



*EARLY TRANSFER/CERCLA  
COVENANT DEFERRAL IN  
CALIFORNIA*

*BRAC Cleanup Team Workshop -  
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# *State Draft Guidance - Early Transfer/Covenant Deferral*

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- *Drafted to complement and supplement US-EPA Guidance.*
- *Drafted to allow modification and flexibility based on site-specific conditions and issues.*
- *Based upon statutory requirements of CERCLA 120(h)(3)(c), effective September, 1996.*

## *State's Role - California*

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- *Governor's Approval Needed for All Requests; coordinated by the Governor's Office of Planning and Research.*
- *Cal-EPA - Includes 6 State Departments + Regional Boards; Secretary may designate 1 to evaluate environmental suitability of transfer, and make recommendation to Governor.*

# *General Requirements for Property Transfers*

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- *Future Land Use - Reuse Plan, approved by DoD and HUD.*
- *NEPA (National Environmental Protection Act) Record of Decision.*
- *CEQA (California Environmental Quality Act) Notice of Determination.*
- *RCRA Closures or Permit Modifications.*

# *Properties Not Appropriate for Early Transfer*

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- *Parcels with sites where there may be hazardous substance exposure risks to human and/or biological receptors at unacceptable levels.*
- *Parcels where the nature and extent of contamination is unknown, risks not assessed, and/or the proposed reuse not identified.*

## *BRAC Bases - Stakeholder Roles*

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- *Transferee/Local Redevelopment Authority (LRA) initiates request; reviews all environmental documents.*
- *BRAC Cleanup Team (BCT) (DoD, US-EPA, and state regulatory agencies) evaluates request; reviews all environmental documents.*
- *Restoration Advisory Board (RAB) reviews all environmental documents.*

# *BRAC Bases - Property Transfer Documents*

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- *Environmental Baseline Survey (EBS)*
- *Supplemental or Site-Specific Environmental Baseline Survey (SEBS)*
- *Finding of Suitability for Early Transfer (FOSET)*
- *Above documents summarize reference documents, contamination, and data; identify health risks and use restrictions as correlated to Reuse Plan.*

# *Consent Agreement*

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- *Required for BRAC bases which do not have Interagency Agreements, i.e. Federal Facility Agreements or Federal Facility/ State Remediation Agreements.*
- *Required if transferee takes on cleanup responsibilities.*
- *Enforceable Agreement addresses goals, schedules, liabilities, funding, etc.*



# *Institutional Controls/Land Use Covenant*

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- *Non-engineering mechanisms to:*
  - a) limit exposure, activities, and access;*
  - b) protect engineering controls.*
- *Examples: fencing; easements; permit programs; zoning limitations; restrictive covenants.*
- *Land Use Covenant - runs with the land. Example: prohibits residential uses, soil excavation, groundwater use, etc.*

# *Elk Hills Naval Petroleum Reserve*

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- *1st Early Transfer in California; completed in 4 months, approved by Governor on 12/2/97.*
- *DOE facility with RCRA Corrective Action needed.*
- *Resulted in transfer of 37,000 acres of federal property to Occidental Petroleum*