

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

**FORMER FORT ORD, CALIFORNIA**

**TRACK 0 PLUG-IN GROUP D, TRACK 1 PLUG-IN  
EAST GARRISON AREAS 2 AND 4 NE, AND  
TRACK 1 PLUG-IN GROUPS 1 – 5 PARCELS  
(FOST 10)**

August 2007

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  - 3 Location Map, Parcels E11b.6.3, E11b.7.1.2, E11b.7.2, L20.2.2, L20.2.3.1, L20.19.1.2, L23.3.2.2, L23.3.3.1, L23.3.3.2, and L35.4
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(FOST 10)**

**August 2007**

**1.0 PURPOSE**

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of certain parcels or property at the former Fort Ord, California, for transfer to the Fort Ord Reuse Authority (FORA), the County of Monterey, the City of Monterey, the Marina Coast Water District (MCWD), Monterey Peninsula College (MPC), Monterey-Salinas Transit (MST), and the York School, consistent with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy. In addition, the FOST includes the CERCLA Notice, Covenant, and Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

**2.0 PROPERTY DESCRIPTION**

The property (twenty-eight parcels) consists of approximately 710 acres, which includes twenty-four buildings and approximately 514 acres of undeveloped land. The property was previously used as a training facility for infantry troops. The property is intended to be transferred for a variety of uses, including future residential use, public transportation facilities, recreational facilities, regional park facilities, roads and road improvements, education, habitat management, water supply facilities, as well as mixed use and development, and is consistent with the intended reuse of the property as set forth in the FORA Reuse Plan. Site maps of the property are attached (Attachment 1).

Eleven of the parcels are within Track 0 areas and are adjacent to or overlapped by Track 1 areas or Track 1 munitions response sites (MRS)<sup>1</sup>. The *Final Record of Decision, No Action Regarding Ordnance-Related Investigation, Former Fort Ord, California* (Track 0 ROD; June 19, 2002)<sup>2</sup> 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 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 regarding military munitions is necessary to protect human health and the environment. The portions of these eleven parcels within Track 0

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<sup>1</sup> Terminology describing the former Fort Ord Munitions Response Remedial Investigation/Feasibility Study (MR RI/FS), military munitions, and related names, places, actions and conditions is presented in Attachment 6.

<sup>2</sup> The U.S. Department of the Army (Army), the U.S. Environmental Protection Agency (USEPA) and the California EPA Department of Toxic Substances Control (DTSC) signed the Track 0 ROD in June and July 2002. The Track 0 ROD is supplemented by the *Explanation of Significant Differences, Final Record of Decision, No Action Regarding Ordnance-Related Investigations (Track 0 ROD), Former Fort Ord, California* (Track 0 ROD ESD; March 2005), which clarifies the definition of Track 0 areas.

areas have been addressed through the Plug-In process in the *Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D, Former Fort Ord, California* (Track 0 PAM, Group D) dated May 5, 2006<sup>3</sup> and the *Track 0 Approval Memorandum, East Garrison Area 1, Former Fort Ord, Monterey, California* (Track 0 PAM, EGA1) dated December 2003<sup>4</sup>. The portions of these eleven 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) dated March 10, 2005<sup>5</sup>. 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. 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* (Track 1 OE RI/FS) dated June 21, 2004, the *Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 - 5, Former Fort Ord, California* (Track 1 PAM, Groups 1 – 5) dated July 19, 2006<sup>6</sup>, and the *Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE, Former Fort Ord, California* (Track 1 PAM, EGA2/4 NE) dated March 23, 2006<sup>7</sup>, which provided the site-specific rationale for assigning Track 1 status and the determination that no further action related to Munitions and Explosives of Concern (MEC) is required. The twenty-eight parcels in this FOST and associated Track 1 sites are listed in Table 2 – Track 0 Plug-In Parcels, Track 1 Plug-In Parcels and Associated Track 1 Sites (Attachment 3).

### 3.0 ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the property was made based upon the Evaluation of Solid Waste Management Units (*USAEHA, 1988*), the Fort Ord Complex Radon Gas Inventory (*DENR, 1991*), the Underground Storage Tank Management Plan (*HLA, 1991*), the Asbestos Survey Report (*DEI, 1993*), the Community Environmental Response Facilitation Act (CERFA) Report (*ADL, 1994*), the Basewide Remedial Investigation/Feasibility Study (*HLA, 1995*), the Industrial Radiation Survey, Facility Close-Out and Termination Study (*USAEHA, 1996*), the Aboveground Storage Tank Inventory (*U&A, 1997*), the Revised Archives Search Report (*USAEDH, 1997*), Environmental Baseline Survey, Main Garrison Parcels (*HLA, 1997*), the Underground and Aboveground Storage Tank Management Plan Update (*HLA, 1998a*), the Literature Review Report, Ordnance and Explosives Remedial Investigation/Feasibility Study (*HLA, 2000a*), the Track 0 Technical Memorandum, Ordnance and Explosives Remedial Investigation/Feasibility Study (*HLA, 2000b*), the Field Investigation and Data Review, Solid Waste Management Units (*Harding ESE, 2002*), the Track 0 PAM, EGA1 (*Malcolm Pirnie, 2003*), the Track 1 Ordnance and Explosives Remedial

<sup>3</sup> The USEPA and the DTSC concurred with the determinations of the Track 0 PAM, Group D in letters dated June 27, 2006 and July 12, 2006, respectively.

<sup>4</sup> The USEPA and the DTSC concurred with the determinations of the Track 0 PAM, EGA1 in letters dated February 18, 2004 and May 25, 2004, respectively.

<sup>5</sup> The Army, the USEPA, the DTSC and the Cal/EPA Regional Water Quality Control Board, Central Coast Region (RWQCB) have signed the Track 1 ROD.

<sup>6</sup> The USEPA and the DTSC concurred with the determinations of the Track 1 PAM, Groups 1 – 5 in letters dated July 21, 2006 and July 26, 2006, respectively.

<sup>7</sup> The USEPA and the DTSC concurred with the determinations of the Track 1 PAM, EGA2/4 NE in letters dated June 1, 2006 and May 30, 2006, respectively.

Investigation/Feasibility Study (*MACTEC, 2004*), the Comprehensive Basewide Range Assessment Report (*MACTEC/Shaw, 2005*), the Track 0 PAM, Group D (*Army, 2006a*), the Track 1 PAM, EGA2/4 NE (*Army, 2006b*), and the Track 1 PAM, Groups 1 – 5 (*Army, 2006c*). The information provided is a result of a complete search of U.S. Department of the Army (Army) files during the development of these environmental surveys.

A complete list of documents providing information on environmental conditions of the property is attached (Attachment 2). A list of decision documents applicable to each parcel is provided in Table 3 (Attachment 3).

#### **4.0 ENVIRONMENTAL CONDITION OF PROPERTY**

The DOD Environmental Condition of Property (ECP) Categories for the property are as follows:

ECP Category 1 Parcels: E11b.6.3, E11b.7.2, E20c.1.1.1, E20c.1.3, E29a.1, E29b.2, L3.2, L4.1, L4.2, L6.1, L20.19.1.2, L23.3.3.2, L23.5.2, and L35.4.

ECP Category 2 Parcels: No parcels in this FOST are in this category.

ECP Category 3 Parcels: E29.2 and L20.2.3.1.

ECP Category 4 Parcels: E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E11b.7.1.2, L2.2.2, L5.9.2, L20.2.2, L20.17.2, L23.3.2.2, and L23.3.3.1.

