all right, and there is a lot here, but I will try to summarize that by saying that there should not be that overlap. We do not need that, and that is when the communities become confused, and it becomes not a positive thing, but it becomes a negative thing.

So it seems like the overlap just does not work, and every open base should be allowed to form partnerships and collaboratives with its adjunct communities as we have done here in Monterey.

Through special demonstration legislation, we now provide almost all public works and some recreation services in the procedure at Monterey and Ord military community on reversible contract basis. The Army Audit Agency reported that the Joint Power Agency of Monterey and Seaside saved the Army 41 percent of its second year of operation. This $2.5 million saving allowed the Army to start addressing their backlog of deferred maintenance at the Presidio.

A side benefit of this program is that the community is now very familiar with the maintenance requirement of the installation infrastructure. Compare this to the situation at Fort Ord where buildings and utility systems continue to deteriorate and go unmaintained 7 years after closure.

If the community is involved in the operation and maintenance of the installation before a closure decision is made, the DOD saves money and, more importantly, the community is in a position to more rapidly recover from the closure if it were to happen. If you're allowed to do that, and we have had assistance from our Congressman for that special legislation; we think that is important.

Excess capacity seems to be the base closure driver. All of DOD's excess capacity should not be disposed of. We are not smart enough to know what we will need the day after tomorrow, much less 10 years from now. The capacity once disposed of will almost never be obtainable again. Therefore, we must be much more aggressive in exercising the enhanced authorities of Section 267 of Title 10 allowing the lease of excess capacity to local communities, private industry, universities, and so on in such a way that the capacity complements current missions, and it is preserved for future DOD missions.

To give you an example, the Defense Language Institute, there is a section that was forested, and basically leased to the city. The Federal Government still owns it, but its been leased to us. We maintain it. We take care of it.

We also have a lease on the lower portion of the Presidio, but it is still owned by the Federal Government in case there was a kind of emergency where they might need it. But that reduces the cost because we are able to take care and maintain it.

Well, I know that I have run over my time, and I have got a lot more to say here, but anyway——

Mr. HORN. Well, we will be glad to not just have your statement, but if you are driving around Monterey and you have got a new idea, please send it to us. We will put it in the record, and that includes all of the witnesses here.

Mr. ALBERT. OK.

Mr. HORN. We are going to have to really keep moving.

Mr. ALBERT. I understand that.

Mr. HORN. Or we are not going to get anything——

Mr. ALBERT. No, I understand that perfectly. Thank you, Mr. Chairman.

[The prepared statement of Mr. Albert follows:]

Congressional Testimony before the House of Representatives
Government Reform Committee Subcommittee on Government Efficiency,
Financial Management and Intergovernmental Relations
August 28, 2001
Daniel Albert
Mayor, City of Monterey
Monterey County, California

Mr. Chairman and Distinguished Members of the Committee, my name is Dan Albert. I am the Mayor of the City of Monterey. I have been actively involved with the base closure deliberations in 1988, 1991, 1993 and 1995. While Michael Houlemard will give you the specifics of the Fort Ord closure and our recovery efforts there, I would like to address more general subjects that I think should be kept in mind by the Congress and by the Defense Department as we move toward what appears to be the next round of base closure.

Environmental cleanup of the property is critically important. I have a growing sense that the Military Departments may look at a dollar spent on clean-up to support the base reuse plan as a dollar not spent on its core mission. If there is an unwillingness on the part of the military departments to budget for, and the Congress to appropriate, sufficient funds to adequately clean up Defense sites, we should postpone another round of base closure until we are able to do it the right way.

Here in Monterey, for example, we are still dealing with the cleanup of a closed World War II / Korean War Navy activity at our local airport. Currently, the groundwater under the adjacent residential neighborhood is contaminated with TCE. The discovery of this contamination was far too late in coming, but worse, now that it is known, the cleanup is being driven not by the technical cleanup process, but by the dollars available in the Formally Used Defense Sites program. This is causing tremendous pain in our community and is an unacceptable way to do the public's business. Please ensure that the resources necessary to clean up previously closed bases are available prior to closing more bases.

Future reuse planning must be centered on the community's priorities, not the Federal Government's. Federal agencies or agencies they sponsor shouldn't be allowed to cherry-pick high-valued properties unless the proposed uses are consistent with the community's reuse plan.

\ll the work done by the military departments --- environmental work, :ooperative agreements and so on, must be done in coordination and :onsultation with the community. There should be no secrets from the :ommunity. There should not be Environmental Impact Statements done ›y the Military Departments that are separate from the community's ›nvironmental work. The services should not be allowed to develop their ›wn view of what appropriate reuse should be studied in the Department ›IS, as happened at Fort Ord. NEPA should be waived for the purpose of he BRAC property disposal actions. The State required EIS/EIR for the Reuse Plan is as strong as NEPA. This one act will save millions of dollars hat are spent by the services to develop Environmental Impact Statements or what should be categorical exemptions.

Every open base should be allowed to form partnerships and :ollaborations with its adjacent community, as we have done here in Monterey. Through special demonstration legislation, we now provide lmost all public works and some recreation services to the Presidio of Monterey and the Ord military community on a reimbursable contract basis. he Army Audit Agency reported that the Joint Powers Agency of Monterey nd Seaside saved the Army 41% in its second year of operation. This 2.5 million dollar savings allowed the Army to start addressing their acklog of deferred maintenance at the Presidio. A side benefit of this rogram is that the community is now very familiar with the maintenance equirements of the installation's infrastructure. Compare this to the ituation at Fort Ord, where buildings and utility systems continue to leteriorate and go un-maintained seven years after closure. If the ommunity is involved in the operations and maintenance of the installation efore a closure decision is made, DoD saves money and, more nportantly, the community is positioned to more rapidly recover from the losure if it were to happen.

Excess capacity seems to be the base closure driver. All the DoD xcess capacity should not be disposed of. We are not smart enough to now what we will need day after tomorrow, much less ten years from now. he capacity once disposed of will almost never be obtainable again. herefore, we must be much more aggressive in exercising the enhanced uthorities of Section 2667 of Title 10 to allow the leasing of "excess apacity" to local communities, private industry, universities and so on, in uch a way that the capacity compliments current missions and is reserved for future DoD missions. This can enhance the community's

quality of life and economic development while further enhancing the cost effectiveness of the DoD mission. We have done such leasing at the Presidio to our benefit and the Army's.

The combination of municipal services being provided to the Military by the adjacent community and aggressive asset management through ou leases will also maximize and preserve the value of DoD assets at open and closed installations.

The current disposal process is ambiguous and chaotic. Every service has its own rules, which is inefficient and confusing to the communities. There is no apparent central leadership driving the process There might be some value in centralizing the disposal at OSD-level and moving the services out of the disposal business. The President's Economic Adjustment Committee (EAC) was created to ensure a coordinated interagency response, but it has met very infrequently over th last twelve years of BRAC. Other testimony will highlight some of the mos aggravating interagency conflicts Fort Ord Reuse has suffered. The EAC could be a powerful force in rationalizing the DoD Disposal and Reuse process, if it were effectively used.

The single most important tool for rapid transfer and reuse is the no-cost Economic Development Conveyance. This tool must be expanded to allow rapid transfer of property to the Local Reuse Authority, to include housing stock. The focus of DoD must be to transfer the base as rapidly a possible to allow the economic value to be realized by the closed community while minimizing base operating costs and decay of the DoD assets.

A final comment relates to early transfer. The procedures and authority for early transfer must be maintained. The Section 330 Environmental Indemnification must also be preserved. It is only through such arrangements that we can recognize the efficiencies associated with doing cleanup and reuse simultaneously. Anytime we have to do such work serially, you can be assured that the reuse process will be drawn out for years, if not decades.

Thank you again for the opportunity to speak before your panel. We appreciate your coming to Monterey and would be happy to provide you any additional information that you desire.

Mr. HORN. Thank you.

We now have the mayor of Marina, the Honorable James E. Perrine.

Mr. PERRINE. Good morning, Chairman Horn and Congressman Farr. I am Jim Perrine, mayor of the city of Marina and chair of the Fort Ord Reuse Authority.

I have worked with the Fort Ord closure and reuse process since the day of the closure announcement in 1991. During this period I have served either as a marina council member, mayor pro tem, or the mayor.

I believe that thus far the local reuse process has served certain areas and constituencies well and others closely, little, or not at all. In my impression, those well served have been the habitat and endangered species, the homeless programs, and specialty consultants. In general, safety from unexploded ordnance and explosives has been a priority, and the Army has effectively dealt with it.

There has been a focus on the remediation of groundwater contamination as well. I also believe that we have made strides to move rental housing into the marketplace. We have, indeed, developed some jobs; far fewer in this term than most people originally envisioned.

In addition, the community economic base has been modified from one supporting a military installation to one supporting educational and research facilities.

The areas where we have not had successes at this point are equally numerous. They include developing new homeowner occupied housing, which is needed to support a significant emerging regional employment base.

Also, we have developed little retail base for taxes and commercial diversity in our communities. As an example of that, between 1990 when Fort Ord was running full speed and 1999, Marina's retail sales have grown only 23 percent. By way of contrast, the county of Monterey has achieved a 50 percent increase, and the State of California has attained 41 percent growth in retail sales.

In general, the private marketplace has not yet taken over on the former Fort Ord. With limited exceptions what has been accomplished has been supported by Federal, State, and local tax moneys or loans obtained by nonprofit housing providers.

What do we need then to achieve the investment of private dollars on the former Fort Ord? Time does not permit me to comment on all that is necessary, but I do suggest the following six elements that must be incorporated or reinforced.

Most importantly, we need to transfer the property, and during any interim period, the military must fully and actively secure and maintain the property.

Second, we need specific assistance and remedies within Federal law. Regulatory agencies both at the Federal and State level must be mandated to facilitate reuse in manners that are effectively safe yet efficient.

Third, a partnership with the local community at the infancy of base closure is vital to eventual reuse. Quite simply, some DOD personnel see only a mission of base closure. Others, particularly the local communities, have to shoulder the reuse.

Fourth, processes must be expedited in Federal law, and specific coordination with State officials must be mandated. When implementing reuse, the Federal Government should define uniform standards.

Fifth, a more coordinated and grounded reuse assistance organization must evolve and should have leverage to make the process work.

And the final element, financial and training assistance is needed to insure that local resources can be effectively provided. OEA, EDA, and others need more funding appropriated for reuse assistance.

We then need effective regulations to facilitate the distribution of the funds to the local jurisdictions. I do believe, given the size of the elephant, reuse of the former Fort Ord is succeeding. I do not believe, however, that the public concurs. They don't agree because the common sense of the matter is that there should be a direct and easy way to transfer the military facilities to civilian use.

We have also found the costs are considerable. In Marina, the 1,600 barracks we received will cost an estimated $70 million to remove. This is a mind-boggling number for the Federal Government. Can you imagine how that translates to my city of 25,000 souls?

These barracks were constructed in the 1940's as temporary structures to win World War II. Sixty years later they remain, and they serve only as visible blight and a pressing liability to the local communities that will inherit them.

I ask you to work with the reuse agencies and local governments to change the process so that it effectively engages the market economy in its early years. This can be done, but it will require discarding the present model and creating a new system.

I offer for consideration my six elements and support my colleague's suggestion for a new system. I believe the perspective needs to change to empower local communities for future utilization of historically Federal facilities and how the military mission's of relocation or change will be required to achieve that.

I thank you for the opportunity to testify and would be pleased to answer your questions or further elaborate on my comments.

[The prepared statement of Mr. Perrine follows:]

Congressional Testimony before The Government Efficiency, Financial Management and Intergovernmental Relations Subcommittee to The House of Representatives Committee on Government Reform

August 28, 2001
James E. Perrine
Mayor, City of Marina
Monterey County, California

Mr. Chairman And Members of The Government Efficiency Subcommittee,

Thank you for the opportunity to testify regarding the reuse of the former Fort Ord. You define in your letter that the focus of the testimony will be the efficiency of the federal Government's effort to clean up environmental hazards associated with the base closure and how effectively local, state and federal agencies have worked together in the reuse process.

Let me frame where I am coming from with my testimony. I am Mayor of Marina that has largely grown as an Army suburb. It supported Fort Ord through World War II, the Korean War, Vietnam, the Cold War, Just Cause, and Desert Storm among many other actions. The town has been symbiotically interlinked with the Fort. We took care of each other. The change of the bargain, which occurred in the early 1990s, was massive and numbing. Around the County, Marina was talked about in the past tense.

I have worked with the reuse since 1991. During this period, I have served either as Marina Council member, Mayor Pro Tempore or Mayor. I believe the reuse process has served certain areas and constituencies well, and others slowly, little or not at all.

In my impression, those well served have been the habitat and endangered species, homeless programs, and specialty consultants. In general, I believe that safety from unexploded ordnance and explosives has been a priority and the Army has effectively dealt with it. I believe there has been a focus on the remediation of ground water contamination and this has been well addressed. All of these are priorities, and great progress has been successfully achieved. I believe also, that we have made strides to move rental housing to the market place, and have had successes in this regard. We have preserved key facilities such as the Airport, golf courses, and the Military Operations Urban Training site, and they are now being well utilized. We have developed some jobs, but fewer in this term than most people envisioned. The community economic base has been modified from one supporting a military installation to one supporting educational and research facilities.

The areas where we have not had successes at this point are equally numerous. They include developing new owner occupied housing which supports a significant emerging employment base. We have developed little retail base for taxes and commercial diversity in our communities. Between 1990 when Fort Ord was running full speed and 1999 (the most recent year which full data is available), Marina's retail sales have only grown 23%. By way of

contrast, the county has grown 50% and the state 41%. As can be seen, the impact upon Marina's economy is great and it remains a significant impediment to vitality.

In general, the private marketplace has not yet taken over on the former Fort Ord. With limited exceptions what has been accomplished has been supported by federal, state, and local tax monies or loans obtained by non-profit housing providers. What do we need then, to achieve the investment of private dollars on the former Fort Ord?

Most importantly, we need the transfer of the property. Negotiating land sales by a local jurisdiction is a hypothetical exercise, unless the land is immediately available. Within Marina, the Army had about 2,000 family housing units. These units were largely boarded up by 1994. Since then they have rotted away with only a very limited opportunity for their occupancy and use.

The approval of the no-cost economic development conveyance process has been a major help to reuse. Nevertheless, we need specific assistance and remedies within federal law. Earlier this year we wished to proceed with a road-widening project at the former Fritzsche Field. Five individual spineflowers had been found in a 9 square-foot patch. The spineflowers had died and dried up. Though they were no longer present, the memory of the spineflowers was a roadblock that delayed the improvements for months while we waited for a "no jeopardy opinion" from the U.S. Fish and Wildlife Service. We were frustrated, because we had no real remedy to force the issue and proceed with reuse. A similar situation has developed with an airport-fencing project. We have worked on it several years, but because we cannot meet an October "window" this year, we will have to wait a year to complete it. This is because of a very limited, hypothetical impact of the fence upon the gilia and spineflower, which are plant species in the area. Again, we are without real remedy to address the very limited impact of the fencing upon the species.

The base closure/reuse process begins with an environmental review. An EIS is required to officially close and declare a military base surplus based upon a DOD contrived reuse scenario. The local community is then expected to conduct a separate environmental review on the locally determined proposed uses of the facilities. This is a duplicative, time and money consuming effort. Worse yet, it requires the local community to mitigate impacts of facility reuse, even for the same purpose as the previous military use, because the status of land use has been mis-defined, through federal process. Here a partnership with the local community at the infancy of base closure is vital to eventual reuse.

The military department pursuit of checking the base closure procedural boxes can add years and millions of dollars of local cost to get to private market reuse. Quite simply, some DOD personnel see only a mission of base closure. Others, particularly the local community, have to shoulder reuse. A well-founded linkage is needed at the earliest time and at the highest level.

Processes must be expedited in federal law and specific coordination with state officials must be mandated. We have a textbook case in this regard about the conveyance of some 70 acres at the Marina Municipal Airport. It was suppose to convey some five years ago, and this month or next we should receive it on an early transfer. This is after concerted local effort, great cost, four

complete ordnance surveys, the extended negotiation of clearances and transfer documents and about two feet of filed paper.

A more coordinated reuse assistance organization could have assisted on many occasions. By this comment I am not criticizing the public servants who have worked with us. Nearly all of them have been exemplary in their knowledge and effort. Also, I am not indicating there have not been efforts to address this important nexus. The Office of Economic Adjustment has been helpful in a macro sense. The concept of the Base Transition Coordinator is sound, but hasn't been well implemented locally. I believe future processes will be served if more resources are available to make the process work. These resources should be grounded in local government and understand the bridges between the federal partners. Also, they should have leverage to make the process work. This clout is critical.

This is particularly the case with environmental hazard clean up. Full inclusion of local government here is necessary. But local government cannot be expected to solely bear the burden of resource commitment. Financial and training assistance is needed to ensure that local resources can be effectively provided. OEA, EDA and others need more funding appropriated to distribute for reuse. We need effective regulations to facilitate the distribution of the funds to local jurisdictions.

The purpose for close local government coordination is in part to avoid the perception that the military departments are insensitive and unilateral in decision making regarding environmental remediation. Again, the perception was formed early in the case of Fort Ord that some DOD personnel cared only about the mission to "get out of Dodge", and weren't concerned about the long-term implications or the eventual reuse. Other base closure community representatives from around the nation have in years past expressed the same frustration and cited the use of the same DOD mantra.

I do believe, given the size of the elephant, reuse at the former Fort Ord is succeeding. I do not believe, however, that the public concurs. They do not because the common sense of the matter is that there should be a direct and easy way to transfer the military facilities to civilian use.

The truth is, however, that reuse is a quagmire. With overlays of the endangered species act, CERCLA, ADA, NEPA, HUD lead based paint regulations, UXO and OE processes, and issues of building code, zoning, clean-air regulations, state environmental review and other matters, the process moves much too slowly for all except the consultants and regulatory agency employees.

We have found also that the costs are considerable. For our future, the 1,600 barracks we will receive will cost an estimated $70,000,000 to remove. This is a mind-boggling number for the federal government. Can you imagine what it is to a city of 25,000 souls? These barracks were constructed in the 1940s as temporary structures to win WWII. Sixty years later they remain as a visible blight and a pressing liability to the local communities that will inherit them.

We have undertaken a project to upgrade about 47 of the buildings conveyed to Marina on a National Park Service conveyance to develop a youth hostel. We engaged an architect to estimate the cost of bringing them into compliance. According to his study, the cost would run

out $21,000,000 to "check all of the squares" and address not only the building code, but also ADA, asbestos and lead based paint regulations. For a local community attempting to do blic good with the inheritance of base closure, the regulatory processes and requirements make cost prohibitive.

gulatory agencies both at the federal and state level must be mandated to facilitate reuse in nners that are effectively safe, yet efficient. Currently many agencies view their mandate to sure only safety. They often indicate that reuse and efficiencies of securing safety as not being thin their purview. This can place the local government in the role of mediator between zens of overlapping regulatory agencies, some with revolving door points of contact, in order achieve reuse.

fferent federal and state standards exacerbate the limited view of mandates by agencies. We ve observed this with ordnance removal and also in regards to threatened and endangered cies. In this regards, U. S. Fish and Wildlife and California Fish and Game maintain separate s that may or may not include certain specific species. When implementing reuse, the federal vernment should define uniform standards. Methods should be included to coordinate these ndards within the federal government and with state governments. Local governments plementing the reuse must be provided with resources to achieve the standards and always nedies should be available to pre-empt regulators who do not assist and empower the reuse. example, the remedies may be achieved through a Congressionally authorized ombudsman o has the authority to set aside roadblocks created by regulators.

sk you to work with the reuse agencies and local governments to change the process so that it ectively engages the market economy in its early years. This can be done, but it will require carding the present model and creation of a new system.

Mr. HORN. Thank you very much, Mayor.

Our next presentor is the Honorable Jerry G. Smith, mayor of the city of Seaside.

Mr. SMITH. Good morning, Mr. Chairman and Congressman Farr, members of the committee.

It is a pleasure to have the opportunity to address you today to discuss the city of Seaside's perspective on this important topic.

I am Mayor Jerry Smith, city of Seaside. I have been a lifelong resident of the Monterey Peninsula and very familiar with the long history of Fort Ord and its effects on our community, both before and after its closure.

I would also note that I was once stationed at former Fort Ord. So my perspective includes the fond memories of my experience in the Service serving my country.

The city of Seaside certainly agrees with many of the points you will have already heard today from other speakers. My purpose in speaking with you is to emphasize a few key issues.

We have experienced a drastic impact in the city of Seaside's efforts to recover from the closure of Fort Ord. In summary, those issues are: Delaying access to buildings and properties slated for transfer to the city of Seaside; conflict with Federal and State agencies concerning methods and standards for removal of unexploded ordnance and explosives; the over-reservation of water and waste water resources by the U.S. Army for Federal purposes; the costs imposed upon our community for long-term risk management associated with transfer of the properties.

Speaking first to the issues of gaining access to the buildings and the properties on the former Fort Ord—let me say that the presence of so many of the empty buildings at a time when local housing problems have reached a critical or crisis proportion is a source of great consternation in our local community.

For over 8 years in vacant, boarded-up structures with the former Hayes Housing, clearly visible from Highway 1, have offered torment. These are all illustrations of the problems created by the Army's denial of access to this property.

As the city of Seaside has sought to obtain property from the Federal Government, the buildings, streets, infrastructure have deteriorated before everyone's eyes. Had we been able to gain access to these buildings promptly after the closure of the base, we may have been able to create affordable housing, which would now be available to our community and to the residents of the Monterey Peninsula.

The bureaucratic processes which have endured by just buying 100 acres of land now extends over 5 years, and we have not yet received the signatures on a document that the city of Seaside's council approved last April.

The impact of these delays not only creates a condition of worsening deterioration, but also makes the overall development process that much more uncertain. In an atmosphere of uncertainty, we have found that the development community is more cautious, more less likely to make commitments to the city, further inhibiting the reuse of the base.

Another problem that we face are conflicts among the Federal and State agencies having jurisdiction over the Fort Ord properties.

As you know, the reuse of Fort Ord includes conservation of substantial land for the protection of endangered species. In fact, over 60 percent of the former installation is set aside for the perpetuity of this purpose.

A significant portion of the land lies adjacent to the city of Seaside's boundaries, including areas designated for future housing. One of the requirements for underlining the conservation documentations for the Fort Ord installation—multiple species, habitat, and natural management plan—requires the conservation agencies to utilize controlled, prescribed burns as a method of managing this unique habitat.

The very reasonable provision is required by the U.S. Fish and Wildlife Service for the management of maritime chaparral further prescribes fire as required as the safe means of removing vegetation that impedes the clearance of dangerous unexploded ordnance projectiles left on this land.

However, other agencies following Federal laws protecting air quality object to the U.S. Army Bureau of Land Management's method of prescribing fire burns.

On a personal note, I want to emphasize that I do not disagree with the need for burning. As a young man growing up in this area adjacent to Fort Ord, I can still vividly remember an incident where two young men were injured when they trespassed onto this land adjacent to the city of Seaside.

This land lies within a quarter mile of most of the residents of the city of Seaside. These two classmates of mine climbed over a fence, the barricade between the residents and the military unexplored land, and ventured in there. I was 11 years old. The two individuals were 12 and 14. One is dead, and the other one lost his legs as a result of the unexploded ordnance that exists on this property.

The presence of unexploded ordnance so close to the residents' area presents a continuous, unattractive nuisance to the young people of our communities. This should be addressed by the Federal Government in a most expedient manner.

One of the most significant challenges we face for economic recovery here on the peninsula is the lack of sufficient water and waste water capacity, to support new development. For most communities on the peninsula, new development does not occur without the removal of some of the land use simply due to the fact that there are no new water resources. Not so in the former Fort Ord, there is a substantial, 6,600 acre-feet of water potentially available for development. Unfortunately, in closing the base, the Army has decided to retain a large amount of the water, 1,729 acre-feet for its future use.

As a result, all of the jurisdictions who will receive land from former Fort Ord will receive far less water than needed to fully achieve effective build-out of the land.

In the city of Seaside's case, this means that the ability to build new housing, to create new jobs will be limited. The initial reservation of water by the Army was originally designed to insure that adequate water was available for remediation of hazardous materials, including: asbestos and lead paint on Fort Ord.

With the assumption that this is a responsibility of FORA, the Army should have a level of confidence to evaluate their need for water and relocation of the portion of the retained water resources to local jurisdictions.

Finally, I want to mention the tremendous, long-term risks which remain with the ordnance and explosives on former Fort Ord to the city of Seaside and the jurisdictions. Although the Federal Government is responsible for cleaning-up the unexploded ordnance because of regulations prepared by Federal and State environmental agencies, the local agencies will still be required to implement a variety of programs to insure that future users of the properties are aware of the risks of remaining exploded ordnances and explosives.

There is no Federal funding of any of these programs, leaving the obligation for the cost of implementation to these local jurisdictions. These programs include educational efforts, long-term monitoring and notification to subsequent property owners, and specific special steps to be taken during the construction activities.

In some cases records of conveyances providing notification of these risks will be required on the property. The implementation of these programs represents unfunded mandates.

In closing, Mr. Chairman, I would like to express my appreciation to the committee for its interest in our community and the tremendous challenges we face as a city and in the county achieving the reuse of Fort Ord. I hope that the result of this and other hearings you will conduct, we can find ways to remove the obstacles I've discussed.

Thank you very much.

[The prepared statement of Mr. Smith follows:]

Congressional Testimony before the House of Representatives

Government Reform Committee Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations

August 28, 2001

Jerry Smith

Mayor, City of Seaside

Monterey County, California

Mr. Chairman and Distinguished Members of the Committee, it is my pleasure to have the opportunity to address you today to discuss the City of Seaside's perspective on this important topic. I am Jerry Smith, the Mayor of the City of Seaside since 1998. I have been a lifelong resident of the Monterey Peninsula, and am very familiar with the long history of Fort Ord and its effects on our community, both before and after its closure. I would also note that I was once stationed at the former Fort Ord, so my perspective includes the fond memories of my experiences while in service to the country.

The City of Seaside would certainly agree with many of the points you will or have already heard today from the other speakers. My purpose in speaking with you is to emphasize a few key issues which have had a particularly dramatic impact on the City of Seaside's efforts to recover from the closure of Fort Ord. In summary, those issues are:

- Delays in gaining access to the buildings and properties slated for transfer to the City of Seaside.
- Conflicts between federal and state agencies concerning methods and standards for removal of ordnance and explosives.
- The over-reservation of water and wastewater resources by the U.S. Army for federal purposes.
- The costs imposed upon our community for long-term risk management associated with the transferred properties.

Speaking first to the issue of gaining access to the buildings and properties on Fort Ord, let me say that the presence of so many empty buildings, at a time when the local housing problem has reached crisis proportions, is a source of great consternation in our local community. For nearly 8 years, the vacant, boarded-up structures within the former Hayes Housing area, clearly visible from Highway 1, have offered a tormenting illustration of the problem created by the Army's denying early access to this property. As the City of Seaside has sought to obtain the property from the federal government, the buildings, streets and infrastructure have deteriorated before everyone's eyes. Had we been able to gain access to these buildings promptly after the closure of the base, we may

have perhaps been able to create affordable housing which would now be available to our community. The bureaucratic process which we have endured to buy just one hundred acres of this land has now extended to over five years, and we still have not yet received the signatures on the document our City Council approved last April!

The impact of these delays not only creates a condition of worsening deterioration, but also makes the overall development process that much more uncertain. In an atmosphere of uncertainty, we have found that the development community is much more cautious, and much less likely to make commitments to the City, further inhibiting reuse of the base.

Another problem are the conflicts which exist amongst the various federal and state agencies having jurisdiction over the Fort Ord properties. As you may know, the reuse of the former Fort Ord includes the conservation of a substantial area for the protection of endangered species. In fact, over 60% of the former installation is set aside in perpetuity for this purpose. A significant portion of these lands lie adjacent to the City of Seaside's boundaries, including areas designated for future housing. One of the requirements of the underlying conservation document, the Fort Ord Installation-wide Multi-Species Habitat and Management Plan, requires the conservation agencies to utilize controlled prescribed burns as a method of managing the unique habitat. This very reasonable provision is required by the U.S. Fish and Wildlife Service for the management of maritime chaparral. Further, prescribed fire is required as the safe means of removing vegetation that impedes the clearance of dangerous unexploded ordnance projectiles left on inland ranges. However, other agencies following federal laws protecting air quality are objecting to the U.S. Army and Bureau of Land Management's methods of using prescribed fire as defined in the conservation documents. The use of fire for this purpose is also being questioned by air quality agencies and others, concerned that the use of fire violates federal law. The end result is that local jurisdictions anticipating the future use of property either for development purposes or passive recreational purposes in habitat areas are barred from access and transfer of these properties for local reuse.

On a personal note, I want to emphasize that I do not disagree with the need for this burning. As a young person who grew up in the areas adjacent to Fort Ord, I can still vividly recall the incident where two young people were injured when they trespassed onto the base and found unexploded ammunition. One of those young people, a friend of mine, was fatally injured in that incident. The presence of unexploded ordnance located so close to residential areas presents a continuing attractive nuisance to the young people of our communities which should be addressed by the federal government in the most expedient manner possible.

One of the most significant challenges we face to economic recovery here on the Peninsula is the lack of sufficient water and wastewater capacity for new development. For most communities on the Peninsula, new development does not occur without the removal of some other land use, simply due to the fact that there are no new water sources available. Not so on the former Fort Ord, however: here, there is a substantial 6,600 acre-feet of water potentially available for development. Unfortunately, in closing the base, the Army has decided to retain a very large amount of the water -- 1729 acre-feet – for its future use. As a result, all of the jurisdictions who will receive land at Fort Ord will receive far less water than is needed to achieve a fully effective build-out of the lands. In the City of Seaside's case, this means that the ability to build new housing, and to create new jobs, will be very limited. And these limits on growth will occur despite all of our best efforts to develop the properties with state-of-the-art water conservation measures.

The initial reservation of water by the Army was originally designed to ensure that adequate water was available for remediation of hazardous substances (asbestos and lead-based paint) on Fort Ord. With the assumption of this responsibility by FORA, the Army should have the level of confidence to re-evaluate their water needs, and reallocate a portion of their retained water resources to the local jurisidictions.

Finally, I want to mention the tremendous long-term risk which the remaining ordnance and explosives on the former Fort Ord present to Seaside and the other jurisdictions. Although the federal government is responsible for cleaning up the UXO, because of regulations prepared by federal and state environmental agencies, the local jurisdictions will still be required to implement a variety of programs to ensure that future users of the properties are aware of the risks of remaining unexploded ordnance and explosives. There is no federal funding for any of these programs, leaving the obligation and the costs for implementation on the local jurisdictions. These programs include educational efforts, long-term monitoring and notification to subsequent property owners, and special steps to be taken during any construction activity. In some cases, recorded covenants providing notification of these risks will be required on the properties. The implementation of these programs represent an unfunded mandate for the local jurisdictions. Further, the multi-layered, non-conforming covenants often have hidden property value implications and use barriers that will inhibit the effective reuse of the parcels. Given that there may be unexploded ordnance at depths below the 4 foot "clean-line," we believe there should be federal support to handle the costs of long-term risk management of local education, periodic monitoring, and related controls. If the contaminant is a federal remnant, then it should be a federal responsibility to handle.

In closing, I do not want to leave the impression that our relationship with the Army has been so difficult that we have been unable to achieve any success in moving forward with development on Fort Ord. In fact, the City of Seaside and

the Federal government successfully negotiated the purchase of the Bayonet and Black Horse golf courses 4 years ago, and have recently concluded the negotiations for the sale of the Hayes Housing property. The negotiating process, at times, was arduous, but we have been successful, in large part due to the efforts of the local Army staff. I think this demonstrates that the Army, despite disagreements on certain issues, is willing to work with the local communities, and that it is possible to "fight through" the obstacles and make progress.

I would like to express my appreciation to the Committee for its interest in our community and the tremendous challenge we face as cities and the county in achieving the reuse of Fort Ord. I hope that, as a result of this and other hearings you will conduct, we can find ways to remove the obstacles I've discussed. These are critically important issues to the City of Seaside, and I thank you again for conducting this hearing.

Mr. HORN. Well, thank you, Mayor Smith.

We now have Michael Houlemard, the executive officer of Fort Ord Reuse Authority.

Mr. HOULEMARD. Chairman Horn, Congressman Farr, thank you for this opportunity to provide testimony today regarding our experiences at the Fort Ord Reuse Authority with respect to how local, State and Federal agencies have worked together to implement reuse, and I say work together because sometimes we do not work together, but that was the idea of this session today.

