

Signed

FINDING OF SUITABILITY TO TRANSFER (FOST)
MPUSD PHASE II PARCELS
FORMER FORT ORD, CALIFORNIA

Based on the final Fort Ord Comprehensive Environmental Response Facilitation Act (CERFA) Report, I have determined that the Monterey Peninsula Unified School District (MPUSD) Phase II Parcels, at former Fort Ord, California (the Property), are suitable for assignment to the U.S. Department of Education and for transfer to MPUSD for educational purposes. The area to be transferred includes two parcels of approximately 29 acres (Fergusson Hall) and approximately 13 acres (future school site) (Plate 1).

A determination of the environmental condition of the Property was made by the United States Army by conducting a review of existing environmental documents associated with the Property and making a visual site inspection. The documents reviewed included the final CERFA report (April 1994), the U.S. EPA Region IX's concurrence to the CERFA Report (Memorandum, 19 April 1994), and their letter of 1 June 1995 concurring that the entire MPUSD Phase II Parcels are uncontaminated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h)(4).

The CERFA Report indicated that the Property is environmentally suitable for transfer to MPUSD. The findings of the CERFA Report are summarized below:

- One building is located on the Fergusson Hall parcel. Building 4368, Fergusson Hall, is the former Officers' Open Dining Hall. The building is adjacent to a parking lot and is surrounded by open space. The future school site does not have any structures on it.
- The Fergusson Hall parcel is located primarily within CERFA Parcel 226 and also includes CERFA With Qualifier Parcel 116 and portions of CERFA With Qualifier Parcels 117, 132, and 205 (Plate 2). Building 4368 was included in a CERFA with qualifier parcel because of the presence of asbestos-containing materials (ACM) and possibly lead-based paint. The other portions of the Fergusson Hall parcel were considered to be within CERFA with qualifier parcels because of the 1-acre grid system used by the CERFA assessment. This system categorized the 1-acre segments based on the potential for ACM and possibly lead-based paint in buildings that are in the 1-acre segments, but not located on the land that is actually being transferred. On the rest of the Fergusson Hall parcel, no evidence was observed during the CERFA assessment to indicate storage, release, or disposal of hazardous substances or petroleum products or their derivatives. The U.S. EPA has concurred that this parcel is CERFA uncontaminated (Plate 2).
- The future school site is located in CERFA Parcel 220, CERFA With Qualifier Parcel 144, and CERFA Disqualified Parcel 4 (Plate 2). No evidence was observed during the CERFA assessment to indicate storage, release, or disposal of hazardous substances or petroleum products or their derivatives in the northern portion of the site. Approximately half the site was categorized as CERFA disqualified due to its proximity to the Fort Ord Landfills and the associated groundwater contamination; however, no groundwater contamination is known to exist beneath the future school site. A small (less than 1 acre) portion of the site was considered CERFA with qualifier because of the 1-acre grid system used in the CERFA assessment. This system categorized the entire 1-acre segment based on the potential for ACM in buildings that are in the 1-acre segment, but not located on the land that is actually being transferred. The U.S. EPA has concurred that this parcel is CERFA uncontaminated (Plate 2).
- An asbestos survey conducted by the Army shows that Building 4368 contains nonfriable ACM in good condition not requiring remediation.
- Lead-based paint surveys of housing structures at Fort Ord have been completed. No housing structures or barracks are present on the Property; however, Building 4368 should be considered to contain LBP because of its pre-1978 construction date.

- No radiological surveys have been conducted within the Property because Building 4368 was not used to store radiological materials.
- No radon survey was conducted within the Property because testing of Building 4368 was not required as part of initial installation assessment.
- Approximately 1,000 electrical transformers at Fort Ord have been examined for PCBs. All transformers with PCB concentrations greater than 50 parts per million (ppm) in the dielectric fluid have been replaced. In-use transformers with PCB concentrations between 5 and 50 ppm may exist on the Property. There have been no reported releases of PCB-contaminated dielectric fluids on the Property.
- Ordnance and explosive waste (OEW) surveys show that no potential ordnance training sites are within or adjacent to the Property.
- No petroleum storage tanks or solid waste management units are present on the Property; therefore, no studies associated with these potential activities have been conducted by the Army for the Property.

On the basis of the above results, certain terms, conditions, reservations, restrictions, and notifications specific to the Property are required. Use restrictions and disclosure of conditions are described below and will be included in the transfer documents.

NOTICE OF THE PRESENCE OF ASBESTOS. The Property, including Building 4368, existing on the date of this conveyance may contain certain amounts of asbestos in the floor tile, linoleum and associated mastic, asbestos-containing pipe and tank insulation, heating, ventilating, and air condition vibration joint cloths, exhaust flues, acoustic ceiling treatment, siding, drywall, drywall compound, debris in some of the buildings, and incidental amounts in the window putty or gasketing, etc.

