

APPENDIX A

**RESPONSES TO AGENCY COMMENTS ON DRAFT EBS/FOSTs/FOSLs
MCKINNEY GROUP B PARCELS**

Responses to U.S. EPA Comments (12/8/95)
Draft EBS/FOSTs/FOSLs
McKinney Homeless Act Group B Parcels
Former Fort Ord, California

Environmental Baseline Survey Comments

- Comment 1:** Page 10, paragraph 2. "New information will likely be available in the future because the programs are ongoing." Is the Army expecting to discover new information about contamination on the Group B parcels? If so, what are the possible impacts for imminent transfer of these parcels? If not, perhaps this sentence should be modified.
- Response:** The statement that new information regarding environmental conditions may become available is true for the installation as a whole. However, the Army does not expect there to be significant additional information made available regarding the McKinney Group B Parcels. The wording in this paragraph has been modified for clarity and the final sentence deleted.
- Comment 2:** Page 16, section 4.2.1. Section 4.2.1 seems to contradict section 4.2.2, because the first paragraph in 4.2.1 implies that the Patton Park area was not sampled for lead in 1994, while 4.2.2 states that the 1994 study did sample Patton Park for lead. Please clarify.
- Response:** Selected structures in the Patton Park Housing Area were surveyed for lead-based paint (LBP) one of which is included in the Group B parcels. The paragraphs in question have been modified to clarify this point. Selected structures in Hayes Park Housing Area were also surveyed for LBP, and additional sampling is planned for the five Hayes Park buildings to be transferred to the Salvation Army.
- Comment 3:** Page 26, section 4.9.2.2. The final paragraph on page 26 states that potential risks for the area will be low because "...ingestion of groundwater from the contaminated aquifer is unlikely (drinking water is currently available from other sources)." Not only is the ingestion of groundwater "unlikely", but EPA understands that it will be prohibited based on local ordinances already in place which prevent pumping groundwater from affected aquifers and on deed restrictions which the Army will place on the property at the time of transfer. Please enhance the discussion in this section.
- Response:** The FOST will specifically mention the prohibition against well drilling and use of groundwater which will be included in the deed as a use restriction.
- Comment 4:** Page 25, Section 4.9.1.2, top paragraph, Page 31, section 5.2, first paragraph, and Plate 9. As discussed in comments on the Salvation Army Parcel FOST below, EPA believes the parcel should be transferred under CERCLA §120(h)(4), unless the Army has new information to suggest that the lead-based paint associated with the five buildings on the parcel has been released to the environment.
- Response:** On the basis of EPA's letter of 19 April 1994, in which EPA concurred that the CERFA parcel with qualifiers (No. 130) containing the five Salvation Army buildings was considered to be CERFA "uncontaminated", the Army will transfer the subject parcel under CERCLA §120(h)(4).

Comment 5: Page 31, section 5.2, second paragraph. The Army does not accurately state the conditions under which property transfer may occur. The text states that "[f]ollowing completion of remedial action for the OU 2 groundwater plume, it is expected that the CERCLA §120(h)(3) requirements for the ... sites will be met. These properties may be suitable for lease in the meantime ... This paragraph implies that the transfer cannot occur until remedial action has been completed, when in fact the Army only has to meet the "operating properly and successfully" criteria to be eligible for transfer.

Response: Comment noted. The text in Section 5.2 and in Section 4.9.1.2 has been modified to clarify that the OU 2 groundwater remediation system must receive EPA concurrence that it is in place and effective prior to transfer of property affected by the plume. The FOSLs have been changed to FOSTs for Version 2, as a result of EPA approval of the pump-and-treat system on January 4, 1996.

Finding of Suitability to Transfer Comments

Draft FOST for RSNC Parcel (Building T-2879)

Comment 1: The CERCLA §120(h)(1) and (h)(3) notices for the releases of volatile organic compounds to groundwater should be included, similar to what was done in the Golden Gate University Parcel FOST. List the specific chemicals released and their concentration in groundwater (as an indicator of the magnitude of the release).

