To obtain a copy of the Draft EIS/EIR, please contact Ms. Deborah Lamb, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–WA, P.O. Box 532711, Los Angeles, California, 90053–2325, telephone (213) 452–3798. Please address written comments on the Draft EIS/EIR, to Ms. Lois Goodman, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–RL, P.O. Box 532711, Los Angeles, California, 90053–2325, Fax number (213) 452–4204.

Dated: July 7, 1998.

**Robert L. Davis,**

*Colonel, Corps of Engineers, District Engineer.*

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**BILLING CODE 3710–KF–M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Record of Decision for the Disposal and Reuse of the Department of Defense Housing Facility Novato, California

**SUMMARY:** The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500–1508, hereby announces its decision to dispose of the Department of Defense Housing Facility (DoDHF) at Novato, California.

Navy intends to dispose of the property in a manner that is consistent with the Hamilton Army Airfield Reuse Plan dated October 1995, as revised in November 1996 (Revised Reuse Plan). These plans address reuse of both DoDHF and the Department of the Army's adjacent Hamilton Army Airfield (HAA). The Hamilton Reuse Planning Authority (HRPA), the Local Redevelopment Authority (LRA) for the DoDHF property, prepared both the October 1995 Reuse Plan and the November 1996 Revised Reuse Plan. The City of Novato approved the Revised Reuse Plan in February 1996 and published it in November 1996.

The Revised Reuse Plan Alternative, identified in the Final Environmental Impact Statement (FEIS) as the Preferred Alternative, would implement the Revised Reuse Plan. The Preferred Alternative proposes an adaptive reuse of certain DoDHF buildings and the retention of existing land uses, *i.e.*, residential areas, community facilities, commercial activities, parkland, and open space.

In deciding to dispose of DoDHF Novato in a manner consistent with the Preferred Alternative, navy has determined that a mixed land use will meet the local economic redevelopment goals of providing housing and recreational resources while also limiting adverse environmental impacts and ensuring land uses that are compatible with adjacent property. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the proposed redevelopment to the acquiring entity and the local zoning authority.

### Background

The Department of Defense Housing Facility at Novato is located in the southeastern part of the City of Novato in Marin County, California, about 20 miles north of the City of San Francisco. The property covers an area of about 411 acres on two sites that are separated by United States Highway 101.

The 304-acre Main Site is located on the east side of U.S. Highway 101 and contains military family housing, a Commissary, a Navy Exchange, an Officers Club, community service areas, a bowling alley, and recreational fields. The 107-acre Rafael Village military family housing site is located on the west side of U.S. Highway 101, about one mile northwest of the Main Site. The 142-acre Spanish Housing area lies adjacent to the Main Site and was formerly part of the Main Site. Navy will transfer this property to the United States Coast Guard (Coast Guard).

The Hamilton Reuse Planning Authority developed a reuse plan for DoDHF Novato in October 1995. This plan, designated the Hamilton Army Airfield Reuse Plan, addressed reuse of both DoDHF and the adjacent Army Airfield. The Hamilton Army Airfield Reuse Plan proposed adaptive reuse of most of the existing housing and other buildings and retention of the existing land uses.

The Reuse Planning Authority revised the original HAA Reuse Plan to take account of changes in the Coast Guard's request for an interagency transfer of base closure property at DoDHF. The Revised Reuse Plan developed by HRPA incorporated the Coast Guard's revised request. It was approved by the City of Novato in February 1996 and published in November 1996. The Revised Reuse Plan, described in the FEIS as the Revised Reuse Plan Alternative, is the Preferred Alternative. The Department of the Army issued the Record Of Decision for the disposal and reuse of Hamilton Army Airfield on February 24, 1997.

Under the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, 10 U.S.C. 2687 note, the 1993 Defense Base Closure and Realignment Commission recommended disestablishment of the Navy Public Works Center, San Francisco Bay, which included DoDHF Novato. The recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in 1993. Navy closed the housing facilities at Novato on September 30, 1996.

During the Federal screening process for the Novato housing facilities, two Federal agencies, the Department of Veterans Affairs and the United States Coast Guard, expressed interest in property at DoDHF. The Department of Veterans Affairs initially requested an interagency transfer of 54 housing units at the Main Site but later withdrew its request. The Coast Guard, in its revised request, sought 282 housing units at the Spanish Housing area of the Main Site, and Navy will transfer the 142-acre property that contains these units to the Coast Guard. The remaining property is surplus to the needs of the Federal Government.