As you may know, the former Fort Ord was designated a model base reuse project some time ago, and as Congressman Farr noted earlier today, it has become a unique example of what can both go right and what can go wrong in military base reuse.

In our written testimony, we talked about the many layers and the deep morass of bureaucracy and the amalgam of regulatory controls that have resulted in inefficiency, extra cost to our taxpayers and significant redevelopment delays for the local communities.

Diverse working class communities still struggling with the heavy demands to recover from the Federal Government's closure and inadequate funding and other support, we must emphasize today as the other speakers have cleaning up these former military bases or now contaminated ghost towns are a critical part of being able to recover from the substantial economic devastation the communities have suffered.

While Fort Ord is just one of the many examples of this scenario, the scale of the circumstances here at the former Fort Ord are substantially larger than most. At the former Fort Ord, as you've heard, we have thousands of acres of ordnance and explosives that have yet to be discovered. The U.S. Army, as the responsible entity for remediating this contaminant, which continues to be a significant safety issue for our local community, has struggled mightily to work through the morass of bureaucracy that allows them to be able to finish this work.

In our view, the removal of ordnance and explosives surfaces significant safety issues for us all. In particular, the first concern includes how to remove the OE itself in a safe way because of what Mayor Smith has talked about in terms of its danger to the adjacent community, but also how to remove the vegetation and to do that in a safe way for the workers that are involved on the former Fort Ord, that very dangerous activity of identifying and removing these projectiles.

But also the safety questions of what happens when you use certain forms of vegetative clearance for the surrounding community. As the father of a child that has asthma, we have concerns about what happens with smoke. While we're not objecting to the smoke, we want to make sure that when the burning is done it's done in a safe way.

This isn't a question about our wiping the slate clean and saying, "Just do anything willy-nilly," but we must use things that safely protect our workers, safely remove ordnance and explosives, and protect the health of the residents that are nearby.

The consequences of failing to do this call into play an array of Federal, State, and local efforts seeking to interpret a myriad of

Federal laws that purport to resolve the issue, but, in fact, windup inhibiting the resolution.

The ambiguities and conflicts that these laws have surfaced put the reuse of portions of former Fort Ord into a State of gridlock, while the existing ordnance and explosives still remain on the land and is a danger to the youth. The situation cries for a solution. I think Mayor Smith has proposed one. I think we could propose many to you, and we'd like to work with the committee in identifying ways we think can help to resolve this outside of the courts, as Congressman Farr has reminded us repeatedly.

Also with respect to OE removal, Fort Ord is in a unique circumstance in that the Department of Justice has agreed to perform or to process the removal of OE as though it were a CERCLA contaminant, which has added nearly 5 years to the transfer dates of many of the properties on the former Fort Ord.

While we were not consulted during the decisionmaking process the Department of Justice entered into, the impact on us and one of our communities has been substantial and just short of devastating. In fact, to a certain degree, the impact that a closure of this type has on any community with OE, ordnance and explosives, removal as a part of it is very similar to what we have found across the Nation that the country does when there are natural disasters.

The economic devastation, the loss of jobs, the physical ghost towns that are left to communities are economic natural disasters that should be addressed in a similar way as the way we bring in all of our resources to help communities recover from natural disasters, if there is another round of closure.

Conservation of habitat for protection of endangered species is a critical and important piece of what we have at the former Fort Ord. All of the communities recognize the importance of having a conservation area and to protect the natural beauty that we have in this area as part of an amenity of the reuse of the former Fort Ord.

As a consequence, the communities have all agreed to set aside more than 60 percent of the 28,000 acres of the base for habitat and to provide substantial funds from the development of the property for managing and maintaining these significant parcels.

However, despite every effort we have made over nearly 5 years of efforts, we have not been able to get an agreement or an approval from the U.S. Fish and Wildlife Service of our habitat conservation plan, of our agreement to set this land aside for the conservation of endangered species.

The end result is still a significant cost to us, delays to our reuse projects, difficulties with the U.S. Army in proceeding with certain cleanup activities, and the prevention of key transfers of property.

Another item of great importance to us are the conflicts between State and Federal standards for lead/asbestos cleanup. You have heard about the 1,600 contaminated buildings, and as Mayor Perrine noted, the cost of removing these 1,600 buildings now exceeds $70 million if we are to comply with our State and local requirements.

However, because of the Federal law, we are left with asbestos and lead by the U.S. Army with no visible method of being able to finance this necessary removal.

In addition to the 1,600 buildings that are at the former Fort Ord, what we understand from the State of California, there are about 100,000 of similar kinds of buildings in the State of California, and nearly half a million in this country; many occupied by soldiers today.

All of this should be addressed as a national priority for cleanup as well as the appropriate funding to find an appropriate mechanism and proven methodologies for disposing of these contaminants.

Today you may not have direct yes or no responses from those that will follow us. Typically regulators have regulatory answers to questions. That is their job. In fact, one of the regulating agency executives revealed to me last week about his frustration at not being able to provide front-end, cooperative, advance kind of assistance because the structure of the regulation says that they respond to actions rather than be an advocate at the front-end.

So that is sort of a frame of mind that we deal with with regulators. We accept that because their police function is one that we recognize, but would wish that you could think of a regulatory resolution for.

While there are literally dozens of examples of these kinds of interagency conflicts, I am not going to use the limited time you have, or we have today, to give the anecdotal issues, but I would point to our written testimony which details five or six different areas where we have issues.

But rather I would like to propose some solutions. I believe there is an inherent problem in the structure of the way this country handles military base reuse that is part of many of these individual and anecdotal problems.

The core problem is that we face a multi-faceted, multi-regulatory, multi-agency implementation of a varied array of Federal laws about reuse in both disparate and directly and distinctly different interpretative policy exchanges. That is the standard we operate under every day.

Rather, we would propose that there needs to be more of a single use, single focus, directive approach. Instead of the multiple interpretations of intent of reuse, we could maybe be better served by addressing reuse in the same way it addresses major disasters as I mentioned earlier.

In fact, when a military installation, I believe, closes, I believe it has the impact of a natural disaster as I mentioned and, therefore, a national emergency. We have FEMA when we have a natural disaster. Why can't we have an agency that is professionally structured to address these kinds of issues?

We have other professional Federal agencies tasked with certain responsibilities in the case of base reuse. We have multiple agencies within a larger agency that is not tasked with reuse, as Congressman Farr noted, but tasked with defending our country. While building upon the successful partnerships we developed with other Federal agencies and even some of the regulators, I think this might be an overall or global solution that might bring about a successful transition.

I thank you, Mr. Chairman and Congressman Farr, and I want to congratulate the great professionalism of your staff in conducting this hearing.

[The prepared statement of Mr. Houlemard follows:]

Congressional Testimony before the House of Representatives
Committee on Government Reform
Subcommittee on Government Efficiency, Financial Management and Intergovernmenta Relations
August 28, 2001

Michael A. Houlemard, Jr.
Executive Officer, Fort Ord Reuse Authority
Monterey County, California

Mr. Chairman and Distinguished Members of the Committee, I am Michael Houlemard, Executive Officer of the Fort Ord Reuse Authority ("FORA"). It is a privilege to comment on the effect of military base closures on state and local communities, in particular, on the economy and recovery efforts of the Monterey Peninsula, and to note our experiences with federal efforts with removing hazards at the former Fort Ord.

For ten years I have had the unique opportunity to be actively involved in the former Fort Ord reuse process and also to be often involved in base reuse activities on a national scale. Initially, I represented one of the area educational entities that was scheduled to receive a portion of property tc be conveyed locally by the U.S. Army ("Army"). In early 1997 I was named Executive Officer of the Fort Ord Reuse Authority, a local agency established under special State of California legislation to manage and receive the former Fort Ord properties and to prepare, adopt, finance, and implement a plan (the Fort Ord Base Reuse Plan) for the future use and development of these properties.

The Fort Ord Military Reservation was listed for downsizing/closure in 1991 and a substantial local community effort followed, outlining choices for reuse of the base. It was clear the impending closure would result in wide ranging negative economic impacts, including significant unemployment, failure and closure of many businesses, a reduction in real estate values, and other economic distress factors. Since then the local planning efforts have resulted in a comprehensive visionary program consistent with the economic and social ethics of the Monterey Bay Region. If allowed and supported, this community can replace the 35,000 residents and hundreds of millions of dollars in local economic contribution the former Fort Ord once supported in this area.

In 1992 several locally elected officials attended a base closure conference in Dallas, Texas, where military leadership depicted a program of speedy and collaborative cleanup, along with transfe and reuse of bases scheduled for closure. Projections and commitments emphasized a disposal process of approximately 36 months, after which local communities could expect to immediately activate reuse programs. Upon return from the conference, local officials fielded probing questions on a daily basis from constituents about the process and how the local communities could sustain even a 36-month delay. Almost immediately, community businesses and local city and county finances began to suffer. As time went on, the effects became even more severely pronounced as a population equal to one of our local cities left the area, businesses closed, and the cities/county were increasingly unable to meet service requirements and citizen needs and expectations.

In 1994 the State of California created FORA to plan, finance, oversee, and implement the civilian reuse of the former Fort Ord. The Army downsized this installation by 97% under the 1991 Base Closure and Realignment Actions, which was the largest closure of that round. Ten years later, substantial amounts of the property have yet to transfer because of an array of bureaucratic and environmental cleanup reasons, as local communities still await replacing almost $1 billion contribution that Fort Ord made to the local economy and region while in active use. We have also found that the costs and investment required to redevelop the this property substantially outweigh the perceived underlying value of the property, while the stigma associated with the military use adds difficulty in securing acceptance of reuse programs.

Probably, most would argue that the initial concepts and plans for downsizing the nation's defense facilities and systems were well intentioned. What was perhaps not foreseen in forecasting, understanding, and preparing for base closures was the myriad of processes, regulations and environmental problems that would be required or imposed at federal, state and local levels and the significant and severe difficulties that would be experienced by local communities in their efforts to recover from the resultant economic and social impacts. While some might say the reuse of this former base is slightly more sophisticated or complex than others, I believe that the "bureaucracy" of 36 agencies having oversight or call upon our reuse of the former Fort Ord is similar to the myriad of oversight that other bases facing closure/reuse have experienced. In addition, we have found that many federal agencies refuse concurrent reviews or individual processing because of the fear of setting a precedent for future processing at other installations. We believe that concurrent processing should be the rule rather than the exception. The serial reviews often required by federal/state regulations result in an inordinate length of time before effective environmental review, hazard

cleanup, and reuse can be implemented. This first lesson is not really prophetic, but important.
Lesson #1: Process and oversight can overwhelm results if not taken seriously and addressed in a concurrent rather than serial fashion.

FORA and other local communities are about to receive significant conveyances promised for economic reuse, but the story does not end here. Despite its designation as a "national model" in base closures, the reuse program for the former Fort Ord has been an experience in staggeringly slow bureaucracy, never ending processing, regulatory delays, and several "community-based" lawsuits against the Army, causing substantial loss in revenue for the local communities and the North Monterey County area. As an example of duplication, FORA, the Army, the U.S. Fish and Wildlife Service ("USFWS"), and several local communities all performed a series of environmental documents, each studying and noticing the public on the same issue within the same time period. This resulted in significant misunderstanding, confusion, and a waste of taxpayer dollars. We learned an important lesson, namely that some review of the individual agency requirements might offer an opportunity to concurrently or jointly process documents with the end result being cost savings, time reduction, and less confusion for the public. As a consequence of complaints that FORA and others made about this type of issue, joint Environmental Impact Reports and Environmental Impact Statements can now be performed and are encouraged, whereas in the past they were discouraged.
Lesson #2: Avoid duplication whenever and wherever possible.

During the first four years after the closure, some properties were transferred to special users such as the following: services for the homeless; property for the newly established Monterey Bay campus of California State University; transfer of the former Fritzsche Army Airfield to the City of Marina (now the Marina Municipal Airport); transfer through purchase of Bayonet and Black Horse Golf Courses to the City of Seaside; and property conveyed to the University of California for a research park. However, all of those users, as well as other uses contemplated and planned for in the approved and adopted Fort Ord Base Reuse Plan, are reliant upon the final transfer of utilities and remaining parcels to create the economic engines that will ultimately pay for the recovery costs — costs which are currently estimated in excess of $500 million (see pie chart at end of written testimony). An Army court settlement now requires 3 years of delay for these types of transfers.
Lesson #3: Be sure that the federally controlled conveyance process does not disable your efforts to execute an economically feasible plan. When transfers pre-date a comprehensive land use and business plan, the ability to generate viable reuse is severely diminished.

When Fort Ord officially closed in 1994, there were more than 4,000 previously occupied residential units providing adequate or better housing for the military families stationed at the former base. However, it was determined that all, with the exception of 350, of these units could not be leased by FORA for reoccupancy until we completed the deliberations on our Economic Development Conveyance ("EDC"). Reasoning was that if we were able to reoccupy, we would not be enthusiastic about making a deal on the purchase of the property. The result was that the extended negotiations for the no-cost EDC caused irreparable damage to many of the units, due to severe vandalism, weather, and neglect, resulting in significant losses. If one does assume that former military housing is an asset, and that is debatable, then this is a real waste for taxpayers and a national disgrace when housing shortages are known to be critical in an area such as the Monterey Peninsula. **Lesson #4**: Get in and reoccupy early where possible.

When the last rounds of base closure occurred, the Department of Defense ("DoD") estimated that the installations scheduled to close might be worth several billion dollars. We have learned a major lesson from that asset-based thinking of 1988. After numerous protracted and tedious negotiations under the so-called EDC option, many, many communities hotly debated whether these bases, in their current condition, were assets or albatrosses. In our case, the cost estimate to get the property into usable condition was between $400 - $600 million, because of the following: 1) the contaminants the Army was not required to remediate, such as asbestos and lead paint, that had to be remediated; 2) substandard and inadequate structures that required removal; and 3) an aging, deteriorating and substandard infrastructure requiring repair and/or upgrading before any redevelopment could occur. Our case is not unique. **Lesson #5**: Faulty DoD asset-based thinking impedes, or has the potential to impede, economic reuse.

Fortunately, the U.S. Congress agreed to, and a bipartisan group sponsored, legislation that changed the terms so that communities can accept this property at no cost, provided they reinvest in reuse-related activities and infrastructure needs. Despite this great benefit we still face the following obstacles/challenges:

1. As is the case with most, if not all, former installations, the road, water, sewer, power, communications, and storm drains do not meet municipal code, since they are often seriously degraded and require substantial and significant investment to serve minimal needs. The old, abandoned buildings contain asbestos and lead-base paint, requiring tens of millions of dollars

to abate and remove. It is important to assure that all future military base developments are consistent with uniform state and local building codes.

2. Despite the pending transfers that allow proceeds to be returned to pay for capital and planning reuse activities, there remains the significant burden of building removal that is left with local communities as an unfunded mandate. While it has been argued that the underlying value of the land can be used to amortize or pay for the removal of these lead base paint and asbestos laden structures, in many cases the underlying value is less than the costs for building removal. Here at the former Fort Ord we have a concentration of more than 1600 World War II wooden buildings, out of the nearly 100,000 in the State of California. As an aside, we are informed that there are at least a half a million similar WWII wooden buildings across the country with similar contaminant problems, which suggests that Fort Ord issues represent the tip of the iceberg, especially given that many soldiers are still living in these structures.

   These 1,600 dilapidated, obsolete and abandoned buildings at the former Fort Ord are expected to require over $75 million to remove. The reuse of the former Fort Ord cannot occur without first removing these buildings, so we can have access to the underlying land. FORA has accepted this challenge, but the funding to remove these buildings, as we have noted above, is locked up in land sales revenue. The buildings continue to deteriorate and release hazardous materials as we wait for funding, environmental review, and clarification on conflicting state and local regulations.

   Also, the nation is facing a local, regional, state and countrywide problem with the limitations of landfill space. The local communities have invested over half a million dollars of non-government funds into identifying best practices, new technologies and competent contractors to address our building removal issues and still face a plethora of federal and state regulatory differences about the disposal of these remnant contaminants. As well, our cooperative efforts with the Army to find new technologies to aid us in a timely fashion are being thwarted by the quagmire of conflicting state, and federal regulations.

3. We are also expected to provide for obligations that the federal government engaged, including conservation and maintenance of habitat for the protection of endangered species, which require millions of dollars in funds. The Army executed the Fort Ord Installation-Wide Multi-Species Habitat Management Plan ("HMP") in 1996, requiring substantially more work to

eventual land recipients. In essence, this prior obligation has created an unfunded mandate to local reuse until actual land sales occur.

4. In most cases, the federal government is leaving behind installations that carry substantial environmental obligations and risks. In the case of the former Fort Ord, despite Army remediation to DoD Explosives Safety Board standards, other federal and state agencies believe the property may still contain ordnance, explosives or other contaminants. This disparity of opinions between/among agencies poses potential serious constraints to economic reuse. Clearly, this conflict will frustrate or discourage investor interest where perceptions and reality of contaminant danger and liability exist. At the current time the possible existence of Ordnance and Explosives ("OE") is delaying and/or restricting the transfer of 95% of the property under the EDC, due to the federal government's agreement to perform additional and duplicative basewide processing with no additional benefit to the actual cleanup of the property. Some parcels may never be able to be used for their designated purpose, and the continuing uncertainty threatens local community reuse. It is critically important that all known technologies be applied at the front end of the disposal processes, so that reuse planning is adequately informed of environmental hazard barriers and constraints. As the Subcommittee must be aware, federal funding for OE cleanup has been reduced, thus putting the reuse process at further serious risk.

5. The no-cost EDC allows a significant opportunity to coordinate federal, state, and local disposition, reuse and environmental planning and early leasing to prevent vandalism. Now that the extended period involved in the analysis and negotiation of property sales transactions has been removed, the result should be more focused earlier transfers; however, that is not the case. It is a crying shame that we have more than 2,000 units of housing remaining vacant at the former Fort Ord eight years after the announced closure. The need to access and return to viability these units on all closed bases is absolutely essential to economic redevelopment.

6. The reuse of the former Fort Ord includes the conservation of a substantial area for the protection of endangered species. In fact, over 60% of the former installation is set-aside in perpetuity for this purpose. One of the requirements of the underlying conservation document, the Fort Ord Installation-wide Multi-Species Habitat and Management Plan, requires conservation agencies to utilize controlled prescribed burns as a method of managing the unique habitats. The USFWS requires this very reasonable and necessary provision for the management of maritime chaparral. However, other agencies following federal laws protecting

air quality are objecting to the Army and the Bureau of Land Management's methods of using prescribed burns as defined in the conservation documents. Further, prescribed burns are required as the safe means of removing vegetation that impedes the clearance of dangerous unexploded ordnance projectiles left on inland ranges. The use of fire for this purpose is also being questioned by air quality agencies and others concerned that the use of fire violates federal law. The end result is that local jurisdictions anticipating the future use of property, either for development purposes or passive recreational purposes in habitat areas, are barred from access and the transfer of these properties for local reuse has reached a stalemate.

7. OE issues for many bases are an amalgam of long-term risk management problems, which constitute another unfunded mandate to locals. The multi-layered, non-conforming covenants often have hidden property value implications and use barriers that inhibit locals from redeveloping and effectively reusing parcels. Given that there may be UXO/OE at depths below the 4-foot "clean-line," we believe there should be federal support to handle the costs of long-term risk management, including local education, periodic monitoring, and related controls. If the contaminant is a federal remnant, then it should be a federal responsibility to handle. The associated long-term costs will certainly have a deleterious effect on regaining strength in the local economy.

8. In the processing of all remedial activity at the former Fort Ord, the Army attempted to follow appropriate provisions for community input. This effort included the establishment of a Restoration Advisory Board ("RAB"). Despite numerous attempts by all of the regulatory agencies (such as the Environmental Protection Agency), special consultants, local elected officials and the Army, the RAB at the former Fort Ord never effectively offered broad community input to the remedial process. After years of confusion and other unproductive processes, the RAB was finally disbanded.

   FORA had a seat on the RAB, which reflected one voice among the wide range of representatives. However, all of the remedial action was slated according to the Base Reuse Plan adopted by FORA and there was repeated disconnect between the Base Reuse Plan, the work of the Army, and some individuals on the RAB. The consequences were reflected in the eventual disbanding of the RAB. It seems to us that community input for remedial activities

should be much more closely connected with the work of the reuse authority and a more significant voice be given to the reuse authority in the remedial process.

9. Nearly five years ago the FORA prepared a Habitat Conservation Plan ("HCP") and recommended that it be attached to the Multi-Species Habitat Management Plan ("HMP") already mentioned herein, so that both documents could be reviewed by USFWS for approval. After first agreeing to this approach, the Army refused FORA's request to attach the HCP to the HMP. The two documents together would be a landmark effort to conserve area for endangered species while permitting development on non-habitat essential land. Despite the outlay of well over $200,000 in local money and several hundred thousand dollars in federal money to produce five versions of the HCP, the USFWS, having gone through four project managers, is still unable to reach approval of this important document. In fact, with every passing year of this ten-year effort, the circumstances and conditions change or are altered which, in turn, increases the difficulty in securing this approval. Although all agencies involved in this embarrassing and stalemated effort bear some culpability, USFWS clearly heads the list.

But what are the major lessons learned and what changes can we put in place, which will not only assist and facilitate our reuse efforts but also provide a path for others, so that the burden of costs do not fall unfairly upon the very communities we seek to assist in recovery? The list of major lessons reads like a Murphy's Laws of Base Reuse:

- Everything has taken far longer than anticipated and promised.

- Costs are much higher than originally anticipated and estimated, and there is still some question how to predict what the next "problems" may be as we move forward with conveyances and reuse of properties.

- We have learned about how the process of reassigning surplus land can destroy a reasoned plan, about environmental problems resulting from uses associated with military training, about the many "hidden" costs and duplication of efforts associated with reuse planning and implementation, as well as the bureaucratic and political processes that tend to confound logic throughout the recovery process.

- We also know if you don't get in early, you may lose the value of the asset and that these so called assets may not, in fact, be assets but serious liabilities in their current condition.

We continue to work to facilitate a transition for healthy and sustainable civilian reuse of the former military land — and we remain optimistic that the removal of remnant OE in designated area the absence of sufficient and focused funding for local communities, and the decision-making and processing delays will not undermine the conscientious and thoughtful local reuse recovery plan. A major lesson to remember is that we may be our own worst enemy. Local communities tend to be very risk averse and move very slowly on certain project efforts. There is often fear to enter agreements where they may not be perfectly set and a reluctance to move early, decisively, and swiftly. The enormity of the reuse problems on the former Fort Ord has presented seemingly overwhelming challenges. The incumbent delays have resulted in significant capital and asset losses, assuming that one believes some military base facilities are assets. Early partnering and sustained engagement with DoD is absolutely essential to successful base reuse.

The experience of four rounds of base closures has surfaced extraordinary and complex reu issues that cannot be overcome without significant local and national resources. Despite several hundred million dollars of federal taxpayer funds already disbursed on Fort Ord reuse alone, implementing reuse remains a major undertaking for the local jurisdictions. This shift of responsibil for these closed installations to the local communities provides operational savings to the DoD. However, locals have to meet the difficult obligation to finance the reuse that will bring about the timesavings in implementation, as revenues are applied to remove early reuse impediments.

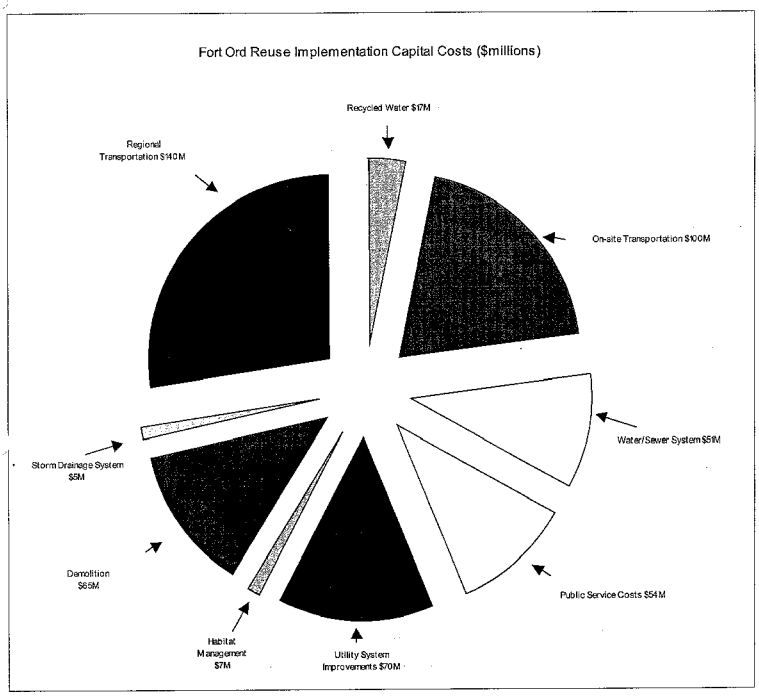
It is important to note that there are also many things within the existing base closure proces that have worked very well. Certainly, the partnership relationship fostered by the DoD between local military installations and local reuse authorities has produced some amazing results despite tl odds noted earlier in this testimony. It is also clear that the work of the Office of Economic Adjustment in providing early technical assistance and several years of operational and planning financial assistance have helped to both inform and fund critical local reuse planning and development demands. We have also found that the concurrent processing of environmental remediation, fostered at the former Fort Ord through the Strategic Management Analysis Resource and Technology ("SMART") Team has worked exceptionally well in focusing on important hazard removal issues and seeking common approaches to resolution. In fact, we would recommend that

the SMART Team approach become the standard for early remediation planning, rather than the exception, and the model as it has served at the former Fort Ord. Finally, we see the ongoing work c the Department of Commerce Economic Development Administration, in concert with other federal agencies, to be an excellent source of early physical planning and capital needs for civilian conversion of former military installations.

For today and the future, we must first acknowledge the multitude of problems associated with reuse of military bases for civilian economic use and recovery. We must honestly and collaboratively address, plan for, and correct the obvious and known problems. We must be thoughtful and innovative in looking at and resolving the many difficult issues and the hidden problems that exist or arise during a conversion process. And we must understand, plan for, and provide the financial commitments required for successful reuse and recovery. We also must recognize the important lessons of the successes in partnership between federal agencies and local reuse authorities and continue them for future actions. We need strong financial commitments to return military installations to environmental safety standards that will permit clearing the property of dangerous contaminants, asbestos, lead, and OE. Further, we suggest that the disparate application (of the base closure process for OE removal as well as other key environmental issues) between military branches must be examined and revised to reflect a more uniform and fair implementation of federal governmental goals. Potentially, some consideration must be given to a centralized effort, either within DoD or elsewhere, which administers the disposal/remedial/reuse process for the federal government, particularly if future rounds of base closure become a reality.

It has been said that we are all in this [base closure process] together – military, agencies, LRA's, financial institutions, community groups, developers, and our elected officials. If base closure: and reuses are to proceed successfully in our communities, we must also all be committed to applying the resources needed to reach solutions and achieve the results intended ---- together. Successful partnerships between and among all parties result in successful reuse. This fact truly is the most significant lesson we must keep foremost in our minds. We must approach reuse with a genuine will, the resources or the opportunity to get them, and an enduring patience OR let someone else do it!

Thank you for the opportunity to comment on behalf of the Fort Ord Reuse Authority.


Fort Ord Reuse Implementation Capital Costs ($millions)
Recycled Water $17M
Regional Transportation $140M
On-site Transportation $100M
Water/Sewer System $59M
Storm Drainage System $5M
Demolition $65M
Public Service Costs $54M
Habitat Management $7M
Utility System Improvements $70M

Mr. HORN. Well, we thank you, and you have made some very useful recommendations, and we will put them to use hopefully.

And we now go to Mr. Simon. Jeffrey Simon is the past president of the National Association of Installation Developers.

You might want to explain the purpose of that group.

Mr. SIMON. We will do that.

Mr. HORN. Thank you.

Mr. SIMON. Good morning, Mr. Chairman and Congressman Farr. My name is Jeffrey Simon. I have come from Boston, and as the chairman said, I am the immediate past president of the National Association of Installation Developers [NAID].

James Meadows, who is my successor as president, could not be here today and asked me to represent our organization. Jim is the CEO of Presidio Trust up in San Francisco.

NAID is the only national organization made up of more than 350 members who are communities, authorities, private real estate development companies, and other professionals who are exclusively involved in the reuse of closed military properties and facilities, and like here in Monterey, with active installations.

NAID is an organization that just last year celebrated its 25th anniversary.

While I know the primary intent here today is Fort Ord, let me try to provide the national perspective of our members. I, personally, am extremely aware of how critical the topics from this hearing are today, having been involved in the redevelopment of closed military properties since the mid-1970's in Massachusetts, then as head of a State agency created to deal exclusively with military redevelopment.

I contrast that with my more recent experience as director of the redevelopment of Fort Devens located about 40 miles west of Boston, which was a 1991 BRAC closure.

In recent years, I have been working with my own private development company, Simon Properties on a number of projects involving closed and active installations and thus have seen both the public side and the challenges faced by a private developer trying to redevelop closed military bases.

Let me give you some idea of what you find when you try to redevelop these properties. You find buildings that don't meet local codes. You find road patterns meant to discover efficiency through transportation. You find utility systems that are outdated, meet no codes, and typically need tremendous investment to be useful.

You find land uses that defy any rational site planning contest. You would have tremendous quantities of lead paint and asbestos, none of which is covered by the environmental responsibilities of the services, and as you have heard today, that great underwriting challenge, unexploded ordnance.

And, last, you find environmental issues which sometimes have been cleaned-up and sometimes subjected to what are referred to as, "institutional controls," which means build a fence around it or put a deed restriction on it, and we will pretend that we do not have to deal with it.

But in spite of all that, there are tremendous opportunities. You need look no further than right here at Fort Ord at CSU, Monterey Bay, and the housing activity that has taken place. But you can go

to Arizona and look at Williams, go to Denver and look at Lowry, Chicago and look at Fort Sheridan, up in Maine at Loring Air Force Base, or in a small project that I am working on in Annapolis across from the Naval Academy, to see public officials, such as those here today, working with private developers to try to work their way through this myriad of complexities that Michael has described to breathe new life in these communities where soldiers, sailors, and airmen once lived.

I have three points to make today. First, the central focus of redevelopment efforts should remain the community based redevelopment plan. This reuse plan, usually produced through the hard work of many volunteer citizens and supported by a broad range of consultants, becomes the guiding document to efforts at the Federal level, such as the preferred option under the Federal and State environmental review processes.

Any attempts to dilute that will be counterproductive for the reasons that Congressman Farr talked about in terms of local regulation of land use.

Second, the no cost economic development authority must remain. This tool, together with the environmental indemnity offered a former military property, have broken the logjam of deed transfers that existed until the late 1990's. These are the two most important tools that must be conserved in the conveyancing process.

Third and last, probably the largest frustration among local redevelopment authorities trying to redevelop these sites is when one military branch takes a hard line against the policy or legal interpretation which we know has been allowed by another military branch.

The members of NAID feel that the incredibly frustrating situation of differing legal interpretations and policies all derived from the same law or regulations must end.

We support competition among the services. We would hope, however, that this competition would become one to see which model works the best to aid redevelopment, and that the starting point would be a set of authorities that all departments agree are legal.

I want to echo just one point made by Congressman Farr. The services make it awfully hard for themselves. They reinvent the wheel each time each a new division of each service tries to deal with a closure and try to get their people educated on how real estate development really works.

Property development at this scale is not new in this country. There's a well established system, locally based, that we need to collectively fit into and which should be adopted as military practice. We need to focus on deed transfers expeditiously.

In closing, the Department of Defense has expressed its desire to see a new round of closures beginning in 2003. While the final decision is uncertain and rests with Congress, I commend you for giving us the opportunity to express our feelings and hope you consider these quality recommendations in any further action.

Thank you very much. I appreciate the opportunity to be here.

[The prepared statement of Mr. Simon follows:]

TESTIMONY BEFORE THE GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE OF THE HOUSE GOVERNMENT REFORM COMMITTEE

Good afternoon, Mr. Chairman and members of the Committee. My name is Jeffrey Simon and I am the Immediate Past President of the National Association of Installation Developers, "NAID."

NAID is an organization of more than 350 members who are cities, towns, counties, communities, airport authorities, private development companies, nonprofits, and other professionals who are involved in the reuse of closed military properties and facilities. In addition, NAID has members in communities with active installations, who are working to create new opportunities for partnership between base and community. NAID's role in this process is to:

- effectively promote economic and community redevelopment at former military installations (or other former federal facilities), by focusing on the major institutional, legal, and economic impediments to effective reuse and recovery;
- reduce military operating costs through community and state cooperation; and
- use firsthand experience associated with previous base closures, particularly the four BRAC rounds from 1988 to 1995 to support communities.

