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**Neighborhood Relocation:
Community Issues, Existing Options and New Ideas
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Neighborhood Relocation: Community Issues, Existing Options and New Ideas¹

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Abstract

The author discusses some content and perspectives on environmental relocation and policies that influence the implementation of relocation. Privately funded neighborhood relocation programs are usually more generous and more equitable than government funded relocation programs. While the author does not propose neighborhood relocation as a universal remedy for communities living on the fenceline of industrial and toxic sites, he believes that it is an important option for them and one that needs to be protected. There are recommendations for action, which include addressing private industry relocation programs, EPA Interim Superfund Relocation Policy, The Uniform Relocation Act, and EPA Guidance for Implementing Relocation.

Introduction

An important purpose of this paper is to offer some content, context and perspective on the issue of environmental relocation and on the policies and precedents that influence their implementation. While I have chosen to go heavy on the content side, what is written is still a simplification of what can be some very complicated and arcane material. It is hoped that this paper will be informative and in some ways empowering for those of you that are deeply concerned with these issues, but please remember that it is only possible to scratch the surface here. Whole neighborhood, environmental relocations involve issues that are often well beyond the grasp of your local real estate broker or appraiser. They often make their money in the margins between what you think you know and what you actually know. Competent, experienced, help is available within the Environmental Justice community. I urge you to avail yourself of that help if your communities are (or should be) grappling with the idea of moving away from their contaminated neighborhoods or are faced with a government, Eminent Domain relocation.

It is not my intention in this paper to suggest that we adopt neighborhood relocation as a universal fix for the problems faced by fenceline communities. I am saying, however, that those communities ought to have the option to relocate if it is what makes most sense for them. They should also have the technical resources available to them so that they can make informed decisions. There is a lot of work to be done if we want to protect this option for our people.

If there is one thing that I have learned from my years as an activist and policy developer, it is that there is no substitute for being in touch and staying in touch with the grassroots reality that the people in our communities face each day. While there is certainly an art to the languaging, packaging, presenting, finessing, pressuring and deal making required to put important issues on the right agendas at the right time, it is always good to remember that these issues (as well as their various abstractions) do not exist in a vacuum. A policy or strategy, that may make perfect sense in terms of a global environmental agenda can be completely wrongheaded from the perspective of those living on the fencelines of polluting facilities and contaminated sites. The history of environmental activism and neighborhood relocation is a case in point.

Relocation, a Tricky Issue and a Tough Decision

The notion that an entire community could or should move away from a polluting facility has been a troubling issue within the environmental community since its inception. In 1988 in Plaquemine, Louisiana, Dow Chemical made such an offer to the community of Morrisonville. Although there had been a history of difficult relationships between the plant and this historically significant African-American community, at the time of the offer, there were no major environmental complaints outstanding and there were no legal actions pending between the two. While the community's initial response to the offer was seen as guarded and skeptical, the reaction from environmental activists was both swift and universally negative.²

The Louisiana Environmental Action Network (LEAN), The Alliance against Waste and Action to Restore the Environment, (AWARE), The Gulf Coast Tenants Organization (GCTO) and Greenpeace all held rallies and media events in Morrisonville. The general consensus among environmentalists was that petrochemical plants must not be allowed to “dismantle” communities rather than deal with the root problems of safety and pollution. It was also feared that plants might go on a “neighborhood buying spree” as a way of escaping responsibility and avoiding huge lawsuits and expensive settlements. While these widely publicized events resonated with environmental groups all around the country, the message proved less compelling for the families that lived in the shadow of the Dow plant. Around kitchen tables and in church meetings, families were agonizing and weighing the arguments made by activists against their daily reality of living and dying on the fenceline.

The most prevalent issue raised against the notion of relocation by the families in Morrisonville was the fact that they were there first. There was a sense of outrage that Dow had come in the 1950’s with its promises of being a good neighbor and providing employment for the community and had ended up doing neither. There was also an incredible emotional attachment to the town that was founded shortly after the civil war and which saw the collection of founding families go from being chattel to being land owners and independent farmers AND on the same land that they once worked as slaves.

Morrisonville leaders expressed a healthy dose of skepticism about Dow’s true motives for offering the buy-out and relocation. The general consensus was that Dow could not be trusted to do anything that was of true benefit to the residents and that if anyone should relocate, it should be the plant. It is difficult to explain the depth of resentment, distrust, contempt and betrayal that the Morrisonville residents held for their industrial neighbor.

All of these strongly held feelings notwithstanding, Morrisonville families eventually chose to enter into discussions with Dow for the purposes of defining a mutually acceptable buy-out and relocation program. As compelling as their reasons were for rejecting Dow’s offer initially, folks had discovered what proved to be even more compelling reasons to consider and eventually accept Dow’s offer.

The first set of reasons had to do mostly with health, safety and quality of life concerns. The plant was loud, smelly and ever present. The flares rattled the air and the rail car shaker rattled the ground. The light from the plant was so bright at night that you could read the small print of a contract while seated in your back yard at midnight on a moonless night. Unexplained rashes, nosebleeds, asthma attacks, tumors and deaths had horribly become almost commonplace. Then there were the many mornings that folks rose to find a white powder covering the entire house and everything in the yard. Even though Dow had a standing account with the local car wash to handle such events, residents wondered if it was even safe to touch the truck, let alone get in it and drive the few miles to get it cleaned. Hosing down the house was a simple enough matter. Knowing what to do about the puddles that remained was something else altogether. As families became familiar with the plant’s repertoire of explosions (variously described as “belches”, “hiccups” and “backfires” in subsequent press releases), there were always the terrible, terrible moments of waiting, immediately after, to see if the catastrophic emergency siren would sound.

The second set of reasons that argued in favor of accepting Dow’s offer was economic. In addition to having most of their family histories bound up in their homes, residents had most of their wealth bound up in them as well. Property owners had long since given up the hope that there would ever be a brisk home-sale market in Morrisonville. Even though banks had redlined Morrisonville and would not make any second mortgage or home improvement loans there, many owners had continually invested in their upkeep and modernization. After all, this was legacy land and folks intended to hand it down to their children in the best condition that they could - in the same manner that their slave ancestors had handed it down to them. The offer from Dow changed everything.