Navy published a Notice Of Intent in the **Federal Register** on October 31, 1995, announcing that Navy would prepare an Environmental Impact Statement (EIS) to analyze the impacts of disposal and reuse of the land, buildings, and infrastructure at DoDHF Novato. A public scoping meeting was held at San Marin High School in Novato on November 16, 1995, and the scoping process ended on December 1, 1995.

On January 31, 1997, Navy distributed a Draft Environmental Impact Statement (DEIS) to Federal, State, and local agencies, interested parties, and the general public. Navy held a public hearing concerning the DEIS on February 27, 1997, at San Marin High School. During the forty-five day review period after publication of the DEIS, Federal, State, and local agencies, community groups and associations, and the general public submitted oral and written comments concerning the DEIS. These comments and Navy's responses were incorporated in the Final Environmental Impact Statement and was distributed to the public on November 21, 1997, for a thirty-day review period that concluded on December 22, 1997. navy received five letters concerning the FEIS.

### Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for the disposal and reuse of this Federal property. In the NEPA process, Navy analyzed the environmental impacts of

two ''action'' alternatives that could result from disposal of the DoDHF Novato property. Navy also evaluated a ''No action'' alternative that would leave the property in a caretaker status with navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety. For its analysis, Navy relied upon the Revised Reuse Plan developed by HRPA and approved by the City of Novato.

In March 1994, the City of Novato and the County of Marin entered into the Hamilton Reuse Planning Agreement to establish the HRPA and procedures for ensuring public participation in the reuse planning process. The HRPA is composed of representatives from the City of Novato, the County of Marin, and several advisory groups. The HRPA prepared the Reuse Plan after extensive public involvement and comment.

This process also resulted in the establishment of the Hamilton Advisory Commission (HAC), a citizens committee composed of 25 representatives from various stakeholder groups; the Technical Advisory Committee, a technical guidance committee composed of 33 members from local service districts (*i.e.,* water districts and fire districts) and Federal and state agencies; and the Multi-Agency Board (MAB), composed of two members from the Novato City Council, one member selected by the City Council, two members from the County Board of Supervisors, and one member selected by the Board. The MAB reviewed HAC's recommendations and made recommendations to the Novato City Council regarding adoption of the reuse plan. The goal of this planning process was to develop a reuse plan for HAA, DoDHF and the adjacent private lands and reflected a consensus gained through public participation by the community.

After the City adopted the Reuse Plan, the Department of Veterans Affairs withdrew its request for property at DoDHF and the Coast Guard revised its request for DoDHF property. As a result, the HRPA changed the Reuse Plan. The City of Novato approved the Revised Reuse Plan in February 1996 and published it as the Hamilton Army Airfield Reuse Plan, ''Revised November 1996''.

The Revised Reuse Plan Alternative, designated in the FEIS as the Preferred Alternative, would implement the Revised Reuse Plan. It proposed a mix of residential, open space, parkland, community, and commercial uses.

The Revised Reuse Plan identifies 10 planning areas and a runway area. Planning Area 1 is the Rafael Village site, a 107-acre suburban residential development located on the west side of U.S. Highway 101. Under the Revised Reuse Plan, the 503 existing Rafael Village structures would be demolished and 500 dwelling units would be built on 86 of the 107 acres. The remaining property would be used for parkland (seven acres), open space (seven acres), and roadway (seven acres). The other planning areas are located at the Main Site, on the east side of U.S. Highway 101 and southeast of Rafael Village.

Planning Area 2 is located in the southwest section of the Main Site. Known as Capehart Housing, it is a 216-acre suburban residential development. Under the Revised Reuse Plan, the existing 100 acres of housing, nine acres of parkland, and 107 acres of open space would be used for the same purposes as their current uses.

Planning Area 3, the Spanish Housing area, is located east of the Capehart Housing and will be transferred to the Coast Guard. It is not available for reuse by the community.

Planning Area 4, the Commissary Triangle, is a 13-acre site located at the northwest corner of the Main Site. Under the Revised Reuse Plan, this property would be used for community and civic purposes and would provide an 80-bed shelter for the homeless.

