

8. CONSULTATION

1 Several public and agency consultation efforts preceded or coincide with establishment of the
 2 redevelopment project area and its analysis in this Environmental Impact Report (EIR). In
 3 addition, public participation has played a key role in identifying potential land uses in the
 4 Oakland Army Base (OARB) sub-district, establishing the redevelopment project area, and in
 5 determining the scope (content) of this EIR. Main public processes include the following,
 6 generally in chronological order:

- 7 • Evaluation of the disposal and reuse of the OARB by the U.S. Army.
- 8 • Planning for community reuse of the OARB by Oakland citizens and the Oakland Base
 9 Reuse Authority (OBRA).
- 10 • Establishment of the OARB area redevelopment project area by the City.
- 11 • Analysis of environmental effects of redevelopment as discussed in this EIR.

8.1 CONSULTATION IN ARMY EVALUATION OF BASE DISPOSAL AND REUSE

12 In evaluating the disposal (primarily) and reuse (secondarily) of the OARB, the Army undertook
 13 several processes that involved consultation with other agencies and the public. The Army:

- 14 • prepared an Environmental Impact Statement (EIS) pursuant to the National Environmental
 15 Policy Act (NEPA) disclosing the effects of Base closure and disposal on the environment;
- 16 • consulted with and requested and received concurrence with the Coastal Zone Consistency
 17 Determination from the Bay Conservation and Development Commission (BCDC) pursuant
 18 to the Coastal Zone Management Act (CZMA);
- 19 • consulted with the State Office of Historic Preservation regarding cultural resources
 20 pursuant to the National Historic Preservation Act (NHPA); and
- 21 • consulted with the U.S. Fish and Wildlife Service (USFWS) and the National Marine
 22 Fisheries Service (NMFS) regarding biological resources pursuant to the Endangered
 23 Species Act (ESA).

8.1.1 Environmental Impact Statement Consultation

24 Most recently, the Army prepared a Supplemental Draft EIS (June 2001) and Final (December
 25 2001) for Army disposal and community reuse of the OARB. The Army sought to obtain
 26 informed public input via number of forums. To that end, the Army:

OARB Area Redevelopment EIR

- 1 • Provided a forum for the expression of concerns about the reuse planning process at public
2 meetings with community and technical advisory groups, including on-going meetings with
3 the community Remediation Advisory Board.
- 4 • Established and provided access to technical information in public repositories located at
5 OARB and at the Oakland Public Library.
- 6 • Established and provided access to technical information in public repositories located at
7 OARB and at the Oakland Public Library.
- 8 • Provided a forum for the expression of concerns about the reuse planning process at public
9 meetings with community and technical advisory groups.
- 10 • Provided a scoping period for public comment on topics to be addressed in the EIS.
- 11 • Conducted a public and agency scoping meeting to receive comments.
- 12 • Provided the required public comment periods for the Draft EIS, Supplemental Draft EIS,
13 and Final EIS.
- 14 • Published public notices of meetings.
- 15 • Mailed public announcements.
- 16 • Coordinated media coverage, press releases, and feature articles.
- 17 • Created and updated a mailing list to disseminate information to the public.

8.1.2 Coastal Zone Consistency Determination Consultation

18 Pursuant to the CZMA as amended (16 United States Code [USC] § 1451), the Army obtained
19 concurrence on its consistency determination from the Bay Conservation and Development
20 Commission in May 2001. Federal actions proposed for the coastal zone, including actions such
21 as the Army's closure and transfer of the OARB, must be consistent to the maximum extent
22 practicable with the CZMA and the California Coastal Management Program (CCMP).

23 The Army originally consulted with BCDC regarding consistency on a Base reuse scenario very
24 different from that currently proposed at the OARB. BCDC did not concur that the original plan
25 was consistent with the CZMA and CCMP, and recommended revisions to reuse as proposed.
26 The Army consulted with both the OBRA and the Port of Oakland to revise the reuse scenario.
27 The revised scenario required amendment of the Bay Plan (BCDC 1968, as amended) and the
28 Seaport Plan (BCDC and Metropolitan Transportation Commission [MTC] 1996, as amended).
29 These amendments were reviewed by BCDC and put out for public review and comment during
30 a 38-day period. BCDC also consulted with the public by taking comments at a public hearing
31 on December 7, 2000.