The notion that homeowners could actually rescue the equity out of their homes and end up with money enough to live well in another location was powerful indeed. Also, the fact that Dow was willing to build new subdivisions and cluster housing for families that wanted to stay together proved to be a critical component of the offer. As hard as it was to consider giving up their town and legacy land, the possibility of selling it for the right price, acquiring more desirable and more bankable land while maintaining some

sense of community provided an opportunity that was too good to turn down. Their decision to give up Morrisonville in exchange for a better and healthier life was a watershed for communities all around the country and for many environmental activists as well.³

Overview and Analysis: Private Industry Relocation Programs

Privately funded neighborhood relocation programs are nearly always more generous, more flexible and more equitable than those that are funded by the government. Also, there are often greater opportunities for the community to have direct input into the ultimate design of the program. Part of the reason for this is that a plant manager has to deal with many fewer restrictions and much less red tape and oversight than does a government agency. When a plant buys up its residential abutters, it knows exactly what it is getting for its money and how the acquisition fits into his overall business model and risk reduction plans. There is no set policy that industry follows for the relocation of fence-line neighborhoods. Each facility puts together its own offering. Similarities do emerge in the process, however, because industry has a limited pool of outside consultants that they hire to design the programs. Unfortunately the program specifics are not very widely published and the most reliable information about these programs can only come from those that have been directly involved in them.

The information in this section is based on my involvement in the design and implementation of thirteen such programs.⁴ It represents a compilation of the features and benefits offered in these various programs along with some discussion of their weak points.

A. The Appraisal Process

Without question, the appraised value assigned to a property and the process used to determine that value are the core components of any relocation offer. A good relocation program will also come with lots of other “bells and whistles”, but without a fairly established appraised value most of the other relocation components are meaningless. If you are going to be robbed by a relocation program, it is the appraisal process that will do the robbing. While it is not possible here to tell you everything you should know about appraisals and the appraisal process, I will make an attempt to cover the basics and then go on to discuss the other components of a good relocation program.

1. The Myth of “Fair Market Value” (FMV)

Under normal residential sales scenarios, the appraised value is supposed to represent the FMV of the property. The definition and interpretation of FMV form the absolute core of any appraisal. FMV is defined as: “The price that a willing buyer will pay a willing seller for the property with both buyer and seller being in possession of all pertinent facts, and neither being under any compulsion to act.”⁵ The basic notion here is to let the market set the price.

The problem with FMV in terms of environmental relocations is that there is NO MARKET (fair or otherwise) for homes on the fence-line of industrial and toxic waste sites. In addition, the seller is under GREAT COMPULSION to act because the petro-chemical plant, PRP or government agency represents the only probable buyer for the property. Furthermore, in situations like the Escambia-Agrico Superfund Site relocations in Pensacola, when the government exercises its Right of Eminent Domain, the seller is forced, in almost all cases, to accept whatever offer is deemed appropriate solely by the buyer (the government).

2. The Potential Trap of the “Sales Comparison Approach”

Residential appraisals are most often conducted using the “sales comparison” or “market” approach. The first step in the appraisal is for the appraiser to visit the home (referred to as “the subject property”), measure the square footage, count the rooms and observe the materials used in construction and the overall condition of the house. From this inspection, the appraiser categorizes the house as to its size, construction, appeal, condition and location. In the next step, the appraiser goes into a database of recently sold homes and looks for a neighborhood that he thinks is comparable to the neighborhood that the subject property is in. He further focuses his search to find the three specific houses in that comparable neighborhood that he feels most reflect the general category and condition evaluations he has made of the subject property. After making a series of “adjustments” for size, room count, condition, etc. he determines the market value of the subject property. Basically, he is saying; “If the comparable houses sold for X amount on the open market

then the subject house should be worth X amount as well (plus or minus depending on the adjustments he made).

The problem that the Comparable Sales Approach poses for homes that are located next to industrial or toxic sites lies in the selection of the “comparable” neighborhood and the “comparable” homes. Because proximity to these sites tends to greatly reduce value and appeal, if the appraiser chooses to use one as a comparable neighborhood then mathematically the appraised value of the subject property can only yield enough money for the seller to go and buy another house next to a different industrial or contaminated site.

3. Irrelevant “Depreciation Factors”

Under normal circumstances when a home is sold by one family, another family will move into it. Because of this, there are certain depreciations that an appraiser makes in order to make it a fair value for the new owner. One of these depreciations is called “Functional Obsolescence”. An example of this would be a bathroom that was added on to the house that requires that you to walk from your bedroom through the kitchen to reach it. An appraiser would deduct from the assessed value of the home because of this factor.

Homes that are a part of an environmental relocation, however, are not being sold so that another family can move into them. In most cases, once sold, they are to be demolished or to be retained by the seller who agrees to have it removed from the property. Because of this fact, this and many other depreciation factors that appraisers use are irrelevant to the sale of the house and should not be used to deduct from its value.

4. “Highest and Best Use”

Another key component of the appraisal process is the notion of “Highest and Best Use”. According to strict guidelines, a property should always be appraised according to this standard. Appraisers almost always automatically appraise a residential property at a highest and best use of residential - even when it is not factually true. A comparative value study of a given residential neighborhood that abuts land that is zoned for commercial/industrial use can easily reveal this to be the case.

When you track the residential value of a neighborhood that abuts commercial/industrial or contaminated land over time, you will most likely find that it’s value (as residential property) is in steady decline. When you track the commercial/industrial value of the land right across the fenceline, however, you will most likely find that it’s value has been incrementally increasing over time. With these trends in play, a point is eventually reached when fenceline property is worth more as commercial/industrial land than it is in its present use as residential.

When an industrial facility buys the residential property on it’s fenceline it often only needs to have the newly purchased land rezoned to realize what is sometimes a staggering profit on paper. I have seen cases where the value of formerly residential land increased by in value by 400% the moment that it was rezoned to match the rest of the plant’s holdings. It has been painful for me to watch similar transactions involving Superfund and Brownfields redevelopment sites. In these situations, the government already has a redevelopment plan in hand and knows what the land will be worth in a year or two, all the while nickel and dime-ing the poor families that are trying to escape the toxic neighborhood and simply be kept whole in the process.

B. Additional Relocation Program Components

The reason it is important to keep track of all the little relocation victories communities have won is that they become a useful kind of precedent. When a plant decides that it would like to buy its abutting residential neighborhood it will try to do so at the least possible expense. When communities today are arguing for improvements in a relocation offer it helps to know what other communities have won and what other plants have given up. What follows is a compilation of those little victories.

1. Increasing The Appraised Value

The use of “Limited” Appraisals

If the buyer stipulates that he wants the appraiser to make a Limited Appraisal, the appraiser is presented with a “Jurisdictional Exception” and is freed from having to blindly follow all of the strict, uniform standards set forth in the *UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)* which is the bible of their industry. The buyer is then free to draw up a set of “Instructions to Appraisers” regarding deductions, depreciations, condition assessments, deferred maintenance, highest and best use, incomplete renovations, un-permitted square footage, the types of comparable neighborhoods that can be used, etc.. The Instructions become a part of the appraisal and are included in the final appraisal report. If the difference between home values on the fenceline and those in the general market is not too great, this can be a very effective way of ensuring that sellers will be able to find an affordable replacement home.

Compensatory Bonuses.