Planning Area 5, the Navy Exchange Triangle, is located on the west side of the Main Site and covers 28 acres. About 26 acres would be dedicated to community and civic uses, *i.e.,* a public transit center consisting of a park and ride lot and bus stop, a library, a charter school, a homeless shelter, a child care facility, and senior housing. The remaining two acres would be used for private commercial activities that would serve the local residents.

Planning Area 6, the Town Center, is located at the northeast corner of the Main Site and covers eight acres. The Revised Reuse Plan proposes to use four of these acres as a neighborhood commercial area that could accommodate a theater, offices, cafes, specialty shops, personal service shops, and artists workplaces. Two acres would be used for community facilities, *e.g.,* the former chapel, and two acres would serve as a central plaza.

Planning Area 7, known as Hospital Hill, is located southeast of the Town Center area and is part of the Hamilton Army Airfield property. Navy is not responsible for this Army property and did not consider alternative reuses for it.

Planning Area 8, known as the Bowling Alley, is located on the east side of the Main Site and covers 3 acres. The Preferred Alternative would use the existing bowling alley an gymnasium for recreational purposes.

Planning Area 9, the Officers Club, is located on a five-acre landscaped hill south of the Bowling Alley and contains two buildings. The Revised Reuse Plan would use three acres for community and civic purposes with a cultural center, community center and library. Two acres would be used commercially to provide lodging for visitors.

Planning Area 10, the Ballfields, is situated in the southeast corner of the Main Site and covers 31 acres. It contains open space, baseball fields, a swimming pool and poolhouse, and parking lots. The Preferred Alternative would use this entire area as a park and retain the swimming pool complex for recreational activity.

The runway area east of the Main Site is part of the Hamilton Army Airfield property. Navy is not responsible for this Army property and did not consider alternative reuses for it.

In the NEPA process, Navy considered a second ''action'' alternative, described in the FEIS as the Open Space Alternative. This alternative also proposed a mix of residential, open space, parkland, community and commercial facilities.

Under the Open Space Alternative, all 503 existing structures at Rafael Village would be demolished. This property would then be used for open space and parkland, and no new houses would be built on the site. Reuse of the Main Site would be similar to the Preferred Alternative but would also allow the development of certain facilities that were designated in the Open Space Alternative as corporation yards. These corporation yards would provide areas for the maintenance and storage of up to 50 buses and 40 pieces of heavy equipment. The yards would also contain warehouses, office space and parking lots.

The Capehart Housing area at the Main Site would be used in the Open Space Alternative to provide housing, open space, and parkland. The Commissary Triangle area would provide community and civic facilities. The Navy Exchange Triangle area would be used for community and civic purposes as well as neighborhood commercial activities and would also provide a homeless shelter. A corporation yard would be located in either the Commissary or Exchange Triangles. The Town Center area would be used for community activities. The Bowling Alley area would be used for recreational activities. The Officers Club would be used for commercial and community activities. The Ballfields

area would be used for parkland and open space.

**Environmental Impacts**

Navy analyzed the potential impacts of the Preferred Alternative, the Open Space Alternative, and the ''No action'' Alternative for each alternative's effects on land use, aesthetics and scenic resources, socioeconomics (including employment, income, population, housing, schools, recreation, and environmental justice), public services, utilities, cultural resources, biological resources, geology and soils, water resources, traffic and circulation, air quality, noise, and hazardous materials and waste. This Record of Decision focuses on the impacts that would likely result from implementing the Preferred Alternative.

The Preferred Alternative would not cause any significant impacts on land use, because the proposed uses of each planning area are similar or identical to Navy's historical uses. Although demolition of existing structures and construction of new facilities would cause short term disruption, these temporary activities would not have a significant impact on land use.

The Preferred Alternative would not have significant impacts on aesthetic and scenic resources. The visual impacts arising out of demolition and construction would be minimal and insignificant as a result of their short duration.

The Preferred Alternative would not result in any significant adverse socioeconomic impacts. Indeed, it would enhance affordable housing opportunities, generate additional jobs, and provide more recreational facilities for the City.