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 and the ECP category definitions is provided in Table 1 – Description of Property (Attachment 3).

#### **4.1 Environmental Remediation Sites**

There were six remediation sites located on the property. A summary of the environmental remediation sites on the property is as follows:

- Operable Unit 2 (OU2), Fort Ord Landfills (Solid Waste Management Unit [SWMU] FTO-002) – groundwater contamination;
- Installation Restoration Program (IRP)<sup>8</sup> Site 16, Disposal Area (SWMU FTO-062) – soil contamination;
- IRP Site 31, East Garrison Dumpsite (SWMU FTO-070) – soil contamination;

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<sup>8</sup> The Installation Restoration Program (IRP) is part of the DOD's Defense Environmental Restoration Program (DERP), which addresses hazardous substances, pollutants, contaminants, and military munitions remaining from past activities at military installations. The IRP focuses on releases of hazardous substances, pollutants, or contaminants that pose environmental health and safety risks.

- IRP Site 39, Inland Firing Ranges – soil contamination;
- IRP Site 39A, East Garrison Ranges – soil contamination; and
- IRP Site 41, Crescent Bluff Fire Drill Area – soil contamination.

Only remedial activities associated with the OU2 groundwater contamination (Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L20.17.2, and L5.9.2), IRP Site 31 (Parcel L23.3.2.2), and IRP Site 39A (Parcels L20.2.2 and L23.3.3.1) occurred on the property. Although a portion of IRP Site 16 (Parcel E2d.3.2), IRP Site 39 (Parcels E29a.1, E29.2, E29b.2, L3.2, L4.1, L4.2, and L6.1), and IRP Site 41 (Parcel E11b.7.1.2) lie on the property, the remedial activities associated with these sites did not occur on the property. All environmental soil remediation activities at IRP Sites 16, 31, 39A and 41 have been completed. See the Remedial Action Confirmation Report and Post-Remediation Health Risk Assessment, Sites 16 and 17 (*IT, 1999*), the Remedial Action Confirmation Report, Site 31 (*IT, 1999*), the Interim Action Confirmation Report for Site 39A, East Garrison Ranges (*HLA, 1998*), the Interim Action Confirmation Report for 39A HA-80 and 39A HA-85 (*MACTEC, 2006*), and the Interim Action Confirmation Report, Site 41 (*HLA, 1997*). Environmental soil remediation activities have occurred at IRP Site 39. See the Remedial Action Confirmation Report, Site 39 Ranges 24 and 25 (*IT, 2000*) and the Remedial Action Confirmation Report, Site 39 Ranges 18 and 19 (*Shaw, 2005b*). Additional environmental soil remediation activities will occur at IRP Site 39 based on the determinations of the Feasibility Study Addendum, Site 39 Ranges (*Shaw/MACTEC, 2007*). All groundwater remediation activities associated with the OU2 groundwater contamination are in place and operating properly and successfully<sup>9</sup>. See the U.S. Environmental Protection Agency (USEPA) concurrence that the OU2 groundwater remedy is operating properly and successfully (*USEPA, 1996* and *USEPA, 2002b*). A summary of the environmental remediation sites is provided in Table 4 – Notification of Hazardous Substance Storage, Release, or Disposal (Attachment 3).

#### **4.2 Storage, Release, or Disposal of Hazardous Substances**

There is no evidence that hazardous substances were stored, released, or disposed of on Parcels E11b.6.3, E11b.7.1.2, E11b.7.2, E20c.1.1.1, E20c.1.3, E29.2, E29a.1, E29b.2, L3.2, L4.1, L4.2, L6.1, L20.2.3.1, L20.19.1.2, L23.3.3.2, L23.5.2, and L35.4 in excess of the 40 CFR Part 373 reportable quantities. The CERCLA 120(h)(4) Notice and Covenant at Attachment 4 will be included in the Deed.

Hazardous substances were stored for one year or more and released or disposed of on Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L5.9.2, L20.17.2, L20.2.2, L23.3.3.1, and L23.3.2.2, in excess of reportable quantities specified in 40 CFR Part 373. All hazardous substance storage operations have been terminated on these parcels. Hazardous substances were released in excess of the 40 CFR 373 reportable quantities at the following sites: OU2

<sup>9</sup> A federal agency must demonstrate that a remedial action is “operating properly and successfully” as a precondition to the deed transfer of federally owned property, as required in CERCLA Section 120(h)(3). A remedial action is operating “properly” if it is operating as designed and is operating “successfully” if its operation will achieve the cleanup levels or performance goals delineated in the decision document. Additionally, in order to be “successful,” the remedy must be protective of human health and the environment. At the former Fort Ord, the Army performs a review of groundwater and soil remedies every five years whether they are still operating properly and successfully. The next review will occur in 2007.

groundwater contamination, IRP Site 16, IRP Site 31, IRP Site 39, IRP Site 39A, and IRP Site 41. Only releases associated with OU2 groundwater contamination, IRP Site 31, and IRP Site 39A occurred on the property. The release or disposal of these hazardous substances was remediated as part of the IRP. See Section 4.1 Environmental Remediation Sites for additional information. A summary of the areas in which hazardous substance activities occurred is provided in Table 4 – Notification of Hazardous Substance Storage, Release, or Disposal (Attachment 3). The CERCLA 120(h)(3) Notice, Description, and Covenant at Attachment 4 will be included in the Deed.

### **4.3 Petroleum and Petroleum Products**

#### **4.3.1 Underground and Aboveground Storage Tanks (UST/AST)**

- **Current UST/AST Sites** - There are no underground petroleum storage tanks (USTs) currently on the property. There are two aboveground petroleum storage tanks (ASTs) on Parcel L23.3.3.1 (ASTs 122A and 122B). There is no evidence of petroleum releases from these ASTs.
- **Former UST/AST Sites** - There were two USTs on Parcel L20.2.2 (USTs 456.1 and 456.2) that were removed. There was no evidence of petroleum release from these tanks. See the closure letter from the Monterey County Department of Health (MCDOH) dated April 6, 1994 for additional information.

A summary of the UST and AST petroleum product activities is provided in Table 5 - Notification of Petroleum Products Storage, Release, or Disposal (Attachment 3).

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

There is no evidence that non-UST/AST petroleum products in excess of 55 gallons were stored for one year or more on the property.

### **4.4 Polychlorinated Biphenyls (PCB)**

There is no evidence that PCB-containing equipment is located, or was previously located, on the property.

### **4.5 Asbestos**

There is asbestos containing material (ACM) in the following buildings: 122, 401, 413, 414, 415, 416, 417, 418, 456, 465, 650, 657, 658, 659, 660, 3280, 4A14, 4A74, and R062. The ACM includes roof penetration mastic, roofing felt, window putty, joint compound, textured paint, transite sheet material, transite pipe, resilient floor tile, and floor tile mastic. Friable ACM was found in the caulking/sealant at Building 3280. The remaining friable asbestos that has not been removed or encapsulated will not present an unacceptable risk to human health because the ACM was determined to be in good condition and will be managed by the transferee in accordance with the EPPs (Attachment 5). This information is summarized in Table 1 and Table 7 (Attachment 3). See the Fort Ord Asbestos Survey Report (*DEI, 1993*) for additional information. The deed will include an asbestos warning and covenant (Attachment 5).