1 On January 29, 2001, BCDC amended the Bay and Seaport plans to reflect the revised OARB
2 reuse scenario. In May of that year, BCDC concurred with the Army's consistency
3 determination, signifying the conclusion of CZMA consultation.

8.1.3 National Historic Preservation Act Consultation

4 Pursuant to Section 106 of the NHPA (16 USC § 470 *et seq.*), the Army engaged in consultation
5 with the State Office of Historic Preservation regarding historic resources on the Base from
6 September 2000 to December 2001. In addition, in August 2000, the Army consulted with the
7 Oakland cultural resources community regarding appropriate treatment of OARB historic
8 resources. Through the Section 106 consultation process, the Army took into account the effect
9 of its undertaking on historic resources that are listed, or are eligible for listing on the National
10 Register of Historic Places (NRHP). On December 11, 2001, a Memorandum of Understanding
11 (MOU) was executed between the State Historic Preservation Officer and the Army. That MOU
12 describes the Section 106 consultation process and its conclusions, and its execution signifies
13 completion of the NHPA Section 106 consultation process.

8.1.4 Endangered Species Act Section 7 Consultation

14 Pursuant to Section 7 of the ESA (16 USC § 1531 *et seq.*), the Army consulted with the USFWS
15 and the NMFS regarding potential impact the disposal and reuse of the Base might have on
16 listed species. In a letter dated October 11, 2000, the USFWS concurred with the Army's
17 determination that the disposal and reuse of the OARB are not likely to adversely affect listed
18 species, specially the California least tern. In a letter dated April 10, 2000, the NMFS
19 determined the actions associated with the Army's proposed disposal and reuse of the OARB
20 have either been previously addressed, or will be addressed in future Section 7 consultations.
21 These two letters, included in Appendix 4.12, signify that Army consultation with resources
22 agencies under Section 7 is complete. Any subsequent redevelopment activity that requires
23 permits from the U.S. Army Corps of Engineers may require Section 7 consultation.

8.2 CONSULTATION IN PLANNING COMMUNITY REUSE OF THE OAKLAND ARMY BASE

8.2.1 Base Reuse Plan Consultation

24 As part of the reuse planning process, the OBRA established the West Oakland Community
25 Advisory Group (WOCAG) to examine reuse opportunities and recommend community reuse
26 options for OBRA's consideration. The WOCAG is a 45-member advisory board on which serve
27 Oakland residents, business owners, and activists. The OBRA and WOCAG met over a five-
28 year period to discuss and plan reuse of the Base, and produced the *OARB Draft Final Reuse*
29 *Plan* (OBRA 1998). The proposed development scenario of this Reuse Plan was deemed
30 inconsistent with the CCMP by BCDC during its consultation with the Army described above.

1 The OBRA and WOCAG engaged in further consultation, revised their vision for reuse of the
2 Base, and prepared the *Amended OARB Draft Final Reuse Plan* (OBRA 2001). The OBRA
3 continues to consult with the WOCAG regarding reuse of the OARB.

8.2.2 Redevelopment Plan Consultation

4 On July 11, 2000, the City adopted and approved the *Redevelopment Plan for the Oakland*
5 *Base Redevelopment Project* (City of Oakland 2000), and established a redevelopment project
6 area with the OARB at its core. Consultation with the public and potentially affected agencies
7 regarding the boundaries of the project area, funding mechanisms, and fiscal impacts occurred
8 as follows:

- 9 • The Oakland Planning Commission considered the Redevelopment Plan in May 2000 at a
10 publicly noticed meeting.
- 11 • The City Council and Oakland Redevelopment Agency consulted with the public regarding
12 deferral of the CEQA process at a publicly noticed joint hearing in June 2000.
- 13 • The City adopted Ordinance No. 12259 C.M.S. July 11, 2000, thereby approving and
14 adopting Redevelopment Plan, including the OARB Reuse Plan, as may be amended from
15 time to time.

8.3 CONSULTATION IN ENVIRONMENTAL IMPACT REPORT DEVELOPMENT

8.3.1 Consultation Requirements Under the California Environmental Quality Act

16 The following summarizes the consultation and notice requirements for EIRs in chronological
17 order. This information is from *Circulation and Notice under the California Environmental Quality*
18 *Act* (Governor's Office of Planning and Research 2001).