If the buyer knows that the appraisals are going to come in low and wants the sellers to be able to afford a comparable house in a clean neighborhood, he can add an additional amount of money on top of the appraised value. This is usually done by adding a certain percentage of the appraised value or by giving each seller the same lump sum of money no matter what the house appraised for. However this bonus is calculated if it is to be of any real value to the seller, it must be paid in a manner that prevents it from is a separately taxable amount. An anxious buyer will sometimes offer an “Early Sign-UP Bonus” which will be paid to every seller that asks for an appraisal and then accepts an offer by a certain date. These bonuses are not related to the cost of replacement housing but are used as a way to entice people in the community to put their fears and distrust aside and to start the relocation ball rolling. The cut-off date for such bonuses typically comes shortly before Christmas.

Safety Nets and Gross-Ups

When the housing stock on the fenceline is particularly distressed, the seller can establish a minimum appraised value. The minimum appraised value becomes a safety net and is usually calibrated to ensure that families living in the most humble of homes will have enough proceeds to purchase a modest home in a clean neighborhood. This approach is sometimes referred to as “Grossing-Up” the appraised value.

Compensating For A Low-Ball Appraisal

Usually two or three appraisals are done on each property with the seller being able to choose one or two of the appraisers. The appraised value of the property is either set by using the highest appraisal or by averaging them all.

2. Other Features And Benefits

New Community Option

This is an option that provides an opportunity for the community to be relocated and still remain largely intact. When home values, land availability and construction costs permit, it is possible to cost-effectively build new subdivisions and cluster home sites that allow groups of neighbors to remain neighbors. If core community activities revolve around a community church, an offer is also sometimes made to buy the church property and to build a new church close to the new settlement. It is interesting to note that families who are initially considering the relocation seldom express significant interest in relocating with a group of their neighbors. When all of the individual relocations have taken place, however, by far the most commonly expressed lament is that “We wish we had stayed together.”

Moving Allowances

These allowances are designed to assist in the moving of household goods into the replacement home. In the case of rental properties, they are split between the tenant and the landlord.

Clear Site Bonus

Because of the costs involved in demolishing a home that might contain asbestos, it is often cheaper for the buyer to “give” the home back to the seller along with an amount of money sufficient for the seller to have the building moved to another location. In this transaction, the buyer saves money on demolition costs and the seller gets to keep the home as long as he is able to move it to a location outside of the buy-out area.

Mortgage and Property Tax Differential Compensations

Some sellers have a mortgage on the property they are preparing to sell. At the time of the sale, the mortgage company gets paid first, often leaving the seller with the need to get a new mortgage in order to purchase a replacement home. For many reasons, they may not qualify for a new mortgage on the replacement home or if they do qualify, they may not be able to find a mortgage as attractive as the one they just paid off. Several mechanisms exist to help insure that the seller can get a new mortgage and that the mortgage will be comparable in costs and terms with the existing mortgage. In many jurisdictions, homeowners may be grand-fathered into permanently lower property tax brackets, an exemption which they typically lose if they purchase a new home. Mechanisms can be set in place to help families keep their exemptions or to compensate for expected increases in property taxes on the replacement home.

Benefits for Tenants

In addition to receiving a moving allowance, tenants may also receive a resettlement allowance which is intended to cover the costs of utility deposits and other miscellaneous expenses. In some cases tenants are also eligible to receive a Rent Differential Payment. Because rents are characteristically low in fenceline neighborhoods, this payment is designed to soften the blow of higher rental rates in the general rental market. Calculations are based on the length of time the tenant has lived in the community, the rent he currently pays and the prevailing rental rates for comparable quarters. This is a monthly stipend for a certain number of months and is often paid directly to the new landlord. Alternatively, if the tenant wishes to become a first-time homeowner, the total amount of a tenants differential payment can be paid in a lump sum but only as part of a down payment and only at the time of closing on their first home.

Rent Loss Compensation for Landlords

This is a payment designed to compensate a landlord for the loss of rental income he suffers as a result of his tenant relocating. The amount of the payment is based on the monthly rental income and the reasonable amount of time it would take the landlord to acquire a replacement rent house and find a tenant for it.

Stay Put Bonus

In privately funded environmental relocations, the option to relocate is usually voluntary. The stay put bonus is designed for those property owners that choose not to or are unable to afford to take the relocation offer. In the form of a grant or a low interest loan, this benefit is designed to help those remaining in the community make home improvements and other property adjustments in response to the new configuration of their freshly bulldozed community.

Closing Costs and Professional Fees

Nearly all relocation programs pay for closing and title guarantee costs. Some programs pay for a professional inspection to be made on the replacement home and some others allow a small stipend for

residents to hire attorneys and accountants to look over the relocation materials and to consider the tax implications of accepting the offer.

Overview: Government Permanent Relocation Policies and Guidance

There are three important areas to explore in order to understand how government permanent relocations are authorized and carried out. The first is the EPA policy that determines when a permanent relocation can be authorized, the second is the law that spells out what the government must do if it wants to conduct a relocation and the third is the actual implementation of the relocation in the field.

C. EPA Interim Superfund Relocation Policy

The EPA policy that is currently in effect is called the *Interim Policy on the Use of Permanent Relocations as Part of Superfund Remedial Actions (June 30, 1999)*.⁶ This policy has nothing to say about how relocations should be conducted. It focuses exclusively on clarifying EPA's policy on when permanent relocation can be used as a part of a Superfund remedial action.

D. The Uniform Relocation Act (URA)

Once a permanent relocation has been authorized, the URA comes in to play. It is the statutory authority (*49 CFR Part 24, Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally Assisted Programs*)⁷ that underpins all EPA relocation programs. The URA is the controlling regulation whenever any Federal Agency needs to acquire real property. The custodian of the document is the Federal Highway Division of the US Department of Transportation. Although it is referred to as the Uniform Relocation Act, it has very little to do with relocation. It is essentially a property acquisition document which spells out exactly what the government must do before it can take or otherwise acquire land. Less than 5% of the language in the document has anything to do with how to relocate families. When compared to private industry relocations, the features and benefits spelled out in the URA add up to a very "bare bones" relocation program.

E. EPA Guidance for Implementing a Relocation

Although EPA has conducted 19 permanent relocation projects⁸ over the years, it still has no coherent Guidance for their implementation. In the absence of a Guidance, EPA relies on the Guidance developed by their preferred vendor, The United States Army Corps of Engineers (USACE). In 1996, EPA began a process of inviting stakeholder input into the development of a permanent relocation policy and implementation guidance. The process began with the multi-stakeholder Relocation Roundtable in Pensacola, which was initiated by NEJAC in response to community concerns expressed in the Public Comment Periods of their meetings. The process continued with a series of individual stakeholder forums conducted by ICMA and culminated with the multi-stakeholder Superfund National Relocation Policy Dialogue in March 2000.⁹

Although no new Guidance for permanent relocation has emerged, in April of this year, EPA published their new Guidance for the conduct of temporary relocations (*Superfund Response Actions: Temporary Relocations Implementation Guidance, April, 2002*).¹⁰ It is a comprehensive guidance, is very community friendly and incorporates many of the suggestions offered by EJ communities and EJ activists. Developing new Policy and Guidance for permanent relocations at Superfund sites is critical for the benefit and needs of EJ communities. It must not become a lesser priority as EPA focuses more and more of its attention on Brownfields programs.