#### **4.6 Lead-Based Paint (LBP)**

The following buildings are known or presumed to contain lead-based paint (LBP): 401, 413, 414, 415, 416, 417, 418, 456, 650, 660, 3280, 4A14, 4A74, 4B63, and R062. This information is summarized in Table 1 (Attachment 3). The buildings were not used for residential purposes and the transferee does not intend to use the buildings for residential purposes in the future. The deed will include a lead-based paint warning and covenant (Attachment 5).

#### **4.7 Radiological Materials**

There is no evidence that radioactive material or sources were stored or used on the property.

#### **4.8 Radon**

There were no radon surveys conducted on the property; however, radon surveys were conducted in approximately 2,900 buildings at the former Fort Ord in 1989 and 1990 and radon was not detected at or above the USEPA residential action level of 4 picocuries per liter (pCi/L).

#### **4.9 Munitions and Explosives of Concern (MEC)**

Based on a review of existing records and available information, the Army represents that, to the best of its knowledge, no Munitions and Explosives of Concern (MEC) are currently present on the property. Notwithstanding this determination, there is a possibility that, due to the former use of the property as a military installation, MEC may exist on the property. For portions of the property within Track 0 areas, there is no evidence of MEC and the property has never been suspected of having been used for military munitions-related activities of any kind. For the portions of the property within Track 1 areas, No Further Action is required regarding MEC, based on the results of the Track 1 OE RI/FS and the MR RI/FS and the determinations of the Track 1 ROD and Track 1 PAMs. 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. Section 101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. Section 2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. Section 2710(e)(3), present in high enough concentrations to pose an explosive hazard. Definitions for terms related to the Fort Ord Military Munitions Response Program (MMRP) are given in Attachment 6.

A summary of the munitions response sites (MRSs) on the property is provided below. Details on these MRSs and a summary of MEC discovered on the property are provided in Table 6 – Notification of Munitions and Explosives of Concern (Attachment 3). Given the property's past use, the deed will include the Table 6 – Notification of MEC (Attachment 3) and a MEC Notice (Attachment 5).

**Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L20.17.2 and L5.9.2** (Plate 2): All or part of these parcels lie within MRS-2, which was identified during the Fort Ord Archives Search as a chemical training area and a landmine warfare training area. The Archives Search Report (ASR) also indicated that MRS-2 was not an impact area. Historical research and sampling conducted at this site found no evidence of past training involving military munitions. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are

required at MRS-2 (*Army, 2006c*). Portions of Parcels E2c.4.3, E2d.3.2, L5.9.2 and L20.17.2 outside of MRS-2 were evaluated in the MR RI/FS as Track 0 Plug-In parcels. The Track 0 PAM, Group D, determined that MEC are not likely to be present on these parcels (*Army, 2006a*).

**Parcels E11b.6.3, E11b.7.2, L20.19.1.2, L23.3.3.2, and L23.3.2.2** (Plate 3): These parcels lie within East Garrison Area 2 (EGA2). Historical research and field investigations conducted on these parcels identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. The Track 1 PAM, EGA2/4 NE determined no further investigations for military munitions are required at EGA2 (*Army, 2006b*).

**Parcel E11b.7.1.2** (Plate 3): Parcel E11b.7.1.2 lies within East Garrison Area 4 Northeast (EGA4 NE) and includes MRS-33. Historical research and field investigations conducted on Parcel E11b.7.1.2 identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. The Track 1 PAM, EGA2/4 NE determined no further investigations for military munitions are required at EGA4 NE (*Army, 2006b*).

**Parcel E20c.1.1.1** (Plate 4): Historical research and field investigations conducted on Parcel E20c.1.1.1 identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions at Parcel E20c.1.1.1 are required (*Army, 2006c*).

**Parcel E20c.1.3** (Plate 4): Historical research and field investigations conducted on Parcel E20c.1.3 did not identify evidence of military munitions-related activities. The Track 0 PAM, Group D designated Parcel E20c.1.3 as Track 0 (*Army, 2006a*).

**Parcel E29a.1** (Plate 5): Parcel E29a.1 lies within MRS-15DRO.1A. Historical research and a field investigation conducted on this parcel found no evidence military munitions were used on the parcel. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are required at MRS-15DRO.1A (*Army, 2006c*).

**Parcel E29b.2** (Plate 5): Parcel E29b.2 lies within MRS-15MOCO.1 and MRS-15DRO.2A. Historical research and field investigations conducted at MRS-15MOCO.1 and MRS-15DRO.2A found no evidence military munitions were used at these sites. MRS-15DRO.2A is a variant Track 1 site because a digital geophysical investigation was conducted at MRS-15DRO.2A after completion of sampling. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are required at MRS-15MOCO.1 and MRS-15DRO.2A (*Army, 2006c*).

**Parcels E29.2, L4.1 and L4.2** (Plate 5): All or portions of Parcels E29.2, L4.1 and L4.2 lie within MRS-43A. Historical research and field investigations conducted at MRS-43A found no evidence to indicate military munitions were used at this site. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions at MRS-43A are required (*Army, 2006c*). The Track 0 PAM, Group D determined there is no evidence of past military munitions use on the portions of Parcels L4.1 and L4.2 that lie outside of MRS-43A (*Army, 2006a*).

**Parcel L3.2** (Plate 5): Parcel L3.2 lies within MRS-46. Historical research and field investigations conducted at MRS-46 identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. MRS-46 does not fit the strict definition of a

Track 1 site because a removal action was performed and is therefore a variant Track 1 site. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are required at MRS-46 (*Army, 2006c*).

**Parcel L6.1** (Plate 5): Historical research and field investigations conducted on this parcel found no evidence of past training involving military munitions. The Track 1 PAM, Groups 1 – 5, determined no further investigations for military munitions are required at Parcel L6.1 (*Army, 2006c*).

**Parcel L20.2.2** (Plate 3): Portions of MRS-5 and MRS-45A lie within Parcel L20.2.2. Historical research and field investigations conducted at MRS-5 and MRS-45A identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. The determination of No Further Action at MRS-5 was provided in the Track 1 ROD (*Army, 2005a*). The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are required at MRS-45A (*Army, 2006c*). The Track 0 PAM, Group D determined that MEC are not likely to be present on the portion of Parcel L20.2.2 outside of MRS-5 and MRS-45A (*Army, 2006a*).

**Parcel L20.2.3.1** (Plate 3): Portions of MRS-5, MRS-27F, and MRS-59B lie within Parcel L20.2.3.1. Historical research and field investigations conducted at MRS-5, MRS-27F, and MRS-59B identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. The determination of No Further Action at MRS-5 was provided in the Track 1 ROD (*Army, 2005a*). The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions are required at MRS-27F and the portion of MRS-59B overlapping Parcel L20.2.3.1 (*Army, 2006c*). The Track 0 PAM, Group D determined that MEC are not likely to be present on the portion of Parcel L20.2.3.1 outside of MRS-5, MRS-27F, and MRS-59B (*Army, 2006a*).

**Parcel L23.3.3.1** (Plate 3): Portions of MRS-5 and MRS-59A lie within Parcel L23.3.3.1. Historical research and field investigations conducted at MRS-5 and MRS-59A identified evidence of past training involving only pyrotechnic items not designed to cause injury. The determination of No Further Action at MRS-5 and MRS-59A was provided in the Track 1 ROD (*Army, 2005a*). The Track 0 PAM, EGA1 determined MEC are not likely to be present on the portion of Parcel L23.3.3.1 that lies outside of MRS-5 and MRS-59A (*Malcolm Pirnie, 2003*).