19 **Notice of Preparation.** CEQA at Public Resources Code (PRC) Section 21080.4 and
20 Guidelines Section 15082 requires that the lead agency immediately send notice of its
21 determination to prepare an EIR to all responsible agencies, trustee agencies, and the
22 Governor's Office of Planning and Research (OPR). These agencies have 30 days to specify
23 the scope and content of the environmental information germane to their area of statutory
24 responsibility that must be included in the EIR. PRC Section 21080.4 further provides that the
25 lead agency must convene a scoping meeting to discuss these issues upon the request of any
26 responsible agency, trustee agency, or the project applicant. Upon request of a lead agency,
27 OPR shall assist the scoping effort by identifying the various responsible and trustee agencies.
28 The Notice of Preparation (NOP) must be sent by certified mail or equivalent procedure.

29 **Early Public Consultation.** Prior to completing the draft EIR, Guidelines Section 15083
30 provides that the lead agency may also consult with other persons or organizations that may be
31 concerned with the environmental effects of the project. PRC Sections 21104 and 21153 require

1 the lead agency to consult with responsible and trustee agencies and with adjoining cities and
2 counties. Early consultation, also called scoping, provides the opportunity to identify the range
3 of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in
4 the EIR.

5 **Consultation with Water Agencies.** Projects affecting water agencies and meeting the criteria
6 established under Guidelines Section 15083.5 are required to send the NOP to each public
7 water system that serves or would serve the proposed project. These agencies have 30 days to
8 submit a water supply assessment addressing the adequacy of the supply to support the
9 demand created by the project. The lead agency shall include in the EIR the information
10 provided by the water agency (up to 10 pages) and must determine whether projected water
11 supplies will be sufficient to meet the demand of the project, in addition to existing and planned
12 future uses.

13 **Notice of Completion.** PRC Section 21161 and Guidelines Section 15085 require the lead
14 agency to file a Notice of Completion with OPR as soon as a draft EIR is completed. Where the
15 draft EIR will be reviewed through the State Clearinghouse, the Notice of Completion
16 requirement can be satisfied by submitting the cover form required by the State Clearinghouse.

17 **Public Review of Draft EIR.** Guidelines Section 15087 requires that the lead agency give
18 public notice of the availability of a draft EIR by one of several methods at the same time that it
19 submits the Notice of Completion to OPR. Notice must also be sent to affected responsible,
20 trustee, and federal agencies. The method and contents of this notice are prescribed by Section
21 15087 and PRC Section 21092.

22 **Posting of Notice.** PRC Section 21092.3 and Guidelines Section 15087(c) require the notice of
23 availability of a draft EIR to be posted for 30 days in the office of the county clerk of each county
24 in which the project will be located.

25 **Notice to Individuals.** PRC Section 21092.2 requires notice of the availability of a draft EIR to
26 be mailed to any person who has filed a written request for notification with the lead agency.

27 **Agency Consultation.** When a draft EIR is completed, Guidelines Section 15086 requires the
28 lead agency to consult with the affected responsible and trustee agencies, as well as any city or
29 county which borders the city or county within which the project is proposed. The lead agency
30 must request comments from these agencies on the draft EIR.

31 **Additional Agency Consultation.** PRC Section 21092.4 further requires the lead agency for a
32 project which would have statewide, regional, or area-wide significance to consult with the
33 regional transportation planning agency and public agencies that have transportation facilities
34 which would be affected.

35 **California Department of Transportation Scoping Meeting.** PRC Section 21083.9 specifies
36 that when so requested by the California Department of Transportation (Caltrans), a lead

1 agency must call at least one scoping meeting to discuss any proposed project that may affect
2 highways or other Caltrans facilities.

3 **Department of Fish and Game.** PRC Section 21104.2 requires state lead agencies to consult,
4 and obtain written findings from, the California Department of Fish and Game (CDFG) regarding
5 the potential impacts of a project on state-listed endangered or threatened species.

6 **Review and Consultation Period.** Pursuant to Guidelines Section 15105, the period for public
7 and agency review of and consultation on a draft EIR shall not be less than 30 days, nor should
8 it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to
9 the State Clearinghouse, the review period shall not be less than 45 days, unless a shorter
10 period of not less than 30 days is approved by the State Clearinghouse. Draft EIRs which must
11 be submitted to the State Clearinghouse for review include:

- 12 • EIRs prepared by a state agency;
- 13 • those prepared by a public agency where a state agency is a responsible or trustee agency;
- 14 • those prepared for a project of statewide, regional, or area-wide environmental significance;
15 and
- 16 • draft EISs and environmental assessments prepared pursuant to NEPA.