As an organization, NAID consistently has not and will not take any position on the nation's need for new base closures and realignments. That is a national security issue rather than a community development concern.

I personally am extremely aware of how critical this hearing and the topics being discussed here today are, having been involved in the redevelopment of closed military property since the mid-70's in Massachusetts. Then, we were dealing with a process that took no account at all of the severe impacts that communities endure when a base is closed. I remember well the first time that I went to the South Boston Naval Annex. I was working for the Commonwealth of Massachusetts and an official person from the City of Boston and I went to see the site. He had the key to the front gate, which was locked with a chain. We unlocked the gate, and walked in. There literally were tumbleweeds blowing across this property, 138 acres on Boston Harbor within sight of downtown Boston, containing the second largest dry-dock on the east coast. I contrast that with my more recent experience as the director of the redevelopment of Fort Devens, located about 40 miles west of Boston. Devens was a 1991 BRAC closure. While the process changes in the early 1990's enhanced the community focus, policies still did not address a number of important concerns. During the remainder of the last decade, we have continued to see changes that have improved the process and have given communities the tools they need for redevelopment.

In recent years, I have been working with my own private development company, Simon Properties, on a number of projects involving closed and active installations.

As an organization, NAID brings a unique national perspective to this discussion. NAID is now in its 25th year as the single national organization that represents the interests of those communities experiencing the effects of base closure. It has broadened its mandate to include communities with active installations. It is our belief that lessons learned from the closure experience can be applied to open installations across the United States.

I would like to share with you some of the five major issues that have arisen though the Base Closure and Realignment (BRAC) process, a process that began in 1988, changed dramatically through the 1990s and continues to be implemented today. In response to this issues, I would like to share a broad range of diverse solutions as supported by those state and local officials most experienced in the field of military base reuse.

The Central Focus of Redevelopment Efforts Should Remain the Community-Based Redevelopment Plan

In the previous rounds of base closures, early planning funds distributed through the Office of Economic Adjustment helped communities organize to begin the planning for the closure of installations all around the county. This required the establishment or designation of a local or state agency, known as a local redevelopment authority (LRA), a term that has become embedded in the lexicon of redevelopment efforts. The LRA's first task is to produce a reuse plan that will have broad political and community support. This reuse plan, usually produced through the hard work of many volunteer citizens and supported by a broad range of consultants, becomes the guiding document for efforts at the federal level, such as the Preferred Option to be looked at under the federal environmental review process, and the state and local efforts, such as the state environmental review process and zoning. The process by which the redevelopment plan is produced and then the plan itself have evolved into the central community focus in redevelopment.

There have been various suggestions in the past to change the reuse planning process. NAID understands and appreciates these. NAID members have had some excellent experiences with well-thought-out reuse plans that have been successfully implemented through private and public involvement. NAID members also have had some experience with reuse plans that, despite good intentions, were not well enough grounded in the realities of the marketplace.

However, whether or not these past efforts produced projects that have gone smoothly, the integrity of the state and local planning process remains central to all redevelopment efforts.

There have been suggestions that the military departments may be inclined to dispense with the local planning process and produce their own plan. NAID strongly rejects these efforts, and is united in its members' belief that locally developed and approved reuse plans must remain central to the redevelopment process for all of the participants — federal, state and local. We recognize that this may seem slower than the services want. We recognize that this might be more chaotic than all want. However, involving citizens in the determination of their future is a deliberative process involving responsibilities that are taken very seriously in the affected communities.

The Military Departments Should Execute the Base Reuse Property Disposal Process and Should Do So Uniformly

The vagaries of property disposal are the most troubling facet of the entire base reuse process. Highlighting the frustration of many communities is the situation where one military department, looking at exactly the same legal authority, contends that certain actions are allowed while another military department construes that same action to be illegal. While this issue is nominally one of organization, the federal disposal process sets the stage and tone for all community reuse efforts. Competing solutions have been presented as to the most effective federal response to these large-scale property transactions. Suggested solutions range from:

- keeping the present system to creating a radically new system;
- creating a single independent Resolution Trust Corporation type of organization (either as an independent government corporation or agency within the executive branch);
- creating a single defense disposal agency under the aegis of the Secretary of Defense, the General Services Administration or a single military department on behalf of the entire Department of Defense;
- keeping the current tri-service arrangement.

Each disposal method has its proponents and advantages. Nevertheless, on balance, and after considering the fiscal responsibilities associated with managing the closure and reuse response, NAID believes the current system of military branch control should continue, reinforced by additional strong leadership from the Office of the Secretary of Defense.

Transferring title from a federal agency to the community and its LRA is a very complicated process. The issue of expeditious property disposal has become increasingly important with the enactment of the "no-cost economic development conveyance" (no-cost EDC) authority in the 2000 Defense Authorization Act. Before, the military department incentives were too often centered on the potential — but very elusive — future real estate earnings from BRAC property. Now with the no-cost EDC authority in place, the DoD-military department incentives are focused on "getting out of the base on time" and conserving base operating costs as well as personnel spaces wherever possible. NAID considered a number of options in determining the optimal process to transfer both the interim use and permanent title to the community and its LRA responsively and in conformance with the approved base reuse plan.

NAID supports the retention of the current DoD and military disposal roles, but with the active team involvement of the Office of the Secretary of Defense. Transferring the disposal role from DoD and the military departments to another agency would be a mistake at this point in time. DoD and the communities have come together and have agreed on the no-cost EDC transfer of property to the community. DoD and the military departments have the personnel and the capabilities necessary to implement the disposal process. To shift this responsibility to another agency would add to the time and financial burden on DoD and the communities.

NAID supports the military disposal agency role because it supports a strong relationship between communities and military departments. Introducing a third party would impede this relationship. There are examples of this cooperation around the country.

The members of NAID do feel, however, that the incredibly frustrating situation of differing legal interpretations and policies, all derived from the same law or regulation, must end. Leadership in this area can only come from the Office of the Secretary of Defense. We support the friendly competition among the services. We would hope, however, that this competition would become one to see which model works the best to aid redevelopment, and that the starting point would be a set of authorities that all of the departments agree are legal.

The joint approach with the Office of the Secretary of Defense would offer the advantage of military department implementation expertise with the active involvement of both OSD-Installations and OSD-OEA in prompting early priority response to community needs.

Strong Secretary of Defense Leadership is Needed to Ensure Coordinated Federal Interagency BRAC Implementation

The BRAC process requires oversight and direction. Without this, any sort of economic benefit possible to the community is threatened. The Secretary of Defense should increase direct involvement to ensure coordinated action among all federal agencies, within and without the Department of Defense. Communication between involved agencies needs improvement, and the Secretary of Defense should provide the leadership necessary to change this problem through reactivation of the President's Economic Adjustment Committee.

In the last decade, coordination and central leadership within the BRAC process has not been as strong as NAID feels is necessary. There are requests for an authoritative figure to lead the process, especially in terms of interagency cooperation. Also, complaints exist that the system lacks a centralization of agencies and accounts involved in military reuse. This adds up to a collective weakening of the establishment. Aside from the responsive community-oriented role demonstrated by the Economic Development Administration (an agency within the Commerce Department), very few base closure communities have benefited from a fully coordinated interagency response. Along with this, during the last 12 years the President's Economic Adjustment Committee (EAC), which consists of all affected federal agencies and is chaired by the Secretary of Defense, has not met on a regular basis. Since there have been only infrequent meetings since the first BRAC round in 1988, it appears that the committee is not holding up its end of the bargain. With a more consistent meeting schedule, an opportunity for stronger oversight and policy coordination would be available from the Secretary of Defense involving the base disposition process at the DoD-military department level. In addition to the Secretary of Defense, the firm support from the service secretaries would make a difference in property transfer at a particular closing base. The Secretary of Defense can help to prioritize any future BRAC program, but it will be up to the service secretaries to provide the impetus for improvement in the process and to oversee results.

The Department of Defense Should Provide Complete and Early Environmental Information and Allow Full Community Involvement in the Environmental Impact Statement Process

A major factor in the base reuse process involves the environmental condition of the base. The degree of cleanup needed and the possibilities for future development rely upon local approval of the environmental remedy, if any. Since nothing can proceed without the known environmental consequences, it is urged that DoD work directly with the community to assess the situation. Communities are necessary parties in the environmental assessment stage. The National Environmental Policy Act (NEPA) sets out strong federal guidelines in terms of environmental impact. Several states have similar codes that could replace and supplement the NEPA rules, which would accelerate the process and save DoD money.

The environmental cleanup process has continued to be a major challenge impacting the progress of base reuse. NAID strongly supports the concept of integrating redevelopment and environmental cleanup.

It is critical that environmental issues are discovered early and dealt with in a timely manner. Local communities must be informed of the environmental aspect of the conversion and included in the cleanup efforts. During the next rounds of closure, as compared to current BRAC, there will be considerably more environmental documentation on hand and cleanup operations in place.
The specific recommendations are:

- Identifying the environmental conditions immediately after the BRAC closure decision
- Opening the base reuse team to the community from the beginning, as the public should be familiar of the base environmental conditions from the beginning.
- Joint environmental planning among DoD, the state and the community.
- Creating the presumption that communities will serve as "cooperating agencies" in all base closure environmental analyses under existing CEQ guidelines. This would be similar to the joint federal-state-local dialogue conducted at Fort Devens (Mass.) and Long Beach (Calif.). BRIM Section 2.1.2 requirements for LRAs to be "acting as a legal entity of the State" would be eliminated as a result.
- Inviting LRAs to participate in the restoration advisory boards from the beginning. Once the community's approved base reuse plan is accepted by DoD, the RAB's recommendations should be made for implementation purposes through the LRA to the affected military department.
- Avoiding the preparation of environmental baseline surveys if the initial record of decision (ROD) includes statements as to environmental conditions and anticipated levels of cleanup. The "Truth in Transfer" content will allow LRAs to earlier understand what is being offered and what reuse constraints may be involved, as well as provide content for the initial ROD to offer public information at an earlier stage, and over the service secretary's signature.

- Re-emphasizing the previous DoD policy that the community reuse plan provides the mandatory standard for base environmental cleanup.
- Community access to all base environmental data as it becomes available.
- Retaining, as absolutely essential, the environmental indemnification features in Section 330 for all BRAC property.

In accordance with the community aspect of reuse, there is a demand for state and local authorities to assess the environmental impact of base closure. NEPA and state environmental analyses should be accomplished simultaneously, not sequentially. Other options include:

- The elimination of the requirement for the military departments to comply with NEPA for the purpose of the property disposal decision. In exchange there would be Categorical Exclusions for BRAC disposal decisions.
- Allowing the states and communities to prepare the EIS environmental analyses related to their final base reuse plans when state and local statutes are as strong as NEPA.

Also noteworthy is that the military department EIS documents cost on average in excess of $1 million each, often far more than DoD has provided in community planning assistance resources during the entire base reuse planning process.

Ultimately the BRAC legislation should be revised to require the military departments to rely upon the state or local environmental impact analysis process wherever the state or local statutory requirements are as stringent as NEPA. This approach calls for additional DoD community planning assistance requirements, but saves substantial DoD processing time and budget costs.

Communities Should Take the Lead in Operating and Maintaining Former Military Sites (Military Disposal Agents Should Delegate Their Real Property Maintenance Roles)

The transfer of land from federal ownership to the communities can be time-consuming, which increases DoD costs and negatively affects communities in that they must delay immediate use of the facility. When the LRA is granted early use of the properties, both the community and DoD benefit.

The Air Force experience in offering Cooperative Agreements to LRAs thereby allowing them to assume early care and custody for the BRAC base properties has been a positive contribution to the DoD base reuse process, and should be followed by the other military departments (the Navy now follows this real property maintenance approach). This Cooperative Agreement approach should be mandated for all three military departments. Also, communities and LRAs should be allowed, by statute, to provide municipal services to active and closing bases where this represents a significant cost savings to DoD. OMB Circular A-76 should not apply to municipal services provided by local or state governments.

There are a number of communities around the Untied States that have taken steps to actively engage with their installations, both active and closing. Anticipating a closure and quickly and aggressively engaging with the local government to transfer responsibility for the provision of services is in the interest of both the military departments and the communities as a way of expediting transfer.

In closing, the Department of Defense has expressed their desire to see a new round of closures beginning in 2003. While the final decision is uncertain and rests now in the hands of Congress, I commend you for giving us an opportunity to express our feelings on a process many of us know to well. If a new round of closures is to occur, I hope you would consider these policy recommendations as a way to ensure communities are given the support they need. I appreciate the opportunity to be here today, and thank the Committee for providing this opportunity.

Mr. HORN. Thank you. That is very helpful.

Now, that is the last formal presentation, but will some of you be here when the government officials come next? Because we would like to have a dialog, and we would like an interaction here between the good ideas you have prepared, and then let's see in terms of the Federal Government and perhaps the State government side how can we improve matters. That is basically what we are here to do.

Mr. Simon, please list the three most successful base closures, meaning those with the least disruption to the local community in the long-run, and the three worst closures.

Mr. SIMON. Well, you know, Mr. Chairman, I was elected by my members, and while it is certainly not the same as you, it would be a little bit like saying give me the three most successful constituents and give me the three least successful constituents. [Laughter.]

So I am always a little bit loath to do that quite so definitively.

But if you look around the country, there are some bases, Fort Sheridan being one, Lowry being another in Denver, which have many people, thousands of people living on them today, working on them today. If you look to the north of here, Sacramento, McClellan Air Force Base in the last 18 months has really leaped forward in terms of reemploying thousands of people in what was essentially, as Michael said, a ghost town when it was taken over.

Conversely, you have heard about the problems at Fort Ord, and I have to tell you since I was running Fort Devens at the same time that the Fort Ord experience was happening, I spent a lot of time with the Fort Ord people, and it just seems like every conceivable roadblock—I see the Congressman laughing—that could have been thrown up has been thrown up at Fort Ord.

Michael is a very good friend of mine, and we talk all the time about the frustrations of trying to do that, I on the East Coast in Boston and he here in California.

And I think though if you look around at properties which have transferred and which are under development, you will see that where the committee of the service is there to make a deed transfer quickly you really get the quickest development. So I would really encourage that.

Mr. HORN. How many State, local, and Federal agencies are involved in the reuse of Fort Ord? Could you give us an idea, Mr. Houlemard?

Mr. HOULEMARD. I had a feeling one member of your staff might be interested in the answer to that question. In our written testimony, we noted that there were some 36 agencies that had some involvement one way or another on the part of the former Fort Ord. That came from some testimony that I did a couple of years ago, and I asked one of our key staff members, Mr. Steven Endsley, to quickly draw up a list of those that we work with on a weekly basis, and I have the list for you, Congressman.

There are 53 agencies, in fact, that we work with on a weekly basis, some more than a dozen different Federal agencies that have some rule of law having to do with the former Fort Ord, and about the same amount of State agencies.

But, in effect, there are 53 agencies that have some call or some influence or some rule of law related.

Mr. HORN. Without objection, that exhibit will be put in the record at this point.

Mr. HOULEMARD. Certainly.

Mr. HORN. And before I yield to Representative Farr, I would like to know, Mr. Simon, as you look at the Fort Ord situation and what you have heard this morning, how are they on, say, the curve? Are they in D plus, C plus, B plus, A, whatever and based on what you see in the rest of the country?

Mr. SIMON. To be quite honest——

Mr. HORN. You are under oath. So we hope you are.

Mr. SIMON. It has already been established. I have nothing further.

Mr. HORN. Usually when a witness comes he says, "It is a real pleasure to be here," and I remind him that he is under oath. So go ahead.

Mr. SIMON. I think that it is incredible to me, quite frankly, that a property with that much potential in this market, in this State, coming through the best real estate market that we have ever known in this country, is not booming, quite frankly.

I worry for my friends at Fort Ord that if the market gets worse, the problems will get worse because the end that we are all working for is private investment and private development.

So I would have to say that Fort Ord really is a frustrating situation that is behind the curve.

Mr. HORN. OK. Colleague, Mr. Farr.

Mr. FARR. Thank you.

Mr. HORN. Five minutes to question.

Mr. FARR. Mr. Chairman, I just have one question.

Mr. Simon mentioned that one of the bases that he thought was a model was Sacramento.

Mr. HORN. McClellan.

Mr. FARR. McClellan.

Mr. SIMON. The Air Force base. I would just like to shy away from the word "model."

Mr. FARR. OK. My curiosity is that I think we have to compare apples with apples, and if you are going to do like bases, you have to do it in California because local laws, and State laws particularly, and we have a lot of State agencies that are second guessing the process at the Federal level.

Here is a base that was closed in California under Federal law. Is the difference then between the way the Air Force handled it versus the way the Army handles it at Fort Ord?

Mr. SIMON. There is somewhat of a difference. The Air Force set up one agency, the Air Force Base Disposal Agency, which handles all of the dispositions for the Air Force. The Army and the Navy dispose of property either through the local division of the Army Corps or the local division of NAVFAC, Naval Facilities Command.

Mr. FARR. So in your testimony you stated that there ought to be a one-stop office in DOD to handle all of these, that you should not have the differences between the services. Even though the laws are the same, the process is different.

Mr. SIMON. That is absolutely correct. I have had firsthand the situation of knowing situations where the Army and the Air Force have allowed a certain situation and the Navy saying this is absolutely not possible.

Mr. FARR. Yes. Well, I concur with that.

You mentioned also in your testimony that you thought that you ought to create the presumption that communities will serve as cooperating agencies and all base environmental analysis under existing CEQA guidelines. This would be similar to the joint Federal, State, local dialog conducted at Fort Devens and at Long Beach.

You suggest the requirements for LRAs to act as legal entities in the State would be eliminated as a result. Could you explain that?

Mr. SIMON. Sure.

Mr. FARR. I do not know the difference between the Federal attitude of a cooperating agency versus a legal entity of the State.

Mr. SIMON. There are certain people who have a right to be at the table in the environmental review process at the Federal level. There is a process for allowing additional members to be at the table besides the regulators, and those additional people are called cooperating agencies. They have some interest in the property.

When I was running Fort Devens, we were successful for the first time in the United States in being able to get that seat at the table by being formally designated as a cooperating agency, meaning we got the environmental information right at the beginning and could help. Quite frankly, it was a help to the Army because people always imagine the worst.

And so when we could state, "No, we have seen the data, and you do not have to worry about this particular groundwater plume migrating over into your town because we have seen the data and we believe the data," but by the same token, when there were parts of the data that we thought were insufficient, we had an opportunity right at the beginning to say, "This is not right. This is not complete."

We think that the presumption should be that every LRA is a cooperating agency. I discussed this at length with former Deputy Assistant Secretary Sherry Goodman. Is that the right title? Under Secretary, who was responsible for this in the last administration, and she agreed, but it was never implemented. I am not exactly sure why.

But in terms of the California experience, I would only tell you that when I look as a private developer at submitting a proposal on Treasure Island, for example, I called up the LRA director, Steve Proud, and I said, "Steve, I have got to tell you between all the things that you cannot do on the property and all the things that you have to do on the property, I cannot just figure out anything that economically works. So we are not submitting a proposal."

And that was a very frustrating experience for a property that throughout the BRAC process has been considered a jewel of the redevelopment opportunities.

Mr. FARR. Thank you. That is very helpful.

Mr. HORN. Just to the mayors generally, you suggested the Federal Government could do more to support the local economy imme-

diately after a base closes. Specifically what would you recommend succinctly? What is the most important thing you would like to see done?

This is a 30 second answer, I might add. This is Mayor Albert.

Mr. ALBERT. I think there has to be a system that is worked out that creates an urgency. There has to be an urgency that is created by the Federal bureaucracy at the local level, something that is going to move it.

I do not know what that tool is, but it cannot be something with a date uncertain. There has to be some constraints. We have got to help those people get the job done, and whatever that takes, whatever tools you have, that should be used so we can move forward with it.

Mr. HORN. No, I think there are a number of ways that I would like to see a little revolutionary thinking. If they have not done it by a certain date, something happens, and they are out of the game, and that is what we ought to be thinking about.

Mr. ALBERT. Yes.

Mr. HORN. And if they want to play games, bureaucratic games, fine. Take away some of their budget.

Mayor Perrine, what about it?

Mr. PERRINE. Mr. Chairman, I think that fundamentally at the very beginning that it would be beneficial to have financial assistance and training knowledge transfer assistance for the local agencies, the local reuse authorities.

You take jurisdictions that have no experience or knowledge on this process and thrust this tremendous liability upon them, and we all have to take resources away from other basic services, basic community services, in order to get up to speed, to learn what this is all about, get people trained, and to commit the effort to this activity.

And as I say, it dilutes other basic local community services, and so we need assistance with that.

Mr. HORN. Mayor Smith, any thoughts on this?

Mr. SMITH. Mr. Chairman, I think that the decision to close bases is just so narrow in its perspective that there should be more consideration given to the reuse component, more consideration given to allowing communities access to those properties within a military installation that historically have not had the presence of unexploded ordnance.

More consideration should be given and more resources should be directed to protecting local communities from the hazards of a military institution. These things seem to be an afterthought as opposed to a forethought.

So to sum it up, I would say the resources of reuse should be a more vivid part of the thought of closure.

Mr. FARR. Mr. Chairman.

Mr. HORN. Mr. Farr.

Mr. FARR. Mayor Smith, I mean, what you are really saying is that it ought to be daily use, ought to be best management practices so that they do not become a problem in reuse.

Mr. SMITH. That is correct.

Mr. FARR. That is, if you are doing good environmental management now, you would not contaminate the land. Obviously we are

going to have unexploded ordnances, but if you kept better records and you cleaned-up periodically, you would not have this huge liability at the end.

Mr. SMITH. That is correct.

Mr. HORN. Mayor Smith, when you recalled those accidents based in your youth, how often has that happened where some child has gotten over the fences? What do you know on that and what does Fort Ord know on it?

Mr. SMITH. You know, Mr. Chairman, that incident was so vivid in my mind because it was a part of my childhood. There have been other incidents on the former Fort Ord. That is not saying that the Army did not take steps to outreach to the community in terms of making the community aware of the unexploded ordnance hazard.

There have been many incidents in regard to that. I think that we are getting back to what Congressman Farr just stated, is that if we would work more on the daily usage of management and documenting these unexploded ordnances, we would have less incidences of this nature affecting the lives of the citizens of our communities.

Mr. PERRINE. Mr. Chairman, if I could add to that response, I think the most recent incident that I am aware of that I can recall, documented incident, was only 3 or 4 years ago where children, school age children, entered the restricted area, obtained training devices, and took them with them back to the community and to an elementary school, and were discovered there throwing them against the walls of an elementary school within Mayor Smith's community.

Fortunately, none of them were harmed either in obtaining those devices, and they only obtained training devices which were lying on the ground immediately adjacent to the live devices, unexploded devices, and through some miracle they picked up safer ones than the ones that could have exploded and ended their lives immediately.

Mr. FARR. Mr. Chairman, the issue here is that Mr. Smith as a child witnessed two children who were seriously injured. That event was brought into my life because my father was retained as their lawyer. A bill had to pass through Congress to up the limit that you could sue the Federal Government. The limit was capped at $10,000 at the time, and that is all that they could have sued for for this injury. Just the medical bills way back then cost more than that.

What Jim Perrine is talking about is that same thing that is happening today. The difference between the issue then and today is that it doesn't need to happen today, we know how to cleanup this space. We know how to handle unexploded ordnances.

We are fighting over process. It is all on paper and whether you ought to do an environmental impact statement or whether you ought to do other process is outside of that it is not about debating the actual cleaningup of the base. It is debating about whether you should burn the plants off so that you can get to the ground.

Our community and these regulatory agencies out there are not collaborating. They are not getting the process of just doing the deed of getting the base cleaned-up, which is caught up in the morass of questioning the process, not the method of cleaning-up.

Mr. ALBERT. Mr. Chairman, if I could just add something just to highlight something, I remember we were going through the BRAC process, and we were testifying in San Francisco, and one of the Commissioners on that, and we were talking about Fort Ord at the time, and he would just say, "you know, that beautiful piece of property overlooking that bay, I mean there should be a land value. I mean it should just"—and I think that is the thinking. We will close it down and that will happen.

And I guess what I keep emphasizing is it is fine. It is not fine, but you are going to close bases, but alongside of that, there has got to be that process that helps communities do something with that land that is there. There is more to it than just, well, it looks good.

Mr. HORN. Well, I agree with you on that.

We are going to have to adjourn now with this particular panel, but I certainly hope that you will be around so that we can get a dialog between the Federal and State officials. If you will take the first row behind you, and then you can come to the table.

So if panel three will come forward.

Panel three, there are six witnesses, and we will give the oath because this is an investigating subcommittee.

We have read your documents. We are going to give license to the GAO because of the overall picture they have provided in a very fine brief, but I do not want the documents read. I want you to boil it down to what is important.

You have heard the mayors, and you might want to think to yourself because I am going to ask them to come back and say, well, what about the State and Federal Government, and so forth.

When we call on you, your record is automatically in the hearing that the two court reporters are making, and you do not have to ask us. It is there.

So if you will stand and raise your right hands.

[Witnesses sworn.]

Mr. HORN. The clerk will note that the six witnesses accepted the oath.

We will start with Mr. Holman, the Director of the Defense Infrastructure Issues, U.S. General Accounting Office.

For a little explaining here, the U.S. General Accounting Office is part of the legislative branch starting way back in the 1920's, and they are headed by the Comptroller General of the United States, Mr. Walker, and we use them usually after a 6-month study or a year's study. We use them as the lead witness on an issue such as this.

And Barry Holman, the Director of that Defense Infrastructure Issues, has seen all of the problems across the country.

So Mr. Holman, proceed.

STATEMENTS OF BARRY W. HOLMAN, DIRECTOR, DEFENSE INFRASTRUCTURE ISSUES, U.S. GENERAL ACCOUNTING OFFICE; PATRICK O'BRIEN, ACTING DIRECTOR, OFFICE OF ECONOMIC ADJUSTMENT, DEPARTMENT OF DEFENSE; RAYMOND J. FATZ, DEPUTY ASSISTANT SECRETARY OF THE ARMY; KEITH A. TAKATA, DIRECTOR, SUPERFUND DIVISION, ENVIRONMENTAL PROTECTION AGENCY; STEVE THOMPSON, ACTING MANAGER, CALIFORNIA AND NEVADA OFFICE, U.S. FISH AND WILDLIFE SERVICE; AND EDWIN LOWRY, DIRECTOR, DEPARTMENT OF TOXIC SUBSTANCE CONTROL, CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Mr. HOLMAN. Thank you, sir.

Mr. Chairman, Mr. Farr, I am glad to be here today to give you an overview of the four rounds of base closure processes that have taken place.

Mr. HORN. We need to move the mic.

Mr. HOLMAN. Again, what I want to do is just give you an overview of the process, the transfers that have taken place during the past four rounds of BRAC.

Mr. HORN. Is the mic on? Do you see the green lights?

Mr. HOLMAN. Yes, sir, it is on.

Mr. HORN. OK. Move up.

Mr. HOLMAN. OK. What I would like to do is just highlight three areas for you, one being the economic recovery of communities affected by BRAC, DOD's progress in implementing the recommendations of the closure commissions in transferring property, and accomplishing environmental cleanup, a subject that we have already heard about as being very important.

Let me just quickly highlight the results of what we want to talk about. Again, first, the short-term impact of BRAC. BRAC can be very troubling to communities and can be very traumatic. However, we have seen as we tracked this issue over time that with some exceptions, most communities are recovering from the economic impacts of base realignments and closure. Our analysis tended to take a very broad view, looking at metropolitan statistical areas.

It is good to have a hearing such as this in Monterey where you can see so many different communities and see that there can be some unevenness in terms of how communities do fare.

We have seen that BRAC actions are essentially completed. Unfortunately, however, title to less than half of the property has actually been transferred to the Federal sector and other users.

Environmental cleanup is progressing, but as we have seen and heard, it will require many years to be fully complete.

One of the things that we have done over the years as we have looked at DOD's progress with base closures, is to look at what are the factors that help communities recover from a BRAC. I will not go into all of them, but I would like to highlight just a few of them for you today.

Base reuse and government assistance in planning and executing base reuse are very important to BRAC communities. Along with that are leadership, teamwork among participants at the Federal, State, and local level—they are essential to reaching agreement on key issues, such as property transfer, base reuse, and environmental cleanup.

Having said that, I also want to emphasize the very strong, positive impact that we have witnessed in recent years of a strong national economy and what that has done to help ameliorate the impact of the base closing process.

Again looking to the impact on communities, back in 1988, we did a review and report where we looked at a couple of key economic indicators to get a sense of what was happening with communities that were affected by BRAC. We looked at 62 communities—metropolitan statistical areas—where job losses had totaled 300 or more involving civilian or contractor employees.

We have updated that data for purposes of this hearing today, and we found as we did in 1988 that although some communities are faring better than others, the economic data suggests that the majority of communities are faring well and show improvements since the BRAC process began.

I say that is the case even though, as we have seen here today with the case of Fort Ord, much remains to be done to fully utilize former BRAC sites for their potential for economic development purposes.

Of the two indicators we looked at, one was unemployment rates. What we have seen is that based on average unemployment rates for fiscal year 2000, we found that 43 or 68 percent of the 62 communities we looked at had unemployment rates at or below the U.S. average of 4 percent. The percentages are comparable to what we found in the past, although this time the unemployment rate is even lower.

If we look at the community surrounding Fort Ord, we've seen that the unemployment rate has been a little bit higher than many of the communities, but even so, it decreased from 1997, when it was 10.3 percent, now to 9.7, although I hasten to add that while I've looked at some statistics in the past couple of months, it looks like the unemployment rate in this area has gone down even more.

We've tried to look to see to what extent there has been a downturn in the economy, whether the unemployment rates are tending to go up. So far we haven't seen this. So there appears to be a lag factor at play there, and we will keep our fingers crossed that it stays that way for some time.

The other indicator that we had looked at was the growth in per capita income. As we looked at the per capita income increases for the period 1996 through 1999, we found that 33 of the communities or 53 percent had average annual per capita income growth rates that were at or above the U.S. average.

An additional seven communities, or 11 percent, had average per capita income growth rates that were in close proximity to the U.S. average.

And, again, as we have heard here today, if you look at communities around Fort Ord, you can see there can be variances within individual communities of a large area.

Let me turn quickly to the BRAC actions and DOD's progress there. Again, DOD reports that of the BRAC recommendations that it had to implement, they have essentially completed those in terms of taking down flagpoles, transferring units to other locations, and so forth.

They have made decisions on what to do with most of the 518,000 acres of property not needed by the military. Of that property, about 230,000 acres are to be retained by the Federal Government, most by the Department of Interior and Justice. Title to about 46 percent of that property has been transferred.

Another 286,000 acres are being transferred to non-Federal users. There, however, title to only about 37 percent of the property has been transferred. If you put the two together, about 41 percent of the property has been transferred.

An additional amount has been leased, but again, as we look at the area around Fort Ord, we see that an issue like environmental cleanup remains a factor that can greatly stymie efforts to get title transfer of that property.

Now, having said that, environmental cleanup is progressing, perhaps certainly not as fast as many would like to see, particularly with efforts that have been made in recent years to provide special transfer authority—that is early transfer authority, for instance.

Environmental baselines have been completed for many installations. Many installations have cleanup activities underway orremedies in place. Many more cleanup activities remain, but DOD projects that most of it will be done over the next few years, but a lot of it will require long-term monitoring.

The issue that is very vivid here in the Fort Ord area is the unexploded ordnance, and questions remain as to just how much of that will be cleaned-up, how much time it will take, and what the standards for cleanup will be over time.

Let me put this in a bit of perspective as I close in terms of the cost for the environmental cleanup in relationship to the overall BRAC closure activities. Of the $22 billion estimated for implementing the BRAC program through fiscal year 2001, about $7 billion, or 32 percent, is associated with base closure environmental activities.

Further, DOD estimates that $3.4 billion will be required after fiscal year 2001. Now, we see some fluctuations over time in what the environmental costs are going to be. Sometimes we have seen them go up. We have seen them go down, but I think we still have some uncertainty as to what the total out-year environmental cost will be.

Mr. Chairman, I think I will stop at this point. I will be glad to entertain any questions you or Mr. Farr might have.