II. Analysis: Government Permanent Relocation Policies and Guidance

A. EPA Interim Superfund Relocation Policy

Compared to the language in the 1997 Record of Decision (ROD)¹¹ for the Pensacola National Relocation Pilot, EPA seems to be moving backwards with its 1999 Interim Policy that determines whether or not permanent relocation can even be considered as a remedy at Superfund sites. The Pensacola ROD contains

specific language that is used to justify the decision to select permanent relocation as a remedy.¹² The ROD clearly states that community social and economic welfare was of central concern. It also specifically included “psychological stress” and one of the health impacts it was attempting to mitigate via relocation. Citizens Against Toxic Exposure (CATE), the Southern Organizing Committee (SOC) and the other EJ activists involved saw this as a clear step in the right direction on several levels. The language used in the ROD was consistent with the Precautionary Principle and also appeared to indicate that EPA was willing to put some teeth into the “Welfare” portion of its mandate by acknowledging the negative property value impacts of proximity to the site. The ROD¹³ was also seen as being in step with the emerging research on these matters being conducted by among others, Dr. Robert Bullard at Clark Atlanta University and by Dr. Stephen Couch at Penn State University.¹⁴ The ROD further stated that the Pensacola relocation was to be a National Pilot which EPA would use to help in the development of new relocation Policy and Guidance documents.

The significance of the wording of the ROD and the victory it represented were greatly diminished when EPA published the *Interim Superfund Relocation Policy* two years later in 1999. This new Policy completely backed away from the notion that community economic and social welfare should be a significant factor in determining whether or not to explore permanent relocation as an option. The new Policy was so regressive that had it been in effect during the Remedy Selection Phase of the Pensacola Site, the communities never would have qualified for relocation as a remedy! To make matters worse, the Interim Policy stated that EPA had (suddenly developed) a preference for NOT recommending relocation as a remedy.¹⁵ This policy was issued as the physical relocations in Pensacola were just beginning. So much for the National Relocation Pilot being used by EPA to assist in the development of a national relocation policy.

B. *The Uniform Relocation Act (URA)*

The URA is and is not a problem. As written, it does not anticipate nor adequately address the unique needs and issues that surface for property owners involved in EPA’s Superfund permanent relocation programs. This should not be a problem in reality, however, because according to a spokesman for DOT/FHWA (the custodian of the document), the URA is meant to set up minimal standards of what the government must do if it wants to buy property and relocate residents. According to Ron Fannin in the office of Real Estate Services, government agencies are free to do many other things (in addition to what is prescribed in the URA) to meet the unique and legitimate needs of property owners whose land is being purchased by that agency. The problem comes from the fact that the other agencies, including the EPA and the USACE treat the URA as if it were a bible. If something is not specifically mentioned in the URA, they will not consider doing it. That said, The URA does have several areas of weakness.

Appraisals and Sliding Scale Appraisal Bonus

The first area to focus on, as always, is the appraisal process. The URA contains the same appraisal weaknesses that were discussed earlier. The URA attempts to make up for the hopelessly low appraisal values with a “Replacement Housing Payment (RHP)” of up to \$22,500. Basically what the provision says is that if the appraised value of a home is too low to allow the family to purchase a comparable replacement home, then up to \$22,500 can be added to it to make the offer competitive with the comparable housing market. One hundred percent of the families in Pensacola needed some or all of the Replacement Housing Payment added on top of the appraised value in order to purchase comparable replacement homes. Without the RHP these families would have had to move into much smaller homes or move into comparably sized homes but in much worse neighborhoods.

As helpful as the RHP was in Pensacola, it caused some huge inequities in the relocation program. The RHP is only available to be used if the owner of the property actually lives in the house at the time of its sale to the government. As is the case in many of our communities, a first-level investment strategy for families able to do so is the ownership of rent houses. There were many such rent houses in the relocation neighborhoods and they provided both income and an important measure of financial stability for the families that owned them. None of these owners were able to receive any part of the RHP. Although each

family's relocation files are private, based on the low appraisal values and the 100% need for the RHP for owner-occupied houses, it is fair to deduce that the owners of rent houses suffered significant financial loss as a result of the mandatory sale to the government.

No Rent Loss Protection

Another inequity for small landlords is the absence of any provisions for rent loss protection in the URA. Even while EPA and HUD negotiated a huge rent loss payment to the owners of the 400 unit Escambia Arms housing complex in Pensacola, they continued to deny any similar compensation for the owners of one and two-family rent houses right across the street.

Grossly Inadequate Inspection Process

The URA also contains a provision for the government to take a look at the replacement home that the relocating family wants to buy to make sure that it meets a minimal government standard of "Decent, Safe and Sanitary" (DS&S). They call it an inspection but it is actually something much less. In many locations, the current "inspection" does not take into account critical local housing codes. For example, in Pensacola, termites are a major concern and a comprehensive termite inspection is required according to the local code. The DS&S inspections done by the USACE included no termite inspection. Needless to say, there were many replacement homes purchased in Pensacola that passed the DS&S inspection yet were discovered to contain several major Pensacola housing code violations. Although we eventually got EPA to agree to reimburse home buyers for a comprehensive inspection report in Pensacola, our small victory offers no protection for other families involved in other relocations. It is also wasteful to have two inspections made when one, properly done, would suffice.

Inadequate Relocation Support for Families

Another major weakness in the URA is the third-rate set of "Relocation Services" that it stipulates must be offered to families while they attempt to buy their replacement homes. Permanent relocations produce what amounts to a rarity in the homesale market – large numbers of relatively unsophisticated, "cash ready" homebuyers hitting the market all at one time. In every environmental relocation program I have worked in, letting these families largely fend for themselves in the real estate market has been tantamount to dumping barrels of chum into shark infested waters. The feeding frenzy of crooked and unscrupulous real estate "professionals" in Pensacola proved to be no exception.¹⁶

Under normal circumstances, a homebuyer needs to go to a bank to get a mortgage to be able to purchase a house. An unsophisticated home buyer benefits greatly from the standards, procedures, title searches, and inspections that a bank insists on before it will lend money on a house. Many of the relocating families in Pensacola were living in homes that they had built or were living in homes that they had inherited. In either case, most of the residents had never been the home buying market before. They hit the streets with money in hand and no knowledge whatsoever of these essential protections.