17 Projects of statewide, regional, or area-wide significance are defined in Guidelines Section
18 15206.

19 **Comments on Draft Environmental Impact Report.** PRC Section 21091 requires the lead
20 agency to include in the final EIR responses to comments that describe the disposition of any
21 significant effects identified by commenters. PRC Section 21092.5 further requires that written
22 responses to the comments submitted by public agencies be provided to those agencies at least
23 10 days prior to certification of the final EIR (this requirement can be satisfied by providing a
24 copy of the Final EIR).

25 **Local Agency Notice of Determination.** A local agency that approves or determines to carry
26 out a project for which an EIR was certified must file a Notice of Determination with the county
27 clerk within five working days of its action (PRC §21152 and Guidelines § 15094). The notice
28 must be posted by the clerk within 24 hours of receipt, remain posted for 30 days, and, when
29 the posting period is over, be returned to the local agency with certification of its posting. If the
30 project also requires discretionary approval from a state agency, the notice must also be filed
31 with the OPR (Guidelines § 15094). Filing a Notice of Determination triggers a 30-day statute of
32 limitations for CEQA litigation. If the notice is not filed with the County Clerk or OPR, the statute
33 of limitations becomes 180 days from the date the decision is made to carry out or approve a
34 project, or where no formal decision is required, 180 days from the date the project is
35 commenced (PRC § 21167 and Guidelines § 15112).

1 **Copy of Final Environmental Impact Report.** Guidelines Section 15095 requires the lead
2 agency to file a copy of the final EIR with the planning agency of any city or county where
3 significant environmental effects may occur. In addition, the applicant must be required to
4 provide a copy of the certified final EIR to each responsible agency (PRC § 21092.5(a)).

8.3.2 Consultation for this Environmental Impact Report

5 The City of Oakland is the lead agency for environmental review pursuant to the CEQA. On
6 August 10, 2001, the City initiated public consultation on the environmental review process via
7 an NOP, included in this document as Appendix 1A). The OPR, which notifies relevant state
8 agencies of available NOPs, received the NOP on August 15, 2001, initiating a 36-day NOP
9 review period, which ended September 19, 2001. The NOP was also mailed to Alameda
10 County, trustee, and responsible agencies, regional regulatory and service agencies,
11 environmental and business groups, and interested individuals. The NOP described the City's
12 intent to prepare an EIR, briefly presented background and descriptive information, and listed
13 the probable environmental effects of redevelopment. The NOP also described how the public
14 should provide written or verbal input and comments on the scope (content) of the EIR, and
15 provided notice of two public meetings.

16 Citizens provided input at the September 1, 2001 scoping meeting; citizens, community board
17 members, and decision-makers provided input at the September 19, 2001, meeting. The NOP
18 also served as a notice of the City's intention to use an "alternative baseline" for certain impact
19 analyses, and of a September 19, 2001 public hearing in front of the Oakland Planning
20 Commission regarding the alternative baseline. All comments received during the scoping
21 period are summarized in Section 1: Summary; those comments that address the scope of this
22 EIR are addressed in this document.

23 As part of its continuing public consultation on this effort, the City makes this EIR available to
24 responsible and trustee agencies, interested groups, interested individuals, and those who have
25 requested a copy in writing.

26 In addition, pursuant to CEQA, the City consulted with the water supplier, the East Bay
27 Municipal Utility District, regarding water demand and supply for the redevelopment project. The
28 City also consulted with sewage transport and treatment providers regarding sewer system
29 capacity. As required, the City will consult with CDFG and with Caltrans.

30 The EIR will be available for public review and comment for 45 days. Any person wishing to
31 comment on the contents of this EIR may do so in writing, as indicated on the inside front cover
32 of the document. Verbal comments may be provided at a public hearing; the hearing process is
33 also described on the inside front cover.

34 Once the draft EIR review period concludes, the City will respond to substantive comments on
35 the contents of the EIR, and prepare a final EIR, including responses to comments. The
36 Oakland Planning Commission will certify this EIR at a publicly noticed meeting.