**Parcel L23.5.2** (Plate 4): A portion of the FBTA (possibly meaning “Field Battalion Training Area” or “Firing Battery Training Area”) lies within Parcel L23.5.2. Munitions debris (empty M1 ammunition clip) was found during a field investigation; however, its presence does not necessarily indicate that training involving military munitions occurred on this parcel. If training with military munitions did occur, historical research indicates only practice and pyrotechnic items, which are not designed to cause injury, would have been used in the FBTA. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions at the FBTA are required (*Army, 2006c*).

**Parcel L35.4** (Plate 3): A portion of MRS-45A lies within Parcel L35.4. Historical research and field investigations conducted on this parcel found no evidence military munitions were used on this parcel. The Track 1 PAM, Groups 1 – 5 determined no further investigations for military munitions at MRS-45A are required (*Army, 2006c*). The Track 0 PAM, Group B, determined

that MEC are not likely to be present on a portion of Parcel L35.4 outside of MRS-45A (*Army, 2005d*). The Track 0 PAM, Group D, also determined that MEC are not likely to be present on the remaining portion of Parcel L35.4 outside of MRS-45A (*Army, 2006a*).

#### **4.10 Installation-Wide Multispecies Habitat Management Plan**

Parcels in this FOST are designated in accordance with the Installation-Wide Multispecies Habitat Management Plan (HMP) as follows:

Development – E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E20c.1.1.1, E20c.1.3, E29.2, E29a.1, L2.2.2, L4.1, L4.2, L5.9.2, L20.17.2, L20.19.1.2, L23.5.2, and L35.4.

Borderland Development Areas along Natural Resource Management Area (NRMA) Interface Parcels – E29b.2, L3.2, L20.2.2, L20.2.3.1, L23.3.3.1, L23.3.2.2, and L23.3.3.2.

Habitat Corridor with Allowance for Future Development – L20.2.2 and L20.2.3.1.

Habitat Reserve – E11b.6.3, E11b.7.1.2, E11b.7.2, and L6.1.

The resource conservation and management requirements for these HMP categories 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**

There are no other hazardous conditions on the property that present an unacceptable risk to human health and the environment. 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 as soon as CERCLA requirements are met.

## 5.0 ADJACENT PROPERTY CONDITIONS

The following other potentially hazardous conditions exist on adjacent property:

**Parcel E2c.4.3** (Plate 2): The OU2 Fort Ord Landfills (Area B) are within 1,000 feet of Parcel E2c.4.3. The selected remedial action presented in the OU2 ROD (*Army, 1994*) included placement of an engineered cover system over buried refuse at the Fort Ord Landfills. Placement of the engineered cover system at the Fort Ord Landfills was completed in December 2002.

California Integrated Waste Management Board (CIWMB) regulations (Title 27 California Code of Regulations [27CCR]), require that methane concentrations do not exceed the lower explosive limit of 5% at the landfill boundary. In addition, trace gases must be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds. Permanent monitoring probes are installed around the Fort Ord Landfills perimeter at a lateral spacing of 1,000 feet or less. Quarterly monitoring at these probes show methane concentrations to be below the 5% standard at the landfill boundary. Annual monitoring at selected probes indicates VOCs are mostly non-detectable to the reporting limit. A landfill gas (LFG) extraction and treatment system at the Fort Ord Landfills has reduced and maintains methane concentrations along the fence line adjacent to Area F to less than the 5% standard. Additionally, the system removes and treats VOCs in the LFG. Future landowners should refer to 27CCR, Section 21190, which identifies protective measures for structures built on or within 1,000 feet of a landfill.

The Army conducted ambient air monitoring and 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 Fort Ord Landfills. 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 originating from the Fort Ord Landfills (SWMU FTO-002). The USEPA provided comments to the Draft HHRA in a letter dated November 8, 2004, in which it concurred that the Fort Ord Landfills are not contributing significantly to VOC concentrations in ambient air downwind of the Fort Landfills. The California EPA Department of Toxic Substances Control (DTSC) provided comments in a memorandum dated November 17, 2004, in which it concurred that risks upwind and downwind of the Fort Ord Landfills are approximately equal.

The presence of the OU2 Fort Ord Landfills on adjacent property does not present an unacceptable risk to human health and the environment at Parcel E2c.4.3 because placement of the engineered cover system is complete and the Army is actively monitoring, extracting and treating LFG. The Army has issued the Draft Final Remedial Action Construction Completion Report, dated January 31, 2005, and recommended site closure for the Fort Ord Landfills.

**Parcels E11b.6.3 and L20.2.3.1** (Plate 3): MRS-59 lies adjacent to Parcels E11b.6.3 and L20.2.3.1. MRS-59 was reported to have included a 2.36-inch rocket range in the early 1940s. A U.S. Army Corps of Engineers (USACE) UXO Safety Specialist conducted a munitions response (investigation) at MRS-59 as part of a PA/SI and found only munitions debris (expended pyrotechnics and two fragments from the incomplete detonation of a 60mm mortar). The parcel containing MRS-59 was transferred to the U.S. Department of the Interior, Bureau of Land Management (BLM) in 1996. The BLM actively manages the property for public use as part of the Fort Ord Public Lands system. The BLM's management of the property includes

MEC recognition training for all BLM personnel at the former Fort Ord, maintenance of public trails and signage, including warning signs regarding MEC, and distribution of trail maps that include notification procedures if MEC are found.

The presence of MRS-59 on adjacent property does not present an unacceptable risk to human health and the environment at Parcels E11b.6.3 and L20.2.3.1 because:

- No physical evidence of the use of 2.36-inch rockets was observed during the munitions response performed by the USACE UXO Safety Specialist.
- The property containing MRS-59 has transferred and is actively managed by the BLM for public recreational use. The BLM has reported no discoveries of MEC or munitions debris at MRS-59.
- Based on the results of the munitions response and no reported discoveries of MEC by the BLM, MEC are not expected to be present within MRS-59.
- According to the Fort Ord MRS Security Program (*Army, 2005c*), MRS-59 is a Level C site security area (i.e. unrestricted access).

**Parcel E11b.7.1.2** (Plate 3): MRS-23 and MRS-60 lie adjacent to Parcel E11b.7.1.2. MRS-23 was formerly an Engineer Training Area and Field Expedient Area. MRS-23 underwent a munitions response (removal) using geophysical equipment. All anomalies detected were investigated to a minimum depth of 4 feet. The presence of MRS-23 on adjacent property does not present an unacceptable risk to human health and the environment because a munitions response was completed and, given the results of the removal, no additional munitions response actions are recommended for MRS-23 (*USA, 2001d*).

MRS-60 was reported to have been used as a target area for hand grenade, rifle grenade, and shoulder-launched projectiles and was used for training until at least the early 1970s (*USAEDH, 1997*). A USACE UXO Safety Specialist conducted a munitions response (investigation) as part of a PA/SI in 1995 and discovered expended signals and illumination flares. The parcel containing MRS-60 was transferred to the BLM in 1996. The BLM actively manages the property for public use as part of the Fort Ord Public Lands system. The BLM's management of the property includes MEC recognition training for all BLM personnel at the former Fort Ord, maintenance of public trails and signage, including warning signs regarding MEC, and distribution of trail maps that include notification procedures if MEC are found.