Once the relocation of the 500 families in Pensacola was announced, local (infomercial) real estate speculators went into action. They began buying up dilapidated houses, making superficial repairs, slapping on fresh coats of paint and putting them back on the market at grossly inflated prices. They followed this up with the active targeting of our relocating families. Their friendly, solicitous, helpful manner stood in stark contrast to the treatment that residents were receiving from USACE and many buyers flocked to them.

The URA currently has payment support built in for tenants that want to become first-time homeowners. It does not offer, however, any support for them in identifying appropriate first homes. This group fared least well in Pensacola. In a telephone update I received this week, it was reported that many of these families are now homeless and living with relatives. By becoming first-time homeowners, they gladly gave up their subsidized housing certification. When their new homes became unlivable or unmanageable, many families found that they could not re-qualify for subsidized public housing.

The URA is currently undergoing a process of review and revision.¹⁷ It remains to be seen if it will both reflect needed changes and recommend more flexible usage on the part of EPA and other agencies.

C. *EPA Guidance for Implementing a Relocation*

EPA needs to issue a comprehensive Implementation guidance in the worst kind of way. By relying on the Army Corps Guidance¹⁸ (EPA's preferred vendor for implementing both permanent and temporary relocations), they are getting a terrible and oftentimes undeserved reputation in the communities undergoing relocation (as if EPA didn't have enough troubles of its own making!). Although recent USACE publications and their newly updated websites are full of "caring customer service" language, the reality on the fenceline reflects anything but. Long-term USACE personnel seem to be locked in to their traditional military and "command and control" culture, which has proven to be a source of great agitation for families already under considerable stress. In Pensacola, residents complained about rudeness and unhelpful attitudes throughout the relocation process. EJ Activists have been lobbying for EPA to put relocation implementation contracts out for public bid. The notion is that if USACE had to compete with private relocation companies for EPA work, they would pay more attention to and be more solicitous of community needs and issues. Unfortunately, EPA is in the process of completing a new Memorandum of Understanding (MOU) with USACE, which will further entrench USACE as their sole-source relocation services provider.

III. **Recommendations for Action**

A. *Private Industry Relocation Programs*

We need to develop an interdisciplinary team of folks who can work with communities to help them initiate discussions and then negotiate relocation offers with their neighborhood plant. As the recent victory in Norco Louisiana demonstrates, successful negotiations involve: a lot of corporate and real estate research, bold, targeted activism, good cop / bad cop tactics, effective press exposure and quiet diplomacy all coordinated with one integrated strategy. Although it may serve our purpose to give the impression that one hand does not know what the other hand is doing, it should be just that - an impression and not factually the case. Finally, successful negotiations always involve a well-organized, well educated, community that is willing to speak for itself with a lot of good help.

B. *EPA Interim Superfund Relocation Policy*

The POC EJ Community must continue to monitor the development of the current "Interim" policy to make sure that we avail ourselves of every opportunity to influence the language of the "Final" policy document. If we do not do this, our communities will not have the option to rescue their home equity and move away from the many Superfund Sites located next door. Recommended shifts in EPA's policy:

EPA should expand its current notion of "health effects" to reflect the emerging research on the medically significant stress that occurs because of proximity to the site. It should also exercise the "Welfare" component of its mandate to address the harmful effects that proximity has on family mobility, structure, stability and property values in the normal process of Site Characterization and in subsequent remedial investigations and decisions. EPA must quantify and then consider the negative economic and social impacts on fenceline neighborhoods when it is determining the most appropriate remedy for the site.¹⁹

EPA should rescind its stated bias against relocation and based on the Precautionary Principle, and the "welfare portion" of its mandate, considers relocation equally with all other possible remedies.

EPA should develop a new formula for calculating the benefits and costs of relocation and redevelopment so that these options can be considered thoroughly in the Remedy Selection Phase of the Response Action. This should include the cost benefits that redevelopment will have for local governments, businesses and property owners.

EPA should make it easier for communities to receive a TAG grant to hire a relocation advisor. The Interim Policy states that communities may become eligible for such a TAG Grant if EPA is seriously

considering relocation as a possible remedy. Neighborhood residents should be able to hire a consultant if the community wants to seriously consider relocation. The community can thereby be prepared to participate meaningfully in discussions with EPA about relocation, as is the goal of true community involvement.

C. *The Uniform Relocation Act (URA)*

The POC Environmental Justice community needs to carefully monitor the URA review and revision process that is currently underway, spearheaded by the DOT/FHWA. We need to be on the lookout for the Notice of Proposed Rulemaking (NPRM) that will be published in the Federal Register sometime in early 2003. We need to organize an appropriate response to the new rules within the designated comment period. Proposed changes that require legislative action should be carefully noted and an appropriate lobbying effort should be mounted as well. Recommended Actions:

Whoever has the contract to implement the relocation for EPA, all appraisals should be done by local appraisers who are familiar with the nuances of the local real estate market. Failing that, each appraisal team should include at least one local Master Review Appraiser who must sign off on the appraisals done by out-of-state appraisers.

The Replacement Housing Payment must be made available to all homeowners regardless of whether they live in the property or not. The RHP should not be capped at \$22,500 but should be set at whatever level is required to allow the property owner to purchase a comparable replacement home. Although the URA is updated periodically, it can not keep up with the rapid value changes that are characteristic of the residential real estate market.

The Decent Safe and Sanitary inspection standard is grossly outdated and should be replaced with a Comprehensive Narrative Inspection Report performed by a local professional inspector. This is the only way that the government and the buyer can be sure that homes are truly safe and that they are getting value for the money being spent.²⁰

The whole approach to “Relocation Services” needs radical change. The level of support and protection offered should more accurately reflect the realities faced by unsophisticated families trying to purchase new homes in an unrealistically tight time frame. Some residents may choose not to go the Relocation Center for step-by-step help and handholding. But those that do need it ought to find such help available there. This is especially true for former tenants that are attempting to use their relocation benefits to become first-time homeowners.

The URA is currently too strict in the definitions it uses to determine the eligibility of renters for relocation benefits. Some guidelines need to be built in to the process that acknowledges de facto tenancy when that tenancy falls outside the pre-determined criteria for “approved” tenancy.

The Appeals Process spelled out in the URA is too cumbersome and expensive to be of any real use for a marginally solvent homeowner. It needs to be streamlined to produce results more rapidly and it should not require that the homeowner retain an attorney in order to get a fair hearing.

The URA needs to clearly stipulate that sellers have the right to see copies of their full appraisal reports and all the attending documents. None of the sellers in Pensacola (nor I assume is any other government relocation) have been allowed to see the documents that were used to determine the amount of the offer made to them.²¹ It is not possible for a dissatisfied seller to mount an effective appeal not to secure the help of a qualified real estate professional without being able to see and use the appraisal documents

D. *EPA Guidance for Implementing a Relocation*

The POC Environmental Justice community needs to pressure EPA to address our concerns by issuing a Final Permanent Relocation Policy that reflects the legitimate concerns of our communities.