The Preferred Alternative would result in a 2.9 percent increase in enrollment in the Novato Unified School District compared with 1995 levels. However, since most schools in this District are operating below their enrollment capacities, implementation of the Preferred Alternative would not exceed school capacity.

The Preferred Alternative would not result in significant impacts on police and fire protection or on emergency medical services in the Novato area. However, the number of requests for these public services will likely increase as the population increases.

The Preferred Alternative would not result in significant impacts on utility systems, *i.e.*, electricity, natural gas, telephone, water supply, storm drainage and sanitary sewer systems. The acquiring entity will upgrade the existing utility systems to meet current utility standards.

While demolition of the Rafael Village houses would not significantly affect the County's landfill capacity, the additional demolition waste would contribute to Marin County's solid waste stream. Thus, a significant impact could result if demolition of the Rafael Village structures prevented Marin County from meeting the State's requirement, set forth in Cal. Pub. Res. Code, § 41780, *et seq.*, to reduce solid waste by 50 percent by the year 2000.

The Preferred Alternative would not have a significant impact on cultural resources. There are four historic properties within an area designated as the Hamilton Army Airfield Discontiguous Historic District. These are the War Department Theater (Building 507) and the Amphitheater in the Town Center planning area; the Bachelor Officers Quarters in the Officers Club planning area (Building 201); and the Swimming Pool (Building 205) in the Ballfields planning area. The Preferred Alternative would use these buildings and structures for purposes similar to Navy's uses.

Navy may convey the War Department Theater and the Bachelor Officers Quarters to the City of Novato through the National Park Service's Historic Monuments Program. 40 U.S.C. § 484(k)(3). Navy may convey the Amphitheater and Swimming Pool to the City of Novato through the National Park Service's Surplus Federal Lands to Public Parks Program. 40 U.S.C. § 484(k)(2). The National Park Service would review and approve plans for the adaptive reuse of these four properties to ensure their preservation after disposal by the Federal Government.

Navy has completed consultation pursuant to Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (f), and its implementing regulations, Protection of Historic Properties, 36 CFR Part 800, with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). The SHPO and the ACHP concurred on October 16, 1997 and October 30, 1997, respectively, with Navy's conclusion that there would be no adverse effect on these four properties or on the HAA Discontiguous Historic District if they were conveyed to the City under the National Park Service programs.

Although Navy did not discover any surface archeological resources at DoDHF Novato, archeological resources could be present in undisturbed areas under the surface. If there are any such discoveries, work will cease in the vicinity of the discovery until professional archeologists have had an opportunity to evaluate the discovery and implement an appropriate treatment plan in accordance with the Novato General Plan and Cal. Pub. Res. Code § 5097, *et seq.*

Increased erosion resulting from demolition and new construction could have a significant impact on biological resources such as sensitive wetland and riparian habitats and on the species that inhabit these areas. The acquiring entity will reduce these impacts to an insignificant level by introducing standard erosion control measures such as silt fences, sedimentation basins, and other structural methods that minimize sedimentation runoff into creeks and wetlands during new construction. Additionally, in accordance with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, Navy will place a Notice in the conveyance document that describes those uses that are restricted under Federal, State, and local wetland regulations.

Navy has completed consultation with the National Marine Fisheries Service and the United States Fish And Wildlife Service pursuant to Section 7 of the Federal Endangered Species Act, 16, U.S.C. § 1531, *et seq.* The National Marine Fisheries Service and the U.S. Fish And Wildlife Service concurred on March 24, 1997 and March 27, 1997, respectively, with Navy's conclusion that disposal and reuse of the DoDHF Novato property is not likely to adversely affect any species on the Federal list of endangered or threatened species.

The Preferred Alternative would allow redevelopment in areas at DoDHF Novato that contain potential geologic hazards. Thus, potentially significant impacts could result from demolition and construction in the Rafael Village area if these actions undermine or weaken unstable slopes. The City of Novato's General Plan requires developers to conduct geotechnical investigations in areas that have landslide potential. The acquiring entity will reduce the potential for landslides to an insignificant level by implementing protective measures during construction.

Parts of the Main Site were built on fill over the San Francisco Basin's Bay Mud formation and are particularly susceptible to damage during earthquakes. The acquiring entity can reduce this potential for earthquake damage to existing structures and new construction to an insignificant level by upgrading the existing structures to comply with current seismic safety standards and by designing new structures that meet current building codes governing seismic safety.