Response: Unlike the Golden Gate University Parcel, recent and historical groundwater sampling in the vicinity of this parcel does not indicate that groundwater beneath this property contains volatile organic compounds (VOCs) above laboratory detection limits of 0.5 microgram per liter. Therefore, notice of hazardous substance storage, release, or disposal under CERCLA § 120(h)(1) does not appear to be necessary for this parcel.

Comment 2: Page 1, third bullet. Does the Army suspect that exterior lead-based paint may have been released to the environment? If so, please provide information to document whether it could present a threat to future users of the property.

Response: In accordance with Public Law 102-550, the Army has disclosed the presence of LBP in this building based on its date of construction in the early 1940s. The Army does not believe that LBP has been released to the environment and is not under obligation to abate the LBP in this building.

Comment 3: Page 2, Notice of the Presence of Asbestos paragraph. We have verbally discussed our concern regarding this paragraph with the Army and understand that the paragraph will not be revised. Therefore, we suggest that the following text be attached as an unresolved comment:

Public Law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property on closing military bases is transferred. This law provides that the military indemnify persons and entities acquiring ownership or control of property at a closing military base

from liability for personnel injury and property damage 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. It is unclear whether the FOST's statements on the Army not assuming liability for the transferee's contact with asbestos are consistent with the indemnification required by law. To avoid confusion over the indemnification that the Army is required to provide, EPA recommends that the mention of future liability be deleted and that the statutory language be relied on to determine any future liability.

Response: Comment noted; this comment will be included as an unresolved comment attached to the FOST.

Draft FOST for YWCA Monterey Peninsula Parcel (Building T-2859)

Comment 1: Comments on the RSNC Parcel FOST also apply to this FOST.

Response: Please see responses to FOST Comments 1 through 3 above.

Draft FOST for Salvation Army, Monterey Peninsula Corps Parcel (Buildings 8124, 8126, and 8264 through 8266)

Comment 1: Page 2, last paragraph, and Page 1, third bullet. Based on EPA's April 19, 1994 CERFA concurrence letter, EPA concurred with the Army that this property is suitable for transfer under CERCLA §120(h)(4). What is the rationale for transferring the property under §120(h)(3)? Does the Army have new information to suggest that the lead-based paint associated with the five buildings on the parcel has been released to the environment? If so, please provide EPA with the information so that we can evaluate it to determine if our 120(h)(4) concurrence should be rescinded and the property should be considered for transfer under 120(h)(3).

Response: Please see response to EBS comment 4 above.

Comment 2: Page 2, Notice of the Presence of Asbestos paragraph. We have verbally discussed our concern regarding this paragraph with the Army and understand that the paragraph will not be revised. Therefore, we suggest that the following text be attached as an unresolved comment:

Public Law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property on closing military bases is transferred. 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 damage 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. It is unclear whether the FOST's statements on the Army not assuming liability for the transferee's contact with asbestos are consistent with the indemnification required by law. To avoid confusion over the indemnification that the Army is

required to provide, EPA recommends that the mention of future liability be deleted and that the statutory language be relied on to determine any future liability.

Response: Comment noted; this comment will be included as an unresolved comment attached to the FOST.

Finding of Suitability to Lease Comments

Note: The FOSLs for Shelter Plus, John XXIII, and the YWCA will be replaced by FOSTs, because of EPA approval of the pump-and-treat remediation system for the OU 2 groundwater plume on January 4, 1996.

Draft FOSL for Shelter Plus Parcel

Comment 1: Page 1, last bullet. The CERCLA §120(h)(1) notice for the releases of volatile organic compounds to groundwater should be expanded, similar to what was done in the Golden Gate University Parcel FOST table. List the specific chemicals released and their concentration in groundwater (as an indicator of the magnitude of the release).

Response: A table showing the maximum chemical concentrations observed in the OU 2 groundwater plume will be attached to the FOST for this parcel, as part of notification of the presence of hazardous substances under CERCLA §120(h)(1).