In developing this new guidance, EPA should build upon the family-centered approach to relocation that is reflected in the new Temporary Relocation Guidance. They should also expand the scope of the Guidance to include relocations that are done as a part of Brownfields Redevelopment schemes as well.

EPA needs to begin making a clear distinction in all of its documents between what it now calls “the community” and what we might call “near neighbors” or the “proximate community”. This is because the word “community” is too often interpreted to mean a broader, local government area. It is our people that are on the fenceline. We are the near neighbors to these toxic sites and our issues and needs often run at odds with the issues and needs of the local government. Until EPA makes this clear distinction, community involvement standards will continue to be abused at the local level.

It is wrong to sole source relocation contracts to USACE. Competition for the implementation contracts must be introduced into the process by using competitive bids. This is the only way to drive down costs and improve performance. This is especially critical because “cost” is such a central factor in the selection of relocation as a remedy. It is important also because USACE has such a spotty reputation for cost containment, fairness and resident satisfaction.

Mechanisms need to be put in place to fairly compensate people for their property when rezoning and redevelopment plans already exist for that property.²² Owners of residential properties that are located in predominately industrial/commercial areas should receive two appraisals; one, a residential appraisal for their structures and the second, for the commercial value of their land. If this approach is not taken, an agreement should be established between EPA and the entity that receives the cleaned land. This agreement should stipulate that a reasonable portion of the profits from the sale of the land should be returned to the owners that were forced to sell to the government at residential prices.

All reasonable efforts should be made to encourage and support neighborhood economic and job development based on the expenditure of funds required to affect the relocation and subsequent remediation. All reasonable efforts should also be made to encourage or legally require the entity that takes possession of the cleaned land to involve local minority developers and business entities in any planned redevelopment of the site.²³

All reasonable steps need to be taken to protect the viability and survival of churches and businesses whose members and customers are being moved away as a result of the relocation. In the case of churches, they should receive special consideration in the redevelopment plans so that their survival and good community works are not threatened. These steps might include the provision of an extended land buffer between the church property and land being redeveloped for non-residential uses, or other valuable considerations.

A rapid-response mechanism needs to be set up so that reasonable exceptions can be made for community and family situations that were not anticipated by the URA. Every effort should be made to resolve these issues without residents having to resort to the cumbersome, formal appeals process.

Strict guidelines need to be set up for the selection and training of the personnel that staff the Relocation Center. They should be made to understand that relocation is a family-centered process that happens to involve real estate and not the other way around. They need to have excellent people and coping skills in addition to their real estate-related ones. Relocation Center staffs should be qualified, prepared and willing to help unsophisticated homebuyers interface with real estate professionals and should actively monitor a family’s progress in the process of securing a new home. This needs to be done to avoid the rampant victimization of homebuyers by unethical practices and unscrupulous operatives.

Relocation Centers should also offer a full set of services on selected evenings and weekend days. Requiring that residents leave work in order to visit the Relocation Center only discourages them from using it.

A proper evaluation of the Pensacola National Permanent Relocation Pilot needs to be done and those results need to inform the development of new policy and guidance. Although a series of focus groups

were conducted there recently they were poorly recruited for and even more poorly attended. The formal report from those groups should have been released this Spring but there has been no mention of it as yet.

E. Further Recommendations

People of Color EJ networks should very carefully monitor all of the Superfund and Brownfields Redevelopment schemes that operate within their communities. These programs are simply a new iteration of the 1960's "Urban Renewal" programs, only this time, they have an environmental hook. We must pay close attention to the issues of land loss, equity loss, disruption, partitioning, displacement, and gentrification. We must educate our communities about the "redevelopment" process and help them influence local schemes in ways that protect their real estate investments, sweat equity, ownership positions and unique community identities. If we fail to do this right now, with all of the money that Congress is throwing at Brownfields and with all of the drooling developers lined up to spend it, we will have to live through a new wave of land loss, disruption and displacement that will make Urban Renewal look like a picnic.

People of Color EJ Networks should develop the resources and technical assistance mechanisms necessary to help inform fence-line communities about voluntary relocation options and to assist them as they explore those options and negotiate with their industrial neighbors. A series of informative workshops would make a healthy start.

In mandatory, government relocation schemes (Brownfields Redevelopment, etc.), the government often takes residential land through the power of Eminent Domain, and then essentially "gives" it to local authorities and their ravenous teams of developers. No people of color or poor community should have to face such a daunting prospect without the benefit of having their own set of technical experts and advocates ready to join the battles. Although EPA awarded its first ever TAG grant for a Relocation Technical Advisor in Pensacola, this is a cumbersome way to get the job done.

There are a few important situations that are begging for legal action: 1) It appears to me that the provision in the URA that allows the government to pay up to \$22,500 on top of appraised values to occupying-owners but forbids them from offering it to the owners of rent houses is clearly discriminatory. There are plenty of potential litigants in Pensacola and I suspect everywhere else that the government has performed permanent relocations. 2) The DOJ memo that de facto prohibits residents from seeing the appraisal used to determine the government's purchase offer might also stand some scrutiny. Even if there is some defensible reason for this in some situations, the practice is blatantly unfair to the seller and its use should be strictly limited. 3) There must be a problem when the document (ROD) that the government uses to authorize a Superfund relocation says that it is doing so because the best use of the land is no longer residential, (AND when the government already has plans for the commercial redevelopment of the land) and yet refuses to consider making commercial appraisals on the properties it is acquiring.

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Endnotes

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² ♦ **Chemical Plants Buy Up Neighbors for Safety Zone**, Keith Schneider, New York Times, 11/28/1990; Bowermaster, J. *A Town Called Morrisonville*. Audubon, July-August, 1993, pp 42 – 51; **Dow Brand Dioxin**, Greenpeace, 1995 Edited by J. Weinberg <http://archive.greenpeace.org/~usa/reports/dow1.html>; *Cancer Alley Tour*, Greenpeace, <http://www.greenpeaceusa.org/toxics/canceralleytour/iberilletext.htm>.

³ Janice Dickerson, then a member of the Gulf Coast Tenants Organization was born and had previously lived in Reveilletown, a similarly situated community just downriver in the shadow of a Georgia Gulf plant. As part of an undisclosed settlement of a lawsuit filed in 1986, Georgia Gulf agreed to buy out the community and relocate its residents. In 1988, when Dow announced its intention to offer a voluntary buyout to the residents of Morrisonville, Ms. Dickerson was among the most active, visible and vocal opponents of the idea. The chant “NO MORE REVEILLETOWNS” became the rallying cry of organizers and activists that came in to Morrisonville to make a stand. Partly because she stayed in such close touch with and listened to her former neighbors and the residents of Morrisonville, however, Ms. Dickerson eventually modified and then completely reversed her position on environmental relocation. In a 1992 article, (**Toxic Buyouts: You can’t Go Home Again**, The Neighborhood Works, August/September, 1992, pp 7-10) she reported that she “had grown impatient with some environmentalists who display little sensitivity to residents by suggesting that buy-outs are not the answer”. To those that say that people should stay to monitor the plants performance she asked, “Why don’t they move into my house? But don’t ask me to expose my kids”.

⁴ Morrisonville, LA, Ponca City, OK, Donaldsonville, LA, Fairfax, VA, Pampa, TX, Port Arthur, TX, Corpus Christie, TX, Fairfax, VA, Torrance, CA (Del Amo and Montrose sites), Pensacola, FL, Anniston, AL, Norco, LA

⁵ **Uniform Appraisal Standards for Federal Land Acquisitions**, Published by the Appraisal Institute 875 North Michigan Ave., Suite 2400, Chicago, IL 60611-1980 in cooperation with the U.S. Department of Justice <http://www.usdoj.gov/enrd/land-ack/yb2001.pdf>; *Glossary of Appraisal Terms*, BHIF Relocation Group 393 Hanover Center Road, Etna NH 03750. <http://www.fisbos.com/Fglossary.html>.

⁶ USEPA, **Interim Policy on the Use of Permanent Relocations as Part of Superfund Remedial Actions** (June 30, 1999) <http://www.epa.gov/superfund/tools/topics/relocation/intpol.pdf>.

⁷ US Code: TITLE 42 – **The Public Health And Welfare; Chapter 61--Uniform Relocation Assistance And Real Property Acquisition Policies For Federal And Federally Assisted Programs** http://www.access.gpo.gov/uscode/title42/chapter61_.html

⁸ USEPA, **List of Permanent Superfund Relocations as of 10/1999** <http://www.epa.gov/superfund/tools/topics/relocation/permanent.pdf>

⁹ **Proceedings: Superfund Relocation Roundtable Meeting** (May 1996) <http://www.epa.gov/superfund/tools/topics/relocation/proceed.pdf>; **Meeting Summaries from the EPA/ICMA Relocation Stakeholders Forums** (May 1998) <http://www.epa.gov/superfund/tools/topics/relocation/forums.pdf>; **Superfund National Relocation Policy Dialogue** (March 2-3, 2000) <http://www.epa.gov/superfund/tools/topics/relocation/mtgfinal.pdf>.

¹⁰ USEPA, **Superfund Response Actions: Temporary Relocations Implementation Guidance**, April, 2002 <http://www.epa.gov/superfund/tools/topics/relocation/tempreloc.pdf>.

¹¹ EPA 541-R97-018, 1997 EPA **Superfund Record of Decision: Escambia Wood – Pensacola OU 1** Pensacola, FL 02/12/1997 <http://www.epa.gov/oerrpage/superfund/sites/rods/fulltext/r0497018.pdf>

¹² Excerpts From: Record of Decision (ROD), Interim Remedial Action and National Relocation Pilot Project, Escambia Treating Company Site, Pensacola, Escambia County, Florida 2-12-97
From the ROD: “**Assessment of the Site**”: Taking no action in Pensacola: “May present an imminent and substantial endangerment to Public Health, Welfare or the environment”
From the ROD: “**Description of the Remedy**” Major components of the selected remedy are to: “Restrict the land use of the area to industrial or commercial use. ... (the)Selected remedy based on the following factors:” Health risk reduction” “Community welfare” “Cost benefit and operating concerns”
“Configuration of the land as well as well as long term community development goals”

From the ROD: "**Scope and Role of Action**" The Pensacola Pilot: "... will be used by EPA to assist in the development of a national relocation policy." "Some of the factors that make relocation the correct remedial decision are difficult to quantify but are very real considerations: "The adverse impacts on the residents ... from fear stemming from uncertainty relative to health impacts" "loss of property values" "psychological stress" From the ROD: **Additional factors** are: (the residential areas are) .. "located in a commercial area" "The existing land use and transportation infrastructure strongly indicates the appropriate use of the property is as industrial property." "The relocation will provide land for industrial purposes that is valuable to the community from an economic development perspective." From the ROD: "**Comparison of Alternatives; Primary Balancing Criteria**" "The use of the property will be restricted so that future residential use will not be permitted. This is consistent with the preferred development of the area, according to the Comprehensive Plan for Escambia County.

¹³ Bullard, Robert D., J. Eugene Grigsby III, and Charles Lee. **Residential Apartheid: The American Legacy**, Los Angeles: CAAS Publications, 1994; Couch, Stephen R., Steve Kroll-Smith, and John Wilson. 1997. "**Toxic Contamination and Alienation: Community Disorder and the Individual.**" Research In Community Sociology, V. 7: 95-115; Kroll-Smith, Steve. 1995. "**Toxic Contamination and the Loss of Civility.**" Sociological Spectrum, V. 15:377-396. (Plenary Address); Kroll-Smith, J. Stephen and Stephen R. Couch. 1991. "**As If Exposure to Toxins Was Not Enough: The Social and Cultural System As a Secondary Stressor.**" Environmental Health Perspectives, V. 95 : 61-66; Kroll-Smith, Steve and Stephen R. Couch, "**Social Impacts of Toxic Contamination,**" a report prepared for the Nevada Agency for Nuclear Projects, Yucca Mountain Socioeconomic Project, Phase IV-C, Task 9.3, September 1991.

¹⁴ Based on the data contained in the book **Residential Apartheid**, it is clear that Superfund sites are the source of significant and disproportionate financial harm to the African American families that live in the neighborhoods proximate to them. The Environmental Justice Community should hold this harm to be as critical as the negative health effects associated with proximity to NPL Sites. These negative financial impacts are easy to quantify are easily attributable to the presence of the Site and should figure prominently in EPA remedy selection decisions. Based on the studies and scholarly works completed Dr. Stephen Couch of Penn State University and other scholars it is clear that proximity to contaminated sites creates significant family disruption and medically harmful stress for the families that live there. Because those fence-line families are most likely to be poor and of color, this represents yet another disparate impact that the EJ community should address. While these harmful impacts are not as easily quantified as the negative financial some other health impacts, they are real, discoverable and attributable to the presence of the contaminated site. These health effects should also be considered when EPA is making its remedy selection.

¹⁵ Excerpt from the **Interim Policy on the Use of Permanent Relocations as Part of Superfund Remedial Actions** (June 30, 1999):"The major points of this directive are: ... EPA's preference is to address the risks posed by the contamination by using well designed methods of cleanup which allow people to remain safely in their homes and businesses; ..."