[The prepared statement of Mr. Holman follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform, House of Representatives

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MILITARY BASE CLOSURES

Overview of Economic Recovery, Property Transfer, and Environmental Cleanup

Statement of Barry W. Holman, Director, Defense Capabilities and Management

GAO-01-1054T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to present our observations on the Department of Defense's (DOD) four rounds of base realignments and closures (BRAC) in 1988, 1991, 1993, and 1995. My comments today are based on work we have done in recent years tracking DOD's implementation of the BRAC Commissions' recommendations and on the preliminary results of our ongoing work on the status of prior BRAC rounds to include estimated costs and savings, economic impacts, property transfers, and environmental cleanup. We recently issued an update on DOD's estimated costs and savings from the former BRAC rounds.[1] Attachment I lists selected reports we and others have completed on the status and implementation of DOD's base realignments and closures. Today I want to address (1) the economic recovery of communities affected by base closures, (2) progress in implementing the recommendations of the BRAC Commissions and transferring unneeded BRAC property to other users, and (3) progress in accomplishing environmental cleanup at base closure sites.

Results in Brief

While some communities surrounding closed bases are faring better than others, most are recovering from the initial economic impact of base closures. The short-term impact can be very traumatic for BRAC-affected communities, but the long-term economic recovery of communities depends on several factors, such as the strength of the national and regional economies and successful redevelopment of base property. Some key economic indicators show that the majority of communities surrounding closed bases are faring well economically in relation to the U.S. rates and show some improvement since the time closures began in 1988. According to the latest annual data, of the 62 communities surrounding major base closures, 43 (or 69 percent) had unemployment rates equal to or lower than the U.S. rate for 2000, as reported by the Department of Labor's Bureau of Labor Statistics. Furthermore, 33 (or 53 percent) of the affected communities had equal or higher average annual per capita income growth rates than the U.S. average rate for 1996-99. Another 7 communities (11 percent) had average annual per capita income growth rates that were in close proximity to the U.S. average rate.

[1] In July 2001, we reported that DOD will realize significant recurring savings from its realignment and closure actions. See *Military Base Closures: DOD's Updated Net Savings Estimate Remains Substantial* (GAO-01-971, July 31, 2001), pp. 1-3.

Implementation of BRAC recommendations is essentially completed, but title to only 41 percent of unneeded base property has been transferred. As of August 20, 2001, DOD reported that it has essentially implemented all of the BRAC Commissions' 451 recommendations.[2] In acting on the recommendations, the military services and components designated about 518,300 acres of base property as unneeded. DOD data indicate that 44 percent (or 229,800 acres) of the unneeded property is to be retained by the federal government, and 55 percent (or 285,900 acres) is slated for nonfederal users such as state and local authorities or private parties. Of these amounts, 46 percent of the property slated for federal use has been transferred, and 37 percent of the property slated for nonfederal use has been transferred. The disposition of the remaining 1 percent (or 2,600 acres) of the unneeded property has not yet been decided. Of the 305,900 acres for which title transfer has not occurred, about 48,200 acres (or 16 percent) have been leased to local communities and other users.

While DOD has made progress and established numerous initiatives to expedite cleanup, many cleanup activities remain. Cleaning up environmental contamination on BRAC-affected installations has proven to be costly and challenging for DOD and can delay the transfer of the title of property to other users. DOD expects to continue its environmental efforts well beyond fiscal year 2001, the final year of base closure implementation authority. Of the $22 billion estimated cost for the entire BRAC program through fiscal year 2001, about $7 billion (or 32 percent) is associated with environmental cleanup efforts. Furthermore, DOD estimates that $3.4 billion will be required after fiscal year 2001 for cleanup activities.

Background

To enable DOD to close unneeded bases and realign others, Congress enacted BRAC legislation that instituted base closure rounds in 1988, 1991,

[2] We recently identified two recommendations for which the original plans changed due to circumstances. With respect to the decision from the 1995 BRAC round to close family housing units on Fort Buchanan, Puerto Rico, the DOD Appropriations Act, 1999 (P.L. 105-262, sec. 8142) authorized the Secretary of Defense to retain all or a portion of the units in support of the U.S. Army South's relocation from Panama to Fort Buchanan. Consequently, the recommendation was never implemented. With respect to another decision from the same BRAC round to disestablish the Naval Management Systems Support Office in Chesapeake, Virginia, the Navy disestablished the office but delayed the recommended relocation of personnel and equipment to government-owned space until January 2002 because modifications to the required space are not yet complete.

1993, and 1995.[3] For the 1991, 1993, and 1995 rounds, special BRAC Commissions were established to recommend specific base realignments and closures to the President, who in turn sent the Commissions' recommendations and his approval to Congress. A special Commission established for the 1988 round made recommendations to the Senate and House Committees on Armed Services. The four commissions generated 499 recommendations—97 major closures and hundreds of smaller base realignments and closures. For the 1988 round, the legislation required DOD to complete its realignment and closure actions by September 30, 1995. For the 1991, 1993, and 1995 rounds, the 1990 act required DOD to complete all closures and realignments within 6 years from the date the President forwarded the recommended actions to Congress. However, property disposal and environmental cleanup actions may continue beyond the 6-year period.

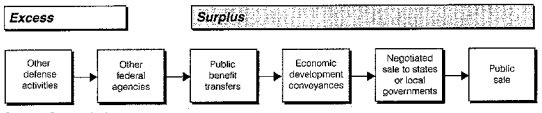
The economic impact on communities near base realignments and closures has been a long-standing source of public anxiety. Because of this concern, DOD included economic impact as one of eight criteria that it used for making BRAC recommendations in the last three rounds. While economic impact did not play as large a role in initial BRAC deliberations as did other criteria and was not a key decision factor, its importance was such that DOD components were required to estimate the economic impact of their recommendations.

Generally, BRAC property no longer needed by DOD is offered first to other federal agencies. Any property remaining is then disposed of through a variety of means that initially include transfers to states and local governments for public benefit purposes and thereafter is disposed of by negotiated or public sales. Under public benefit conveyances, local redevelopment authorities can obtain property for such purposes as schools, parks, and airports for no or little cost. In 1993, the BRAC act was amended to provide local redevelopment authorities with BRAC property by sale or lease at or below fair market value or without cost for rural communities to promote the economic recovery of areas affected by closures. Later, these provisions were replaced with others that also allowed the transfer of real property at no cost to local redevelopment authorities for job generation purposes or for lease back to the federal

[3] The 1988 round was completed under the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526, title XXIX, as amended). The last three rounds were completed under the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510, title II, as amended).

government. Consequently, local redevelopment authorities usually first sought to obtain property at no cost since, failing that, property could still be obtained through negotiated sales. Figure 1 shows the general process used to screen real property under BRAC.

Figure 1: DOD's Screening Process for BRAC Real Property



Source: Our analysis.

Many BRAC properties require environmental cleanup. The 1990 BRAC act requires compliance with a provision of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, in transferring contaminated federal property.[4] Under this provision, DOD has a continuing responsibility for cleanup but may, by way of so-called "early transfers," transfer BRAC property before all cleanups on the property have been completed.[5] Under the early transfer process, either the receiving communities or DOD perform environmental cleanup. In both cases, DOD funds the costs of cleanup.

Most Communities Are Recovering From the Economic Impacts of Base Closures

While the loss of jobs for DOD civilians and other adverse effects are in the short term inescapable byproducts of base closures, such effects can continue for some time. However, our prior studies and the studies of others indicate that over time many communities have absorbed the economic losses. Several factors affect the economic recovery of communities near base realignments and closures. Local officials have cited the strong national or regional economy as one explanation of why their communities have avoided economic harm and found new areas for growth. In addition, federal programs are available to assist communities in adjusting to base closures. Economic data related to unemployment

[4] 42 U.S.C. 9620(h)(3).

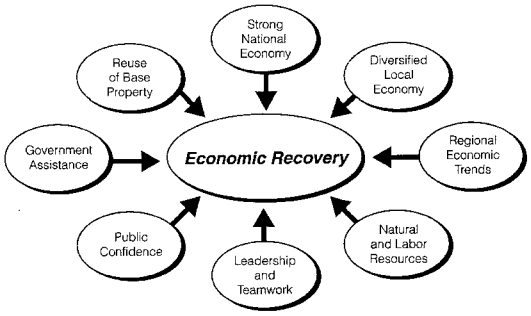
[5] Up until 1996, property was generally transferred to a purchaser only after cleanup action had begun. With the passage of section 334 of National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201), Congress provided the Secretary of Defense the authority to transfer property prior to environmental cleanup if the state's governor agrees.

rates and average annual real per capita income growth suggest that the majority of communities surrounding closed bases are faring well economically in relation to the U.S. rates and show some improvement since base realignments and closures began with the 1988 BRAC round. In addition, while two communities we recently revisited have progressed in recovering economically, they still face problems.

Several Factors Help Communities Recover From Base Realignments and Closures

Figure 2 shows several factors that play a role in determining the fate of communities affected by base realignments and closures.

Figure 2: Factors Affecting Economic Recovery From Base Realignments and Closures



Source: Our analysis.

Officials from BRAC communities have stressed the importance of having a strong national economy and local industries that could soften the impact of job losses from a base closure. Following the 1991 recession until the recent slowdown, the economic performance of the United States has been robust. In a January 1998 report, we examined defense-related spending trends in New Mexico and the relationship between those trends and New Mexico's economy.[6] We reported that while defense-related

[6] *Defense Spending and Employment: Information Limitations Impede Thorough Assessments* (GAO/NSIAD-98-57, Jan. 14, 1998).

spending had declined in the state, the state's gross product and total per capita income had increased and that this economic growth might be due to efforts to diversify the economy to counter the loss of defense jobs.

Officials also pointed to regional economic trends at the time of a closure, during the transition period, and at the present. For example, officials from the communities surrounding Fort Devens, Massachusetts, said that at the time of the closure, the area was suffering from the downsizing and restructuring of the computer industry. Those same communities are now benefiting from the economic growth in the larger Boston metropolitan area. Beeville, Texas, where Chase Field Naval Air Station closed, has a long history of farming and ranching but has recently benefited from an expanding state prison industry.

An area's natural resources also can help economic recovery. In Blytheville, Arkansas, for example, where Eaker Air Force Base closed, the steel industry found a foothold in the late 1980s before the announcement of the base closure and has been a growing presence ever since. The Blytheville area is attractive to the steel companies because of its access to the Mississippi River and a major interstate as well as an available labor pool.

Officials from communities surrounding closed bases said that publicizing redevelopment goals and efforts for former bases is key for attracting industry and helping the community gain confidence. Leadership and teamwork among participants at the federal, state, and local levels are essential to reaching agreement on key issues such as property transfer, base reuse, and environmental cleanup. To help communities to successfully transform closing bases into new opportunities, federal agencies have provided over $1.2 billion in direct financial assistance to areas affected by base closures. This assistance was in numerous forms—planning assistance to help communities determine how they could best develop the property, training grants to provide the workforce with new skills, and grants to improve the infrastructure on bases.

Finally, the redevelopment of base property is widely viewed as a key component of economic recovery for communities experiencing economic dislocation due to jobs lost from a base closure. The closure of a base makes buildings and land available for use that can generate new economic activity in the local community.

Most Communities' Economic Indicators Compare Favorably to U.S. Rates

Our analysis of selected indicators shows that the economies of many BRAC-affected communities compare favorably to the overall U.S. economy. We used unemployment rates and real per capita income growth rates as broad indicators of the economic health of those communities where base closures occurred during the BRAC rounds.[7] We identified 62 communities surrounding base realignments and closures from all four BRAC rounds for which government and contractor civilian job losses for each were estimated to be 300 or more.[8]

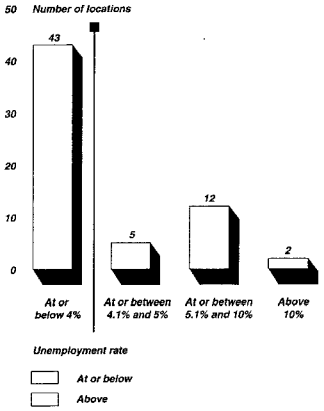
Unemployment Rates Compare Favorably

Our analysis of calendar year 2000 unemployment rates indicates that the rates for 62 BRAC-affected communities compare favorably with the U.S. rate. Forty-three (or 69 percent) of the 62 communities affected by the recent base closures had unemployment rates at or below the U.S. rate of 4 percent (see fig. 3).

[7] Ideally, to assess how the local communities fared after each BRAC round, economic information is needed on how those communities would have fared without each BRAC round compared to how they have fared since the BRAC program began. Because we did not have this baseline data, we used the national averages for unemployment and real per capita income as a benchmark to compare how well the communities have fared. This comparison does not isolate economic effects of a base closure from the effects of other economic events occurring in a particular region.

[8] One of the limitations of our approach to selecting communities is that some areas may have also been the receiving location for DOD realignments and may have gained jobs. For example, St. Mary's County, Maryland, is included because of the closure of Navy facilities at St. Inigoes, Maryland, in the 1993 BRAC round. However, in the 1995 round, the area gained jobs at the Patuxent River facilities due to the relocation of Navy activities from the Washington, D.C., metropolitan area. Despite these gains, the communities we selected for our analysis lost a significant number of DOD jobs.

Figure 3: Unemployment Rates of 62 BRAC-Affected Communities Compared to U.S. Rate in 2000



Note: Each of these 62 communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Labor data.

Attachment II compares the 2000 unemployment rate for each of the BRAC-affected locations, grouped by east and west of the Mississippi River for ease of presentation, to the U.S. rate.

The unemployment situation is about the same as we reported in 1998.[9] At that time, 42 (68 percent) of the 62 communities had unemployment rates at or below the then U.S. rate of 5.1 percent. For example, the 2000 unemployment rate for the Salinas area surrounding the former Fort Ord, California, dropped to 9.7 percent from 10.3 percent in 1997. Similarly, the

[9] *Military Bases: Status of Prior Base Realignment and Closure Rounds* (GAO/NSIAD-99-36, Dec. 11, 1998).

rate for the communities near the former Naval Station and Shipyard, Charleston, South Carolina, decreased to 3 percent from 4 percent in 1997.

For all BRAC-affected communities we examined with a higher average 2000 unemployment rate, only two—the Merced area surrounding the former Castle Air Force Base, California, and the Blytheville area surrounding the former Eaker Air Force Base, Arkansas—have had double-digit unemployment rates: 14.1 percent and 10.1 percent, respectively. The Merced area also had double-digit unemployment when we reported on this issue in December 1998. Local officials told us that these locations have historically had high unemployment rates, partly because of the large seasonal employment associated with the local agriculture.

In a 1996 RAND National Defense Research Institute report on the effects of military base closures on three local communities, RAND concluded that "while some of the communities did indeed suffer, the effects were not catastrophic (and) not nearly as severe as forecasted."[10] RAND's analysis showed that the burden of defense cutbacks such as base closures tended to fall more on individuals and companies rather than on the community. For example, a base with a large civilian employment might displace many workers, but the overall employment rate of the community might remain relatively stable. Finally, RAND demonstrated that economies of all types of communities can also be affected by longer term patterns of population and economic growth; the redirection of military retirees' retail and medical expenditures from the base to the local community; and the withdrawal of working spouses from the local labor market, which frees up jobs for other local citizens.

In a 2000 Massachusetts Institute of Technology report for the Department of Commerce, the Institute noted that military-base employment losses did not necessarily translate into employment losses in counties where bases were closed.[11] In its analysis of 51 counties containing 52 closed bases, 21 counties (or 41 percent) in 1997 had greater post-closure job growth rates relative to the national average, and in 6 of those counties the job growth was more than twice the national average. In the remaining 30 counties,

[10] *The Effects of Military Base Closures on Local Communities: A Short-Term Perspective*, RAND National Defense Research Institute, 1996.

[11] *From Barracks to Business: The M.I.T. Report on Base Redevelopment*, Economic Development Administration, Department of Commerce, March 2000, pp. 131 and 132.

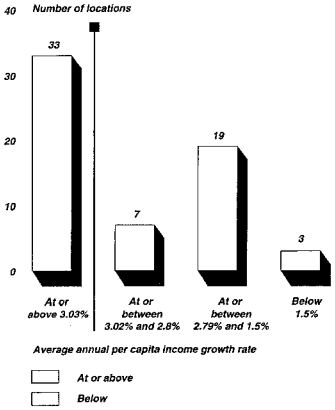
job growth was lower than the national average, of which 7 counties had job losses. The Institute concluded that redevelopment of closed bases will take at least 20 years or more and that time is needed to identify promising companies, persuade them to locate on the closed base, find a suitable site, negotiate an acceptable lease or sale, recruit qualified workers, and find jobs that match worker skills and expectations.

Average Annual Real Per Capita Income Growth Rates Compare Favorably

As with unemployment rates, our analysis indicates that average annual real per capita income growth rates for 62 BRAC-affected communities compare favorably with the U.S. average rate. During 1996-99, 33 communities (or 53 percent) had average annual per capita income growth rates that were at or above the U.S. average rate of 3.03 percent (see fig. 4).[12] Another seven communities (or 11 percent) had average annual per capita income growth rates that were in close proximity to the U.S. average rate of 3.03.

[12] As of August 10, 2001, average annual real per capita income rates for 2000 were not available for analysis.

Figure 4: Average Annual Per Capita Income Growth Rates of 62 BRAC-Affected Communities Compared to U.S. Average Rate During 1996-99



Note: Each of these 62 communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Commerce data.

Attachment III compares the 1996-99 average annual real per capita income growth rate for each of the BRAC-affected locations, grouped by east and west of the Mississippi River for ease of presentation, to the U.S. average rate.

During the same period, the rate for communities near the former Fort Ord, California, increased 6.4 percent from the $27,620 rate in 1997 to $29,393.[13] In addition, the rate for communities near the former Naval Station and Shipyard, Charleston, South Carolina, increased 9 percent from the $21,092 rate in 1997 to $22,944. Currently, all of the 29

[13] Adjusted to 1999 dollars.

communities below the U.S. average rate had positive average annual per capita income growth rates.

In an analysis of 51 counties containing 52 closed bases, the Massachusetts Institute of Technology reported that 31 counties (or 61 percent) had per capita income greater in 1997 relative to the national rate than it was at the time of the BRAC closing announcement.[14] However, the counties containing the four closed naval shipyards—Mare Island and Long Beach Naval Shipyards, California; Philadelphia Naval Shipyard, Pennsylvania; and Charleston Naval Shipyard, South Carolina—did not fare well. In addition, 10 of the 20 counties that lost income relative to the national rate were in California and most of the other counties that lost income were rural, such as Aroostook County, Maine; Clinton County, New York; Bee County, Texas; and Tooele County, Utah.

Economic Recovery Is Continuing at Communities Surrounding Former Bases We Visited

In our 1998 report, we augmented our use of broad economic indicators with visits to selected communities to learn firsthand how they had fared economically after base closures.[15] We reported that in general, the communities surrounding the six major base closure sites we visited suffered initial economic disruption, including decreased retail sales; declining residential real estate values; and social losses felt in local schools, churches, and organizations. However, we also reported that these initial losses were followed by recovery. We are currently updating this information and plan to visit several of the communities we visited previously and additional communities to obtain more in-depth information on their economic recovery. We recently revisited communities surrounding two of the major base closures—Beeville, Texas, near the former Chase Field Naval Air Station, and Merced and Atwater, California, near the former Castle Air Force Base—that we reported on in 1998. As attachment IV discusses in more detail, we found that each community has continued its economic recovery from the base closures, but some problems still exist.

[14] *From Barracks to Business*, Department of Commerce, March 2000, p. 132.

[15] *Military Bases* (GAO/NSIAD-99-36, Dec. 11, 1998).

BRAC Actions Are Essentially Completed, but Transfer of Unneeded Base Property Is Only Partially Complete

As of August 20, 2001, DOD reported that it has essentially implemented all of the BRAC Commissions' 451 recommendations. Despite timely completion of actions on the recommendations, transfer of unneeded base property is only partially complete.

DOD has decided how to dispose of about 99 percent of the 518,300 acres that the military services and components reported they do not need. DOD data as of June 2001 indicate that 229,800 acres (or 44 percent) will be retained by the federal government, 285,900 acres (or 55 percent) of the unneeded BRAC property will be transferred to nonfederal entities, and the disposition of 2,600 acres (less than 1 percent) has not yet been determined.

About 206,800 acres (or 90 percent) of the federally retained property are being transferred to the Departments of the Interior and Justice for uses such as wildlife habitats and detention centers. DOD intends to retain about 14,500 acres (or 6 percent) for, among other things, administrative space for the Defense Finance and Accounting Service. DOD is actually retaining more property than this because, in many cases, during the BRAC process the property of an active military base was turned over to a reserve component without being declared excess. In our 1998 report, we noted that DOD data indicated that over 330,000 acres of BRAC property were being retained for use by the reserve components.[16]

While DOD has plans to transfer most of its unneeded property, fewer actual transfers than planned have taken place. In our December 1998 report, we noted that progress in transferring the title of BRAC properties to users had been affected by many factors. These factors included the iterative process of preparing site-specific reuse plans, preparing conveyance documentation, and environmental cleanups. As of June 2001, DOD data indicate that title to 212,400 acres (or 41 percent) of the 518,300 acres of unneeded property had been transferred to federal and nonfederal entities. Specifically, title to about 106,600 acres had been transferred to federal agencies and title to about 105,800 acres had been transferred to nonfederal entities. According to DOD officials, the transfer of the remainder of the property for federal agencies and nonfederal entities will

[16] About 324,000 acres of this amount are attributable to five Army BRAC 1995 round bases—Fort Hunter Ligget, California; Fort Chafee, Arkansas; Fort Pickett, Virginia; Fort Dix, New Jersey; and Fort McClellan, Alabama.

be completed by 2007 and 2029, respectively.[17] As discussed previously, the disposition of 2,600 acres has not yet been determined.

While awaiting property transfers, communities and others can sometimes begin using base property through leasing. Of the 305,900 acres for which title has not been transferred, about 48,200 acres (or 16 percent) have been leased. According to community representatives, leasing is a useful interim measure to promote reuse and job creation.

As noted earlier, Congress authorized the transfer of property prior to the completion of environmental cleanup, but the authority has been used in a limited number of instances and its implementation is still evolving. Program officials believe this approach is a powerful tool to help local communities obtain early ownership and control of property, thereby allowing for earlier reuse than otherwise possible. At the end of fiscal year 2000, DOD had transferred 10 properties at 8 BRAC-affected installations using the early transfer authority. The properties range from 12 acres to about 1,800 acres. In most of the transfers, DOD has continued the cleanup activities, but in some cases the new property owner is cleaning up the property.[18] The advantage to the recipient in performing the cleanup is the ability to integrate cleanup and redevelopment activities, thus saving time and costs and gaining greater control for both activities.

Environmental Cleanup Is Progressing but Will Require Many Years to Fully Complete

While DOD has made progress and has established numerous initiatives to expedite environmental cleanups, many cleanup activities remain. As of September 30, 2000, 99 of 204 BRAC installations requiring cleanup had cleanups under way or completed. DOD estimates that 80 additional installations will have cleanups under way or completed by fiscal year 2003, and the remaining 25 installations will have cleanups under way or completed during fiscal years 2004 through 2015. However, DOD projects that long-term monitoring will be required at some sites well after 2015 to ensure those cleanup actions are effective.

[17] Army officials were reluctant to provide estimates of land transfers beyond 2007 primarily because of uncertainties related to environmental restoration activities so far in the future.

[18] The Port of Oakland is doing the cleanup of the Fleet & Industrial Supply Center, Oakland, California, transferred in 1999, and the Government of Guam is cleaning up Agana Naval Air Station, Guam, transferred in 2000.

Several factors have affected the progress of DOD's environmental cleanup activities. According to DOD officials, changes in the anticipated use of an installation have occasionally created stricter cleanup requirements that have increased the cost and time needed to put remedies in place. For example, a site on Fort Ord, California, which was originally planned to have limited reuse, is now slated to become a residential area, necessitating more extensive environmental and unexploded ordnance inspection and cleanup. DOD also continues to complete investigations and conduct long-term monitoring at contaminated sites, which can reveal additional previously unknown contamination. For example, at a site on McClellan Air Force Base, California, the Air Force discovered traces of plutonium mixed in with radium-contaminated rags and brushes. The intensive procedures needed to deal with plutonium have increased the estimated cost from less than $10 million to $54 million and extended scheduled completion to 2034.

Of the $22 billion estimated cost for implementing the BRAC program through fiscal year 2001,[19] about $7 billion, or 32 percent, is associated with base closure environmental activities. Furthermore, DOD estimates that $3.4 billion will be required after fiscal year 2001 for environmental activities (see fig. 5).[20] This is a $1 billion increase over the $2.4 billion environmental cost estimate DOD reported in fiscal year 1999. DOD officials attributed this increase primarily to the inclusion of cleanup costs for unexploded ordnance, delays in the program, the refinement of cleanup requirements and DOD's cost estimates, and the use of more stringent cleanup standards due to changes in how closed installations will be used. As noted in our July 2001 report, DOD has reported that the vast majority of its BRAC environmental cleanup costs would have been

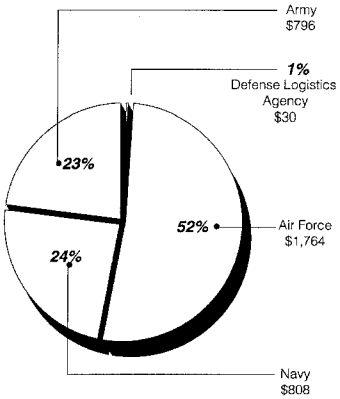
[19] While cost estimates are routinely updated and tracked in financial accounting systems, they are based on DOD obligations and not actual outlays, thereby adding a degree of imprecision to the actual costs and the basis for savings projections. The results of our most recent financial audit at DOD show that the Department does not have the systems and processes in place to capture required cost information. See *DOD Financial Management: Integrated Approach, Accountability, and Incentives Are Keys to Effective Reform* (GAO-01-681T, May 8, 2001), p. 5.

[20] At the same time, uncertainties exist regarding the full cost of environmental restoration beyond fiscal year 2001 because DOD does not have complete and accurate data needed to estimate cleanup costs of unexploded ordnance, such as bombs and ammunition, and other constituent contamination, such as propellants and explosives, on closed training ranges. See *Environmental Liabilities: DOD Training Range Cleanup Cost Estimates Are Likely Understated* (GAO-01-479, Apr. 11, 2001), pp. 4-6.

incurred whether or not an installation is impacted by BRAC.[21] DOD acknowledges, however, that environmental costs under the BRAC process may have accelerated in the shorter term. Others suggest that in some instances BRAC-related environmental cleanups may be done more stringently than would have been the case had the installation remained open. However, the marginal difference is not easily quantified and depends largely on the final use of the closed installation.

Figure 5: DOD's Estimated Environmental Cleanup Cost at Base Closure Sites after Fiscal Year 2001

(Dollars in millions)



Total: $3,398

Source: Our analysis of DOD data as of July 2001.

[21] *Environmental Liabilities* (GAO-01-971, July 31, 2001).

The Air Force's base closure environmental activities account for 52 percent of the total estimated costs after fiscal year 2001. About $417 million of the Air Force's approximated costs of $1.8 billion is for the cleanup of the former McClellan Air Force Base.

Navy officials indicated that they were revising the $808 million cost estimate for base closure environmental activities and believe that the estimate could increase by $142 million. Continuing negotiations with federal and state regulators is the major cost driver, as regulators have requested the Navy to apply more stringent standards for cleanups than originally planned. For example, during the closure of Dallas Naval Air Station, Texas, the state and local regulators asked the Navy to clean former industrial sites to residential levels, which required more extensive cleanup and increased cost.

Army officials are also revising their $796 million cost estimate for base closure environmental activities due to better estimates for restoration of land with unexploded ordnance. They estimate that removal of unexploded ordnance may account for $308 million of the Army's revised estimate, of which $254 million is estimated to remove unexploded ordnance from two locations—the former Fort Ord, California, and the former Camp Bonneville, Washington. Still, Army officials said that their cost estimates for base closure environmental activities beyond fiscal year 2001 could change based on the proposed land use. For example, the Army estimates that it will cost about $77 million to remove unexploded ordnance from the former Camp Bonneville so that it can be used as a park. However, officials said that if two-thirds of the land, which is heavily wooded, became a conservation area with institutional controls that limit public access, cleanup costs could be reduced significantly.

DOD has implemented a Fast-Track Cleanup Program to speed the recovery of communities affected by the BRAC program. A key element of the cleanup program is the cooperative relationship between state and federal regulators and the installation environmental program manager. This team approach is intended to reduce the time to establish and execute cleanup plans. The program also seeks better integration of cleanup efforts with the community's plan for using the properties, and it may also help to contain some environmental cleanup costs.

The Congressional Budget Office reported in 1996 that DOD could reduce costs by delaying expensive cleanup projects if contamination poses no imminent threat and it lacks cost-effective cleanup technologies.[22] The Office also stated that in the long run, new cleanup technologies represented the best hope of addressing environmental problems with available DOD funds.

We have also reported that there are various options for reducing these costs. In 1996, we noted that cleanup costs at closing bases could be reduced by deferring or extending certain cleanup actions, adopting more cost-effective cleanup technologies, and sharing costs with the ultimate user of the property.[23] We also reported that these options might adversely affect programmatic goals, thereby presenting decisionmakers with difficult choices in developing a cost-effective environmental program.

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This concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have at this time.

Contacts and Acknowledgments

For further contacts regarding this statement, please contact Barry W. Holman at (202) 512-8412 or Mark Little at (202) 512-4673. Individuals making key contributions to this statement include Michael Kennedy, James Reifsnyder, Charles Perdue, Robert Poetta, Arnett Sanders, John Lee, Tom Mahalek, and John Buehler.

[22] *Closing Military Bases: An Interim Assessment*, Congressional Budget Office, December 1996.

[23] *Military Base Closures: Reducing the High Costs of Environmental Cleanup Requires Difficult Choices* (GAO/NSIAD-96-172, Sept. 5, 1996).

Attachment I: Key Reports on the Status and Implementation of DOD's Base Realignments and Closures

Military Base Closures: DOD's Updated Net Savings Estimate Remains Substantial (GAO-01-971, July 31, 2001).

Environmental Liabilities: DOD Training Range Cleanup Cost Estimates Are Likely Understated (GAO-01-479, Apr. 11, 2001).

Military Base Closures: Unexpended Funds Raise Questions About Fiscal Year 2001 Funding Needs (GAO/NSIAD-00-170, July 7, 2000).

From Barracks to Business: The M.I.T. Report on Base Redevelopment, Economic Development Administration, Department of Commerce, March 2000.

Military Base Closures: Potential to Offset Fiscal Year 2000 Budget Request (GAO/NSIAD-99-149, July 23, 1999).

Military Bases: Status of Prior Base Realignment and Closure Rounds (GAO/NSIAD-99-36, Dec. 11, 1998).

Military Bases: Review of DOD's 1998 Report on Base Realignment and Closure (GAO/NSIAD-99-17, Nov. 13, 1998).

Review of the Report of the Department of Defense on Base Realignment and Closure, Congressional Budget Office, July 1, 1998.

Audit Report: Cost and Savings for 1993 Defense Base Realignments and Closures, Department of Defense Office of the Inspector General (Report No. 98-130, May 6, 1998).

The Report of the Department of Defense on Base Realignment and Closure, Department of Defense, April 1998.

Defense Infrastructure: Challenges Facing DOD in Implementing Reform Initiatives (GAO/T-NSIAD-98-115, Mar. 18, 1998).

Base Realignment and Closure 1995 Savings Estimates, U.S. Army Audit Agency (Audit Report AA97-225, July 31, 1997).

Military Bases: Lessons Learned From Prior Base Closure Rounds (GAO/NSIAD-97-151, July 25, 1997).

The Effects of Military Base Closures on Local Communities: A Short-Term Perspective, RAND National Defense Institute, 1996.

Closing Military Bases: An Interim Assessment, Congressional Budget Office, December 1996.

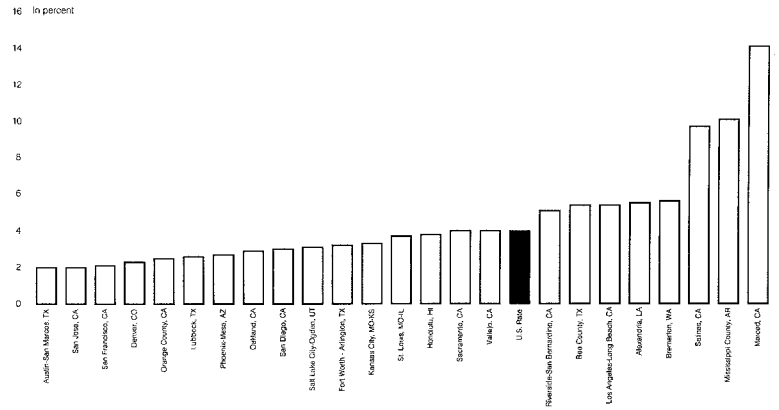
Military Base Closures: Reducing High Costs of Environmental Cleanup Requires Difficult Choices (GAO/NSIAD-96-172, Sept. 5, 1996).

Military Bases: Closure and Realignment Savings Are Significant, but Not Easily Quantified (GAO/NSIAD-96-67, Apr. 8, 1996).

Attachment II: Unemployment Rates of BRAC-Affected Areas Compared to the U.S. Rate

As shown in figure 6, 16 (67 percent) of the 24 BRAC-affected local locations west of the Mississippi River had unemployment rates less than or equal to the U.S. rate of 4 percent in 2000. The other eight locations had unemployment rates greater than the U.S. rate.

Figure 6: Unemployment Rates of 24 BRAC-Affected Locations West of the Mississippi River Compared to the U.S. Rate in 2000

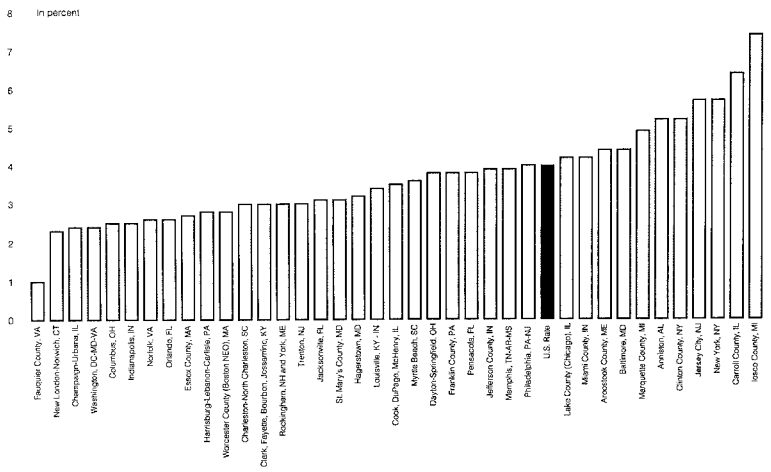


Note: Each of these communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Labor data.

As shown in figure 7, 27 (or 71 percent) of the 38 BRAC-affected local locations east of the Mississippi River had unemployment rates less than or equal to the U.S. rate of 4 percent in 2000. The other 11 locations had unemployment rates greater than the U.S. rate.

Figure 7: Unemployment Rates of 38 BRAC-Affected Locations East of the Mississippi River Compared to the U.S. Rate in 2000



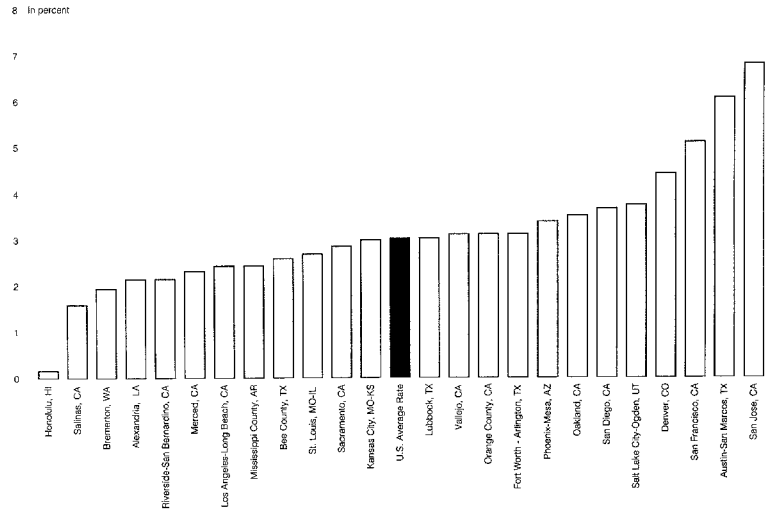
Note: Each of these communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Labor data.

Attachment III: Average Per Capita Income Growth Rates of BRAC-Affected Areas Compared to the U.S Average Rate

As shown in figure 8, 12 (or half) of the 24 BRAC-affected local locations west of the Mississippi River had average annual per capita income growth rates that were greater than the U.S. average growth rate of 3.03 percent during 1996-99. The other 12 locations had rates below the U.S. average rate.

Figure 8: Average Annual Real Per Capita Income Growth Rates of 24 BRAC-Affected Locations West of the Mississippi River Compared to the U.S. Average Rate During 1996-99

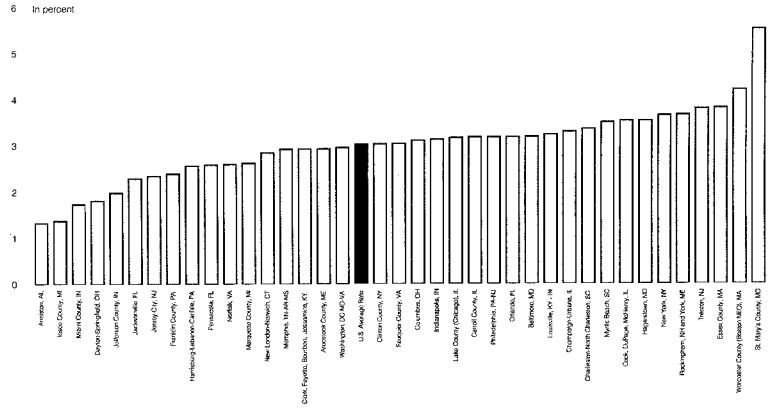


Note: Each of these communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Commerce data.

As shown in figure 9, 21 (or 55 percent) of the 38 BRAC-affected local locations east of the Mississippi River had average annual per capita income growth rates that were greater than or equal to the U.S. average growth rate of 3.03 percent during 1996-99. The other 17 locations had rates below the U.S. average rate.

Figure 9: Average Annual Real Per Capita Income Growth Rates of 38 BRAC-Affected Locations East of the Mississippi River Compared to the U.S. Average Rate During 1996-99



Note: Each of these communities, from all four BRAC rounds, lost an estimated 300 or more government and contractor civilian jobs.

Source: Our analysis of Department of Commerce data.

Attachment IV: Economic Recovery Is Continuing at Communities Surrounding the Former Chase Field Naval Air Station and Castle Air Force Base

In 1998, we reported that in general, the communities surrounding the six major base closure sites we visited suffered initial economic disruption, including decreased retail sales; declining residential real estate values; and social losses felt in local schools, churches, and organizations.[1] However, we also reported that this initial period was followed by recovery. We recently revisited communities surrounding two of the major base closures—Beeville, Texas (Chase Field Naval Air Station), and Merced and Atwater, California (Castle Air Force Base), and found that both have continued their economic recovery from the base closures but still have some problems.

Table 1 shows how the closure of Chase Field Naval Air Station in February 1993 affected the surrounding communities and activities, as indicated by local officials during our visits in 1998 and 2001.

Table 1: Community Impacts Resulting From the Closure of Chase Field Naval Air Station, as Reported in 1998 and 2001

Overview	
Bee County and the surrounding counties are generally rural and agriculture and ranching are industries in the area. The largest economic sectors in Bee County are now state and local government, trade, and services.	
As we reported in 1998	**As we found during our recent visit in 2001**
1997 unemployment rate of 5.9 percent.	2000 unemployment rate of 5.4 percent.
Average real per capita income growth (1991-95) 0.5 percent.	Average real per capita income growth (1996-99) 2.59 percent.
Sales of expensive items, such as automobiles, dropped.	Sales of new automobiles remain low, while used automobile sales have increased.
Automobile dealerships had to reduce staff, and some businesses closed, including high-end clothing stores, a discount department store, an automobile dealership, a local janitorial service, a tortilla factory, and about four convenience stores.	New motel, theater, and water treatment plant built, and one of two large grocery stores closed. New hospital wing added to accommodate a significant increase in hospital patients treated. County sales tax revenues increased slightly.
Real estate values in the residential market declined, and housing in the $75,000-plus range remained stagnant.	Real estate values in the residential market increased, with new home building growth for homes in the $100,000-plus range.
Many military families that had brought a range of life experiences to the community moved.	Evening enrollment at community college is about 75 percent lower without the military presence.
Skilled workers commuted long distances to other bases, or were retired, unemployed, underemployed, or no longer residing in the area.	Skilled workers continue to commute long distances to other bases.

[1] *Military Bases* (GAO/NSIAD-99-36, Dec. 11, 1998).

In March 1998, DOD's Office of Economic Adjustment reported that 1,290 new jobs had been created from the community's reuse of the former naval air station. However, by October 2000, the reported number of jobs created dropped to 1,169. At the time of our 2001 visit, the former air station had only one tenant, who maintains the facility instead of paying rent under a negotiated 10-year lease agreement.

According to local officials, the most important factor contributing to economic recovery was the decision of the Texas Department of Criminal Justice to locate a prison complex on the former air base. The medium-security prison, completed in 1994, occupies less than a third of the former base and employs about 1,200 people. Without this prison and another prison complex built earlier adjacent to the former base, local officials believe Beeville would not have survived as a community.

Table 2 shows how the closure of Castle Air Force Base in September 1995 affected the surrounding communities and activities, as indicated by local officials during our visits in 1998 and 2001.

Table 2: Community Impacts Resulting From the Closure of Castle Air Force Base, as Reported in 1998 and 2001

Overview
Merced County is a rural area largely dedicated to agriculture and related industries, with much of its labor force seasonally employed in farming and canning. The county is ranked third of California's 58 counties in the percentage of population living in poverty. Even during seasons referred to as full employment, the unemployment rate remains high, around 14 percent; during the off season, the rate can rise to between 19 and 22 percent. The area is home to large Hmong and Punjabi populations, many of whom are first-generation immigrants that cannot speak English.[a]

As we reported in 1998	As we found during our recent visit in 2001
1997 unemployment rate of 15.4 percent.	2000 unemployment rate of 14.1 percent.
Average real per capita income growth (1991-95)—0.8 percent.	Average real per capita income growth (1996-99)—2.32 percent.
Real estate values in Atwater dropped 25 to 30 percent, partly because the government purchased departing military personnel's houses and placed them on the market. New housing construction stopped.	Housing starts have increased significantly over the last 2 years partly because Bay Area families have taken advantage of affordable residential housing. A new university campus is expected to open in 2004 causing an increase in real estate sales. Average home prices increased from $114,000 to $140,000.
Atwater schools lost enrollment and their tax base. The elementary school district had to reduce budget and staff, canceling some programs.	Atwater population increased 9.6 percent from 1996 to 2000. Merced population increased by 4.5 percent over the same period.
Local businesses had to reduce staff; some closed, and some changed ownership. Several small businesses closed, including restaurants, insurance vendors, and dry cleaners.	Many closed businesses, such as restaurants and other services, have not been replaced. There are vacant buildings throughout Atwater.
The community lost the military families, who contributed to local organizations such as churches and hospitals.	Former air base skilled workers continue to commute over 4 hours a day to the Bay Area, while others no longer reside in the area.

[a]Many Hmong immigrants from Laos, recruited and trained by the United States to conduct rescue missions and guerilla activity during the Vietnam war, migrated to the United States after the war to escape persecution. India's Punjabi began immigrating to California after World War II and settled largely in rural areas.

DOD's Office of Economic Adjustment reported an increase of 325 new jobs as a result of the redevelopment of Castle Air Force Base from 1998 to 2000. At the time of our 2001 visit, Cingular Wireless—the largest tenant on the former air base—employed 1,200 people at its call center. However, on July 25, 2001, Cingular announced that it was cutting 400 jobs at its Castle site because the number of calls and the size of the workforce had outgrown the center's space. In addition, 42 other tenants on the former air base employed about 310 individuals.

According to local officials, the closure of Castle had an immediate adverse effect on the unemployment rate, housing costs, and per capita income, but within several years these negative aspects were overcome. The strong national economy helped in this recovery, but Merced County's continuing growth is primarily a result of three factors. First, a new federal

prison now occupies a portion of the former air base and employs 200 individuals. Second, because a new University of California campus is expected to open in the fall of 2004 and to eventually serve 25,000 students, real estate sales have begun to increase. Third, many Bay Area residents are purchasing more affordable homes in Merced County and commuting to their jobs in the Bay Area.

Mr. HORN. Leave that particular presentation up. I want to ask you. Congress appropriates the cleanup money.

Mr. HOLMAN. Yes, sir.

Mr. HORN. And it goes to the Department of Defense. Now, what do we know about what happens after we spend hundreds of millions to try and get this done, and then there is an overall Department of Defense function, and that is my concern.

They are so slow in providing this money out to the services. Could we get a chart out of GAO to put in this hearing record at this point? Well, let's look at it this way. How much did the Office of Management and Budget that reports to the President on the budgets and look at the Clinton administration and the Bush administration, and when that money goes to the department of Defense, I would like to know how fast are they in using that money.

And here is the Air Force: 52 percent, and yet Defense Logistics Agency is 1 percent. Army, 23 percent; Navy, 24 percent. And that is what is worrying me. People are just asitting on money balancing the books is the end we now require.

So if you could get that kind of a chart, without objection that will be in the hearing record at this point.

Mr. HOLMAN. I will see what I can do in that regard, Mr. Chairman.

One issue you may be aware of, in the past few years we have done some budget analysis of DOD's the BRAC budget requests, and I guess one of the issues we have raised in the past few years is just the sizable amounts of unliquidated obligations and unobligated balances that are there to be used, and for whatever reason, you know, there was a slowness in cleaning-up those accounts or using those funds. I think it goes to the issue you are raising.

But I will see what I can do in terms of giving you a chart.

[The information referred to follows:]

United States General Accounting Office
Washington, DC 20548

September 24, 2001

The Honorable Stephen Horn
Chairman, Subcommittee on Government
Efficiency, Financial Management, and
Intergovernmental Relations
Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

During your August 28, 2001, oversight hearing at Monterey, California, on the effect of military base closures on state and local communities, you expressed concern about the adequacy of funding for the environmental cleanup of base realignment and closure (BRAC) property. This letter responds to your request that we provide additional information for the hearing record on environmental cleanup costs, including a chart concerning the costs to Department of Defense (DOD) components for environmental cleanup of BRAC bases.

Overall BRAC Environmental Cleanup Cost Projections

Environmental cleanup at closing bases has proven to be a lengthy and costly venture for DOD. From a DOD-wide perspective, reported BRAC environmental cleanup costs through fiscal year 2001 total nearly $7 billion. Additionally, an estimated $3.4 billion is required beyond fiscal year 2001 to complete the cleanups (see table 1).

Table 1: Estimated BRAC Environmental Cleanup Costs

Dollars in millions

DOD Component	Costs through FY 2001	Estimated costs beyond FY 2001	Total
Army	$2,025	$796	**$2,821**
Navy	2,615	808	**3,423**
Air Force	2,233	1,764	**3,997**
Defense Logistics Agency	105	30	**135**
Total	**$6,978**	**$3,398**	**$10,376**

Source: Our analysis of DOD data.

Over 50 percent of the out-year funding needs are attributable to the Air Force. About $417 million of the Air Force's approximated costs of $1.8 billion is for the cleanup of the former McClellan Air Force Base, California. Fort Ord, California, the venue for your hearing, illustrates the extent to which cleanup costs can be spread over many years. While Fort Ord closed in 1994, the Army still has considerable work to do to complete the environmental cleanup necessary before much of the former base property can be productively reused. Recent Army estimates show that, in addition to $267 million already spent on environmental cleanup at Fort Ord, an additional $326 million is required over at least the next 15 years to complete the cleanup.

Adequacy of Funding Requests and Utilization of Funds

Available information presents a mixed picture concerning the adequacy of funding being requested and obligated to accomplish cleanup on BRAC bases. While there are some indications that at least the Navy may not have requested or received environmental funding sufficient to its needs, we have also seen indications that some services may not have fully utilized funding available to them.

The Navy, in particular, has reportedly delayed environmental work at several closed bases because of a reported funding shortfall and is faced with additional shortages in fiscal year 2002. In testimony before the House Armed Services Committee in July 2001, the Director, Civil Engineering Readiness Division, Chief of Naval Operations, reported that the Navy was unable to fully fund its BRAC funding requirement for the fiscal year 2002 budget. The Director was also unsure if the Navy could substantially reduce, through negotiations with regulators, the amount of work specified in state and federal cleanup agreements. He further stated that DOD and the Congress had reduced the Navy budget requests for the last few years, primarily due to the expectations that prior year unliquidated balances could be used to fund current requirements. As a result, the Naval Audit Service was reviewing prior year unexpended funds and was expected to conclude its analysis in a few months.

Our prior work, along with the work of others, has shown that untimely budget execution in the BRAC accounts, including funds designated for environmental cleanup, has been a longstanding concern, resulting in a buildup of unobligated balances and unliquidated obligations. In our July 2000 report on the BRAC account for the 1991, 1993, and 1995 rounds, we noted that as of December 1999 DOD had about $500 million in reported unobligated balances, of which about $114 million was appropriated in fiscal year 1998 or earlier.[1] Additionally, it had $1.6 billion in reported unliquidated obligations from prior appropriations in the same account, of which about $115 million were appropriated in 1995 or earlier. The majority of the $115 million in unliquidated funds resulted from environmental cleanup activities that were carried out more slowly than planned, especially by the Air Force. DOD has said that the technological complexities of environmental activities, coupled with

[1] *Military Base Closures: Unexpended Funds Raise Questions About Fiscal Year 2001 Funding Needs* (GAO/NSIAD-00-170, July 7, 2000).

lengthy negotiations with regulators and local communities, have resulted in some schedule delays, which have slowed the liquidation of funds.

However, more recently, a July 2001 DOD analysis of the environmental program for the four BRAC rounds generally shows high rates of execution for environmental obligations and liquidations. Overall, the data show that about 96 percent of the funds appropriated for BRAC environmental activities has been obligated, leaving an unobligated balance of about $245 million. In addition, about 83 percent of the appropriated funds has been liquidated, resulting in an unliquidated balance of about $1.1 billion. A DOD environmental official told us that over the last 2 years DOD has increased its execution rates for BRAC environmental activities. We have not fully analyzed this latest data but intend to do so as part of our ongoing review examining the implementation of prior BRAC round decisions.

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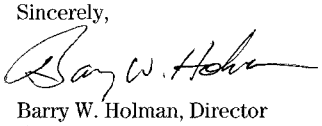
Should you have any questions regarding the issues presented in this letter, please contact me at (202) 512-5581.

Sincerely,



Barry W. Holman, Director
Defense Capabilities and Management

Mr. HORN. Great. I appreciate it.

So we now move to our next presenter, Patrick O'Brien, Acting Director, Office of Economic Adjustment, Department of Defense.

Mr. O'BRIEN. Mr. Chairman, before I begin, I would like to recognize Congressman Farr's contributions to the local recovery support here at Fort Ord. The community often under his leadership has repeatedly reached beyond the envelope of the status quo to realize its reuse objectives.

The department's overall reuse program has been responsive to local needs, resulting in the creation of nearly 76,000 new jobs, or nearly 60 percent of the total civilian jobs lost through last fall. This reflects progress at over 75 major closure locations.

Numerous reuse efforts continue to be cited across the Nation as examples of successful economic recovery, including some here at Fort Ord. Our Secretary commends the many successful efforts to date, including those at Fort Ord, and commits to assist in the resolution of outstanding impediments to successful civilian reuse.

Let me begin by providing an overview of the defense economic adjustment program and OEA. OEA was created by the Secretary of Defense in 1961 to help alleviate serious local impacts resulting from defense program changes, including base closures. OEA assistance consists of technical and financial resources. These resources are managed and delivered through an OEA project manager directly with local leaders, the involved DOD components, and local, State, and Federal agency representatives to help communities help themselves.

Facilitating the redevelopment of former installations also requires the coordination of numerous Federal assistance programs. These range from technical guidance and grant-in-aid to discounted property transfers for authorized public purposes.

OEA project managers work as functional ombudsmen who know the types of assistance programs available and can facilitate interaction between local officials and representatives of these various programs.

As the leading Federal agency partners, the Economic Development Administration with $549 million, Federal Aviation Administration with $386 million, Department of Labor with $210 million have collectively provided over $1 billion in adjustment assistance.

Interagency coordination has also facilitated the Military Departments transfer property at 92 former bases, with some multiple conveyances for public purposes.

Beginning in the mid-1970's, several Presidential actions sought to enhance the Defense Economic Adjustment Program, including the creation of a Federal interagency organization called the President's Economic Adjustment Committee.

These efforts were all focused on supporting the Secretary of Defense's actions to assist impacted communities. As chairman of the committee, our Secretary is strongly committed to assuring that the interagency partnership works to support community transition needs.

Thus, OEA will work to reinvigorate the President's Economic Adjustment Committee to focus its efforts on prioritizing requirements and resolving regulatory and property disposal conflicts.

It should be noted that since its inception, the overall Defense Economic Adjustment Program has assisted more than 350 communities, over 110 of these arising from the recent four base closure rounds.

Beyond these sources of assistance, the Department has also sought to make base closure and disposal supportive of community-based reuse. Initially efforts to convert former facilities to productive civilian use, such as airports, science research parks, industrial manufacturing, schools, hospitals, and recreational areas were routinely frustrated by laws and regulations, some over 50 years old, which were inadequate for the contemporary real estate market.

Property screening was not responsive to local planning and consensus. Environmental analysis and cleanup requirements were often not consistent with community plans. And early access to property to generate lease revenue, vital to help pay for redevelopment, was almost nonexistent.

Communities could also only acquire property for business development through purchase at fair market value, consuming essential local resources needed to pay for redevelopment.

In the mid-1990's, Congress made significant changes to our closure and disposal authorities, specifically empowering local communities to plan and implement a strengthened community based reuse program. These changes allowed communities to learn earlier in the process what property would become available, which in turn afforded them the opportunity to start reuse planning activities sooner. They could simultaneously address the interests of community, nonprofit, public, private and homeless assistant provider organizations when developing their reuse plan.

Most importantly, they could also acquire the property from the military services at no cost for purposes of job creation and redevelopment through an economic development conveyance or EDC.

Prior to this change, the Department sought to convey property for purposes of job creation for consideration at or below the property's estimated fair market value. The EDC, as we call it, has enabled the Department to complete 57 separate transfers of real property, accounting for over 92,000 acres of land and facilities that are projected to support the creation of 350,000 new jobs.

The reuse effort at Fort Ord, similar to most other locations, is incremental, building upon opportunities as they occur. To date, over 10,000 of the 27,000 available acres have been transferred. Considerable Federal assistance has been provided to assist with planning and reuse, including $4.2 million from the Office of Economic Adjustment for local planning and organization needs, $29.1 million for project planning and infrastructure work from the Economic Development Administration; $64.5 million transferred from DOD to the Economic Development Administration to carry out provisions of past Defense Appropriation Acts; nearly $5.2 million to assist approved homeless providers, establish onsite programs from the Department of Housing and Urban Development; and $800,000 in worker adjustment assistance from the Department of Labor.

The communities represented at this hearing have taken the opportunity base closure presented and made the most of what they had to work with to date. Let's look at that once.

They have crafted a feasible reuse construct in spite of the fact that over 60 percent of the former facility, because of its slope and the habitats contained therein, must be preserved and not made available for any revenue generating purpose.

Furthermore, much of the reuse activity on base today is institutional, meaning they are generally public entities without any obligation to compensate the communities that provide police and fire protection and other public services. As a result, the 5,000-plus acres the community will receive through an approved, no-cost EDC, which is really the primary piece that is outstanding here, is necessary so that local jurisdictions will be compensated for their public costs through developer fees and property tax payments. In essence, it makes the local community whole.

The challenges presented by the witnesses include some that test the boundaries of federalism and demand fundamental changes in Federal-State partnerships focused on support to local economic recovery.

Clearly, we need to seek consistent support from the Federal partners in this effort through the common goal of local economic recovery. Within the State of California, we have seen the Department of Trade and Commerce work on behalf of community adjustment and the California Environmental Protection Agency and its departments carry out their regulatory mandates on the process.

The local air and water boards represent another layer beyond the Federal Government, adding to the complexity of the local efforts. Just as we will work to encourage the President's Economic Adjustment Committee to focus its activities on prioritizing requirements and resolving the regulatory and property disposal impediments to reuse, we call upon the State of California to consider the same with its agencies and local boards.

In closing, Mr. Chairman, I thank you for the opportunity to come before you to describe what we at the Department of Defense believe to be an important program, one that benefits both the department and communities we serve. The Department's primary mission is the defense of our Nation and way of life, and we recognize the responsibility to help communities adjust to significant impacts that may result from changes in our programs.

I would be pleased to answer any questions you may have.

[The prepared statement of Mr. O'Brien follows:]

HOLD UNTIL RELEASED

BY THE COMMITTEE

STATEMENT OF

PATRICK J. O'BRIEN
ACTING DIRECTOR
OFFICE OF ECONOMIC ADJUSTMENT

TO THE HOUSE COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

IN CONNECTION WITH THE REUSE AND INTERGOVERNMENTAL PROCESSES AT THE FORMER FORT ORD MILITARY INSTALLATION

Statement of

Patrick J. O'Brien

Acting Director, Office of Economic Adjustment

to the

House Committee on Government Reform

Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations

28 August 2001

Mr. Chairman and distinguished Members of this Subcommittee, thank you for the opportunity to appear before you today to discuss the Department's efforts to assist civilian reuse at base closure sites and the specific experiences at the former Fort Ord.

The Defense Economic Adjustment Program

Let me begin by providing an overview of the Defense Economic Adjustment Program and the Office of Economic Adjustment (OEA). Since 1978, Presidential Executive Orders have required the Secretary of Defense to design and establish a Defense Economic Adjustment Program to "assist in the alleviation of serious community socioeconomic effects that result from major Defense" actions. The effects may come from actions that reduce local employment (base

closures, reductions-in-force, and contract cutbacks) or actions that increase Defense activity and place new demands on communities for increased public services (sewer, water, roads, schools, etc.). Regardless of the scenario, these changes can directly impact businesses, local governments, and other elements of the local economy. OEA, originally created in 1961, is responsible for coordinating the activities of the Defense Economic Adjustment Program.

In fulfilling that responsibility, OEA supports local communities in their efforts to as they address the impacts of the Department's mission decisions.

While the Department seeks to minimize impacts locally, there are instances when significant economic dislocations are unavoidable. In these instances, OEA manages a program of technical and financial resources through a project manager working directly with key community leaders, the involved DoD components, and local, state, and federal agency representatives to assist the community to help itself. This is a "hands on" program. Initially OEA provides guidance on how to organize properly to avoid conflicts and encourage consensus. Then funding is provided to sustain a local organization and base reuse planning. The resulting collaborative effort results in community-based adjustment strategies, coordinated public-private investments that generate new job opportunities and otherwise alleviate the impacts, and enhanced local capacities to sustain the resulting economic activity. OEA assistance continues through planning and into implementation, often extending 3-5 years or more, depending on the complexity of transition.

Intergovernmental Response

As an agency whose primary responsibility is national security, the Department relies heavily on the domestic federal agencies to assist local adjustment efforts where appropriate agency technical and financial program resources fit the community recovery strategy. There are numerous Federal assistance programs, ranging from technical guidance and grant-in-aid support to discounted conveyances of property for public purposes. These programs are coordinated to ensure an optimal level of Federal assistance is provided to support local adjustment efforts. OEA works with each of the major federal agencies. OEA project managers become functional resources on the federal assistance available and facilitate the interaction between local officials and representatives of these various programs. Often, OEA funding is used to develop the local economic recovery strategy, which serves as a blueprint for other federal funding. As the leading federal agency partners, the Economic Development Administration ($549 million), Federal Aviation Administration ($386 million), and Department of Labor ($210 million) provided over $1 Billion[1] in coordinated grant assistance in response to the last four rounds of the Department's closure activity.

Throughout the 41 years of the Defense Economic Adjustment Program, the teamwork approach of federal agencies has been a key ingredient to smoother and faster local transition. OEA will work to reinvigorate the President's Economic Adjustment Committee, mechanism. We will stress prioritization of support and resolution of conflicts that impede local progress.

[1] DoL activity through December 30, 1997. FAA activity through June 20, 2000, and EDA activity through January 11, 2001.

Interagency coordination has also facilitated the Military Departments' transfer of property at 92 former installations, some with multiple sponsored conveyances.

Agency (Use)	Installations	Acres[2]
Health & Human Services	25	472
Education	30	3,058
Justice (Prison)	18	4,161
Federal Aviation Administration (Airports)	35	35,698
Ports (Land or Water)	2	129
Interior (Park, Recreation, Wildlife)	50	74,381
Transportation (Roads)	4	66

Beyond grant assistance and property transfers, close intergovernmental coordination by OEA has furthered local adjustment efforts in such areas as: draw down of school impact aid; review of reuse plans for protection of the interests of homeless assistance groups; environmental regulatory approvals; leaseback procedures; surplus property screening; property transfer to other federal entities; historic resource agreements; joint use agreements; and, alternative property disposal guidance.

Base Reuse

Our adjustment work since the early 1990's has consisted primarily of working with communities adversely impacted by base closures. Through 1993, communities seeking to reuse

former military installations confronted a myriad of Federal real property and environmental laws/regulations, and volumes of implementing guidance all of which subordinated community-based reuse decisions to Federal retention and disposal decisions. While the former military installation itself was considered the most important asset for local economic recovery, many of the laws and regulations affecting the closure, disposal, and reuse of surplus property dated to the 1940's and were viewed as functionally inadequate for the 1990's real estate market. Efforts to convert the former facility to productive civilian use (i.e., airports, science research parks, industrial manufacturing, schools, hospitals, recreational areas, etc.) were routinely frustrated.. The following was common:

- DoD property screening for other DoD and Federal interests did not provide the community a voice in property disposal decisions affecting their community.

- Existing legislation, the McKinney Act, allowed homeless providers to claim surplus property before local communities and without regard to the local consensus for how the property should be reused.

- Authorities delegated to DoD under the Federal Property and Administrative Services Act of 1949 by the Administrator of the General Services Administration did not emphasize objectives of job creation/economic redevelopment.

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[2] Activity through September 30, 2000

- The mandated Military Service review under the National Environmental Policy Act 1976, which routinely yielded an Environmental Impact Statement, often reflected a range of reuse opportunities and preferred uses. Community plans wereroutinely within the range of alternatives; however, the plans were frequently not finalized or available until after the EIS was well underway or completed and consequently the preferred uses indentified in the EIS were different than the community's reuse plan.

- There were few mechanisms available to allow community interim use of available property short of outright deed conveyance.

- The Services often valued property based upon comparable sales or other market data, resulting in determinations of value that communities viewed as unreasonable in light of economic conditions and required infrastructure improvements.

Considering that most local adjustment efforts consisted of redevelopment and job creation proposals, Congress authorized new authorities and the Department promulgated new regulations in the mid-1990's that empowered local communities during planning for reuse and redevelopment. These efforts, while not necessarily resolving all reuse problems, resulted in the following:

- *Military Departments screening property faster:* So communities know sooner what property will be available for reuse.

- *Communities developing reuse plans faster*: On average, BRAC 88 communities took 57 months to develop a plan while BRAC 95 communities took an average of only 21 months.

- *Military Departments executing over 1,600 leases to date:* To further expedite leases, DoD:

  a Standardized the process in procedures established in the Base Reuse Implementation Manual (BRIM). This standardization included establishing model interim lease provisions. Each of the Military Departments have taken the provisions of the BRIM model lease and further refined it to develop Service-specific model interim leases that are available to the community and prospective tenant for review.

  b Issued guidance to the field on pre-leasing conferences designed to bring the parties to the table early in the process.

  c Extended interim leases to 5 years in response to perceived investor risk.

- *67 Economic Development Conveyances (EDCs) to date*: Over 93,500 acres have been conveyed to support the projected creation of over 350,000 new jobs. The EDC was established to enable local communities to acquire surplus property for purposes of job creation and local redevelopment. Initially, these transfers were to have been at or below the property's estimated fair market value. With enactment of the National Defense Authorization Act for Fiscal Year 2000, these conveyances are now at no cost. This new

authority also permits the modification of previous agreements if there have been changed economic circumstances that adversely affected the community's reuse program.

- *Community's reporting the creation of over 76,000 new jobs through October 2000 on former installations:* This represents nearly 60 percent replacement of the total civilian jobs lost.

In summary, reuse today consists of Community-based:

1. *Organization*: vested in a Local Redevelopment Authority, a local entity comprised of the communities in the vicinity of the installation and responsible for preparation of a reuse plan or implementation of the plan. The LRA is to provide leadership and build consensus for base reuse. Additionally, the LRA is the only eligible applicant for an EDC. Other local governmental units are eligible for other forms of conveyance.

2. *Planning*: a redevelopment plan is to be prepared as a blueprint for all disposal and reuse actions. This plan: a) reflects a community consensus for base reuse; b) balances local homeless needs with other economic redevelopment needs; c) provides basis for title transfer under an EDC; d) is to be considered in the Military Department's environmental analysis; d) provides the basis for Military Department's screening for state and local interests in the property; and, e) guides the Military Department's personal property disposal and interim lease activity.

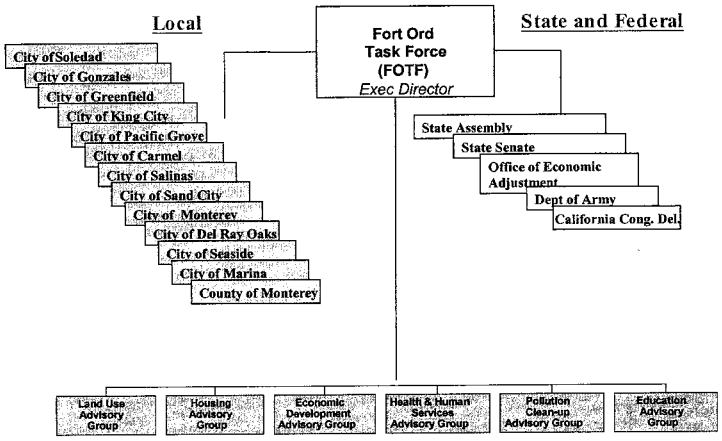
3. *Implementation*: beyond EDCs, DoD attempts to accommodate the community's consensus for reuse through its delegated disposal authorities. Where Federal entities desire to occupy a former installation, but might leave later, DoD may convey title to the community, which in turn may lease the facilities back to the Federal, thus avoiding complicated property disposal in the future..

Fort Ord

With this framework in mind, let me turn to the specific adjustment effort underway at Fort Ord. At the time Fort Ord was announced for closure by the 1991 Base Realignment and Closure Commission, the local unemployment rate was 10.5 percent with an overall labor force of 146,836. At the time the national unemployment rate was 6.9 percent. The closure resulted in the loss of 14,359 military and 3,797 civilian jobs as well as the determination that over 27,000 acres of surplus federal property would be made available for civilian reuse.

Fort Ord – Reuse Organization

Through the closure approval date, the Fort Ord Task Force (FOTF), with its 13 individual member jurisdictions had concentrated entirely on keeping the Fort open. As routinely occurs where a community has actively sought to keep its base open, the FOTF had to suddenly redirect its efforts from keeping Fort Ord off the closure list to responding to the closure. This amount of property involved, the fourth largest land area out of the recent four rounds of closure activity, combined with the 13 separate local jurisdictions comprising the Fort Ord Task Force

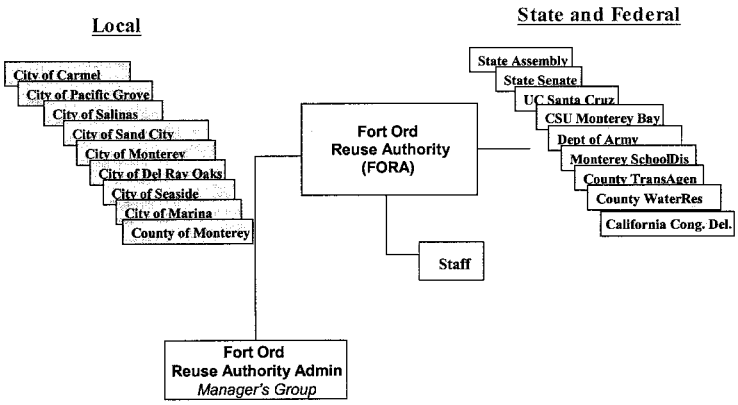


(FOTF) presented the economic adjustment program with unprecedented challenges. In our goal to have the community speak with one voice on matters pertaining to the reuse of the base, the number of communities mandated a very open and participative planning effort where a consensus required the unanimous vote of the member jurisdictions rather than a simple majority.

In response to the closure action, OEA provided grant assistance for a modest staff to support FOTF while the community decided upon a more specific organizational structure for planning. The member jurisdictions of Monterey County and the cities of Seaside and Marina each had land use jurisdiction over portions of the Fort. Additionally the nearby cities of Del Rey Oaks, Sand, and Monterey were initiating procedures with the Local Area Formation Council to bring portions of the Fort under their respective jurisdictions. Their standing as communities with existing or future police powers to enact and enforce zoning over the surplus

property resulted in their designation in 1992 as the Fort Ord Reuse Group (FORG). Operating under the oversight of FOTF, FORG was to develop a reuse plan and OEA worked with FORG to ensure adequate staff support for the planning effort.

As often occurs in the transition from planning to implementation, all of the jurisdictions represented in the planning effort worked to structure a local governance agreement wherein redevelopment of the Fort would be managed. By mid-1994, the Fort Ord Reuse Authority (FORA) was created by the State of California General Assembly to specifically acquire the surplus property from the Army and pass it on to its member jurisdictions for implementation of the plan. In addition to the primary land use communities, two major tenants providing the catalyst for economic recovery, California State University-Monterey Bay and University of California-Santa Cruz were also made members.



OEA continued to support FORA's staffing requirements through the end of the planning effort. Programmatically, OEA seeks to incrementally reduce its overall contribution to a reuse organization once the planning for reuse has been completed. Normally, this reduction is phased over four years at 25% reductions while the local adjustment effort assumes greater financial responsibility. The adjustment program should become a self-sustaining through either member contributions and/or revenue derived from reuse of the facility by the end of the fourth year.

Fort Ord – Reuse Planning

From the outset, the community recognized the impacts of the closure did not stop at the gate. OEA provided support for a comprehensive housing impact study to identify housing impacts and strategies for alleviating those impacts. Additionally, the Economic Development Administration provided a grant to gauge immediate potential impacts beyond the installation. Lastly, the Department of Labor provided funds through its local service delivery organization to begin evaluating the worker dislocation needs for the overall area.

The community initiated work on a preliminary base reuse plan, while simultaneously strategizing over an effective structure for carrying out the plan. They specifically recognized the major impediments to reuse that continue to exist today: water rights, threatened and endangered plant and animal species, unexploded ordinance, and existing structures that fail to meet existing codes, including seismic and Americans with Disabilities Act (ADA) requirements.

OEA supported the preparation of a water resource study and allocation plan as well as the preparation of a habitat management plan and conservation plan to allow development within the threatened and endangered species' constraints. This habitat planning effort was considered particularly crucial for the community. With a plan, the community could be invited to participate with the Army's consultation under the Endangered Species Act with the U.S. Fish and Wildlife Service (F&WS) prior to disposal of the property. This effort helped ensure the reuse plan was environmentally feasible right from the beginning. The alternative would have meant waiting for the property to be conveyed with use restrictions and then undertaking separate consultations directly with F&WS later.

The planning effort encountered some of the difficulties I mentioned earlier. These included: 1) the Army's Environmental Impact Statement (EIS), which did not consider the community's reuse plan as the preferred alternative, 2) nearly a dozen homeless providers that were identified through screening under the McKinney Act for homeless conveyances, and 3) environmental baseline data was provided piecemeal, causing continual revisions to the community plan. Ultimately, the community's initial base reuse plan was completed in March 1993, proposing a mixed reuse of the facility to maximize job creation within the recognized constraints. Local reuse was to be anchored by education and research activities on the former base. In the course of their planning effort, the City of Marina received planning assistance from the Federal Aviation Administration to assist with the conversion of Fritzsche Army Airfield. The interim plan provided the impetus for two major tenants, California State University and the

University of California-Santa Cruz, to obtain property for their respective programs and begin more detailed site planning efforts.

However, this interim reuse plan was deemed insufficient to guide the other reuse efforts on the base and a major revision was supported by OEA. The revised plan brought several benefits. This revision ensured compliance with the planning parameters contained in the State law establishing the Fort Ord Reuse Authority. It also became the Army's preferred alternative for its EIS. Passage of the Redevelopment Act of 1994, allowed the community to address the approved homeless applicant needs from the earlier McKinney Act process. A final draft reuse plan was completed in December 1994 and a final Environmental Impact Review Plan under State of California law in June 1997 with similar general land uses but less proposed densities.

Fort Ord – Reuse Implementation

In seeking to implement the local plan, several actions have already taken place resulting in the creation of over 1,000 jobs. Additionally, over 10,000 of the 27,000 acres have been transferred to date.

- 7,200 acres transferred to other Federal agencies;
- 1,001 acres transferred for public purposes through public benefit transfers sponsored by the U.S. Departments of Health and Human Services and Education, and Federal Aviation Administration;
- 405 acres, consisting primarily of the former golf courses, sold through a negotiated sale;

- 1,898 acres conveyed to the California State University – Monterey Bay and University of California Santa Cruz.

A conveyance of over 5,000 acres to FORA is awaiting the final unexploded ordinance investigation and clean-up activity through an economic development conveyance. The F&WS must sign-off on the community's management and conservation plans.

A conveyance of nearly 850 acres will facilitate the creation of a dune park along the Monterey Bay portion of the Fort.

Most of the remaining area is to be transferred to the Bureau of Land Management for management as natural habitat.

Considerable federal funding has been provided to assist with reuse to date.

- Office of Economic Adjustment: $4.2 million for local planning and organizational needs
- Economic Development Administration: $29.1 million for project specific planning as well as infrastructure work
- $64.6 million transferred from DoD to EDA to carry out provisions of past Defense Authorization Acts
- Housing and Urban Development: $5.2 million to assist approved homeless providers establish programs on-site
- Department of Labor: $800,000 worker adjustment assistance

The redevelopment efforts have resulted in the creation of over 1,100 jobs to date.

While these actions demonstrate progress with local reuse to date, the ability to transfer and use additional property continues to be a concern and challenge. As for the experiences to date, we would defer to the impacted community when determining whether a particular adjustment program has been successful.

Conclusion

In closing, Mr. Chairman and Members of the Committee, I thank you for the opportunity to come before you to describe what we at the Department of Defense believes to be an important program—one that benefits both the Department and the communities we all serve. The Department's primary mission is the defense of our nation and way of life, consequently, we recognize a responsibility to help communities adjust to significant adverse impacts that may result from changes in defense programs. I would be pleased to answer any questions you may have.

Mr. HORN. Thank you. We will be asking questions once everybody testifies.

The third presenter is Raymond J. Fatz, the Deputy Assistant Secretary of the Army.

Thank you for coming.

Mr. FATZ. Mr. Chairman, Mr. Farr, thank you for the opportunity to appear before the subcommittee today.

For the last 5 years, I have developed Army environmental policy and guidance and overseen implementation of environmental programs at Army installations. Since 1988, the Army has closed or realigned 139 installations. We have realized a one time savings of over $3 billion and will realize additional savings of almost $1 billion annually.

BRAC allows the Army to divest itself of unnecessary infrastructure so the Army can focus more on fighting and winning the Nation's wars and allows local communities to redevelop much of this surplus property for their benefit. BRAC makes sense. It is good for the Army, and it is good for the Nation.

The Army has made considerable progress in cleaning-up Fort Ord and making it available for redevelopment. Of the 28,000 acres at Fort Ord, the Army has transferred over 10,500 acres since it closed in 1994 to five educational institutions, the Fort Ord Reuse Authority, the Bureau of Land Management, and other guarantees.

We have investigated or removed ordnance and explosives affecting over 3,000 acres. We have remediated other environmental contamination at many other locations. We have maintained habitat to protect endangered species, and we have conserved land and natural resources.

Our progress has been in the face of many challenges. We will find some of these when any base closes and some are unique to Fort Ord because of its location, the presence of listed or endangered species, including the largest concentration of maritime chaparral on the West Coast, its listing on the Superfund's national priority list, and the presence of ordnance and explosives on thousands of acres.

Closing bases is not cheap, and it takes time. We have spent over $267 million at Fort Ord in the last 7 years. The cleanup of groundwater and ordnance and explosives will cost $326 million more. The $30 million budget for this year is almost $11 million more than originally programmed.

Complex Federal and State environmental laws and regulations and their extensive opportunities for consultation and regulatory oversight complicate our cleanup, especially when applied to a place like Fort Ord where ordnance and explosives are the most difficult and costly cleanup requirement.

While detection technologies have improved, they are imperfect, and finding ordnance and explosives are costly and dangerous. The thick chaparral habitat of Fort Ord which supports endangered and threatened species hides buried ordnance. While burning it makes the ordnance accessible and promotes habitat management and conservation, recent legal action has frustrated our ability to conduct prescribed burns.

Other lawsuits have also slowed cleanup and transfer. One suit was resolved when we volunteered to undertake a remedial inves-

tigation and feasibility study under CERCLA that will take several years to complete.

In another suit, a 1999 decision of the Ninth Circuit Court of Appeals exposed us to an increased risk of further litigation by finding wider jurisdiction to attack Federal facility remedial cleanups. Delays caused by litigation frustrate both the Army and the members of the local community and the regulatory community.

In the face of all these challenges, progress requires imagination, collaboration and innovation. All three are combined in strategy management analysis requirements and technology teams. We created the SMART team in 1999 after the EPA in California's DTSC agreed with me that we needed a tool that would get beyond the day-to-day problems and find solutions. The SMART team's success is due in large measure to the personal investment of Congressman Farr, Mr. Lowry from DTSC, and Mr. Takata from EPA.

The SMART team is exactly the kind of intergovernmental cooperation BRAC demands.

The Army's No. 1 priority at Fort Ord is to clean it up to a level that protects health, safety, and the environment. And do it so that we support the community's reuse goals and objectives. Our considerable progress has been the product of the goodwill and cooperation among the Army, conscientious regulatory agencies involved and formed in committed communities, the Fort Ord Reuse Authority, and support of public servants like Congressman Farr.

The Army continuously seeks ways to streamline the process to support reuse priorities and to leverage resources, technologies, and innovation whenever we can find it. The Army will work with the regulatory community to resolve the important issue of vegetation clearance.

We are continuing our ordnance and explosive remedial investigation and feasibility study, but we will continue to transfer property in the meantime. We will transfer 86 more acres this summer to the city of Marina for further development and another 2,200 acres this fall to various recipients.

I am optimistic about the future and will work hard to realize the hopes we all share about the former Fort Ord. I appreciate the opportunity to testify and provide the Army's view, and I look forward to your questions.

Thank you.

[The prepared statement of Mr. Fatz follows:]

STATEMENT OF

RAYMOND J. FATZ
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(ENVIRONMENT, SAFETY, AND OCCUPATIONAL HEALTH)

TO THE HOUSE COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

IN CONNECTION WITH THE REUSE AND INTERGOVERNMENTAL PROCESSES AT THE FORMER FORT ORD MILITARY INSTALLATION

Statement of
Raymond J. Fatz
Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)
to the
House Committee on Government Reform
Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
August 28, 2001

INTRODUCTION

I am pleased to have the opportunity to provide to the Committee this written statement describing Army activities at the former Fort Ord. As the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), I oversee environmental, safety, and occupational health programs within the Army, including restoration, compliance, pollution prevention, environmental technology, occupational health, and safety. My responsibilities include the development of Army policy and guidance, oversight of programs, and their implementation at Army installations all over the world. This includes oversight of environmental issues arising in the Army's Base Realignment and Closure (BRAC) program and working in partnership with the Environmental Protection Agency (USEPA), other Federal agencies, State and Local agencies, and communities to facilitate the cleanup, transfer, and reuse of the Army's BRAC properties. I was appointed to my current position in 1996.

The Army has made an earnest effort to clean up Fort Ord and to speed its development. We have made considerable progress. Since Fort Ord closed in September, 1994, the Army has transferred 2,328 acres to the Fort Ord Reuse Authority and local and private grantees, over 7,600 acres to other Federal agencies, including the Bureau of Land Management, the Federal Aviation Authority, and the Department of Education, among others. We will transfer 86 more acres this summer under Early Transfer Rules under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). We have investigated or

conducted removal actions involving ordnance and explosives on over 3,000 acres, we have remediated other environmental contamination at numerous other locations, we have maintained habitat to protect endangered species, and we have conserved land and natural resources.

Our progress has been in the face of challenges I will discuss. Some accompany any base closure and some are unique to Fort Ord. Our considerable progress in the face of these challenges has been the product of the good will and cooperation among dedicated public servants in the Army; conscientious regulatory agencies; involved, informed, and committed communities, led by the Fort Ord Reuse Authority; and supportive local officials, including the mayors of the communities surrounding Fort Ord. Congressman Sam Farr's contributions have been particularly helpful in creating a climate where the overriding interest of every responsible person and group has been to redevelop Fort Ord for the use of the communities to which it should belong.

BASE REALIGNMENT AND CLOSURE

Since 1988, the Army has closed 112 installations and realigned 27 others in four BRAC rounds as required by Congress. We have realized a one-time savings of over $3 billion, and will realize $945 million in annual savings. BRAC has allowed the Army to divest itself of unnecessary infrastructure and to dedicate valuable resources to other areas to maintain the Army's readiness. Many affected communities have seized this opportunity to successfully redevelop former Army facilities. The Army has worked diligently to create and maintain positive working relationships with Federal and State agencies in support of the Fast Track Cleanup program for closing bases. This program, in turn, supported the Five Point Plan established under the previous Administration to facilitate BRAC property cleanup, disposal, and reuse. Expeditious and safe transfer of surplus Army property for development and benefit of the local communities makes sense, is good for the Army, the Department of Defense, and the Nation.

The Army, and all other military services, participate with the USEPA in a Memorandum of Agreement (MOA) that provides funding for USEPA personnel to provide regulatory

oversight of the Army's BRAC installations. This program was established to ensure that the USEPA would have the necessary resources to review program documents and provide the necessary support to ensure that cleanup projects could be completed in a timely manner to support BRAC property disposal and reuse. Further, the Army provides similar resource support to State environmental regulatory agencies through Defense-State Memorandum of Agreement (DSMOA) programs. Base Cleanup Teams (BCT) with representatives from the USEPA, state regulatory agencies and the closing Army installation were established at major closing bases to provide technical support, community involvement, planning and completion of cleanups in support of property disposal and reuse.

Community representatives, regulatory agencies, local reuse authorities and Army representatives meet regularly to review cleanup program issues, priorities and schedules. This process has been of great value to the Army in the determination of cleanup decisions and serves to balance the concerns associated with protection of human health and the environment with reasonably anticipated property reuse. We engage and invite the public to participate through site visits, community meetings, newsletters, status updates, websites, and an information repository.

Nationally, BRAC cleanup programs are a significant challenge. In addition to new environmental requirements since the inception of the BRAC programs, the Army must comply with changes to existing laws, regulations and Department of Defense policies. For the most part, the changes to these requirements, while well intended, have resulted in the establishment of additional consultative, public involvement, and regulatory oversight procedures which can serve to delay cleanups.

The Army conscientiously abides by these requirements and continuously seeks ways to streamline the process to identify reuse priorities faster and to leverage the resources, technology and innovation of the private sector.

FORT ORD

Fort Ord was activated in 1917 and has served as a training base for our Army through two world wars, the Korean war, Vietnam War, Grenada, Panama, and just prior to its closing, Desert Storm. The 1991 Base Realignment and Closure law (BRAC 91) closed Fort Ord and the Army immediately began efforts to clean and transfer property for redevelopment. Located on the Monterey Bay, a National Marine Reserve, the former Fort Ord is surrounded by the cities of Marina, Seaside, Del Rey Oaks, and Monterey. The former Fort Ord is comprised of 27,827 acres. The Army is retaining 812 acres to support housing and other necessary activities, and has declared 27,015 acres surplus to Army needs. Of the 27,015 surplus acres, 16,998 acres were the former training areas and ranges (7000 acres comprise a multi range impact area that had been in continuous use since 1917). The remaining 10,017 acres contain the cantonment and built up areas. This surplus property is available for reuse or development by other Federal, State, or private recipients. The former Fort Ord also contains several listed or endangered species, including the largest concentration of maritime chaparral on the west coast. Prior to disposal of any surplus property, the Army and U.S. Fish and Wildlife Service (USFWS) negotiated and signed a Habitat Management Plan to protect these species and their environment during disposal and development.

The former Fort Ord is listed on the EPA's Superfund National Priorities List (NPL), based on the presence of contaminants typically associated with industrial activities. Its place on the NPL designates the cleanup as a top national priority. As an NPL installation, the Army has the lead agency responsibility to characterize, recommend and implement cleanup remedies. The EPA is the lead regulatory agency for NPL properties and has the authority to select cleanup remedies if the Army and EPA cannot agree upon the appropriate cleanup remedy. In 1990, the Army entered into a Federal Facility Agreement (FFA) with EPA Region 9 to govern the cleanup activities at the former Fort Ord. The FFA provides for the cooperative development of cleanup schedules and priorities, and defines the EPA and State of California roles and responsibilities.

The Army's number one priority for the former Fort Ord is to clean up hazardous conditions related to the Army's past activities to a level that ensures protection of public health, safety, and the environment, and also in a manner that supports the communities' reuse goals and objectives.

REUSE PROCESS

The Local Redevelopment Authority, in this case the Fort Ord Reuse Authority, or FORA, identifies the intended use of the property in conjunction with the Army and publishes it in its Base Reuse Plan. FORA's Reuse plan has been vetted with the Department of Defense and the Department of Housing and Urban Development (HUD) to ensure that the plan complies with applicable statutes. Based on this plan and other factors, like the ability of the grantee or grantees to receive and develop the property, the FORA establishes the priority for the transfer of property.

ENVIRONMENTAL RESPONSE ACTIVITES

The Army's objective in cleaning up Fort Ord is to characterize and remediate environmental problems to a level that will be safe for human health and the environment and supports redevelopment. Environmental regulators, in conjunction with the Army, agree on a cleanup standard for each parcel depending on the planned reuse. The Department of Defense and Army policy is to clean surplus property to a level that makes it safe for the reasonably anticipated future use reflected in the Base Reuse Plan. The grantee assumes the additional cost for clean up to a higher level. In some cases if the property cannot be cleaned to the desired level, State regulators and the grantee will negotiate restrictive covenants that will transfer with the property. The Army's goal is to plan, budget, and execute the cleanup and transfer as quickly as possible consistent with site-specific conditions and circumstances.

Environmental issues at the former Fort Ord include soil and groundwater contamination, landfills, underground storage tanks, and ordnance and explosives (OE). The Army's cleanup is addressing all these conditions. The Army remedial actions for soils, landfills, and underground storage tanks are in the final stages of completion. The more challenging issues involve groundwater contamination and OE. The explosive hazards of OE and the proximity of ranges to neighboring communities is our most difficult and costly cleanup requirement.

Cleaning up ordnance and other military items is one of the biggest challenges facing the Army's environmental program today. While detection technologies have improved, our ability to distinguish subsurface munitions items from non-hazardous metal scrap remains a significant challenge. As a consequence, intrusive investigations often are the most effective approach, but are costly, potentially dangerous, and sometimes the most environmentally destructive.

The concentration of maritime chaparral habitat at Fort Ord, which supports endangered and threatened species, further complicates our ability to detect and identify ordnance. In some areas, the chaparral, not to mention other vegetation, is so dense that current technologies are ineffective in detecting munitions. Burning the chaparral makes the ordnance accessible, consistent with habitat preservation, which itself requires periodic burning. Cutting the chaparral would destroy habitat.

The environmental clean up at Fort Ord is challenging in other respects.

The process involves numerous Federal, State, and local agencies: the Army, the USEPA, the USFWS, the California Environmental Protection Agency, the California Department of Toxic Substances Control (DTSC), and the Regional Water Quality Control Board, and other local, city, and regional boards and agencies. A library of Federal and State statutes and policies govern the cleanup. These documents outline processes that include a mountain of documents that are time consuming to prepare and require multiple levels of review, comment, and revision.

Monterey Bay and the former Fort Ord, in particular, contain several endangered or listed spècies. A Habitat Management Plan (HMP) was completed in April 1997. Changes to the processes and agreements in this HMP may result in "reopening" consultation on the HMP. All remedial actions must be reviewed for HMP compliance. Agencies are reluctant to take any actions that threaten reopening the HMP for fear of losing previous agreements.

Lawsuits have exacerbated our ability to clear OE and transfer property. A lawsuit filed by a special interest group challenged how the Army addresses OE at the former Fort Ord and how we transfer parcels. This challenge resulted in the Army's undertaking an OE Remedial

Investigation/Feasibility Study that will not be completed until 2005, and will delay the end of the OE cleanup until 2015.

Even though the Army is following the CERCLA process and should be protected from lawsuits until remedial action is complete, a 1999 decision of the U.S. 9th Circuit Court of Appeals held that federal remedial actions conducted pursuant to CERCLA Section 120 are not entitled to the protections specified in Section 113(h). Therefore, for DoD and other federal facility cleanups at sites located within the jurisdiction of the 9th Circuit, including the former Fort Ord, lawsuits may be brought to challenge an ongoing remedial cleanup process. Such lawsuits have the potential to delay response actions that are necessary to address risks to human health and the environment.

In another lawsuit, the local air board targeted the Army's plan to burn chaparral and other vegetation in order to afford access to areas suspected of containing OE. Dense underbrush precludes safe and effective use of detection technology to locate OE without first clearing the underbrush. Although the Army has cleared most areas using mechanical means, e.g., brush hogs, some areas are either too dense or contain sensitive chaparral habitat that would be destroyed by mechanical clearance. In these instances, the Army has planned to clear the underbrush by prescribed burning, a method that assures the safety of our personnel and that has been approved by the USFWS as conducive to rejuvenation of the fire-dependent maritime chaparral habitat. The local air board's challenge is aimed at preventing future prescribed burns, endangers the OE cleanup schedule, and has already led to the delay in transferring some parcels for reuse. The transfers have been delayed both because cleanup has been frustrated, and because parcels must be retained to preserve additional habitat if burning cannot be used as mandated by the Habitat Management Plan.

Notwithstanding these issues, the Army has worked closely with California's DTSC and Region 9 of the USEPA to achieve progress. In this effort, we have established several levels for coordination, including a Base Cleanup Team (BCT) where daily issues are discussed and resolved at the lowest levels. I also directed the establishment of a Strategic Management

Analysis Review and Technology (SMART) Team that addresses and resolves the more challenging environmental issues.

Fort Ord has been the first place we have used the SMART team. We needed to collectively take an aggressive proactive approach to solving the complex issues presented to public safety and property transfer at Fort Ord by OE. With strong encouragement and leadership from Congressman Farr, I proposed to both USEPA Region 9 and DTSC that we establish a senior leadership presence to work the OE issue. We met first in August, 1999, and have met regularly since. The team was, and is, charged to find solutions. The team reports directly to me, the Director of DTSC and the Region 9 Administrator. These frequent senior meetings enable each agency's leadership to meet and discuss difficult policy or funding issues and then direct action. We mutually seek results – not only action – and together believe that failure is not an option. There are a number of specific property transfers that have either been accomplished or will soon be completed that could not be executed without this unique approach. The SMART Team could not have accomplished so much without the personal investment of Congressman Farr, Mr. Lowery from DTSC, and Mr. Takata from USEPA. The SMART Team is intergovernmental cooperation at its best. It illustrates that the problems we face at Fort Ord and other BRAC sites can be solved when we all recognize that success only comes when all work toward solutions.

COST

We estimate that the cost to complete the groundwater and OE remediation actions is $326 million and that the program will take 15 or more years to complete at current funding levels. Between 1994 and 2001, the Army spent over $267million from the BRAC account at the former Fort Ord. The fiscal year 2001 requirement has grown to over $30.3 million, $10.8 million more than originally programmed. This increase is primarily due to the OE response requirements. The Army will continue to allocate resources to the cleanup of developable lands at the former Fort Ord to ensure human health and safety are not compromised.

CONCLUSION

The Army looks forward to continuing its efforts to clean up Fort Ord and transfer property for redevelopment. We appreciate the responsible contributions of local officials and communities, individual citizens, and regulators who share our vision for a Fort Ord returned to valuable use. I appreciate the opportunity to testify and provide the Army's view.

Mr. HORN. Thank you.

Next is Keith A. Takata, the Director of the Superfund Division of the Environmental Protection Agency.

Mr. Takata.

Mr. TAKATA. Good morning, Chairman Horn and Congressman Farr.

I will not say it is a pleasure to be here because I am under oath, but I do thank you for the opportunity to talk about how the base closure is going.

I do not intend to repeat my written testimony here, but I would like to spend a few minutes talking about what has worked and what has not worked. But let me start by going back a little bit in time here.

You mentioned that in the four rounds of base closures we have had, about 100 bases closed nationwide. Twenty-six of them, about a quarter of them, were in California.

Of those closing bases 39 are on the Superfund national priorities list, 12 of them in California, including Fort Ord here in Monterey. So as you can see, California took kind of a disproportionate share of the impact of base closure.

And I think from the beginning all of us that worked on this, DOD, EPA, the States, all of the local governments have had two really overriding concerns. One of them is just the sheer size and scope of both the health and environmental problems of the closing bases. Each one of these bases are like little cities really.

At Fort Ord, for example, we had over 40 sites, a large landfill, groundwater problems, lots of soil contamination problems. Plus we have 9,000 acres of unexploded ordnance.

But obviously the other large concern was the economic impact on the local community. At the time of the first closures in California, it was estimated that California could lose thousands of jobs and lose billions of dollars annually. So all of us knew what was at stake if cleanup and reuse got bogged-down by the process. So we really tried a different approach here, which was more team oriented and less adversarial.

DOD tried to work closely with the local governments on their reuse plan, and at the same time DOD, EPA, and the State got together in these base closure teams to try to expedite cleanup.

How did things work? Well, as you have already heard, we have had both successes and challenges. I think the bottom line for me is things work the best when decisions on cleanup and decisions on reuse are closely coordinated and all the parties are involved up front.

I think the best example at Fort Ord is the cleanup of the more traditional hazardous waste problems: the landfill, the groundwater problems, the non-unexploded ordnance problems. We have had a lot of experience at sites like this. We know how to clean them up. We are able to fit the reuse to the cleanup, and this has led to the successful transfer of thousands of acres as people have already mentioned, especially the California State University.

On the other hand, I think the most difficult issue at Fort Ord is what people have already talked about, which is the cleanup and reuse of unexploded ordnance. The basic problem here is that the reuse plan got way ahead of the cleanup plan, and while the Army

has transferred 7,000 acres to the Bureau of Land Management, the parcels that were slated to local government for their reuse were held up until we could figure out how to detect and cleanup UXO, which is something that we really have not done very much of in this country before Fort Ord.

The creation of the Army's SMART team and Congressman Farr's personal involvement has really helped us get back on track, and FORA and the local governments have been extremely patient and very constructive in the process. And I think this is what makes Fort Ord different from McClellan.

McClellan was not only an Air Force base. There is one difference there, but I think the big difference is that McClellan did not have a UXO problem. It had more traditional hazardous waste problems.

Our biggest challenge nationwide, I think, is that if we want to safely reuse property that contains UXO, the cost of cleanup, as everybody mentioned, is going to be really high. The DOD budget already exceeds EPA's budget for Superfund, just as an example, and it does not even count all of the cost of cleaning up UXO.

I think the GAO report said that the UXO problems could cost anywhere from $14 billion to $100 billion. Just in contrast, the DOD's present budget for UXO at formerly used defense sites is only $40 million a year. So you can see it would take many years to cleanup all of the sites at that cost.

In closing, let me just touch on three things that some of the earlier panels talked about. One is I think it is really important that we factor the cost of reuse and cleanup into the original decision to close the base in the first place. I do not think that was really done as well as it could have in the first rounds.

For example, had we known how much it would have cost to do all of the UXO cleanups, that might have made us look differently at closing some of the bases that had UXO on them.

Second, I think it is really important to factor cleanup considerations into reuse and vice versa. So it is very possible for us to do a better cleanup in some soil areas to enable the local governments to do whatever they want in terms of reuse, housing, residential, etc.

On the other hand, sometimes something is so contaminated that it does not make sense to use for a particular use. For example, no one would ever recommend that we would build houses on a landfill.

And then last, I think it is really important to adequately fund both the cleanup, which is what some of the local folks already talked about, but also all of the reuse activities, including some of the costs that aren't covered by any of our programs, asbestos, lead based paint, etc.

So thank you for the opportunity to testify, and I would be happy to take questions when the panel is finished.

[The prepared statement of Mr. Takata follows:]

STATEMENT OF
KEITH TAKATA
DIRECTOR, SUPERFUND DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9
BEFORE THE
GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT, and INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

August 28, 2001

Monterey, California

Good morning, Chairman Horn and Members of the Subcommittee. My name is Keith Takata, Director of the Superfund Division in the U.S. Environmental Protection Agency's Region 9 office. EPA Region 9 has the lead for the oversight of the cleanup of approximately 50 Department of Defense (DOD), Department of Energy (DOE), and NASA facilities of which 30 are on the Superfund National Priorities List (NPL).

I have been asked to address EPA's role at base closings and how we work with DOD and with other federal and state agencies, using the Former Fort Ord site as an example.

NATIONAL PROGRAM STRUCTURE

In February 1994, EPA and the DOD signed a Memorandum of Understanding (MOU) entitled "Support for Implementation of Fast Track Cleanup at Closing Department of Defense (DOD) Installations." This MOU establishes responsibilities and funding for EPA to provide assistance in accelerating cleanup at 108 Base Realignment and Closure (BRAC) installations designated as "fast-track." Pursuant to the MOU, DOD has provided the following funding to EPA: for FY 2001, DOD is supporting 91.7 EPA Full Time Equivalents (FTEs) at a cost of $9.7 million; for FY 2002, the level of support will decrease to about 76 FTE at an estimated cost of $8.6 million. The current MOU expires in FY 2002, and EPA and DOD are currently negotiating an extension of it.

The MOU also establishes Base Cleanup Teams (BCTs) which are partnerships to achieve the environmental goals related to BRAC., as well as provide for technical support from EPA. One project manager from EPA, the relevant State environmental agency, and the BRAC installation, comprise the core of the BCT. BCTs help to accelerate the cleanup process and assist in the redevelopment of the BRAC facilities. EPA also provides support for Restoration Advisory Boards, a key mechanism for community input on cleanup activities. EPA works with local redevelopment authorities (LRAs) to assist in their re-development efforts. We estimate that nationally 348 project work years and $337 million in cleanup costs have been avoided through the efforts of the BCTs.

In addition, EPA, DOD, the States and others have worked to address the complex environmental issues related to closing bases and reuse of the excess installations. For example, EPA has played an active role on the Defense Environmental Response Task Force (DERTF) which provides recommendations on expediting and improving environmental response at BRAC installations. (The DERTF was established by Congress in the National Defense Authorization Act for Fiscal Year 1991 and reconstituted and reconvened under the Military Construction Appropriations Act for Fiscal Year1993.)

EPA also provides assistance in the development of DOD Guidance, Policy, Fact Sheets and Guides related to BRAC. EPA continues to work with DOD to find solutions to cleanup challenges such as contamination from ordnance and explosives found at Fort Ord and other installations across the country.

EPA'S ROLE AT FORT ORD

Fort Ord is both a closing base (included in the second round of the Base Realignment and Closure program) and one that is included on the Superfund National Priorities List. At military installations, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA/Superfund), DOD has been delegated the primary responsibility for funding and performing cleanups. DOD, in turn, delegated this authority to the individual

military components. EPA has an oversight role to ensure that cleanups are performed in a manner consistent with CERCLA and with the National Oil and Hazardous Substances Pollution Contingency Plan (the NCP). EPA, the State, and the Army form the core of a Base Closure Team which performs many of the day-to-day functions associated with conducting an efficient and effective cleanup.

Remedy Selection: Superfund requires EPA and the Federal agency conducting the cleanup to jointly select all remedial actions taken to clean up military bases that are on the NPL, such as Fort Ord. If DOD and EPA are unable to agree on the remedy selection, EPA is authorized to choose the action that DOD must implement.

Enforceable Agreements: The Superfund law also requires EPA and the Federal agency conducting the cleanup to enter into enforceable agreements (referred to as Interagency Agreements or Federal Facility Agreements) for the expeditious completion of all remedial actions at the facility. EPA, the State of California, and the Army entered into an interagency agreement for the cleanup of Fort Ord in 1990. This agreement specifies the cleanup schedule for the base and establishes for EPA and the State an oversight and approval role for all phases of Fort Ord's investigation and cleanup.

At Fort Ord, the Army, EPA, and the State of California took the additional step of forming a team of senior managers to facilitate the cleanup of ordnance and explosives (OE) found throughout Fort Ord, in recognition of the unique challenges that are posed by clean up of this material. This precedent-setting partnering endeavor, initiated in August 1999, includes the following senior management officials: the Army's Principal Deputy Assistant Secretary (Installations and Environment), EPA's Regional Administrator, the Director of the California Department of Toxic Substances Control, the Commander of the Presidio of Monterey and the Assistant Deputy Chief of Staff of the Army's Training and Doctrine Command.

This team, known as the Strategic Management, Analysis, Requirements and Technology (SMART) team, has enjoyed great success. For example, EPA and the State of California have

achieved a comprehensive understanding of the Army's sampling techniques and technology applications when cleaning up OE areas. This resulted in a much more efficient and effective, consensus-building approach to preparing a former range area (the Del Rey Oaks parcel) for transfer and development as a hotel complex. Similarly, the Army better understands the regulators' concerns and how to meet each concern more appropriately.

Concurrence on Uncontaminated Parcel Determinations: The Army is also obligated to meet requirements under section 120(h) of the Superfund law related to transfer of property at Fort Ord. Because the Army is ceasing operations at Fort Ord, the Army is required to identify uncontaminated property on the base in order to facilitate property reuse. This identification of property is based on a review of historical records, aerial photographs, and other available information. For bases on the NPL, the Army's identification of uncontaminated parcels is not complete unless EPA concurs with DOD's findings. If concurrence is received, the Army can transfer the property by deed, and these parcels can then be reused without restriction.

EPA concurred with the Army that 60 parcels at Fort Ord (comprising over 13,000 acres or 47% of the base) were uncontaminated. For parcels that contain OE, EPA's position is that these parcels must be investigated and cleaned up consistent with the CERCLA process and the NCP. Furthermore, we believe that the health and safety risks presented by OE are not compatible with the intent of Superfund Section 120(h)(4) to make available only property that is unaffected by environmental concerns and suitable for future use without restriction.

Concurrence that All Necessary Remedial Actions Have Been Taken on Contaminated Lands Prior to Their Transfer: Another significant property transfer requirement under Superfund is applicable whenever any federally-owned property impacted by hazardous substances is transferred to another party. Superfund Section 120(h)(3), requires the Federal government (the Army in the case of Fort Ord) to provide a covenant in the deed of transfer that: (1) all necessary remedial actions have been taken prior to transferring the land; and (2) if contamination requiring cleanup is discovered after property is transferred, the Federal

government will perform the cleanup. For property requiring cleanup, EPA must concur that all necessary cleanup actions are in place and operating properly before the Federal government can undertake this covenant. In limited circumstances, Superfund allows the Federal government to defer the covenant requirement and transfer the property before all remedial actions have been taken if EPA and the Governor of the State concur.

Consultation Prior to Transfer of Property To Other Federal Agencies: When DOD transfers ordnance-impacted land outside the Federal government, EPA believes that DOD must include the CERCLA Section 120(h)(3) covenant (with EPA concurrence). In contrast, it appears that transfers of such lands between Federal agencies can proceed without the need for prior cleanup or covenants. It is EPA's understanding that if properties are transferred between Federal agencies prior to cleanup, the Agency responsible for the contamination retains responsibility to complete all necessary investigations and cleanup actions unless other arrangements are made. EPA retains its authority to jointly select remedial actions for these NPL properties. In addition, EPA and DOD together have drafted procedures to ensure adequate environmental consultation and early disclosure of environmental conditions for properties undergoing transfer.

Property Transfers to Date: The Army plans to retain 812 acres of Fort Ords's 27,827 acres. As of July 20, 2001, the Army had transferred 10,544 acres, with 7,212 of those acres going to the Bureau of Land Management. The remaining acres to be transferred total 16,471. The other major recipient of Fort Ord property has been the California State University (CSU) system. The CSU Monterey campus is located on the site of the former Fort Ord and is expected to expand in the future.

In summary, EPA's role at Fort Ord includes oversight, remedy selection, establishment of enforceable cleanup schedules, concurrence on clean parcel determinations, concurrence on property transfers outside the Federal government, and consultation on all property transfers between Federal agencies.

CURRENT AND FUTURE CHALLENGES AT FORT ORD

The most significant challenge facing the Base Closure Team at Fort Ord is to conduct cleanup actions in areas with ordnance and explosives in a manner that is protective of human health and the environment for the intended reuse, and that complies with Federal and state laws and regulations. Under Superfund, the lead agency (in this case the Army), is responsible for working with the community and its reuse group to determine likely reuse scenarios for the base. These scenarios, in turn, help dictate the appropriate level of cleanup required. Fort Ord's base-wide investigation is still underway meaning that the Army must still define the extent and volume of the OE, coordinating with the community, and developing cleanup alternatives that are protective of future land uses. The public will have an opportunity to review and comment on the proposed remedies. EPA will ultimately either concur with the Army's remedy or select an alternate remedy in the event of non-concurrence.

At Fort Ord, a number of former range areas that contain some of the most sensitive and dangerous types of ordnance are thickly vegetated. This vegetation and brush must be cleared prior to the detection and removal of the ordnance. Many OE areas are covered with maritime chaparral habitat that supports several threatened and endangered species. In April 1997, the Army and the U.S. Fish and Wildlife Service signed an Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord (HMP) that sets out how the maritime chaparral habitat will be managed and preserved. The Fish and Wildlife Service agreed to allow redevelopment of some maritime chaparral areas if the remaining chaparral habitat was managed with prescribed

burning (Fish and Wildlife Service's preferred method to maintain habitat diversity). In addition, the Army believes that in some maritime chaparral areas OE removal is too dangerous for its workers, unless the vegetation is first cleared by burning. However, a number of community groups believe that smoke from prescribed burns represents a public health threat to nearby population centers and the Monterey Bay Air Pollution Control District has sued the Army to prevent future burns. If the Army cannot conduct prescribed burns consistent with the habitat management plan, formal consultations may be needed between the Army and Fish and Wildlife Service to discuss the impacts of alternative forms of vegetation removal.

A recent court ruling directs the Army to proceed with a comprehensive analysis of OE clearance alternatives, including options for vegetation removal, that follows the Superfund remedial process. However, an appeals court ruling eliminated the restriction on judicial review of remedial actions at Federal facilities. This decision would allow a federal court to review and potentially enjoin a cleanup decision before it is implemented. As a result of this appellate decision, the Army could face court challenges that would slow down or stop the OE cleanup, including prescribed burns, resulting in further delay of future land transfers.

In conclusion, the safety of current and future users of Fort Ord is of primary concern to EPA and the entire Fort Ord team. EPA is committed to ensuring that decisions regarding the cleanup of unexploded ordnance consider such issues as compliance with federal and state laws, community reuse plans, technology constraints, cost, and, most importantly, the protection of human health and the environment. Balancing the competing needs of habitat management, human health, worker safety and future redevelopment is a significant challenge facing the Army and the regulatory agencies at Fort Ord.

Thank you for the opportunity to address this Subcommittee. I will be pleased to answer any questions.

Mr. HORN. Thank you very much.

Next is Steve Thompson, the Acting Manager for California and Nevada, the U.S. Fish and Wildlife Service.

Mr. THOMPSON. Thank you, Mr. Chairman and Mr. Farr.

The Fish and Wildlife Service has been involved in Fort Ord since about 1991, and I am going to focus on a couple of things on burning and the habitat management plan, and we will save the rest of the testimony for the official record.

In 1994, the Fish and Wildlife Service and the Army agreed upon a habitat management plan.

Mr. HORN. Could you talk right into the mic?

Mr. THOMPSON. The habitat management plan provides conservation for federally protected species while allowing the cleanup of unexploded ordnance at Fort Ord. The foundation of that conservation plan was for the use of prescribed fire.

Burning of the vegetation was identified in the habitat management plan as the most efficient and the safest method for clearing certain sites of ordnance.

In addition, burning is the most ecologically sound practice for conserving federally protected species on these sites and other species that are in decline in this area. Recurring fires are an important part to maintaining a healthy ecosystem in the maritime chaparral.

The recent lawsuits brought by the State of California Air Resources Board and the resultant court orders have resulted in delays in implementing the habitat management plan and the burning.

Conveyance of these remaining properties was based on the strategy of cleanup using burning as our major management tool. If we are asked to revisit the burning as a preferred tool for cleanup and for habitat management, we would have to reevaluate which lands are needed for conservation of federally listed species.

The configuration and the amount of land to offset the loss of endangered species by development was based on a healthy chaparral maritime ecosystem. We have three major concerns, and I'll try to summarize those quickly for you.

If the Army or the BLM are unable to burn, then we would have to rely on mechanical methods. The Monterey area maritime chaparral community might degrade and decline, impacting listed species and also other declining species that have a high probability of highly listed in the future.

The primary management tool in the habitat management plan was burning. If we have to emphasize mechanical, we would most likely have to reinitiate consultation under Section 7 of the ESA.

The switch from burning to mechanical may also impact the habitat conservation plan, which is based on the burning part of the habitat management plan. The habitat management plan is based on the foundation of burning.

The Army and the Fish and Wildlife Service, the State agencies and local communities have been working together for a number of years to realize a transfer from Fort Ord. All of the parties have invested significant amounts of resources and time and effort, and we share in that desire to move forward with the cleanup, the transfer, and the reuse activities as described in the habitat man-

agement plan, and the goals of the habitat management plan could then be achieved.

We are committed to working through these issues to ensure the lands are transferred in a timely way so that we meet the needs of the community, the Army, and the affected species.

Thank you.

[The prepared statement of Mr. Thompson follows:]

TESTIMONY OF STEVE THOMPSON, ACTING MANAGER, CALIFORNIA/NEVADA OPERATIONS OFFICE, UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM, SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, REGARDING FORT ORD

August 28, 2001

Good morning Mr. Chairman. I appreciate this opportunity to discuss the role of the U.S. Fish and Wildlife Service in the process of the closure of Fort Ord. Our goal in this process is to continue working with the local communities, the State, and other Federal agencies to ensure the public is able to reuse the base in a way that promotes economic prosperity while protecting the special habitats and species which exist at the base.

The 28,000-acre Fort Ord military installation, a base previously operated by the Department of the Army (Army), was selected for closure in 1991. Fort Ord is home to several State- and Federally-protected, and/or rare species including the Smith's blue butterfly, western snowy plover, black legless lizard, sand gilia, Monterey spineflower, and robust spineflower. It also contains a variety of rare and unique habitat types, such as maritime chaparral, coastal dunes, and vernal pools. Since 1992, the Army and the Service have worked with Federal agencies and State and local governments to develop and implement the *Installation-wide Multispecies Habitat Management Plan for Former Fort Ord, California*. This habitat management plan (HMP) was developed to ensure the base lands are safe for transfer to public and private interests, and to do so in a way that minimizes impacts to species listed under the Endangered Species Act (ESA) and other species of concern. The HMP was completed in 1994 and revised in 1997 through the cooperative efforts of the Army, the Service, and State and local interests; thus, for many years, all interested parties have been pursuing the goals of promoting economic prosperity and environmental protection that are identified in the HMP.

The goals of the HMP are: to enhance the local economy by transferring parcels of Fort Ord land to local interests; to identify land management mechanisms that facilitate implementation of the community-based reuse plan that promotes both economic recovery and environmental

stewardship; to preserve, protect, and enhance populations and habitats of species listed, or proposed for listing under the State and Federal Endangered Species Acts; to avoid the need for future species listings by protecting species of concern, including candidates for listing; and to provide the foundation for a habitat conservation plan, which non-Federal landowners will build upon, that allows for economic development and the conservation of the site's biodiversity.

Over the years, the Service has analyzed the impacts of implementing the HMP on listed species in a number of biological opinions prepared pursuant to the ESA. Within the HMP, the Service and Army have identified and evaluated the effects of actions carried out in order to locate contaminants and unexploded ordinance and remove them from lands to be transferred, as well as the effects of planned use of transferred lands. Also within the HMP, the agencies have identified conservation, restoration, and enhancement management measures for the various property recipients. In so doing, the HMP continues to provide a comprehensive plan for minimizing and mitigating impacts to sensitive species and their habitats while allowing disposal and redevelopment of the base.

Two primary needs in implementing the HMP are remediation of contaminants, and clearance of unexploded ordnance before land is transferred to the public. These actions, which are clearly required for public health and safety reasons, can result in disturbance or clearance of habitats supporting listed and candidate species. The HMP provides habitat management prescriptions that address the critical need for remediation and ordnance-clearing in ways that minimize the impacts to the species and their habitats.

One of the habitat management prescriptions within the HMP is the use of prescribed fires to identify the presence of unexploded ordnance and for the long-term management of maritime chaparral habitat at Fort Ord. In addition to assisting the Army in locating unexploded ordinance, prescribed burning is beneficial to maritime chaparral species. These species have evolved in a landscape shaped by wildfires to the extent that many species now require fire to regenerate and persist. Because of the beneficial effects of fire on species associated with maritime chaparral, burning, rather than mechanical clearing, was determined within the HMP to

be the preferred method of clearing the vegetation when searching for and removing unexploded ordnance. Once the unexploded ordnance have been identified and removed, and the lands have been transferred to the Bureau of Land Management (BLM), the HMP currently requires BLM to control burn approximately 500 acres per year on a 12- to 15-year rotation-cycle.

During the development of the HMP, the Service recognized and supported that limited manual or mechanical removal of vegetation in areas designated as habitat reserves would be necessary under certain circumstances (e.g., where burns could not be safely conducted), even though it would affect maritime chaparral species. We concurred that under specific and limited conditions, mechanical removal was consistent with the goals of the HMP. For example, we have supported various actions that forgo burning, including transfers of parcels and removal of unexploded ordnance, when such actions had no adverse effects or only small, isolated effects on maritime chaparral and HMP species. We have also worked with the Army to move forward with mechanical or manual clearance of vegetation for ordnance removal on parcels where issues of public safety have been raised. However, large-scale mechanical and manual clearing of vegetation, in the absence of fire, could result in degradation of the Monterey-area maritime chaparral habitat and associated species and could possibly result in the need to list under the ESA additional species that occur there.

The Service is concerned that the Army may not be able to assure the full implementation of the HMP, particularly the use of prescribed fires. Excluding fire as a management tool would be highly problematic in our effort to conserve several of the species occurring at Fort Ord, and could impact the continued implementation of the HMP and hamper local efforts to develop a habitat conservation plan. A few members of the community assert that smoke from prescribed burns poses a health threat to nearby population centers, and we understand that the Army has been sued regarding this issue. The Service is not a party to that law suit.

The alternative to burning - extensive mechanical clearing of vegetation before the transfer of lands for development - is a departure from the actions and measures that were agreed upon in the HMP. These actions may result in effects to listed species that were not considered in past

biological opinions and conference opinions produced regarding actions to implement the HMP. Consequently, the Service is concerned that revised actions taken by the Army may be inconsistent with section 7 of the ESA. Re-initiation of ESA consultation between Army and FWS on the HMP to assess impact of extensive mechanical clearance of maritime chapparral habitat would be required.

In summary, as the Fort Ord land transfer process continues, the Service has three underlying concerns. First if the Army, and subsequently the BLM, are not willing or able to burn but instead must rely on mechanical clearing, the Monterey-area maritime chaparral community could possibly degrade to the point that species already listed under the ESA will decline further, and species not presently protected under the ESA may need to be listed. Second, because extensive mechanical clearing was not identified as a primary management tool within the HMP, it was not evaluated in our biological opinions and analysis of alternatives. An emphasis on using mechanical clearing would require re-initiation of formal consultation under section 7 of the ESA and an assessment of the impacts of that new action on the species, which will affect the current transfer/re-use process. Our third concern relates to the fact that private citizens and local jurisdictions have used and relied upon the management tools and actions identified in the HMP to act as the basis for their habitat conservation plan. If the HMP as currently written and approved is not implemented, then the foundation upon which local interests have been building their efforts could be affected, and they may be forced to start over after having expended considerable time and resources.

The Army, the Service and local communities have been working together for a number of years to realize the transfer of the former Fort Ord. All parties have invested substantial resources and effort to ensure that the process is the successful collaboration it is today. We share the desire to move forward with cleanup, transfer, and re-use activities as described in the HMP and to see the goals of the HMP achieved. To that end, the Service supports and encourages the Army's efforts to continue with the burn program in accordance with the HMP. However, should the Army decide not to, or be unable to conduct burning as described in the HMP, we are committed to working with them through the re-initiation of formal consultation to ensure that lands are

transferred in a timely way that meets the needs of the community, the Army, and the affected species.

Mr. Chairman, this concludes my prepared testimony. I am pleased to answer any questions you may have.

Mr. HORN. Thank you.

And our last presenter is Edwin Lowry, director, Department of Toxic Substance Control, California Environmental Protection Agency.

Glad to have you, Mr. Lowry.

Mr. LOWRY. Thank you.

Good morning, Mr. Chairman and Congressman Farr and other members of the panel and the community.

I can say under oath it is a pleasure to be here. It is 104 degrees in Sacramento today and considerably nicer here. [Laughter.]

I wanted to touch on a few of the items which are in my testimony rather than reading the testimony. First of all, the Department of Toxic Substances Control is a department within the California Environmental Protection Agency. We are the lead agency for environmental remediation and environmental compliance in the State of California for military base closures. We cooperate with other agencies within that agency, including the Water Resources Board, which has a significant role as well.

We have toxicologists, public participation specialists, geologists, environmental scientists, and others who work very hard on these problems and have a good, cooperative relationship with the Federal and local folks who are also working on the problem.

I wanted to emphasize or reiterate Mr. Takata's point—and a point which was made by others—which is that the estimates for funding in environmental cleanups and the estimates of the cost of base closures are made before many of the problems which are discovered.

I note that McClellan Air Force Base has been mentioned today. There is a $44 million additional cost there, which was the result of digging-up a landfill which has drums which have been there for 50 years.

We simply do not know at the beginning of the process what it is going to cost, and if we can find a way to either estimate that better at the beginning or to build in mechanisms to adjust when we learn about these additional costs, we will do much, much better.

Second, the way in which funding is now done for BRAC cleanups and for FUDs and so forth is there is no fenced-off line-item within the Department of Defense budget, which is, "this money is for environmental cleanup and remediation and nothing else."

So what can happen is that these funds can be reprogrammed for other uses as the fiscal year goes on, and indeed, one of the problems and perhaps mysteries of the Federal budgeting process is it goes on year to year, and the numbers which we think we will have 3 or 4 years down the line we do not have those funds.

If you look at the proposed budget for the next fiscal year, you will see, depending on how you do your calculations, between 5 and 10 percent cut on some of the Defense Department cleanup moneys for closing bases, and that will not be helpful.

We also have a significantly greater cut planned for UXO cleanup and technology investigation within the Department of Defense. We need to fund these programs adequately so we can do the job which is necessary to cleanup the bases so that they are good and safe for civilian use and transfer.

I wanted to also emphasize a couple of things which have not been brought up here but might be useful to you, Mr. Chairman, in the overall context of base cleanups. We have participated in several early transfers of military bases where title is transferred, but the cleanup is not yet complete. I am sure you voted on that legislation about 5 or 6 years ago to allow that process to happen.

This has been a successful model in the State of California for transferring facilities. What it does is it gets the military out of the business of cleaning-up the property, and it is my opinion that their best job is defending us, and they have real challenges in the cleanup process.

The early transfer process allows them to continue their main mission and to transfer the authority and, frankly, the problems to those who are experts at the cleanup and conversion of the facility. There are some innovative public-private scenarios which are underway in the State of California. Mare Island is a principal example of that, where a private developer, as outlined in my testimony, is taking over virtually all of the responsibility for the cleanup. They are also paid by the Navy to do that, but they negotiated a price, purchased insurance, and now have both the responsibility, the authority, and the incentive to get that job done.

In summary, what I would like to say about this entire process is when I was appointed by the Governor in 1999, I did not know a whole lot about environmental remediation of closing bases, but also, I think at that time we had a fairly adversarial relationship with the Federal Government and with the Army.

When we came to the table, I think the question was: Who are you and why are you here?

And in the past 2 years, I think we have done a terrific job of working together to resolve these problems, and Mr. Fatz, I think, hit the nail on the head. The SMART team process has really furthered that mechanism and that spirit and goal of cooperation between us.

Thank you.

[The prepared statement of Mr. Lowry follows:]

Testimony of Edwin F. Lowry
Director, Department of Toxic Substances Control
California Environmental Protection Agency
Before the
Congressional Committee on Government Reform,
Subcommittee on Governmental Efficiency, Financial Management,
and Intergovernmental Relations
August 28, 2001
Monterey

Good Morning. My name is Ed Lowry. I am Director of the California State Department of Toxic Substances Control, or DTSC. Thank you for the opportunity to address this subcommittee. DTSC is the lead State agency for environmental cleanups at military bases in California. Our mission is to protect human health and the environment from the harmful effects of hazardous substances(including ordnance and explosives). We have multi-disciplinary technical experts on staff: toxicologists, public participation specialists, geologists, engineers, environmental scientists and others to oversee the investigation and remediation of hazardous waste release sites, including those on all open, closing, closed and formerly used defense facilities. DTSC's role at Fort Ord is to ensure that the former base is investigated and cleaned up in an environmentally sound manner, and that the remedy that the military selects is in compliance with state laws and regulations. DTSC is also committed to facilitating environmentally safe reuse of closing, closed and formerly used facilities.

The Department of Defense has been working on the hazardous waste site cleanup program in California since at least 1979. During that time, the Army, Navy and Air Force have been responsible for more cleanup than any other single responsible party, largely because of the scope of the problem confronting them. However, despite the efforts of the last 22 years, much of the land area at closing military bases in the State has not yet been remediated. Some sites that were identified years ago have yet to be investigated, let alone cleaned up and made ready for reuse by the local communities.

You have heard about the unique challenges the Army faces here at Fort Ord. To address these challenges, my Department, DTSC, works with the Regional Water Quality Control Board, USEPA, the local air pollution control district and other local agencies, and even state and federal wildlife managers and others, as well as the Army to investigate and clean up residual hazardous wastes on the former base. The ordnance and explosives cleanup problem has been the most difficult.
With regard to the subject of today's hearing, I have some comments on state-wide and national issues, then a few thoughts about the cleanup and reuse here at Fort Ord.

DoD funding of environmental cleanup

California, like most states and local agencies in communities with closing bases, would like to see increases in cleanup funding. The process of environmental remediation is complex, and takes time. For example, to install groundwater monitoring wells to characterize contamination hundreds of feet below the ground surface, then pump and treat contaminated aquifers, may take decades. But cleanup should not be delayed unreasonably due to budget constraints, and this is often the limiting factor. Sites should not have to wait in line for 20 years before military budgets can allow the contractors to start investigatory work. Finally, even these limited budgets in the BRAC program are not safe from being reduced midyear and money moved to other DoD program areas.

Recommendation:

1. DoD should assure an adequate BRAC cleanup budget aimed at accomplishing the job of cleanup in reasonable timeframes.

2. DoD should return to a "fenced" BRAC budget where these funds can only be used for environmental investigation and cleanup and not re-programmed for other uses.

Innovative public-private scenarios to reach cleanup and productive reuse

Numerous sites throughout California and the nation are being handled via innovative public-private partnerships which reach cleanup and productive reuse in an expeditious and cost-effective manner. A local example from a military base is the Mare Island situation. In this case, a large national developer, Lennar, will take over a portion of Mare Island, as well as the cleanup responsibilities. The Navy has agreed to pay a lump sum to Lennar to complete the cleanup. Lennar purchased insurance to cover cleanup cost overruns, unexpected discoveries and third party environmental liability. There was also a land use covenant signed in order to prevent incompatible land uses during the cleanup. The Navy, local reuse authority and Lennar entered into a consent agreement with DTSC to compete the cleanup. Because the transfer will occur before the cleanup is completed, this all took place as part of an "Early Transfer".
A similar arrangement for privatized, early transfer occurred at the Port of Oakland with the closing Naval Supply Center there. The early transfer enabled the Port to gain title to the property three years ahead of schedule, complete the cleanup work and expand its business, and for the Navy to move on to other more pressing issues of defense or cleanup elsewhere.

These partnerships provide wins for all parties

- The military is able to avoid administering the cleanup and often save money in the process;
- The community gets productive reuse faster, and
- The regulators get a cleanup which is already planned, funded and ready to be implemented by a highly motivated party.

Early transfers are not an option for all sites, but where the necessary components of a willing private party with the capability to manage the cleanup at a site come together, California supports the use of this provision of law.

Recommendation:

1. "Early Transfer" public/private partnerships should continue in certain cases, with developers and insurers, to ensure both a quality investigation and cleanup, but also expeditious transfer and productive reuse of the property.
2. Other innovative approaches to executing the military's cleanup should also be explored, including a shift of the overall program outside the military. This would allow the military to focus on its principal mission of national defense.

DoD funding of UXO cleanups and technology

Now that the cleanup of regular chemical contaminants at Fort Ord is nearly complete, the major remaining environmental hazard on the former Fort Ord is the residual unexploded ordnance (UXO) left behind from the training the Army did during the 80 or so years that they were at Fort Ord. Currently available UXO investigation and removal technology is not as efficient or effective as it needs to be to assure fully protective remedies for all future land uses. Even when the best available detection technology is employed, some live ordnance will likely remain. In order to reasonably assure protection, and depending on the type of planned use, other measures beyond routine surface clearance may needed. My point here is not that the US Army Corps of Engineers hasn't done a good job of working to get the most out of existing technology. They certainly have. My point is that even when the best technology is used, some unacceptable risk from UXO remains, which must be managed.

Recommendation:

1. As Sherri Goodman, former Deputy Undersecretary of Defense, stated in her recent article in the Washington Post, the military should increase funding for research and development of new UXO technologies. Further, the recently estimated $14B ordnance cleanup liability facing DoD compared to the current

funding levels illustrates the need for significant increases in this area of DoD's budget if this serious problem is to be addressed anytime soon.

2. In addition, until such technological improvements are made that eliminate the risk from UXO, we suggest that DoD develop a stewardship program for UXO properties. This stewardship program should focus on initiating and maintaining appropriate risk management measures. This stewardship should be included as a discrete program operation and be identified as a line item budget to ensure funding is adequately provided.

Environmental and Economic Cost of Base Closure

California has many more military base closures, and many more Formerly Used Defense Sites, than any other state. Our experience is that when bases are closed, relatively little is known about the many and varied environmental hazards that may exist. Normally, the costs to investigate and clean up these hazards are unknown and are often very high. Initial cleanup cost estimates are nearly always much lower than actual costs, due to several factors. Reuse plans for closing bases are usually finalized by the local Reuse Agency before the full environmental investigation is completed. This can result in last-minute, expedited, and costly cleanups, or late land use planning changes. In either case, there is significant additional time and money expended. The military environmental budget is constructed on these initial estimates, and often falls short when the full environmental condition of the property has been evaluated. Finally, since cleanups are more and more often selected that leave some of the wastes behind, at levels safe for the intended use, but not all uses, future costs of assuring protection need to be accounted for. State and local governments will have the responsibility for tracking the restrictions necessary to prevent exposures to these residual wastes, but should not have to fund those costs.
Recommendations:

1. The defense budget should be tailored to accommodate these situations.

2. Land use planning and environmental investigation and cleanup on closing bases should be more closely integrated.

3. DoD should acknowledge that the cost of cleanup, where wastes are left behind, will also entail the cost of monitoring land use controls, and should develop ways to fund the oversight of these controls.

The SMART Team effort at Fort Ord

Two years ago, the Army proposed creation of the SMART team, consisting of key executives from the Army, USEPA and DTSC. I am DTSC's representative. This team was created to facilitate the cleanup of ordnance and explosives such that the property

can be transferred to the community in a safe and expeditious manner. The SMART Team has created a valuable dialog between the Army, USEPA and the State. The SMART Team has had several significant accomplishments.

1. As a direct result of the SMART Team effort, the Army has cleaned up several parcels, and certified several others as free of UXO. These parcels are now suitable for transfer, and safe reuse, some with significant risk management measures implemented.

2. The cleanup of UXO is now under the Federal Facility Agreement, allowing for a more structured and enforceable cleanup.

3. We have significantly furthered the dialog regarding how to cleanup UXO property to be suitable for residential use.

The Army, USEPA, and DTSC are continuing to work to resolve the significant issues that remain. These issues include coming to agreement on the appropriate mix of UXO cleanup and risk management measures that should be required for various landuse conditions.