The Preferred Alternative could degrade surface water quality, because the demolition and construction of buildings may disturb the soil and increase erosion and sedimentation into San Jose Creek at the Rafael Village site and Pacheco Creek at the Main Site. The acquiring entity will reduce this impact on surface water quality to an insignificant level by implementing storm water pollution prevention plans and standard erosion control measures before clearing and grading particular sites.

Parts of the property at DoDHF Novato could be subject to flooding. Certain parts of the Rafael Village, Capehart Housing, Commissary Triangle, Navy Exchange Triangle, Town Center, Bowling Alley, and Ballfields areas are located in the 100-year floodplain. In accordance with Executive Order 11988, Floodplain Management, dated May 24, 1977, Navy will place a Notice in the conveyance document that describes those uses that are restricted under Federal, State, and local floodplain regulations.

Navy's evaluation of the impacts on traffic and circulation considered freeway operations, local roadway and intersection operations, public transit facilities and service, and pedestrian and bicycle circulation. The Preferred Alternative would not have significant impacts on freeway and intersection operations. It would generate about 12,095 average daily trips, slightly more than the 11,340 average daily trips that were associated with Navy's use of the DoDHF Novato property, and it would result in a significant increase in the demand for public transit services. There would not be any significant impacts on pedestrian and bicycle traffic.

The Preferred Alternative would have a significant but mitigable impact on air quality. Local dust would be generated during building demolition, renovation, and new construction activities. The acquiring entity will reduce these potential impacts to an insignificant level by implementing standard dust control measures during demolition, renovation and construction.

Section 176 of the Clean Air Act, 42 U.S.C. § 7506, as amended, requires Federal agencies to review their activities to ensure that they do not hamper local efforts to control air pollution. This statute prevents Federal agencies from conducting activities that do not conform to an approved implementation plan but recognizes certain categorically exempt activities. The conveyance of real property, regardless of the method, is a categorically exempt activity. Accordingly, disposal of the DoDHF Novato property does not require Navy to conduct a conformity analysis.

The Preferred Alternative would have significant but mitigable temporary noise impacts on adjacent land arising out of demolition, renovation, and construction activities at the Rafael Village, Navy Exchange Triangle and Commissary Triangle areas. The acquiring entity will reduce these potential noise impacts to an insignificant level by limiting demolition and construction activities to normal daytime hours.

The Preferred Alternative would have a significant noise impact on some residents of the Rafael Village and Capehart Housing areas arising out of the high noise levels generated by existing traffic adjacent to these areas on U.S. Highway 101 and Ignacio Boulevard. Under the Preferred Alternative, residents of these areas would be exposed to 24-hour average noise levels that would exceed the 60 decibel average for residential areas prescribed in the Novato General Plan as the upper limit of acceptability. This is a significant impact that cannot be mitigated to an insignificant level.

Although DoDHF Novato generated a small amount of hazardous waste, Navy's survey identified several areas of contamination. In response, Navy's remediation actions include removal and remediation of underground storage tank areas; abatement of damaged, friable and accessible asbestos; and inspection for and notification of lead-based paint (LBP) for housing units in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4822.

Residential surveys for LBP showed that LBP is present in the Rafael Village and Capehart Housing units. Since all of the Rafael Village structures will be demolished, no LBP abatement will be performed there. The Capehart Housing units were completed after 1960 and are therefore subject only to the inspection and disclosure requirements of the Residential Lead-Based Paint Hazard Reduction Act.

No significant adverse impacts would be caused by the hazardous materials and hazardous waste that may be used and generated by the Preferred Alternative. The quantity of hazardous materials used, stored, and disposed of, and the quantity of hazardous waste generated on the property would decrease under the Preferred Alternative. Additionally, hazardous materials used and hazardous waste generated under the Preferred Alternative would be controlled by existing regulations under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, codified at 40 CFR parts 260–266.

Navy also analyzed the impacts on low-income and minority populations pursuant to Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, reprinted in 42 U.S.C. § 4321 note. There would be no disproportionately high and adverse human health or environmental effects on minority and low-income populations. Indeed, the Preferred Alternative would increase the amount of housing in the City and County and provide emergency shelter and transitional housing that would benefit the homeless and low-income residents in the area.

