

APPENDIX A
RESPONSES TO AGENCY COMMENTS ON
DRAFT EBS/FOST

RESPONSE TO USEPA COMMENTS (JULY 6, 1995)
DRAFT EBS/FOST
MONTEREY INSTITUTE FOR RESEARCH IN ASTRONOMY (MIRA) PARCEL
FORMER FORT ORD, CALIFORNIA

Environmental Baseline Survey Comments

Comment 1: Page 4. Limitations. The EBS designates the Army Corps of Engineers as the only intended beneficiary of this document. We note that the revised EBS should not include such a limitation, in that the EBS is intended to be a publicly-available document for the purpose of facilitating reuse, and EPA, the State, and the public should not have to obtain the written consent of Harding Lawson Associates prior to relying on information contained in the report. EPA has made a similar comment on other Ft Ord EBSs.

Response: Comment noted; however, the limitation on the use of the EBS will remain. The limitation language has been modified to clarify that the purpose of the EBS is to support the preparation of the FOST by the Army. Use of the EBS for purposes other than the preparation of the FOST by the Army is outside the intended use of the EBS. Other parties should not rely upon the EBS without consulting with HLA and obtaining written consent for other uses because the EBS may not contain sufficient information for their purposes.

Comment 2: Page 18, Section 4.6.2.2., 2nd ¶ - The last two sentences appear contradictory. If the No Action ROD for all No Action sites (including Site 18) was signed in spring 1995, then why would additional agency approval for Site 18 be needed? Please emphasize that the ROD is a plug-in ROD and that Site 18 is not considered a No Action site until EPA and the State receive and approve the No Action Approval Memorandum.

Response: Comment noted; the text has been modified for clarification.

Comment 3: Page 21, 2nd column, 3rd bullet; and Plate 8 Explanation - Same comment as above.

Response: Comment noted; the text and Plate 8 have been modified for clarification.

Finding of Suitability to Transfer Comments

Comment 4: Page A2, last ¶ - The second and third sentences appear contradictory. See EBS Comment 2.

Response: Comment noted; the text has been modified for clarification.

Comment 5: Page A3. Same ¶ as above, and section that follows. Will the Army impose a use restriction on the groundwater monitoring well that is present on the property? The Army may need to have access to this well for continued groundwater monitoring.

Response: Comment noted; language regarding use restrictions and Army access to the well will be included in the deed.

Comment 6: Page 3, last ¶ - Public law 102-484, as amended by public law 103-160, provides for indemnification by the military services when property is transferred or leased. This law provides that the military indemnify persons and entities acquiring ownership or control of property at a closing military base from liability for personal injury and property damages resulting from the release or threatened release of a hazardous substance (such as asbestos), unless the person or entity acquiring the property contributed to the release. The Army's statement in the FOST may conflict with the required indemnification. We recommend that the Army delete this paragraph and rely on the statutory language to determine any future liability as a result of exposure to asbestos.

Response: Comment noted; however, the text will remain unchanged. This comment is included as an unresolved comment to the FOST.

Comment 7: Page A4 - Since there has been, at a minimum, release and disposal of hazardous substances, a notice under CERCLA § 120(h)(1) is required. The presence of soil and groundwater contamination on this parcel demonstrates that release/disposal has occurred. See 40 CFR 373.3 for the required content of the notice of hazardous substances stored, disposed of, or released. Information on the type of hazardous substances, the quantity, and the dates that this storage, disposal or release took place is required.

Response: No release or disposal of hazardous substances are known to have occurred on the MIRA Parcel. Hydrocarbons were detected in soil samples collected at Site 18 during the site characterization, however, none of the samples were collected from the MIRA Parcel. Trichloroethene (TCE) was detected in one of three groundwater monitoring wells at Site 18, however, TCE was not detected in samples collected from Monitoring Well MW-18-02-180 which is on the parcel. One former UST (UST 1638-1) was located within the parcel. No releases of diesel fuel from the UST are known to have occurred and the tank was granted closure.

The EBS text has been modified for clarification. Notification under CERCLA 120(h)(1) is not necessary.

Comment 8: Page A4, last ¶ - The FOST should also explicitly state that the deed will contain the CERCLA Section 120(h)(3) covenant warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken before the date of transfer.

Response: Comment noted; the text of the FOST has been clarified to specifically include the required covenants and clause under CERCLA §120(h)(3).

**RESPONSE COMMENTS (JULY 7, 1995)
DRAFT EBS/FOST
MONTEREY INSTITUTE FOR RESEARCH IN ASTRONOMY (MIRA) PARCEL
FORMER FORT ORD, CALIFORNIA**

Comments on EBS

Comment 1: Page 10, Section 4.1. The text should clearly state why Ordnance and Explosive Waste (OEW) surveys were not necessary within the MIRA parcel.

Response: Comment noted; the text has been modified.

Comment 2: Page 21, Section 5.1. The text states that a groundwater monitoring well is located on the property. The Army should address the need for use restrictions and Army access for this well.

Response: Comment noted; language regarding use restrictions and Army access to the well will be included in the deed.

Comments on FOST

Comment 1: We agree that parcel is suitable to transfer pursuant to CERCLA Section 120(h)(3) upon regulatory approval of the No Action Memorandum for Site 18.

Response: Comment noted.

Comment 2: The FOST should address notice requirements pursuant to CERCLA Section 120(h)(1) since there has been a release of hazardous substances at this parcel.

Response: No releases of hazardous substances are known to have occurred on the MIRA Parcel. Hydrocarbons were detected in soil samples collected at Site 18 during the site characterization, however, none of the samples were collected from the MIRA Parcel. Trichloroethene (TCE) was detected in one of three groundwater monitoring wells at Site 18; however, TCE was not detected in samples collected from Monitoring Well MW-18-02-180 which is on the parcel. One former UST (UST 1638-1) was located within the parcel. No releases of diesel fuel from this UST are known to have occurred and the tank was granted closure.

The EBS text has been modified for clarification. Notification under CERCLA Section 120(h)(1) is not necessary

Comment 4: The text indicates that the covenant and clause required by CERCLA Section 120(h)(3) (B)(ii) and 120(h)(3)(C) will be included in the deed. In addition, the FOST should address the covenant required by CERCLA Section 120(h)(3)(B)(i) that all necessary remedial action has been taken with respect to remaining hazardous substances.

Response: *Comment noted; the text of the FOST has been clarified to specifically include the required covenants and clause under CERCLA §120(h)(3).*