The presence of MRS-60 on adjacent property does not present an unacceptable risk to human health and the environment at Parcel E11b.7.1.2 because:

- The munitions response (investigation) performed by the USACE UXO Safety Specialist indicated only practice and pyrotechnic items, which are not designed to cause injury, were used at MRS-60.
- The property containing MRS-60 has transferred and is actively managed by the BLM for public recreational use. The BLM has reported no discoveries of MEC or munitions debris at MRS-60.

- Based on the results of the munitions response and no reported discoveries of MEC by the BLM, MEC are not expected to be present within MRS-60.
- According to the Fort Ord MRS Security Program (*Army, 2005c*), MRS-59 is a Level C site security area (i.e. unrestricted access).

**Parcel E20c.1.1.1** (Plate 4): MRS-15SEA.2, MRS-15SEA.3, MRS-15SEA.4, MRS-24A, and IRP Site 39 (Range 18) lie adjacent to Parcel E20c.1.1.1. The boundaries of MRS-15SEA.2, MRS-15SEA.3, and MRS-15SEA.4 were developed to support the transfer of property and not on evidence of munitions use.

MRS-15SEA.2 included the firing points and some of the targets associated with two former small arms ranges (Ranges 19 and 20). Several munitions responses to MEC were conducted on MRS-15SEA.2, including grid sampling, removals within fuel breaks and the small arms ranges, a time-critical removal action (TCRA) (surface removal), a non-time critical removal action (NTCRA), and a 100% digital geophysical survey of all remaining portions of MRS-15SEA.2 not covered by the NTCRA. Twelve MEC items, one pound of bulk explosives, and 1,371 munitions debris items were removed. A munitions response (investigation, removal) was performed on all accessible areas within MRS-15SEA.2. All anomalies detected were investigated to a minimum depth of 4 feet. Special Case Areas (SCAs)<sup>10</sup> will be addressed in a follow-up investigation. The presence of MRS-15SEA.2 on adjacent property does not present an unacceptable risk to human health and the environment because:

- Munitions responses (investigation, removal) were performed on all accessible areas within MRS-15SEA.2 and all MEC found on the ground surface were removed.
- Access to MRS-15SEA.2 is restricted by security fencing and implementation of the Fort Ord MRS Security Program (*Army, 2005c*).

MRS-SEA.3 includes a portion of Range 18, a former small arms range. Features associated with Range 18 that lie within MRS-15SEA.3 include some of the firing points and some of the targets. Several munitions responses to MEC were conducted on MRS-15SEA.3, including removal actions on roads and fuel breaks, grid sampling, a removal within the former small arms range, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15SEA.3 not covered by the NTCRA. During these munitions responses, 124 MEC items and 215 munitions debris items were removed. A munitions response (investigation, removal) was performed on all accessible areas within MRS-15SEA.3. All anomalies detected were investigated to a minimum depth of 4 feet. SCAs will be addressed in a follow-up investigation. The presence of MRS-15SEA.3 on adjacent property does not present an unacceptable risk to human health and the environment because:

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<sup>10</sup> Special Case Areas (SCAs) are areas within the MRS where subsurface investigation of MEC could not be completed because of obstructions or interference. For MRS-15SEA.2, MRS-15SEA.3, and MRS-15SEA.4, SCAs consisted of areas of dense metallic clutter that prevented instruments from distinguishing individual anomalies, asphalt or concrete paved areas (i.e., range pads, roads, and steps), fences, areas underneath buildings and structures, and berms. For the SCAs in these MRS, a surface removal of MEC was completed.

- Munitions responses (investigation, removal) were performed on all accessible areas within MRS-15SEA.3 and all MEC found on the ground surface were removed.
- Access to MRS-15SEA.3 is restricted by security fencing and implementation of the Fort Ord MRS Security Program (*Army, 2005c*).

MRS-15SEA.4 included the firing points and some of the targets associated with two small arms ranges (Ranges 18 and 46) and firing points for a mortar and antitank weapons range (Range 48). Several munitions responses to MEC were conducted on MRS-15SEA.4, including grid sampling, removal actions on fuel breaks, a removal within the former small arms ranges, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15SEA.4 not covered by the NTCRA. During these munitions responses, 189 MEC items and 328 munitions debris items were removed. A munitions response (investigation, removal) was performed on all accessible areas within MRS-15SEA.4. All anomalies detected were investigated to a minimum depth of 4 feet. SCAs will be addressed in a follow-up investigation. The presence of MRS-15SEA.4 on adjacent property does not present an unacceptable risk to human health and the environment because:

- Munitions responses (investigation, removal) were performed on all accessible areas within MRS-15SEA.4 and all MEC found on the ground surface were removed.
- Access to MRS-15SEA.4 is restricted by security fencing and implementation of the Fort Ord MRS Security Program (*Army, 2005c*).

MRS-24A was identified as the location of a former practice rifle grenade training area during the Fort Ord archives search. MRS-24A was investigated (sampled) for the presence of MEC in 1996, 1997, and 2000. Three MEC items (M2 ignition cartridge, 60mm illumination mortar, and an 81mm practice mortar) and twelve munitions debris items (one flame thrower ignition cartridge, five practice antitank rifle grenades, three practice rockets, two practice hand grenades, and one rifle-fired signal) were removed. The after action report recommended consideration of additional sampling to the north and east of MRS-24A (*USA, 2000*). The presence of MRS-24A on adjacent property does not present an unacceptable risk to human health and the environment because MRS-24A was used for training with practice rifle grenades, which are inert, and no MEC associated with practice rifle grenade training are expected.

IRP Site 39, Range 18 served as a small arms range. The proposed reuse of this area could include residential; therefore, the target cleanup levels for contaminants at the site (lead, copper, and antimony) were USEPA Region IX residential preliminary remediation goals (PRGs). The remedial area of Range 18 was approximately 31.3 acres and overlaps MRS-15SEA.3 and MRS-15SEA.4. The remedial action for Range 18 included excavation of 24,900 cubic yards of soil containing spent small arms ammunition and residual lead, and disposal of the excavated soil in the Fort Ord Landfills. Confirmation sampling indicated concentrations of contaminants are below residential PRGs and the Cal-Modified PRG for lead. The excavated areas were then regraded to conform with existing topography. The Remedial Action Confirmation Report (*Shaw, 2005b*) was issued and post-remediation risk assessments are in progress. The presence of IRP Site 39 on adjacent property does not present an unacceptable risk to human health and the



environment because remedial action is complete and access to the site is restricted by security fencing.

**Parcel E20c.1.3** (Plate 4): MRS-15SEA.2 and MRS-15SEA.3 lie adjacent to Parcel E20c.1.3. See description of these sites above under Parcel E20c.1.1.1.

**Parcels E29a.1, E29.2, L4.1, L4.2, and L6.1** (Plate 5): MRS-15DRO.1 lies adjacent to Parcels E29a.1, E29.2, L4.1, L4.2, and L6.1. The boundary of MRS-15DRO.1 is based on transfer parcel delineation and not on evidence of munitions use. MRS-15DRO.1 included portions (the firing lines and some targets) of small arms ranges present at the time of base closure. The investigation of MRS-15DRO.1 included SiteStats/GridStats (SS/GS), 100% sampling of selected grids, the investigation and removal of all anomalies detected to a minimum depth of 4 feet and 100% geophysical investigation (*USA, 2001c*). According to the former Fort Ord MMRP database, 167 MEC items and 3,021 munitions debris items were removed from MRS-15DRO.1 during these munitions responses. The presence of MRS-15DRO.1 on adjacent property does not present an unacceptable risk to human health and the environment because:

- A munitions response (removal) was completed; therefore, MEC are not expected to be found.
- The property inclusive of MRS-15DRO.1 has transferred with land use controls for protection of human health and the environment.
- According to the Fort Ord MRS Security Program (*Army, 2005c*), MRS-15DRO.1 is a Level C site security area (i.e. unrestricted access); however, access to MRS-15DRO.1 continues to be restricted by security fencing.