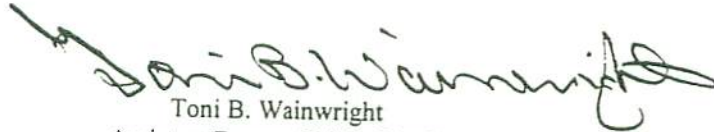
The GRANTEE covenants and agrees, on behalf of it, its successors and assigns, that in its use and occupancy of the Property, it will comply with all applicable laws relating to asbestos, and that the GRANTOR assumes no liability for damages for personal injury, illness, disability or death, to the GRANTEE, its successors or assigns, or to any other person including members of the general public, arising from or incident to the purchase, transportation, removal, handling, alterations, renovations, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in this Deed, regardless of whether the GRANTEE, its successors or assigns have properly warned or failed properly to warn the individual(s) injured.

NOTICE OF THE PRESENCE OF LEAD-BASED PAINT. The GRANTEE is hereby informed and does acknowledge that any Property existing on the date of this Deed which was constructed or rehabilitated prior to 1978 is presumed to contain lead-based paint.

The GRANTEE, its successors and assigns, shall not permit the use of any such structure for residential habitation unless the GRANTEE has received certification from GRANTOR or others that the premises are safe or GRANTEE has eliminated the hazards of lead-based paint by treating any defective lead-based paint surface in accordance with all applicable laws and regulations. Residential structures are defined as any house, apartment, or structure intended for human habitation, including but not limited to a non-dwelling facility commonly used by children under 6 years of age such as a child care center, elementary school, or playground.

All comments received during review were resolved with the exception of one concerning asbestos indemnification language. The comment on asbestos is attached to this document. It is our opinion that the comment is not relevant to the determination of suitability to transfer. USEPA also agrees that the lack of resolution does not preclude transfer.

On the basis of the above, I conclude that the MPUSD Phase II Parcels (Fergusson Hall and the future school site) are transferable under CERCLA Section 120(h)(4) and are classified as Category 1 according to Department of Defense (DOD) Environmental Condition Categories (Table 1 attached). The deed for this transaction will contain the covenants in CERCLA Section 120(h)(4)(D) warranting that any response action found to be necessary after the date of transfer shall be conducted by the United States and a clause granting the United States access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.



Toni B. Wainwright
Assistant Deputy Chief of Staff
for Base Operations Support

28 AUG 1995

MPUSD PHASE II PARCELS
UNRESOLVED COMMENTS

U.S. Environmental Protection Agency's concern regarding page 2, third full paragraph:

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. We request that the Army look into whether the FOST text is consistent with the required indemnification and suggest that this paragraph should explicitly cite public law 103-160, with an explanation of the intent of this law, in order to ensure full disclosure to the transferee on the issue of indemnification.

Table 1. DOD Environmental Condition Categories

<i>Category</i>	<i>Definition</i>
1	Areas where no storage, release, and/or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas.)
2	Areas where only storage of hazardous substances and/or petroleum products has occurred (but no release, disposal, or migration from adjacent areas has occurred.)
3.	Areas where storage, release, disposal, and/or migration of hazardous substances or petroleum products has occurred, but at concentrations that do not require a removal or remedial action.
4.	Areas where storage, release, disposal, and/or migration of hazardous substances or petroleum products has occurred, and all remedial actions necessary to protect human health and the environment have been taken.
Study areas in the following DOD categories are not currently available for transfer:	
5.	Areas where storage, release, disposal, and/or migration of hazardous substances or petroleum products has occurred, removal and/or remedial actions are under way, but all required remedial actions have not yet been taken.
6.	Areas where storage, release, disposal, and or migration of hazardous substances or petroleum products has occurred, but response actions have not yet been implemented.
7.	Areas that are unevaluated or require additional evaluation.

STATE OF CALIFORNIA—CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

PETE WILSON, Governor

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

100 P STREET, 4TH FLOOR
P.O. BOX 806
SACRAMENTO, CA 95812-0806
(916) 323-3521



June 2, 1995

Department of the Army
Commander, DLIFC and POM (Fort Ord)
Attn: ATZP-EP (Ms. Gail Youngblood)
Presidio of Monterey, California 93944-5006

SUBJECT: REVIEW OF THE DRAFT FINDING OF SUITABILITY TO TRANSFER
(FOST) FOR THE MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT (MPUSD)
PHASE II PARCELS

Dear Ms. Youngblood:

Thank you for providing the Department of the Toxic Substances Control (DTSC) and Regional Water Quality Control Board (Board) with the draft FOST dated May 3, 1995 for the MPUSD Phase II parcels (i.e. Fergusson Hall and Future School Site).

