

# FROM CLEANUP TO COVERUP: How the Navy Quietly Abandoned Commitments to Clean Up Hunters Point Naval Shipyard and is Instead Covering Up Much of the Contamination

Presented to  
Bayview Hunters Point Environmental Justice Task Force

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# Last Week, Board of Supervisors President Walton Made Clear There Must Be 100% Cleanup or There Will be No Land Transfer

At the Sept. 15, 2022 GAO Committee hearing, President Walton stated:

“I also want to make it clear that the number one goal for the shipyard has to be and should be 100%, complete cleanup.”

“We do have a say in determining whether or not any land is transferred to the City and County of San Francisco. ***Without a 100% cleanup, that land transfer does not take place.***”

(SF Board of Supervisors, Government Audits and Oversight Committee, September 15, 2022 meeting, time stamp 1:58:30 and 2:02:20)

## HOWEVER, THE NAVY INTENDS TO LEAVE MUCH OF THE CONTAMINATION NOT CLEANED UP

Instead, the Navy now plans to merely *cover up* much of the contamination with thin layers of soil or asphalt and walk away from its cleanup obligations. We will here document that abdication of cleanup responsibilities.

# Preface: Supporting Documentation

This presentation is largely based on the Committee to Bridge the Gap's report, *FROM CLEANUP TO COVERUP: How the Navy Quietly Abandoned Commitments to Clean Up Hunters Point Naval Shipyard and is Instead Covering Up Much of the Contamination*, available [here](#).

All citations in this presentation are hyperlinked for ease of access. This presentation will be made available as a PDF on our website (<https://www.committeetobridgethegap.org/>), and from there you will be able to find all supporting documents used in the creation of this presentation.

## Supporting Documentation (continued)

Records of Decisions (RODs) – Navy documents that outline the history and decide on the cleanup standard for each parcel. The decisions to leave much of the HPNS contamination not cleaned up beneath a thin cover are found in these documents.

Explanations of Significant Differences (ESD) to the Records of Decision – Navy documents that amended the ROD for a given parcel, oftentimes creating contradictions between the cleanup standard and future land use of a parcel, or flat out weakening the cleanup standard.

## Supporting Documentation (continued)

Covenants to Restrict Use of Property (CRUPs) – legal agreements that run with the land, made between the Navy and DTSC, where the land use restrictions are recorded. Land use restrictions are used to circumvent cleanup requirements that would otherwise be imposed.

Risk Management Plan – released in 2019 by the CP Development Company, identifies how Institutional Controls barring land disturbing activities, destruction of covers, and excavation of soil beneath them, will be circumvented.

# Navy shifts from remediating to covering up contamination

The 1997 Record of Decision (ROD) for Parcel B called for excavation and off-site disposal of contaminated soil. ([1997 Parcel B ROD](#), p. 49, 65)

In 1999, work at Parcel B found far more contamination than the Navy had anticipated. ([Amended Parcel B ROD](#), p. 1-5) The Navy suspended cleanup while it contemplated changing the remedy to leave much of the contamination not cleaned up, relying instead on covers and institutional controls (ICs).

This triggered overwhelming passage of Proposition P in 2000 and its adoption in 2001 by the Board of Supervisors as official San Francisco policy. Prop P insisted on cleanup to the most protective standards for unrestricted release—full cleanup with no reliance on covers or ICs.

Nonetheless, in the 2009 Amended ROD for Parcel B, the Navy changed its remedy to rely on covering rather than removing contamination:

**“..the consideration of parcel-wide covers to address soil contamination instead of excavation represents a fundamental change in the scope of the remedy for soil.”** (Amended Parcel B ROD, p. 1-4)



## Soil Covers For Parcel B cont.

“Add a 1-foot-thick layer of clean *soil* above the surveyed surface over the portion of IR-07 and IR-18 that is radiologically impacted. . . . Install a new 2-foot-thick soil cover over all of IR-07 and IR-18,”  
([Amended Parcel B ROD](#) p. 12-2, emphasis added).

“It is estimated from aerial photographs of Parcel B that approximately 16 acres will be covered with soil, 3 acres will be covered by the shoreline revetment, and 40 acres of existing asphalt and concrete surfaces (including buildings) will be used and repaired, as necessary,”  
([Amended Parcel B ROD](#) p. 12-7, emphasis added).



The photo is of the soil cover being placed at IR-7 and -18 at Hunters Point Naval Shipyard. The orange fabric in the foreground of the photograph is a permeable “demarcation layer” to warn that the soil beneath is radiologically impacted. It is not designed to prevent migration of contaminants or penetration by plant roots or burrowing animals and will not be used for most of the site.

([Final Remedial Action Completion Report for Installation Restoration Sites 07 and 18 at Parcel B](#), pdf p. 43)

## Soil Covers at Hunters Point for Parcel E

“Durable covers would be applied across all of Parcel E as physical barriers to cut off potential exposure to residual contamination that remains in soil after excavation. Durable covers at Parcel E would consist of asphalt and concrete surfaces in the northern half of Parcel E (the Shipyard South Multi-Use District) and a 2-foot thick soil cover in the southern half and in small areas on the western edge of Parcel E (the Shipyard Shoreline Open Space District).” ([Parcel E ROD](#), p. 2-48, emphasis added).

## Soil Covers at Hunters Point for Parcel E-2

“Following completion of the final radiological survey and placement of radiologically screened material from the excavations shown on Figure 13, a minimum 2-feet-thick soil cover would be placed over all of Parcel E-2, including a small portion of the Parcel E-2 Landfill that extends north onto property owned by UCSF (see Figure 2).” ([Parcel E-2 ROD](#), p. 2-39, emphasis added)

## In Parcel G, the Pattern Continues

The Parcel G ROD relies in large measure on covers and Institutional Controls. ([Parcel G ROD](#), pp. 41, 45)

Institutional Controls include land use restrictions and supposed prohibitions on any activities that disturb the land or covers; e.g., excavation.

# Leaving Behind Contamination in Parcels UC-1/D-1, UC-2, and Parcel C

In similar fashion to the preceding parcels, the RODs for Parcels UC-1/D-1, UC-2, and C, set forth plans to leave behind contamination beneath thin covers. The ROD for Parcel UC-1/D-1 states that for chemicals excluding benzo(a)pyrene, residual risks “**would be mitigated through the use of durable covers and access restrictions to restrict exposure.**” (Parcel UC-1/D-1 ROD, p. 50)

## Covers at Parcels UC-2 and C

The 2009 ROD for Parcel UC-2 stated that the predominant chemicals of concern in soil were toxic metals, which, rather than being excavated, **will be left in place beneath a cover and with ICs.** (Parcel UC-2 ROD, pp. 16, 44-45)

The ROD for Parcel C, released the following year, established plans to excavate and dispose of soil with toxic chemicals in concentrations that exceeded the remediation goals. (Parcel C ROD, p. 55) However, the 2014 ESD to the ROD completely reversed that plan.

# Parcel C Reversal

The ESD stated that rather than cleaning up chemicals in concentrations above the remediation goals, the Navy will instead only clean up certain chemicals such as polychlorinated biphenyls (PCBs) and metals, with the exception of mercury, if they are 5 or 10 times the remediation goals. (ESD to Parcel C ROD, p. 1-2, pdf p. 43)

According to the ESD, this will amount to 16,000 cubic yards of soil contaminated above remediation goals left behind, saving the Navy \$4,000,000 in cleanup costs. (ESD to Parcel C ROD, p. 4-8) The Navy justifies this through the implementation of a cover and ICs. (ESD to Parcel C ROD, p. 2-4)



Remedy now relies primarily on “durable covers,” which are defined in the RODs as 2 feet (or in some cases 3) of “clean soil” or 4 inches of asphalt.

**This “Durable Cover” Strategy Violates  
the Cleanup Voted for by the Community  
from Occurring**

# Community Acceptance is Included in Remedial Investigation/Feasibility Study Criteria

*“Community acceptance.* This assessment includes determining which components of the alternatives interested persons in the community support, have reservations about, or oppose. This assessment may not be completed until comments on the proposed plan are received.”

40 CFR 300.430(e)(9)(iii)(I)

# Proposition P: Public Overwhelmingly Supports Highest Cleanup Standards, Unrestricted Use

Passed in 2000 with 86.4% in favor

“While the federal government is required by law to clean up the Shipyard, the Navy says it will cost too much to do a thorough job. **Instead, the Navy plans to leave behind so much contamination that it will increase the risk for cancer resulting from exposure to the property, requiring the construction of barriers and the restriction of future land uses.**”

“Hunters Point Shipyard [must] be **cleaned to a level which would enable the unrestricted use of the property - the highest standard for cleanup established by the United States Environmental Protection Agency.**”

# SF Board of Supervisors Adopts Prop P as Official City and County Policy

“WHEREAS, Although the federal government is required by law to clean up the Shipyard, the Navy says it will cost too much money to do a thorough job. Instead, the Navy plans to leave behind so much contamination that the property may expose occupants and visitors to an unacceptable risk of cancer unless the Navy imposes legal restrictions on land use and constructs physical barriers; and

...

WHEREAS, The United States government should be held to the highest standards of accountability for its actions; and

WHEREAS, The United States Navy has demonstrated that it is not committed to responsible site management or cleanup and many in the Bayview Hunters Point community believe the department's disdain for its duties in this neighborhood stems from the racial make-up of its residents; and

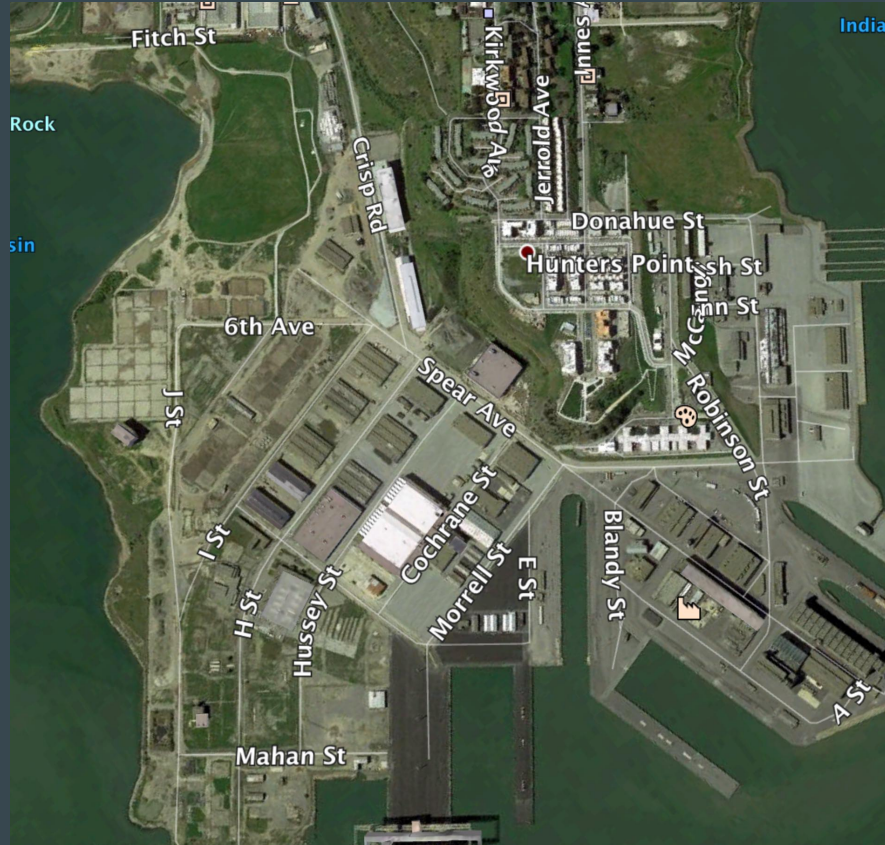
WHEREAS The Hunters Point Bayview community wishes the Hunters Point Shipyard to be cleaned to a level which would enable the unrestricted use of the property - the highest standard for cleanup established by the United States Environmental Protection Agency; and

## SF Board of Supervisors Adopts Prop P as Official City and County Policy

RESOLVED, That the Board hereby declares that Proposition P ... shall be the official policy of the City regarding the remediation of the Shipyard and sets forth a standard of remediation acceptable to the community;

# Thin Covers Are Ineffective at Preventing Exposure to Contaminants

# Large Portions of HPNS are Soil With Vegetation



March 2017, Google Earth



August 2017, Google Earth

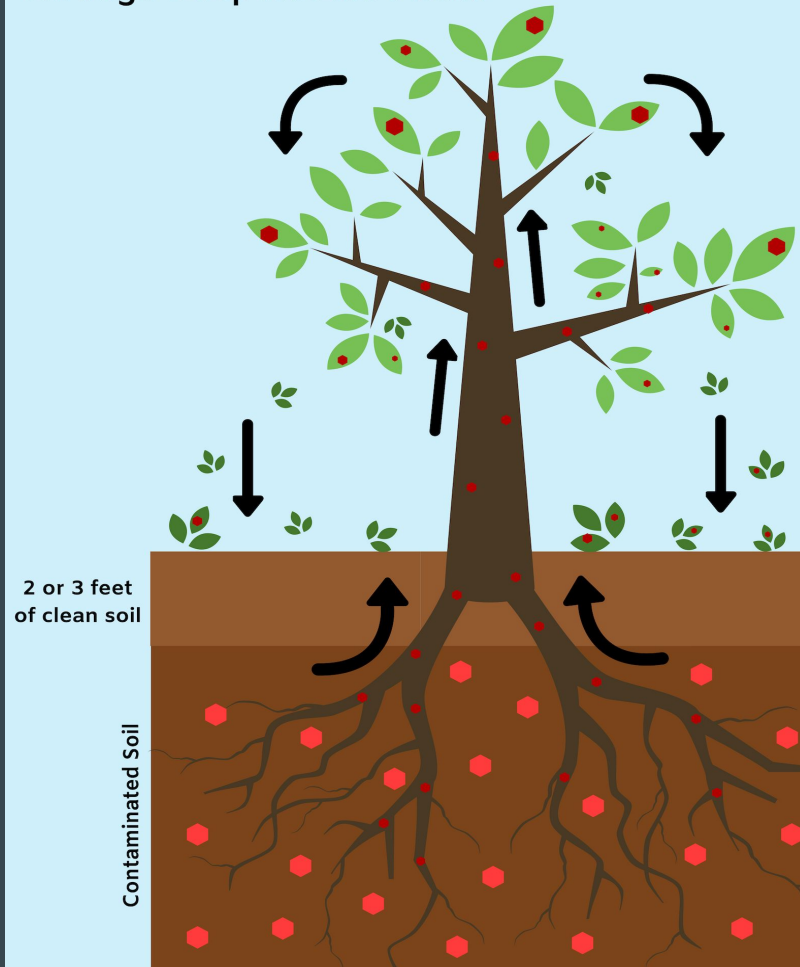




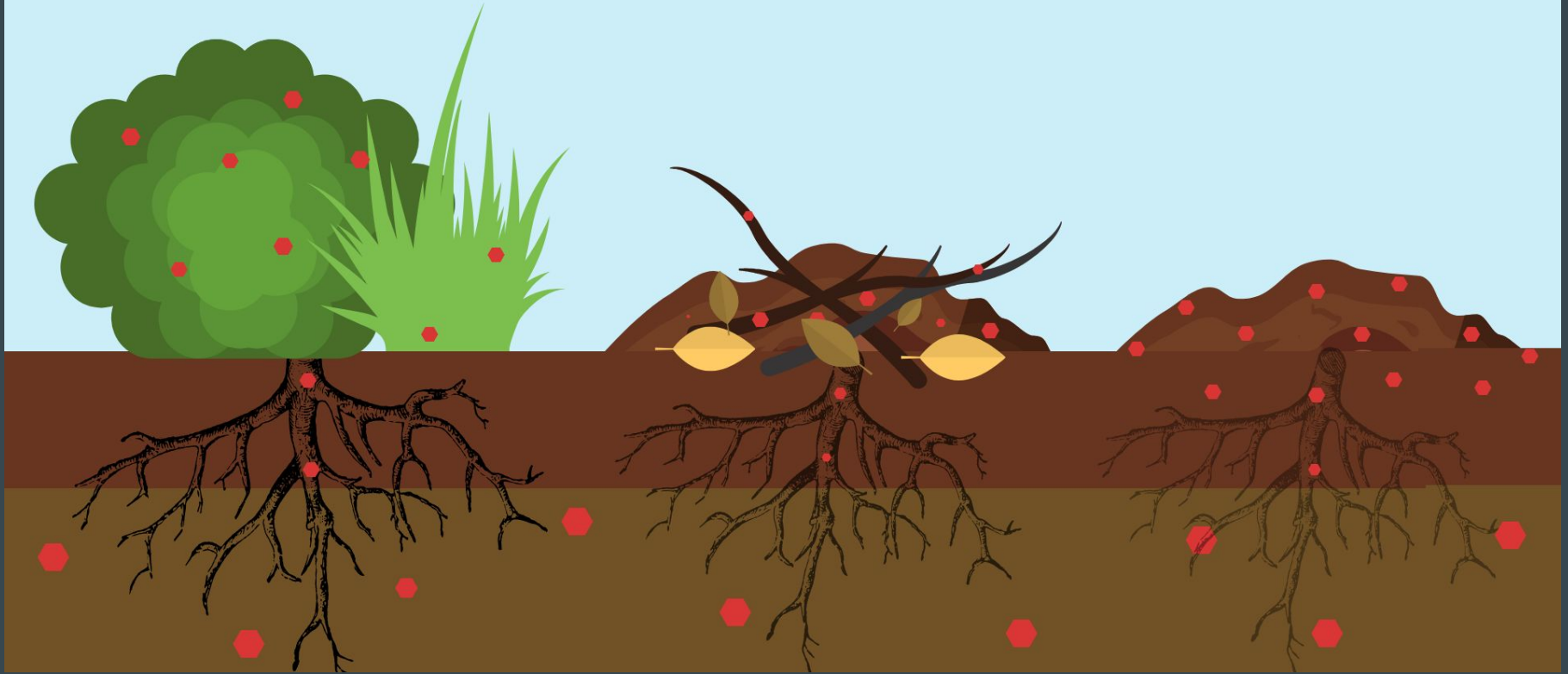
HPNS  
Development  
Plans have  
always included  
large areas of  
soil with  
vegetation, and  
that remains true  
to this day

**There are numerous mechanisms by which  
contaminants can be brought back to the  
surface**

## Uptake of Contaminants to Soil Surface Through Deep Rooted Plants



# **Shrubs, Bushes, and Other Landscaping Vegetation Can Draw Contaminants from Beneath the Soil Cover, and Decay of the Plant Matter Can Result in Contamination of Top Soil**



**There Are Numerous Other Mechanisms Which  
Render Soil Covers Useless**





Photograph 15. Large, collapsed burrow near revetment crest in central portion. Second burrow entry at lower left corner of photograph. Burrow scheduled for repair.

In the short time since soil covers have been installed at IR 07/18 (2011), instances of barrier breach by burrowing animals have already occurred

Photos taken on March 1st, 2013

**Growing fruits and vegetables  
is common in  
the Bayview/Hunters Point area.**



Corn and other  
produce grown at  
Quesada  
Community  
Gardens in  
Bayview/Hunters  
Point  
neighborhood