**Parcel E29.2 and L6.1** (Plate 5): MRS-43 lies adjacent to Parcels E29.2 and L6.1. MRS-43 was identified during the Fort Ord Archives Search as an area where rifle grenades and shoulder-launched projectiles were used. The munitions response (investigation) at MRS-43 included SS/GS sampling and 100% grid sampling over portions of the site (*USA, 2001c*). No military munitions were identified within the southeastern portion of MRS-43<sup>11</sup>. MEC and munitions debris were identified in the northwestern portion of MRS-43 and a 100% removal operation (integrated with digital geophysical operations) was conducted at the northwest end of the site only. All anomalies detected were investigated to a minimum depth of 4 feet. Twenty-eight MEC items and thirty-six munitions debris items were found during sampling and removal operations at MRS-43. The presence of MRS-43 on adjacent property does not present an unacceptable risk to human health and the environment because:

- A munitions response (removal) was completed; therefore, MEC are not expected to be found.
- According to the Fort Ord MRS Security Program (*Army, 2005c*), MRS-43 is a Level C site security area (i.e. unrestricted access).

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<sup>11</sup> For the purpose of property transfer and the MEC evaluation, MRS-43 was subdivided and the southeastern portion renamed as MRS-43A.

**Parcels E29b.2 and L4.2** (Plate 5): MRS-15DRO.2 lies adjacent to Parcels E29b.2 and L4.2. The boundary of MRS-15DRO.2 is based on transfer parcel delineation and not on evidence of munitions use. The munitions response at this site included 100% grid sampling, a removal action, and a 100% geophysical investigation to support the early transfer of the parcel (*USA, 2001e*). Four MEC items and twenty-six munitions debris items were found and removed during sampling and removal operations at MRS-15DRO.2. The presence of MRS-15DRO.2 on adjacent property does not present an unacceptable risk to human health and the environment because:

- Munitions responses (investigations and removal) were completed; therefore, MEC are not expected to be found.
- The property inclusive of MRS-15DRO.2 has transferred with land use controls for protection of human health and the environment.
- According to the Fort Ord MRS Security Program (*Army, 2005c*), MRS-15DRO.2 is a Level C site security area (i.e. unrestricted access); however, access to MRS-15DRO.2 continues to be restricted by security fencing.

**Parcel L3.2** (Plate 5): Parcel L3.2 lies immediately adjacent to the former Fort Ord Impact Area (MRS-15BLM). Firing ranges established within the Impact Area were used for live fire exercises using a variety of military weapons. In general, the firing points for the ranges were established around the perimeter and the direction of fire was toward the center of the Impact Area. MRS-15BLM is currently being evaluated under the ongoing former Fort Ord MMRP and is included in the Track 3 Impact Area MR RI/FS. The presence of the former Fort Ord Impact Area on adjacent property does not present an unacceptable risk to human health and the environment because:

- Security fencing will be erected between Parcel L3.2 and the MRS-15BLM upon transfer of the property.
- The Fort Ord MRS Security Program (*Army, 2005c*) will be implemented to prevent unauthorized access to the adjacent Impact Area.

**Parcel L20.2.3.1** (Plate 3): MRS-27E lies adjacent to Parcel L20.2.3.1. MRS-27E was used since the 1970s as an overnight bivouac area. A USACE UXO Safety Specialist conducted a munitions response (investigation) of MRS-27E as part of a PA/SI. Only munitions debris (expended illumination signals) was found. The presence of MRS-27E on adjacent property does not present an unacceptable risk to human health and the environment because a munitions response was completed and no evidence of training other than overnight bivouac or use as an impact area was observed; therefore, MEC are not expected to be found.

**Parcel L23.5.2** (Plate 4): MRS-50EXP lies adjacent to Parcel L23.5.2. 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 nearby MRS-50. MRS-50 was identified during interviews conducted as part of the ASR and was reported to be a rifle grenade and shoulder-launched projectile target area in the 1940s, 1950s, and 1960s. A USACE UXO Safety Specialist conducted a site reconnaissance as part of a PA/SI. During the site inspection, fragments from 37mm projectiles

and 75mm high explosive (HE) projectiles were discovered. MRS-50 is part of the Parker Flats Munitions Response Area (MRA). The Parker Flats MRA underwent a munitions response (investigation) using analog geophysical equipment. All anomalies detected were investigated to a minimum depth of 4 feet. According the former Fort Ord MMRP database, 872 MEC items and 1,910 munitions debris items were removed from MRS-50 and MRS-50EXP. The presence of MRS-50EXP on adjacent property does not present an unacceptable risk to human health and the environment because a munitions response was completed and the Track 2 Parker Flats MR RI/FS determined no further action is necessary in the Parker Flats MRA.

**Parcels L20.2.2 and L35.4** (Plate 3): MRS-45 lies adjacent to Parcels L20.2.2 and L35.4. MRS-45 was identified as a tactical training area. During the munitions response (investigation) at MRS-45 five MEC items (all pyrotechnic or practice/training-related items) and 224 munitions debris items were removed. A surface removal of accessible areas, including the eastern portion of MRS-45, was performed by a military munitions contractor under the direction of the USACE. The field crew walked in open areas and on trails visually searching for MEC and munitions debris. No additional MEC were found within MRS-45. The presence of MRS-45 on adjacent property does not present an unacceptable risk to human health and the environment because a surface clearance of accessible areas, including the eastern portion of MRS-45 adjacent to Parcels L20.2.2 and L35.4, was performed by a military munitions contractor under the direction of the USACE and no MEC were found within MRS-45 and no MEC are expected to remain at the site.

## **6.0 ENVIRONMENTAL REMEDIATION AGREEMENTS**

The following environmental orders/agreements are applicable to the property: The Fort Ord MR RI/FS, the Fort Ord Installation-Wide Multispecies HMP, three Fort Ord specific Biological Opinions (1-8-99-F/C-39R; 1-8-01-F-70R; and 1-8-04-F-25R), the FFA (effective November 19), 1990, and the Fort Ord Part A Hazardous Waste Permit. All remediation activities on the property required by the FFA are complete or in place and operating properly and successfully (see Section 4.1 Environmental Remediation Sites). In addition, the Army has submitted a request to the DTSC to make a determination that no further RCRA corrective action is required on these parcels and to modify the Fort Ord Part A Hazardous Waste Permit to remove these parcels from the RCRA permitted facility boundary. The CERCLA Notice, Assurances, Warranty, and Access Provisions and other Deed Provisions (Attachment 4), Environmental Protection Provisions (EPPs) (Attachment 5) and deed will include provisions reserving the Army's right to conduct remediation activities and the Army's and regulators' right of access.

## **7.0 REGULATORY/PUBLIC COORDINATION AND COMMENTS**

The USEPA Region IX, the DTSC, and the public were notified of the initiation of this FOST. The thirty-day public review period was from July 31, 2006 to August 29, 2006. 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.