**Mitigation**

Implementation of the decision to dispose of DoDHF Novato does not require Navy to perform any mitigation measures. However, the National Park Service must review and approve all plans for adaptive reuse of the four historic properties if they are conveyed under the Historic Monuments and Surplus Federal Lands to Public Parks programs. As required by Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Floodplain Management, Navy will incorporate Notices in the conveyance document describing wetland and floodplain uses that are restricted under Federal, State, and local regulations.

Navy's FEIS identified and discussed those actions that would be necessary to mitigate the impacts associated with the disposal and reuse of DoDHF Novato. The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for implementing all necessary mitigation measures.

**Comments Received on the FEIS**

Navy received comments on the FEIS from the United States Environmental Protection Agency (EPA), the Golden Gate Bridge, Highway, and Transportation District, the Novato Fire Protection District, the Lanham Village Homeowners' Association, Inc., and Marvelous Marin, Inc.

The EPA commented that navy should compare the projected environmental impacts of the two ''action'' alternatives against two standards: historical environmental conditions (the standard that Navy applied) and those conditions that would exist under the ''No action'' alternative, *i.e.*, with the facility in a

caretaker status. Navy believes that its use of historical or previously established environmental conditions is appropriate, because it evaluates the impacts of the proposed reuse in light of the conditions that existed when the facility was open and actively operating.

The Golden Gate Bride, Highway, and Transportation District asked Navy to include additional information in the FEIS concerning existing public transit routes, park and ride lots, bus stops, previous land acquisition by the Transportation District, projected hourly transit trips, and the mission of the Transportation District. The District did not provide comments during the public scoping period or during the DEIS public review period.

As discussed in the FEIS, the anticipated increase in the demand for public transit services under the Preferred Alternative can be reduced to an insignificant level by providing internal collector roadways within the project area that would accommodate public transit vehicles and by providing shuttle services to existing public transit routes. The inclusion of the additional information requested by the Transportation District would not change the results of Navy's environmental analysis in the FEIS.

The Novato Fire Protection District (NFPD) commented that ti is currently providing emergency services to DoDHF Novato through a contract with Navy and the DoDHF Novato is presently located outside the boundaries of the NFPD. The NFPD stated that it would not be able to provide emergency services to the DoDHF site if Navy terminated the contract before other arrangements were made with the NFPD or unless the DoDHF property was annexed into the district.

The Coast Guard challenged NFPD's claim that it requires a contract to provide emergency services to DoDHF Novato. On January 7, 1998, the United States District Court for the Northern District of California decided that NFPD's exclusion of Federal property from the fire district was invalid. This decision has the effect of including DoDHF Novato in the fire district. *Novato Fire Protection District* v. *United States*, No. C 96–3893 FMS (N.D. Cal., Jan. 7, 1998), *reh. den.* (N.D. Cal., Jan. 27, 1998).

Navy also received comments from the Lanham Village Homeowners' Association, Inc. (LVHA) that reflect the views of a neighborhood adjacent to the Main Site on the DoDHF Novato property. The Homeowners' Association requested additional analysis of the Preferred Alternative with respect to the Novato Unified School District's (NUSD) request for a public benefit conveyance of the former Navy Vehicle Maintenance Building. The School District proposes to use the building as a vehicle repair training facility.

The Association also requested additional analysis of a corporation yard that was proposed under the Open Space Alternative. The Association disagrees with Navy's conclusions regarding the environmental impacts of these components of the Preferred Alternative and the Open Space Alternative.

Navy analyzed the proposed reuse of the former Navy Vehicle Maintenance Building under the Preferred Alternative and concluded that it was similar to Navy's historical use of this facility. The proposed NUSD vehicle repair training facility would be required to meet all health and safety regulations concerning noise and air emissions, and reuse of the Vehicle Maintenance Facility would not have significant impacts on land use, noise, and air quality. Navy considers this analysis adequate. Additionally, the land use policies in the Revised Reuse Plan require the acquiring entity to establish landscaping and buffer zones and to consider the compatibility of new uses with existing residential uses such as Lanham Village before approving new uses.

The LVHA commented that the proposed NUSD facility could eventually become a regional bus repair facility. However, the School District is not proposing such an action in its public benefit conveyance request, and HRPA did not propose such a facility in the Revised Reuse Plan.