Comment 2: Page 2, first bullet. This bullet indicates that the groundwater does not pose a threat provided it is not used as a source of drinking water. The Army should impose in the FOSL and lease a provision restricting the drilling of wells? (sic)

Response: The FOST will include a restriction prohibiting well drilling and the use of groundwater beneath the site as a source of drinking water.

Comment 3: Page 2, last paragraph. EPA understands that the Army is close to demonstrating that the OU 2 groundwater remedial action is in place and operating effectively, thus allowing for the transfer of the Property by deed, rather than lease. To that end, EPA wonders why the Army is not instead submitting a draft Finding of Suitability to Transfer (FOST) document for our review.

Response: Comment noted; please see the note above regarding conversion of the draft FOSLs to FOSTs.

Draft FOSL for Pope John XXIII AIDS Ministry Parcel (Buildings 8759 through 8764)

Comment 1: Comments on the Shelter Plus Parcel FOSL also apply to this FOSL.

Response: Please see responses to Shelter Plus FOSL Comments 1 through 3 above.

Comment 2: Page 1, second bullet. Please provide additional information in the FOSL with regard to the significance of the friable asbestos mentioned in the bullet. Does the existence

and/or condition of the asbestos warrant the inclusion of use restrictions in the FOSL and lease?

Response: The friable asbestos-containing material (ACM) present in Building 8764 and rated 2 consists of approximately 6 feet of loose duct tape in the furnace room. At this time, the Army is under obligation to disclose the presence of this ACM but has no plans to repair or remove the ACM in this structure. Notification of ACM will be provided in the FOST and deed.

Comment 3: **Page 1, fourth bullet. What steps, if any, has the Army taken to determine whether or not the lead-based paint has been released to the environment? If lead were to exist in soils around the building at levels of concern, the FOSL and lease would need to disclose this information and may need to include environmental protection provisions preventing exposure to such soils.**

Response: The Army has disclosed the suspected presence of LBP in these buildings based on their date of construction (1962). The Army does not believe that LBP has been released in the environment and is not under obligation to abate the potential LBP in these buildings.

Draft FOSL for YWCA, Monterey Peninsula, I Parcel (Building 3099, 8751 through 8758, and 8765 through 8766)

Comment 1: **Comments on the Shelter Plus Parcel FOSL also apply to this FOSL.**

Response: Please see responses to Shelter Plus FOSL Comments 1 through 3 above.

Comment 2: **Page 1, second bullet. Please provide additional information in the FOSL with regard to the significance of the friable asbestos mentioned in the bullet. Does the existence and/or condition of the asbestos warrant the inclusion of use restrictions in the FOSL and lease?**

Response: The friable asbestos identified in the ACM surveys and rated 10 to 12 (i.e., "long term removal" or "management with 1-year inspection cycle" recommended) is in good condition and is not of immediate concern. The Army will disclose the presence of this ACM in the FOST and deed with appropriate use restrictions, but has no plans to remove ACM from these structures.

Comment 3: **Page 1, fourth bullet. What steps, if any, has the Army taken to determine whether or not the lead-based paint has been released to the environment? If lead were to exist in soils around the building at levels of concern, the FOSL and lease would need to disclose this information and may need to include environmental protection provisions preventing exposure to such soils.**

Response: Please see response to Comment 3 on John XXIII Parcel FOSL.

Responses to DTSC Comments (12/8/95)
Draft EBS/FOSTs/FOSLs
McKinney Homeless Act Group B Parcels
Former Fort Ord, California

Comments for EBS:

- Comment 1:** Page 11, Section 3.3, Visual Inspections. The text states that "...only a limited number of visual inspections for the McKinney Group B Parcels were conducted during the EBS." This EBS relies upon previous inspections accomplished during routine investigations associated with the installation restoration areas. In accordance with Department of Defense FOST/FOSL policy, visual inspections should be specifically conducted for the EBS to ensure that the environmental conditions of a parcel has not changed since previously inspected. This is especially important if a significant period of time has passed since the property was last inspected. Please provide the dates of these previous inspections.
- Response 1.:** As stated in the EBS, limited visual inspections of the McKinney Group B Parcels were conducted during preparation of the EBS to confirm the information from previous investigations. The Army did not rely solely on the results of the previous investigations as the DTSC implies. The dates of the previous inspections are noted in the reports of investigations cited in the EBS.
- Comment 2:** Page 27, Section 4.10, Potential Impacts from Adjoining Properties. Please provide statements which more clearly reflect the Army's conclusion regarding the potential impact to the McKinney Group B Parcels from the various adjacent contaminated areas.
- Response 2:** A concluding sentence stating that the identified environmental conditions on adjoining properties are not expected to affect the McKinney Group B Parcels has been added.
- Comment 3:** Page 14, Section 4.2, Lead-Based Paint Management Program. DTSC has new information showing elevated lead levels in soils surrounding some housing structures containing lead-based paint (LBP) at Department of Defense facilities. DTSC, therefore, recommends the Army conduct soil sampling to confirm whether lead in soil surrounding housing structures containing LBP, if any, pose a threat to human health or the environment. The sampling strategy should be developed in consultation with, and approval by the Base Realignment and Closure (BRAC) Cleanup Team and take into consideration age of structures, and any previous sampling data.
- Response:** The Army conducts its Lead-Based Paint Management Program in accordance with DoD and Army policy and guidelines. Because the five Salvation Army buildings in the Hayes Park Housing Area were built prior to 1960 and will be reused as residences, the Army plans to conduct sampling and abatement of LBP within and surrounding the buildings in accordance with Public Law 102-550. For structures built after 1960 but prior to 1978, the Army is required to disclose the suspected

presence of LBP but is not under obligation to remove it even if the structures are to be used as residences.

Comment 4: Page 15, Section 4.2, Lead-based Paint Management Program. The text states that "...painted structures built prior to 1978 that have not been surveyed as of the date of this report are suspected of containing LBP." Please clarify what the Army's obligation is, based on Army and Department of Defense LBP Policy, to complete LBP surveys before property conveyance. For example, the Army intends to transfer several Parcels (Salvation Army Parcel, YWCA Parcel, and Pope John XXIII AIDS Ministry Parcel) for use by families. However, only building 8756 (YWCA Parcel) was actually surveyed for LBP. Also, please clarify the Army's obligation to ensure that LBP hazards are abated for pre-1960 housing before the property is conveyed for residential use whether the abatement is performed by the Army or property recipient.

Response: Please see Response to Comment 3 above. As stated in the EBS, the Army has performed LBP surveys of selected representative units in the homogeneous housing areas at Former Fort Ord. On the basis of the surveys, it is presumed that the rest of the similar units in these housing areas also contain LBP.

Comment: Page 24, Section 4.9.1.2, Program Status and EBS Results and Table 8. We would like to clarify the following point regarding the standard text found under this section in EBSs submitted to date: The text references Table 8 which lists the definitions of Community Environmental Response Facilitation Act (CERFA) Categories developed in the Army's CERFA report. Both United States Environmental Protection Agency (U.S. EPA) and DTSC did not agree with the definition of "CERFA" and "CERFA with Qualifiers" in the CERFA Report and found in Table 8 of the EBS. Primarily, this was because the definitions included property containing unexploded ordnance. Consequently, some of the parcels the Army designated as CERFA with qualifier did not receive U.S. EPA concurrence and are therefore not considered CERFA parcels.

Response: Comments noted; a sentence has been added to this section noting that the EPA and the DTSC did not necessarily concur with the Army's identification of CERFA uncontaminated property in all cases. However, transfer of property under CERCLA §120(h)(4) includes only those areas for which EPA did provide concurrence as uncontaminated.

Comments for FOST on RSNC Parcel:

Comment 1: Page 2 of 2. Please address the notification requirements under Comprehensive Environmental Response, Compensation, and Liability (CERCLA) Section 120 (h) (1) and (3) since the groundwater contains contaminants.

Response: The statement in the draft FOST that groundwater beneath the parcel contains chemicals below remediation levels was not correct. Recent and historical groundwater sampling in the vicinity of this parcel does not indicate that groundwater beneath the property contains volatile organic compounds (VOCs) above laboratory detection limits of 0.5 microgram per liter. Therefore, notice of hazardous substance storage, release, or disposal under CERCLA §120 (h) (1) does not appear to be necessary for this parcel.

Comment 2: The FOST states that this property will be used for employment services. If this property has the potential for use as a residential area, DTSC recommends the Army sample the soils surrounding structures containing LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment.

Response: The Army conducts its Lead-Based Paint Management Program in accordance with DoD and Army policy and guidance. The Army is not obligated to sample the soil around buildings for LBP except for buildings built prior to 1960 that will be used for residential purposes. The building in question is not to be used for this purpose and will not be sampled for LBP.

Comments for FOST on YWCA Parcel (Building T-2859):

Comments 1: Page 2 of 2. Please address the notification requirements under CERCLA Section 120 (h) (1) and (3) since the ground water contains contaminants.

Response: Please see response to Comment 1 for RSNC FOST.

Comment 2. The FOST states that this property will be used for employment services. If this property has the potential for use as a residential area, DTSC recommends the Army sample the soils surrounding structures containing LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment.

Response 2. Please see response to Comment 2 for RSNC FOST.

Comments for FOST on Salvation Army Parcel:

Comment 1: Since this parcel is intended for use by families, DTSC recommends the Army sample the soils surrounding structures containing LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment prior to transfer.

Response: Please see response to DTSC Comment 3 for EBS.

Comment 2. We understand that this parcel received U.S. EPA concurrence as being "uncontaminated" and therefore transferable under CERCLA Section 120 (h) (4). However, we recommend that the Army sample soils surrounding housing structures on this property which contain LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment. Depending on the sampling results, it may be more appropriate to transfer it under CERCLA 120 (h) (4) and not (3) as proposed by the Army.

Response 2: On the basis of EPA and DTSC letters to the Army of April 1994, in which EPA and DTSC concurred that CERFA Parcel with Qualifiers No. 130 containing the five Salvation Army buildings was considered to be CERFA "uncontaminated", the Army will transfer the subject parcel under CERCLA §120 (h) (4) with agency concurrence. The LBP associated with the five buildings is scheduled to be sampled and abated by the Army consistent with Public Law 102-550.

NOTE: The FOSLs for Shelter Plus, John XXIII, and the YWCA will be replaced by FOSTs because of EPA approval of the pump-and-treat remediation system for the OU 2 groundwater plume on January 4, 1996.

Comment for FOSL on Shelter Plus Parcel:

Comment: The environmental protection provisions in the attachment to the FOSL should include a restriction on the use of groundwater since this parcel is located above the Operable Unit 2 groundwater plume.

Response: The FOST for this parcel will include the restriction on well drilling and prohibition on use of the groundwater beneath the parcel.

Comments for FOSL ON Pope John XXIII AIDS Ministry Parcel:

Comment 1: Since this parcel is intended for use by families, DTSC recommends the Army sample the soils surrounding structures containing LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment prior to leasing.

Response: Please see response to DTSC Comment 3 for EBS.

Comment 2: The environmental protection provision in the attachment to the FOSL should include a restriction on the use of groundwater since this parcel is located above the Operable Unit 2 groundwater plume.

Response: Please see response to DTSC Comment for Shelter Plus Parcel FOSL.

Comments for FOSL on YWCA Parcel:

Comment 1: Since this parcel is intended for use by families, DTSC recommends the Army sample the soils surrounding structures containing LBP to confirm that residual lead levels, if any, do not pose a threat to human health or the environment prior to leasing.

Response: Please see response to DTSC Comment 3 for EBS.

Comment 2: The environmental protection provisions in the attachment to the FOSL should include a restriction on the use of groundwater since this parcel is located above the Operable Unit 2 groundwater plume.

Response: Please see response to Comment for Shelter Plus Parcel FOSL.

Comments for Appendix D:

Comment: Appendix D does not appear to address the LBP issues in buildings on the Salvation Army parcel which are intended for use as housing.

Response: Appendix D has been amended to include information on LBP surveys for structures in the Hayes Park Housing Area similar to the five Salvation Army buildings.