Based upon review of the Community Environmental Response Facilitation Act (CERFA) Report dated April 1994, draft FOST, U.S. Environmental Protection Agency (EPA) CERFA concurrence letters (April 19, 1994 and June 1, 1995) and pertinent remediation information the Army has submitted, DTSC agrees that the parcels are suitable for transfer pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 120(h)(4).

We note that the FOST contains statements regarding the Army's liability for the transferee's contact with asbestos which appears to be inconsistent with the indemnification required by Public Laws 102-484 and 103-160. We recommend that the Army clarify their responsibility under these laws with the transferee.

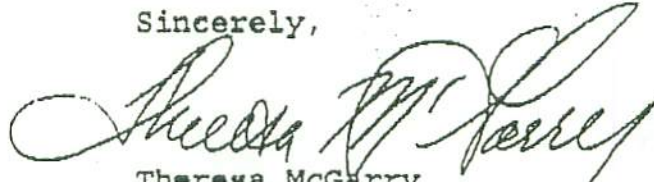
In order to accelerate the review process for future transfers of property, we request the Army make maps available to project team which include monitoring well locations and the latest analytical results. These maps should also show the soil borings, trenches, piezometers or other points where data was obtained to support conclusions. In some situations, monitoring wells or other data points do not exist in the area of interest. If this is the case, a larger map of sufficient scale to include areas where data was obtained should be provided.



Department of the Army
June 2, 1995
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If you have any questions, please contact me at
(916) 323-3466 or Jim Austreng, Remedial Project Manager, at
(916) 255-3702.

Sincerely,



Theresa McGarry
Environmental Assessment
& Reuse Specialist

cc: Mr. David Eisen
California Regional Water Quality Control Board
Central Coast Region
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5414

Mr. John Chesnutt
U.S. Environmental Protection Agency
75 Hawthorne St
San Francisco, CA 94105

Christine

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

June 1, 1995

Department of the Army
Commander, DLIFLC and POM (Fort Ord)
ATTN: ATZP-EP (Gail Youngblood)
Presidio of Monterey, CA 93944-5006

Re: **Fort Ord Superfund Site**
Monterey Peninsula Unified School District Phase II Parcels

Dear Ms. Youngblood:

EPA is in receipt of your May 30, 1995 letter requesting our concurrence that the Monterey Peninsula Unified School District (MPUSD) Phase II Parcels meet the requirements for identification as "uncontaminated" property in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Section 120(h)(4).

The MPUSD Phase II Parcels are composed of two areas (see Draft Finding of Suitability to Transfer (FOST) for the MPUSD Phase II Parcels (May 3, 1995) for more detailed parcel descriptions and maps), most of which EPA has already concurred on in our April 19, 1994 letter as "uncontaminated" property, following our review of the Army's Final Community Environmental Response Facilitation Act (CERFA) Report for Fort Ord (April 1994). Specifically, the MPUSD Phase II areas which received EPA concurrence in April 1994 are as follows:

Fergusson Hall is composed of CERFA Report parcel 116 and portions of parcels 117, 132, 205, and 226. EPA concurred on the areas that fall within the Fergusson Hall parcel with the exception of parcel 117. Parcel 117 contained a propane tank, which indicated storage of a petroleum product for one year or more. However, this propane tank is not located within the Fergusson Hall parcel proposed for transfer.

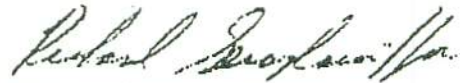
Future School Site is composed of portions of CERFA Report parcels 4, 144, and 220. EPA concurred on all these parcels with the exception of parcel 4, due to the suspected presence of a groundwater contaminant plume emanating from the Fort Ord Landfills. However, current data indicates that the groundwater contaminant plume does not extend under the future school site.

Based on our review of the CERFA Report, EPA Region 9's April 1994 concurrence letter to the CERFA Report, the Draft FOST for the MPUSD Phase II Parcels, your May 30, 1995 letter, and current Fort Ord groundwater monitoring data, and without any independent investigation or verification of the information contained therein, EPA concurs that the entire

MPUSD Phase II Parcels referenced above meet the requirements for identification of "uncontaminated" property pursuant to Section 120(h)(4) of CERCLA. We expressly reserve all rights and authorities relating to information not contained in Army documents listed above, whether such information is known as of this date, or is discovered in the future.

If you would like to discuss this letter in more detail, please contact John Kemmerer, Chief, Base Closure Programs, at 415-744-2241.

Sincerely,



Julie Anderson, Director
Federal Facilities Cleanup Office

cc: Bob Carr, EPA-HQ
Dan McMindes, USACE - Sacramento
Jim Austreng, CA DTSC Reg 1
David Eisen, CRWQCB Central Coast Reg