In response to LVHA's comments on the DEIS concerning the Open Space Alternative, Navy considered the possible uses of the corporation yard in the FEIS. Navy concluded that the establishment of a corporation yard under the Open Space Alternative would not have significant impacts on land use and noise. Additionally, the Preferred Alternative, *i.e.*, the Revised Reuse Plan, does not propose to establish an corporation yards.

The LVHA also stated that the siting of the bus repair training facility or the corporation yard may raise environmental justice concerns. As stated in the FEIS, however, there are no significant and adverse environmental impacts that would disproportionately affect minority and low-income populations.

Marvelous Marin, Inc. did not comment directly on the FEIS, but provided copies of correspondence to the Secretary of the Navy dated November 20, 1997. Marvelous Marin also filed suit in the United States District Court for the Northern District of California on September 30, 1997, alleging that private entities and/or Marin County may have reversionary rights to DoDHF Novato property. *Marvelous Marin, Inc.* v. *United States*, No. C 97–3584 CW (N.D. Cal., filed Sept. 30, 1997). Navy considered these claims and concluded that no such reversionary rights exist. On May 6, 1998, the District Court dismissed the lawsuit with prejudice on the merits. *Marvelous Marin, Inc.* v. *United States*, *id.* (Order and Judgment filed May 6, 1998).

In any entity were to establish reversionary property rights in the future, the City of Novato's zoning and other ordinances would still govern redevelopment of this property. Thus, the FEIS adequately addressed the potential environmental impacts of disposal and reuse of this property under the Preferred Alternative.

**Regulations Governing the Disposal Decision**

Since the proposed action contemplates disposal under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note, Navy's decision was based upon the environmental analysis in the FEIS and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 174 and 175.

Section 101–47.303–1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the ''highest and best use'' of the property. Section 101–47.4909 of the FPMR defines the ''highest and best use'' as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The ''highest and best use'' determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such as zoning, physical characteristics, other private and public uses in the vicinity, neighboring improvements, utility services, access, roads, location, and environmental and historical considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and

subdivision regulations, and building codes.

Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth at Sections 101–47.1 through 101–47.8 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of DBCRA, may Navy apply disposal procedures other than the FPMR's prescriptions.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public Law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 174.4 of the DoD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, *e.g.*, reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 175.7(d)(3) of the DoD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484, as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR Sec. 101–47.303–2); by negotiated sale (FPMR Sec. 101–47.304–9); and by competitive sale (FPMR 101–47.304–7). Additionally, in Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property.

The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

**Conclusion**

The HRPA's proposed reuse of the DoDHF Novato property, reflected in the 1996 Hamilton Army Airfield Reuse Plan and embodied in the Preferred Alternative, is consistent with the prescriptions of the FPMR and Section 174.4 of the DoD Rule. The LRA has determined in its Revised Reuse Plan that the property should be used for several purposes including residential, community, civic, commercial, parkland and open space. The property's location, physical characteristics and existing infrastructure as well as the current uses of adjacent property make it appropriate for the proposed uses.

The Revised Reuse Plan responds to local economic conditions, promotes rapid economic recovery from the impact of the facility's closure, and is consistent with President Clinton's Five-Part Plan for Revitalizing Base Closure Communities, which emphasizes local economic redevelopment of the closing military facility and creation of new jobs as the means to revitalize these communities. 32 CFR Parts 174 and 175, 59 Fed. Reg. 16123 (1994). The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for adopting practicable means to avoid or minimize environmental harm that may result from implementation of the reuse plan.

Although the ''No action'' Alternative has less potential for causing adverse environmental impacts, this alternative would not take advantage of the property's location, physical characteristics and infrastructure or the current uses of adjacent property. Additionally, it would not foster local economic redevelopment of the DoDHF NOvato property.

Accordingly, Navy will dispose of the Department of Defense Housing Facility at Novato in a manner that is consistent with the Hamilton Reuse Planning Authority's Revised Reuse Plan for the property.

Dated: July 1, 1998.

**William J. Cassidy, Jr.,**

*Deputy Assistant Secretary of the Navy (Conversion And Redevelopment).*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

### Availability of Government-Owned Inventions for Licensing

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent