

WHEN RECORDED MAIL TO:

Kutak Rock LLP
100 Connecticut Ave., N.W.
Suite 100
Washington, D.C. 200036-4374
Attn: George R. Schlossberg

CERTIFIED COPY OF
ORIGINAL DOCUMENT
STEWART TITLE

DEC 28 2006

Time: 8:00 AM
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Computed on Full Value of Property conveyed
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encumbrances remaining at time of sale.

As declared by the Undersigned.

TITLE(S) OF DOCUMENT

**QUITCLAIM DEED FOR PARCELS E15.2, E20c.2.1, and L31
FORMER FORT ORD, MONTEREY, CALIFORNIA**

(Fort Ord Reuse Authority to the Redevelopment Agency of the City of Seaside)

1
2 WHEN RECORDED RETURN TO:
3
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11 **RECORDER STAMP**
12

13 **QUITCLAIM DEED FOR PARCEL E15.2, E20c.2.1, and L31**
14 **FORMER FORT ORD, MONTEREY, CALIFORNIA**

15 (Fort Ord Reuse Authority to the Redevelopment Agency of the City of Seaside)
16
17

18 THIS QUITCLAIM DEED ("Deed") is made as of the 5th day of December 2006, among
19 the **FORT ORD REUSE AUTHORITY** (the "Grantor"), created under Title 7.85 of the
20 California Government Code, Chapters 1 through 7, inclusive, commencing with Section 67650,
21 *et seq.*, and selected provisions of the California Redevelopment Law, including Division 24 of
22 the California Health and Safety Code, Part 1, Chapter 4.5, Article 1, commencing with Section
23 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et seq.*, and recognized as the
24 Local Redevelopment Authority for the former Fort Ord Army Base, California, by the Office of
25 Economic Adjustment on behalf of the Secretary of Defense, and the **REDEVELOPMENT**
26 **AGENCY OF THE CITY OF SEASIDE** (the "Grantee").
27

28 WHEREAS, The United States of America ("Government") was the owner of certain real
29 property, improvements and other rights appurtenant thereto together with all personal property
30 thereon, located on the former Fort Ord, Monterey County, California, which was utilized as a
31 military installation;
32

33 WHEREAS, The military installation at Fort Ord was closed pursuant to and in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (Public Law 101-510; 10 U.S.C. § 2687 note);
34
35

36 WHEREAS, section 2859 of the National Defense Authorization Act for Fiscal Year
37 1996, (Public Law 104-106), authorized the Government to sell portions of the former Fort Ord
38 to the Grantor as surplus property;
39
40

41 WHEREAS, the Grantor and the Government entered into the Memorandum of
42 Agreement Between the United States of America Acting By and Through the Secretary of the
43 Army, United States Department of the Army and the Fort Ord Reuse Authority For the Sale of
44 Portions of the former Fort Ord, California, dated the 20th day of June 2000, ("MOA") and MOA

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1 Amendment No. 1, dated the 23rd day of October 2001, which sets forth the specific terms and
2 conditions of the sale of portions of the former Fort Ord located in Monterey County, California;
3

4 WHEREAS, pursuant to the MOA, the Government conveyed the property known as
5 parcels E15.2, E20c.2.1, and L31 ("Seaside Parcels") on the former Fort Ord by quitclaim deed to
6 the **Grantor** on _____, 2006 ("Government Deed");
7

8 WHEREAS, the **Grantor** and the City of Seaside, on behalf of **Grantee**, have entered into
9 the Implementation Agreement dated May 31, 2001 and recorded in the Office of the Monterey
10 County Recorder as Document: 2001088381 ("Implementation Agreement"), which sets forth the
11 specific terms and conditions upon which the **Grantor** agrees to convey and the **Grantee** agrees to
12 accept title to the Seaside Parcels.
13

14 WITNESSETH 15

16 The **Grantor**, for and in consideration of the sum of one dollar (\$1.00) plus other good
17 and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,
18 releases and quitclaims to the **Grantee**, its successors and assigns forever, all such interest, right,
19 title, and claim as the **Grantor** has in and to Parcels E15.2 (28.74 acres), E20c.2.1 (25.4 acres),
20 and L31 (11.7 acres); totaling approximately 65.84 acres (the "Property"), more particularly
21 described in Exhibit "A", which is attached hereto and made a part hereof. The Property includes
22 the following:
23

24 A. All buildings, facilities, roadways, and other improvements, including the storm
25 drainage systems and the telephone system infrastructure, and any other improvements thereon,
26

27 B. All appurtenant easements and other rights appurtenant thereto, permits, licenses, and
28 privileges not otherwise excluded herein, and
29

30 C. All hereditaments and tenements therein and reversions, remainders, issues, profits,
31 privileges and other rights belonging or related thereto.
32

33 **Grantee** covenants for itself, its successors, and assigns and every successor in interest to
34 the Property, or any part thereof, that **Grantee** and such successors and assigns shall comply with
35 all provisions of the Implementation Agreement as if the **Grantee** were the referenced
36 Jurisdiction under the Implementation Agreement and specifically agrees to comply with the
37 Deed Restrictions and Covenants set forth in Exhibit F of the Implementation Agreement as if
38 such Deed Restrictions and Covenants were separately recorded prior to the recordation of this
39 Deed.
40

41 The Government Deed conveying the Property to the **Grantor** was recorded prior to the
42 recordation of this Deed. In its transfer of the Property to the **Grantor**, the Government provided

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1 certain information regarding the environmental condition of the Property. The Grantor has no
2 knowledge regarding the accuracy or adequacy of such information.

3
4 The italicized information below is copied verbatim (except as discussed below) from the
5 Government deed conveying the Property to the Grantor. The Grantee hereby acknowledges
6 and assumes all responsibilities with regard to the Property placed upon the **Grantor** under the
7 terms of the aforesaid Government deed to **Grantor** and **Grantor** grants to **Grantee** all benefits
8 with regard to the Property under the terms of the aforesaid Government deed. Within the
9 italicized information only, the term “**Grantor**” shall mean the Government, and the term
10 “**Grantee**” shall mean the Fort Ord Reuse Authority (“**FORA**”); to avoid confusion, the words
11 “the Government” have been added in parenthesis after the word “**Grantor**”, and “**FORA**” has
12 been added in parenthesis after the word “**Grantee**”.

II. EXCLUSIONS AND RESERVATIONS

14
15 *This conveyance is made subject to the following EXCLUSIONS and
16 RESERVATIONS:*

17
18 *A. The Property is taken by the Grantee (“**FORA**”) subject to any and all
19 valid and existing recorded outstanding liens, leases, easements, and any other
20 encumbrances made for the purpose of roads, streets, utility systems, rights-of-
21 way, pipelines, and/or covenants, exceptions, interests, liens, reservations, and
22 agreements of record, and any unrecorded leases, easements and any other
23 encumbrances made for the purpose of roads, streets, utility systems, rights-of-
24 way, pipelines, and/or covenants, exceptions, interests, reservations and
25 agreements of record between Grantor (“the Government”) and other
26 government entities.*

27
28 *B. Grantor (“the Government”) reserves a perpetual unassignable right to
29 enter the Property for the specific purpose of treating or removing any
30 unexploded shells, mines, bombs, or other such devices deposited or caused by the
31 Grantor (“the Government”).*

32
33 *C. The reserved rights and easements set forth in this section are subject
34 to the following terms and conditions:*

35
36 *(1) To comply with all applicable Federal law and lawful existing
37 regulations;*

38
39 *(2) To allow the occupancy and use by the Grantee (“**FORA**”), its
40 successors, assigns, permittees, or lessees of any part of the easement areas not
41 actually occupied or required for the purpose of the full and safe utilization
42 thereof by the Grantor (“the Government”), so long as such occupancy and use*

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1 *does not compromise the ability of the Grantor ("the Government") to use the*
2 *easements for their intended purposes, as set forth herein;*

3
4 (3) *That the easements granted shall be for the specific use*
5 *described and may not be construed to include the further right to authorize any*
6 *other use within the easements unless approved in writing by the fee holder of the*
7 *land subject to the easement;*

8
9 (4) *That any transfer of the easements by assignment, lease,*
10 *operating agreement, or otherwise must include language that the transferee*
11 *agrees to comply with and be bound by the terms and conditions of the original*
12 *grant;*

13
14 (5) *That, unless otherwise provided, no interest granted shall give*
15 *the Grantor ("the Government") any right to remove any material, earth, or stone*
16 *for consideration or other purpose except as necessary in exercising its rights*
17 *hereunder; and*

18
19 (6) *To restore any easement area so far as it is reasonably possible*
20 *to do so upon abandonment or release of any easement as provided herein, unless*
21 *this requirement is waived in writing by the then owner of the Property.*

22
23 D. Grantor ("the Government") reserves mineral rights that Grantor
24 ("the Government") owns with the right of surface entry in a manner that does
25 not unreasonably interfere with Grantee's ("FORA") development and quiet
26 enjoyment of the Property.

27
28 **TO HAVE AND TO HOLD** the Property unto the Grantee ("FORA") and
29 its successors and assigns forever, provided that this Deed is made and accepted
30 upon each of the following notices, covenants, restrictions, and conditions which
31 shall be binding upon and enforceable against the Grantee ("FORA"), its
32 successors and assigns, in perpetuity, as follows:

33
34 **III. CERCLA COVENANT**

35
36 Pursuant to Section 120(h)(4)(D)(i) of the Comprehensive Environmental
37 Response, Compensation, and Liability Act of 1980 (42 U.S.C. §
38 9620(h)(4)(D)(i)), the Grantor ("the Government") has identified the Property as
39 real property on which no hazardous substances and no petroleum products or
40 their derivatives were stored for one year or more, or known to have been
41 released or disposed of. Grantor ("the Government") warrants that any response
42 action or corrective action found to be necessary after the date of this Deed
43 attributable to Grantor ("the Government") activities on the Property and/or

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1 hazardous substances or petroleum products contamination existing on the
2 Property prior to the date of this Deed shall be conducted by Grantor ("the
3 Government") using all reasonable means to the extent practicable to avoid
4 and/or minimize interference with the use of the Property. Grantee ("FORA"), its
5 successors and assigns, as consideration for the conveyance of the Property, to
6 the extent authorized by law, agree to release Grantor ("the Government") from
7 any liability or responsibility arising solely out of the release of any hazardous
8 substance or petroleum product on the Property occurring after the date of the
9 delivery and acceptance of this Deed and not attributable to the activities of
10 Grantor ("the Government"), where such substance or product was placed on the
11 Property by the Grantee ("FORA"), or its successors, assigns, employees,
12 invitees, agents or contractors, after the conveyance. This paragraph shall not
13 affect the Grantor's ("the Government") responsibilities to conduct response
14 actions or corrective actions required by applicable laws, rules and regulations,
15 or the Grantor's ("the Government") indemnification obligations under
16 applicable laws.

IV. RIGHT OF ACCESS

20 A. The Grantor ("the Government"), EPA, and DTSC, and their officers,
21 agents, employees, contractors, and subcontractors will have the right, upon
22 reasonable notice to the Grantee ("FORA"), and at no cost to the Grantor ("the
23 Government"), to enter upon the Property in any case in which a response or
24 corrective action is found to be necessary, after the date of transfer of the
25 Property, or such access is necessary to carry out a response action or corrective
26 action on adjoining property, including, without limitation, the following
27 activities:

29 (1) To conduct investigations and surveys, including where
30 necessary, drilling, soil and water sampling, test-pitting, and other activities
31 related to the Fort Ord Installation Restoration Program ("IRP"), Military
32 Munitions Response Program ("MMRP"), or FFA;

34 (2) To inspect field activities of the Army and its contractors and
35 subcontractors with regards to implementing the Fort Ord IRP, MMRP, or FFA;

37 (3) To conduct any test or survey related to the implementation of
38 the IRP by the EPA or the DTSC relating to the implementation of the FFA or
39 environmental conditions at Fort Ord or to verify any data submitted to the EPA
40 or the DTSC by the Government relating to such conditions;

42 (4) To construct, operate, maintain or undertake any other
43 investigation, corrective measure, response, or remedial action as required or

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1 *necessary under any Fort Ord FFA, Record of Decision ("ROD"), IRP or MMRP*
2 *requirement, including, but not limited to monitoring wells, pumping wells, and*
3 *treatment facilities.*

4
5 *Such right of access shall be binding on the Grantee ("FORA"), its*
6 *successors and assigns, and shall run with the land.*

7
8 B. In exercising this access easement, except in case of imminent
9 endangerment to human health or the environment, the Grantor ("the
10 Government") shall give the Grantee ("FORA"), or the then record owner,
11 reasonable prior notice. Grantee ("FORA") agrees that, notwithstanding any
12 other provisions of this Deed, the Grantor ("the Government") assumes no
13 liability to the Grantee ("FORA"), its successors or assigns, or any other person,
14 should remediation of the Property interfere with the use of the Property. The
15 Grantee ("FORA") shall not, through construction or operation/maintenance
16 activities, interfere with any remediation or response action conducted by the
17 Grantor ("the Government") under this paragraph. The Grantee ("FORA"), the
18 then record owner, and any other person shall have no claim against the Grantor
19 ("the Government") or any of its officers, agents, employees or contractors solely
20 on account of any such interference resulting from such remediation.
21

22
23 C. Without the express written consent of the Grantor ("the
24 Government") in each case first obtained, neither the Grantee ("FORA"), its
25 successors or assigns, nor any other person or entity acting for or on behalf of the
26 Grantee ("FORA"), its successors or assigns, shall interfere with any response
27 action being taken on the Property by or on behalf of the Grantor ("the
28 Government"), or interrupt, relocate, or otherwise interfere with any remediation
29 system now or in the future located, over, through, or across any portion of the
30 Property.
31

V. "AS IS, WHERE IS"

32
33 The Property is conveyed in an "As Is, Where Is" condition without any
34 representation, warranty or guarantee, except as otherwise stated herein, by the
35 Grantor ("the Government") as to quantity, quality, title, character, condition,
36 size, or kind, or that the same is in condition or fit to be used for the purpose for
37 which intended, and no claim for allowance or deduction upon such grounds will
38 be considered. There is no obligation on the part of the Grantor ("the
39 Government") to make any alterations, repairs, or additions, and said Grantor
40 ("the Government") shall not be liable for any latent or patent defects in the
41 Property. This section shall not affect the Grantor's ("the Government")
42 responsibility under **CERCLA COVENANT, ENVIRONMENTAL**
43 **PROTECTION PROVISIONS, or any other statutory obligations as applicable.**

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1
2 **VI. ENVIRONMENTAL PROTECTION PROVISIONS**
3

4 *The Grantee ("FORA") shall neither transfer the Property, lease the*
5 *Property, nor grant any interest, privilege, or license whatsoever in connection*
6 *with the Property without the inclusion of the Environmental Protection*
7 *Provisions in this Section VI ("Environmental Protection Provisions"), and shall*
8 *require the inclusion of the Environmental Protection Provisions in all further*
9 *deeds, easements, transfers, leases, or grant of any interest, privilege, or license.*

10
11 **A. FEDERAL FACILITIES AGREEMENT ("FFA")**
12

13 *The Grantor ("the Government") acknowledges that former Fort Ord has been*
14 *identified as a National Priority List ("NPL") Site under CERCLA. The Grantee*
15 *("FORA") acknowledges that the Grantor ("the Government") has provided it*
16 *with a copy of the FFA entered into by the EPA Region IX, the State of California,*
17 *and the United States Department of the Army, effective on February 1990, and*
18 *will provide the Grantee ("FORA") with a copy of any amendments thereto. The*
19 *Grantee ("FORA") agrees that should any conflict arise between the terms of the*
20 *FFA as they presently exist or may be amended, and the provisions of this*
21 *Property transfer, the terms of the FFA will take precedence. The Grantee*
22 *("FORA") further agrees that notwithstanding any other provisions of the*
23 *Property transfer, the Grantor ("the Government") assumes no liability to the*
24 *Grantee ("FORA"), should implementation of the FFA interfere with their use of*
25 *the Property. Grantor ("the Government") shall give Grantee ("FORA")*
26 *reasonable notice of its action required by the FFA and use all reasonable means*
27 *to the extent practicable to avoid and/or minimize interference with Grantee*
28 *("FORA")'s, its successors or assigns' use of the Property. The Grantee*
29 *("FORA"), or any subsequent transferee, shall have no claim on account of any*
30 *such interference against the Grantor ("the Government") or any officer, agent,*
31 *employee or contractor thereof. Grantor ("the Government") agrees to use its*
32 *best efforts to the extent practicable to avoid and/or minimize interference with*
33 *Grantee's ("FORA"), its successors or assigns' use of the Property, and to*
34 *provide Grantee ("FORA") with a copy of any amendments to the FFA.*

35
36 **B. NO LIABILITY FOR NON-ARMY CONTAMINATION**
37

38 *The Army shall not incur liability for additional response action or*
39 *corrective action found to be necessary after the date of transfer in any case in*
40 *which the person or entity to whom the Property is transferred, or other non-*
41 *Army entities, is identified as the party responsible for contamination of the*
42 *property.*

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1 C. NOTICE OF THE PRESENCE OF CONTAMINATED
2 GROUNDWATER

3 *Applicable to Parcels E15.2 and E20c.2.1*

4 (1) *The Property is within the "Consultation Zone" of the "Special*
5 *Groundwater Protection Zone." The Consultation Zone includes areas*
6 *surrounding the "Prohibition Zone" where groundwater extraction may impact*
7 *or be impacted by the four identified groundwater contamination plumes at the*
8 *former Fort Ord. The Consultation Zone is also identified on the "Former Fort*
9 *Ord Special Groundwater Protection Zone Map," which is on file with the County*
10 *of Monterey (the County). County Ordinance No. 04011 requires consultation*
11 *with the Grantor ("the Government"), the US EPA, the DTSC, the RWQCB and*
12 *the County for proposed water well construction within the Consultation Zone.*

13 (2) *The Grantee ("FORA") covenants for itself, its successors, and*
14 *assigns not to access or use groundwater underlying the Property for any purpose*
15 *without the prior written approval of the Grantor ("the Government"), the US*
16 *EPA, the DTSC, the RWQCB and the County. For the purpose of this restriction,*
17 *"groundwater" shall have the same meaning as in section 101(12) of the*
18 *Comprehensive Environmental Response, Compensation and Liability Act*
19 *(CERCLA).*

20 (3) *The Grantee ("FORA") covenants for itself, its successors, and*
21 *assigns that neither the Grantee ("FORA"), its successors or assigns, nor any*
22 *other person or entity acting for or on behalf of the Grantee ("FORA"), its*
23 *successors or assigns, shall interfere with any response action being taken on the*
24 *Property by or on behalf of the Grantor ("the Government"), or interrupt,*
25 *relocate, or otherwise interfere or tamper with any remediation system or*
26 *monitoring wells now or in the future located on, over, through, or across any*
27 *portion of the Property without the expressed written consent of the Grantor ("the*
28 *Government") in each case first obtained.*

29 (4) *The Grantee ("FORA") covenants for itself, its successors, or*
30 *assigns, that it will not undertake nor allow any activity on or use of the Property*
31 *that would violate the restrictions contained herein. These restrictions and*
32 *covenants are binding on the Grantee ("FORA"), its successors and assigns;*
33 *shall run with the land; and are forever enforceable*

34 E. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF
35 MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

36 *Applicable to Parcels E15.2, E20c.2.1, and L31*

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1 (1) The Grantee ("FORA") is hereby notified that due to the
2 former use of the Property as a military installation, the Property may contain
3 munitions and explosives of concern (MEC). The term MEC means specific
4 categories of military munitions that may pose unique explosives safety risks and
5 includes: (1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. § 101(e)(5);
6 (2) Discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or
7 (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. § 2710(e)(3),
8 present in high enough concentrations to pose an explosive hazard. For the
9 purposes of the basewide Military Munitions Response Program (MMRP) being
10 conducted for the former Fort Ord and these Environmental Protection
11 Provisions, MEC does not include small arms ammunition .50 caliber and below.

12 (2) Portions of the Property were previously used for military
13 training involving military munitions, or for disposal of munitions items. A
14 review of existing records and available information indicates there are munitions
15 response sites (MRS's) associated with the Property. Military training on the
16 Property involved only the use of practice and pyrotechnic items that are not
17 designed to cause injury, or military munitions items that do not pose an explosive
18 hazard. Military munitions items were found within materials excavated from a
19 landfill disposal area formerly on the Property; however, this is attributed to
20 disposal activities at the landfill and not training. All landfill disposal areas
21 within the Property have been fully excavated, the landfilled material removed,
22 and the excavated areas backfilled or regraded. The ten MRS's were evaluated
23 and documented in the Final Track 1 Ordnance and Explosives Remedial
24 Investigation/Feasibility Study, former Fort Ord, California (Track 1 OE RI/FS)
25 (June 2004) the Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area
26 (May 6, 2005) and, in accordance with the Record of Decision, No Further Action
27 Related to Munitions and Explosives of Concern – Track 1 Sites; No Further
28 Remedial Action with Monitoring for Ecological Risks from Chemical
29 Contamination at Site 3 (MRS-22) (Track 1 ROD) (March 2005), no further
30 action related to MEC is required at these MRS's.

31 (3) The Grantor ("the Government") represents that, to the
32 best of its knowledge, no MEC is currently present on the Property.
33 Notwithstanding the Grantor's ("the Government") determination, the parties
34 acknowledge that there is a possibility that MEC may exist on the Property. If the
35 Grantee ("FORA"), any subsequent owner, or any other person should find any
36 MEC on the Property, they shall immediately stop any intrusive or ground-
37 disturbing work in the area or in any adjacent areas and shall not attempt to
38 disturb, remove or destroy it, but shall immediately notify the local law
39 enforcement agency having jurisdiction on the Property so that appropriate U.S.
40 Military explosive ordnance disposal personnel can be dispatched to address such
41
42
43

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1 MEC as required under applicable law and regulations and at no expense to the
2 Grantee ("FORA"). The Grantee ("FORA") hereby acknowledges receipt of the
3 "Ordnance and Explosives Safety Alert" pamphlet.
4

5 (4) Because the Grantor ("the Government") cannot guarantee
6 that all MEC has been removed, the Grantor ("the Government") recommends
7 reasonable and prudent precautions be taken when conducting intrusive
8 operations on the Property and will, at its expense, provide construction worker
9 ordnance recognition and safety training. The FOST lists certain MRS's
10 associated with the property covered under the FOST (MRS-1, MRS-6, (and MRS-
11 6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS-59A, MRS-62,
12 and MRS-66). For those MRS's that overlap the Property the Army recommends
13 construction personnel involved in intrusive operations at these sites attend the
14 Grantor's ("the Government") ordnance recognition and safety training. To
15 accomplish that objective, the Grantor ("the Government") requests notice from
16 the Grantee ("FORA") of planned intrusive activities, and in turn will provide
17 ordnance recognition and safety training to construction personnel prior to the
18 start of intrusive work. The Grantor ("the Government") will provide ordnance
19 recognition and safety refresher training as appropriate. For the Track 1 sites
20 where ordnance recognition and safety training is recommended (MRS-1, MRS-6
21 (and MRS-6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS- 59A,
22 MRS-62, and MRS-66), at the time of the next five-year review (2007), the
23 Grantor ("the Government") will assess whether the education program should
24 continue. If information indicates that no MEC items have been found in the
25 course of development or redevelopment of the site, it is expected that the
26 education program may, with the concurrence of the regulatory agencies, be
27 discontinued, subject to reinstatement if a MEC item is encountered in the future.

28 (5) Easement and Access Rights.
29

30 a) The Grantor ("the Government") reserves a perpetual
31 and assignable right of access on, over, and through the Property, to access and
32 enter upon the Property in any case in which a munitions response action is found
33 to be necessary, or such access and entrance is necessary to carry out a munitions
34 response action on adjoining property as a result of the ongoing Munitions
35 Response Remedial Investigation/Feasibility Study. Such easement and right of
36 access includes, without limitation, the right to perform any additional
37 investigation, sampling, testing, test-pitting, surface and subsurface clearance
38 operations, or any other munitions response action necessary for the United
39 States to meet its responsibilities under applicable laws and as provided for in
40 this Deed. This right of access shall be binding on the Grantee ("FORA"), its
41 successors and assigns, and shall run with the land.
42

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1 b) In exercising this easement and right of access, the
2 Grantor ("the Government") shall give the Grantee ("FORA") or the then record
3 owner, reasonable notice of the intent to enter on the Property, except in
4 emergency situations. Grantor ("the Government") shall use reasonable means,
5 without significant additional cost to the Grantor ("the Government"), to avoid
6 and/or minimize interference with the Grantee's ("FORA") and the Grantee's
7 ("FORA") successors' and assigns' quiet enjoyment of the Property; however,
8 the use and/or occupancy of the Property may be limited or restricted, as
9 necessary, under the following scenarios: (a) to provide the required minimum
10 separation distance employed during intrusive munitions response actions that
11 may occur on or adjacent to the Property; and (b) if Army implemented
12 prescribed burns are necessary for the purpose of a munitions response action
13 removal) in adjacent areas. Such easement and right of access includes the right
14 to obtain and use utility services, including water, gas, electricity, sewer, and
15 communications services available on the property at a reasonable charge to the
16 United States. Excluding the reasonable charges for such utility services, no fee,
17 charge, or compensation will be due the Grantee ("FORA") or its successors and
18 assigns, for the exercise of the easement and right of access hereby retained and
19 reserved by the United States.

20
21 c) In exercising this easement and right of access, neither
22 the Grantee ("FORA") nor its successors and assigns, as the case maybe, shall
23 have any claim at law or equity against the United States or any officer,
24 employee, agent, contractor of any tier, or servant of the United States based on
25 actions taken by the United States or its officers, employees, agents, contractors
26 of any tier, or servants pursuant to and in accordance with this Paragraph. In
27 addition, the Grantee ("FORA"), its successors and assigns, shall not interfere
28 with any munitions response action conducted by the Grantor ("the
29 Government") on the Property.

30
31 (6) The Grantee ("FORA") acknowledges receipt of the Final
32 Track 1 Ordnance and Explosives Remedial Investigation/Feasibility Study
33 (Track 1 OE RI/FS) (June 2004) and the Record of Decision, No Further Action
34 Related to Munitions and Explosives of Concern – Track 1 Sites; No Further
35 Remedial Action with Monitoring for Ecological Risks from Chemical
36 Contamination at Site 3 (MRS-22) (Track 1 ROD) (March 2005).

37
38 F. **NOTICE OF RARE, THREATENED AND ENDANGERED**
39 **SPECIES MANAGEMENT**

40
41 Applicable to Parcels E20c.2.1, and L31

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 (1) *The Property contains habitat occupied and/or potentially*
2 *occupied by several sensitive wildlife and plant species, some of which are listed*
3 *or proposed for listing as threatened or endangered under the Endangered*
4 *Species Act (ESA). Applicable laws and regulations restrict activities that involve*
5 *the potential loss of populations and habitats of listed species. To fulfill*
6 *Grantor's ("the Government") commitment in the Fort Ord Disposal and Reuse*
7 *Environmental Impact Statement Record of Decision, made in accordance with*
8 *the National Environmental Policy Act of 1969, 42 U.S.C 4321 et seq., this deed*
9 *requires the conservation in perpetuity of these sensitive wildlife and plant*
10 *species and their habitats consistent with the U.S. Fish and Wildlife Service*
11 *Biological Opinions for disposal of the former Fort Ord lands issued pursuant to*
12 *Section 7 of the ESA on March 30, 1999, October 22, 2002, and March 14, 2005*
13 *respectively. By requiring Grantee ("FORA"), and its successors and assigns to*
14 *comply with the Installation-Wide Multispecies Habitat Management Plan*
15 *(HMP), Grantor ("the Government") intends to fulfill its responsibilities under*
16 *Section 7 of the ESA and to minimize future conflicts between species protection*
17 *and economic development of portions of the Property.*

18
19 (2) *Grantee ("FORA") acknowledges that it has received a*
20 *copy of the HMP dated April 1997. The HMP, which is incorporated herein by*
21 *reference, provides a basewide framework for disposal of lands within former*
22 *Fort Ord wherein development and potential loss of species and/or habitat is*
23 *anticipated to occur in certain areas of the former Fort Ord (the HMP*
24 *Development Areas) while permanent species and habitat conservation is*
25 *guaranteed within other areas of the former Fort Ord (i.e., the HMP Reserve and*
26 *Corridor parcels). Disposal of former Fort Ord lands in accordance with and*
27 *subject to the restrictions of the HMP is intended to satisfy the Army's*
28 *responsibilities under Section 7 of the ESA.*

29
30 (3) *The following parcels of land within the Property hereby*
31 *conveyed or otherwise transferred to Grantee ("FORA") are subject to the*
32 *specific use restrictions and/or conservation, management, monitoring, and*
33 *reporting requirements identified for the parcel in the HMP:*

34
35 a) *Habitat Reserve Parcels numbered: n/a*

36
37 b) *Habitat reserves within the Development with Reserve*
38 *Areas or Development with Restrictions Parcels numbered: n/a*

39
40 (4) *Any boundary modifications to the Development with Reserve*
41 *Areas or Development with Restrictions parcels or the Borderland Development*
42 *Areas Along NRMA Interface must be approved in writing by the U. S. Fish and*

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 Wildlife Service (USFWS) and must maintain the viability of the HMP for
2 permanent species and habitat conservation.

3
4 (5) The HMP describes existing habitat and the likely presence
5 of sensitive wildlife and plant species that are treated as target species in the
6 HMP. Some of the target species are currently listed or proposed for listing as
7 threatened or endangered under the ESA. The HMP establishes general
8 conservation and management requirements applicable to the property to
9 conserve the HMP species. These requirements are intended to meet mitigation
10 obligations applicable to the property resulting from the Army disposal and
11 development reuse actions. Under the HMP, all target species are treated as if
12 listed under the ESA and are subject to avoidance, protection, conservation, and
13 restoration requirements. Grantee ("FORA") shall be responsible for
14 implementing and funding each of the following requirements set forth in the
15 HMP as applicable to the property:

16
17 a) Grantee ("FORA") shall implement all avoidance,
18 protection, conservation and restoration requirements identified in the HMP as
19 applicable to the Property and shall cooperate with adjacent property owners in
20 implementing mitigation requirements identified in the HMP for adjacent
21 sensitive habitat areas.

22
23 b) Grantee ("FORA") shall protect and conserve the HMP
24 target species and their habitats within the Property, and, other than those
25 actions required to fulfill a habitat restoration requirement applicable to the
26 Property, shall not remove any vegetation, cut any trees, disturb any soil, or
27 undertake any other actions that would impair the conservation of the species or
28 their habitats. Grantee ("FORA") shall accomplish the Resource Conservation
29 Requirements and Management Requirements identified in Chapter 4 of the HMP
30 as applicable to any portion of the Property.

31
32 c) Grantee ("FORA") shall manage, through an agency or
33 entity approved by USFWS, each HMP parcel, or portion thereof, within the
34 Property that is required in the HMP to be managed for the conservation of the
35 HMP species and their habitats, in accordance with the provisions of the HMP.

36
37 d) Grantee ("FORA") shall either directly, or indirectly
38 through its USFWS approved habitat manager, implement the management
39 guidelines applicable to the parcel through the development of a site-specific
40 management plan. The site-specific habitat management plan must be developed
41 and submitted to USFWS (and, for non-Federal recipients, California Department
42 of Fish and Game (CDFG) as well) for approval. Upon approval by USFWS
43 (and, as appropriate, CDFG) the recipient shall implement the plan. Such plans

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 may thereafter be modified through the Coordinated Resource Management and
2 Planning (CRMP) process or with the concurrence of USFWS (and, as
3 appropriate, CDFG) as new information or changed conditions indicate the need
4 for adaptive management changes.

5
6 e) Grantee ("FORA") shall restrict access to the Property
7 in accordance with the HMP, but shall allow access to the Property, upon
8 reasonable notice of not less than 48 hours, by USFWS, and its designated agents,
9 for the purpose of monitoring Grantee's ("FORA") compliance with, and for such
10 other purposes as are identified in the HMP.

11
12 f) Grantee ("FORA") shall comply with all monitoring and
13 reporting requirements set forth in the HMP that are applicable to the Property,
14 and shall provide an annual monitoring report, as provided for in the HMP, to the
15 Bureau of Land Management (BLM) on or before November 1 of each year, or
16 such other date as may be hereafter agreed to by USFWS and BLM.

17
18 g) Grantee ("FORA") covenants for itself, its successors
19 and assigns, that it shall include and otherwise make legally binding the
20 provisions of the HMP in any deed, lease, right of entry, or other legal instrument
21 by which Grantee ("FORA") divests itself of any interest in all or a portion of the
22 Property. The covenants, conditions, restrictions and requirements of this deed
23 and the provisions of the HMP shall run with the land. The covenants,
24 conditions, restrictions, and requirements of this deed and the HMP benefit the
25 lands retained by the Grantor ("the Government") that formerly comprised Fort
26 Ord, as well as the public generally. Management responsibility for the Property
27 may only be transferred as a condition of the transfer of the Property, with the
28 consent of the USFWS. USFWS may require the establishment of a perpetual
29 trust fund to pay for the management of the Property as a condition of transfer of
30 management responsibility from Grantee ("FORA").

31
32 h) This conveyance is made subject to the following
33 ENFORCEMENT PROVISIONS:

34
35 i) If Grantor ("the Government") (or its assigns),
36 acting through the USFWS or a successor designated agency, determines that
37 Grantee ("FORA") is violating or threatens to violate the provisions of
38 subparagraph h of this deed or the provisions of the HMP, Grantor ("the
39 Government") shall provide written notice to Grantee ("FORA") of such
40 violation and demand corrective action sufficient to cure the violation, and where
41 the violation involves injury to the Property resulting from any use or activity
42 inconsistent with the provisions of subparagraph h of this deed or the provisions
43 of the HMP, to restore the portion of the Property so injured. If Grantee

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 ("FORA") fails to cure a violation within sixty (60) days after receipt of notice
2 thereof from Grantor ("the Government"), or under circumstances where the
3 violation cannot reasonably be cured within a sixty (60) day period, or fails to
4 continue to diligently cure such violation until finally cured, Grantor ("the
5 Government") may bring an action at law or in equity in a court of competent
6 jurisdiction to enforce the covenants, conditions, and restrictions of this deed and
7 the provisions of the HMP, to enjoin the violation, by temporary or permanent
8 injunction, to recover any damages to which it may be entitled for violation of the
9 covenants, conditions, and restrictions of this deed or the provisions of the HMP,
10 or injury to any conservation value protected by this deed or the HMP, and to
11 require the restoration of the Property to the condition that existed prior to such
12 injury. If Grantor ("the Government"), in its good faith and reasonable
13 discretion, determines that circumstances require immediate action to prevent or
14 mitigate significant damage to the species and habitat conservation values of the
15 Property, Grantor ("the Government") may pursue its remedies under this
16 paragraph without prior notice to Grantee ("FORA") or without waiting for the
17 period provided for the cure to expire. Grantor's ("the Government") rights
18 under this paragraph apply equally in the event of either actual or threatened
19 violations of covenants, conditions, reservations and restrictions of this deed or
20 the provisions of the HMP, and Grantee ("FORA") acknowledges that Grantor's
21 ("the Government") remedies at law for any of said violations are inadequate
22 and Grantor ("the Government") shall be entitled to the injunctive relief
23 described in this paragraph, both prohibitive and mandatory, in addition to such
24 other relief to which Grantor ("the Government") may be entitled, including
25 specific performance of the covenants, conditions, reservations and restrictions of
26 this deed and the provisions of the HMP.

27
28 ii) Enforcement of the covenants, conditions, and
29 restrictions in this deed and the provisions of the HMP shall be at the discretion
30 of Grantor ("the Government"), and any forbearance by Grantor ("the
31 Government") to exercise its rights under this deed and the HMP in the event of
32 any such breach or violation of any provision of this deed or the HMP by Grantee
33 ("FORA") shall not be deemed or construed to be a waiver by Grantor ("the
34 Government") of such provision or of any subsequent breach or violation of the
35 same or any other provision of this deed or the HMP or of any of Grantor's ("the
36 Government") rights under this deed or the HMP. No delay or omission by
37 Grantor ("the Government") in the exercise of any right or remedy upon any
38 breach or violation by Grantee ("FORA") shall impair such right or remedy or
39 be construed as a waiver.

40
41 iii) In addition to satisfying Army's responsibilities
42 under Section 7 of the ESA, Grantee's ("FORA") compliance with the covenants,
43 conditions, and restrictions contained in this deed and with the provisions of the

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 *HMP are intended to satisfy mitigation obligations included in any future*
2 *incidental take permit issued by USFWS pursuant to Section 10(a)(1)(B) of the*
3 *Endangered Species Act which authorizes the incidental take of a target HMP*
4 *species on the Property. Grantee ("FORA") acknowledges that neither this deed*
5 *nor the HMP authorizes the incidental take of any species listed under the ESA.*
6 *Authorization to incidentally take any target HMP wildlife species must be*
7 *obtained by Grantee ("FORA") separately, or through participation in a broader*
8 *habitat conservation plan and Section 10(a)(1)(B) permit based on the HMP and*
9 *approved by USFWS.*

VII. AIR NAVIGATION RESERVATION AND RESTRICTIONS

12 *The Monterey Airport and the former Fritzsche Airfield, now known as the*
13 *Marina Municipal Airport, are in close proximity to the Property. Accordingly,*
14 *in coordination with the Federal Aviation Administration, the Grantee ("FORA")*
15 *covenants and agrees, on behalf of it, its successors and assigns and every*
16 *successor in interest to the Property herein described, or any part thereof, that,*
17 *when applicable, there will be no construction or alteration unless a*
18 *determination of no hazard to air navigation is issued by the Federal Aviation*
19 *Administration in accordance with Title 14, Code of Federal Regulations, Part*
20 *77, entitled, Objects Affecting Navigable Airspace, or under the authority of the*
21 *Federal Aviation Act of 1968, as amended.*

VIII. ENFORCEMENT AND NOTICE REQUIREMENT

24 *A. The provisions of this Deed benefit the governments of the United*
25 *States of America, the State of California, acting on behalf of the public in*
26 *general, and the lands retained by the Grantor ("the Government") and,*
27 *therefore, are enforceable, by the United States, the State of California, and by*
28 *the Grantee ("FORA"), and its successors and assigns. Enforcement of this Deed*
29 *shall be at the discretion of the parties entitled to enforcement hereof, and any*
30 *forbearance, delay or omission to exercise their rights under this Deed in the*
31 *event of a breach of any term of this Deed, shall not be deemed to be a waiver by*
32 *any such party of such term or of any subsequent breach of the same or any other*
33 *terms, or of any of the rights of said parties under this Deed. All remedies*
34 *available hereunder shall be in addition to any and all other remedies at law or in*
35 *equity, including CERCLA. The enforcement rights set forth in this Deed against*
36 *the Grantee ("FORA"), or its successors and assigns, shall only apply with*
37 *respect to the Property conveyed herein and held by such Grantee ("FORA"), its*
38 *successors or assigns, and only with respect to matters occurring during the*
39 *period of time such Grantee ("FORA"), its successors or assigns, owned or*
40 *occupied such Property or any portion thereof.*

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 *B. The obligations imposed in this section upon the successors or assigns*
2 *of Grantee ("FORA") shall only extend to the Property conveyed to any such*
3 *successor or assign.*

IX. OTHER CONDITIONS

7 *Should the Property be considered for the proposed acquisition and*
8 *construction of school properties utilizing State funding, at any time in the future,*
9 *a separate environmental review process in compliance with the California*
10 *Education Code Section 17210 et seq., will need to be conducted and approved by*
11 *DTSC.*

X. NOTICE OF NON-DISCRIMINATION

15 *With respect to activities related to the Property, the Grantee ("FORA")*
16 *covenants for itself, its successors and assigns, that the Grantee ("FORA"), and*
17 *such successors and assigns, shall not discriminate upon the basis of race, color,*
18 *religion, sex, age, handicap, or national origin in the use, occupancy, sale or*
19 *lease of the Property, or in their employment practices conducted thereon in*
20 *violation of the provisions of Title VI of the Civil Rights Act of 1964, as amended*
21 *(42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); and*
22 *the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794). The Grantor ("the*
23 *Government") shall be deemed a beneficiary of this covenant without regard to*
24 *whether it remains the owner of any land or interest therein in the vicinity of the*
25 *Property hereby conveyed, and shall have the sole right to enforce this covenant*
26 *in any court of competent jurisdiction.*

28 The responsibilities and obligations placed upon, and the benefits provided to, the
29 Grantor by the Government shall run with the land and be binding on and inure to the benefit of
30 all subsequent owners of the Property unless or until such responsibilities, obligations, or
31 benefits are released pursuant to the provisions set forth in the MOA and the Government deed.
32 Grantee and its successors and assigns, respectively, shall not be liable for any breach of such
33 responsibilities and obligations with regard to the Property arising from any matters or events
34 occurring after transfer of ownership of the Property by Grantee or its successors and assigns,
35 respectively; provided, however, that each such party shall, notwithstanding such transfer, remain
36 liable for any breach of such responsibilities and obligations to the extent caused by the fault or
37 negligence of such party.

39 General Provisions:

41 A. Liberal Construction. Any general rule of construction to the contrary
42 notwithstanding, this Deed shall be liberally construed to effectuate the purpose of this Deed and
43 the policy and purpose of CERCLA. If any provision of this Deed is found to be ambiguous, an

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

interpretation consistent with the purpose of this Deed that would render the provision valid shall be favored over any interpretation that would render it invalid.

B. Severability. If any provision of this Deed, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

C. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of title in any respect.

D. Captions. The captions in this Deed have been inserted solely for convenience of reference and are not a part of this Deed and shall have no effect upon construction or interpretation.

E. Right to Perform. Any right which is exercisable by the Grantee, and its successors and assigns, to perform under this Deed may also be performed, in the event of non-performance by the Grantee, or its successors and assigns, by a lender of the Grantee and its successors and assigns.

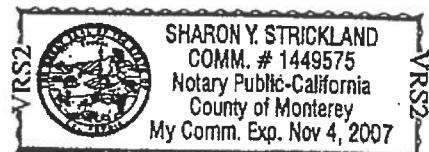
The conditions, restrictions, and covenants set forth in this Deed are a binding servitude on the herein conveyed Property and will be deemed to run with the land in perpetuity. Restrictions, stipulations and covenants contained herein will be inserted by the Grantee verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any other lesser estate in the Property or any portion thereof. All rights and powers reserved to the Grantor, and all references in this Deed to Grantor shall include its successors in interest. The Grantor may agree to waive, eliminate, or reduce the obligations contained in the covenants, PROVIDED, HOWEVER, that the failure of the Grantor or its successors to insist in any one or more instances upon complete performance of any of the said conditions shall not be construed as a waiver or a relinquishment of the future performance of any such conditions, but the obligations of the Grantee, its successors and assigns, with respect to such future performance shall be continued in full force and effect.

[Signature Pages Follows]

QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 IN WITNESS WHEREOF, the Grantor, the FORT ORD REUSE AUTHORITY, has
2 caused these presents to be executed this 13th day of December, 2006.

3
4
5 THE FORT ORD REUSE AUTHORITY
6
7
8
9
10 By: Michael A. Houlomay
11 EXECUTIVE
12 OFFICER
13
14
15
16 STATE OF CALIFORNIA)
17) ss
18 COUNTY OF MONTEREY)
19
20
21 On 12-13-06 before me, Sharon Y. Strickland, Notary personally
22 appeared Michael A. Houlomay, Jr.
23 personally know to me (or proved to me on the basis
24 of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within
25 instrument and acknowledged to me that he/she/they executed the same in his/her/their
26 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or
27 the entity upon behalf of which the person(s) acted, executed the Instrument.
28
29
30
31 WITNESS my hand and official seal.
32
33
34
35 Signature Sharon Y. Strickland (Seal)
36
37



QUITCLAIM DEED FOR SEASIDE PARCELS E15.2, E20c.2.1, and L31

1 ACCEPTANCE:

2
3 IN WITNESS WHEREOF, the Grantee, the REDEVELOPMENT AGENCY OF THE
4 CITY OF SEASIDE, hereby accepts and approves this Deed for itself, its successors and assigns,
5 and agrees to all the conditions, reservations, restrictions, and terms contained therein and has
6 caused these presents to be executed on this 14th day of DECEMBER, 2006.

7
8 REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

9
10 By Ray Corpuz
11 Executive Director

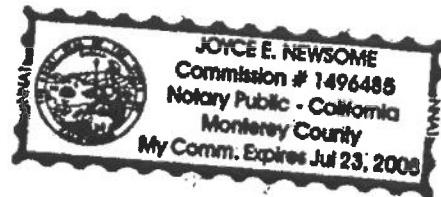
12
13 STATE OF CALIFORNIA)
14)
15 COUNTY OF MONTEREY)

16
17
18 On 12-14-06 before me, Joyce E. Newsome, Notary personally
19 appeared

20 Ray Corpuz

21
22 personally know to me (or proved to me on the basis
23 of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within
24 instrument and acknowledged to me that he/she/they executed the same in his/her/their
25 authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or
26 the entity upon behalf of which the person(s) acted, executed the Instrument.

27
28
29 WITNESS my hand and official seal.



30
31 Signature Joyce E. Newsome

(Seal)

32
33
34
35
36
37
38
39
40 U

EDC Parcel E15.2
FOST 8 & 9
Fort Ord Military Reservation
City of Seaside
Monterey County, California

Legal Description of Parcel E15.2

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1 and Rancho Noche Buena, the City of Seaside, County of Monterey, State of California; being all of "Parcel 1" 28.74 acres as it is shown on that certain map recorded in Volume 23 of Surveys at Page 93 being more particularly described as follows:

BEGINNING at an angle point on the northerly boundary line of "Seaside II", as it is shown on the map recorded in Volume 23 of Surveys at Page 93 being also a point on the south boundary line of Parcel 1 as it is shown on that certain map recorded on June 15, 2000 in Volume 23 of Surveys at Page 93, and running thence from said Point of Beginning along the southerly line of said Parcel 1

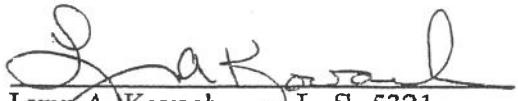
1. North $87^{\circ} 33' 00''$ West for a distance of 1151.61 feet to an angle point in said boundary of said "Parcel 1" being also the northeasterly corner of Parcel 2 as it is shown on that certain map recorded in Volume 21 of Surveys at Page 83; thence along the common boundary line of said Parcel 2 and said "Parcel 1"
2. North $87^{\circ} 33' 00''$ West for a distance of 544.80 feet to an angle point in said boundary of said "Parcel 1"; thence leaving the northerly boundary line of said Parcel 2
3. North $52^{\circ} 03' 27''$ East for a distance of 561.84 feet to an angle point in said boundary of said "Parcel 1"; thence
4. North $62^{\circ} 43' 31''$ East for a distance of 265.04 feet to an angle point in said boundary of said "Parcel 1"; thence
5. North $50^{\circ} 58' 13''$ East for a distance of 219.31 feet to an angle point in said boundary of said "Parcel 1"; thence
6. North $38^{\circ} 29' 39''$ East for a distance of 210.00 feet to an angle point in said boundary of said "Parcel 1"; thence
7. North $47^{\circ} 58' 50''$ East for a distance of 424.00 feet to an angle point in said boundary of said "Parcel 1"; thence
8. North $77^{\circ} 02' 10''$ East for a distance of 471.84 feet to an angle point in said boundary of said "Parcel 1"; thence

EDC Parcel E15.2
FOST 8 & 9
Fort Ord Military Reservation
City of Seaside
Monterey County, California

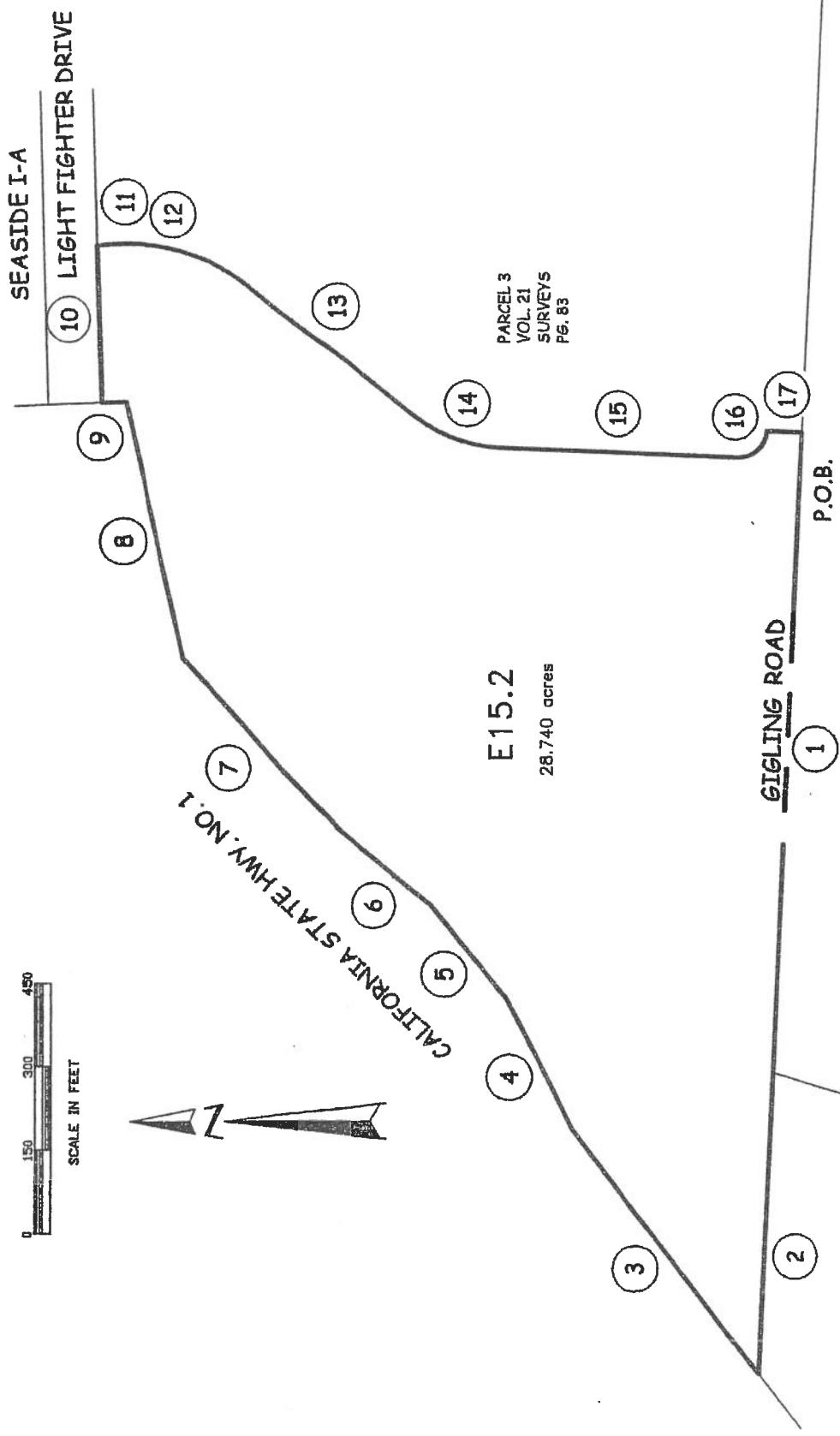
9. North $02^{\circ} 00' 00''$ West for a distance of 42.70 feet to an angle point in said boundary of said "Parcel 1"; thence
10. North $88^{\circ} 00' 00''$ East for a distance of 280.50 feet to an angle point in said boundary of said "Parcel 1"; thence
11. South $05^{\circ} 40' 29''$ East for a distance of 18.97 feet to the beginning of a curve in said boundary of said "Parcel 1"; thence
12. Along a curve to the right through an angle of $43^{\circ} 30' 35''$, having a radius of 357.00 feet, for an arc distance of 271.10 feet, and whose long chord bears South $16^{\circ} 04' 48''$ West for a distance of 264.63 feet to a point of intersection with a tangent line; thence
13. South $37^{\circ} 50' 06''$ West for a distance of 387.00 feet to the beginning of a curve; thence
14. Along a curve to the left through an angle of $35^{\circ} 23' 06''$, having a radius of 268.00 feet, for an arc distance of 165.51 feet, and whose long chord bears South $20^{\circ} 08' 33''$ West for a distance of 162.89 feet to a point of intersection with a tangent line; thence
15. South $02^{\circ} 27' 00''$ West for a distance of 436.66 feet to the beginning of a curve; thence
16. Along a curve to the left through an angle of $90^{\circ} 00' 00''$, having a radius of 50.00 feet, for an arc distance of 78.54 feet, and whose long chord bears South $42^{\circ} 33' 00''$ East for a distance of 70.71 feet to a point of intersection with a non-tangential line; thence
17. South $02^{\circ} 27' 00''$ West a distance of 63.99 feet to the POINT OF BEGINNING.

Containing an area of 28.740 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L. S. 5321
My license expires December 31, 2005





Note: Course Numbers Refer to the Legal Description

EXHIBIT
OF

PARCEL E15.2

Seaside Jurisdiction, Fort Ord, FOST 9 EDC
Lying within "Seaside I-B"
as shown on Vol. 23 of Surveys at Page 93
Being also within Fort Ord Military Reservation and Monterey City Lands Tract No. 1
Monterey County, California

EDC Parcel L31 and E20c.2.1

FOST 8 & 9

Fort Ord Military Reservation

City of Seaside

Monterey County, California

Legal Description of Parcel 1

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map entitled "Seaside IV-A" recorded on June 15, 2000 in Volume 23 of Surveys at Page 99, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Seaside, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at the most westerly point on the common boundary of Parcel 1 as it is shown on said map of "Seaside IV-A" and Parcel 2 as it is shown on the map recorded in Volume 19 of Surveys at Page 22, Official Records of Monterey County, and running thence from said Point of Beginning along said common boundary

1. South $76^{\circ} 00' 00''$ East for a distance of 642.29 feet to a point on said common boundary line; thence
2. South $61^{\circ} 30' 00''$ East for a distance of 394.18 feet to a point on said common boundary line; thence
3. North $30^{\circ} 00' 00''$ East for a distance of 272.25 feet to a point on said common boundary line at the most easterly corner of said Parcel 2 being also a point on the common boundary line of Parcel 1 as it is shown on the map recorded in Volume 19 of Surveys at Page 22; thence along the southerly boundary line of said Parcel 1 as it is shown on the map recorded in Volume 19 of Surveys at Page 22
4. South $53^{\circ} 30' 00''$ East for a distance of 1898.00 feet to the most southerly point of said Parcel 1 as it is shown on the map recorded in Volume 19 of Surveys at Page 22; thence leaving said boundary of said Parcel 1
5. South $01^{\circ} 00' 07''$ West for a distance of 180.36 feet to a point on a line; thence
6. South $80^{\circ} 45' 00''$ West for a distance of 304.19 feet to a point on a line; thence
7. South $09^{\circ} 15' 00''$ East for a distance of 19.48 feet to a point on a line; thence
8. North $74^{\circ} 02' 25''$ West for a distance of 56.29 feet to a point on a line; thence
9. North $82^{\circ} 34' 10''$ West for a distance of 100.13 feet to a point on a line; thence
10. North $75^{\circ} 32' 45''$ West for a distance of 74.45 feet to a point on a line; thence

EDC Parcel L31 and E20c.2.1

FOST 8 & 9

Fort Ord Military Reservation

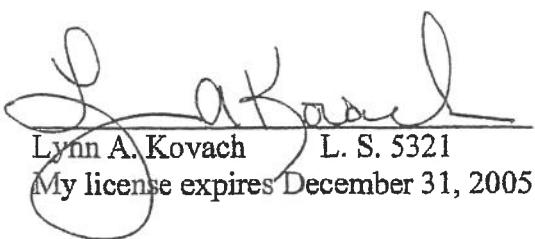
City of Seaside

Monterey County, California

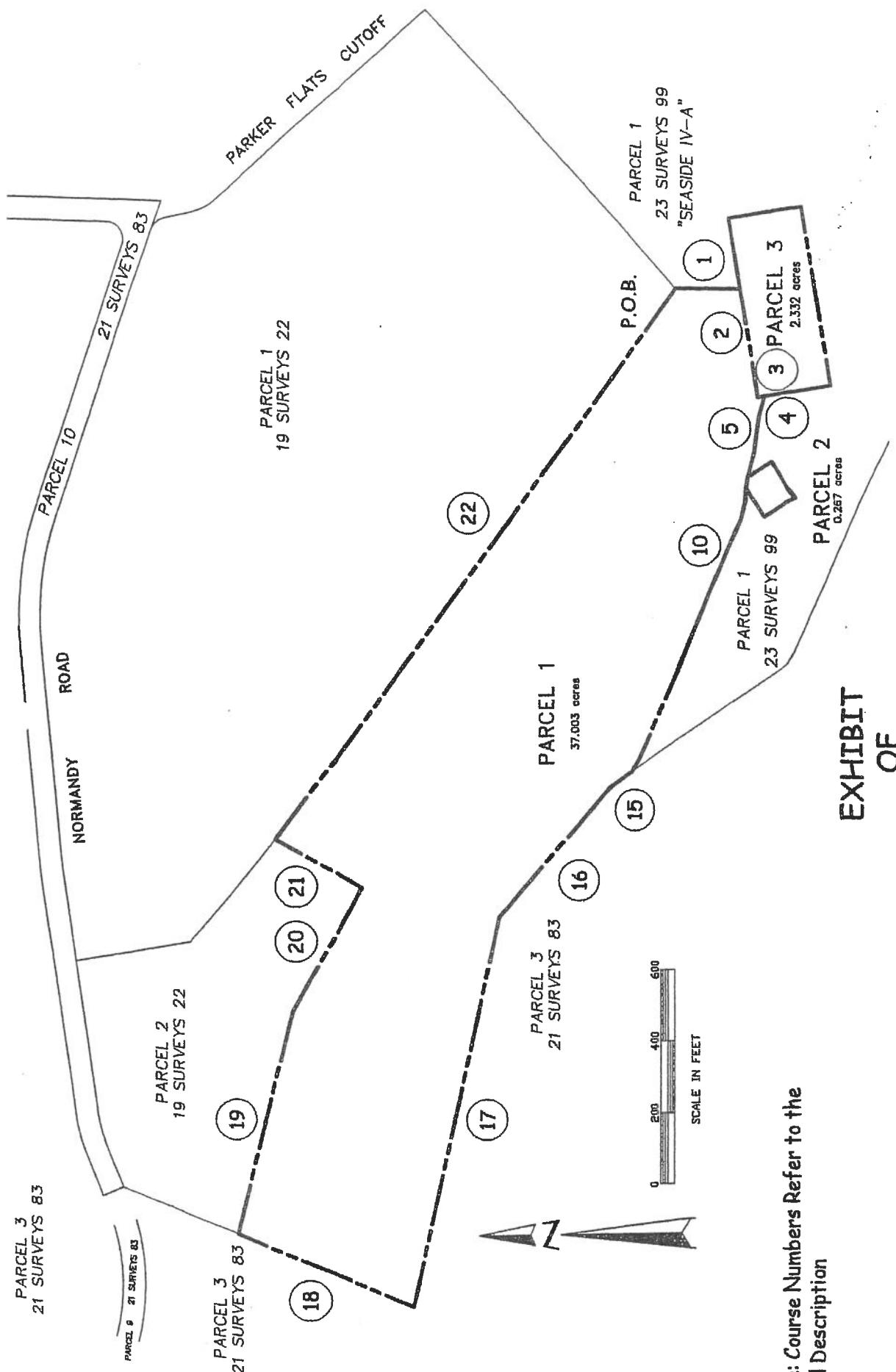
11. North $81^{\circ} 53' 44''$ West for a distance of 31.67 feet to a point on a line; thence
12. North $86^{\circ} 34' 34''$ West for a distance of 37.14 feet to a point on a line; thence
13. North $76^{\circ} 20' 31''$ West for a distance of 51.91 feet to a point on a line; thence
14. North $66^{\circ} 31' 44''$ West for a distance of 211.49 feet to a point on a line; thence
15. North $67^{\circ} 15' 06''$ West for a distance of 161.61 feet to a point on a line; thence
16. North $68^{\circ} 51' 20''$ West for a distance of 92.18 feet to a point on a line; thence
17. North $65^{\circ} 40' 36''$ West for a distance of 257.89 feet to a point on a line; thence
18. North $57^{\circ} 38' 22''$ West for a distance of 43.67 feet to a point on the southwesterly boundary line of said of Parcel 1 as it is shown on said map of "Seaside IV-A"; thence northwesterly along said boundary line
19. North $34^{\circ} 04' 26''$ West for a distance of 73.00 feet to a point on said boundary line; thence
20. North $48^{\circ} 33' 43''$ West for a distance of 482.33 feet to a point on said boundary line; thence
21. North $77^{\circ} 42' 40''$ West for a distance of 1116.99 feet to a point on said boundary line; thence
22. North $22^{\circ} 54' 16''$ East for a distance of 534.30 feet to the POINT OF BEGINNING.

Containing an area of 37.003 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L. S. 5321
My license expires December 31, 2005





**EXHIBIT
OF**

**PARCEL 1 - PARCELS L31 and E20c.2.1
Seaside Jurisdiction, Fort Ord, FOST 8 & 9 EDC**

Lying within "Seaside IV-A"
as shown on Vol. 23 of Surveys at Page 99
Being also within Fort Ord Military Reservation and Monterey City Lands Tract No. 1
Monterey County, California

**FINDING OF SUITABILITY TO TRANSFER
(FOST)**

FORMER FORT ORD, CALIFORNIA

**TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1
PLUG-IN PARCELS**

August 2005

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ATTACHMENTS

1 SITE MAPS OF THE PROPERTY

- 1 Site Location Map
- 2 Parcel Location Map
- 3 Parcel Location Map – Parcels L31, L23.5.1, E20c.2.1, and E15.2
- 4 Parcel Location Map – Parcels E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.2, and S4.1.1
- 5 Parcel Location Map – Parcels S3.1.1, S3.1.2, S3.1.3, S3.1.4, and L20.15
- 6 Parcel Location Map – Parcels L5.6.1, L5.6.2, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, and L20.14.2
- 7 Parcel Location Map – Parcels E11a, L20.14.1.1, and L20.14.2
- 8 Parcel Location Map – Parcel E11b.6.2
- 9 Parcel Location Map – Parcel L20.13.5
- 10 Parcel Location Map – Parcel L20.6

2 ENVIRONMENTAL DOCUMENTATION

3 TABLES

- 1 Description of Property
- 2 Track 0 Plug-in Parcels Associated with Track 1 Sites (Group C)
- 3 Track 1 Parcels and Associated Track 1 Sites
- 4 Applicable Decision Documents by Parcel
- 5 Environmental Condition of Property
- 6 Notification of Hazardous Substance Storage, Release, or Disposal
- 7 Notification of Petroleum Product Storage, Release, or Disposal
- 8 Disposal (Army Action) Impacts and Mitigation Measures

4 CERCLA NOTICE, COVENANT, AND ACCESS PROVISIONS AND OTHER DEED PROVISIONS

5 ENVIRONMENTAL PROTECTION PROVISIONS

6 DEFINITIONS FOR THE MILITARY MUNITIONS RESPONSE PROGRAM

7 REGULATORY/PUBLIC COMMENTS

8 ARMY RESPONSE

**FINDING OF SUITABILITY TO TRANSFER (FOST)
FORMER FORT ORD, CALIFORNIA
TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1 PLUG-IN PARCELS**

July 2005

1.0 PURPOSE

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of certain parcels or property (the Property) at the former Fort Ord, California, for transfer to the Fort Ord Reuse Authority (FORA), Monterey County, Monterey Peninsula College (MPC), the Veterans Transition Center, California Department of Parks & Recreation and California Department of Transportation (Caltrans) consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) and United States Army (Army) policy. In addition, the FOST includes the CERCLA Notice, Covenant, and Access Provisions and other Deed Provisions (Attachment 4) and the Environmental Protection Provisions (EPPs) (Attachment 5) necessary to protect human health or the environment after such transfer.

2.0 PROPERTY DESCRIPTION

The Property proposed for transfer consists of twenty-nine (29) parcels (approximately 1,894 acres) of developed and undeveloped land on the former Fort Ord (Plate 1 [Attachment 1]). The Property is intended to be transferred for a variety of uses, including state park facilities, roads and road improvements, education, habitat management, mixed use and development (Table 1 – Description of Property [Attachment 3]). This is consistent with the intended reuse of the Property as set forth in the Fort Ord Reuse Authority (FORA) Fort Ord Reuse Plan. A parcel location map is provided in Plate 2 (Attachment 1) and detailed site maps of the Property are provided in Plates 3 through 9 (Attachment 1).

Twenty-two (22) of the parcels are within Track 0¹ areas and are adjacent to or overlapped by Track 1² munitions response sites (MRS)³. The *Final Record of Decision, No Action Regarding*

¹ Track 0 areas at the former Fort Ord are those that contain no evidence of munitions and explosives of concern (MEC) and have never been suspected of having been used for military munitions-related activities of any kind. This definition has been clarified in the *Explanation of Significant Differences, Final Record of Decision, No Action Regarding Ordnance-Related Investigations (Track 0 ROD), Former Fort Ord, California (March 2005)* to include areas not suspected as having been used for military munitions-related activities of any kind, but where incidental military munitions have been discovered.

² Track 1 sites at the former Fort Ord are those sites where military munitions were suspected to have been used, but based on the RI/FS for each site, it falls into one of the following three categories: Category 1: There is no evidence to indicate military munitions were used at the site (i.e., suspected training did not occur); or Category 2: The site was used for training, but the military munitions items used do not pose an explosive hazard (i.e., training did not involve explosive items); or Category 3: The site was used for training with military munitions, but military munitions items that potentially remain as a result of that training do not pose an unacceptable risk based on site specific evaluations conducted in the Track 1 OE RI/FS. Field investigations identified evidence of past training involving military munitions, but training at these sites involved only the use of practice and/or pyrotechnic items that are not designed to cause injury. In the unlikely event that a live item of the type previously observed at the site is found, it is not expected that the item would function by casual contact (i.e., inadvertent and unintentional contact).

Ordnance-Related Investigation, Former Fort Ord, California (Track 0 ROD; June 19, 2002) addresses selected land parcels and provides a “Plug-In” process to address future land parcels that are considered eligible for inclusion into the Track 0 process. The Track 0 No Action ROD Plug-In process addresses areas of land at the former Fort Ord that have no history of military munitions use and for which No Action is necessary to protect human health and the environment. The portions of these 22 parcels within Track 0 areas have been addressed through the Plug-In process in the *Track 0 Plug-In Approval Memorandum, Selected Parcels – Group C Former Fort Ord, California* dated July 1, 2005. The portions of these 22 parcels within Track 1 sites are addressed by the *Record of Decision, No Further Action Related to Munitions and Explosives of Concern—Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22)* (Track 1 ROD; March 10, 2005). The Track 1 ROD also provides a Plug-In process to address future sites that are considered eligible for inclusion into the Track 1 process. No further action related to munitions and explosives of concern (MEC) (explosive munitions items) is required at Track 1 sites because MEC is not expected. Track 1 sites were evaluated through the remedial investigation/feasibility study (RI/FS) process and documented in the *Final Track 1 Ordnance and Explosives, Remedial Investigation/Feasibility Study, Former Fort Ord California* dated June 21, 2004 and the *Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area, Former Fort Ord, California* dated May 6, 2005 which provided the site-specific rationale for assigning Track 1 status. All 22 Track 0 Plug-In parcels and associated Track 1 sites are listed in Table 2 – Track 0 Plug-In Parcels Associated with Track 1 Sites (Group C) (Attachment 3). The remaining seven (7) parcels are entirely within Track 1 sites. The Track 1 ROD also addresses these parcels, which are listed with associated Track 1 sites in Table 3 – Track 1 Parcels and Associated Track 1 Sites (Attachment 3).

3.0 ENVIRONMENTAL DOCUMENTATION AND SITE INSPECTION

The Army made a determination of the Environmental Condition of the Property (ECP) by reviewing existing environmental and military munitions response-related documents and making an associated visual site inspection. A complete list of the documents reviewed is provided in Attachment 2 and the site inspection was conducted in January and February 2005. For each parcel in the FOST, the specific decision documents that support the determination that the Property is suitable for transfer are listed in Table 4 – Applicable Decision Documents by Parcel (Attachment 3).

4.0 ENVIRONMENTAL CONDITION OF PROPERTY

On the basis of environmental condition, parcels are placed in one of seven Community Environmental Response Facilitation Act (CERFA)/DOD Environmental Condition of Property (ECP) Categories⁴. Only parcels in ECP Categories 1 through 4 are suitable for transfer through

³ Terminology describing military munitions and related names, places, actions and conditions is presented in Attachment 6.

⁴ ECP Category 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent area).

ECP Category 2: Areas where only release or disposal of petroleum products has occurred.

ECP Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.

a FOST. Table 5 – Environmental Condition of Property (Attachment 3) lists the parcels in this FOST, the corresponding ECP Category, and brief descriptions of necessary remedial actions that have been taken. The ECP Categories and the corresponding parcels in this FOST are as follows:

ECP Category 1 Parcels: E11a, E11b.6.2, E15.2, E20c.2.1, L20.13.5, L20.14.1.1, L20.14.2, L20.15, L20.6, L31, S3.1.3, and S3.1.4

ECP Category 2 Parcels: L23.5.1

ECP Category 3 Parcels: E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, L9.1.1.2, and L9.1.2.2

ECP Category 4 Parcels: E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1, L5.6.2, S3.1.1, S3.1.2, and S4.1.1

ECP Category 5 Parcels: No parcels in this FOST are in this category.

ECP Category 6 Parcels: No parcels in this FOST are in this category.

ECP Category 7 Parcels: No parcels in this FOST are in this category.

A summary of the ECP Categories for the Property is provided in Table 5 – Environmental Condition of Property (Attachment 3).

Community Environmental Response Facilitation Act (CERFA) Report

The Final CERFA Report, Fort Ord, Monterey, California (*April 1994*) summarized the CERFA investigation conducted at the former Fort Ord and classified Fort Ord property as “Uncontaminated,” “Qualified⁵,” or “Disqualified⁶.“ Qualified areas were identified based on the potential presence of unexploded ordnance (UXO)⁷, radon, radionuclides (contained within products being used for their intended purposes), asbestos (contained within building materials), or lead-based paint (present on building material surfaces). Disqualified areas were identified based on evidence of release, disposal, or storage for more than one year of a CERCLA hazardous substance, petroleum, or petroleum derivative; or a portion of the installation

ECP Category 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.

ECP Category 5: Areas where release, disposal, and/or migration of hazardous substances has occurred, and removal or remedial actions are underway, but all required actions have not yet been taken.

ECP Category 6: Areas where release, disposal, and/or migration of hazardous substances has occurred, but required actions have not yet been implemented.

ECP Category 7: Areas that have not been evaluated or require additional evaluation.

⁵ CERFA parcel with qualifier - A portion of the installation real property for which investigation revealed no evidence of a release or disposal of CERCLA hazardous substances, petroleum, or petroleum derivatives and no evidence of the parcel being threatened by migration of such substances from outside the parcel. The parcel does however contain environmental, hazard, or safety issues, including asbestos contained in building materials or lead-based paint applied to building material surfaces.

⁶ CERFA disqualified parcel - A portion of the installation real property for which investigation revealed evidence of a release or disposal of CERCLA hazardous substances, petroleum, or petroleum derivatives or the parcel being threatened by migration of such substances from outside the parcel.

⁷ The term “munitions and explosives of concern (MEC)” is not used here because the CERFA Report is specific to UXO (see Attachment 6).

threatened by such release or disposal. The U.S. Environmental Protection Agency (US EPA) concurred with the Army's determination of "uncontaminated" for 60 CERFA parcels at the former Fort Ord in a letter dated April 19, 1994. In this letter, US EPA specifically concurred that parcels having buildings with probable lead-based paint (LBP) could be considered uncontaminated because the information in the CERFA Report did not indicate that there are residual levels of LBP on these parcels presenting a threat to human health or the environment. Under the DOD Authorization Act for 1997, the U.S. Congress expanded the definition of "Uncontaminated Property" to include the storage of hazardous substances, petroleum products and their derivatives provided there was no release or disposal of these materials. Table 5 – Environmental Condition of Property (Attachment 3) includes a list of the Track 1 and Track 0 Plug-in C Parcels, the CERFA classification assigned, and rationale.

Parcels located within areas originally identified as CERFA Qualified or Disqualified, but through additional site investigation were determined to be Uncontaminated (DOD Category 1), are described below.

Parcel E11a

This Track 0 plug-in parcel was categorized as CERFA Uncontaminated; however, portions of the parcel include Munitions Response Sites (MRS)-27Y and MRS-66, which were identified after the completion of the CERFA investigation (Plate 7 [Attachment 1]). MRS-27Y and MRS-66 were categorized as Track 1 sites, evaluated in the Track 1 Ordnance and Explosives Remedial Investigation/Feasibility Study (OE RI/FS) and, in accordance with the Track 1 ROD (*March 10, 2005*), require no further action related to MEC. MRS-27Y and MRS-66 were also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the Basewide Range Assessment (BRA), as described in the *Comprehensive Basewide Range Assessment Report, Former Fort Ord, California* (BRA Report; March 31, 2005). Under the BRA MRS-27Y was identified as historical area (HA)-157 and MRS-66 was identified as HA-196. In accordance with the findings of the BRA Report, no further action related to chemical contamination is required for HA-157 (MRS-27Y). In accordance with the findings of the BRA Report, no further investigation for chemical contamination is required for HA-196 (MRS-66).

Based on this information Parcel E11a meets the definition of CERFA Uncontaminated property.

Parcel E11b.6.2

This Track 1 parcel was categorized as CERFA Uncontaminated; however, the parcel includes a small portion of the area evaluated as part of the overall investigation of Site 39A, East Garrison Ranges, and a portion of MRS-59A, which was identified after the completion of the CERFA investigation (Plate 8 [Attachment 1]). A release at Site 39A (Interim Action Site 39A) occurred in the target areas of the former small arms ammunition firing ranges approximately 600 feet to the north and northeast and outside of the parcel boundary.

MRS-59A was categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-59A was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA MRS-59A was included within HA-189. The

evaluation of HA-189 included a literature search, site reconnaissance, and mapping. In accordance with the findings of the BRA Report, no further investigation for chemical contamination is required for HA-189 (including MRS-59A).

Based on this information Parcel E11b.6.2 meets the definition of CERFA Uncontaminated property.

Parcel E15.2

A portion of this Track 0 plug-in parcel was categorized as CERFA Qualified because it includes MRS-20 (Plate 3 [Attachment 1]). MRS-20 (Recoilless Rifle Training Range) was categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. Historical research and military munitions sampling conducted at this site found no evidence of past training involving military munitions. As identified on the 1957 Training Facilities Map, some of the boundary of the "Recoilless Rifle Training Area" lies outside of the boundary of MRS-20 delineated in the ASR; however, because of its location, proximity to existing housing, Highway 1 and other developed areas, it is unlikely MRS-20 or additional areas identified on the 1957 Training Facilities Map would have been used for training with military munitions. As discussed in the Track 1 OE RI/FS, training at this site probably involved weapon familiarization, including the proper handling, deployment, and care of recoilless rifles. MRS-20 was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA, MRS-20 was identified as HA-122. In accordance with the findings of the BRA Report, no further action related to chemical contamination is required for HA-122 (MRS-20). A portion of the parcel was categorized as CERFA Qualified because of the presence of asbestos containing material (ACM) and probable lead-based paint (LBP) in buildings that are adjacent to the parcel; however, no buildings are present on Parcel E15.2. The remainder of the parcel was categorized as CERFA Uncontaminated.

Based on this information Parcel E15.2 meets the definition of CERFA Uncontaminated property.

Parcel E20c.2.1 and L31

Track 0 Plug-in Parcel E20c.2.1 was categorized as CERFA Uncontaminated (Plate 3 [Attachment 1]). A portion of Track 0 Plug-in Parcel L31 was categorized as CERFA Uncontaminated and the remainder of the parcel was categorized as CERFA Qualified because of the presence of ACM and probable LBP in buildings that are adjacent to the parcel; however, no buildings are present on Parcel L31. Both parcels include a portion of MRS-49 identified after the completion of the CERFA investigation. MRS-49 was categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-49 was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA, MRS-49 was identified as HA-179. In accordance with the findings of the BRA Report, no further investigation for chemical contamination is required for HA-179 (MRS-49).

Based on this information Parcels E20c.2.1 and L31 meet the definition of CERFA Uncontaminated property.

Parcels L20.15, S3.1.3, and S3.1.4

These Track 1 parcels were categorized as CERFA Disqualified because they were included within the area of Installation Restoration Program (IRP) Site 3 (MRS-22) (Plate 5 [Attachment 1]), where there was a release of lead related to range activities and because of the presence of construction debris and vehicle parts within Parcel S3.1.3. Remediation at IRP Site 3 included the excavation of approximately 162,800 cubic yards of impacted soil and spent ammunition; however, none of these three parcels lie within the areas historically used for small arms ranges in IRP Site 3 and did not require remediation.

These three parcels were also categorized as CERFA Qualified because of the presence of ACM, LBP and MRS-22. MRS-22 is categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and in accordance with the Track 1 ROD, requires no further action related to MEC.

MRS-22 was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA, MRS-22 was identified as HA-124, which includes HA-1 through HA-17⁸. In accordance with the findings of the BRA Report, no further action related to chemical contamination is required for HA-124.

Based on this information Parcels L20.15, S3.1.3 and S3.1.4 meet the definition of CERFA Uncontaminated property.

Parcel L20.6

This Track 1 parcel was categorized as CERFA Uncontaminated; however, the parcel includes MRS-62, which was identified after the completion of the CERFA investigation (Plate 9 [Attachment 1]). MRS-62 was categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-62 was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA MRS-62 was identified as HA-192. In accordance with the findings of the BRA Report, no further investigation for chemical contamination is required for HA-192 (MRS-62).

Based on this information Parcel L20.6 meets the definition of CERFA Uncontaminated property.

Parcel L20.13.5

This Track 0 plug-in parcel (Plate 10 [Attachment 1]) was categorized as CERFA Qualified because of its proximity to the former Impact Area; however, this parcel comprises a portion of South Boundary Road and is located outside of the fenced Impact Area. No evidence was observed during the CERFA assessment to indicate storage, release, or disposal of hazardous substances or petroleum products or their derivatives within this parcel; therefore, this parcel meets the definition of CERFA Uncontaminated property.

⁸ The designations of the individual ranges at the Beach Ranges complex under the BRA.

Parcels L20.14.1.1 and L20.14.2

These Track 0 plug-in parcels comprise portions of Intergarrison Road and associated right-of-ways. The parcels were categorized as CERFA Uncontaminated; however, the parcels include a portion of MRS-27Y identified after the completion of the CERFA investigation (Plate 7 [Attachment 1]). MRS-27Y was categorized as a Track 1 site, evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-27Y was also evaluated for the potential presence of chemical contamination related to the use of military munitions as part of the BRA. Under the BRA MRS-27Y was identified as HA-157. In accordance with the findings of the BRA Report, no further action related to chemical contamination is required for HA-157 (MRS-27Y).

Based on this information Parcels L20.14.1.1 and L20.14.2 meet the definition of CERFA Uncontaminated property.

4.1 Environmental Remediation Sites

There were nine remediation sites located on the Property. The environmental remediation sites on the Property are described below. All environmental soil and groundwater remediation activities on the Property have been completed or are in place and operating properly and successfully; however, portions of the Property have not remediated to levels suitable for unrestricted use. The deeds for these portions of the Property will include restrictions on the use of groundwater as described in the Covenant to Restrict Use of Property – Environmental Restrictions (Special Groundwater Protection Zone) (CRUP). A summary of the environmental remediation sites by parcel is provided in Table 5 – Environmental Condition of Property (Attachment 3).

This section provides a summary of Installation Restoration Program (IRP) activities conducted to date at operable units and CERCLA sites located on the Property. Seven IRP sites are located on the Property in whole or in part within Parcels S3.1.1, S3.1.2 and S3.1.4, (Site 1/FTO-059, Site 2/FTO-012, Site 3 and Outfall 15) (Plates 4 and 5 [Attachment 1]); Parcel E4.3.2.1 (Site 26) (Plate 6 [Attachment 1]); Parcel S4.1.1 (Site 28) (Plate 4 [Attachment 1]); and Parcel E11b.6.2 (Site 39A) (Plate 8 [Attachment 1]). The investigation of the IRP sites was conducted under the Fort Ord Basewide Remedial Investigation/Feasibility Study (RI/FS) program. One Operable Unit is also located on the Property.

4.1.1 No Action Sites

IRP Sites 26 and 28 were categorized as No Action Sites. The No Action Plug-In Record of Decision (ROD) (*February 16, 1995*) for all No Action Sites was signed by the regulatory agencies in the spring of 1995. Documentation that site-specific no action criteria were met is provided in the Approval Memoranda process. The overall process is referred to as the “plug-in” process because the Approval Memoranda plug-in to the No Action ROD. The US EPA and the DTSC concurred that Sites 26 and 28 met the criteria for No Action in letters dated September 25, 1995 and October 10, 1995, respectively.

4.1.2 Interim Action Sites

Three sites (Site 1, Site 39A, and Outfall 15) on the Property were categorized as Interim Action (IA) Sites based on the results of site characterization activities. By definition, IA sites have limited surficial soil contamination that can be addressed by excavation and follow-up confirmation sampling. The selected interim action completed at each site addressed immediate, imminent, and/or significant risks to human health and the environment posed by limited contaminated soil. The *Interim Action Record of Decision, Contaminated Surface Soil Remediation* (IA ROD; February 23, 1994) presented remedial alternatives to be implemented at IA sites. The IA ROD was signed by the DTSC and the US EPA in March 1994. A discussion of the interim actions conducted at these three sites follows.

Site 1. IRP Site 1 (SWMU FTO-059) was investigated during the Basewide RI/FS for hazardous and toxic waste (HTW). Mercury was detected in soil samples collected near a former trickling filter at concentrations exceeding the Preliminary Remediation Goal (PRG). Low concentrations of fecal coliform were also detected. An additional investigation was conducted to address agency concerns about elevated mercury levels within soil at the former trickling facility and to evaluate the suitability of disposing treated sewage residue from the sludge-drying beds at the OU2 Landfills. Soil samples were collected from the sludge drying beds, the holding ponds and from the former trickling filter area. Based on the data from the additional investigation, the soil at the former trickling filter was recommended for removal under the IA ROD (February 23, 1994). Approximately 740 cubic yards of soil were removed as part of the IA activities. The cleanup of SWMU FTO-059 is described in Section 4.2.1. The Site 1 IA Confirmation Report was submitted to the regulatory agencies in December 1997. The US EPA and the DTSC concurred that contamination was adequately remediated and no further action was necessary at Site 1 in letters dated April 6, 1998 and April 11, 2005, respectively.

Site 39A. The initial IA at Site 39A (East Garrison Ranges) was completed in 1998 and included the removal of soils in four study areas, which contained lead, arsenic, and polynuclear aromatic hydrocarbons (PAHs) exceeding PRGs. These exceedences resulted from accumulation of expended small arms ammunition, lead shot, and clay target fragments. None of the study areas are located on the Property. The Site 39A IA Confirmation Report for the four study areas was submitted to the regulatory agencies in October 1998. The US EPA concurred that no further action is necessary at Site 39A in a letter dated February 2, 2002. The DTSC withheld concurrence and requested that additional evaluation of accumulations of clay target fragments and lead shot be conducted within a former trap and skeet range, which is not located on the Property. In the summer of 2004, the Army excavated the clay target fragments and lead shot in question and conducted confirmation sampling within this area. The *Final Report, Clay Target Debris and Lead Shot Management, East Garrison Trap and Skeet Range* was submitted to the DTSC in March 2005. The DTSC concurred that no further action is necessary in a letter dated April 11, 2005.

A follow-up IA is proposed at two former small arms ammunition firing ranges located within Site 39A, but also not on the Property. These ranges (historical areas [HA]-80 and HA-85) were identified during the historical literature search performed during the Comprehensive Basewide Range Assessment (BRA). The proposed IA will include the removal of shallow soil containing lead at IA Areas 39A HA-80 and 39A HA-85 (*Approval Memorandum, Proposed Interim Action*

Excavation, IA Areas 39A HA-80 and 39A HA-85, Site 39A, East Garrison Ranges, Former Fort Ord, California, April 2005). The estimated volume of soil to be removed is 900 cubic yards.

Outfall 15 (OF-15). Surface water outfall OF-15 was identified for characterization under the Basewide RI/FS. OF-15 discharges to Parcel S3.1.1. Soil samples were collected at the discharge point and downgradient of OF-15. Based on the results of the characterization sampling removal of soil impacted with total petroleum hydrocarbons, arsenic, lead and dieldrin was recommended for removal under the IA ROD (February 23, 1994). Approximately 430 cubic yards of soil were removed as part of the IA activities. The Outfall 15 Confirmation Report was submitted to the regulatory agencies in September 1998. The US EPA and the DTSC concurred that contamination was adequately remediated and no further action was necessary at Outfall 15 in letters dated March 16, 2005 and April 11, 2005, respectively.

4.1.3 Remedial Investigation Sites

Site 2. IRP Site 2 (SWMU FTO-012) was investigated during the Basewide RI/FS for HTW. The primary chemicals of concern detected in soil were low concentrations of metals. A baseline human health risk assessment that included exposure of an onsite worker to soil (ingestion and dermal contact) and dust (inhalation) at the site was performed and risks were below the US EPA's threshold values. Based on the risk assessment no remedial action was proposed for soil at IRP Site 2 in the *Record of Decision, Basewide Remedial Investigation Sites, Fort Ord, California* (Basewide RI Sites ROD; January 13, 1997); however, as described in Section 4.2.1, all sludge remaining in the STP sludge drying beds and evaporation ponds was removed as part of the maintenance and cleanup activities at the STP (SWMU FTO-012). The Basewide RI Sites ROD was signed by the DTSC on January 16, 1997, by the US EPA on January 17, 1997, and by the Regional Water Quality Control Board (RWQCB) on January 22, 1997.

Sites 2 and 12. The Sites 2 and 12 groundwater plume is being remediated by extraction and treatment in accordance with the Basewide RI Sites ROD (January 13, 1997). Since installation and start-up of the Sites 2 and 12 groundwater treatment system (April 1999), the extent of the plume has been significantly reduced. The Sites 2 and 12 Groundwater Remedy Operating Properly and Successfully Evaluation Report was submitted to the regulatory agencies in November 2001. On July 3, 2002, the Army received concurrence from the US EPA that the pump-and-treat system for remediation of the Site 2 and 12 groundwater plume is in place and operating "properly and successfully."

Site 3. Site 3 (Beach Trainfire Ranges) was investigated during the Basewide RI/FS for HTW. The site was used for small arms training beginning in the 1940s. Spent bullets accumulated on the east-facing (leeward) sides of the sand dunes that formed the "backstops" for the targets and in areas prone to erosion between sand dunes. The Basewide HTW RI/FS evaluated cleanup alternatives for soil containing lead and other metals to protect human health.

The *Interim Record of Decision, Site 3, Beach Trainfire Ranges, Fort Ord, California* (Site 3 Interim ROD; January 13, 1997) described the selected cleanup remedy for Site 3 to address potential risks to human health due to the presence of lead and other metals in soil at the site. The Site 3 Interim ROD was signed by the DTSC on January 16, 1997, by the US EPA on January 17, 1997 and by the RWQCB on January 22, 1997. The selected remedy consisted of the excavation of contaminated soil and spent ammunition. After the cleanup was completed,

post-remediation sampling determined that the remaining site-wide average lead concentration in soil was 161 milligrams per kilogram (mg/kg). The results of the post-remediation human health risk assessment confirmed that the cleanup of the heavy bullet distribution areas was protective of humans assuming future development of Site 3 as a State Park. The DTSC and the US EPA concurred with these findings in letter dated July 21, 2000 and September 20, 2000, respectively.

Following cleanup of the heavy bullet density areas, a Post-Remediation Ecological Risk Assessment was conducted to confirm that the cleanup was protective of plants and animals at the site. Based on the data collected at the site following cleanup, it was concluded that significant risks to populations of plants and animals from exposure to the lead and other metals remaining in soil at the site are not expected.

In accordance with the Track 1 ROD, no further remedial action with monitoring at Site 3 (MRS-22) is required for the following reasons: (1) a substantial portion of bullets and contaminated soil have been removed from the site; (2) data collected before and after cleanup show that the remaining average site-wide concentrations of lead in soil is 161 mg/kg; and (3) the ecological sampling to date has shown that the cleanup appears to be protective of populations of plants and animals at the site and residual contamination in place is not likely to adversely affect the following federally listed species: Western snowy plover, Smith's blue butterfly, sand gilia, Monterey spineflower, Contra Costa goldfields, or Yadon's piperia. The Track 1 ROD was signed by the DTSC on March 30, 2005, by the RWQCB on April 4, 2005 and by the US EPA on April 7, 2005.

Ecological monitoring will be conducted at Site 3 (MRS-22) to confirm the results of the ecological risk assessments and evaluations conducted to date. Monitoring will be conducted pursuant to an approved work plan developed pursuant to Section 8.3 of the Fort Ord FFA (*November 19, 1990*). This data will be evaluated in conjunction with previous ecological risk assessment and evaluation data during the five-year reviews to assess the need for continued ecological monitoring and make sure the decision remains protective of the environment. The next five-year review will occur in 2007.

The DTSC has elected to undertake the following additional precautions at Site 3 (MRS-22): the DTSC will enter into Memorandum of Understanding (MOU) for further surveillance with the California Department of Parks and Recreation, which will be acquiring Site 3 (MRS-22); the DTSC also intends to enter into a Land Use Covenant (LUC) with the California Department of Parks and Recreation to enhance protection of human health. The MOU and LUC will address further monitoring and use of the land at Site 3 (MRS-22).

4.1.4 Operable Units (OUS)

OU2 Landfills. The Fort Ord Landfills (SWMU FTO-002) were used for approximately 30 years for residential and commercial waste disposal. The landfills cover approximately 150 acres and include the inactive main landfill (Areas B through F, south of Imjin Road) and north landfill (Area A, north of Imjin Road). Portions of Parcels E4.6.1, L5.6.1, and L5.6.2 are included within Area A (Plate 6 [Attachment 1]). All of Area A and some perimeter areas of the main landfill were removed and consolidated into the main landfill south of Imjin Road. The selected remedial action included excavation of the Area A landfill refuse and impacted soil, disposal of the material in the main OU2 Landfills, backfilling the Area A excavation, and

installation of an engineered cover system over the main landfill. This soil consolidation action allowed for clean closure of Area A as described in the Remedial Action Confirmation Report and Post-Remediation Risk Evaluation for Area A and the Remedial Action Construction Completion Report for Areas A through F. The RWQCB provided comments on and approval of the reports in a letter dated April 25, 2003. The letter also stated the RWQCB would be changing the OU2 Landfills permitting to reflect its closed status. The draft final document, dated January 31, 2005, was issued on February 2, 2005. The regulatory agencies had no additional comments and the document became final in March 2005 in accordance with the provisions of the Fort Ord FFA (*November 19, 1990*). Additional information regarding the OU2 Landfills is provided in Sections 4.2.1, 4.2.2 and 5.1.

4.2 Storage, Release, or Disposal of Hazardous Substances

There is no evidence that hazardous substances were stored, released, or disposed of on parcels E11a, E11b.6.2, E15.2, E20c.2.1, L20.13.5, L20.14.1.1, L20.14.2, L20.6 and L31 in excess of the 40 Code of Federal Regulations (CFR) Part 373 reportable quantities. The CERCLA 120(h)(4) Notice and Covenant at Attachment 4 will be included in the Deed for these parcels.

Hazardous substances were released on portions of the Property in excess of reportable quantities specified in 40 CFR Part 373. The release of these hazardous substances affects parcels E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L20.15, L5.6.1, L5.6.2, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.2, S3.1.3, S3.1.4, and S4.1.1. All hazardous substance storage operations have been terminated on the Property. Hazardous substances were released in excess of the 40 CFR Part 373 reportable quantities at sites described in Sections 4.2.1, 4.2.2, and 4.2.3 of this FOST. The release of hazardous substances at these sites was remediated as part of the Installation Restoration Program (IRP) in compliance with CERCLA. All necessary response actions have been taken and are described in this section and Section 4.1. A summary of the areas in which hazardous substance releases occurred is provided in Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal (Attachment 3). The CERCLA 120(h)(3) Notice and Covenant at Attachment 4 will be included in the Deed for these parcels.

4.2.1 Solid Waste Management Units (SWMUs)

Three former SWMUs (FTO-002, FTO-012 and FTO-059) are located on the Property. SWMU FTO-002 was identified as a former disposal area and includes portions of Parcels E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1, and L5.6.2; however, a buffer zone with a minimum width of 100 feet has been established around the actual former disposal area (Operable Unit 2 [OU2] Landfills) and no part of the OU2 Landfills is within any of these parcels (Plate 6 [Attachment 1]). FTO-012 and FTO-059 include portions of Parcel S3.1.1. SWMUs FTO-012 and FTO-059 are former sewage treatment plants.

SWMUs FTO-002 and FTO-012 were identified during a 1988 Army Environmental Hygiene Agency (AEHA; reorganized in 1994 as the U.S. Army Center for Health Promotion and Preventive Medicine [USACHPPM]) investigation. In 1996, under the Resource Conservation and Recovery Act (RCRA) and CERCLA integration that occurred as part of base closure, an inspection was completed for all SWMUs identified in 1988. During this inspection, several new SWMUs were identified, including SWMU FTO-059. The following summarizes the investigation activities conducted at the three former SWMUs on the Property.

SWMU FTO-002 (Abandoned Landfill) was identified during the 1988 AEHA investigation. The 1988 AEHA Interim Final Report on SWMUs noted that SWMU FTO-002 was a source of groundwater contamination. Remedial action construction at SWMU FTO-002 has been completed in accordance with the Operable Unit 2 (OU2) Landfills Record of Decision (ROD) (July 15, 1994) and as described in the Remedial Action Construction Completion Report. As part of that remedial action landfill material (refuse) buried within Parcels E4.6.1, L5.6.1, and L5.6.2 (Area A), including a portion of MRS-13A, was completely excavated and consolidated in areas of the OU2 Landfills to the south of the parcels. Area A has been identified as a "Special Case" Track 0 Area as described in Section 4.9. This work is summarized in the *Draft Final Remedial Action Confirmation Report and Post-Remediation Screening Risk Evaluation, Area A Operable Unit 2 Landfills, Former Fort Ord, California, April 2001, Revision 0*. The report and screening risk evaluation concluded adverse health effects are unlikely to occur and no further action at Area A is necessary. This document is appended to the Remedial Action Construction Completion Report for the OU2 Landfills. The draft final of this document, dated January 31, 2005, was issued on February 2, 2005. The regulatory agencies had no additional comments and the document became final in March 2005 in accordance with the provisions of the Fort Ord Federal Facility Agreement (FFA; November 19, 1990). Additional information regarding the OU2 Landfills is provided in Sections 4.1.4, 4.2.2 and 5.1.

SWMU FTO-012 was the Main Garrison Sewage Treatment Plant (IRP Site 2). The sewage treatment plant (STP) occupies an unpaved area of approximately 28 acres within Parcel S3.1.1 (Plate 4 [Attachment 1]). IRP Site 2 (SWMU FTO-012) was investigated during the basewide RI/FS for hazardous and toxic waste (HTW). A baseline human health risk assessment that included exposure of an onsite worker to soil and dust at the site was performed and risks were below the US EPA's threshold values. Based on the risk assessment no remedial action was proposed for soil at IRP Site 2 in the *Record of Decision, Basewide Remedial Investigation Sites, Fort Ord, California* (Basewide RI Sites ROD; January 13, 1997); however, as part of the maintenance and cleanup activities associated with the closure of SWMU FTO-012, all sludge remaining in the STP sludge drying beds and evaporation ponds was removed. Additional SWMU cleanup activities included the demolition of the asphalt lined drying beds, removal of drying bed conveyance piping and excavation of soils below the drying beds and ponds. Additional discussion of the cleanup of FTO-012 (IRP Site 2) is provided in Section 4.2.2.

SWMU FTO-059 was the Ord Village Sewage Treatment Plant (IRP Site 1). This STP is located within Parcel S3.1.1 in the southwestern portion of the former Fort Ord (Plate 5 [Attachment 1]). IRP Site 1 (SWMU FTO-059) was investigated during the Basewide RI/FS for HTW. The cleanup of SWMU FTO-059 was conducted concurrently with Interim Action (IA) activities at Site 1. As part of the cleanup of SWMU FTO-059 all waste sludge associated with the operation of the STP was removed (approximately 870 cubic yards). Additional SWMU cleanup activities included the removal of an overflow bypass clay pipe; demolition and removal of the concrete footwall associated with a surge reservoir, chlorine building, chlorine contact chamber, and all associated valve pits. Additional discussion of the cleanup of FTO-059 (IRP Site 1) is provided in Section 4.1.2.

4.2.2 Groundwater Contamination

Two groundwater contamination plumes, OU2 Landfills (SWMU FTO-002) and Sites 2 and 12, underlie portions of the Property. The OU2 groundwater plume is the result of a release of hazardous substances from the OU2 Landfills and is being remediated in accordance with the OU2 ROD (*July 15, 1994*). The OU2 ROD was signed by the RWQCB on August 9, 1994, by the DTSC on August 18, 1994, and by the US EPA on August 23, 1994. On January 4, 1996, the Army received concurrence from the US EPA that the pump-and-treat system for remediation of the OU2 groundwater plume is in place and operating "properly and successfully." Additional information regarding the OU2 Landfills is provided in Sections 4.1.4, 4.2.1 and 5.1.

The Sites 2 and 12 groundwater plume is presumed to be the result of releases of hazardous substances associated with activities in the light industrial area of the former Fort Ord (RI Site 12) and is being remediated by extraction and treatment in accordance with the Basewide RI Sites ROD (*January 13, 1997*). The Basewide RI Sites ROD was signed by the DTSC on January 16, 1997, by the US EPA on January 17, 1997, and by the RWQCB on January 22, 1997. Since installation and start-up of the Sites 2 and 12 groundwater treatment system (April 1999), the extent of the plume has been significantly reduced. The Sites 2 and 12 Groundwater Remedy Operating Properly and Successfully Evaluation Report was submitted to the regulatory agencies in November 2001. On July 3, 2002, the Army received concurrence from the US EPA that the pump-and-treat system for remediation of the Site 2 and 12 groundwater plume is in place and operating "properly and successfully."

The Baseline Risk Assessments for the Sites 2 and 12 and OU2 groundwater plumes indicates that the groundwater does not pose a threat to occupants of the buildings on the Property, provided that groundwater from the contaminated aquifers is not used as a drinking water source. Well drilling and use of groundwater will be prohibited. Restriction and notification for groundwater contamination are detailed in the Environmental Protection Provisions (Attachment 5).

4.2.3 Basewide Range Assessment (BRA)

Each of the munitions response sites that lie within the Property were investigated as part of the BRA for small arms and multi-use ranges. For the BRA, the areas of investigation were identified as Historical Areas (HA). The assessment of each HA for potential hazardous and toxic waste-related contamination included a literature search and data review (i.e., review of historical maps, aerial photographs and data generated during sampling investigations, where conducted). Based on this research a determination was made whether site reconnaissance and mapping was warranted. Areas of interest (e.g., training area boundaries, disturbed vegetation areas, and roads) were identified from maps and photographs and their locations (waypoints) uploaded into a Global Positioning System (GPS) unit. The site reconnaissance was conducted by a two-person team that included a military munitions specialist and a second team member trained in munitions recognition. The site reconnaissance included walking portions of the site and navigating to the waypoints using the GPS unit. If evidence of a release was observed sampling for chemical contamination was performed. The US EPA and the DTSC provided comments on the *Draft Comprehensive Basewide Range Assessment Report, Former Fort Ord, California* (BRA Report) and the draft final BRA Report (*March 31, 2005*) was issued in March

2005. The US EPA and the DTSC provided no additional comments and, in accordance with the provisions of the Fort Ord FFA (*November 19, 1990*), the BRA Report became final in April 2005. The following discusses the results of the BRA conducted on the Property.

HA-90 (MRS-1) is included within Parcels E2a, E4.1.2.1, E4.1.2.2, L9.1.1.2, and L9.1.2.2 (Plate 4 [Attachment 1]). The assessment of HA-90 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-1. Based on the results of the literature search, site history (the area was used for a limited time in the 1950s, and then later graded for housing), and no stained soil was identified, no further action related to chemical contamination is required for HA-90.

HA-96 (MRS-6) is included within Parcels E2a and S4.1.1 (Plate 4 [Attachment 1]). The assessment of HA-96 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-6. Based on the results of the literature search, and because only one small arms round and one practice mine were found during sampling, no further action related to chemical contamination is required for HA-96.

HA-102 (MRS-13A) is included within Parcels E4.3.2.1, E4.6.1, E4.6.2, L5.6.1, and L5.6.2 (Plate 6 [Attachment 1]). The assessment of HA-102 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-13A. Based on the results of the literature search and absence of munitions debris observed during military munitions sampling, no further action related to chemical contamination is required for HA-102.

HA-122 (MRS-20) is included within Parcel E15.2 (Plate 3 [Attachment 1]). The assessment of HA-122 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-20. Based on the results of the literature search and absence of munitions debris observed during military munitions sampling, no further action related to chemical contamination is required for HA-122.

HA-124 (MRS-22) is included within Parcels S3.1.1, S3.1.2, S3.1.3, S3.1.4, and L20.15 (Plates 4 and 5 [Attachment 1]). The assessment of HA-124 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-22. HA-124 encompasses all of the small arms ammunition firing ranges that were located within MRS-22 (HA-1 through HA-17). Remediation of each of the beach ranges has been completed, and no further action related to chemical contamination is required for HA-124, which includes HA-1 through HA-17.

HA-157 (MRS-27Y) is included within Parcels E11a and L20.14.1.1 (Plate 7 [Attachment 1]). The assessment of HA-157 for potential hazardous and toxic waste related to military munitions included a literature search and a review of the information gathered during the assessment and military munitions sampling conducted at MRS-27Y and adjacent MRS-66. Based on the results of the literature search and absence of munitions debris observed during military munitions sampling, no further action related to chemical contamination is required for HA-157.

HA-179 (MRS-49) is included within Parcels E20c.2.1, L23.5.1, and L31 (Plate 3 [Attachment 1]). The assessment of HA-179 for potential hazardous and toxic waste-related contamination included a data review, site reconnaissance, and mapping of the site. No evidence of military munitions was observed during the site reconnaissance conducted at the HA-179. Three fighting positions were found along a path that runs between Parcel L23.5.1 and HA-179; however, no targets or range features were identified and no further investigation for chemical contamination action is required for HA-179.

HA-189 (MRS-59) is included within Parcel E11b.6.2 (Plate 8 [Attachment 1]). The assessment of HA-189 for potential hazardous and toxic waste related to military munitions included a literature search, site reconnaissance, and mapping of the site. The site reconnaissance of HA-189 was performed in December 2001. Only expended blank small arms ammunition casings were found. No military munitions or evidence of military training were identified during the site walk and no further action related to chemical contamination is required for HA-192.

HA-192 (MRS-62) is included within Parcel L20.6 (Plate 9 [Attachment 1]). The assessment of HA-192 for potential hazardous and toxic waste related to military munitions included a literature search, site reconnaissance, and mapping of the site. The site reconnaissance of HA-192 was performed in November 2001. Only expended blank small arms ammunition casings were found. No military munitions or evidence of military training were identified during the site walk and no further action related to chemical contamination is required for HA-192.

HA-196 (MRS-66) is included within Parcel E11a (Plate 7 [Attachment 1]). The assessment of HA-196 for potential hazardous and toxic waste related to military munitions included a literature search, site reconnaissance, and mapping of the site. The site reconnaissance of HA-196 was performed in December 2001. No military munitions or evidence of military training were identified during the site walk and no further action related to chemical contamination is required for HA-196.

4.3 Petroleum and Petroleum Products

4.3.1 Underground and Aboveground Storage Tanks (UST/AST)

Current UST/AST Sites

There are four aboveground storage tanks (ASTs) on the Property. Two ASTs on the Property (6143 and 8775) are currently used for storage of petroleum products (Table 7 – Notification of Petroleum Product Storage, Release, or Disposal [Attachment 3]) and two ASTs on the Property that were formerly used to store propane that are no longer in use (4367.1 and 4367.2). ASTs 6143 and 8775 are located in Buildings 6143 and 8775, respectively, and are associated with sewage lift station pumps. ASTs 6143 and 8775 and the associated real property were transferred to FORA by deed on October 17, 2002. There is no evidence of petroleum releases from the four tanks.

Former UST/AST Sites

There were eight underground storage tanks (USTs) on the Property used for storage of petroleum products. All eight of the USTs have been removed. Releases of petroleum products occurred at the following USTs: 4362.1, 4362.2, and 2070.1. The release of petroleum products

from these USTs was remediated and closure granted by the Monterey County Department of Health (MCDOH) for all eight of the USTs. A summary of petroleum product storage, including remedial actions and dates of closure, is provided in Table 7 – Notification of Petroleum Product Storage, Release, or Disposal (Attachment 3).

4.3.2 Non-UST/AST Storage, Release, or Disposal of Petroleum Products

Based on a review of existing records and available information, there is no evidence that petroleum products in excess of 55 gallons at one time were stored, released, or disposed of on the Property as the result of non-UST/AST petroleum activities. Accordingly, there is no need for notification regarding non-UST/AST petroleum product storage, release, or disposal.

4.4 Polychlorinated Biphenyls (PCB)

There are no PCB-containing transformers or other PCB-containing equipment, with the exception of possible PCB-containing light ballasts, located on the Property. Based on a review of existing records and available information, PCB-containing light ballasts may be located on the Property. Fluorescent light ballasts manufactured or installed prior to 1978 may contain PCBs in the potting material. PCB-containing light ballasts do not pose a threat to human health and the environment when managed properly.

4.5 Asbestos

Based on the *Asbestos Survey Report, For U.S. Army Corps of Engineers, Fort Ord Installation (April 26, 1993)*, asbestos containing materials (ACM) were identified within buildings or structures on the Property. Detailed descriptions of the asbestos type, location, and condition rating (at the time of survey) are provided in the Asbestos Survey Report. A list of the buildings and whether asbestos was identified is provided in Table 1 – Description of Property (Attachment 3).

As noted in the *Asbestos Survey Report*, some of the buildings contain friable ACM in good to poor condition. Friable ACM may pose a health risk if not managed properly. Friable ACM can be effectively managed in place, provided the proper precautions are taken to minimize or eliminate exposure of personnel to airborne asbestos. The Army does not intend to remove or repair the ACM present in the buildings, but discloses its existence and condition. The friable asbestos that has not been removed or encapsulated will not present an unacceptable risk to human health because it will be managed by the Grantee as described in Section 5 of the Environmental Protection Provisions. Any recommended inspection of ACM present in these buildings will be the responsibility of the recipient. Appropriate asbestos notice is given herein and will be included in the deed. The deed will include the asbestos warning and covenant included in the Environmental Protection Provisions (Attachment 5).

4.6 Lead-Based Paint (LBP)

Buildings on the Property known or presumed to contain lead-based paint (LBP) are listed by parcel number in Table 1 – Description of Property (Attachment 3). Parcels E11a, E15.2, E4.1.2.3, E4.6.1, E4.6.2, E8a.1.1.2, L20.13.5, L20.14.1.1, L20.14.2, L20.6, S3.1.1, S3.1.2, S3.1.3, S3.1.4 and S4.1.1 were not used for residential purposes and the transferee does not intend to use these parcels for residential purposes in the future. Parcels E11b.6.2, E2a, L20.15,

and L5.6.1 do not contain any buildings or structures and were not used for residential purposes; however, the transferee intends to use these parcels for development, which may include residential purposes in the future. Parcel E20c.2.1 does not contain any buildings or structures and was not used for residential purposes; however, the transferee intends to use the parcel for residential purposes in the future. Parcel L5.6.2 was used for residential purposes and the transferee does not intend to use this parcel for residential purposes in the future. Parcel L23.5.1 was used for residential purposes and the transferee intends to use this parcel for development, which may include residential purposes in the future. Parcels E4.1.2.1, E4.1.2.2, E4.3.1.2, E4.3.2.1, L31, L9.1.1.2, and L9.1.2.2 were used for residential purposes and the transferee intends to use these parcels for residential purposes in the future. The deed will include the lead-based paint warning and covenant provided in the Environmental Protection Provisions (Attachment 5).

Lead-based paint surveys have been completed within the Patton Park housing areas, which includes Parcels E4.1.2.1, E4.1.2.2, L9.1.1.2, and L9.1.2.2. The first survey, conducted in November 1993 through March 1994, included the sampling of the interior and exterior components (e.g., walls, doorframes, baseboards, windowsills, downsills, downspouts, etc.) of 150 randomly selected housing units in Patton Park. Out of 150 units sampled, at least one component tested positive for lead in 125 of the 150 units.

Additional lead sampling (wipe, paint chip, and soil) was completed in Patton Park in December 2000 as part of a LBP risk assessment. Wipe and paint chip samples were collected from the interior of 148 randomly selected Patton Park housing units. A limited number of windowsill and floor wipe samples had lead dust results exceeding allowable levels for those surfaces. Paint chip samples (466) were collected from locations of paint deterioration. Results of the paint chip sampling confirmed and assessed the LBP associated with the Patton housing units. Four hundred and seventy-nine composite soil samples were collected using random sampling protocol and analyzed for lead. The samples were collected from the housing unit drip lines and mid-yard locations, and from playgrounds associated with the housing areas. With the exception of two mid-yard samples, none of the lead levels in the soil samples exceeded the US EPA, Department of Housing and Urban Development (HUD), or State of California lead criteria. Two of the mid-yard sample results exceeded the State of California allowable lead limits (1,000 mg/kg) for lead in non-play areas.

Due to the previous elevated lead concentrations in two of the soil samples collected as part of a LBP risk assessment conducted at Patton Park housing, seven additional composite soil samples were collected by the Army and seven composite soil samples were collected by the DTSC. The soil samples were collected in March 2002 from drip lines and parallel mid-yard areas where previous soil samples collected in October and November 2000 resulted in high total lead concentrations. The concentration of total lead in the seven composite soil samples collected by the Army from the re-sampled areas ranged from non detect, which is at or below the laboratory reporting limit of 10 parts per million (ppm), to 60 ppm. None of the soil samples exceeded the US EPA, HUD, or State of California lead criteria. The results of the DTSC sampling were similar to those found by the Army. In a letter to the Mayor of the City of Marina dated June 5, 2003, the DTSC stated that, based on the results of the re-sampling of soil by the Army and the DTSC in Patton Park, the housing area was suitable for unrestricted use.

4.7 Radiological Materials

One building on the Property (Building 916, Parcel S3.1.1) was among 230 former Fort Ord buildings that were suspected to have contained/stored radioactive commodities at some point in the past, but for which no documented evidence was found. The use of radioactive commodities at former Fort Ord was limited to those under the control of a specific Nuclear Regulatory Commission (NRC) license, or those managed under Department of the Army authorization. Twenty percent of the 230 buildings were randomly sampled by the U.S. Army Environmental Hygiene Agency (AEHA; reorganized in 1994 as the U.S. Army Center for Health Promotion and Preventive Medicine [USACHPPM]). No radiological health hazards were identified for the twenty percent sampled, and USACHPPM recommended that all 230 buildings be released for unrestricted use (memorandum dated May 2, 1997). In a memorandum dated October 1, 1997, the California Department of Health Services (DHS) released all buildings with documented or suspected use or storage of radioactive commodities (including Building 916) for unrestricted use.

4.8 Radon

Radon surveys were conducted in approximately 2,900 buildings at the former Fort Ord in 1989 and 1990. Radon was not detected at or above the US EPA residential action level of 4 picocuries per liter (pCi/L) in buildings on the Property.

4.9 Munitions and Explosives of Concern (MEC)

A review of existing records and available information, including the Archive Search Report (ASR), ASR Supplement No. 1 and the draft Revised ASR (*December 1993, November 1994 and December 1997*, respectively), the Site 39 Data Summary (*February 1994*), the Literature Review Report (*January 2000*), the Track 0 ROD (*June 2002*), the Final Track 1 OE RI/FS (*June 2004*), the Track 1 ROD (*March 2005*), the Track 0 Plug-In Approval Memorandum Selected Parcels – Group B (*March 2005*), the Track 0 Plug-In Approval Memorandum Selected Parcels – Group C (*July 2005*), military munitions contractor after-action reports, working maps, Fort Ord Training Facilities Maps, and associated interviews from various ordnance-related community relations activities, indicates that ten former munitions response sites (MRSs) are present on the Property as described below. The ten MRSs (MRS-1, MRS-6, MRS-13A, MRS-20, MRS-22, MRS-27Y, MRS-49, MRS-59A, MRS-62, and MRS-66) were determined to be Track 1 munitions response sites. In addition, the area between MRS-1 and MRS-6, the MRS-6 Expansion Area, was evaluated and determined to meet the Track 1 Plug-In criteria (*Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area*, dated May 6, 2005). No further action related to munitions and explosives of concern (MEC) is required at Track 1 sites because MEC is not expected. The term “MEC” means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard. The Track 1 ROD was signed by the DTSC on March 30, 2005 and the US EPA on April 6, 2005. Track 1 sites were evaluated through the RI/FS process and documented in the Track 1 OE RI/FS. The Track 1 OE RI/FS provided the site-specific rationale for assigning Track 1 status. The remainders of the parcels that lie outside of the Track 1 site(s) are considered Track 0 areas. The Track 0 No Action ROD Plug-in process

addresses single or grouped areas of land at the former Fort Ord that have no history of military munitions use and for which No Action is necessary to protect human health and the environment. The Track 0 ROD (*June 19, 2002*) was signed by the DTSC on June 25, 2002, and the US EPA on July 2, 2002. The evaluation of the portions of the parcels included in this FOST that lie outside of the Track 1 sites is presented in the *Track 0 Plug-In Approval Memorandum Selected Parcels – Group C, Former Fort Ord California* (Track 0 Approval Memo – Group C), dated July 1, 2005. The US EPA and the DTSC concurred with the determinations of the Track 0 Approval Memo – Group C in letters dated July 19, 2005 and July 22, 2005, respectively.

The following summarizes the results of the Military Munitions Response Program (MMRP) investigations that have been conducted on the Property.

MRS-1. MRS-1 lies within portions of Parcels E2a, E4.1.2.2, L9.1.1.2, and L9.1.2.2 (Plate 4 [Attachment 1]). MRS-1 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-1. MRS-1 meets the Track 1, Category 3⁹ criteria because historical research and sampling investigations identified evidence of past training involving military munitions and training at this site involved only the use of pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-1.

MRS-6. MRS-6 lies within portions of Parcels E2a and S4.1.1 (Plate 4 [Attachment 1]). MRS-6 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-6. MRS-6 meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions and training at this site involved only the use of pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-6.

MRS-6 Expansion Area. The MRS-6 Expansion Area lies within Parcel E2a, between MRS-6 and MRS-1 and overlaps small portions of Parcels E4.1.2.1, E4.1.2.2 and S4.1.1 (Plate 4). The Track 1 OE RI/FS recommended that the boundary of MRS-6 be expanded to the south to include an area identified as a “Mine and Booby Trap Area” on a 1950s era training map. A site walk was conducted in 2004 to evaluate this area. The area walked included MRS-6, a portion of Parcel E2a between MRS-6 and MRS-1 (MRS-6 Expansion Area), and the very northern portion of MRS-1. Munitions debris items found during the site walk included expended practice mine fuzes within MRS-6 and an expended firing device within the portion of Parcel E2a between MRS-6 and MRS-1, which are consistent with both the type of munitions debris items found during previous sampling events and those expected in a practice mine and booby trap training area. The MRS-6 Expansion Area meets the Track 1, Category 3 criteria because historical research and field investigations identified evidence of past training involving military munitions, and training at this site involved only the use of practice and pyrotechnic items that are not designed to cause injury. The MRS-6 Expansion Area was evaluated in the *Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area*, dated May 6, 2005. Approval of the “Plug-In” of the MRS-6 Expansion Area into the Track 1 ROD was granted by the US EPA on

⁹ Category 3: The site was used for training with military munitions, but military munitions items that potentially remain as a result of that training do not pose an unacceptable risk based on site-specific evaluations conducted in the Track 1 OE RI/FS.

June 20, 2005 and by the DTSC on July 29, 2005. In accordance with eligibility criteria for Plug-In sites identified in the Track 1 ROD, no further action related to MEC is required for this area.

MRS-13A. MRS-13A includes portions of Parcels E4.6.1, E4.6.2, L5.6.1, and L5.6.2 (Plate 5 [Attachment 1]). MRS-13A was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-13A. MRS-13A meets Track 1, Category 2¹⁰ criteria because historical research and sampling conducted at this site identified evidence of past training involving military munitions items that do not pose an explosive hazard. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-13A.

MRS-13A overlies a portion of the OU2 Landfills (Area A; Plate 5 [Attachment 1]). The southwestern portion of MRS-13A includes a portion of Area A excavated in 1996 through 1998, as part of the relocation of the landfill material buried in Area A. All landfill disposal areas, including land within the MRS-13A footprint, have been fully excavated and the excavated areas have been backfilled or re-graded. Military munitions items were found and removed from landfill materials excavated from MRS-13A; however, the items are attributed to disposal based on the proximity to the landfill and the type of training identified on historic maps in this area. Accordingly, Area A has been identified as a "Special Case" Track 0 Area as defined in the Track 0 ROD (*June 2002*) and the Track 0 ROD Explanation of Significant Differences (ESD) (*April 5, 2005*). The DTSC and the US EPA signed the Track 0 ROD ESD on April 12, 2005 and April 26, 2005, respectively.

MRS-20. MRS-20 lies within Parcel E15.2 (Plate 3 [Attachment 1]). MRS-20 was evaluated in the Track 1 OE RI/FS. MRS-20 meets the Track 1, Category 1¹¹ criteria because historical research and sampling conducted at this site found no evidence of past training involving military munitions. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-20.

MRS-22. MRS-22 includes Parcels L20.15, S3.1.1, S3.1.2, S3.1.3, and S3.1.4 (Plates 8 and 9 [Attachment 1]). MRS-22 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-22. MRS-22 meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions and training at this site involved only the use of practice and pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-22.

As an added precaution, the DTSC and the California Department of Parks and Recreation will enter into a Memorandum of Understanding (MOU) for additional site surveillance activities on MRS-22. The MOU will be implemented to inspect the beach property for the presence of MEC items periodically and after erosion-inducing events. The MOU will also call for proper notification in the case of any discovery of MEC items (or potential MEC items) during these inspections.

¹⁰ Category 2: The site was used for training, but the military munitions items used do not pose an explosive hazard.

¹¹ Category 1: There is no evidence to indicate military munitions were used at the site.

MRS-27Y. MRS-27Y lies partially within Parcels E11a, L20.14.1.1, and L20.14.2 (Plate 6 [Attachment 1]). MRS-27Y was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-27Y. MRS-27Y meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions and training at this site involved only the use of pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-27Y.

MRS-49. MRS-49 lies partially within Parcels E20c.2.1, L23.5.1 and L31 (Plate 3 [Attachment 1]). MRS-49 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-49. MRS-49 meets the Track 1, Category 3 criteria because historical research and site walks conducted at this site identified evidence of past training involving military munitions and training at this site involved only the use of practice and pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-49.

MRS-59A. MRS-59A includes Parcel E11b.6.2 (Plate 7 [Attachment 1]). MRS-59A was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-59A. MRS-59A meets the Track 1, Category 3 criteria because historical research, site walks, and surface sampling conducted at this site identified evidence of past training involving only the use of pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-59A.

MRS-62. MRS-62 includes Parcel L20.6 (Plate 10 [Attachment 1]). MRS-62 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-62. MRS-62 meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions and training at this site involved only the use of pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-62.

MRS-66. MRS-66 lies partially within Parcel E11a (Plate 6 [Attachment 1]). MRS-66 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-66. MRS-66 meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions, and training at this site involved only the use of practice and pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-66.