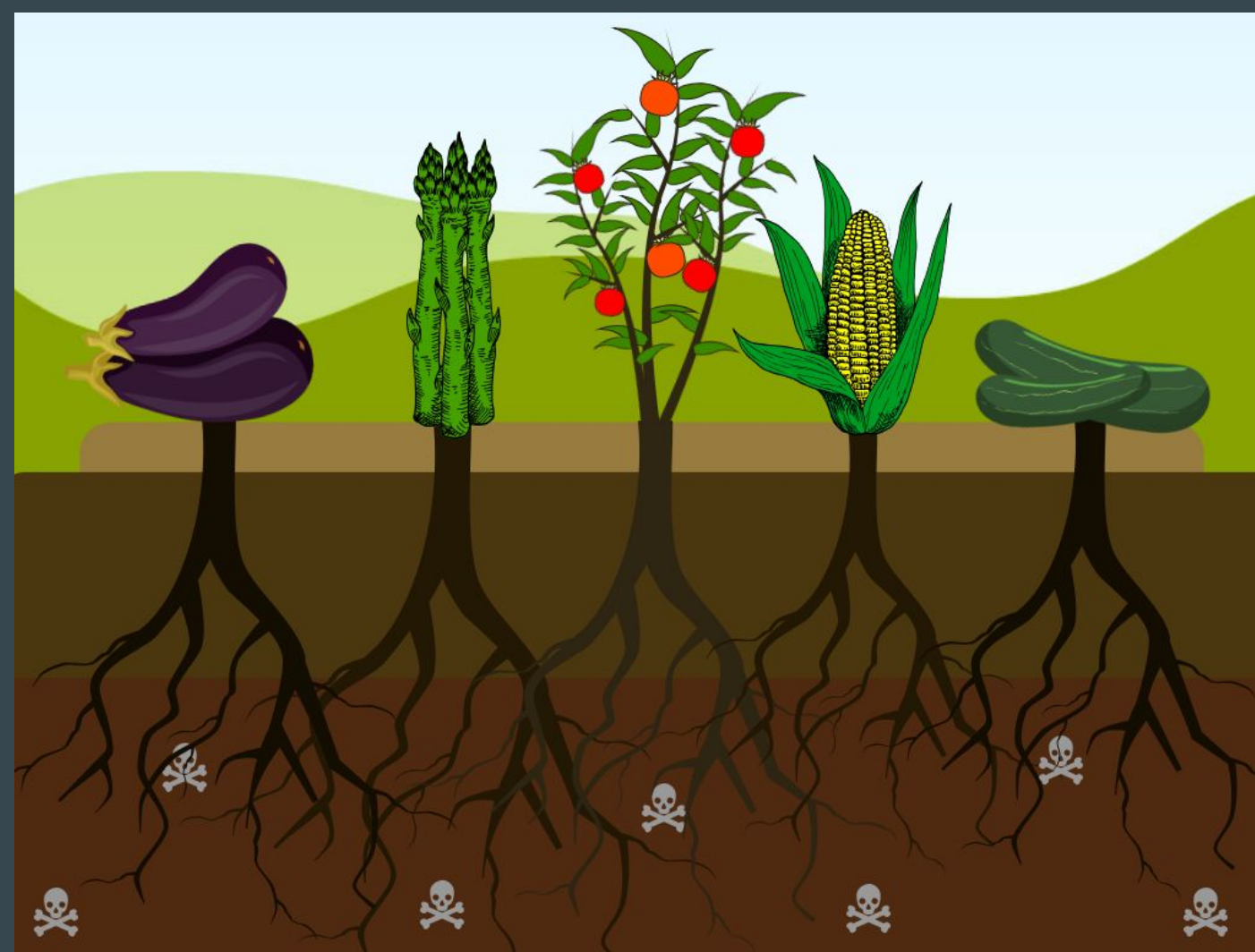




Children growing  
produce in the  
soil of a  
Bayview/Hunters  
Point street  
median

Source: Quesada Gardens

Roots of Vegetables  
Penetrate Depths  
Beyond 2 Feet, and  
Thus Can Absorb  
Contaminants



Raised bed

2 foot soil  
cover

contaminated  
soil

## EPA Tries to Get Around This by Claiming That All Gardens Will Be Raised Beds With Impermeable Bottoms

Completely unenforceable; nothing can grow under such circumstances; a regulatory fiction designed to allow vastly higher concentrations of contaminants than permitted for unrestricted residential use.

**Even With the Garden Pathway Turned Off in the PRG Calculator, the Cancer Risks from the Navy Soil Cleanup Levels Exceed the CERCLA Risk Goal by 350 Times and Also Exceed the Normal EPA Upper Limit of the Risk Range.**

# With the Garden Pathway Included, the Risk Associated with the Navy Remediation Goals is Far, Far Outside the Acceptable Risk Range

When the garden pathway is included, as it should be, the PRG-based risk is  $2 \times 10^{-3}$ , far, far above the upper end of acceptable risk levels.

When chemicals are included, as they must be, the risk is even further into the  $10^{-3}$  range, vastly exceeding acceptable risk.

