



BENICIA INDUSTRIAL PARK ASSOCIATION
601 First Street, Suite 100
Benicia, California 94510

November 29, 2010

Benicia Industrial Park Association Members and Businesses:

PLEASE TAKE THE TIME TO READ THIS IMPORTANT LETTER AND ATTEND AN INFORMATIONAL MEETING MONDAY, DECEMBER 6, 2010, FROM 5-7 PM AT THE VETERAN'S MEMORIAL HALL, 1150 FIRST STREET, BENICIA.

The Benicia Industrial Park Association has recently been notified that the California Department of Toxic Substance Control has sent letters to a number of Benicia Industrial Park property owners and the United States Army Corps of Engineers regarding moving forward the remaining investigation and cleanup of the Former Benicia Arsenal. We believe it is important for all members of the Benicia Industrial Park community to be knowledgeable of these actions as they may affect all of the individual property owners, lessees, and other involved community in the Benicia Industrial Park. The intent of this letter is to inform you about some of these actions.

BACKGROUND

In February 2010 the City Council of the City of Benicia adopted a resolution seeking Congressional and state legislative support for a request to have the California Department of Toxic Substances Control ("DTSC") exercise its authority to cause the cleanup of the entire former Benicia Arsenal with specific priority given to the Lower Arsenal area of the former Benicia Arsenal. (All supporting documentation can be found at <http://www.envirostor.dtsc.ca.gov/public/>)

In May 2010, as requested by the City, Assemblymember Mariko Yamada and Senator Patricia Wiggins requested that the DTSC lead a comprehensive cleanup of the former Benicia Army Arsenal. In the request letter they suggested a Voluntary Agreement that would authorize DTSC to require Responsible Parties to complete established processes for full remediation and protect private parties from the potentially excessive costs of environmental cleanup.

In June 2010, DTSC responded stating that DTSC would bring the major parties together to aggressively pursue resolution.

In September 2010, DTSC sent the letters to four of the private property owners in the Industrial Park, the City of Benicia, and the United States Department of the Army ("the identified parties") notifying them that DTSC had identified the property owners as Potentially Responsible Parties (PRP's) and, as such, the property owners must be involved as an integral part of the investigation and cleanup of the Former Benicia Arsenal. The DTSC also sent a Draft Imminent and Substantial Endangerment Determination and Remedial Action Order, covering all 2700 acres of the Arsenal, to the United States Department of the Army c/o U.S. Army Corps of Engineers, indicating an intent to require characterization and clean-up the *entire 2700 acres* of the Former Arsenal (These can be found on the City of Benicia website at under 2010 Arsenal Cleanup in the Website Directory).

In late September, DTSC held a meeting with the Identified Parties and their representatives. The identified parties are meeting this month and are required to report back to DTSC about those meetings by December 9, 2010.

WHAT DOES THIS MEAN?

This means that the DTSC will be aggressively pursuing resolution to the cleanup of the entire arsenal. Other property owners will likely receive letters or orders from DTSC as this process moves forward.

The DTSC can proceed a few different ways

1. Enter into Voluntary Cleanup Agreement and/or Order.
 - a. With the Army;
 - b. With a Property Owner;
 - c. With other Potentially Responsible Parties (PRP). This would first require the determination of the PRP(s). This could be the property owner, the lessee, a transportation company carrying certain cargo, a former property owner, a former lessee, etc. The cost of voluntary cleanup may be shared amongst the responsible parties.
2. Issue Imminent and Substantial Endangerment Determination and Remedial Action Order(s). This would legally mandate the timely cleanup of the property.
 - a. To the U.S. Army [If DTSC issues an order against the Army they are required to also issue orders against all parties on title for the parcel(s) involved.] -
 - b. To the Property Owner and/or other PRPs. The cost would be borne by the property owners.
3. Any Combination of the Above.

WHAT IS THE POTENTIAL FINANCIAL IMPACT?

Although the actual costs are unknown, a rough estimate of a characterization and setting of standards for the entire 2700 acres of the Benicia Arsenal could be made at \$4.9 million (\$1815 per acre). This does not include the cost of the actual clean up. Cleanup costs can't be determined until the assessment is complete, but for historical purposes, the 200 acre Tourtelot Cleanup cost \$50 million (\$250,000 per acre). The business owner was able to sue the Federal government to recoup this money, but did initially have to pay all fees up front. This is because a PRP is generally responsible for paying for characterization and clean up costs up front. As with Tourtelot, the property owner can then turn around and attempt to recover their costs from the Army through a lawsuit.

WHAT IS THE CITY DOING?

The City is looking for a consultant with a successful track record to help the city move forward with zero ramifications to the property owners and the City.

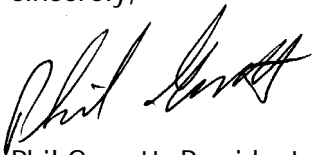
See City Council Meeting Special Meeting Agenda from October 12, 2010 video, beginning at 41 minutes for more information.

City Council meetings are held on the first and third Tuesdays of the month at 7:00 pm.

WHAT NEXT...

We look forward to seeing you on Monday, December 6, 2010, 5-7 pm at the Veteran's Memorial Hall.

Sincerely,



Phil Garrett, President
Benicia Industrial Park Association