Recommendation:

Continue the SMART Team effort.

Local, State and Federal cooperation in the reuse effort at Fort Ord

For the most part, cooperation among local agencies, the Army and the regulators has been good. For example, the Fort Ord Reuse Plan, which was finalized several years ago, proposed to site a housing development on Parker Flats, which, as it eventually turned out, was an old ordnance range. The Reuse Plan was written prior to any UXO investigation being done on the parcel, based upon the information that the Army had on file. This is a prime example of the landuse planning/investigation and cleanup problem I described earlier. Well, the story brightens up a bit. Just last month, the Fort Ord Reuse Authority (FORA), working with other local agencies, understanding the difficulties of cleaning up that parcel to residential standards, proposed to relocate this development to a more appropriate parcel. This is the kind of teamwork that can lead to safe and successful reuse of the remainder of Fort Ord.

Closing

In closing, I'll summarize by saying that we have made significant progress at Fort Ord, but there is still quite a distance to go. I believe that with increased funding for UXO detection and cleanup technology, appropriate land use planning, and the use of innovative private/public agreements, the challenges we face at Fort Ord can be met and overcome successfully. I will continue to commit DTSC to work with the Army, USEPA, and local governments to achieve safe and expeditious reuse of the former Fort Ord.

Thank You. I'll be happy to answer any questions you may have.

Mr. HORN. Well, thank you, and I want to thank the California Environmental Protection Agency. I sit on the subcommittee of transportation, and in the mid-1990's they told us about a plan they had where they worked with business and let business work on some of the paperwork where you had warehouses filled with reports that the press could not look at.

I said to the Assistant Director of EPA at that time, "Do you think you can do that for the national group?"

Well, here we are, mid-1990's. They have not done a thing, and maybe, Mr. Takata, you can tell me they have made some progress, but they had not then, and California was way ahead of what the national agency was doing.

What do you think, Mr. Takata? Have they been able to get these reports on Superfund and everything else and work with business?

Mr. TAKATA. Well, I think that we have really tried hard to make Superfund work. When Superfund was first passed by Congress, there were a lot of problems with maybe studying things too much, a lot of lawsuits.

We have gone through several rounds of trying to reform the statute administratively now, and I think you can begin to see the progress of Superfund nationwide and in California.

We have a measure which we call construction completion, but it is basically a point where everything is done at a site, and I do not have the figures right in front of me now, but after a very slow start, both nationwide and in California, we have over half of the sites in that construction completion phase. So, I think we are making progress.

Mr. HORN. I know mostly on the Superfunds, the word was, "Well, we have put more money in lawyers' pockets than in cleaning-up the Superfund."

How are we now on that?

Mr. TAKATA. Well, we have made a number of reforms along that, with that problem as well because it is such a powerful law, to begin with, and it should have been a powerful law, I think.

These sites were around for years and years. Many of them started as a result of World War II, but some of them, you know, from the earlier century, some of these mining sites, for example. And all of the existing environmental laws, both State and Federal, were not adequate to clean them up. So Congress passed a very strong statute that allowed EPA to use enforcement authorities to clean these sites up and to fund the cleanup if we had to, if the parties would not agree to cleanup.

That has worked very well in getting those sites cleaned-up. The trouble is and the point that you make is that same strong legal authority has led to lots of lawsuits between parties, between parties and insurance companies, between citizens groups and EPA, citizens groups and industry. So it has led to lots of legal problems.

What we have tried to do is focus on the cleanup and focus on making parties pay for what they caused. I think one of the problems in the past is we would tend to try to get a party to pay for more than they caused, which made them feel unfair about the process and made them feel like—you know, they felt litigious.

Now, by focusing on getting parties to cleanup what they cause, I think that has really cut down on the lawsuits and cut down on some of the money going to legal fees.

Mr. HORN. Well, I am glad to hear that.

Mr. O'Brien, in your testimony you mentioned the creation of a Presidential committee in 1961. Is that—go ahead.

Mr. O'BRIEN. Mr. Chairman, while the Office of Economic Adjustment was created in 1961, the President's Economic Adjustment Committee was actually created in the mid-1970's after recognizing that responding to community impacts has to go beyond the Department of Defense.

I think overall we are one of the only non-war fighting components within the Department of Defense, and we are focused on assisting communities, but our expertise is limited. So we need to call to the table these other Federal resources.

That committee was reestablished in January 1992 by Executive Order 12788 by then President Bush. It established and reemphasized the need for the coordination of this assistance, and basically directed the Office of Economic Adjustment to be managing that program and providing staff support to it.

Shortly thereafter, with the reorganization of the Department in 1993, the committee basically did not function, and it is now our intention to reinvigorate it and attempt to address some of these issues to the extent we can do so federally.

Mr. HORN. Does your Office of Economic Adjustment do the staffing for the Secretary of Defense on these issues?

Mr. O'BRIEN. On economic adjustment, yes, sir, and we have gradually become advisors on the implementation of reuse policy for the Secretary. We have also from time to time gone out to craft and organize the implementing regulations for the new community-based provisions which I referred to in my statement.

Mr. HORN. Are you the ones that then assign the budgets to the various services based on the Secretary signing off on it?

Mr. O'BRIEN. No, Mr. Chairman, we are not. The budgeting process actually originates each service, and perhaps my colleague, Mr. Fatz, can describe, for instance, the budgeting process within the Department of the Army.

Each service is responsible for crafting their respective obligations in the form of a budget, and it is then vetted-up their chain to our Comptroller.

Mr. HORN. But the money does come from Congress. It goes to the Department of Defense. Now, does that go to your office, and how does it get down to the services?

Mr. O'BRIEN. Yes. I can only speak to our separate appropriation. We are a field activity under the Secretary, and we are focused solely on the reuse. The funding for cleanup, in addition to the other activities that support the closure and disposal of properties, is a separate process, and again, perhaps Mr. Fatz can address that.

Mr. HORN. Mr. Fatz, what about it? Where do you find the money? Where is the money?

Mr. FATZ. It comes from you, sir. [Laughter.]

It comes from Congress.

Mr. HORN. And we send it over there across the Potomac. Now, who do you get it from over there?

Mr. FATZ. Yes, we get it from the OSD Comptroller.

Mr. HORN. Yes.

Mr. FATZ. And we build our budget from the bottom up. We put in our requirements for what we need. There is no fence line in our budget like Mr. Lowry stated. Sometimes the BRAC cleanup line like any other line item is identified, but it can be used for other higher priorities, like a quick deployment to Europe.

Mr. HORN. OK. Well, Mr. Holman is going to look at all of this, and we will have this in the record at this point.

The gentleman from California, Mr. Farr.

Mr. FARR. Thank you very much, Mr. Chairman, and I appreciate this panel.

Essentially what you heard in the first panel were the local folks who said that the process is too slow, the process is too many agencies, and the process is too top down, and this panel is that enemy that creates all of that.

The frustration that I have is that I do not know whether we are really in dialog here or just kind of, as so many of these hearings often become, it is just everybody sort of telling their own story without allowing us to glue it all together.

Mr. Holman pointed out, and I read your report, one of the things you do not do is look at what other people said. GAO ought to take a look at the total cost of cleanup of the base and all the other factors weighing into the COBRA model and then have DOD say if you are going to really look at base closure, you have got to look at everything, not just the savings you are going to have from payroll and base maintenance and base operations from closing a base because that is all they are looking at.

They claim the savings that Mr. Fatz talked about, that they have saved all of this money from base closure. What they do not talk about is the fact that somewhere else somebody had to pick-up some of these costs, and the military did not do it.

I really think that we need to do that. I was very interested in your report where you talked about the impact on the local labor force and used Merced, CA as one of the communities where there was a negative impact caused by the base closure.

But you pointed out that was offset because of other economic factors in California. The biggest was the building of a prison. There were a lot of Federal and State expenses in that. I mean, that was money, taxpayer dollars, and the opening of a new university or at least the commitment to open up a new University of California.

The third factor you mentioned was the fact that there was so much overcrowding of the Bay Area, which is a lack of affordable housing, a lack of government attention to the problem.

So in all three cases, the factors that helped Merced were essentially controlled by government, and so, we sort of say, "well, we have saved money because it was not our account," but indeed, the taxpayers pay for it.

So I think we need to get a more realistic cost balance of our base closure.

I think that the first panel could also indicate—I mean, Mr. O'Brien is in a position where he is the good guy because he comes with the checks and passes them through. I will have a question for that at the end.

But, Mr. Fatz talked about the fact that we spent $267 million on Fort Ord so far, and the idea in Washington is that we have been there, done that. Fort Ord is a success for all of the reasons that we outlined earlier.

But I think the most shocking thing you said today is it is going to cost even more than that between now and at the end, another $326 million more to cleanup the fort.

Where are we going to get that money? This process has been too slow. It is too slow already, and I do not see any money in site for making it faster.

Mr. Takata came in with this idea that, we know that Fort Ord is more expensive than McClellan because of the cleanup, and we know how to cleanup the land, but still EPA participated in that lawsuit that slowed the process down, and that again goes back to the local government's complaint about it is too slow.

Mr. Thompson said something shocking. That is that if we do not burn, then we are going to have to go back and redo the whole thing about what is the habitat management plan. We start all over, begin at square one.

Let me ask you this. If we start at square one, would your department, with the knowledge you now know about habitats, be able to downsize the management plan because you would not have as much habitat to manage? I mean, the critical mass is there and do you have to have it all?

Because you have a lot of people in this room who will tell you that they are not going to allow this to burn. They are going to file lawsuits. They are going to do everything they can to stop burning, and you just said if we do not burn, it all stops.

This is one of these problems where the right hand does not know what the left hand is doing.

Mr. Lowry, I mean, are you ready to allow it to burn? Is that OK with you? You are the Office of Toxics, and people are claiming that the smoke is toxic.

I got from your testimony that the fastest way—I do not think this is what you meant to say—but in many ways it was like if we did not close bases, we would not know all of this stuff was here, and we would not be involved. If we just did not ask, we do not tell, your office does not get involved because it is still Federal ownership, Federal land, and the States do not have a role on military bases.

So if we just did not close anymore bases in California, we would not have to worry about cleanup.

See, I am sitting here. I just see that the first panel say that what we heard from the second panel is the reason that we are just where we are, kind of stuck. How can we do this faster, smarter? We need to change Federal law, and we need to commit more money.

But I just kind of addressed the whole panel there, and I would like to feel that there is some response. Maybe my one question, the only one I did not say something about, Mr. O'Brien. You go

around watching all of these bases close in the United States, not just here in California. Have you noticed any difference between those bases that are closed in States which have less State law?

I mean, are there unsuccessful or successful transfers because of State law? I mean, does State law hurt or help in the transfers? And are there States that have been less involved and, therefore, the transfer went a lot faster?

Mr. O'BRIEN. In the States that we work with, Congressman, which number just about all of them, we have an active State regulatory function in a handful, including Massachusetts, Florida, and California. They are regulatory in the sense that they might have something like an environmental impact review process, which is either replicative of the Service's EIS, environmental impact statement analysis and/or a very detailed Environmental Protection Agency-type function.

And on that latter one, perhaps Maine and a couple other States would come to mind as well.

I can sincerely state that we have not seen the type of what appears to be intractable issues that we have found here. I cannot explain the reason for that. Perhaps it is UXO. Perhaps it is a preponderance of not just Federal regulations, but also State regulations and local boards.

You stopped short of asking about local functions. I do not believe we have the type of local layers elsewhere that we do here in California. We would have to do a more detailed look, though, to say what causes these issues to occur.

But clearly, and I think the record speaks for itself, that across these different sites, we have a very active State review process in California, and we do not see things flowing perhaps as quickly as they could from the process.

Mr. FARR. Does anybody else want to comment?

I wonder can I get Mr. Thompson and Mr. Lowry? Mr. Thompson indicated that if we do not burn according to a habitat management plan, you're going to have to go back and revisit the whole habitat management plan. I do not expect us to go there, but if we did—can you downsize it?

Mr. THOMPSON. Well, first of all, I would like to express that we are also very frustrated with the process here and that we have been working with the community since 1994. We thought we had a good habitat management plan, which is the basis of our process to grant the incidental take permit so that we could allow permits for the take of endangered species.

So if we do have to switch to mechanical, that does force us to reevaluate the process. I do not think it completely stops things, as you characterize it, but we do have to go back, try to figure out a new——

Mr. FARR. Going back stops.

Mr. THOMPSON. Yes.

Mr. FARR. You have got to stop before you go back, you know. You cannot just shove it in reverse.

Mr. THOMPSON. That is correct. And we would have to find a new process, a new way to reinvigorate the habitat so that we would take care of the endangered species that are there, and that also

includes a whole host of other species that are on the verge of being listed as endangered.

This was, according to everybody's best effort, the best way to conserve this natural habitat out there and protect endangered species and allow for incidental take.

Now, it would be pre-decisional for me to tell you that we could give the permit in so many days, but in similar projects like this one or this closure, you know, we could be within 45 to 60 days of the public process that we need to have in place and permits issued.

So I think we are very close, and we, too, are frustrated.

Mr. FARR. Will Mr. Lowry with the Office of Toxics allow that to take place?

Mr. LOWRY. The lawsuit which we have discussed earlier was filed by the Air Quality Management District, which is a local board, and I think the members of that district are actually, the members of the board——

Mr. HORN. Speak a little closer, please.

Mr. LOWRY [continuing]. Are members of local government, elected officials. So we would not have a role in that. What we have been looking at are issues related to if you do the burns is the smoke created any more toxic or dangerous because you are adding explosives which would be blowing up weapons and so forth.

I am not sure we are completely done with that, but I do not believe it is a significant additional risk. So the issue is more a local air district problem with smoke than it is a toxics issue.

You also asked, perhaps a bit facetiously, but I think realistically, well, if we do not close the bases, the California Environmental Protection Agency is not here and we will not have these problems.

And I guess the answer to that is we do have authority over active military installations, but one of the rules which we operate is that the military is required under laws which Congress passed to leave the property or clean it up to a reasonably intended use.

And as long as they are using ranges to test weapons and so forth, that is the intended use, and you will expect unexploded ordnance to be there.

Once you try to convert it to some other use, then there is a role for us to play.

Mr. FARR. Have you been playing that role on an active military base?

Mr. LOWRY. With respect to?

Mr. FARR. Any changed use so that it triggers that the State come in on an active military base?

Mr. LOWRY. Not on a changed use. We do regulate the treatment, storage, disposal, and generation of hazardous waste, for example, and we do inspections and file enforcement actions against the military and work with them on compliance issues throughout the State.

Mr. TAKATA. Congressman, may I clarify something?

Mr. FARR. I did not mean to pick on you. You have been a hero in moving the process along.

Mr. TAKATA. Thank you. Thank you very much.

And I do not mind being picked on, but I want to clarify something. First of all, I do not want to leave anybody with the impression that EPA actually opposes burning per se. In fact, we were not a participant in either one of the lawsuits. It was the local Air Board and the local community group here.

But here is the thing. In order to do the cleanup, you have got to clear the vegetation. In order to get the vegetation out, you either have to burn it or clear it by some other means.

Now, burning is cheaper. So the Army would rather do it that way, and the Fish and Wildlife Service supports it because it helps with the habitat management.

But the fact of the matter is it is very controversial among some community members, and the Air Board has taken up that issue and filed the lawsuit, and that issue is the safety of burning vegetation, but also vegetation that has UXO on it. I think it is a legitimate issue.

Mr. FARR. But sitting behind you, you heard from Mayor Smith, who had two friends who actually you might say did manual cleanup. They picked it up, and it blew them apart. I mean, there is a risk to the people on the land, too, not just the endangered species.

Mr. TAKATA. Absolutely, and so it is our job, I think, as government agencies working on this to try to work through all of these problems, and here is what we are trying to do.

You know, we have been working with the Army to come up with this strategy. First of all, they are presently looking at all of the alternatives to vegetation clearance, including burning, and this is going to be helpful because maybe not everything needs to be burned, and also it will be helpful in explaining the decision to the residents and community in the Monterey Bay area.

As Mr. Lowry stated, we are trying to look at what are the health impacts of burning. Do you add anything more from burning UXO to vegetation?

And then last, if the Army does end up choosing burning, we all want to make sure that we have a really good burn plan in place.

Now, I think we are on course for that now. We got set back by the lawsuit, but we are now back on track. We have a couple of symposiums coming up, one this month and I think one several months later, and the Army hopes to make a decision on whether or not to burn or use other methods of clearance some time next year.

The thing I want to stress though is in the meantime, the vegetation can be cleared mechanically. None of the parcels that were slated for reuse by the local governments have been held up because of this issue. We have been able to work through each one.

Now, the one that is possibly held up, but we still are right in the middle of that discussion is Parker Flats, but all of the other ones were moved forward without burning.

Mr. FARR. Last, Mr. Fatz, are we going to commit the Army's resources to this cleanup, this $326 million? Can we get a commitment that as this is needed, it will be there? Are you not going to leave us hanging dry?

Mr. FATZ. That is $326 million over approximately 15 years, and we will put in that request.

You know, sir, in Congress the ordnance issue has gotten a lot more attention. We have a number of Members of Congress trying to get special legislation to create line items just for ordnance removal because it is so costly, and it is dangerous out there.

But we expect to have in Fort Ord's case the remedial investigation and feasibility study done on the burning and have an interim arrive by next summer.

Mr. FARR. But you are not changing the way you cleanup unexploded ordnance. A lot of this whole debate has been not what you do once you get in the land. It is how to get on the land.

Mr. FATZ. Yes, sir. Here it is the chaparral that hides the ordnance. And the burning is less costly, but it is much safer to the operators that have to go out with manual or mechanical devices to take down the chaparral, and it is still a hazard.

Mr. FARR. Well, I think that is what is missing in the debate. This is a debate about the impact of the smoke, not a debate about the impact on human risks and cleanup.

I appreciate the panel, and I appreciate the Chairman.

Mr. Horn, I have to really tell you that you and I have been friends for a long time, but you are the first Member of Congress to come here, and sitting on a committee with this kind of jurisdiction, to have the responsibility to do the oversight, and I really appreciate your bringing the committee and your staff out here.

Mr. HORN. Well, thank you. We appreciate it.

I would like to hear from the mayors before we wind it up. If there were questions that were not asked by either Mr. Farr, myself or each other, we have got a little chair down there at the end of the table, and you can borrow Mr. Holman's mic if anybody wants to just raise it.

We are not going to have any great extension on it. We just want to know if you have listened to this, and maybe while the ideas are hot, why, we would like to get it on the record, and then the staff of both the minority, professional here, and the majority will probably be sending all of you questions that we could not get to. And you are under oath in answering those questions.

So we certainly appreciate your taking the time today.

Mr. PERRINE. Mr. Chairman, Jim Perrine again.

I do have a question for this panel. We did hear about the potential reinitiation of the Economic Adjustment Committee, and as I understand that organization, that committee would be more or less a topdown coordinating agency for the Federal process.

I am concerned that we need a bottoms-up coordination as well. We need some representation of the local interest and some opportunity for remedies to be provided to the local jurisdictions whenever we have conflicts.

And I am interested in knowing if the panel members could foresee some type of an ombudsman type of program that could be initiated at the Federal level to facilitate the assistance for the local agencies.

Mr. HORN. That is a very good suggestion, and I think one way to solve this kind of thing would be an assistant to the President or whatever that coordinated all of these things that are going on.

Any other comments?

Mr. SMITH. Mr. Chairman, the question I have for the city of Seaside is that it was implied that there would be a reprioritizing of the cleanup effort on the former Fort Ord, and you have heard my testimony in regard to the horrible incident that affected two lives, and yet we are talking about one of the areas that has the unexploded ordnances immediately adjacent to the residential area of the city of Seaside.

I think that we are reacting to local agency, the Air Board, U.S. Fish and Wildlife, and possibly the threat of U.S. Fish and Wildlife talking about reopening up the environmental or the natural habitat plan. I guess what I am asking is that this burn plan should take into consideration that the lawsuit is really brought about through a mishap of a control burn that got out of hand as opposed to the many years that burning on the former Fort Ord took place without an incident.

So I would like to see the agencies, BRAC, U.S. Fish and Wildlife, U.S. EPA, come up with a plan, a burn plan, that would still not threaten the lives of the citizens that live east of Fort Ord, and that is basically one of the major concerns.

This threatening to set us back years by opening up the management or the habitat plan is a little terrifying, to be perfectly honest with you.

Mr. HORN. Well, we thank you very much, Mayor. You and your colleagues have been very helpful just as we have had the help from the governmental groups.

This is the first in a series of hearings the subcommittee will hold on the efficacy of the process for closing military installations. The problems described today are certainly emblematic of concerns in communities that have been the subject of realignment of military facilities.

It is our hope that the lessons we learn today and we will learn as we review other closures will help us avoid the mistakes that were obviously questioned by the mayors and others.

And I want to thank each of the witnesses. You have all been very helpful, and again, the record will remain open for the next 2 weeks. If people in the audience and others have something, please send it to Mr. George, the chief counsel and staff director of this subcommittee.

And J. Russell George is right behind me there, and to my right is is Darin Chidsey, the professional staff member that worked on this, and our clerk, Mark Johnson is over here, and we thank him, and Dave McMillen, who came out here for the minority, the professional staff member.

And then we really thank the people that helped us with the Monterey Council Chamber contacts, and that is Elaine Ramos and Fred Cohn.

And then our court reporters are Nancy Palmer and Susan Palmer, and we thank you for taking down this transcript.

The City Manager's office and many people have helped in this wonderful, historic building.

And with that we are adjourned to the next hearing.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned, subject to the call of the chair.]

[Additional information submitted for the hearing record follows:]

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September 10, 2001

Representative Stephen Horn
Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Re: Request for List of Agencies and Additional Comments

Dear Representative Horn:

Thank you for the opportunity extended to Mr. Houlemard to testify at the recent hearing conducted in Monterey, California. Enclosed is a revised and updated version of the agency list that you requested.

We would also like to submit the following additional points. This list and the issue of the processing of our Habitat Conservation Plan (HCP) well illustrates the general point Mr. Houlemard made that the base closure regulatory process needs to be streamlined and better coordinated. Note the enclosed history of our HCP processing, which to date has taken four years and $300,000 in consulting expenses, what legislative fix would we recommend regarding the enforcement of the Endangered Species Act? We recommend that before federal property is transferred, there should be one coordinated effort to ensure that the appropriate mission of protecting endangered species and undertaking habitat management is ensured, not duplicative and replicative federal agency requests for new permits, information, consultation etc., nor changes in rules, or in-progress adjustments as policies change. This has happened repeatedly during the four-year time frame in which we have been processing our HCP.

Sincerely,

D. Steven Endsley

D. Steven Endsley
Director of Planning and Finance

Cc: Mr. Michael A. Houlemard, Executive Officer
Mayor James Perrine, FORA Chair

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HABITAT MANAGEMENT PLAN/HABITAT CONSERVATION PLAN

Project Description

FORA and the reuse community continue their work to complete a Habitat Conservation Plan and a detailed Implementation Agreement ("HCP/IA"). The U.S. Army, U.S. Fish and Wildlife Service ("USFWS"), and California Department of Fish and Game have reviewed and commented on the initial documents. FORA and its wildlife biology consultant are awaiting final approval of the latest HCP format and monitoring requirements mandated by the USFWS and have negotiated the appropriate financial commitments with USFWS and the CA Dept. of Fish and Game ("CDFG"). Meetings are held monthly with the Coordinated Resource Management Planning ("CRMP") Team and a special meeting was held at the Portland-based regional office on June 25, 1999.

The HCP/IA was originally presented to the Administrative Committee on March 26, 1998. Comments were received from the Administrative Committee members and incorporated in the report. The HCP/IA was also submitted to CDFG and the USFWS Ventura and Portland offices for review and comment. The CRMP Team then reviewed additional questions posed by USFWS. Draft monitoring protocols have been added at USFWs request, and the final draft documents were reviewed by the Administrative Committee on September 27, 2000. Approval by USFWS was expected by January 1, 2001 but was delayed due to USFWS concerns regarding the U.S. Army's ability to perform the rotational burn regimen required by the Habitat Management Plan (HMP) for Fort Ord. When these issues are resolved, it is expected that the USFWS will expedite processing of the HCP/IA.

Project Timeline

• Original submission of Draft HCP/IA supplement to USFWS	June 1998
• Awaiting final comments from USFWS/including response to additional monitoring and financing requirements of USFWS	Ongoing
• Revised submission of HCP/IA supplement to USFWS	August 1, 2000
• Resubmission of HCP/IA to USFWS for final approval	May 2001

Partial List of Federal, State, and Local Agencies
Involved in Fort Ord Reuse
Revised September 11, 2001

1. California Department of Toxic Substance Control (S) (J)
2. California Integrated Waste Management Board (S) (J) (M)
3. City of Marina (L) (P) (J)
4. City of Del Rey Oaks (L) (P) (J)
5. City of Monterey (L) (P) (J)
6. City of Seaside (L) (P) (J)
7. County of Monterey (L) (P) (J)
8. County of Monterey, Department of Environmental Health (L) (J)
9. Fort Ord Reuse Authority (R) (P) (J)
10. Base Realignment and Closure Office (F) (J) (M)
11. Monterey Bay Unified Air Pollution Control District (R) (J)
12. Monterey Regional Waste Management District (R) (J)
13. Presidio of Monterey, Directorate of Environmental & Natural Resources (F) (J) (M)
14. Regional Water Quality Control Board (R) (J)
15. University of California, Santa Cruz Extension (S) (M)
16. US – EPA – Environmental Protection Agency (F) (J) (M)
17. US Fish and Wildlife Service (F) (J)
18. California Department of Fish and Game (S) (J)
19. California State Parks Department (S) (P)
20. Bureau of Land Management (F) (P)
21. Department of Interior (F) (J)
22. Department of Education (F) (J) (M)
23. Department of Health & Human Services (F) (J) (M)
24. Department of Defense (F) (J) (M)
25. Office of Economic Adjustment (F) (M)
26. U.S. Army (F) (J) (M)
27. U.S. Army Corps of Engineers (F) (M)
28. Department of Commerce (F) (M)
29. Economic Development Administration (F) (M)
30. Monterey Peninsula Water Management District (R) (J)
31. Monterey Peninsula Unified School District (R) (P)
32. Monterey Peninsula College (S) (P)
33. University of California Santa Cruz (S) (P)
34. California State University Monterey Bay (S) (P)
35. Monterey Regional Water Pollution Control Agency (R) (J)
36. Marina Coast Water District (R) (P)
37. California Trade and Commerce Agency (S) (M)
38. California Department of Transportation (S) (J) (M)
39. California Office of Planning and Research (S) (J)
40. California Coastal Commission (S) (J)
41. Officer of the Governor of California (S) (J) (M)
42. California Dept. of Forestry and Fire Protection (S) (J) (M)
43. Local Agency Formation Commission (S) (J)
44. Monterey Peninsula Airport District (R) (J)
45. Monterey Peninsula Regional Park District (R) (P)
46. Monterey County Office of Intergovernmental Affairs (L) (P)
47. Monterey Salinas Transit (R) (P)
48. Transportation Agency of Monterey County (R) (P)
49. Monterey County Parks Dept. (L) (P)
50. California Department of Health Services (S) (J)
51. California Occupational Safety and Health Administration (S) (J)
52. Federal Aviation Administration (F) (J)
53. Airport Land Use Commission (R) (J)
54. Dept. of Housing and Urban Development (F) (M)

F = Federal
L = Local
S = State
R = Regional

J = Jurisdiction or Regulation of Property
P = Receives Property
M = Provides money and resources to reuse

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For Staff Director George
Please insert this letter with the Fort Ord hearing. I left space for it.
P
9/16/2001

California State University, Monterey Bay
Office of the President
100 Campus Center ▪ Seaside ▪ California 93955-8001 ▪ 831-582-3530
Fax: 831-582-3540 ▪ Website: www.csumb.edu

September 5, 2001

The Honorable Steve Horn
2331 Rayburn House Office Building
Washington, DC 20515

Dear ~~Congressman Horn~~ Steve,

It was great getting a chance to talk with you while you were in Monterey about Fort Ord, and from all accounts your hearings on Base Closure and Reuse were very well received.

Thank you for allowing us to provide additional testimony for your record. I am submitting the following, and I hope it provides support for your efforts. Please don't hesitate calling upon me if there is anything else I can do.

I'll look forward to seeing you again in the future.

Sincerely,

Peter

Peter Smith
President

California State University, Monterey Bay
Office of the President

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Fax: 831-582-3540 ▪ Website: www.csumb.edu

Testimony Prepared By
President Peter P. Smith
California State University, Monterey Bay
For
Congressional Committee on Governmental Reform
Subcommittee on Governmental Efficiency
Financial Management and Intergovernmental Relations

September 5, 2001

I am pleased to provide the Committee with the following observations and testimony regarding our direct experience with the closure and reuse of Fort Ord pursuant to the hearings the Committee is holding on base closure. I am Peter P. Smith, Founding President of California State University, Monterey Bay. I am the former representative from the State of Vermont and I applaud your efforts to begin streamlining the processes and procedures which burden local agencies awaiting the benefits of base closure and re-use.

Real and improved property conveyed by the Federal Government in 1994 from the closure of Fort Ord was accepted by the State of California for the purpose of establishing a general campus of the California State University system. Since January, 1994 my colleagues and I have had a great deal of direct experience with the myriad of Federal Agencies and Departments who have been the subject of the previous testimony. Our Representative, Sam Farr and his staff have supported us during these endeavors—and to the extent that CSU Monterey Bay is perceived as a success, and it is, we owe a debt of gratitude to Congressman Farr for his efforts and insight on our behalf.

If I were to provide the Committee with the two highest priority lessons we have learned from our experiences, they would be first, that the time taken for the Army and the Environmental Protection Agency (EPA) to come to agreements regarding their often contradictory agendas has severely hindered our development. Second, and similarly, the requirements and restrictions imposed by Public Benefit Conveyances (PBC) compounds the difficulty of developing property as we are in fact doing, for the benefit of the public. Your committee has received sufficient testimony to date from others about the specific conditions which hinder conveyance, acceptance and development of

these and similar former military bases. I would like to offer a few suggestions which would improve each of these steps from the perspective of the end recipient.

First, as long as EPA actions reflect the operational fact that they have little, if any, incentive to work in concert with the Base Reuse and Closure Commission (BRAC) for the efficient and timely conveyance, perhaps State Environmental agencies who share both the incentive, and similar responsibilities with EPA could be engaged to responsibly guide, and write the necessary assessment and analysis reports. We have seen direct instances of bureaucratic insensitivity or arrogance on the part of EPA with the result that property pending conveyance has both deteriorated with the resultant loss of real value to the recipient, and ultimately the loss of highly desired development partnership for the University worth $4 to $5 million. This would not have happened had we had closer, more direct interaction with Cal-EPA had they shared the certification responsibility with EPA.

As a public agency, the terms and conditions contained within the Economic Development Conveyances (EDC) available to us allow effective disposal of Federal property, efficient conveyances from Federal Agencies and expeditious re-use for public purposes. Public Benefit Conveyances also available to us do not allow for effective partnerships both economically or socially motivated to enhance the conveyance process by creating mutually beneficial development opportunities or entrepreneurial successes.

The second major policy suggestion that I offer would be the creation of a Federal Base Closure & Reuse Revolving Loan and Grant Fund. Assuming that properties will be conveyed without unnecessary value depreciation through more efficient transfer mechanisms, this fund would allow local jurisdictions, agencies, and individual recipients the opportunity of seeking subsidized seed money to initiate income-generating, or public benefit developments. Clearly, with the shear magnitude of Federal assets to be converted to public purposes, directly or indirectly, our governmental responsibility should extend beyond the "hand off" of property to insure the marketplace has a chance to realize the potential of Base Closure and Reuse. There are sufficient grant and loan models currently in existence to provide ample evidence of efficacy and success. Our communities and local agencies simply need the chance to exploit entrepreneurial opportunities considering the inherent difficulties of taking advantage of the economically complex conditions and valuations of these federal "gifts" being availed upon us by virtue of base closure.

Since congressional representatives began assessing the assets and liabilities from the potential closure of Fort Ord it has been clear that Congress had a plan

for the closure of military bases. However, the public now feels that Congress never completed a well thought out plan for base re-use. I hope these observations and suggestions will help improve the effectiveness of base conveyance and re-uses, and add to your building base of ideas to streamline the time and work taken to provide true public benefit from this great peace dividend.

Thank you for this opportunity to present these observations and opinions to you. I hope I can provide additional support to your efforts as they proceed.

Sincerely,

Peter Smith
President