## **Coverup, not Cleanup of Contamination**

Original cleanup promise: removal of contaminated soil

Contamination was found to be ubiquitous and cleanup costs higher than anticipated, so Navy modified cleanup plan to rely on covering contamination with 2 feet of “clean” soil or 4 inches of asphalt

Now, majority of contamination will be left in place on site, beneath a thin soil or asphalt cover

**Development of the site will require tearing up the thin soil or asphalt covers and the contaminated soil beneath in order to build residences, shops, utility infrastructure, etc.**







The years or decades of intense construction, involving tearing up the soil and asphalt covers and existing building foundations and digging deep into the contaminated soil beneath will produce potential for widespread dispersal of contamination and exposures to people.



**The planned redevelopment  
project would be the largest in San  
Francisco since the 1906  
earthquake**

**This presents a fundamental conceptual problem: HPNS cannot be developed into the urban commercial and residential center envisioned by the City without violating the ICs and destroying the covers put in place for the remedy.**

# Institutional Controls: A Fantasy

Institutional Controls (ICs) supposedly prohibit any:

- 1) excavation of soil
- 2) construction of roads, utilities, facilities, structures, and appurtenances of any kind
- 3) demolition or removal of 'hardscape' (for example, concrete roadways, parking lots, foundations, and sidewalks)
- 4) any activity that involves movement of soil to the surface from below the surface of the land.

However, these are precisely the activities necessary for the redevelopment project to go forward. The institutional controls are therefore fictions: the covers would have to be destroyed and the contaminated soil beneath them excavated, creating potential exposure to the public

In fact, the 2019 Risk Management Plan (RMP) sets out procedures for the developers that are designed to nullify the ICs.

It outlines **certain activities necessary for development that can take place without consulting the FFA signatories**, provided the procedures set forth in the RMP are followed. (RMP, p. 1-1) All other development activities are also allowed, but with FFA signatory approval.

Collectively, **the RMP overrides the IC barring land disturbing activities, destruction of covers, and excavation of the soil beneath them. According to the RMP, it is acceptable for developers to ignore the ICs and dig up the covers.** (RMP. pp. 1-1, 1-2, 2-1)

The RMP also states that when certain buildings are removed to make way for new ones, the soil beneath need only be screened for contamination if the soil is visibly “unnaturally” discolored and/or exhibits a “chemical” odor, a crude approach that would miss most of the contaminants known to exist at HPNS.  
(RMP, pp. 4-1 - 4-2)

The EPA commented that “Visual and olfactory indications, while useful, will not indicate the potential presence of all COCs, notably metals and polychlorinated biphenyls (PCBs). Field screening methods and precautions should be implemented based on the COCs that were detected around the building before any RAs [Remedial Actions] occurred.”



OCII's developer responded to EPA comments with the following:

“OCII and FivePoint assume that once a Parcel has transferred, all investigation and remediation necessary to be protective of human health and the environment... has been conducted to the satisfaction of the FFA Signatories”  
(RMP, Appendix J, p. 26)

In other words, the Navy is asserting it can avoid cleaning up much of the contamination, relying instead on covers and ICs barring land disturbing activities that it presumes will remain intact in perpetuity. The developer assumes, however, that the Navy has in general cleaned up the contamination before transfer so the developer can presume, with certain exceptions, the construction site doesn't need screening.

# Covering Up Rather Than Cleaning Up Contamination is Thus No Remedy

The Navy promised a full cleanup. When it discovered there was more contamination than it had presumed, it reversed course and chose to leave much of the radioactive and toxic chemical pollution in place and merely cover it with thin layers of soil or asphalt – covers that would need to be torn up to do the development proposed for the site.

# Conclusion

Proposition P and the subsequent BoS resolution made the official policy of the City and County that the shipyard be cleaned up to the most protective residential standard without land use restrictions or barriers.

But the Navy instead plans to leave much of the contamination behind, relying on covers and institutional controls. These measures will be ineffective and leave multiple pathways for contamination to be released to the surface.

# Supervisor Walton's Recent Pledge Insisting on a 100%, Complete Cleanup and No Transfer of Land Until That is Done is Essential to Public Health and Must Be Carried Out

The Navy, its regulators, and the agencies of the City & County of SF have acted in violation of Proposition P and are attempting to *leave most of the HPNS contamination not cleaned up, just covered up*. It is critical that Prop P and the Walton pledge be promptly and fully executed.