As specified in the Track 1 ROD and the Track 1 Plug-In Approval Memorandum for the MRS-6 Expansion Area, the Army recommends construction personnel involved in intrusive operations at the following sites attend the Army's "ordnance recognition and safety training," MRS-1, MRS-6, and the MRS-6 Expansion Area, MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS-59A, MRS-62, and MRS-66.

Site Reconnaissance of Parcels E20c.2.1, L23.5.1, L31, E11b.6.2, L20.6, and E11a

As part of the BRA, a site reconnaissance was performed over portions of Parcels E20c.2.1, L23.5.1, L31, E11b.6.2, L20.6, and E11a. No MEC or munitions debris items were found within these parcels during the BRA site reconnaissance. Additional information on the BRA investigation is provided in Section 4.2.3.

Site Walk of Parcel E2a

A site walk was conducted in 2004 to address gaps in information collected during previous sampling efforts in the vicinity of MRS-1 and MRS-6. The site walk was conducted by a UXO Safety Specialist using a magnetometer to detect buried anomalies. The area walked included MRS-6, a portion of Parcel E2a between MRS-6 and MRS-1, and very northern portion of MRS-1. The only munitions debris items found during the site walk were two expended practice mine fuzes and an expended firing device (M1-type), which are consistent with the type of munitions debris found at MRS-1 and MRS-6 during the sampling conducted at those sites.

Military munitions response program investigations indicate that it is not likely that MEC are located on the Property; however, there is a potential for MEC to be present because military munitions were used throughout the history of Fort Ord. The deed will contain a notice of the potential for the presence of MEC as stated in the Environmental Protection Provisions (Attachment 5).

4.9.1 Incidental Military Munitions

Incidental military munitions items were found in seven parcels that are in this FOST. These items are considered to be "incidental" because their presence was anomalous and not indicative of past military munitions training activities on these parcels. Accordingly, the definition of "Track 0" has been clarified in the *Explanation of Significant Differences, Final Record of Decision, No Action Regarding Ordnance-Related Investigations (Track 0 ROD), Former Fort Ord, California (April 5, 2005)* to include areas not suspected as having been used for military munitions-related activities of any kind, but where incidental military munitions have been discovered. A description of the discovery of incidental military munitions at each parcel is provided below.

Parcels E4.3.1.2, E4.6.1, E4.6.2, L5.6.1 and L5.6.2 – During the excavation and placement of underground piping associated with the OU2 Landfills groundwater treatment system munitions debris items and MEC items were found on Parcels E4.3.1.2, E4.6.1, E4.6.2, L5.6.1, and L5.6.2. With the exception of one of the items (an inert 3.5-inch rocket motor), all were found within or adjacent to the landfill excavation boundaries during construction activities. As documented in the *Technical Memorandum, Support Documentation, Potential OE Issues, Parcel E4.3.1, Finding of Suitability for Early Transfer, Housing Areas and Former East Garrison Parcels, Former Fort Ord, California, May 2, 2001*, available documentation indicates these items were discarded in the former OU2 Landfills (Area A) during previous landfill operations and are not associated with any training in this area. The inert 3.5-inch rocket motor was found along Imjin Road, within Parcel E4.6.2, at a depth of 2 feet below the ground surface and may have been buried during grading activities.

The intended reuse of Parcel E4.3.1.2 is residential development, and as part of construction activities for this development the OU2 Landfills groundwater treatment system piping and other utilities within the parcel will be excavated and relocated. A representative of the Army trained in MEC recognition will observe initial grading and excavation activities that are within Parcel E4.3.1.2, associated with the system piping and utility relocation, and part of the initial planned development occurring within the parcel after its transfer. In accordance with the Environmental Protection Provisions (Attachment 5), if the Army representative or any other person should find suspected MEC during these activities, they will immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and will immediately notify the appropriate authority so that explosive ordnance disposal personnel can be dispatched to address such MEC, as required under applicable law and regulations.

Parcel E8a.1.1.2 - Several military munitions items have been discovered within this parcel. The items were primarily expended practice items (munitions debris) and found scattered mostly in the northwestern portion of the parcel. Three MEC items (practice antitank mine, grenade fuze, and a practice grenade) were also found. These items are considered to be associated with disposal at the OU2 Landfills and not with any training in this area.

To address regulatory agency concerns regarding the occurrence of incidental military munitions observed on Parcel E8a.1.1.2, a site walk was performed to provide additional information. On June 15, 2005, a USACE UXO Safety Specialist conducted a site walk with a Schonstedt GA-52CX magnetometer, while a Global Positioning System operator recorded the path walked. All anomalies were intrusively investigated. No MEC or munitions debris items were found during the walk; brass casing from small arms ammunition were observed. Therefore, presence of the incidental items found previously on this parcel are not indicative of past training and this parcel meets the definition of Track 0 as defined in the Track 0 ESD.

Parcel L20.13.5 - In March of 2002, staking and surveying activities were being conducted along South Boundary Road to support widening of the road from General Jim Moore Boulevard to York Road. During this activity, the cartridge case from a 40mm multi-projectile with a live primer (MEC) was discovered adjacent to the road on Parcel L20.13.5. The item was reported to the on-call UXO Safety Officer who responded to the incident. The item was inspected and deemed safe to remove (cartridge case was damaged and the projectiles were missing), and transported to a safe holding area for later disposal. No other evidence of military munitions was discovered during the South Boundary Road widening project. Because the cartridge case was damaged and found lying adjacent to South Boundary Road, it is believed to have been discarded at this location and not present as the result of training activities.

4.9.2 Findings and Recommendations

The potential exists for MEC to be present on the Property because they were used throughout the history of Fort Ord. An appropriate MEC notice is given herein and will be included in the deed. The deed will include the MEC warning and covenant included in the Environmental Protection Provisions (Attachment 5, Section 3).

The Army cannot guarantee that all MEC have been removed; therefore, the Army recommends reasonable and prudent precautions be taken when conducting intrusive operations on the Property and will, at its expense, provide construction worker MEC recognition training.

Pursuant to an agreement with the DTSC, the Cities of Marina, Seaside, and Del Rey Oaks have adopted City Ordinances that address the potential MEC risk by requiring permits for certain excavation activities. The Cities of Seaside, Marina, and Del Rey Oaks have designated all real property within their respective land use jurisdictions, which was formerly part of Fort Ord and identified as the possible location of MEC, as an "Ordnance Remediation District" ("District").

4.10 Installation-Wide Multispecies Habitat Management Plan

In accordance with the Installation-Wide Multispecies Habitat Management Plan (HMP), parcels in this FOST are categorized as follows:

Development Parcels – E15.2, E20c.2.1, E4.1.2.1, E4.1.2.2, E4.1.2.3, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, L5.6.1, L5.6.2, L9.1.1.2, L9.1.2.2, L20.13.5, L20.14.1.1, L20.14.2, L20.15, L20.6, L23.5.1, L31, and S3.1.4.

Habitat Reserve Parcels – E11a, E11b.6.2, and S3.1.2.

Development with Reserve Areas or Development with Restrictions Parcels – E2a, E8a.1.1.2, S3.1.1, S3.1.3, and S4.1.1.

The resource conservation and management requirements for Habitat Reserve Parcels and Development with Reserve Areas or Development with Restrictions Parcels are described in the April 1997 HMP and in the *Assessment East Garrison – Parker Flats Land Use Modifications, Fort Ord California, May 1, 2002*.

The parcels identified as HMP Development Parcels have no HMP resource conservation or management requirements; however, the HMP does not exempt the Grantee from complying with environmental regulations enforced by federal, State, or local agencies. These regulations may include obtaining permits from the U.S. Fish and Wildlife Service (USFWS) as required by the Endangered Species Act (ESA); complying with prohibitions against the removal of listed plants occurring on federal land or the destruction of listed plants in violation of any state laws; complying with measures for conservation of state-listed threatened and endangered species and other special-status species recognized by the California ESA, or California Environmental Quality Act (CEQA); and complying with local land use regulations and restrictions. The deed will include the "Notice Of The Presence Of Threatened And Endangered Species" provided in the Environmental Protection Provisions (Attachment 5).

4.11 Other Property Conditions

Clean Air Act General Conformity Rule requirements for this transfer were satisfied by a Record of Non-Applicability based upon an exemption for property transfers or leases where the proposed action will be a transfer of ownership, interest and title in the land, facilities, and associated real and personal property.

5.0 ADJACENT PROPERTY CONDITIONS

The following other potentially hazardous conditions exist on adjacent property:

5.1 Operable Unit 2 (OU2) Landfills

Portions of the Property (Parcels E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1, and L5.6.2) are located within 1,000 feet of the Operable Unit 2 (OU2) Landfills (Plate 6 [Attachment 1]). Parcel E8a.1.1.2 is located immediately to the south of and adjacent to the OU2 Landfills (Area E) (Plate 6, Attachment 1). The selected remedial action presented in the OU2 Landfills ROD (*July 15, 1994*) included placement of an engineered cover system over buried refuse at the OU2 Landfills. Placement of the engineered cover system at the OU2 Landfills was completed in December 2002.

California Integrated Waste Management Board (CIWMB) regulations (Title 27 California Code of Regulations [CCR]), require that methane concentrations do not exceed the lower explosive limit (LEL) of five percent at the landfill boundary. In addition, trace gases must be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds. To evaluate methane levels and trace gases in soil adjacent to the OU2 Landfills in accordance with CIWMB requirements, permanent monitoring probes were installed within the OU2 Landfills and around the OU2 Landfills perimeter at a spacing of 1,000 feet or less. The Army has conducted quarterly monitoring at perimeter probes since June 2000, as described in the Landfill Gas Perimeter Probe Monitoring Reports (February 2002, October 2002, April 2004 and November 2004). The latest available results from the quarterly methane monitoring (March through December 2003) showed methane concentrations to be below the five percent standard at the landfill boundary. It is expected that the concentrations of methane will decline in the future as the waste ages and the rate of biological degradation decreases. Results from the 2003 annual monitoring for volatile organic compounds (VOCs) indicates VOCs were mostly non-detectable to the reporting limit. The VOCs most frequently detected since June 2000 include vinyl chloride, benzene, Freon 11, Freon 12, Freon 113, and Freon 114. Permanent perimeter probes are located on Area E of the OU2 Landfills adjacent to Parcel E8a.1.1.2 (SGP-1E, SGP-2E and SGP-3E) and within Parcel E8a.1.1.2 (SGP-5E and SGP-6E). These probes are monitored quarterly for methane. Historically, methane has been detected in SGP-1E and SGP-2E, but not in SGP-3E, SGP-5E or SGP-6E. SGP-2E and SGP-5E are also monitored annually for VOCs. In 2003, acetone, carbon disulfide, Freon 114, Freon 12 and Tetrachloroethene were detected in both probes. Additionally, Freon 11 was detected in SGP-5E. To monitor for potential impacts of toxic and/or carcinogenic trace gases contained in landfill gas (LFG), the Army also conducted ambient air monitoring in 2000, 2001, 2002, and 2003 for VOCs as reported in the *Draft Final Report, 2003 Ambient Air Monitoring and Human Health Risk Assessment, Operable Unit 2 Landfills, Former Fort Ord, California* (Revision 0, March 2005). The results of the Human Health Risk Assessment (HHRA) are described below.

In June 2001, the Army implemented a LFG extraction and treatment system along the eastern side of the OU2 Landfills Area F adjacent to the existing California State University Monterey Bay (CSUMB) housing. This system has reduced and maintained methane concentrations along the fence line adjacent to the eastern side of Area F to less than the five percent standard. To further reduce potential migration of VOCs from the OU2 Landfills to the underlying groundwater and potential emissions of VOCs to the atmosphere, the Army is expanding the network of LFG extraction wells to include the northern, western and southern perimeters and interior of Area F. The new system will extract and treat both methane and VOCs through use of a thermal treatment unit. In its current configuration, the treatment system uses granular

activated carbon and potassium permanganate to treat VOCs; however, this is not effective for removing methane. The system expansion is described in the *Draft Final Work Plan, Landfill Gas System Expansion, Operable Unit 2 Landfills, Former Fort Ord, California* (Revision 0, March 2005). The Army estimates construction will be complete and the expanded system brought on line by January 2006.

To decrease the potential for LFG migration to surrounding property, a buffer zone was added extending 100 feet beyond the perimeter fencing for most of the OU2 Landfills Areas (Plate 6 [Attachment 1]). Future landowners should refer to Title 27, Section 21190 CCR, which identifies protective measures for structures built on or within 1,000 feet of a landfill.

The Army conducted a screening human health risk assessment (HHRA) to evaluate the potential health risks associated with potential residential exposure to VOCs in ambient air in the vicinity of the OU2 Landfills. Ambient air monitoring data collected in 2000, 2001, 2002, and 2003 was used in the HHRA. Based on the results of the HHRA, it was determined that no further corrective action was necessary to address risks or hazards from VOCs potentially emanating from the OU2 Landfills (SWMU FTO-002). The US EPA provided comments to the Draft HHRA in a letter dated November 8, 2004, in which it was concurred that the OU2 Landfills are not contributing significantly to VOC concentrations in ambient air downwind of the OU2 Landfills. The DTSC provided comments in a memorandum dated November 17, 2004, in which the DTSC concurred that risks upwind and downwind of the OU2 Landfills are approximately equal.

Site closure has been recommended for the OU2 Landfills. Documentation required for the regulatory agencies to approve site construction completion and site completion as defined under CERCLA was provided in the *Draft Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, Former Fort Ord, California, March 2003, Revision C*. The California Regional Water Quality Control Board, Central Coast Region (RWQCB) provided comments on and approval of the report in a letter dated April 25, 2003. The letter also stated the RWQCB would be changing the OU2 Landfills permitting to reflect its closed status. On January 10, 2005, the US EPA and the DTSC gave verbal approval to issue the Draft Final Remedial Action Construction Completion Report in accordance with the Federal Facilities Agreement schedule. The draft final document, dated January 31, 2005, was issued on February 2, 2005. The regulatory agencies had no additional comments and the document became final in March 2005 in accordance with the provisions of the Fort Ord FFA (*November 19, 1990*). Additional information regarding the OU2 Landfills is provided in Sections 4.1.4, 4.2.1, and 4.2.2.

5.2 Munitions and Explosives of Concern (MEC)

MRS-2, MRS-24B, MRS-31, MRS-44EDC, MRS-45, MRS-50EXP, and MRS-59 lie adjacent to the Property. A summary of the investigation conducted at each of the adjacent sites is provided below.

MRS-2. MRS-2 lies approximately 100 feet west of Parcel E4.6.1 (Plate 5 [Attachment 1]). MRS-2 was identified in the ASR as a chemical training area and a landmine warfare training area. Results of the ASR indicate that MRS-2 was not an impact area. During the archives search it was reported that Chemical Agent Identification Sets (CAIS) might have been buried in

the site vicinity along Imjin Road. MRS-2 was sampled for munitions and explosives of concern (MEC) in 1994 and two munitions debris items were found. A portion of MRS-2 overlaps IRP Site 16 and is adjacent to IRP Site 17. During the investigation and remediation of IRP Sites 16 and 17, 468 2.36-inch inert practice rockets were removed from burial pits located in former landfill areas within Sites 16 and 17. Landfill areas within MRS-2 were fully excavated in 1997. Although munitions debris items were found at MRS-2, the items were buried in disposal pits and were not associated with military munitions use. No evidence of CAIS kits was found during sampling. The burial area within MRS-2 has been excavated, backfilled and re-graded. As discussed in the Track 0 ROD (*June 19, 2002*), the portion of MRS-2 that has been excavated, backfilled and re-graded (Pete's Pond) is a Special Case Track 0 area. The Track 0 ROD approved No Action regarding munitions response for this Special Case Track 0 area. The Special Case Track 0 area included the former landfill within MRS-2 where munitions debris was found buried with refuse. No military munitions-related activities occurred in the area, and the munitions debris and the refuse were entirely removed.

MRS-2 was categorized as a Track 1 site, which are sites suspected to have been used for military training with military munitions. Historical research and sampling conducted at this site found no evidence of past training involving military munitions. The adequacy of the sampling conducted at MRS-2 was evaluated in the Track 1 OE RI/FS. The Track 1 OE RI/FS recommended that MRS-2 should be retained in the Track 1 process. Therefore, MRS-2 will be considered as a candidate site for the Track 1 Plug-in process in accordance with criteria identified in the approved Track 1 ROD.

MRS-5. MRS- 5 lies adjacent to Parcel Ellb.6.2 (Plate 7 [Attachment 1]). MRS-5 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-5. MRS-5 meets the Track 1, Category 3 criteria because historical research and surface sampling conducted at this site identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-5.

MRS-13A. MRS-13A lies adjacent to Parcels E4.3.1.2 and E8a.1.1.2 (Plate 5 [Attachment 1]). MRS-13A was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-13A. MRS-13A meets the Track 1, Category 2 criteria because historical research and sampling conducted at this site identified evidence of past training involving military munitions items that do not pose an explosive hazard. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-13A.

MRS-24B. MRS-24B lies approximately 300 feet southwest of Parcel E20c.2.1 (Plate 3 [Attachment 1]). MRS-24B was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-24B. MRS-24B meets the Track 1, Category 3 criteria because historical research and sampling investigations identified evidence of past training involving military munitions, and training at this site involved only the use of practice and pyrotechnic items that are not designed to cause injury. In accordance with the Track 1 ROD, no further action related to MEC is required at MRS-24B.

MRS-31. MRS-31 is separated from Parcel E8a.1.1.2 by Inter-Garrison Road and lies adjacent to Inter-Garrison Road Parcel L20.14.2 (Plate 6 [Attachment 1]). MRS-31 is a general area where training occurred and encompasses several munitions response sites including MRS-4C,

MRS-7, MRS-8 and MRS-18. The boundary of MRS-31 was established to correspond to the transfer parcel boundary and to include each of the munitions response sites. HFA completed the initial investigation of MRS-31 in 1994. Removals of military munitions to three and four feet below ground surface have been conducted throughout MRS-31. MEC and munitions debris items found during the military munitions removal actions conducted at these sites included rifle-fired smoke grenades, fuzes, firing devices, blasting caps, simulators, illumination signals, practice hand and smoke grenades, practice mines, projectiles, and practice rockets. Site MRS-31 will undergo additional evaluation in the ongoing former Fort Ord Military Munitions Response Program.

MRS-44EDC. MRS-44EDC lies approximately 400 feet southeast of Parcel E20c.2.1 (Plate 3 [Attachment 1]). MRS-44EDC was established based on the presence of fragmentation from 37mm HE projectiles found during a site reconnaissance conducted by a USACE UXO Safety Specialist. An investigation of MRS-44EDC was conducted to determine whether a removal action was warranted. The investigation included the sampling of grids randomly distributed throughout the site. Several MEC items were found during sampling at MRS-44EDC; however, none of the MEC items found are penetrating by design and would therefore typically be found on or near the ground surface unless intentionally buried. MRS-44EDC will undergo additional evaluation in the ongoing former Fort Ord Military Munitions Response Program.

MRS-45. The site, approximately 400 acres, lies adjacent to Inter-Garrison Road Parcels L20.14.1.1 and L20.14.2 (Plate 6 [Attachment 1]). CMS Environmental, Inc. (CMS) conducted sampling of MRS-45 in 1997. Two hundred and twenty-five munitions debris items were removed. With the exception of a fragment from a fragmentation hand grenade, all of the munitions debris items were pyrotechnic or training related and included rifle-fired smoke grenades, two 40mm projectile signals, practice, illumination, and smoke hand grenades, illumination signals, practice mines, hand grenade fuzes, booby trap firing devices, and a smoke pot. Twelve MEC items (all pyrotechnic or training related items) were found during sampling of the site. No evidence was found during sampling to indicate that this site was used as an impact area and no further military munitions investigation was recommended. MRS-45 will undergo additional evaluation in the ongoing former Fort Ord Military Munitions Response Program.

MRS-46. This site lies immediately adjacent to South Boundary Road Parcel L20.13.5 (Plate 8 [Attachment 1]). The boundary of MRS-46 is based on transfer parcel delineation and not on evidence of munitions use. Sampling of MRS-46 was initially conducted as part of the investigation of the adjacent impact area. During the sampling two MEC items (2.36-inch rockets) were found on the ground surface. The contractor conducting the sampling concluded that the two rockets were discarded military munitions (DMM); however, sampling of the entire site was conducted. No MEC were found during this sampling effort. Ten munitions debris items (various portions of practice rifle grenades) were found and removed. Because a portion of MRS-46 was to be leased to York School for the construction of an athletic field, the entire lease area was re-evaluated (sampled) using digital geophysical equipment. No MEC or munitions debris were discovered and no further action was recommended. A digital geophysical evaluation (sampling) was also performed to the south of MRS-46 between South boundary Road and the former Fort Ord installation boundary (Plate 8). This area was identified as the York School South Area. The investigation included a visual sweep and subsurface investigation

using digital geophysical equipment. No MEC was found during sampling. Three munitions debris items (pieces of practice rifle grenades) were found and removed. Based on these results, no further action was recommended. MRS-46 and the York School South Area will undergo additional evaluation in the ongoing Fort Ord Military Munitions Response Program.

In 2002, York School completed construction of an athletic field and installation of an irrigation well within the portion of MRS-46 leased to them by the Army. The construction of the athletic field and installation of an underground irrigation system involved significant earth moving and grading. No military munitions were found during the athletic field construction, or installation of the irrigation well and irrigation system.

MRS-50EXP. MRS-50EXP is located approximately 500 feet west of Parcel L23.5.1 (Plate 3 [Attachment 1]). MRS-50EXP was not initially identified as a MRS in the ASR, but was created due to the expansion of the removal area associated with MRS-50. MEC and munitions debris were found at the boundary of MRS-50, which warranted an expansion of the investigation area in all directions. MRS-50EXP and the adjacent sites now comprise the Parker Flats munitions response area (Parker Flats MRA). The investigation of MRS-50 and its expansion areas included a removal action conducted over the entire site to a depth of 4 feet below ground surface. During the removal, 425 MEC items were found and removed from MRS-50EXP. No high explosive or penetrating military munitions were found within approximately 900 feet of Parcel L23.5.1. Approximately 500 hundred feet of open space and Parker Flats Road separates Parcel L23.5.1 from MRS-50EXP. Five military munitions items were found within MRS-50EXP approximately 600 feet from the eastern boundary of Parcel L23.5.1. The items, two practice hand grenade fuzes (MEC), a 40mm smoke projectile (MD), a rifle-fired parachute signal (MD), and a grenade fuze (MD), were found during the sampling of MRS-50EXP grids located on the east side of Parker Flats Road. The practice hand grenade fuzes were classified as discarded military munitions (DMM) items by the contractor conducting the military munitions sampling and removal. Because the MEC items found adjacent to Parker Flats Road were determined to be DMM further sampling on the west side of Parker Flats Road was not warranted. The Parker Flats MRA is currently being evaluated in the Track 2 Munitions Response Remedial Investigation/Feasibility Study.

MRS-59. MRS-59 lies adjacent to Parcel E11b.6.2 (Plate 7 [Attachment 1]). MRS-59 was identified during interviews conducted during the PA/SI phase of the Fort Ord Archives Search and was reported to have included a 2.36-inch rocket range in the early 1940s. A portion of MRS-59 was transferred to the Bureau of Land Management (BLM) in 1996 and the remainder was retained by the Army. The remaining portion was re-named as MRS-59A. The reconnaissance of MRS-59 involved walking a portion of the site and sweeping the path walked using a magnetometer. Two pieces of mortar fragments from the incomplete detonation of a 60mm mortar were found on the far west side of MRS-59 approximately 3000 feet from Parcel E11b.6.2. Expended pyrotechnic items were also found. Based on the reconnaissance performed, the ASR recommended further site investigation and random sampling at MRS-59. MRS-59 will undergo additional evaluation in the ongoing former Fort Ord Munitions Response Program.

Portions of MRS-59 were investigated as part of the BRA for small arms and multi-use ranges. The assessment of MRS-59 for potential hazardous and toxic waste-related contamination

included a data review, site reconnaissance, and mapping of portions of the site. Under the BRA MRS-59 was identified as HA-189. Additionally, Portions of MRS-59 were included within two other historical areas, HA-77 and HA-88; however, only walks associated with HA-77 occurred within MRS-59. No MEC items were found and no evidence of military training was observed during the site reconnaissance conducted at HA-77 and HA-189 (MRS-59A). No further investigation for chemical contamination was recommended for HA-189 (MRS-59) under the Fort Ord BRA.

MRS-DRO.1 and MRS-DRO.2. These sites lie on the north side of South Boundary Road and are in close proximity to Parcel L20.13.5 (Plate 8 [Attachment 1]). The boundaries of MRS-DRO.1 and MRS-DRO.2 are based on transfer parcel delineation and not on evidence of munitions use. The investigation of these sites included one hundred percent (100%) grid sampling, a removal action, and a 100% geophysical investigation to support the early transfer of these parcels. Items found and removed included expended practice rockets, practice projectiles, and practice grenades. MRS-DRO.1 and MRS-DRO.2 will undergo additional evaluation in the ongoing former Fort Ord Military Munitions Response Program.

MRS-MOCO.1. This site lies on the north side of South Boundary Road and is adjacent to Parcel L20.13.5 (Plate 8 [Attachment 1]). The boundary of MRS-MOCO.1 is based on transfer parcel delineation and not on evidence of munitions use. One hundred percent (100%) grid sampling was performed at MRS-MOCO.1 and no MEC or munitions debris were found. Based on these results no further action was recommended. MRS-MOCO.1 will undergo additional evaluation in the ongoing former Fort Ord Military Munitions Response Program.

6.0 ENVIRONMENTAL REMEDIATION AGREEMENTS

The following environmental remediation orders and agreements are applicable to the Property: The Fort Ord MR RI/FS and the Fort Ord Federal Facility Agreement (FFA; *November 19 1990*). All remediation activities on the Property required by the FFA are completed or in place and operating properly and successfully (OPS). The Environmental Protection Provisions (Attachment 5) and deed will include a provision reserving the Army's right to conduct remediation activities and the regulators' right of access.

7.0 REGULATORY/PUBLIC COORDINATION

The US EPA Region IX and the DTSC were notified of the initiation of this FOST. The 30-day review period was from May 31, 2005 to June 30, 2005. Regulatory/public comments received during the public comment period were reviewed and incorporated, as appropriate. A copy of the regulatory/public comments and the Army Response are included in Attachments 7 and 8, respectively. Certain comments from US EPA (Attachment 7) remain unresolved and are identified as such in the Army Response (Attachment 8).

8.0 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the Property have been analyzed in accordance with the National Environmental Policy Act (NEPA). The results of this analysis are documented in the *Final Environmental Impact Statement Fort Ord Disposal And Reuse (June 1993)*, associated Record of Decision (*December 1993*), *Supplemental*

Environmental Impact Statement Fort Ord Disposal And Reuse (June 1996) and associated Record of Decision (June 1997). Encumbrances¹² identified in the NEPA analysis as necessary to protect human health or the environment are summarized in Table 8 – Disposal (Army Action) Impacts and Mitigation Measures (Attachment 3).

9.0 ENVIRONMENTAL PROTECTION PROVISIONS

Based on the above results from the CERFA Report and other environmental studies, and in consideration of the intended use of the Property, certain terms and conditions are required for the proposed transfer. The terms and conditions are set forth in the Environmental Protection Provisions (Attachment 5) and will be included in the deed/easement.

9.1 Covenants to Restrict Use of Property – Environmental Restrictions

A portion of the former Fort Ord installation lies within a “Special Groundwater Protection Zone” as defined by Monterey County Ordinance 04011. Use of groundwater is prohibited on portions of the Property as described in the Covenant to Restrict Use of Property – Environmental Restrictions (Special Groundwater Protection Zone) (CRUP). Provided the restrictions of the CRUP, to be entered into by the Army and the State of California, are adhered to, no actual or potential hazard exists on the surface of the Property from groundwater contamination or from possible soil gas volatilization resulting from groundwater contamination underlying the Property.

9.2 School Properties

Should this Property be considered for the proposed acquisition and/or construction of school properties utilizing State funding, a separate environmental review process in compliance with the California Education Code 17210 et. Seq. will need to be completed and approved by the DTSC.

10.0 FINDING OF SUITABILITY TO TRANSFER

For ECP Category 1 Parcels:

Based on the information above, I conclude that the portion of the Property in ECP Category 1 qualifies as CERCLA §120(h)(4) uncontaminated property and is transferable under that section. In addition, all Department of Defense requirements to reach a Finding of Suitability to Transfer have been met, subject to the terms and conditions in the Environmental Protection Provisions that shall be included in the deed for the property. The deed will include the CERCLA 120(h)(4) Notice, Covenant, and Access Provisions and Other Deed Provisions, including a clause granting the US EPA and the DTSC access to the Property in any case in which a response or corrective action is found to be necessary after the date of transfer. Whereas no hazardous substances or petroleum products were stored for one year or more, known to have been released, or disposed of on the parcel, a hazardous substance or petroleum notification is not required.

¹² For the purposes of the FOST, “encumbrances” include mitigations (to be implemented by the Army) necessary to protect human health and the environment from impacts associated with the disposal of property at the former Fort Ord.

For ECP Category 2 Parcels:

The portion of the Property in ECP Category 2 has been identified as real property on which no hazardous substances were released or disposed of, but on which petroleum products or their derivatives are known to have been released or disposed of. Notice is hereby provided that diesel fuel was released from a 4,000-gallon underground storage tank on the Property, which was operated from approximately 1976 to 1990.

Based on the above information, I conclude that all response actions necessary to protect human health and the environment with respect to any petroleum product remaining on the Property have been taken prior to the date of this conveyance. In addition, all Department of Defense (DOD) requirements to reach a Finding of Suitability to Transfer have been met for the Property, subject to the terms and conditions set forth in the Environmental Protection Provisions (Attachment 5) that shall be included in the deed for the Property. The deed will also include the Notice of Release or Disposal of Petroleum Products, Covenant, and Access Provisions and Other Deed Provisions, including a clause granting the US EPA and the DTSC access to the Property in any case in which a response or corrective action is found to be necessary after the date of transfer. Finally, the petroleum product notification (Table 7 – Notification of Petroleum Product Storage, Release, or Disposal [Attachment 3]) shall be included in the deed as required under DOD FOST Guidance.

For ECP Category 3 and 4 Parcels:

Based on the above information, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken and the portion of the Property in ECP Categories 3 and 4 is transferable under CERCLA section 120(h)(3). In addition, all Department of Defense requirements to reach a Finding of Suitability to Transfer have been met for the Property, subject to the terms and conditions set forth in the Environmental Protection Provisions (Attachment 5) that shall be included in the deed for the Property. The deed will also include the CERCLA 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions, including a clause granting the US EPA and the DTSC access to the Property in any case in which a response or corrective action is found to be necessary after the date of transfer. Finally, the hazardous substance notification (Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal [Attachment 3]) shall be included in the deed as required under the CERCLA Section 120(h) and DOD FOST Guidance.

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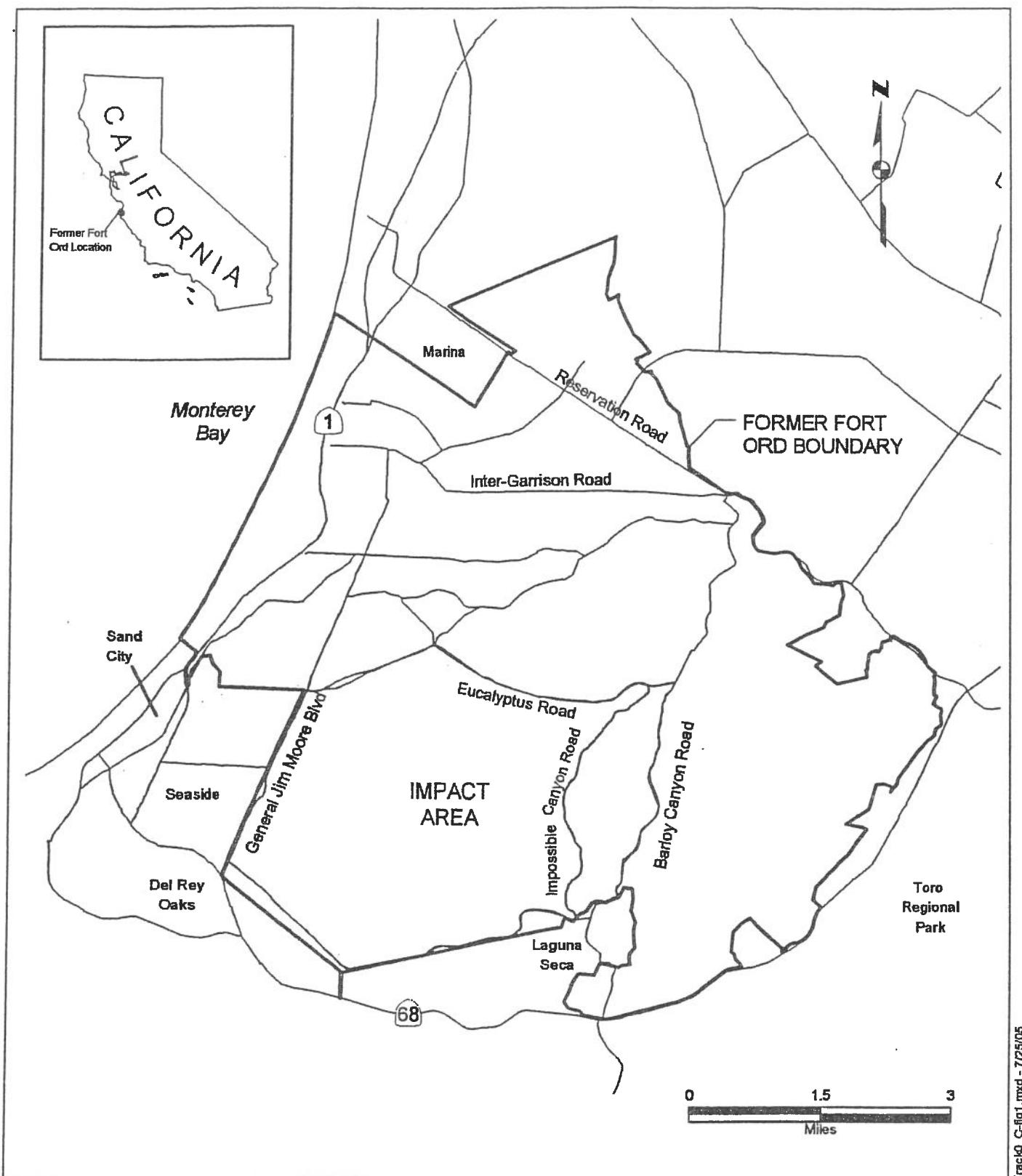


Thomas E. Lederle
Director, Hampton Field Office
Army BRAC

AUG 15 2005

ATTACHMENT 1

SITE MAPS OF PROPERTY



Site Location Map

Finding of Suitability to Transfer
Track 0 Plug-In C, Track 1 And
Track 1 Plug-In Parcels
Former Ford Ord, California

1

 MACTEC

PLATE

DRAWN
FPC

JOB NUMBER
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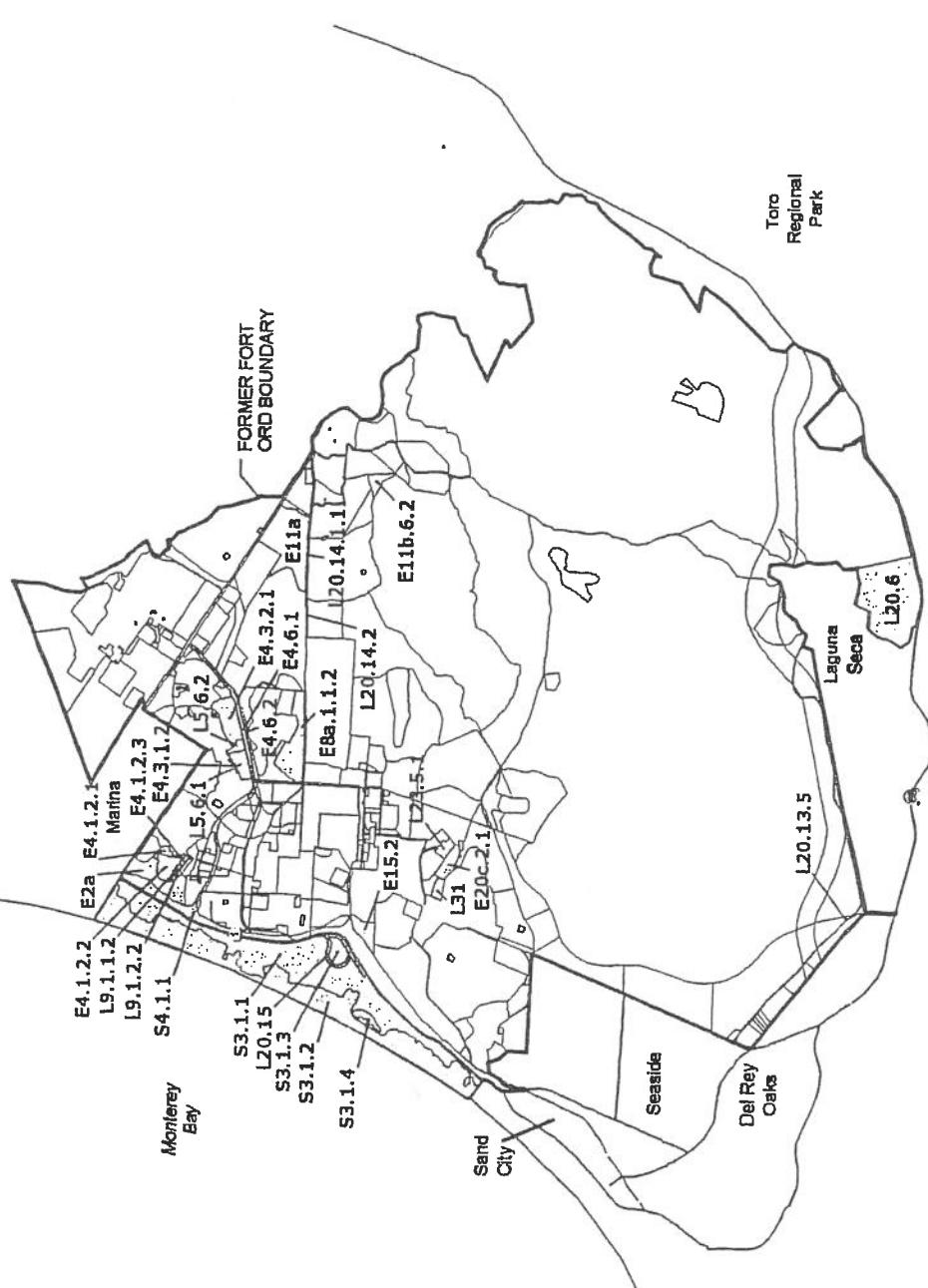
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7/2005

REVISED DATE

Exhibit 'B'

EXPLANATION

TRACK 0 PLUG-IN C, TRACK 1
AND TRACK 1 PLUG-IN PARCEL

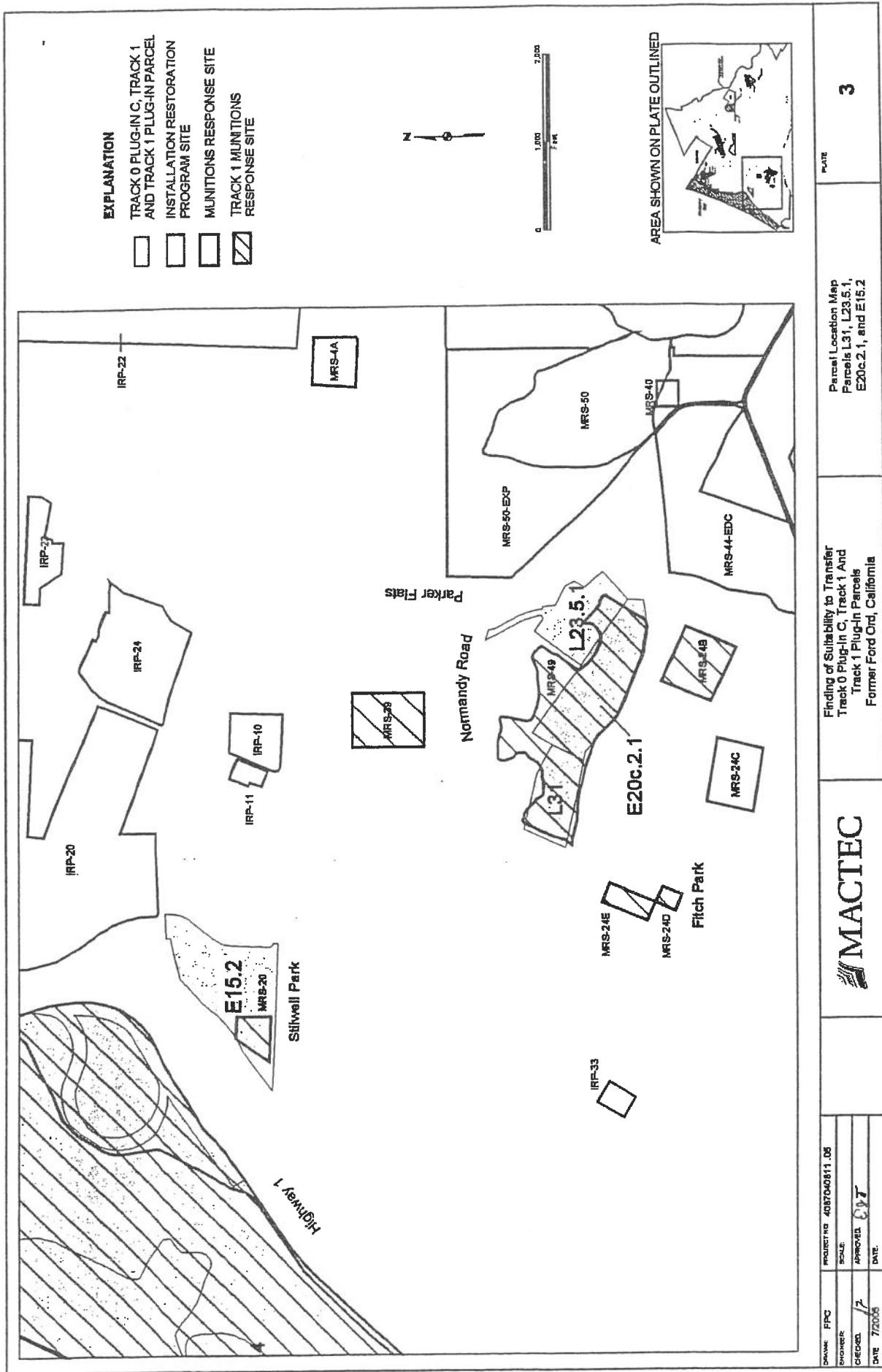


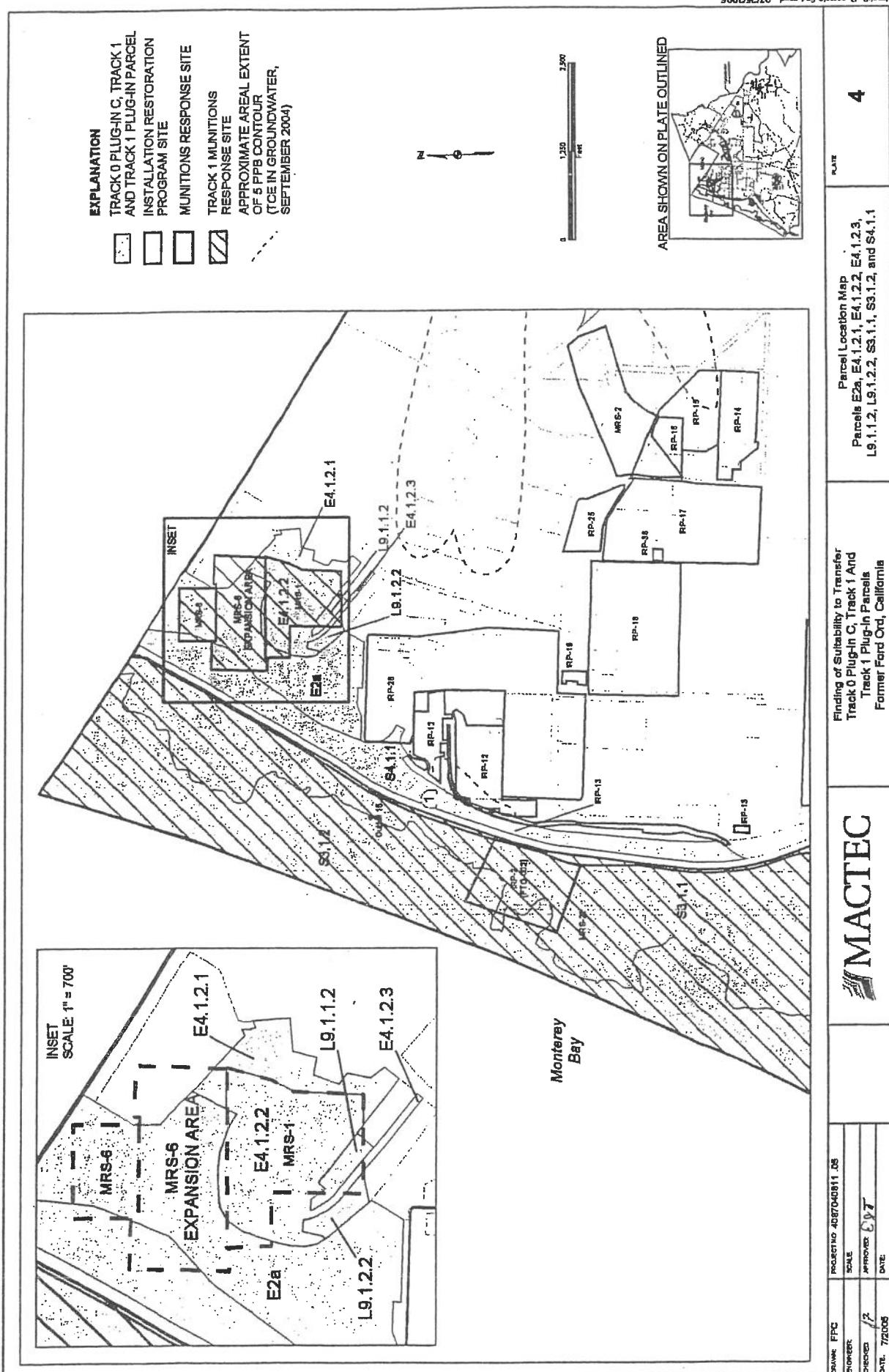
Finding of Suitability to Transfer
Track 0 Plug-In C, Track 1 And
Track 1 Plug-In Parcels
Former Fort Ord, California

MACTEC

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ENGINEER:	SCALE:
APPROV'D:	APPROV'D:
CHIEFED:	CHIEFED:
DATE: 7/26/05	DATE:

Parcel Location Map	Exhibit
2	

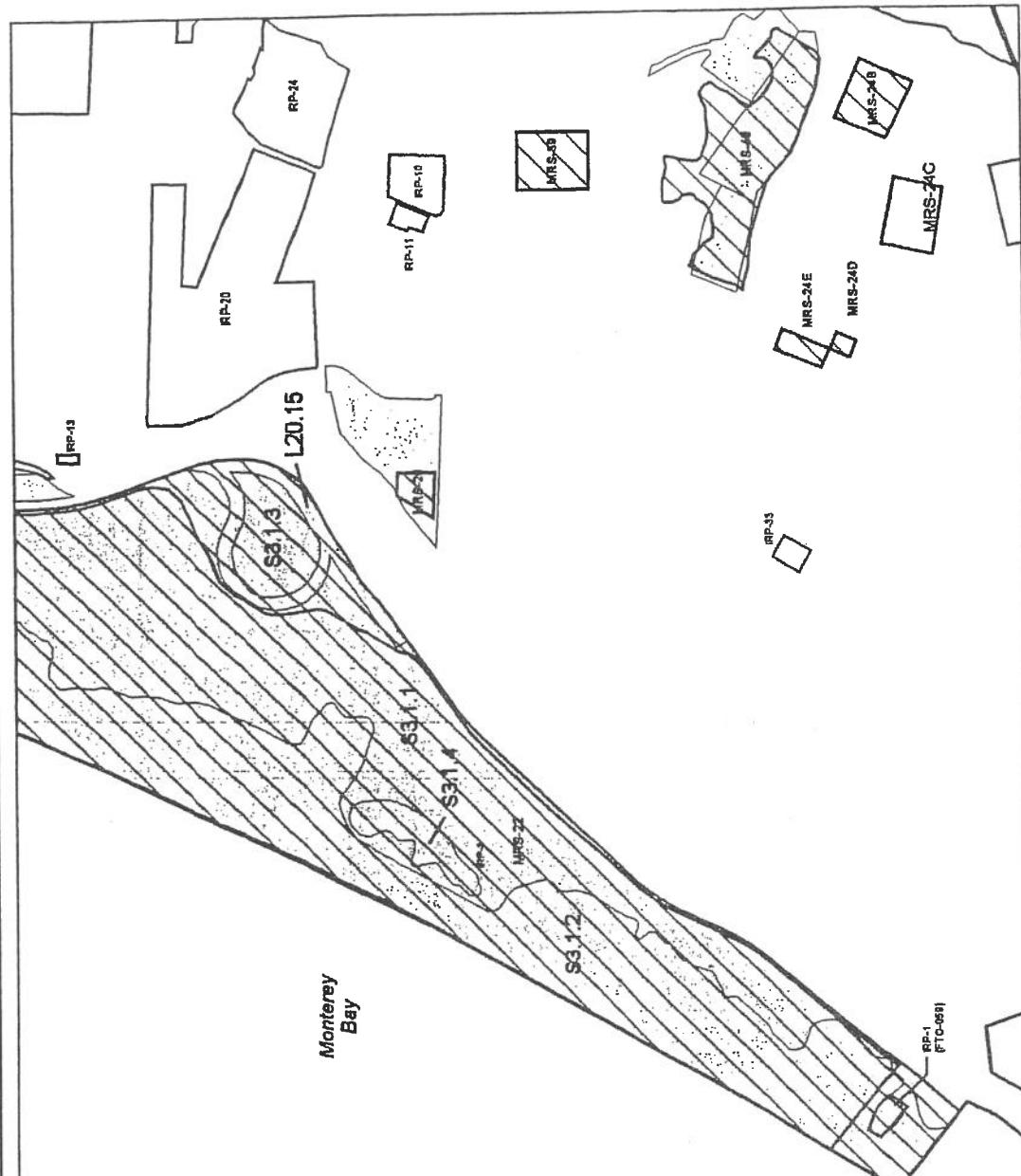
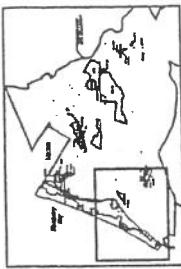




EXPLANATION

- [White Box] TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1 PLUG-IN PARCEL
- [Hatched Box] INSTALLATION RESTORATION PROGRAM SITE
- [Hatched Box] MUNITIONS RESPONSE SITE
- [Cross-hatched Box] TRACK 1 MUNITIONS RESPONSE SITE

AREA SHOWN ON PLATE OUTLINED



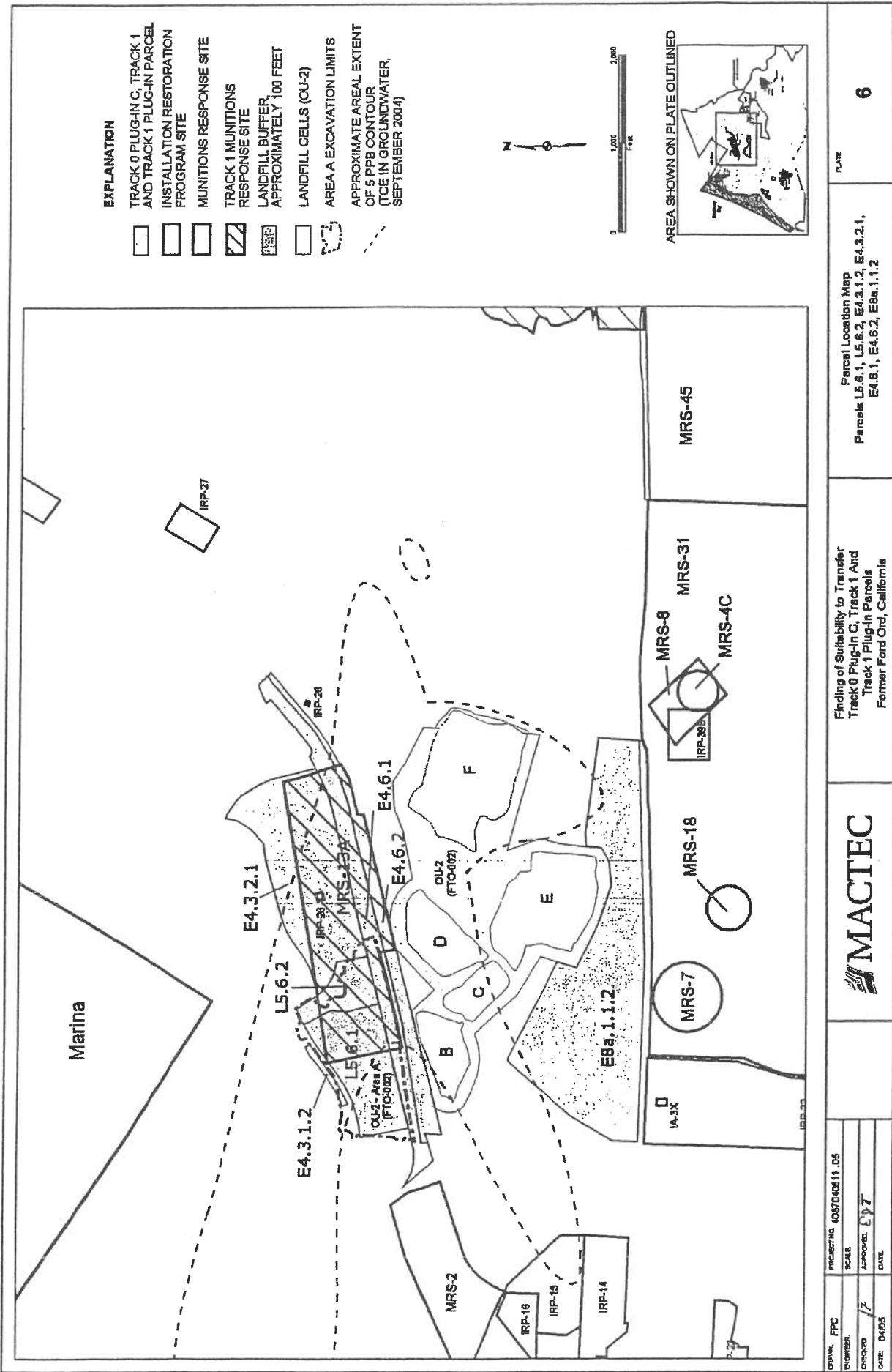
Finding of Suitability to Transfer
Track 0 Plug-In C, Track 1 And
Track 1 Plug-In Parcels
Former Ford Ord, California

MACTEC

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SPONSOR		SCALE:	
CHIEF	/	APPROVED:	EJT
DATE:	04/05	DATE:	

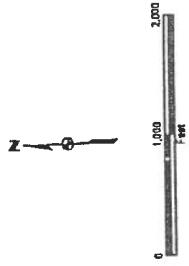
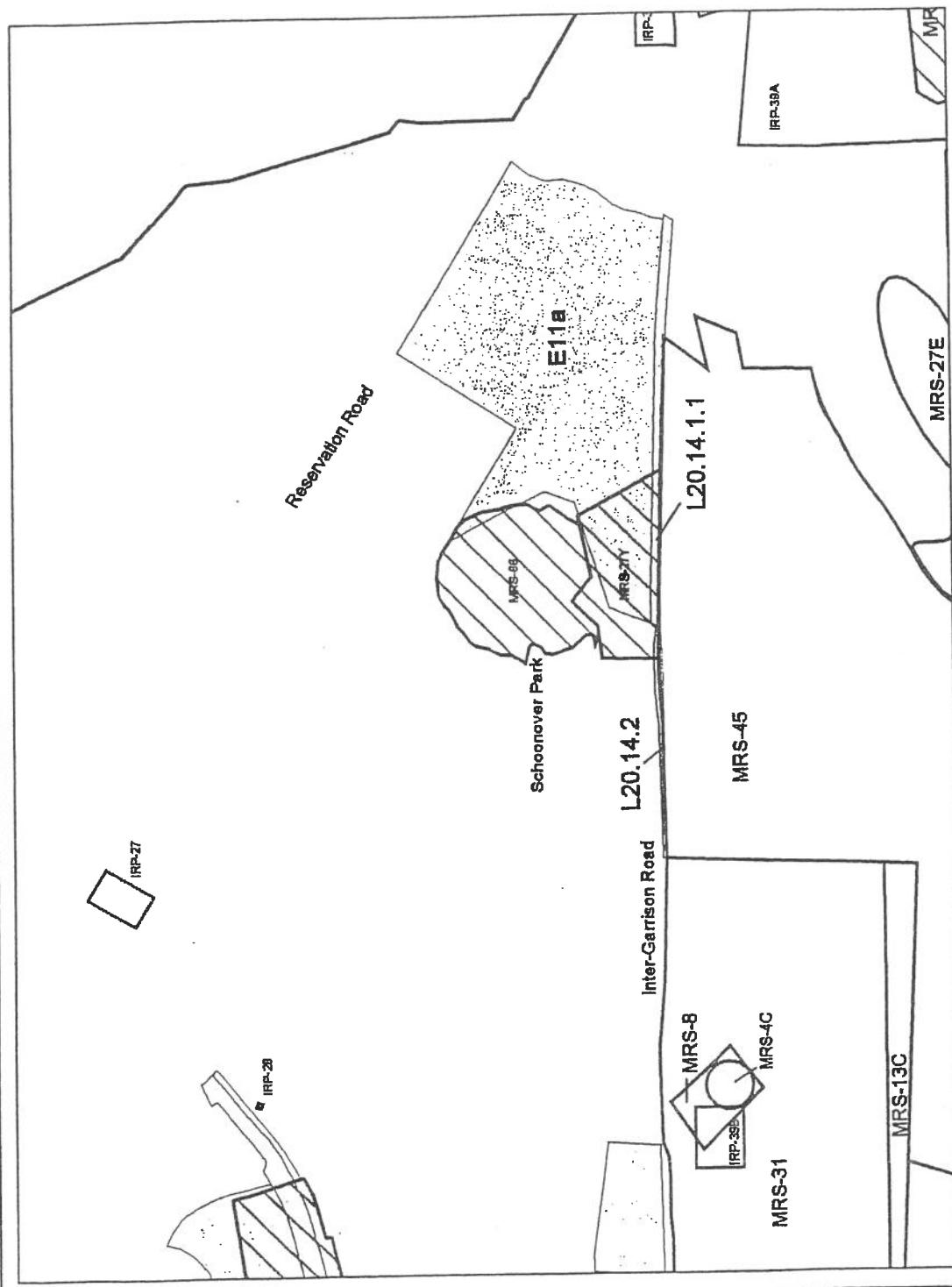
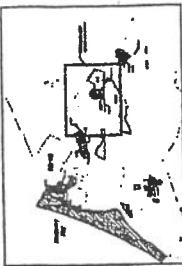
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Parcel Location Map
Parcels S3.1.1, S3.1.2, S3.1.3,
S3.1.4, and L20.15

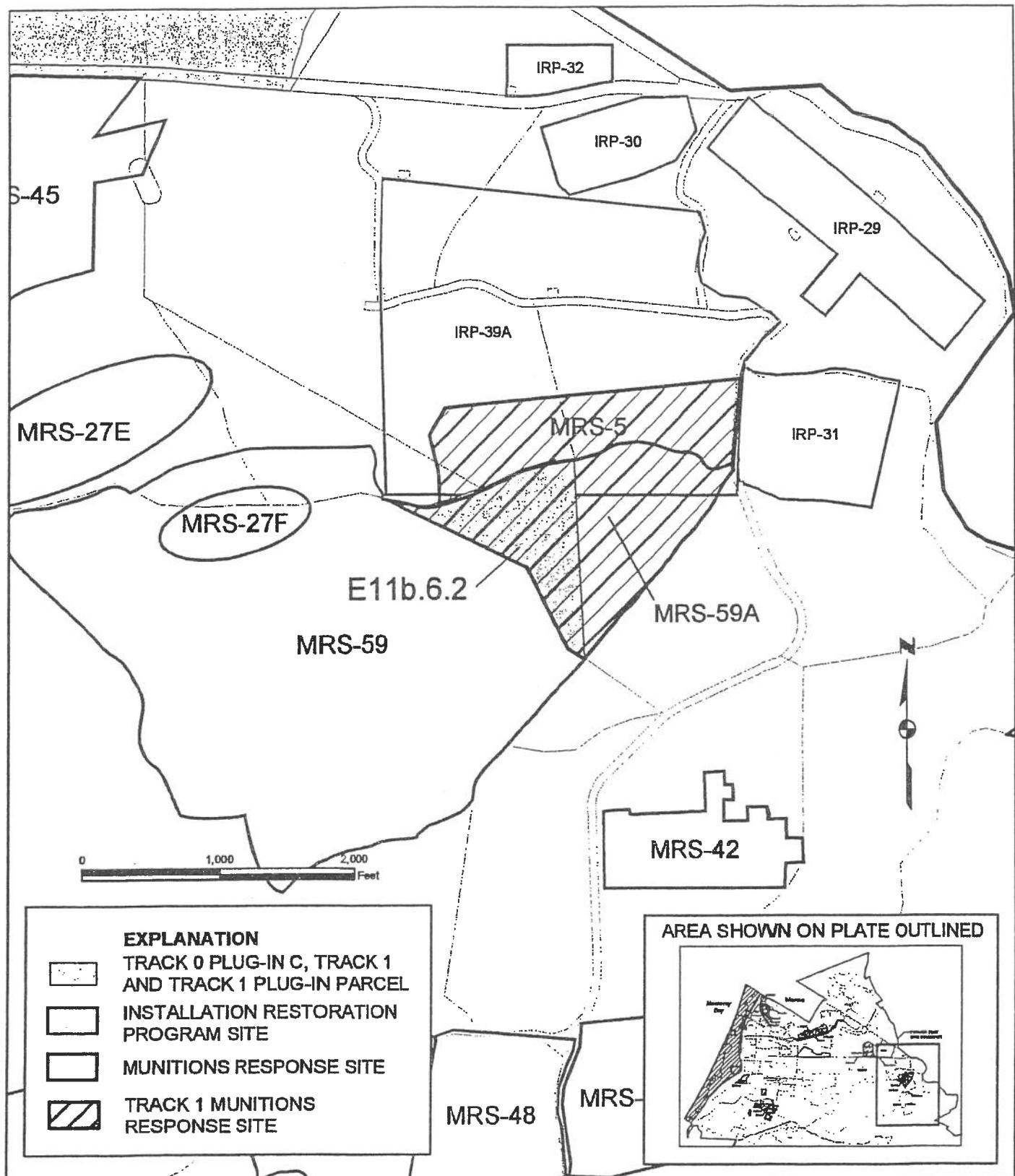


EXPLANATION

- TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1 PLUG-IN PARCEL
- INSTALLATION RESTORATION PROGRAM SITE
- MUNITIONS RESPONSE SITE
- TRACK 1 MUNITIONS RESPONSE SITE

**AREA SHOWN ON PLATE OUTLINED**

DRAWN:	FFC	PROJECTS	4087040811.05	Parcel Location Map
ENGINEER:		SCALE:		Parcels E11a, L20.14.1, and L20.14.2
CHIEF:	/Z	APPROVED:	EYT	Former Ford Ord, California
		DATE:	7/20/05	



Parcel Location Map - Parcel E11b.6.2

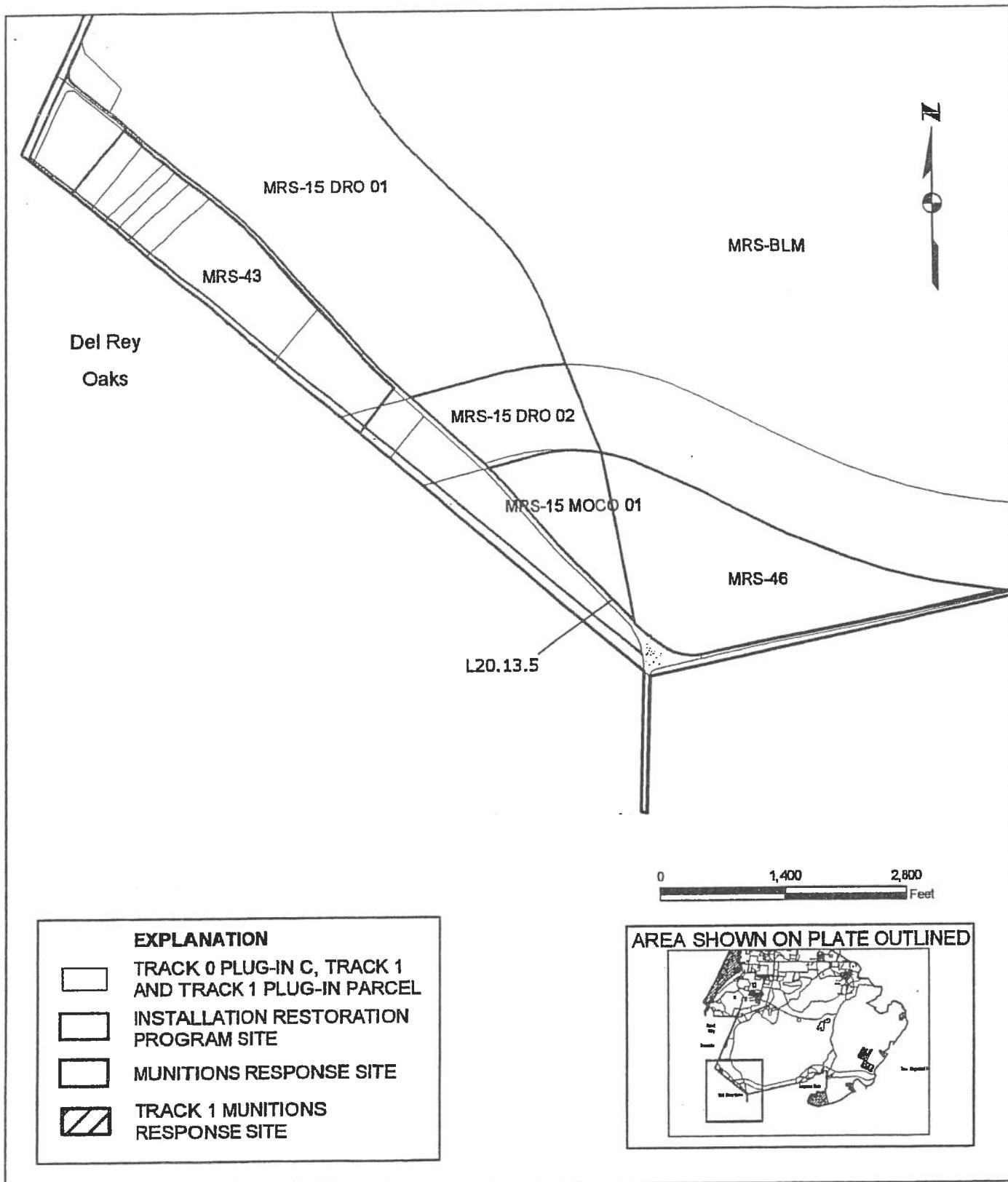
Finding of Suitability to Transfer
 Track 0 Plug-In C, Track 1 And
 Track 1 Plug-In Parcels
 Former Ford Ord, California



8

DRAWN	JOB NUMBER	CHECKED	APPROVED	DATE	REVISED DATE
FPC	4087040811 .05	/7	EJT	4/2005	

Exhibit 'B'



Parcel Location Map - Parcel L20.13.5

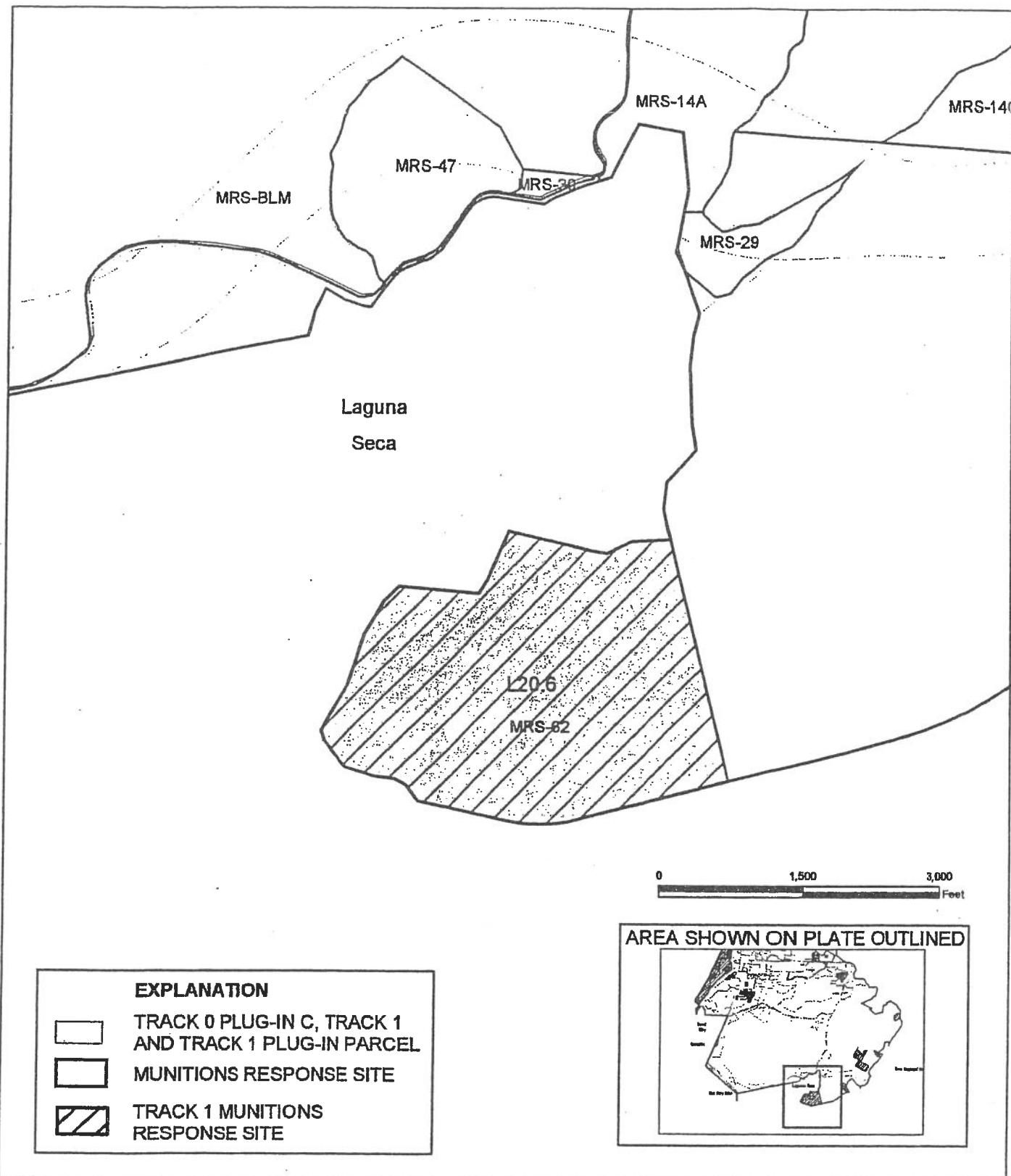
Finding of Suitability to Transfer
 Track 0 Plug-In C, Track 1 And
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 Former Ford Ord, California

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9

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Exhibit 'B'



DRAWN
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JOB NUMBER
4087040811 .05

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JF

APPROVED
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DATE
7/2005

10

Exhibit 'B'

ATTACHMENT 2

ENVIRONMENTAL DOCUMENTATION

Environmental Documentation¹

- Interim Final Report, Hazardous Waste Consultation NO. 37-26-0176-89, Evaluation of Solid Waste Management Units (September 1988)
- Results of Radon Survey conducted during FY89/FY90 at Fort Ord (FO), Presidio of Monterey (POM), and Fort Hunter Liggett, as required by Army policy. Memorandum (1990)
- Fort Ord Federal Facility Agreement (November 19, 1990)
- Asbestos Survey Report For U.S. Army Corps of Engineers, Fort Ord Installation, Fort Ord, California (April 26, 1993)
- Final Environmental Impact Statement Fort Ord Disposal and Reuse (June 1993)
- Baseline Risk Assessment, Remedial Investigation/Feasibility Study, Site 2 Landfills, Fort Ord, California (June 7, 1993)
- Fort Ord, California Disposal and Reuse Environmental Impact Statement, Record of Decision (December 1993)
- Archive Search Reports (December 1993, November 1994, and December 1997)
- Industrial Radiation Survey, Facility Close Out and Termination Survey, Fort Ord, California (January 10, 1994 – April 15, 1994)
- Final Community Environmental Response Facilitation Act (CERFA) Report (April 1994)
- U.S. Environmental Protection Agency (US EPA) Region IX's concurrence to the CERFA Report (April 19, 1994)
- Record of Decision, Operable Unit 2, Fort Ord Landfills, Fort Ord, California (July 15, 1994)
- OEW Sampling And OEW Removal Action, Fort Ord Final Report. (December 1, 1994)
- No Action Plug-In Record of Decision (February 16, 1995)
- Approval Memorandum, Proposed No Action, Site 26 – Sewage Pump Stations (Buildings 5871 and 6143), Fort Ord, California (August 10, 1995)
- Approval Memorandum, Proposed No Action, Site 28 – Barracks and Main Garrison Area, Fort Ord, California (August 10, 1995)

¹ The normal sequence for drafts and revisions of documents at the former Fort Ord is Preliminary Draft (for internal review and comment), Draft (for regulatory agency and public review and comment), and Draft Final (final document which addresses all comments from the regulatory agencies and the public). As such, the Draft Final version is typically considered to be the final version. On rare occasion, not all comments are resolved by the Draft Final stage and a Final version of the document will be issued.

Environmental Documentation

- Final Basewide Remedial Investigation/Feasibility Study (RI/FS), Fort Ord, California. Volumes I-V, (October 18, 1995)
- US EPA Region IX's concurrence that the Operable Unit 2 groundwater remedy is operating properly and successfully (Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume) (January 4, 1996)
- Supplemental Environmental Impact Statement Fort Ord Disposal and Reuse (June 1996)
- Field Investigation and Data Review, Solid Waste Management Units (August 1996)
- Record of Decision, Basewide Remedial Investigation Sites, Fort Ord, California (January 13, 1997)
- Interim Record of Decision, Site 3, Beach Trainfire Ranges, Fort Ord, California (January 13, 1997)
- Draft Final Site Investigation Report, Buildings 2253, 3803, 4362, and 4534, Former Fort Ord, California (March 4, 1997)
- Installation-Wide Multispecies Habitat Management Plan (HMP) for Former Fort Ord, California (April 1997)
- Fort Ord, California Disposal and Reuse Final Supplemental Environmental Impact Statement, Record of Decision (June 1997)
- Lead Investigation Summary Peninsula Outreach, Marina Sports Center and Salvation Army Parcels and the Marshall and Stilwell Park Housing Areas, Former Fort Ord, California (July 28, 1997)
- Interim Action Confirmation Report, Site 1 Ord Village Sewage Treatment Plant, Fort Ord, California (December 10, 1997)
- Underground And Aboveground Storage Tank Management Plan Update, Former Fort Ord and Presidio of Monterey, Monterey County, California (March 13, 1998)
- Interim Action Confirmation Report, Outfall 15, Former Fort Ord, California (September 3, 1998)
- Interim Action Confirmation Report, Site 39A – East Garrison Ranges, Former Fort Ord, California (October 16, 1998)
- Biological and Conference Opinion on the Closure and Reuse of Fort Ord, Monterey County, California (1-8-99-F/C-39R) (March 30, 1999)
- Ordnance and Explosives (OE) RI/FS Literature Review Report, Former Fort Ord, California (January 2000)

Environmental Documentation

- Track 0 Technical Memorandum, Ordnance and Explosives Remedial Investigation/Feasibility Study, Former Fort Ord, California (January 21, 2000)
- Superfund Proposed Plan: No Action Is Proposed For Selected Areas At Fort Ord, California (February 1, 2000)
- Draft Final Post-Closure Operation and Maintenance Plan, Areas B through F Remedial Action, Operable Unit 2 Landfills, Fort Ord, California (May 2000)
- Final Remedial Action Confirmation Report and Post-Remediation Risk Assessment, Site 3 Remedial Action, Basewide Remediation Sites, Former Fort Ord, California. Volumes I and II (August 2000)
- Lead-Based Paint Risk Assessment, Patton Park Housing, Former Fort Ord, California (March 7, 2001), and Addendum (June 13, 2002)
- Draft Final Remedial Action Confirmation Report and Post-Remediation Screening Risk Evaluation, Area A Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0 (April 2001)
- Technical Memorandum, Support Documentation, Potential OE Issues, Parcel E4.3.1, Finding of Suitability for Early Transfer, Housing Areas and Former Garrison Parcels, Former Fort Ord, California (May 2, 2001)
- Draft Final Landfill Gas Perimeter Probe Monitoring Report, June, September, December 2000 and May 2001, Operable Unit 2 Landfill, Former Fort Ord, California, Revision 0 (February 2002)
- Final Record of Decision, No Action Regarding Ordnance-Related Investigation, Former Fort Ord, California (June 19, 2002)
- Draft Final Field Investigation and Data Review, Solid Waste Management Units, Fort Ord, California (July 2002)
- US EPA Region IX's concurrence: Demonstration that Remedial Action is "Operating Properly and Successfully," Sites 2/12 Groundwater Remedy, Former Fort Ord, California (July 3, 2002)
- Biological Opinion on the Closure and Reuse of Fort Ord, Monterey County, California, as it affects Monterey Spineflower Critical Habitat, (1-8-01-F-70R) (October 22, 2002)
- Draft Final Landfill Gas Perimeter Probe Monitoring Report, 2001, Operable Unit 2 Landfill, Former Fort Ord, California, Revision 0 (October 2002)
- Draft Final Landfill Gas Perimeter Probe Monitoring Report, 2002, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0 (April 2004)
- Final Track 1 Ordnance and Explosives Remedial Investigation/Feasibility Study, Former Fort Ord, California (June 2004)

Environmental Documentation

- Final Landfill Gas Perimeter Probe Monitoring Report, 2003, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0 (November 2004)
- Draft Final Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, Former Fort Ord, California, Revision 0 (January 2005)
- Draft Track 2 Munitions Response Remedial Investigation/Feasibility Study, Parker Flats Munitions Response Area, Former Fort Ord California (January 2005)
- Draft Final Report, 2003 Ambient Air Monitoring and Human Health Risk Assessment, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0 (March 2005)
- Draft Final Work Plan, Landfill Gas System Expansion, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0 (March 2005)
- Draft Annual Report of Quarterly Monitoring, October 2003 through September 2004, Groundwater Monitoring Program, Former Fort Ord, California (March 4, 2005)
- Record of Decision, No Further Action Related to Munitions and Explosives of Concern – Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22); Former Fort Ord, California (March 10, 2005)
- Biological Opinion on Cleanup and Reuse of Former Fort Ord, Monterey County, California, as it affects California Tiger Salamander and Critical Habitat for Contra Costa Goldfields, (1-8-04-F-25R) (March 14, 2005)
- Final Report, Clay Target Debris and Lead Shot Management, East Garrison Trap and Skeet Range, Former Fort Ord, California (March 17, 2005)
- Final Comprehensive Basewide Range Assessment Report, Former Fort Ord, California, Revision 0 (March 31, 2005)
- Explanation of Significant Differences, Final Record of Decision, No Action Regarding Ordnance-Related Investigations (Track 0 ROD), Former Fort Ord, California (April 5, 2005)
- Track 0 Plug-In Approval Memorandum, Selected Parcels – Group C, Former Fort Ord, California (July 1, 2005)
- Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area, Former Fort Ord, California (May 2005)

ATTACHMENT 3

TABLES

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
E11a (147)	FORA	Habitat Management	No buildings or structures	---	No buildings or structures
E11b.6.2 (18)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
E15.2 (29)	FORA	Open Space	No buildings or structures	---	No buildings or structures
E20c.2.1 (25)	FORA	Future Housing	No buildings or structures	---	No buildings or structures
E2a (63)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
E4.1.2.1 (10)	FORA	Housing	8726 - 8727	Yes	Yes
			8708	Yes	Yes
			8568 - 8569	Yes	Yes
			8560 - 8562	Yes	Yes
			8555	Yes	Yes
			8529	Yes	Yes
			8515	Yes	Yes
E4.1.2.2 (26)	FORA	Housing	8516 - 8528	Yes	Yes
			8709 - 8717	Yes	Yes
			8727 - 8731	Yes	Yes
			8563 - 8568	Yes	Yes
		Sewage Pump Station	8775	Not Surveyed	Yes
E4.1.2.3 (1)	FORA	Right-of-way, Booker Street	No buildings or structures	---	No buildings or structures
E4.3.1.2 (1)	FORA	Housing	No buildings or structures	---	No buildings or structures
E4.3.2.1 (46)	FORA	Housing	6016 - 6019	Yes	No
			6021 - 6024	Yes	No
			6026 - 6073	Yes	No
			6078 - 6079	Yes	No
		Sewage Pump Station	6143	No	No

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
E4.6.1 (25)	FORA	Right-of-way, Imjin Road	No buildings or structures	---	No buildings or structures
E4.6.2 (17)	FORA	Right-of-way, Imjin Road	5871	No	Yes
			5871A	Not Surveyed	Yes
E8a.1.1.2 (85)	FORA	Non-irrigated Open Space	4A39	Not Surveyed	Yes
L20.13.5 (7)	FORA	Right-of-way, South Boundary Road	No buildings or structures	---	No buildings or structures
L20.14.1.1 (8)	FORA	Right-of-way, Intergarrison Road	No buildings or structures	---	No buildings or structures
L20.14.2 (3)	FORA	Right-of-way, Intergarrison Road	No buildings or structures	---	No buildings or structures
L20.15 (20)	FORA	Development	No buildings or structures	---	No buildings or structures
L20.6 (247)	Monterey County	Laguna Seca Park	No buildings or structures	---	No buildings or structures
L23.5.1 (15)	Monterey Peninsula College	School	4360 - 4367	4360-4366 Yes (4367 - not surveyed)	Yes
L31 (12)	Veterans Transition Center	Housing	No buildings or structures	---	No buildings or structures
L5.6.1 (23)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
L5.6.2 (8)	FORA	Marina Park Offices	6009 - 6010	Yes	No
			6014 - 6015	Yes	No
L9.1.1.2 (2)	Veterans Transition Center	Housing	8714 - 8719	Yes	Yes
L9.1.2.2 (2)	Veterans Transition Center	Housing	8732 - 8735	Yes	Yes
S3.1.1 (477)	California Department of Parks and Recreation	State Park	5989	Not Surveyed	Yes
			2066	Yes	Yes
			2076A – 2076I	2076A – B and 2076D – I yes, 2076C no	Yes

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
			2076J – 2076S	Not surveyed	Yes
			TR9070	Yes	No
			2019	No	Yes
			922	No	Yes
			924	No	Yes
			914 - 915	No	Yes
			919	No	Yes
			919A	Not surveyed	Yes
S3.1.2 (468)	California Department of Parks and Recreation	State Park	No buildings or structures	---	No buildings or structures
S3.1.3 (22)	California Department of Parks and Recreation	State Park	1A99	Yes	Yes
S3.1.4 (13)	California Department of Parks and Recreation	State Park	916	No	Yes
S4.1.1 (72)	Caltrans	Right-of-way, Highway 1	No buildings or structures	---	No buildings or structures

¹ The presence or absence of lead-based paint (LBP) is assumed based on the date of construction. If the date of construction is not known, it is assumed that the building contains LBP.

Table 2 – Track 0 Plug-In Parcels Associated with Track 1 Sites (Group C)

Parcel Number	Approximate Total Parcel Acreage	Track 1 Sites Overlapping the Parcel	Sites Adjacent to the Parcel	Approximate Parcel Acreage Outside Track 1 Sites ¹	Approximate Parcel Acreage Within Track 1 Sites ²
E11a	147.3	MRS-27Y, MRS-66	MRS-45	138.6	8.7
E15.2	28.7	MRS-20	---	25.2	3.5
E20c.2.1	25.4	MRS-49	---	1.8	23.6
E2a	63.1	MRS-1, MRS-6, MRS-6 Expansion Area	---	19.1	44
E4.1.2.1	10.0	MRS-6 Expansion Area	MRS-1	8.8	1.2
E4.1.2.2	26.2	MRS-1, MRS-6 Expansion Area	---	0	26.2
E4.1.2.3	1.0	---	MRS-1	1.0	0
E4.3.1.2	1.2	---	MRS-13A	1.2	0
E4.3.2.1	46.2	MRS-13A	---	17.6	28.6
E4.6.1	25.1	MRS-13A	---	11.6	13.5
E4.6.2	16.4	MRS-13A	---	10.4	6.0
E8a.1.1.2	85.3	---	MRS-4C, MRS-7, MRS-8, MRS-18, MRS-31	85.3	0
L20.13.5	6.7	---	MRS-46, MRS-DRO.1, MRS-DRO.2, MRS-MOCO.1	6.7	0
L20.14.1.1	8.4	MRS-27Y	MRS-45	5.8	2.6
L20.14.2	3.2	MRS-27Y	MRS-45	2.9	0.3
L23.5.1	15.3	MRS-49	MRS-50EXP	13.1	2.1
L31	11.7	MRS-49	---	1.7	10.0
L5.6.1	22.6	MRS-13A	---	13.7	8.9
L5.6.2	8.5	MRS-13A	---	1.3	7.2

¹ Determination of suitability to transfer the portion of the Track 0 Plug-in parcel outside of the Track 1 sites is supported by the *Track 0 Plug-in Approval Memorandum, Selected Parcels – Group C* (July 1, 2005).

² Determination of suitability to transfer the portion of the Track 0 Plug-in parcel within the Track 1 sites is supported by the *Record of Decision, No Further Action Related to Munitions and Explosives of Concern—Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22) (Track 1 ROD; March 10, 2005)*, and the *Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area, (May 6, 2005)*.

Table 2 – Track 0 Plug-In Parcels Associated with Track 1 Sites (Group C)

Parcel Number	Approximate Total Parcel Acreage	Track 1 Sites Overlapping the Parcel	Sites Adjacent to the Parcel	Approximate Parcel Acreage Outside Track 1 Sites ¹	Approximate Parcel Acreage Within Track 1 Sites ²
L9.1.1.2	2.2	MRS-1	---	0.5	1.7
L9.1.2.2	2.4	MRS-1	---	0.3	2.1
S4.1.1	72.1	MRS-6, MRS-6 Expansion Area	MRS-22	68.2	3.9

Table 3 – Track 1 Parcels and Associated Track 1 Sites¹

Parcel Number	Approximate Total Parcel Acreage	Track 1 Sites Overlapping the Parcel	Sites Adjacent to the Parcel	Approximate Parcel Acreage Outside Track 1 Sites	Approximate Parcel Acreage Within Track 1 Sites
E11b.6.2	17.8	MRS-59A	MRS-5, MRS-59	0	17.8
L20.15	20.0	MRS-22	---	0	20.0
L20.6	247.2	MRS-62	---	0	247.2
S3.1.1	476.8	MRS-22	---	0	476.8
S3.1.2	468.2	MRS-22	---	0	468.2
S3.1.3	21.9	MRS-22	---	0	21.9
S3.1.4	12.6	MRS-22	---	0	12.6

¹ Determination of suitability to transfer the Track 1 parcels is supported by the *Record of Decision, No Further Action Related to Munitions and Explosives of Concern—Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22)* (Track 1 ROD; March 10, 2005).

Table 4 – Applicable Decision Documents by Parcel

Parcel Number	Applicable Decision Documents Supporting Determination of Suitability to Transfer
E11a	<ul style="list-style-type: none"> • Final Community Environmental Response Facilitation Act (CERFA) Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Plug-In Approval Memorandum, Selected Parcels – Group C (Track 0 Approval Memo – Group C [2005]) • Record of Decision, No Further Action Related to Munitions and Explosives of Concern—Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22) (Track 1 ROD [2005])
E11b.6.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 1 ROD (2005)
E15.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
E20c.2.1	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
E2a	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • Track 1 Plug-In Approval Memo, MRS-6 Expansion Area (2005)
E4.1.2.1	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • DTSC Concurrence Letter, Patton Park Housing Suitable for Unrestricted Use (June 2003) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • Track 1 Plug-In Approval Memo, MRS-6 Expansion Area (2005)
E4.1.2.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • DTSC Concurrence Letter, Patton Park Housing Suitable for Unrestricted Use (June 2003) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • Track 1 Plug-In Approval Memo, MRS-6 Expansion Area (2005)
E4.1.2.3	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • DTSC Concurrence Letter, Patton Park Housing Suitable for Unrestricted Use (June 2003) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)

Table 4 – Applicable Decision Documents by Parcel

E4.3.1.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • Explanation of Significant Differences, Final Record of Decision, No Action Regarding Ordnance-Related Investigations (Track 0 ROD) (ESD, Track 0 ROD [2005])
E4.3.2.1	<ul style="list-style-type: none"> • Final CERFA Report (1994) • No Action Plug-In Record of Decision (ROD) (1995) • Approval Memorandum, Proposed No Action, Site 26 – Sewage Pump Stations (Buildings 5871 and 6143) (1995) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
E4.6.1	<ul style="list-style-type: none"> • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Remedial Action Confirmation Report and Post-Remediation Screening Risk Evaluation, Area A Operable Unit 2 Landfills (April 2001) • Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, (2005) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • ESD, Track 0 ROD (2005)
E4.6.2	<ul style="list-style-type: none"> • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, (2005) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
E8a.1.1.2	<ul style="list-style-type: none"> • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • ESD, Track 0 ROD (2005)
L20.13.5	<ul style="list-style-type: none"> • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • ESD, Track 0 ROD (2005)
L20.14.1.1	<ul style="list-style-type: none"> • CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
L20.14.2	<ul style="list-style-type: none"> • CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
L20.15	<ul style="list-style-type: none"> • Interim Record of Decision, Site 3 Beach Trainfire Ranges (January 1997) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 1 ROD (2005)
L20.6	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 1 ROD (2005)

Table 4 – Applicable Decision Documents by Parcel

L23.5.1	<ul style="list-style-type: none"> • Final CERFA Report (1994) • MCDOH Closure Letter, USTs 4362.1 and 4362.2 (January 1997) • RWQCB Closure Letter, USTs 4362.1 and 4362.2 (February 1997) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
L31	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
L5.6.1	<ul style="list-style-type: none"> • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Remedial Action Confirmation Report and Post-Remediation Screening Risk Evaluation, Area A Operable Unit 2 Landfills (April 2001) • Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, (2005) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • ESD, Track 0 ROD (2005)
L5.6.2	<ul style="list-style-type: none"> • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • Remedial Action Confirmation Report and Post-Remediation Screening Risk Evaluation, Area A Operable Unit 2 Landfills (April 2001) • Remedial Action Construction Completion Report, Operable Unit 2 Landfills, Areas A through F, (2005) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005) • ESD, Track 0 ROD (2005)
L9.1.1.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • DTSC Concurrence Letter, Patton Park Housing Suitable for Unrestricted Use (June 2003) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
L9.1.2.2	<ul style="list-style-type: none"> • Final CERFA Report (1994) • Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996) • DTSC Concurrence Letter, Patton Park Housing Suitable for Unrestricted Use (June 2003) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 0 Approval Memo – Group C (2005) • Track 1 ROD (2005)
S3.1.1	<ul style="list-style-type: none"> • Record of Decision, Basewide Remedial Investigation Sites (Basewide RI Sites ROD [1997]) • Interim Action Confirmation Report, Site 1 Ord Village Sewage Treatment Plant (1997) • DHS Memorandum, With Respect to Radiological Issues, Building 916 Released for Unrestricted Use (October 1997) • MCDOH Closure Letters, USTs 2076.1 and 2076.2 (January 1994) and UST 2070.1 (January 1997) • Interim Action Confirmation Report, Outfall 15 (1998) • Final Remedial Action Confirmation Report and Post-Remediation Risk Assessment, Site 3 Remedial Action, Basewide Remediation Sites (2000) • Demonstration that Remedial Action is “Operating Properly and Successfully,” Sites 2/12 Groundwater Remedy (2002) • Final Comprehensive Basewide Range Assessment Report (2005) • Track 1 ROD (2005)

Table 4 – Applicable Decision Documents by Parcel

S3.1.2	<ul style="list-style-type: none">• Basewide RI Sites ROD (1997)• Final Remedial Action Confirmation Report and Post-Remediation Risk Assessment, Site 3 Remedial Action, Basewide Remediation Sites (2000)• Demonstration that Remedial Action is “Operating Properly and Successfully,” Sites 2/12 Groundwater Remedy (2002)• Final Comprehensive Basewide Range Assessment Report (2005)• Track 1 ROD (2005)
S3.1.3	<ul style="list-style-type: none">• Interim Record of Decision, Site 3 Beach Trainfire Ranges (January 1997)• Final Comprehensive Basewide Range Assessment Report (2005)• Track 1 ROD (2005)
S3.1.4	<ul style="list-style-type: none">• Final Remedial Action Confirmation Report and Post-Remediation Risk Assessment, Site 3 Remedial Action, Basewide Remediation Sites (2000)• Final Comprehensive Basewide Range Assessment Report (2005)• Track 1 ROD (2005)
S4.1.1	<ul style="list-style-type: none">• Final CERFA Report (1994)• No Action Plug-In ROD (1995)• Approval Memorandum, Proposed No Action, Site 28 – Barracks and Main Garrison Area (1995)• Demonstration that Remedial Action is “Operating Properly and Successfully,” Sites 2/12 Groundwater Remedy (2002)• Final Comprehensive Basewide Range Assessment Report (2005)• Track 0 Approval Memo – Group C (2005)• Track 1 ROD (2005)• Track 1 Plug-In Approval Memo, MRS-6 Expansion Area (2005)

Table 5 – Environmental Condition of Property

Parcel Designation	Condition Category ¹	Remedial Actions
E11a	1	None; parcel was categorized as CERFA Uncontaminated, however, portions of parcel include MRS-27Y and MRS-66, which were identified after completion of CERFA investigation. MRS-27 and MRS-66 were categorized as a Track 1 sites and were evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, require no further action related to MEC. MRS-27Y and MRS-66 were also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-27Y was identified as HA-157 and MRS-66 was identified as HA-196. Evaluation of HA-157 included literature search and review of the information gathered during the assessment and military munitions sampling conducted at MRS-27Y and adjacent MRSs. Based on results of literature search and absence of munitions debris observed during sampling, no further action related to chemical contamination was recommended for HA-157 (MRS-27Y) under the Fort Ord BRA. Evaluation of HA-196 included literature search, site reconnaissance, and mapping. No military munitions, concentrations of spent small arms ammunition or targets were found during site reconnaissance conducted at HA-196. No further investigation for chemical contamination was recommended for HA-196 (MRS-66) under the Fort Ord BRA. Based on this information Parcel E11a meets the definition of CERFA Uncontaminated property.
E11b.6.2	1	None; parcel was categorized as CERFA Uncontaminated; however, parcel includes small portion of area evaluated as part of overall investigation of Site 39A, East Garrison Ranges, and portion of MRS-59A, which was identified after completion of the CERFA investigation. A release at Site 39A (Interim Action Site 39A) occurred in target areas of former small arms ammunition firing ranges approximately 600 feet north and northeast and outside of the parcel boundary. MRS-59A was categorized as a Track 1 site and was evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-59A was also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-59A was included within HA-189. Evaluation of HA-189 included literature search, site reconnaissance, and mapping. No military munitions, concentrations of spent small arms ammunition or targets were found during site reconnaissance conducted at HA-189. No further investigation for chemical contamination was recommended for HA-189 (including MRS-59A) under the Fort Ord BRA. Based on this information Parcel E11b.6.2 meets the definition of CERFA Uncontaminated property.
E15.2	1	None; portion of parcel was categorized as CERFA Qualified because it includes MRS-20, MRS-20 was categorized as a Track 1 site and was evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-20 was also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-20 was identified as HA-122. Based on results of a literature search and no military munitions observed during sampling conducted at MRS-20, no further action related to chemical contamination was recommended for HA-122 (MRS-20) under the Fort Ord BRA. A portion of the parcel was categorized as CERFA Qualified because of presence of ACM and probable LBP in buildings adjacent to parcel; however, no buildings are present on Parcel E15.2. Remainder of parcel was categorized as CERFA Uncontaminated. Based on this information Parcel E15.2 meets the definition of CERFA Uncontaminated property.

Table 5 – Environmental Condition of Property

Parcel Designation	Condition Category ¹	Remedial Actions
E20c.2.1 and L31	1	None; Parcel E20c.2.1 was categorized as CERFA Uncontaminated. Portion of Parcel L31 was categorized as CERFA Uncontaminated and remainder was categorized as CERFA Qualified because of presence of ACM and probable LBP in buildings adjacent to parcel; however, no buildings are present on Parcel L31. Both parcels include portion of MRS-49 identified after completion of CERFA investigation. MRS-49 was categorized as a Track 1 site and was evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-49 was also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-49 was identified as HA-179. Evaluation of HA-179 included literature search, site reconnaissance, and mapping. No military munitions, concentrations of spent small arms ammunition or targets were found during site reconnaissance conducted at HA-179. No further investigation for chemical contamination was recommended for HA-179 (MRS-49) under the Fort Ord BRA. Based on this information Parcels E20c.2.1 and L31 meet the definition of CERFA Uncontaminated property.
L20.6	1	None; parcel was categorized as CERFA Uncontaminated; however, parcel includes MRS-62, which was identified after completion of CERFA investigation. MRS-62 was categorized as a Track 1 site and was evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-62 was also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-62 was identified as HA-192. Evaluation of HA-192 included literature search, site reconnaissance, and mapping. Only expended blank small arms ammunition casings were observed. No other evidence of military training was observed during site reconnaissance and no further investigation for chemical contamination was recommended for HA-192 (MRS-62) under the Fort Ord BRA. Based on this information Parcel L20.6 meets the definition of CERFA Uncontaminated property.
L20.13.5	1	None; parcel was categorized as CERFA Qualified (Parcel 176) because of its proximity to the former Impact Area; however, parcel comprises a portion of South Boundary Road and is located outside of the fenced Impact Area. No evidence was observed during the CERFA assessment to indicate storage, release, or disposal of hazardous substances or petroleum products or their derivatives within this parcel; therefore, this parcel meets the definition of CERFA Uncontaminated property.
L20.14.1.1 and L20.14.2	1	None; parcels comprise Intergarrison Road and associated right-of-ways. Parcels were categorized as CERFA Uncontaminated; however, parcels include a portion of MRS-27Y identified after completion of CERFA investigation. MRS-27Y was categorized as a Track 1 site and was evaluated in the Track 1 OE RI/FS and, in accordance with the Track 1 ROD, requires no further action related to MEC. MRS-27Y was also evaluated for potential presence of chemical contamination related to use of military munitions as part of the BRA. Under the BRA MRS-27Y was identified as HA-157. Evaluation of HA-157 included literature search and review of information gathered during site assessment and military munitions sampling conducted at MRS-27Y and adjacent munitions response sites. Based on results of the literature search and no munitions debris observed during sampling, no further action related to chemical contamination was recommended for HA-157 (MRS-27Y) under the Fort Ord BRA. Based on this information Parcels L20.14.1.1 and L20.14.2 meet the definition of CERFA Uncontaminated property.

Table 5 – Environmental Condition of Property

Parcel Designation	Condition Category ¹	Remedial Actions
L20.15 and S3.1.3	1	Parcels categorized as CERFA Disqualified (Parcels 20 and 45) because of release at IRP Site 3 and presence of construction debris in Parcel S3.1.3. Parcels categorized as CERFA Qualified (Parcels 20 and 45) because of ACM, LBP and MRS-22; however, parcels are not part of former range areas within IRP Site 3 and MRS-22 and did not require remediation. MRS-22 is designated a Track 1 site in the Track 1 ROD. Based on review of existing information, MEC is not expected to be found at MRS-22 and no further military munitions investigation is required. Based on this information Parcels L20.15 and S3.1.3 meet the definition of CERFA Uncontaminated property.
S3.1.4	1	Parcel categorized as CERFA Disqualified (Parcel 45) because of release at IRP Site 3 and CERFA Qualified (Parcel 45) because of presence of ACM, LBP and MRS-22; however, parcel is not part of former range areas within IRP Site 3 and MRS-22 and did not require remediation. MRS-22 is designated a Track 1 site in the Track 1 ROD. Based on review of existing information, MEC is not expected to be found at MRS-22 and no further military munitions investigation is required. Based on this information Parcel S3.1.4 meets the definition of CERFA Uncontaminated property.
L23.5.1	2	Parcel categorized as CERFA Disqualified (Parcel 40) because of petroleum storage in USTs and CERFA Qualified (Parcels 40 and 117) because of ACM in buildings on parcel. 800 cubic yards of petroleum impacted soil removed. Remaining soil could not be removed without threatening structural integrity of buildings. Vadose zone leaching model (VLEACH) used to evaluate potential impacts to groundwater from hydrocarbons remaining in soil. VLEACH modeling indicated concentrations of organic compounds remaining in soil do not pose significant threat to groundwater. Monterey County Department of Health (MCDOH) and California Regional Water Quality Control Board (RWCQB) granted closure for USTs 4362.1 and 4362.2 in letters dated January 6 and February 10, 1997, respectively.
E2a	3	Parcel categorized as CERFA Qualified (Parcels 4, 128, 191) because of the presence of ACM, probable LBP, MRS-1 and MRS-6, and CERFA Disqualified (Parcels 2, 3 and 4) because of potential for release of sewage, petroleum storage and they overlie the Fort Ord Landfills (OU 2) groundwater plume. Migration of volatile organic compounds (VOCs) from the OU 2 groundwater plume but at concentrations that do not require a remedial response. MRS-1 and MRS-6 were evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-1 and MRS-6 and, in accordance with the Track 1 ROD, MRS-1 and MRS-6 require no further action related to MEC. The MRS-6 Expansion Area was evaluated in the Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area. Based on review of existing information, MEC is not expected to be found at MRS-6 Expansion Area and in accordance with eligibility criteria for Plug-In sites identified in the Track 1 ROD, no further action related to MEC is required for this area.
E4.1.2.1 and E4.1.2.2	3	Parcels categorized as CERFA Qualified (Parcels 4, 128, 191) because of the presence of ACM, probable LBP and MRS-1, and CERFA Disqualified (Parcels 2, 3 and 4) because of potential for release of sewage, petroleum storage and they overlie the Fort Ord Landfills (OU 2) groundwater plume. Migration of volatile organic compounds (VOCs) from the OU 2 groundwater plume but at concentrations that do not require a remedial response. MRS-1 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-1 and, in accordance with the Track 1 ROD, MRS-1 requires no further action related to MEC.

Table 5 – Environmental Condition of Property

Parcel Designation	Condition Category ¹	Remedial Actions
E4.1.2.3, L9.1.1.2, and L9.1.2.2	3	Parcels categorized as CERFA Qualified (Parcels 4, 128, 191) because of presence of ACM, probable LBP and MRS-1, and CERFA Disqualified (Parcels 2, 3 and 4) because of potential for release of sewage, petroleum storage, and they overlie OU2 groundwater plume. Migration of VOCs from OU2 groundwater plume but at concentrations that do not require a remedial response. MRS-1 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-1 and, in accordance with the Track 1 ROD, MRS-1 requires no further action related to MEC.
E4.3.1.2, E8a.1.1.2	4	Parcels were categorized as CERFA Disqualified (Parcel 4) because they overlie the OU2 groundwater plume. Migration of VOCs from OU2 groundwater plume at concentrations exceeding MCLs. Groundwater remediation treatment system installed. US EPA concurrence that OU2 groundwater treatment system is operating properly and successfully 1/4/1996.
E4.3.2.1, E4.6.1, E4.6.2, L5.6.1, and L5.6.2	4	Parcels were categorized as CERFA Disqualified (Parcel 4) because of migration of VOCs from OU2 Landfills at concentrations exceeding MCLs, disposal of residential and commercial refuse, and MRS-13A. Groundwater remediation treatment system in place. US EPA concurrence that OU2 groundwater treatment system is operating properly and successfully on January 4, 1996. Portions of OU2 Landfills (Area A and some perimeter areas of main landfill) were removed and consolidated into main landfill south of Imjin Road. MRS-13A was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-13A and, in accordance with the Track 1 ROD, MRS-13A requires no further action related to MEC.
S4.1.1	4	Parcel was categorized as CERFA Disqualified (Parcel 4) because of migration of VOCs from Sites 2/12 groundwater plume at concentrations exceeding MCLs, CERFA Qualified (191) because of MRS-1 and MRS-6, and CERFA Uncontaminated. Groundwater remediation treatment system in place. US EPA concurrence that Sites 2/12 groundwater treatment system is operating properly and successfully on July 3, 2002. MRS-1 and MRS-6 were evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-1 and MRS-6 and, in accordance with the Track 1 ROD, MRS-1 and MRS-6 require no further action related to MEC. The MRS-6 Expansion Area was evaluated in the Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area. Based on review of existing information, MEC is not expected to be found at MRS-6 Expansion Area and in accordance with eligibility criteria for Plug-In sites identified in the Track 1 ROD, no further action related to MEC is required for this area.
S3.1.1 and S3.1.2	4	Parcels categorized as CERFA Disqualified (Parcel 1, 4, 15, 16, 17, 44, 46,) because of potential release at storm water outfalls, migration of VOCs from Sites 2/12 groundwater plume, and releases at IRP Sites 1 and 3, and CERFA Qualified (Parcels 1, 15, 16, 17, 44, 45, 46, and 103) because of MRS-22, ACM, LBP, and use or repair of Nuclear Regulatory Commission (NRC) licensed materials in buildings on the parcel. Surface water outfall OF-15 was identified for characterization under Basewide RI/FS. OF-15 discharges to Parcel S3.1.1. Soil samples were collected at discharge point and downgradient of OF-15. Based on results of characterization sampling, soil impacted with total petroleum hydrocarbons, arsenic, lead and dieldrin was recommended for removal under the IA ROD. Approximately 430 cubic yards of soil were removed as part of IA activities. The Outfall 15 Confirmation Report was submitted to the regulatory agencies in September 1998. The US EPA and the DTSC concurred that contamination was adequately remediated and no further action was necessary at Outfall 15 in letters dated March 16, 2005 and April 11, 2005, respectively.

Table 5 – Environmental Condition of Property

Parcel Designation	Condition Category ¹	Remedial Actions
		<p>Sites 2 and 12 groundwater plume is being remediated by extraction and treatment in accordance with the Basewide RI Sites ROD, which was signed by DTSC on January 16, 1997, by US EPA on January 17, 1997, and by RWQCB on January 22, 1997. Since installation and start-up of Sites 2 and 12 groundwater treatment system (April 1999), extent of the plume has been significantly reduced. Sites 2 and 12 Groundwater Remedy Operating Properly and Successfully Evaluation Report was submitted to the regulatory agencies in November 2001. On July 3, 2002, Army received concurrence from US EPA that the pump-and-treat system for remediation of the Site 2 and 12 groundwater plume is in place and operating "properly and successfully."</p> <p>IRP Site 2 (SWMU FTO-012) was investigated during the Basewide RI/FS. As part of cleanup activities associated with closure of SWMU FTO-012 all sludge remaining in sewage treatment plant sludge drying beds and evaporation ponds was removed. Additional SWMU cleanup activities included demolition of asphalt lined drying beds, removal of drying bed conveyance piping and excavation of soils below drying beds and ponds.</p> <p>IRP Site 1 (SWMU FTO-059) was investigated during the Basewide RI/FS. Mercury was detected in soil samples collected near former trickling filter at concentrations above PRG. Low concentrations of fecal coliform were also detected. Additional investigation was conducted to address agency concerns about elevated mercury levels within soil at former trickling filter and to evaluate suitability of disposing treated sewage residue from the sludge-drying beds at OU2 Landfills. Soil samples were collected from sludge drying beds, holding ponds and former trickling filter area. Based on data from the additional investigation, soil at former trickling filter was recommended for removal under the IA ROD. The Site 1 IA Confirmation Report was submitted to regulatory agencies in December 1997. US EPA and DTSC concurred that contamination was adequately remediated and no further action was necessary at Site 1 in letters dated April 6, 1998 and April 11, 2005, respectively.</p> <p>Remediation at IRP Site 3 consisted of the excavation of approximately 162,800 cubic yards of contaminated soil and spent ammunition.</p> <p>Building 916 (Parcel S3.1.1) was among 230 former Fort Ord buildings that were suspected to have contained/stored radioactive commodities, but for which no documented evidence was found. Twenty percent of the 230 buildings were randomly sampled by AEHA (reorganized in 1994 as USACHPPM). No radiological health hazards were identified for the twenty percent sampled, and USACHPPM recommended all 230 buildings be released for unrestricted use (memorandum dated May 2, 1997). In a memorandum dated October 1, 1997, the California Department of Health Services (DHS) released all buildings with documented or suspected use or storage of radioactive commodities (including Building 916) for unrestricted use.</p> <p>MRS-22 was evaluated in the Track 1 OE RI/FS. Based on review of existing information, MEC is not expected to be found at MRS-22 and, in accordance with the Track 1 ROD, MRS-22 requires no further action related to MEC.</p>

¹Environmental Condition of Property Categories.

Category 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).

Category 2: Areas where only release or disposal of petroleum products has occurred.

Table 5 – Environmental Condition of Property

Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.

Category 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.

Category 5: Areas where release, disposal, and/or migration of hazardous substances has occurred, and removal or remedial actions are underway, but all required actions have not yet been taken.

Category 6: Areas where release, disposal, and/or migration of hazardous substances has occurred, but required actions have not yet been implemented.

Category 7: Areas that have not been evaluated or require additional evaluation.

Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Material Stored/ Quantity	Regulatory Synonym	CASRN ¹	RCRA Waste Number	Duration	Release/ Disposal
Parcels E4.3.1.2 and E8a.1.1.2						
Operable Unit (OU) 2 Landfills Groundwater Plume	Migration of groundwater associated with OU2 / Quantity released is unknown				1955-1991	Yes/No (see Table 5, Parcels E4.3.1.2 and E8a.1.1.2)
	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
Parcel E4.3.2.1						
OU2 Landfills Groundwater Plume	Migration of groundwater associated with OU2/Quantity released is unknown				1955-1991	Yes/No (See Table 5)
	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		

Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Material Stored/ Quantity	Regulatory Synonym	CASRN ¹	RCRA Waste Number	Duration	Release/ Disposal
Parcel E4.6.1						
OU2 Landfills, Solid Waste Management Unit (SWMU) FTO-002	Residential and commercial refuse/Quantity released is unknown				1955-1991	Yes/Yes (See Table 5)
OU2 Landfills Groundwater Plume	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
Parcel E4.6.2						
OU2 Landfills, SWMU FTO-002	Residential and commercial refuse/Quantity released is unknown				1955-1991	Yes/Yes (See Table 5)
OU2 Landfills Groundwater Plume	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		

Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Material Stored/ Quantity	Regulatory Synonym	CASRN ¹	RCRA Waste Number	Duration	Release/ Disposal
Parcel L5.6.1						
OU2 Landfills, SWMU FTO-002	Residential and commercial refuse/Quantity released is unknown				1955-1991	Yes/Yes (See Table 5)
OU2 Landfills Groundwater Plume	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
Parcel L5.6.2						
OU2 Landfills, SWMU FTO-002	Residential and commercial refuse/Quantity released is unknown				1955-1991	Yes/Yes (See Table 5)
OU2 Landfills Groundwater Plume	Benzene	Benzol	71432	U019		
	Carbon Tetrachloride	Methane, tetrachloro	56235	U211		
	Chloroform	Methane, trichloro	67663	U044		
	1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	1,2-Dichloropropene	Propane, 1,2-dichloro-	78875	U083		
	Dichloromethane	Methane, dichloro	75092	U080		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		

Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Material Stored/ Quantity	Regulatory Synonym	CASRN ¹	RCRA Waste Number	Duration	Release/ Disposal
Parcel S4.1.1						
IRP Sites 2 and 12 Groundwater Plume	Chemicals of concern in groundwater/Quantity released is unknown				Unknown	Yes/Unknown (See Table 5)
	Chloroform	Methane, trichloro	67663	U044		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	1,1-Dichloroethene	Ethylene, 1,1-Dichloro-	75354	U078		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	Total 1,3- Dichloropropene	1-Propene, 1,3-dichloro-	542756	U084		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
Parcel S3.1.1						
IRP Site 1	Mercury released at the site/Quantity released is unknown. Approximately 870 cubic yards of impacted soil was removed.				1950s through mid-1990s	Yes/No (See Table 5)
	Mercury	--	7439976	U151		
IRP Sites 2 and 12 Groundwater Plume	Chemicals of concern in groundwater/Quantity released is unknown				Unknown	Yes/Unknown (See Table 5)
	Chloroform	Methane, trichloro	67663	U044		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	1,1-Dichloroethene	Ethylene, 1,1-Dichloro-	75354	U078		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	Total 1,3- Dichloropropene	1-Propene, 1,3-dichloro-	542756	U084		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
IRP Site 3	Lead released at the site/Quantity released is unknown. Approximately 162,800 cubic yards of lead impacted soil was removed.				Approximately 1940 through 1994	Yes/No (See Table 5)

Table 6 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Material Stored/ Quantity	Regulatory Synonym	CASRN ¹	RCRA Waste Number	Duration	Release/ Disposal
	Lead	--	7439921	None assigned		
Surface Water Outfall 15	Release occurred at the outfall/Quantity released is unknown. Approximately 430 cubic yards of impacted soil was removed.				1940s through 1994	Yes/No (See Table 5)
	Lead	--	7439921	None assigned		
	Arsenic	--	7440382	None assigned		
	Hydrocarbons	--	Multiple	--		
	Dieldrin	Aldrin epoxide	60571	P037		
Parcel S3.1.2						
IRP Sites 2 and 12 Groundwater Plume	Chemicals of concern in groundwater/Quantity released is unknown				Unknown	Yes/Unknown (See Table 5)
	Chloroform	Methane, trichloro	67663	U044		
	1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077		
	1,1-Dichloroethene	Ethylene, 1,1-Dichloro-	75354	U078		
	cis-1,2-Dichloroethene	Ethylene, 1,2-dichloro-	156605	U079		
	Total 1,3-Dichloropropene	1-Propene, 1,3-dichloro-	542756	U084		
	Tetrachloroethene	Perchloroethylene	127184	U210		
	Trichloroethene	Trichloroethylene	79016	U228		
	Vinyl Chloride	Ethene, chloro-	75014	U043		
IRP Site 3	Lead released at the site/Quantity released is unknown. Approximately 162,800 cubic yards of lead impacted soil was removed.				Approximately 1940 through 1994	Yes/No (See Table 5)

¹Chemical Abstract Service Registry Number

Table 7 – Notification of Petroleum Product Storage, Release, or Disposal

Parcel Number	Tank Number	Product Type	Date of Storage, Release, or Disposal	Remedial Action
E4.3.2.1	6143	Diesel	250-gallon active AST installed in 1995.	None necessary
	6143.1	Diesel	60-gallon UST installed after 1979 and removed in 1995. No evidence of petroleum release.	UST removed in July 1995. Closure granted by the Monterey County Department of Health (MCDOH) in December 1995.
E4.1.2.2	8775	Gasoline	200-gallon active AST, date installed not available.	None necessary
	8775.1	Gasoline	200-gallon UST installed after 1963 and operated until 1995. No evidence of petroleum release.	UST removed in July 1995. No remedial action required. Closure granted by the MCDOH in January 1996.
L23.5.1	4362.1	Diesel	4,000-gallon UST operated from about 1976 until 1990. Release occurred during UST operation.	UST removed in August 1990. Remediation consisted of the removal of petroleum-impacted soil. Closure granted by the MCDOH in January 1997 and the RWQCB in February 1997.
	4362.2	Unknown	1,500-gallon UST installed in 1952. Unknown duration of use. Release occurred during UST operation.	UST removed in September 1990. Remediation consisted of the removal of petroleum-impacted soil. Closure granted by the MCDOH in January 1997 and by the RWQCB in February 1997.
	4363.1	Diesel	3,000-gallon UST operated from about 1956 until 1992. No evidence of petroleum release.	UST removed in April 1992. No remedial action required. Closure granted by the MCDOH in January 1994.
	4367.1	Propane	1,175-gallon inactive AST, date installed not available.	None necessary
	4367.2	Propane	375-gallon inactive AST, date installed not available.	None necessary
S3.1.1	2070.1	Diesel	UST of unknown size. Installed in about 1965. Release occurred during UST operation.	UST removed in May 1988. Investigation included geophysics, soil gas sampling and soil borings. Closure granted by the MCDOH in January 1997.
	2076.1	Diesel	500-gallon UST with unknown duration of use. No evidence of petroleum release.	UST removed in January 1992. No remedial action required. Closure granted by the MCDOH in January 1994.
	2076.2	Diesel	2,000-gallon UST operated from 1983 until 1991. No evidence of petroleum release.	UST removed in January 1992. No remedial action required. Closure granted by the MCDOH in January 1994.

Table 8 – Disposal (Army Action) Impacts and Mitigation Measures

Issue Area	Impact	Mitigation Measure	How Addressed in FOST ¹ and EPP ²
Land Use	Potential temporary land use conflicts between interim uses allowed by Army and necessary remediation activities.	Limit properties that may be outgranted and restrict access to remediation areas during remediation activities.	NA – applies only to leased properties.
Air Quality	Exposure of the public to asbestos during building demolition or after transfer of buildings to third parties.	Disclosure of the locations and quantities of buildings with asbestos-containing material (ACM) when transferred.	FOST – presence of ACM disclosed and Asbestos Survey Report is referenced in Section 4.5, specific parcels and buildings are listed in Table 1 (Attachment 3). EPP – presence of ACM disclosed and Asbestos Survey Report is referenced in Section 4.
Hazardous and Toxic Waste Site Remedial Action	Potential risks to public health and safety associated with hazardous materials.	Continue State-mandated and federally mandated cleanup process and remedial actions; cleanup of wastes is part of the project.	FOST – ongoing remedial actions are described in Sections 4.1.4, 4.2.1, 4.2.2 and 5.1 and Table 5 (Attachment 3). EPP – Groundwater Restriction is described in Section 2(A)(2); Notice of the Presence of Contaminated Groundwater in Section 6; Notice of the Presence of the Fort Ord Landfills in Section 7.
Munitions and Explosives of Concern (MEC)	Potential risks to public health and safety associated with MEC.	Continue MEC investigations and removal actions (munitions response); preparation of engineering evaluations, community education plan, and site maintenance and emergency response plan; and inform property recipients of the potential for MEC.	FOST – the Military Munitions Response Program is described in Sections 4.9 and 5.2. EPP – Notice for the Potential Presence of MEC in Section 3.
Vegetation, Wildlife, and Wetland Resources	Loss of federal protection for Monterey spineflower.	Develop and coordinate an installation-wide multi-species habitat management plan (HMP). Implement the HMP, including HMP protective covenants in deed transfers.	FOST – parcels are listed by HMP category in Section 4.10. EPP – HMP protective covenants are given in Section 8.

¹ Finding of Suitability to Transfer, Track 0 Plug-In C, Track 1 and Track 1 Plug-In Parcels.

² Environmental Protection Provisions attached to the FOST.

ATTACHMENT 4

**CERCLA NOTICE, COVENANT, AND ACCESS PROVISIONS
AND OTHER DEED PROVISIONS**

CERCLA NOTICE, COVENANT, AND ACCESS PROVISIONS AND OTHER DEED PROVISIONS

The following CERCLA Notice, Covenant, and Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

1. CERCLA NOTICE – PARCELS E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L20.15, L5.6.1, L5.6.2, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.2, S3.1.3, S3.1.4 AND S4.1.1.

For the Property, the Grantor provides the following notice, description, and covenant:

- A. Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h), is provided in Exhibit _____ [FOST Table 6 – Hazardous Substance, Storage, Release and Disposal (Attachment 3) should be included as a deed exhibit], attached hereto and made a part hereof. Additional information regarding the storage, release, and disposal of hazardous substances on the property has been provided to the Grantee, receipt of which the Grantee hereby acknowledges. Such additional information includes, but is not limited to, the Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Track 0 Plug-in C and Track 1 Parcels (May 2005) and documents referenced therein.
 - B. Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the property is provided in Exhibit _____ [FOST Table 5 – Environmental Condition of Property (Attachment 3) should be included as an exhibit in the final deed], attached hereto and made a part hereof. Additional information regarding the remedial action taken, if any, has been provided to the Grantee, receipt of which the Grantee hereby acknowledges. Such additional information includes, but is not limited to, the Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Track 0 Plug-in C and Track 1 Parcels (May 2005) and documents referenced therein.
2. CERCLA COVENANT – PARCELS E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L20.15, L5.6.1, L5.6.2, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.2, S3.1.3, S3.1.4 AND S4.1.1

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(ii) and (B)), the United States warrants that -

- A. All remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the property has been taken before the date of this deed, and
- B. Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

This warranty shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such property. For purposes of this warranty, Grantee shall not be considered a potentially responsible party solely due to the presence of a hazardous substance remaining on the property on the date of this instrument, provided that Grantee has not caused or contributed to a release of such hazardous substance.

3. CERCLA COVENANT – PARCELS E11a, E11b.6.2, E15.2, E20c.2.1, L20.13.5, L20.14.1.1, L20.14.2, L20.6, AND L31

Pursuant to section 120(h)(4)(D)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(4)(D)(i)), the United States warrants that any response action or corrective action found to be necessary after the date of this deed for hazardous substances existing on the property prior to the date of this deed shall be conducted by the United States. This warranty shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such property. For purposes of this warranty, Grantee shall not be considered a potentially responsible party solely due to a hazardous substance remaining on the property on the date of this instrument, provided that Grantee has not caused or contributed to a release of such hazardous substance or petroleum product or its derivatives.

4. NOTICE OF RELEASE OR DISPOSAL OF PETROLEUM PRODUCTS OR THEIR DERIVATIVES AND COVENANT – PARCEL L23.5.1

- A. The Grantor has identified a portion of the Property (Parcel L23.5.1) as real property on which no hazardous substances were released or disposed of, but on which petroleum products or their derivatives are known to have been released or disposed of.
- B. Following a complete search of its files and records, the Grantor hereby provides notice that diesel fuel was released from a 4,000-gallon underground storage tank on the Property, which was operated from approximately 1976 to 1990.
- C. The Grantor covenants that all response actions necessary to protect human health and the environment with respect to any petroleum product remaining on the Property have been taken prior to the date of this conveyance.

D. The Grantor covenants that any response action or corrective action found to be necessary under applicable laws and regulations after the date of this conveyance with respect to the discovery of contamination that resulted from a release or disposal prior to conveyance of the Property shall be conducted by the United States. This warranty shall not apply in any case in which the person or entity to whom the Property is transferred is a potentially responsible party with respect to such property. For purposes of this warranty, Grantee shall not be considered a potentially responsible party solely due to the presence of a contaminant remaining on the Property on the date of this instrument, provided that Grantee has not caused or contributed to a release of such contaminant.

5. RIGHT OF ACCESS

- A. Pursuant to sections 120(h)(3)(A)(iii) and 120(h)(4)(D)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(iii) and §9620(h)(D)(ii)), the United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property after the date of transfer of the Property in any case in which an environmental response action or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.
- B. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this covenant, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means, but without significant additional costs to the United States, to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the property. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.
- C. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents,

contractors of any tier, or servants pursuant to and in accordance with this covenant. In addition, the Grantee, its successors and assigns, shall not interfere with any response action or corrective action conducted by the Grantor on the Property.

D. The U.S. Environmental Protection Agency (US EPA) and the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC), and their officers, agents, employees, contractors, and subcontractors will have the right, upon reasonable notice to the Grantee, to enter upon the transferred premises in any case in which a response or corrective action is found to be necessary, after the date of transfer of the Property, or such access is necessary to carry out a response action or corrective action on adjoining property, including, without limitation, the following purposes:

- 1) To inspect field activities of the Grantor and its contractors and subcontractors.
- 2) To conduct any test or survey related to environmental conditions at the former Fort Ord or to verify any data submitted to the US EPA or the DTSC by the Grantor relating to such conditions.

6. "AS IS"

- A. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. The Grantee understands and agrees that the Property and any part thereof is offered "AS IS" without any representation, warranty, or guaranty by the Grantor as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.
- B. No warranties, either express or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.
- C. Nothing in this "As Is" provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

7. HOLD HARMLESS

- A. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and

penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of conveyance.

- B. The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.
- C. Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

8. POST-TRANSFER DISCOVERY OF CONTAMINATION

- A. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of conveyance, Grantee, its successors or assigns, shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor's activities, use, or ownership of the Property. If the Grantee, its successors or assigns believe the discovered hazardous substance is due to Grantor's activities, use or ownership of the Property, Grantee will immediately secure the site and notify the Grantor of the existence of the hazardous substances, and Grantee will not further disturb such hazardous substances without the written permission of the Grantor.
- B. Grantee, its successors and assigns, as consideration for the conveyance of the Property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

9. ENVIRONMENTAL PROTECTION PROVISIONS

The Environmental Protection Provisions are at Exhibit _____, which is attached hereto and made a part hereof. The Grantee shall neither transfer the property, lease the property, nor grant any interest, privilege, or license whatsoever in connection with the property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

ATTACHMENT 5

ENVIRONMENTAL PROTECTION PROVISIONS

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be attached, in a substantially similar form, as an exhibit to the deed and be incorporated therein by reference in order to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at the former Fort Ord. A list of notices applicable to each parcel is provided at the end of this attachment.

1. FEDERAL FACILITIES AGREEMENT

The Grantor acknowledges that the former Fort Ord has been identified as a National Priorities List (NPL) Site under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. The Grantee acknowledges that the Grantor has provided it with a copy of the Fort Ord Federal Facility Agreement (FFA) entered into by the United States Environmental Protection Agency (US EPA) Region IX, the State of California, and the Department of the Army, effective on November 19, 1990, and will provide the Grantee with a copy of any amendments thereto. For so long as the Property remains subject to the FFA, the Grantee, its successors and assigns, agree that they will not interfere with United States Department of the Army activities required by the FFA. In addition, should any conflict arise between the FFA and any amendment thereto and the deed provisions, the FFA provisions will take precedence. The Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property.

2. LAND USE RESTRICTIONS

A. The United States Department of the Army (Army) has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of the property that would violate the land use restrictions contained herein.

- 1) **Residential Use Restriction.** In accordance with the provisions of Section 5 of the Environmental Protection Provisions, the Grantee, its successors and assigns, shall use the Property solely for commercial or industrial activities and not for residential purposes unless the Grantee performs abatement as required under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992). For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; childcare facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.
- 2) **Groundwater Restriction.** Grantee is hereby informed and acknowledges that the groundwater under portions of the Property and associated with the Sites 2 and 12 (Sites 2/12) groundwater plume and the Operable Unit 2 (OU2) groundwater plume is

contaminated with volatile organic compounds (VOCs), primarily trichloroethylene (TCE).

- a) A Covenant to Restrict Use of Property (CRUP) for portions of the Property within the "Special Groundwater Protection Zone" will be made by and among The United States of America acting by and through the Army and the State of California acting by and through the DTSC and the California Regional Water Quality Control Board, Central Coast Region (RWQCB).
- b) The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying the Property for any purpose. For the purpose of this restriction, "groundwater" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- c) The Grantee covenants for itself, its successors, and assigns that neither the Grantee, its successors or assigns, nor any other person or entity acting for or on behalf of the Grantee, its successors or assigns, shall interfere with any response action being taken on the Property by or on behalf of the Grantor, or interrupt, relocate, or otherwise interfere or tamper with any remediation system or monitoring wells now or in the future located on, over, through, or across any portion of the Property without the expressed written consent of the Grantor in each case first obtained.
- d) The Grantee covenants for itself, its successors, or assigns, that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained herein. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable.

B. Modifying Restrictions. Nothing contained herein shall preclude the Grantee, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, Grantee shall consult with and obtain the approval of the Grantor, and, as appropriate, the State or federal regulators, or the local authorities in accordance with these Environmental Protection Provisions and the provisions of the CRUP(s). Upon the Grantee's obtaining the approval of the Grantor and, as appropriate, state or federal regulators, or local authorities, the Grantor agrees to record an amendment hereto. This recordation shall be the responsibility of the Grantee and at no additional cost to the Grantor.

C. Submissions. The Grantee, its successors and assigns, shall submit any requests to modifications to the above restrictions to Grantor, the US EPA, the DTSC and the RWQCB, in accordance with the provisions of the CRUP(s), by first class mail, postage prepaid, addressed as follows:

- 1) Grantor: Director, Fort Ord Office
Army Base Realignment and Closure
P.O. Box 5008
Presidio of Monterey, CA 93944-5008
- 2) US EPA: Chief, Federal Facility and Site Cleanup Branch
Superfund Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street, Mail Code: SFD-8-3
San Francisco, CA 94105-3901
- 3) DTSC: Chief of Northern California Operations
Office of Military Facilities
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826-3200
- 4) RWQCB: Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

3. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

- A. The Grantee is hereby notified that due to the former use of the Property as a military installation, the Property may contain munitions and explosives of concern (MEC). The term MEC means specific categories of military munitions that may pose unique explosives safety risks and includes: (1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (2) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard. For the purposes of the basewide Military Munitions Response Program (MMRP) being conducted for the former Fort Ord and these Environmental Protection Provisions, MEC does not include small arms ammunition .50 caliber and below.
- B. Portions of the Property were previously used for military training involving military munitions, or for disposal of munitions items. A review of existing records and available information indicates there are ten munitions response sites (MRSs) associated with the Property. Military training on the Property involved only the use of practice and pyrotechnic items that are not designed to cause injury, or military munitions items that do not pose an explosive hazard. Military munitions items were found within materials excavated from a landfill disposal area formerly on the Property; however, this is

attributed to disposal activities at the landfill and not training. All landfill disposal areas within the Property have been fully excavated, the landfilled material removed, and the excavated areas backfilled or regraded. The ten MRSs were evaluated and documented in the *Final Track 1 Ordnance and Explosives Remedial Investigation/Feasibility Study, former Fort Ord, California* (Track 1 OE RI/FS) (June 2004) the *Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area* (May 6, 2005) and, in accordance with the *Record of Decision, No Further Action Related to Munitions and Explosives of Concern – Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22)* (Track 1 ROD) (March 2005), no further action related to MEC is required at these ten MRSs.

- C. The Grantor represents that, to the best of its knowledge, no MEC is currently present on the Property. Notwithstanding the Grantor's determination, the parties acknowledge that there is a possibility that MEC may exist on the Property. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the local law enforcement agency having jurisdiction on the Property so that appropriate U.S. Military explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations and at no expense to the Grantee. The Grantee hereby acknowledges receipt of the "Ordnance and Explosives Safety Alert" pamphlet.
- D. Because the Grantor cannot guarantee that all MEC has been removed, the Grantor recommends reasonable and prudent precautions be taken when conducting intrusive operations on the Property and will, at its expense, provide construction worker ordnance recognition and safety training. For specific Track 1 sites that overlap the Property (MRS-1, MRS-6, (and MRS-6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS-59A, MRS-62, and MRS-66), the Army recommends construction personnel involved in intrusive operations at these sites attend the Grantor's ordnance recognition and safety training. To accomplish that objective, the Grantor requests notice from the Grantee of planned intrusive activities, and in turn will provide ordnance recognition and safety training to construction personnel prior to the start of intrusive work. The Grantor will provide ordnance recognition and safety refresher training as appropriate. For the Track 1 sites where ordnance recognition and safety training is recommended (MRS-1, MRS-6 (and MRS-6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS- 59A, MRS-62, and MRS-66), at the time of the next five-year review (2007), the Grantor will assess whether the education program should continue. If information indicates that no MEC items have been found in the course of development or redevelopment of the site, it is expected that the education program may, with the concurrence of the regulatory agencies, be discontinued, subject to reinstatement if a MEC item is encountered in the future.

E. Easement and Access Rights.

- 1) The Grantor reserves a perpetual and assignable right of access on, over, and through the Property, to access and enter upon the Property in any case in which a munitions response action is found to be necessary, or such access and entrance is necessary to carry out a munitions response action on adjoining property as a result of the ongoing Munitions Response Remedial Investigation/Feasibility Study. Such easement and right of access includes, without limitation, the right to perform any additional investigation, sampling, testing, test-pitting, surface and subsurface clearance operations, or any other munitions response action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this Deed. This right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.
 - 2) In exercising this easement and right of access, the Grantor shall give the Grantee or the then record owner, reasonable notice of the intent to enter on the Property, except in emergency situations. Grantor shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property; however, the use and/or occupancy of the Property may be limited or restricted, as necessary, under the following scenarios: (a) to provide the required minimum separation distance employed during intrusive munitions response actions that may occur on or adjacent to the Property; and (b) if Army implemented prescribed burns are necessary for the purpose of a munitions response action (removal) in adjacent areas. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the grantee nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.
 - 3) In exercising this easement and right of access, neither the Grantee nor its successors and assigns, as the case maybe, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this Paragraph. In addition, the Grantee, its successors and assigns, shall not interfere with any munitions response action conducted by the Grantor on the Property.
- F. The Grantee acknowledges receipt of the *Final Track 1 Ordnance and Explosives Remedial Investigation/Feasibility Study (Track 1 OE RI/FS)* (June 2004) and the *Record of Decision, No Further Action Related to Munitions and Explosives of Concern – Track 1 Sites; No Further Remedial Action with Monitoring for Ecological Risks from Chemical Contamination at Site 3 (MRS-22)* (Track 1 ROD) (March 2005).

4. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

- A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing material (ACM) has been found on the Property, as described in the Asbestos Survey Report (April 26, 1993) and summarized in the CERFA Report (April 8, 1994). The Property may also contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain friable and non-friable asbestos or ACM. The Occupational Safety and Health Administration (OSHA) and the U.S. Environmental Protection Agency (US EPA) have determined that unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.
- B. Several buildings on the Property have been determined to contain friable asbestos. Detailed information is contained in the referenced survey report. The remaining buildings contain non-friable ACM rated in good condition. The Grantee agrees to undertake any and all asbestos abatement or remediation in the aforementioned buildings that may be required under applicable law or regulation at no expense to the Grantor. The Grantor has agreed to transfer said buildings to the Grantee, prior to remediation or abatement of asbestos hazards, in reliance upon the Grantee's express representation and covenant to perform the required asbestos abatement or remediation of these buildings.
- C. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The Grantee agrees to be responsible for any future remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.
- D. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or ACM hazards or concerns.

5. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

- A. The Grantee is hereby informed and does acknowledge that all buildings on Parcels E4.1.2.1, E4.1.2.2, E4.6.2, E8a.1.1.2, L23.5.1, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.3, and S3.1.4, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

- B. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on Parcels E4.1.2.1, E4.1.2.2, E4.6.2, E8a.1.1.2, L23.5.1, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.3, and S3.1.4 as Residential Property, as defined under 24 Code of Federal Regulations Part 35, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of Parcels E4.1.2.1, E4.1.2.2, E4.6.2, E8a.1.1.2, L23.5.1, L9.1.1.2, L9.1.2.2, S3.1.1, S3.1.3, and S3.1.4 where their use subsequent to this conveyance is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992).
- C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any lead-based paint hazards or concerns.

6. NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER

The groundwater beneath portions of the Property is contaminated with volatile organic compounds (VOCs), primarily trichloroethene (TCE). The most recent data available (Annual Report of Quarterly Monitoring, October 2003 through September 2004) indicates that:

- A. One parcel (S4.1.1) overlies the Sites 2/12 groundwater plume where the concentration of TCE in groundwater equals or exceeds 5.0 micrograms per liter ($\mu\text{g}/\text{L}$). For the Sites 2/12 groundwater plume area the maximum TCE concentration in the groundwater beneath the Property (Parcel S4.1.1) is between 5.0 $\mu\text{g}/\text{L}$ and 10 $\mu\text{g}/\text{L}$ and depth to groundwater is 68 to 75 feet below ground surface.
- B. Seven parcels (E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1 and L5.6.2) overlie the OU2 groundwater plume where the concentration of TCE in groundwater exceeds 5.0 $\mu\text{g}/\text{L}$. For the OU2 groundwater plume area the maximum TCE concentration in the groundwater beneath the Property (Parcel E4.3.1.2) is 26 $\mu\text{g}/\text{L}$ as measured in groundwater extraction well EW-OU2-12A and depth to groundwater is 125 to 175 feet below ground surface.

The maximum concentrations of the chemicals of concern (associated with the OU2 and Sites 2/12 groundwater plumes) detected in the groundwater monitoring or extraction wells on the Property (September 2004) are listed below. The quantity released of these compounds is unknown. The OU2 and Sites 2/12 groundwater aquifer cleanup levels (ACLS), presented in the OU2 Fort Ord Landfills Record of Decision (ROD) (July 1994) and Basewide Remedial Investigation Sites ROD (January 1997), are provided for comparison.

**Chemicals of Concern in Groundwater and Aquifer Cleanup Levels
(OU2 and Sites 2/12 Plumes)**

Chemical Name	Regulatory Synonym	CASRN*	RCRA Waste Number	Parcel	Well (EW-OU2)	Maximum Concentrations ($\mu\text{g/L}$)	ACL ($\mu\text{g/L}$)
Benzene	Benzol	71432	U019	E4.3.1.2	-10-A	0.3	1.0
Carbon Tetrachloride	Methane, tetrachloro-	56235	U211			ND	0.5
Chloroform	Methane, trichloro-	67663	U044	E4.3.1.2	-12-A	2.3	2.0
1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076	E4.3.1.2	-10-A	6.9	5.0
1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077	E4.3.1.2	-10-A	1.5	0.5
1,1-Dichloroethylene	Ethene, 1,1-dichloro-	75354	U078			ND	6.0
Cis-1,2-Dichloroethylene	Ethene, 1,2-dichloro(E)	156605	U079	E4.3.1.2	-10-A	8.9	6.0
1,2-Dichloroproppane	Propane, 1,2-dichloro-	78875	U083	E4.3.1.2	-12-A	1.3	1.0
Total 1,3-Dichloropropene	Propene, 1,3-dichloro-	542756	--			ND	0.5
Methylene Chloride	Methane, dichloro-	75092	U080			ND	5.0
Tetrachloroethylene	Ethene, tetrachloro-	127184	U210	E4.3.1.2	-10-A	5.4	3.0
Trichloroethylene	Ethene, trichloro-	79016	U228	E4.3.1.2	-12-A	26	5.0
Vinyl chloride	Ethene, chloro-	75014	U043	E4.3.1.2	-10-A	0.7	0.1

*Chemical Abstract Services Registry Number

7. NOTICE OF THE PRESENCE OF THE FORT ORD LANDFILLS

Portions of the Property are located within 1,000 feet of the Fort Ord OU2 Landfills. In order to evaluate methane levels in soil adjacent to the OU2 Landfills, monitoring probes were installed within the landfill and around the landfill perimeter. The probes were placed at a spacing of 1,000 feet or less. The probes are sampled quarterly for methane and annually for volatile organic compounds. The probes will continue to be monitored for a period of thirty (30) years from the time the monitoring program was implemented (June 2000) or until written authorization to discontinue monitoring is provided by the appropriate enforcement agency with concurrence by the California Integrated Waste Management Board (CIWMB). Methane concentrations do not exceed the CIWMB standard of 5% by volume in probes located at the property boundary, with the exception of areas on the eastern side bordering property that is not included in this FOST. Results of perimeter probe monitoring may be found in the perimeter probe monitoring reports, which the Army publishes annually. The Army has implemented a gas collection and treatment system along the eastern side of the landfill adjacent to the existing housing area. To decrease the potential for landfill gas migration to surrounding property, a buffer was added extending 100 feet beyond the perimeter fencing. Future landowners should

refer to California Code of Regulations Title 27, Section 21190, which identifies protective measures for structures built on or within 1,000 feet of a landfill.

8. NOTICE OF RARE, THREATENED AND ENDANGERED SPECIES MANAGEMENT

- A. The property contains habitat occupied and/or potentially occupied by several sensitive wildlife and plant species, some of which are listed or proposed for listing as threatened or endangered under the Endangered Species Act (ESA). Applicable laws and regulations restrict activities that involve the potential loss of populations and habitats of listed species. To fulfill Grantor's commitment in the Fort Ord Disposal and Reuse Environmental Impact Statement Record of Decision, made in accordance with the National Environmental Policy Act of 1969, 42 U.S.C 4321 et seq., this deed requires the conservation in perpetuity of these sensitive wildlife and plant species and their habitats consistent with the U.S. Fish and Wildlife Service Biological Opinions for disposal of the former Fort Ord lands issued pursuant to Section 7 of the ESA on March 30, 1999, October 22, 2002, and March 14, 2005 respectively. By requiring Grantee, and its successors and assigns to comply with the Installation-Wide Multispecies Habitat Management Plan (HMP), Grantor intends to fulfill its responsibilities under Section 7 of the ESA and to minimize future conflicts between species protection and economic development of portions of the Property.
- B. Grantee acknowledges that it has received a copy of the HMP dated April 1997. The HMP, which is incorporated herein by reference, provides a basewide framework for disposal of lands within former Fort Ord wherein development and potential loss of species and/or habitat is anticipated to occur in certain areas of the former Fort Ord (the HMP Development Areas) while permanent species and habitat conservation is guaranteed within other areas of the former Fort Ord (i.e., the HMP Reserve and Corridor parcels). Disposal of former Fort Ord lands in accordance with and subject to the restrictions of the HMP is intended to satisfy the Army's responsibilities under Section 7 of the ESA.
- C. The following parcels of land within the Property hereby conveyed or otherwise transferred to Grantee are subject to the specific use restrictions and/or conservation, management, monitoring, and reporting requirements identified for the parcel in the HMP:
 - 1) Habitat Reserve Parcels numbered: E11a, E11b.6.2 and S3.1.2; and
 - 2) Habitat reserves within the Development with Reserve Areas or Development with Restrictions Parcels numbered: E2a, E8a.1.1.2, S3.1.1, S3.1.3, and S4.1.1.
- D. Any boundary modifications to the Development with Reserve Areas or Development with Restrictions parcels or the Borderland Development Areas Along NRMA Interface must be approved in writing by the U. S. Fish and Wildlife Service (USFWS) and must maintain the viability of the HMP for permanent species and habitat conservation.

- E. The HMP describes existing habitat and the likely presence of sensitive wildlife and plant species that are treated as target species in the HMP. Some of the target species are currently listed or proposed for listing as threatened or endangered under the ESA. The HMP establishes general conservation and management requirement applicable to the property to conserve the HMP species. These requirements are intended to meet mitigation obligations applicable to the property resulting from the Army disposal and development reuse actions. Under the HMP, all target species are treated as if listed under the ESA and are subject to avoidance, protection, conservations, and restoration requirements. Grantee shall be responsible for implementing and funding each of the following requirements set forth in the HMP as applicable to the property:
- 1) Grantee shall implement all avoidance, protection, conservation and restoration requirements identified in the HMP as applicable to the Property and shall cooperate with adjacent property owners in implementing mitigation requirements identified in the HMP for adjacent sensitive habitat areas.
 - 2) Grantee shall protect and conserve the HMP target species and their habitats within the Property, and, other than those actions required to fulfill a habitat restoration requirement applicable to the Property, shall not remove any vegetation, cut any trees, disturb any soil, or undertake any other actions that would impair the conservation of the species or their habitats. Grantee shall accomplish the Resource Conservation Requirements and Management Requirements identified in Chapter 4 of the HMP as applicable to any portion of the Property.
 - 3) Grantee shall manage, through an agency or entity approved by USFWS, each HMP parcel, or portion thereof, within the Property that is required in the HMP to be managed for the conservation of the HMP species and their habitats, in accordance with the provisions of the HMP.
 - 4) Grantee shall either directly, or indirectly through its USFWS approved habitat manager, implement the management guidelines applicable to the parcel through the development of a site-specific management plan. The site-specific habitat management plan must be developed and submitted to USFWS (and, for non-Federal recipients, California Department of Fish and Game (CDFG) as well) for approval within six months from the date the recipient obtains title to the parcel. Upon approval by USFWS (and, as appropriate, CDFG) the recipient shall implement the plan. Such plans may thereafter be modified through the Coordinated Resource Management and Planning (CRMP) process or with the concurrence of USFWS (and, as appropriate, CDFG) as new information or changed conditions indicate the need for adaptive management changes. The six-month deadline for development and submission of a site-specific management plan may be extended by mutual agreement of USFWS, CDFG (if appropriate), and the recipient.

- 5) Grantee shall restrict access to the Property in accordance with the HMP, but shall allow access to the Property, upon reasonable notice of not less than 48 hours, by USFWS, and its designated agents, for the purpose of monitoring Grantee's compliance with, and for such other purposes as are identified in the HMP.
- 6) Grantee shall comply with all monitoring and reporting requirements set forth in the HMP that are applicable to the Property, and shall provide an annual monitoring report, as provided for in the HMP, to the Bureau of Land Management (BLM) on or before November 1 of each year, or such other date as may be hereafter agreed to by USFWS and BLM.
- 7) Grantee shall not transfer, assign, or otherwise convey any portion of, or interest in, the Property subject to the habitat conservation, management or other requirements of the HMP, without the prior written consent of Grantor, acting by and through the USFWS (or designated successor agency), which consent shall not be unreasonable withheld. Grantee covenants for itself, its successors and assigns, that it shall include and otherwise make legally binding the provisions of the HMP in any deed, lease, right of entry, or other legal instrument by which Grantee divests itself of any interest in all or a portion of the Property. The covenants, conditions, restrictions and requirements of this deed and the provisions of the HMP shall run with the land. The covenants, conditions, restrictions, and requirements of this deed and the HMP benefit the lands retained by the Grantor that formerly comprised Fort Ord, as well as the public generally. Management responsibility for the Property may only be transferred as a condition of the transfer of the Property, with the consent of the USFWS. USFWS may require the establishment of a perpetual trust fund to pay for the management of the Property as a condition of transfer of management responsibility from Grantee.
- 8) This conveyance is made subject to the following ENFORCEMENT PROVISIONS
 - a) Grantor hereby reserves a reversionary interest in all of the Property. If Grantor (or its assigns), acting through the USFWS or a designated successor agency, determines that those parcels identified in Paragraph C above or any other portion of the Property subject to a restriction or other requirement of the HMP is not being conserved and/or managed in accordance with the provisions of the HMP, then Grantor may, in its discretion, exercise a right to reenter the Property, or any portion thereof, in which case, the Property, or those portions thereof as to which the right of reentry is exercised, shall revert to Grantor. In the event that Grantor exercises its right of reentry as to all or portions of the Property, Grantee shall execute any and all documents that Grantor deems necessary to perfect or provide recordable notice of the reversion and for the complete transfer and reversion of all right, title and interest in the Property or portions thereof. Subject to applicable federal law, Grantee shall be liable for all costs and fees incurred by Grantor in perfecting the reversion and transfer of title. Any and all improvements on the Property or those portions thereof reverting back to Grantor

shall become the property of Grantor and Grantee shall not be entitled to any payment therefore.

- b) In addition to the right of reentry reserved in paragraph a. above, if Grantor (or its assigns), acting through the USFWS or a successor designated agency, determines that Grantee is violating or threatens to violate the provisions of paragraph 8 of this deed or the provisions of the HMP, Grantor shall provide written notice to Grantee of such violation and demand corrective action sufficient to cure the violation, and where the violation involves injury to the Property resulting from any use or activity inconsistent with the provisions of Paragraph 8 of this deed or the provisions of the HMP, to restore the portion of the Property so injured. If Grantee fails to cure a violation within sixty (60) days after receipt of notice thereof from Grantor, or under circumstances where the violation cannot reasonable be cured within a sixty (60) day period, or fails to continue to diligently cure such violation until finally cured, Grantor may bring an action at law or in equity in a court of competent jurisdiction to enforce the covenants, conditions, reservations and restrictions of this deed and the provisions of the HMP, to enjoin the violation, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the covenants, conditions, reservations and restrictions of this deed or the provisions of the HMP, or injury to any conservation value protected by this deed or the HMP, and to require the restoration of the Property to the condition that existed prior to such injury. If Grantor, in its good faith and reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the species and habitat conservation values of the Property, Grantor may pursue its remedies under this paragraph without prior notice to Grantee or without waiting for the period provided for the cure to expire. Grantor's rights under this paragraph apply equally in the event of either actual or threatened violations of covenants, conditions, reservations and restrictions of this deed or the provisions of the HMP, and Grantee acknowledges that Grantor's remedies at law for any of said violations are inadequate and Grantor shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantor may be entitled, including specific performance of the covenants, conditions, reservations and restrictions of this deed and the provisions of the HMP.
- c) Enforcement of the covenants, conditions, reservations and restrictions in this deed and the provisions of the HMP shall be at the discretion of Grantor, and any forbearance by Grantor to exercise its rights under this deed and the HMP in the event of any such breach or violation of any provision of this deed or the HMP by Grantee shall not be deemed or construed to be a waiver by Grantor of such provision or of any subsequent breach or violation of the same or any other provision of this deed or the HMP or of any of Grantor's rights under this deed or the HMP. No delay or omission by Grantor in the exercise of any right or remedy

upon any breach or violation by Grantee shall impair such right or remedy or be construed as a waiver.

- d) In addition to satisfying Army's responsibilities under Section 7 of the ESA, Grantee's compliance with the covenants, conditions, reservations and restrictions contained in this deed and with the provisions of the HMP are intended to satisfy mitigation obligations included in any future incidental take permit issued by USFWS pursuant to Section 10(a)(1)(B) of the Endangered Species Act which authorizes the incidental take of a target HMP species on the Property. Grantee acknowledges that neither this deed nor the HMP authorizes the incidental take of any species listed under the ESA. Authorization to incidentally take any target HMP wildlife species must be obtained by Grantee separately, or through participation in a broader habitat conservation plan and Section 10(a)(1)(B) permit based on the HMP and approved by USFWS.

ENVIRONMENTAL PROTECTION PROVISIONS – APPLICABLE NOTICES

Parcel Number	Notice of Hazardous Substance Storage, Release or Disposal	Notice of Petroleum Product Storage, Release or Disposal	Notice of the Potential for Munitions and Explosives of Concern	Notice of the Presence of Asbestos	Notice of the Presence of Lead-Based Paint	Notice of Contaminated Groundwater	Notice of Proximity to Landfill	Notice of the Presence of Threatened or Endangered Species
E11a	NA	NA	Yes	NA	NA	Yes	NA	Yes
E11b.6.2	NA	NA	Yes	NA	NA	Yes	NA	Yes
E15.2	NA	NA	Yes	NA	NA	Yes	NA	NA
E20c.2.1	NA	NA	Yes	NA	NA	Yes	NA	Yes
E2a	Yes	Yes	Yes	NA	NA	Yes	NA	Yes
E4.1.2.1	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA
E4.1.2.2	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA
E4.1.2.3	Yes	Yes	Yes	NA	NA	Yes	NA	NA
E4.3.1.2	Yes	Yes	Yes	NA	NA	Yes	Yes	NA
E4.3.2.1	Yes	Yes	Yes	Yes	NA	Yes	Yes	NA
E4.6.1	Yes	Yes	Yes	NA	NA	Yes	Yes	Yes
E4.6.2	Yes	Yes	Yes	NA	NA	Yes	Yes	Yes
E8a.1.1.2	Yes	Yes	Yes	NA	Yes	Yes	Yes	Yes
L20.13.5	NA	NA	Yes	NA	NA	NA	NA	Yes
L20.14.1.1	NA	NA	Yes	NA	NA	Yes	NA	Yes
L20.14.2	NA	NA	Yes	NA	NA	Yes	NA	Yes
L20.15	NA	NA	Yes	NA	Yes	Yes	NA	NA
L20.6	NA	NA	Yes	NA	NA	NA	NA	Yes
L23.5.1	NA	NA	Yes	Yes	Yes	NA	NA	Yes
L31	NA	NA	Yes	NA	NA	NA	NA	Yes
L5.6.1	Yes	Yes	Yes	NA	NA	Yes	Yes	Yes
L5.6.2	Yes	Yes	Yes	Yes	NA	Yes	Yes	Yes
L9.1.1.2	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA
L9.1.2.2	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA
S3.1.1	Yes	Yes	Yes	Yes	Yes	Yes	NA	Yes
S3.1.2	Yes	Yes	Yes	NA	NA	Yes	NA	Yes
S3.1.3	NA	NA	Yes	Yes	Yes	Yes	NA	Yes
S3.1.4	NA	NA	Yes	NA	NA	Yes	NA	Yes
S4.1.1	Yes	Yes	Yes	NA	NA	Yes	NA	NA

ATTACHMENT 6

DEFINITIONS FOR THE MILITARY MUNITIONS RESPONSE PROGRAM

Definitions for the Military Munitions Response Program¹

Military Munitions Response Program (MMRP) – DOD-established program to manage environmental, health and safety issues presented by munitions and explosives of concern (MEC).

Military Munitions – Ammunition products and components produced for and used by the armed forces for national defense and security. The term does not include wholly inert items. (10 U.S.C. 101(e)(4)(A) through (C)).

Munitions Response (MR) – Response actions, including investigation, removal actions and remedial actions to address the explosives safety, human health, or environmental risks presented by unexploded ordnance (UXO) or discarded military munitions (DMM), or munitions constituents.

Munitions Response Site (MRS) – A discrete location that is known to require a munitions response.

Munitions and Explosives of Concern (MEC) – This term, which distinguishes specific categories of military munitions that may pose unique explosives safety risks, means:

(A) Unexploded ordnance (UXO), as defined in 10 U.S.C. 101(e)(5)(A) through (C);
(B) Discarded military munitions (DMM), as defined in 10 U.S.C. 2710 (e)(2); or (C) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. 2710 (e)(3), present in high enough concentrations to pose an explosive hazard. For the purposes of the basewide Munitions Response Program being conducted for the former Fort Ord and this FOST, MEC does not include small arms ammunition .50 caliber and below.²

Unexploded Ordnance (UXO) – Military munitions that (A) have been primed, fuzed, armed, or otherwise prepared for action; (B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and (C) remain unexploded either by malfunction, design, or any other cause. (10 U.S.C. 101(e)(5)(A) through (C)). For the purposes of the basewide Munitions Response Program being conducted for the former Fort Ord and this FOST, UXO does not include small arms ammunition .50 caliber and below.

Discarded Military Munitions (DMM) – Military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations. (10 U.S.C. 2710(e)(2)). For the purposes of the basewide Munitions Response Program being conducted for

¹ These are concise definitions. The reader is referred to United States Code as referenced in the definitions above for detailed information.

² In accordance with U.S. Army Engineering and Support Center, Huntsville, Ordnance and Explosives Center of Expertise guidance on small arms determinations, small arms ammunition (i.e., caliber .50 and smaller) present a very low risk to the public because: 1) caliber .50 and smaller rarely contain explosive projectiles, and 2) a deliberate effort must be applied (using a tool resembling a firing pin) to a very specific and small point (the primer) to make the round function.

the former Fort Ord and this FOST, UXO does not include small arms ammunition .50 caliber and below.

Munitions Constituents (MC) – Any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and non-explosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions. (10 U.S.C. 2710).

Explosive Hazard – A condition where danger exists because explosives are present that may react (e.g., detonate, deflagrate) in a mishap with potential unacceptable effects (e.g., death, injury, damage) to people, property, operational capability, or the environment.

Explosives Safety – A condition where operational capability and readiness, people, property, and the environment are protected from the unacceptable effects or risks of potential mishaps involving military munitions.

Minimum Separation Distance (MSD) – MSD is the distance at which personnel in the open must be from an intentional or unintentional detonation.

Munitions Debris – Remnants of munitions (e.g., fragments, penetrators, projectiles, shell casings, links, fins) remaining after munitions use, demilitarization or disposal.

Range-related Debris – Debris, other than munitions debris, collected from operational ranges or from former ranges (e.g., targets).

Range – A designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. (10 U.S.C. 101(e)(1)(A) and (B)).

Range Activities – Research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems. (10 U.S.C. 101(e)(2)(A) and (B)).

Small Arms Ammunition – Ammunition, without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns.

ATTACHMENT 7

REGULATORY/PUBLIC COMMENTS



Department of Toxic Substances Control



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

8800 Cal Center Drive
Sacramento, California 95826-3200

Arnold Schwarzenegger
Governor

June 30, 2005

Ms. Gail Youngblood
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
Post Office Box 5004
Monterey, California 93944-5004

REVIEW OF DRAFT FINDING OF SUITABILITY TO TRANSFER (FOST) TRACK 0 PLUG-IN, AND TRACK 1 PARCELS, GROUP C PARCELS, FORMER FORT ORD, MONTEREY, CALIFORNIA, MAY 5, 2005

Dear Ms. Youngblood:

The Department of Toxic Substances Control (DTSC) has reviewed the Draft FOST for the subject parcels and has the following comments:

1. Please incorporate the following comment regarding lead-based paint into the draft FOST, or attach it to the draft FOST as an unresolved regulatory comment:

There are buildings on some of these Parcels that probably contain lead-based paint, and this paint may have fallen off the buildings into the soil. Further, the Army did not sample the buildings or the soil for lead-based paint. DTSC's position is that any soils surrounding structures containing lead-based paint should first be evaluated by property owners for releases of lead-based paint to soils prior to the property being used for residential or other sensitive uses.

The FOST contains a section entitled "Environmental Protection Provisions." These provisions will be part of the deed and include a section on lead-based paint which states that the property recipient shall not permit the occupancy or use any of the buildings or structures on the property as residential real property without complying with applicable federal, state and local laws and regulations pertaining to lead based paint hazards. Please be advised that "lead based paint hazards" include lead contamination in soil from lead based paint. DTSC intends to work with all parties to assure the Army's Environmental Protection Provisions and the State law and regulations are complied with regarding lead contaminated soil on former Fort Ord.

2. Please add the following language to the Draft FOST:

Because Fort Ord operated as a Resource Conservation and Recovery Act (RCRA) hazardous waste facility, the owner is required to conduct corrective action for any release or potential release of hazardous substances on the whole facility. The "facility," defined as the Fort Ord Hazardous Waste Facility, is the entire base within the original base boundary. In order to remove this potential corrective action liability for any current or future owners of former Fort Ord property, DTSC must make a Correction Action Complete Determination and Facility Boundary Modification in accordance with the California Hazardous Waste Control Law. This determination officially recognizes that all releases and potential releases of hazardous substances have been addressed pursuant to RCRA and terminates RCRA liability that could potentially be imposed upon future transferees. The boundary modification removes the property from the Fort Ord Hazardous Waste Facility. While DTSC has recommended that the Army do so, the Army has not requested a RCRA Corrective Action Complete Determination for these parcels. Should a transferee desire not to potentially have RCRA liabilities upon transfer of the property, they should contact DTSC to complete the necessary process. Once the request is received, DTSC would work closely with the requestor to complete the process, which includes modifying the facility boundary.

3. Table 4. Please ensure that all regulatory approvals of decision documents are referenced for each parcel in the final FOST. DTSC will complete its evaluation of the parcels and, if appropriate, will issue a No Further Action determination to the Army.
4. Site 39A. Please include a statement that DTSC's No Further Action Letter also applied to the removal of soils with elevated lead from a release of lead based paint. This removal was completed by the future property recipients for Army Parcel L23.3.1. This information explains that lead based paint release issues are addressed for this area to the satisfaction of DTSC and is further evidence of the suitability of the property for varied uses.
5. Plume Maps. Please include a map which depicts the aerial extent of the groundwater plumes in the FOST. The FOST should always show the location of all Installation Restorations Program Sites which impact the property.
6. Plate 6, Landfill areas. This map does not clearly depict the 100 foot buffer zone around the landfill boundary. In addition, the legend does not describe the buffer zone. Please revise the map to clearly delineate the buffer zone and describe it in the map legend.

Ms. Gail Youngblood
June 30, 2005
Page 3

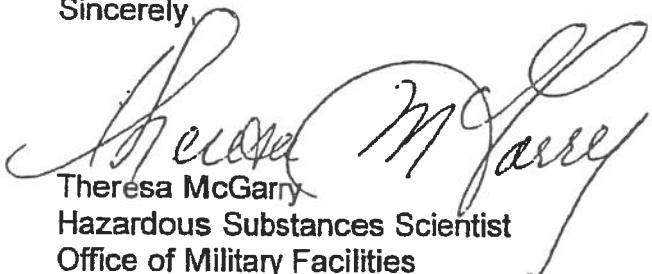
7. As of the date of this letter, DTSC has not received the Munitions and Explosives information it requested on Parcel E8a.1.1.2.

Finally, DTSC reserves the right to address any appropriate environmental or human health related issues should additional information concerning the environmental condition of subject property become available in the future.

DTSC expects to see the final version of the FOST, prior to release, to ensure all regulatory comments are adequately addressed.

If you have any questions, please contact me at (916) 255-3664 or Roman Racca, Project Manager, at (916) 255-6407.

Sincerely,



Theresa McGarry
Hazardous Substances Scientist
Office of Military Facilities

cc: Mr. Ronald M. Holland
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220 12th Street
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950 York Road
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Ms. Gail Youngblood

June 30, 2005

Page 4

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Post Office Box 180
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Ms. Claire Trombadore
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 93944-5004

Mr. Grant Himebaugh
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

June 30, 2005

Ms. Gail Youngblood
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
P.O. Box 5004
Monterey, CA 93944-5004

RE: Revised Finding of Suitability to Transfer (FOST), Track 0 Plug-in C Parcels and Track 1 Parcels, Former Fort Ord, dated May 2005, also known as FOST 9

Dear Ms. Youngblood:

The United States Environmental Protection Agency (EPA) has reviewed FOST 9 as the above referenced document. EPA comments are provided in an attachment to this letter.

Should you have any questions, please contact me at (415) 972-3013.

Sincerely,

A handwritten signature in cursive ink that reads "Claire Trombadore".

Claire Trombadore
Remedial Project Manager

cc: Roman Racca, DTSC
Grant Himebaugh, RWQCB

Attachment

**REVIEW OF THE
REVISED FINDING OF SUITABILITY TO TRANSFER
TRACK 0 PLUG-IN C PARCELS AND TRACK 1 PARCELS (FOST 9)
FORMER FORT ORD
MAY 2005**

SPECIFIC COMMENTS

- 1.** **Section 4.1 Environmental Remediation Sites, page 7:** Please note in the text of the first paragraph of this section which parcels the OU2 TCE plume flows under. If possible, please also the maximum concentration are as well as the depth to groundwater. Despite this information being included in various attachments to the FOST please include it in the Section 4.1 text.
- 2.** **Section 4.9 Munitions and Explosives of Concern (MEC), MRS-6 Expansion Area, page 19:** The first sentence in this section states that, "The MRS-6 Expansion Area lies within Parcel E2a, between MRS-6 and MRS-1 (Plate 4)." No mention is made here or elsewhere in the section that the MRS-6 Expansion Area overlaps Parcel E4.1.2.2, Parcel S4.1.1 and possibly Parcel E4.1.2.1 as well. However, Plate 4 appears to show such an overlap (the boundaries of Parcel E4.1.2.1 are not well defined on the plate). In addition, a check of Attachment 3 Tables, Table 2 Track 0 Plug-In Parcels Associated with Track 1 Sites (Group C), reveals that the MRS-6 Expansion Area is not listed in the table as overlapping any of these parcels, to include Parcel E2a. Please review the cited section/plate/table and correct the cited inconsistencies as necessary.
- 3.** **Section 4.9.1 Incidental Military Munitions, page 22:** The first sentence in this section states that, "Military munitions items were found in three parcels within Track 0 areas." This seems to be an all-encompassing statement which could be applied to all of the Track 0 parcels which currently exist at the installation, as well as to any future Track 0 plug-in parcels currently unidentified. The sentence should be revised to apply only to the Track 0 parcels under consideration in this FOST.

In addition, the three parcels listed as having contained incidental military munitions (Parcels E4.3.1.2, E8a.1.1.2, and L20.13.5) do not appear to be the only parcels that meet this criteria. A check of Table 5 Environmental Condition of Property of Attachment 3 Tables reveals that Parcel L20.6 also had incidental military munitions items found within its boundaries. Please review the cited discrepancies and correct them as necessary. Also, please review the documentation of all of the parcels scheduled for transfer as Track 0 parcels for the presence of incidental military munitions and list all which have such items present in Section 4.9.1.

- 4.** **Attachment 2, Environmental Documentation, page 3:** The Army should include the following reference, *Final Landfill Gas Perimeter Probe Monitoring Report, 2003, Operable Unit 2 Landfills, Revision 0 dated November 2004.*

ERRATA

- 1. Section 4.0 Environmental Condition of Property, Community Environmental Response Facilitation Act (CERFA) Report, Parcels L20.15, S3.1.3, and S3.1.4, page 6:** The third paragraph in this subsection uses two different sizes of fonts for no apparent reason. Please correct this typographical error.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

July 8, 2005

Ms. Gail Youngblood
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
P.O. Box 5004
Monterey, CA 93944-5004

RE: Revised Finding of Suitability to Transfer (FOST), Track 0 Plug-in C Parcels and Track 1 Parcels, Former Fort Ord, dated May 2005, also known as FOST 9

Dear Ms. Youngblood:

The United States Environmental Protection Agency (EPA) has some additional comments on above referenced document (FOST 9). EPA comments are provided in an attachment to this letter.

Should you have any questions, please contact me at (415) 972-3013.

Sincerely,

A handwritten signature in black ink that reads "Claire Trombadore".

Claire Trombadore
Remedial Project Manager

cc: Roman Racca, DTSC
Grant Himebaugh, RWQCB

Attachment

**ADDITIONAL EPA COMMENTS
REVISED FINDING OF SUITABILITY TO TRANSFER
TRACK 0 PLUG-IN C PARCELS AND TRACK 1 PARCELS (FOST 9)
FORMER FORT ORD
MAY 2005**

SPECIFIC COMMENTS

1. Please add the following language (or something like it) to Attachment 5, Section 7 - Notice re the OU 2 landfills: The landfill gas monitoring probes are sampled quarterly for methane and annually for volatile organic compounds. Monitoring of landfill gas is required for 30 years. The results of the landfill gas monitoring can be found on the Army's web site: www.fortordcleanup.com.

Mr. Robert Carr, EPA Region 9 Office of Regional Counsel, has completed his review of FOST 9 and has the following comments:

1. The language which appears at page 2 of attachment 4, and is repeated at page 3, limiting the CERCLA Covenant does not reflect EPA's understanding of the Army's obligation. The language is based on the notion that a PRP who acquires federal property is not entitled to the statutory covenant; however the Army language does not focus on the status of the parties at the time of the transfer. Any party who acquires contaminated property is a PRP with respect to that property, subject to various defenses. The second sentence which purports to limit the exclusion contained in the first is also flawed because it would allow the Army to avoid its obligation under the CERCLA covenant if any act of the transferee contributed to a release of a hazardous substance remaining on the parcel. For example, if there were construction debris remaining on the parcel the act of the transferee, unknowingly disturbing the debris and releasing asbestos to the environment, could void the Army's obligation to address the asbestos.

This section should be rewritten to focus on the status of the parties at the time of transfer and to make it clear that while the transferee could incur responsibility for improperly dealing with hazardous substance which might be encountered, the primary responsibility for addressing material remaining on the parcel is retained by the Army. EPA would be happy to discuss specific language to accomplish this objective.

2. Paragraphs 6 and 7 both contain broad language limiting the Army's liability (or requiring indemnification) but also include a saving's clause which references the Army's obligation under the CERCLA Covenant. This approach is questionable both because of the ambiguity created by the language and the limitation of the Army's obligation noted above. The transferee should receive a clear statement of the obligations retained by the Army and the obligations it is assuming under the deed.
3. Paragraph 8 contains language which EPA believes is inconsistent with the intention of Congress that the military remain responsible for its contamination. Paragraph 8 places on the Transferee the burden of establishing that any newly discovered contamination was due to the actions of the Army. In addition, the Transferee must show that any release was the result of Army action, thus if the Transferee's action causes or contributes to the

release of Army contamination, the Transferee would be responsible. This section contains no provision acknowledging the Army's statutory obligation. The requirement to obtain written permission prior to disturbing any newly discovered hazardous substances may be unrealistic and could preclude a claim by a Transferee who encountered contamination, properly segregated and managed it and subsequently sought to recover the cost of managing the material from the Army.

4. There is also a reference in Section 5 of Attachment 5 which obligates the transferee to conduct the Army's abatement obligation with respect to LBP. Unless the property was "target housing" as that term is defined under TSCA, federal law does not impose an abatement obligation on the Army. To be protective, the LBP section should require that prior to the use of the property for residential purposes, the transferee take all actions which would have been required had the property been subject to the requirements for "target housing".



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

July 19, 2005

Ms. Gail Youngblood
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
P.O. Box 5004
Monterey, CA 93944-5004

RE: Revised Finding of Suitability to Transfer (FOST), Track 0 Plug-in C Parcels and Track 1 Parcels, Former Fort Ord, dated May 2005, also known as FOST 9

Dear Ms. Youngblood:

The United States Environmental Protection Agency (EPA) has some additional comments on above referenced document (FOST 9). EPA comments are provided in an attachment to this letter. All other EPA comments on FOST 9 previously submitted (with the exception of those provided by EPA Regional Counsel Robert Carr on July 8, 2005 and reiterated in the attachment to this letter) have been resolved satisfactorily by the Army and EPA need only verify that the changes noted in the Army responses to EPA comments have been incorporated into the FOST, as appropriate.

Should you have any questions, please contact me at (415) 972-3013.

Sincerely,


Claire Trombadore
Remedial Project Manager

cc: Roman Racca, DTSC
Grant Himebaugh, RWQCB

Attachment

**ADDITIONAL EPA COMMENTS
REVISED FINDING OF SUITABILITY TO TRANSFER
TRACK 0 PLUG-IN C PARCELS AND TRACK 1 PARCELS (FOST 9)
FORMER FORT ORD
MAY 2005**

SPECIFIC COMMENTS

1. EPA requests that the Army retain a buffer zone of 100 feet surrounding the entire perimeter of the OU 2 landfill.
2. EPA requests that the Army confirm it has an emergency response plan for the OU 2 landfill as required by Section 21130, Article 2, Subchapter 5, Chapter 3, Title 27 of the California Code of Regulations.
3. Based upon discussions with the Army, the following comments, developed by Mr. Robert Carr of the Office of Regional Counsel EPA Region 9 and submitted to the Army on July 8, 2005, shall remain unresolved and attached to the final FOST:
 - 1) The language which appears at page 2 of attachment 4, and is repeated at page 3, limiting the CERCLA Covenant does not reflect EPA's understanding of the Army's obligation. The language is based on the notion that a PRP who acquires federal property is not entitled to the statutory covenant; however the Army language does not focus on the status of the parties at the time of the transfer. Any party who acquires contaminated property is a PRP with respect to that property, subject to various defenses. The second sentence which purports to limit the exclusion contained in the first is also flawed because it would allow the Army to avoid its obligation under the CERCLA covenant if any act of the transferee contributed to a release of a hazardous substance remaining on the parcel. For example, if there were construction debris remaining on the parcel the act of the transferee, unknowingly disturbing the debris and releasing asbestos to the environment, could void the Army's obligation to address the asbestos.

This section should be rewritten to focus on the status of the parties at the time of transfer and to make it clear that while the transferee could incur responsibility for improperly dealing with hazardous substance which might be encountered, the primary responsibility for addressing material remaining on the parcel is retained by the Army. EPA would be happy to discuss specific language to accomplish this objective.

2) Paragraphs 6 and 7 both contain broad language limiting the Army's liability (or requiring indemnification) but also include a saving's clause which references the Army's obligation under the CERCLA Covenant. This approach is questionable both because of the ambiguity created by the language and the limitation of the Army's obligation noted above. The transferee should receive a clear statement of the obligations retained by the Army and the obligations it is assuming under the deed.

3) Paragraph 8 contains language which EPA believes is inconsistent with the intention of Congress that the military remain responsible for its contamination. Paragraph 8 places on the Transferee the burden of establishing that any newly discovered contamination was

due to the actions of the Army. In addition, the Transferee must show that any release was the result of Army action, thus if the Transferee's action causes or contributes to the release of Army contamination, the Transferee would be responsible. This section contains no provision acknowledging the Army's statutory obligation. The requirement to obtain written permission prior to disturbing any newly discovered hazardous substances may be unrealistic and could preclude a claim by a Transferee who encountered contamination, properly segregated and managed it and subsequently sought to recover the cost of managing the material from the Army.

- 4) There is also a reference in Section 5 of Attachment 5 which obligates the transferee to conduct the Army's abatement obligation with respect to LBP. Unless the property was "target housing" as that term is defined under TSCA, federal law does not impose an abatement obligation on the Army. To be protective, the LBP section should require that prior to the use of the property for residential purposes, the transferee take all actions which would have been required had the property been subject to the requirements for "target housing".

ATTACHMENT 8

ARMY RESPONSE

**ARMY RESPONSE TO COMMENTS FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY
(US EPA), REGION IX, RECEIVED BY THE ARMY IN A LETTER DATED JUNE 30, 2005.**

Response to Specific Comment 1: Operable Unit 2 (OU2) Landfills is discussed as an environmental remediation site under Section 4.1; however, the groundwater contamination component of OU2 is described in Section 4.2.2 where the Notice of the Presence of Contaminated Groundwater (Section 6) in the Environmental Protection Provisions (EPP, Attachment 5) is also referenced. Per discussion with US EPA on July 7, 2005, the requested information has been added to Section 6 of the EPP.

Response to Specific Comment 2: The description of the MRS-6 Expansion Area in Section 4.9 has been revised to include Parcels E4.1.2.1, E4.1.2.2, and S4.1.1. Plate 4 (Attachment 1) has been revised to include an inset map, which provides more detail of the MRS-6 Expansion Area. Table 2 (Attachment 3) has been revised to list the MRS-6 Expansion Area as a Track 1 Site overlapping Parcels E2a, E4.1.2.1, E4.1.2.2 and S4.1.1.

Response to Specific Comment 3: The first sentence in Section 4.9.1 has been revised to "Incidental military munitions items were found in seven Track 0 parcels that are in this FOST." The list of parcels in Section 4.9.1 has been expanded to include Parcels E4.6.1, E4.6.2, L5.6.1, and L5.6.2, which are described in the Track 0 Plug-in Approval Memorandum – Group C Parcels as parcels where incidental military munitions were found. While incidental military munitions are not discussed in Table 5 (Attachment 3) of the FOST, the boundaries of Parcel L20.6 and MRS-62 are congruent; therefore, any munitions items found within the parcel were not considered incidental. Munitions debris (expended pyrotechnic items) and expended blank small arms ammunition were found in Parcel L20.6 (MRS-62), as described in Sections 4.2.3 and 4.9 of the FOST

Response to Specific Comment 4: The *Final Landfill Gas Perimeter Probe Monitoring Report, 2003, Operable Unit 2 Landfills, Revision 0* had been added to list of references. Additionally, because they are referenced in discussion of the Operable Unit 2 Landfills in the FOST, the perimeter probe monitoring reports from 2000, 2001 and 2002, the *Draft Final Report, 2003 Ambient Air Monitoring and Human Health Risk Assessment, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0* and the *Draft Final Work Plan, Landfill Gas System Expansion, Operable Unit 2 Landfills, Former Fort Ord, California, Revision 0* have been added to the list of references.

Response to Errata 1: The cited paragraph in Section 4.0 was corrected to have the same font size throughout.

**ARMY RESPONSE TO COMMENTS FROM THE US EPA, REGION IX, RECEIVED BY THE ARMY IN
A LETTER DATED JULY 8, 2005.**

Response to Additional Comment: Section 7 of the Environmental Protection Provisions (EPP) has been revised to state that the OU2 Landfills perimeter probes are sampled quarterly for methane and annually for volatile organic compounds and this monitoring program will occur for

thirty years from the time of implementation (June 2000) or until written authorization to discontinue monitoring is provided by the appropriate enforcement agency with concurrence by the California Integrated Waste Management Board (CIWMB). It has also been added to the text of Section 7 that the results of perimeter probe monitoring may be found in the annual perimeter probe monitoring report; however, the reference to the Former Fort Ord Environmental Cleanup web site was not added because the EPP language is included in the deed, which is a permanent legal instrument. While it may currently be true that this information may be accessed at the website, this may not be so in the future; however, if future property recipients wish to access this information, they may determine how to do so through the documentation provided as part of the transfer.

Response to Comments 1 through 4: The Army believes the standard language in Attachments 4 and 5 of the FOST is legally sufficient. These comments are considered to be unresolved.

ARMY RESPONSE TO COMMENTS FROM THE US EPA, REGION IX, RECEIVED BY THE ARMY IN A LETTER DATED JULY 19, 2005.

Response to Specific Comment 1: Though not required by applicable regulations, the Army agrees with the US EPA that it is prudent to maintain a buffer zone around the perimeter of the OU2 Landfills. Plate 6 (Attachment 1) of the FOST has been revised to clearly depict the buffer zone around the OU2 Landfills that has already been established by the Army. As indicated on the plate, the buffer zone is 100 feet or greater in width around the majority of the OU2 Landfills Areas. The exceptions are on the north side of Area B and the east side of Area F.

The parcel to the north of Area B (E4.6.2) is a transportation corridor with right-of-ways for proposed Imjin Road widening and a heavy rail line. Based on the available analytical data from perimeter probes at Area B and the intended reuse of Parcel E4.6.2, the Army believes it is not necessary to infringe upon the transportation corridor by widening the buffer zone past the property boundary.

The parcel to the east of Area F (S1.2.2) was transferred in 1997, prior to completion of the engineered landfill cover system and installation of the landfill gas (LFG) monitoring system; therefore, the landfill fence is constructed on the property boundary, which is less than 100 feet from the landfill perimeter. On all other parts of the landfill, the Army property extends beyond the landfill fence line. In response to elevated methane levels detected in perimeter probes on the east side of Area F, the Army started operating a LFG extraction and treatment system in June 2001. This system has since maintained methane concentrations along the fence line adjacent to the eastern side of Area F to less than the 5 percent standard. The Army is in the process of expanding the LFG extraction and treatment system to increase its effectiveness. Based on this, the Army believes LFG will continue to be controlled on the east side of Area F in compliance with Title 27 of the California Code of Regulations (CCR); therefore, it is not necessary to have a 100-foot wide buffer zone in this area.

Additionally, as described in the Response to Additional Comment above, quarterly monitoring of compliance probes will continue for thirty years from the time of implementation (June 2000)

or until written authorization to discontinue monitoring is provided by the appropriate enforcement agency with concurrence by the CIWMB.

Response to Specific Comment 2: The Army does have an emergency response plan for the OU2 Landfills as required by Section 21130, Article 2, Subchapter 5, Chapter 3, Title 27 of the CCR. The emergency response plan may be found in Appendix D of the Post-Closure Operation and Maintenance Plan, Areas B through F Remedial Action, Operable Unit 2 Landfills. The Army is currently revising the emergency response plan to clarify response to LFG release.

Response to Specific Comment 3: The Army believes the standard language in Attachments 4 and 5 of the FOST is legally sufficient. Mr. Carr's comments are included in Attachment 7 of this FOST and remain unresolved.

ARMY RESPONSE TO COMMENTS FROM THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC), RECEIVED BY THE ARMY IN A LETTER DATED JUNE 30, 2005.

Response to Comment 1: The text given in the comment is considered to be an unresolved regulatory comment as shown in Attachment 7 of the FOST; however, it is also noted here that the Army did sample buildings and soil in the Patton Park housing area, which includes Parcels E4.1.2.1, E4.1.2.2, L9.1.1.2 and L9.1.2.2, for lead associated with suspected lead-based paint, as described in Section 4.6 of this FOST.

Response to Comment 2: The Army will proceed with modifying the boundaries of the Fort Ord Hazardous Waste Facility and will request a RCRA Corrective Action Complete Determination as it pertains to parcels in this FOST and the FOST for Track 0 and Track 0 Plug-in B Parcels; therefore, it is not necessary to add this language to the FOST.

Response to Comment 3: Decision documents listed in Table 4 (Attachment 3) and referenced the text of the FOST that require regulatory approvals have been identified and the regulatory approvals appropriately cited.

Response to Comment 4: The Army recognizes DTSC's No Further Action letter also regards the removal of soil impacted by lead-based paint on Parcel L23.3.1; however, the Army believes it is not appropriate to include discussion of this work in the FOST because Parcel L23.3.1 is not part of this FOST. Army environmental remedial actions at Site 39A are described in the FOST because Site 39A is adjacent to a parcel included in this FOST.

Response to Comment 5: Plates 4 and 6 (Attachment 1) of the FOST have been revised to show the aerial extent of the Sites 2 and 12 and Operable Unit 2 groundwater plumes, respectively. Text has also been added to relevant sections of the FOST to indicate that the plume delineations shown on the Plates are based on the Army's understanding of the plumes from analytical data associated with a specific groundwater sampling event in September 2004. The Army agrees with the DTSC's position that the FOST should describe all Installation Restoration Program (IRP) Sites that may impact the Property.

Response to Comment 6: Plate 6 (Attachment 1) of the FOST has been revised to clearly depict the buffer zone around the OU2 Landfills and describe the buffer zone in the Plate Explanation.

Response to Comment 7: The munitions and explosives of concern (MEC) information on Parcel E8a.1.1.2 was incorporated into a revised version of the *Track 0 Plug-in Approval Memorandum, Selected Parcels – Group C, Former Fort Ord, California*, which was issued to the regulatory agencies on July 1, 2005. This information was also incorporated into Section 4.9.1 of the FOST.



Department of Toxic Substances Control



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

8800 Cal Center Drive
Sacramento, California 95826-3200

Arnold Schwarzenegger
Governor

August 24, 2005

Ms. Gail Youngblood
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
Post Office Box 5004
Monterey, California 93944-5004

CONCURRENCE WITH FINDING OF SUITABILITY TO TRANSFER (FOST) TRACK 0 PLUG-IN C PARCELS, TRACK 1 AND TRACK 1 PLUG-IN PARCELS, FORMER FORT ORD, MONTEREY, CALIFORNIA, JULY 2005

Dear Ms. Youngblood:

The Department of Toxic Substances Control (DTSC) has reviewed the FOST for the subject parcels and conditionally concurs that they are suitable to transfer. The parcels, acreage, intended use and recipient are listed in Table 1, attached. This concurrence is contingent upon the following:

- a. Army signing the Land Use Covenant regarding Groundwater Restrictions for Parcels S4.1.1; E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1, and L5.6.2, prior to transfer.
- b. Fort Ord Reuse Authority signing the Land Use Covenant requiring protective measures for structures located within 1000 feet of the landfill (e.g. Parcels E4.3.1.2, L5.6.2, E4.3.2.1, L5.6.1, E4.6.2 and E8a.1.1.2) prior to transfer.
- c. California Department of Parks and Recreation entering into a Agreement and Land Use Covenant to address future monitoring of the beach areas, Parcels S3.1.1, S3.1.2, and S3.1.4 prior to transfer.

Please attach the following comment regarding lead-based paint to the FOST as an unresolved regulatory comment:

There are buildings on some of these Parcels that probably contain lead-based paint, and this paint may have fallen off the buildings into the soil. Further, the Army did not sample the buildings or the soil for lead-based paint. DTSC's position is that any soils surrounding structures containing

Ms. Gail Youngblood
August 24, 2005
Page 2

lead-based paint should first be evaluated by property owners for releases of lead-based paint to soils prior to the property being used for residential or other sensitive uses.

The FOST contains a section entitled "Environmental Protection Provisions". These provisions will be part of the deed and include a section on lead-based paint which states that the property recipient shall not permit the occupancy or use any of the buildings or structures on the property as residential real property without complying with applicable federal, state and local laws and regulations pertaining to lead based paint hazards. Please be advised that "lead based paint hazards" include lead contamination in soil from lead based paint. DTSC intends to work with all parties to assure the Army's Environmental Protection Provisions and the State law and regulations are complied with regarding lead contaminated soil on former Fort Ord.

Because Fort Ord operated as a Resource Conservation and Recovery Act (RCRA) hazardous waste facility, the owner is required to conduct corrective action for any release or potential release of hazardous substances on the whole facility. The "facility," defined as the Fort Ord Hazardous Waste Facility, is the entire base within the original base boundary. In order to remove this potential corrective action liability for any current or future owners of former Fort Ord property, DTSC must make a Correction Action Complete Determination and Facility Boundary Modification in accordance with the California Hazardous Waste Control Law. This determination officially recognizes that all releases and potential releases of hazardous substances have been addressed pursuant to RCRA and terminates RCRA liability that could potentially be imposed upon future transferees. The boundary modification removes the property from the Fort Ord Hazardous Waste Facility. The Army has agreed to request a RCRA Corrective Action Complete Determination for these parcels. This Determination must be completed prior to transfer to prevent the transferee from incurring RCRA liabilities upon ownership of the property.

DTSC reserves the right to address any appropriate environmental or human health related issues should additional information concerning the environmental condition of subject property become available in the future.

Ms. Gail Youngblood
August 24, 2005
Page 3

Finally, please note that should this property be considered for the proposed acquisition and/or construction of school properties utilizing state funding, a separate environmental review process in compliance with California Education Code 12710 et.seq, will need to be conducted and approved by DTSC.

If you have any questions, please contact me at (916) 255-3732 or Theresa McGarry of my staff at (916) 255-3664.



Anthony J. Landis, P.E.
Chief
Northern California Operations
Office of Military Facilities

Attachment

cc: Mr. Nick Chulos
Principal Administrative Analyst
County of Monterey
230 Church Street, Building 3
Salinas, California 93901

Mr. Ronald M. Holland
Veterans Transition Center
220 12th street
Marina, California 93933

Mr. Derek Lieberman
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Mr. Michael Houlemaud
Fort Ord Reuse Authority
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Ms. Gail Youngblood
August 24, 2005
Page 4

cc: Ms. Claire Trombadore
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
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Mr. David Murray
Department of Transportation
50 Higuera Street
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Mr. Grant Himebaugh
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
E1a (147)	FORA	Habitat Management	No buildings or structures	---	No buildings or structures
E1b.6.2 (18)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
E15.2 (29)	FORA	Open Space	No buildings or structures	---	No buildings or structures
E20c.2.1 (25)	FORA	Future Housing	No buildings or structures	---	No buildings or structures
E2a (63)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
E4.1.2.1 (10)	FORA	Housing	8726 - 8727	Yes	Yes
			8708	Yes	Yes
			8568 - 8569	Yes	Yes
			8560 - 8562	Yes	Yes
			8555	Yes	Yes
			8529	Yes	Yes
			8515	Yes	Yes
E4.1.2.2 (26)	FORA	Housing	8516 - 8528	Yes	Yes
			8709 - 8717	Yes	Yes
			8727 - 8731	Yes	Yes
			8563 - 8568	Yes	Yes
		Sewage Pump Station	8775	Not Surveyed	Yes
E4.1.2.3 (1)	FORA	Right-of-way, Booker Street	No buildings or structures	---	No buildings or structures
E4.3.1.2 (1)	FORA	Housing	No buildings or structures	---	No buildings or structures
E4.3.2.1 (46)	FORA	Housing	6016 - 6019	Yes	No
			6021 - 6024	Yes	No
			6026 - 6073	Yes	No
			6078 - 6079	Yes	No
		Sewage Pump Station	6143	No	No

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
E4.6.1 (25)	FORA	Right-of-way, Imjin Road	No buildings or structures	---	No buildings or structures
E4.6.2 (17)	FORA	Right-of-way, Imjin Road	5871	No	Yes
			5871A	Not Surveyed	Yes
E8a.1.1.2 (85)	FORA	Non-irrigated Open Space	4A39	Not Surveyed	Yes
L20.13.5 (7)	FORA	Right-of-way, South Boundary Road	No buildings or structures	---	No buildings or structures
L20.14.1.1 (8)	FORA	Right-of-way, Intergarrison Road	No buildings or structures	---	No buildings or structures
L20.14.2 (3)	FORA	Right-of-way, Intergarrison Road	No buildings or structures	---	No buildings or structures
L20.15 (20)	FORA	Development	No buildings or structures	---	No buildings or structures
L20.6 (247)	Monterey County	Laguna Seca Park	No buildings or structures	---	No buildings or structures
L23.5.1 (15)	Monterey Peninsula College	School	4360 - 4367	4360-4366 Yes (4367 - not surveyed)	Yes
L31 (12)	Veterans Transition Center	Housing	No buildings or structures	---	No buildings or structures
L5.6.1 (23)	FORA	Development/Mixed Use	No buildings or structures	---	No buildings or structures
L5.6.2 (8)	FORA	Marina Park Offices	6009 - 6010	Yes	No
			6014 - 6015	Yes	No
L9.1.1.2 (2)	Veterans Transition Center	Housing	8714 - 8719	Yes	Yes
L9.1.2.2 (2)	Veterans Transition Center	Housing	8732 - 8735	Yes	Yes
S3.1.1 (477)	California Department of Parks and Recreation	State Park	5989	Not Surveyed	Yes
			2066	Yes	Yes
			2076A – 2076I	2076A – B and 2076D – I yes, 2076C no	Yes

Table 1 – Description of Property

Parcel Number (Acreage)	Recipient	Intended Reuse	Facility Number(s)	ACM Present	LBP Present ¹
			2076J – 2076S	Not surveyed	Yes
			TR9070	Yes	No
			2019	No	Yes
			922	No	Yes
			924	No	Yes
			914 - 915	No	Yes
			919	No	Yes
			919A	Not surveyed	Yes
S3.1.2 (468)	California Department of Parks and Recreation	State Park	No buildings or structures	---	No buildings or structures
S3.1.3 (22)	California Department of Parks and Recreation	State Park	IA99	Yes	Yes
S3.1.4 (13)	California Department of Parks and Recreation	State Park	916	No	Yes
S4.1.1 (72)	Caltrans	Right-of-way, Highway 1	No buildings or structures	---	No buildings or structures

¹ The presence or absence of lead-based paint (LBP) is assumed based on the date of construction. If the date of construction is not known, it is assumed that the building contains LBP.

**AMENDMENT #1
to the**

**FINDING OF SUITABILITY TO TRANSFER
(FOST)**

FORMER FORT ORD, CALIFORNIA

TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1 PLUG-IN PARCELS

October 2005

**AMENDMENT #1
FINDING OF SUITABILITY TO TRANSFER (FOST)
FORMER FORT ORD, CALIFORNIA
TRACK 0 PLUG-IN C, TRACK 1 AND TRACK 1 PLUG-IN PARCELS**

1.0 PURPOSE

The purpose of this Amendment is to modify Section 2 Subparagraph A (2) (LAND USE RESTRICTIONS, Groundwater Restriction) and Section 6 (NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER) of the Environmental Protection Provisions (EPP, Attachment 5 of the FOST) to reflect which notice of the presence of contaminated groundwater is required for the parcels referred to in the EPP's table of Applicable Notices. More specifically this amendment will clarify which parcels of property are within particular "Groundwater Protection Zones" and therefore require a specific notice to be included in the deeds for those parcels.

2.0 BACKGROUND

Because of concerns about the extent of future development at the former Fort Ord, its potential impact on groundwater remedial activities, and protection of public health and the environment, Monterey County promulgated an ordinance in 1999 that established a "Special Groundwater Protection Zone" at the former Fort Ord. Within this zone, property recipients are restricted from drilling new water wells. The Special Groundwater Protection Zone is divided into the "Prohibition Zone," where construction of water wells is prohibited, and the "Consultation Zone," where the County evaluates water well permit applications on a case-by-case basis in consultation with the Army, U.S. EPA Region IX, California Department of Toxic Substances Control (DTSC) and the California Regional Water Quality Control Board (RWQCB). Additionally, the DTSC has required for previous FOSTs the Army to be party to a Covenant to Restrict Use of Property Covenant (CRUP) for each group of properties being transferred that were located within the Special Groundwater Protection Zone.

During development of this FOST, the DTSC determined it only had regulatory authority to enforce CRUPs on property within the Prohibition Zone, but not the Consultation Zone. The Army revised the list of parcels requiring a CRUP accordingly; however, after the FOST was finalized, the Army determined the table of Applicable Notices in the EPP still indicated all parcels within the Special Groundwater Protection Zone required the Notice of Contaminated Groundwater, which describes all such parcels as being included in a CRUP. As a result, the Notice of Contaminated Groundwater was inappropriately included in the draft deeds for property within the Consultation Zone based on the information in the table of Applicable Notices.

3.0 REGULATORY/PUBLIC COMMENT

OCT 19 2005

A copy of this FOST Amendment will be distributed to the US EPA Region IX, the DTSC and the RWQCB. The Army will include this FOST Amendment as part of its Administrative Record for the former Fort Ord, California.

4.0 FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I have concluded that all DOD requirements to reach a Finding of Suitability to Transfer have been fully met for the Property, subject to the terms and conditions set forth in the Environmental Protection Provisions, as modified (Attachment 5).



OCT 19 2005

Thomas E. Lederle
Director, Hampton Field Office
Army BRAC

Enclosure

Attachment 5, Environmental Protection Provisions Sections 2 and 6 as amended.

ATTACHMENT 5
ENVIRONMENTAL PROTECTION PROVISIONS

2. LAND USE RESTRICTIONS

- A. The United States Department of the Army (Army) has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of the property that would violate the land use restrictions contained herein.
- 2) **Groundwater Restriction.** As described in the NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER, the Grantee is hereby informed and acknowledges that the groundwater under portions of the Property and associated with the Sites 2 and 12 (Sites 2/12) groundwater plume and the Operable Unit 2 (OU2) groundwater plume is contaminated with volatile organic compounds (VOCs), primarily trichloroethene (TCE). In accordance with the provisions of Section 6 of the Environmental Protection Provisions, the Grantee, its successors and assigns shall not access or use groundwater underlying the Property for any purpose. For the purpose of this restriction, "groundwater" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

6. NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER

For Parcels E2a, E4.1.2.1, E4.1.2.2, E4.1.2.3, E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1, L5.6.2, L9.1.1.2, L9.1.2.2, S3.1.1 and S4.1.1:

- A. The groundwater beneath portions of the Property is contaminated with volatile organic compounds (VOCs), primarily trichloroethene (TCE). The most recent data available (Annual Report of Quarterly Monitoring, October 2003 through September 2004) indicates that:
- 1) Parcel S4.1.1 overlies the Sites 2/12 groundwater plume where the concentration of TCE in groundwater equals or exceeds 5.0 micrograms per liter ($\mu\text{g}/\text{L}$). For the Sites 2/12 groundwater plume area the maximum TCE concentration in the groundwater beneath the Property (Parcel S4.1.1) is between 5.0 $\mu\text{g}/\text{L}$ and 10 $\mu\text{g}/\text{L}$ and depth to groundwater is 68 to 75 feet below ground surface.
- 2) Parcels E4.3.1.2, E4.3.2.1, E4.6.1, E4.6.2, E8a.1.1.2, L5.6.1 and L5.6.2 overlie the OU2 groundwater plume where the concentration of TCE in groundwater exceeds 5.0 $\mu\text{g}/\text{L}$. For the OU2 groundwater plume area the maximum TCE concentration in the groundwater beneath the Property (Parcel E4.3.1.2) is 26 $\mu\text{g}/\text{L}$ as measured in groundwater extraction well EW-OU2-12A and depth to groundwater is 125 to 175 feet below ground surface.

- B. The maximum concentrations of the chemicals of concern (associated with the OU2 and Sites 2/12 groundwater plumes) detected in the groundwater monitoring or extraction wells on the Property (September 2004) are listed below. The quantity released of these compounds is unknown. The OU2 and Sites 2/12 groundwater aquifer cleanup levels (ACLs), presented in the OU2 Fort Ord Landfills Record of Decision (ROD) (July 1994) and Basewide Remedial Investigation Sites ROD (January 1997), are provided for comparison.

**Chemicals of Concern in Groundwater and Aquifer Cleanup Levels
(OU2 and Sites 2/12 Plumes)**

Chemical Name	Regulatory Synonym	CASRN*	RCRA Waste Number	Parcel	Well (EW-OU2)	Maximum Concentrations ($\mu\text{g/L}$)	ACL ($\mu\text{g/L}$)
Benzene	Benzol	71432	U019	E4.3.1.2	-10-A	0.3	1.0
Carbon Tetrachloride	Methane, tetrachloro-	56235	U211			ND	0.5
Chloroform	Methane, trichloro-	67663	U044	E4.3.1.2	-12-A	2.3	2.0
1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076	E4.3.1.2	-10-A	6.9	5.0
1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077	E4.3.1.2	-10-A	1.5	0.5
1,1-Dichloroethene	Ethene, 1,1-dichloro-	75354	U078			ND	6.0
Cis-1,2-Dichloroethene	Ethene, 1,2-dichloro(E)	156605	U079	E4.3.1.2	-10-A	8.9	6.0
1,2-Dichloropropane	Propane, 1,2-dichloro-	78875	U083	E4.3.1.2	-12-A	1.3	1.0
Total 1,3-Dichloropropene	Propene, 1,3-dichloro-	542756	--			ND	0.5
Methylene Chloride	Methane, dichloro-	75092	U080			ND	5.0
Tetrachloroethene	Ethene, tetrachloro-	127184	U210	E4.3.1.2	-10-A	5.4	3.0
Trichloroethene	Ethene, trichloro-	79016	U228	E4.3.1.2	-12-A	26	5.0
Vinyl chloride	Ethene, chloro-	75014	U043	E4.3.1.2	-10-A	0.7	0.1

*Chemical Abstract Services Registry Number

C. Restrictions and Conditions

- 1) The property is within the "Prohibition Zone" of the "Special Groundwater Protection Zone." A Covenant to Restrict the Use of Property (CRUP) for the property will be established between the United States Army and the State of California (DTSC and the California Regional Water Quality Control Board, Central Coast Region). The Prohibition Zone encompasses the area overlying or adjacent to the four identified groundwater contamination plumes at the former Fort Ord. The Prohibition Zone is identified on the "Former Fort Ord Special Groundwater Protection Zone Map" (the Map), which is on file with the County of Monterey (the County). County Ordinance No. 04011 prohibits the construction of water wells within the Prohibition Zone.

- 2) The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying the Property for any purpose. For the purpose of this restriction, “groundwater” shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- 3) The Grantee covenants for itself, its successors, and assigns that neither the Grantee, its successors or assigns, nor any other person or entity acting for or on behalf of the Grantee, its successors or assigns, shall interfere with any response action being taken on the Property by or on behalf of the Grantor, or interrupt, relocate, or otherwise interfere or tamper with any remediation system or monitoring wells now or in the future located on, over, through, or across any portion of the Property without the expressed written consent of the Grantor in each case first obtained.
- 4) The Grantee covenants for itself, its successors, or assigns, that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained herein. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable.

For Parcels E11a, E11b.6.2, E15.2, E20c.2.1, L20.14.1.1, L20.14.2, L20.15, S3.1.2, S3.1.3, and S3.1.4:

- A. The Property is within the “Consultation Zone” of the “Special Groundwater Protection Zone.” The Consultation Zone includes areas surrounding the “Prohibition Zone” where groundwater extraction may impact or be impacted by the four identified groundwater contamination plumes at the former Fort Ord. The Consultation Zone is also identified on the “Former Fort Ord Special Groundwater Protection Zone Map,” which is on file with the County of Monterey (the County). County Ordinance No. 04011 requires consultation with the Grantor, the US EPA, the DTSC, the RWQCB and the County for proposed water well construction within the Consultation Zone.
- B. The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying the Property for any purpose without the prior written approval of the Grantor, the US EPA, the DTSC, the RWQCB and the County. For the purpose of this restriction, “groundwater” shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- C. The Grantee covenants for itself, its successors, and assigns that neither the Grantee, its successors or assigns, nor any other person or entity acting for or on behalf of the Grantee, its successors or assigns, shall interfere with any response action being taken on the Property by or on behalf of the Grantor, or interrupt, relocate, or otherwise interfere or tamper with any remediation system or monitoring wells now or in the future located on, over, through, or across any portion of the Property without the expressed written consent of the Grantor in each case first obtained.
- D. The Grantee covenants for itself, its successors, or assigns, that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained

herein. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable

END OF DOCUMENT