¹⁶ The worst example of this was a woman who went to contract on a house that had been determined by the City of Pensacola to be unfit for human habitation. In addition to several major code violations, because of drainage and sewage problems, the City had disconnected the house from the public water supply. The realtor not only never disclosed any of these code violations to the prospective buyer but she actually ran a hose from the back of the neighboring house and connected it to the water supply of the house she was trying to sell so that it would look like it had legal, running water. It took nearly a year for the prospective buyer to get out of the contract and get her earnest money back.

¹⁷ According to US DOT/FHWA, the following comments represent the status of the URA review and revision process as of the date of this paper. "We have held several public meetings, including five nationwide "listening sessions" to gather suggestions and comments for potential revision. We convened a team of federal agency representatives to refine the issues and, subsequently, determined there was a need to proceed. Next, we convened a team to draft potential language for revisions to both the Uniform Act and its implementing regulation, 49 CFR Part 24. This team is now doing its work and we anticipate beginning the regulatory updating by publishing a Notice of Proposed Rulemaking (NPRM) in the Federal Register sometime in early 2003. (Processing for publishing an NPRM requires "sign-off" of several agencies, so it does take some time.) Following a specified formal comment period (usually 30 - 60 days) we will consider and respond to all comments (including making changes to the NPRM, as appropriate) and then publish a Final Rule. Concurrently we are advancing potential legislative (Uniform Act) initiatives for those needed

changes that cannot be accomplished through regulatory change. This is quite a different process from developing a regulatory change because the action will have to be taken in the Congress. Basically, we will be proposing the issues to the appropriate Congressional committees, and then it will be up to the Congress. The results, including timing, are rather speculative right now.” ~*Reginald Bessmer in an email to Michael J. Lythcott, 10/4/02*

¹⁸ USACE Publication Number: **ER 405-1-12; Title: Real Estate Handbook; Proponent: CERE-P; Publication Date: Original document - 20 November 1985. Change 34 dated 15 May 2000 as incorporated.** Although the Army Corps has removed from their web sites the pdf file that contains their complete 1361 page guidance, they have serialized it in a series of files which can be found at: <http://www.usace.army.mil/inet/usace-docs/eng-regs/er405-1-12/toc.htm> Fortunately there is a very comprehensive and useful “Table of Contents” link on that page as well.

¹⁹ Suggestions: An appropriate **Real Estate Impact Study** should be designed for use during the Site Characterization or Remedial Investigation (RI) Stages at all NPL sites. This study should be designed to quantify the negative financial impact that proximity to the site has had and can reasonably be expected to continually have on the value of residential properties and home-based businesses. The Study should detail actual and anticipated financial losses due to:

- Falling property values
- Lost homeowner equity
- Lost family mobility due to an inability to sell the home on the open market at a fair price (pre-Site discovery and notoriety) and at a reasonable time on the market
- Lost rental income based on vacancies or lowered rent tied to the discovery and notoriety of the Site
- Lost property taxes to the municipality
- Erosion of the customer base and lost sales at local and home-based businesses

An appropriate **Quality of Residential Life (QRL) Study** should also be designed for use during the Remedial Investigation (RI) Stage of all NPL sites. This study should be designed to describe, and where possible measure the negative impacts that proximity to the site has had and can reasonably be expected to continually have on the quality of residential life. The Study should detail QRL issues that relate to:

- Impingement on the owners’ legal rights to the “Full Use and Enjoyment” of their properties
- Disruption of normal family life and family composition
- The presence of reasonable health fears related to Site proximity
- The presence of medically significant levels of stress related to Site proximity
- Financial redlining by banks and other financial institutions that limit the owners ability to maintain the property adequately, protect their investments and maintain the character of the neighborhood
- Significant shifts away from owner-occupancy towards tenant-occupancy and the attending erosion of the neighborhood’s character
- Significant increases in crime, drug and gang activities that can be attributed to the shifting character of the neighborhood
- Loss or erosion of neighborhood services
- Reduction of municipal services attributable to the erosion of the tax base and the flight of property owners

The information generated by both of these studies should receive due consideration in the Feasibility Study (FS) Stage and subsequent Remedy Assessment and Selection Stages and factor significantly into EPA’s decision of whether or not to offer permanent relocation.

²⁰ EPA should pay for a COMPREHENSIVE, NARRATIVE HOME INSPECTION on the properties that relocating families are interested in. This inspection should serve the government by certifying that the home is Decent, Safe & Sanitary and should serve the homebuyer by indicating all code violations, and include professional judgments about the “effective life” of the home’s major components (roof, frame, foundation, electrical systems, plumbing systems, HVAC systems etc.). Such an inspection is the only way that a potential buyer can evaluate the asking price. It is also the strongest tool he has in the process of negotiating a final sales price. There should also be some level of protection for homebuyers in cases where “hidden defects” are discovered after the inspection and sale. Additionally, before closing, EPA should make sure that the buyer has purchased Title Insurance and that the home is insurable.

²¹ Although EPA has issued a Guidance (after all of the appraisals in Pensacola were completed) that insists that property owners be shown a copy of all appraisal documents that are used to determine their home values, none of the owners in Pensacola ever saw their appraisal reports. The EPA Guidance fixes the problem for relocations that it conducts but offers no such protection to owners being relocated by other government agencies. There is no law that prohibits the government from showing the appraisal report to a property owner. Rather, there is an arcane memo from the Department of Justice “strongly recommending” that the government not do so. Since the issuance of that memo, appraisal secrecy has become the rule in all government relocations and probably in all other real estate acquisitions conducted under the law of eminent domain.

²² Using Superfund and Brownfields Redevelopment programs, city planners and developers are ushering in a sweeping new wave of urban renewal which will once again put the survival of our communities at risk. Properties in our communities are being bought for pennies on the dollar and being turned around for huge profits. EPA is tacitly complicit in this process because it has yet to tackle the issue of adequate compensation. If EPA needs access to the land in order to clean it, why should owners be forced to sell? It should not always be necessary for owners of vacant or cleared land to sell all of that land to the government in order for it to affect a proper remediation. In these situations property owners ought to have to right to retain ownership of the property and have the right of full use and enjoyment of the property after it is cleaned. If they then choose to sell it to a developer or to the local government for redevelopment then that is their business (and profit).

²³ To date, during the Pensacola Relocation Pilot, not one vendor contract has been let to a minority owned entity. This includes contracts for boarding-up houses and cutting the grass in the yards of purchased properties (even though neighborhood entrepreneurs applied for both jobs). According to Jerry Hunter Jr. of the West Florida Chamber of Commerce (the local Black Chamber), there are no known plans for the introduction of programs designed to qualify local, minority residents to participate in Remedial Activities. According to Mr. Hunter, there is also currently no confirmed, significant involvement of minority developers or business entities in any of the established or emerging redevelopment schemes for the site.