## **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). Encumbrances<sup>12</sup> 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**

The environmental documents listed in Attachment 2 were evaluated to identify environmental factors that may warrant constraints on certain activities to ensure protection of human health and the environment. Such constraints are generally embodied as restrictions in the deed or as specific notifications in the deed or other documents supporting the transaction. The factors that require either deed restrictions or specific notifications are identified in Attachment 4 CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions and Attachment 5 Environmental Protection Provisions (EPPs). These restrictions will be in effect until terminated, removed, or modified.

The relevant portions of this FOST and Attachments 4 and 5 will be referred to in the deed for transfer of this property. Notification of hazardous substance storage, release, or disposal on the property shall be provided in the transfer documents, as required under CERCLA Section 120(h).

### **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 any portion of the 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.

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<sup>12</sup> 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.

## 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 USEPA 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, or known to have been released or disposed of on the parcel, a hazardous substance or petroleum notification is not required.

### 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 USEPA 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 4 – Notification of Hazardous Substance Storage, Release, or Disposal [Attachment 3]) shall be included in the deed as required under CERCLA Section 120(h) and DOD FOST Guidance.

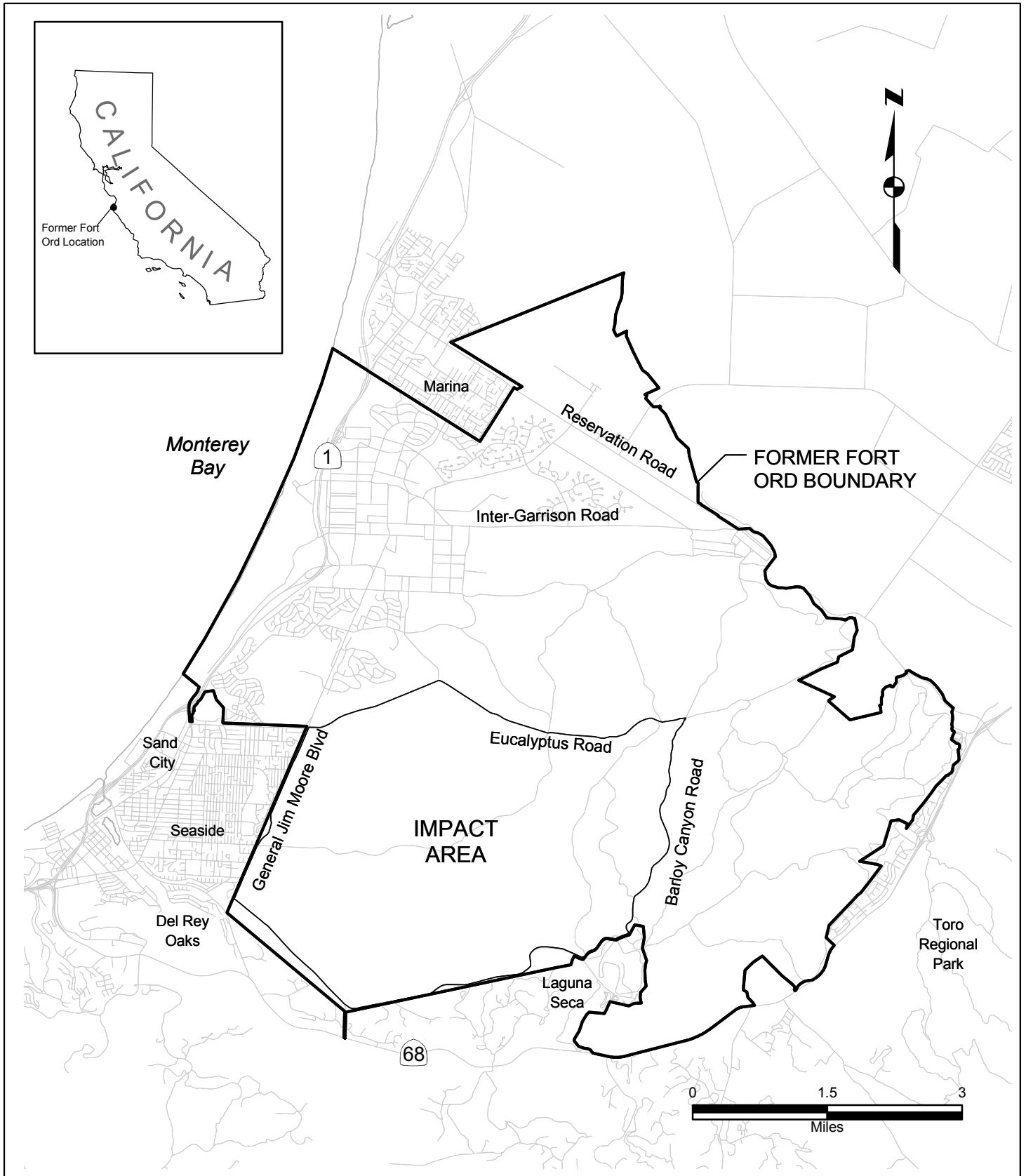


Thomas E. Lederle

Chief, Industrial Conveyance Branch  
Base Realignment and Closure Division

**ATTACHMENT 1**

**SITE MAPS OF THE PROPERTY**



Fort\_Ord\_GIS - FOST10--Plate1.mxd - 5/26/2006

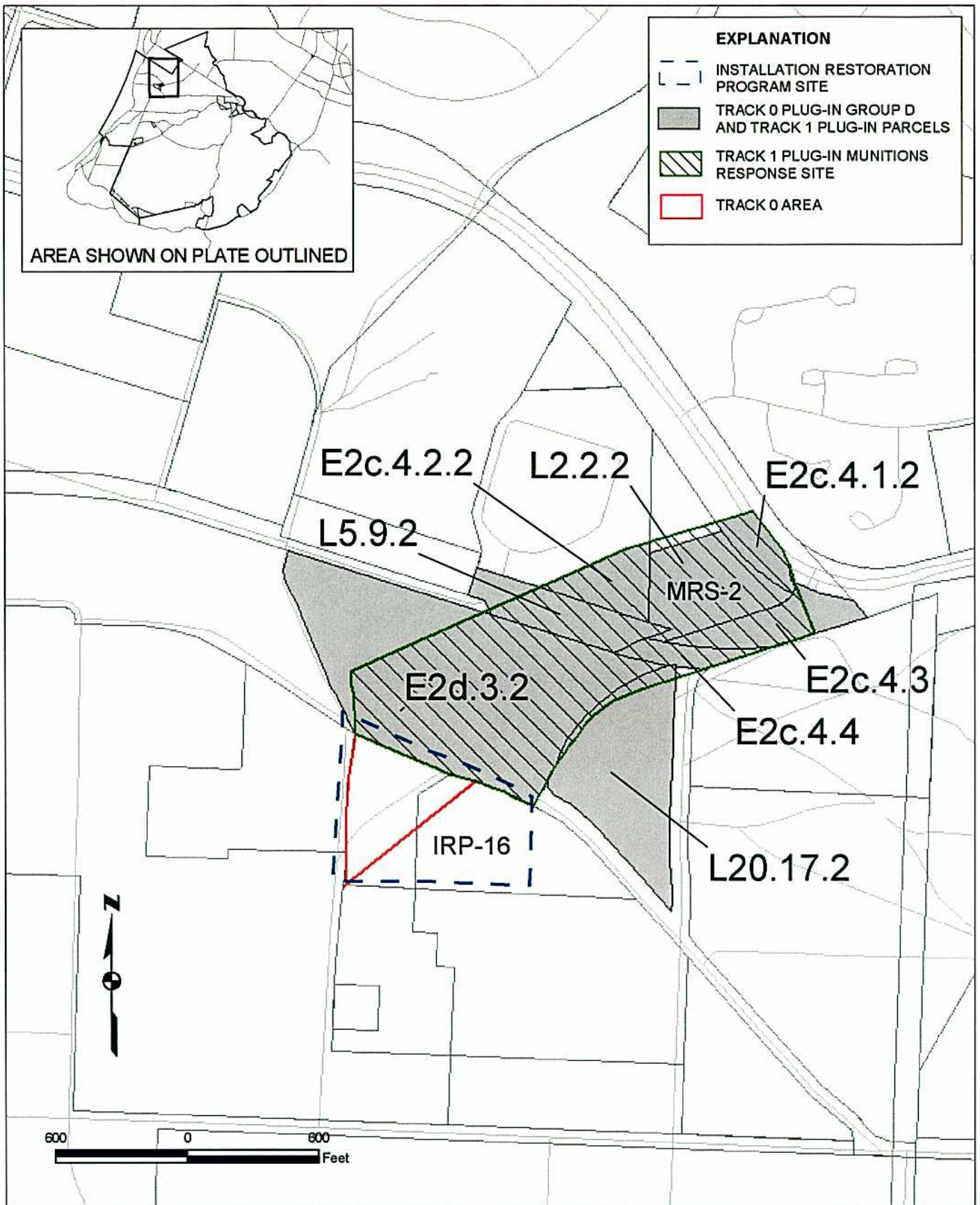
PLATE



**Site Location Map**

Finding of Suitability to Transfer  
 Track 0 Plug-In Group D, Track 1 Plug-In  
 East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1-5 Parcels  
 Former Fort Ord, Monterey County, California

**1**



For O&A GIS - F03T10 Phase2.mxd - 6/26/2006

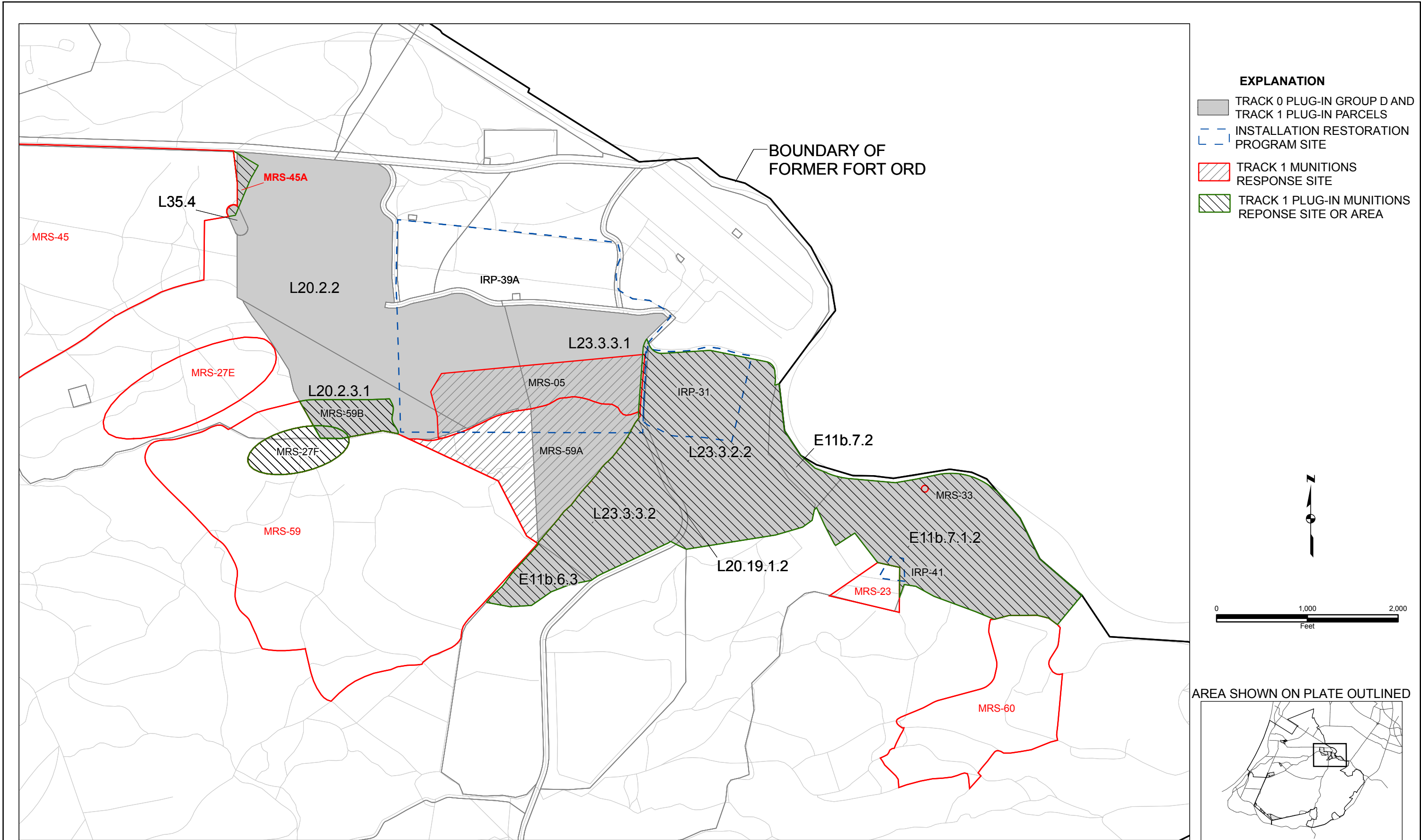


**Location Map, Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L5.9.2, and L20.17.2**  
 Finding of Suitability to Transfer - Track 0 Plug-In Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1-5 Parcels Former Ford Ord, California

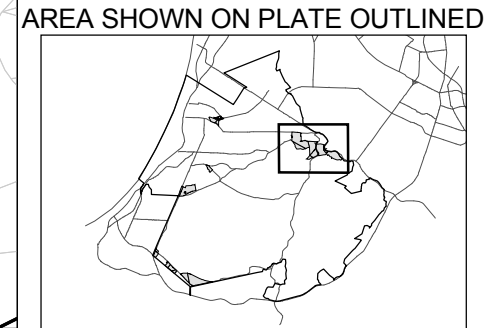
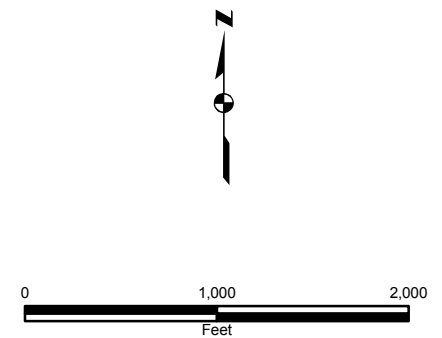
PLATE  
**2**

DRAWN	REVIEWED	JOB NUMBER	APPROVED	DATE	REVISED DATE
TJH		4088053121 6.1.3	<i>JF</i>	5/2006	





- EXPLANATION**
- TRACK 0 PLUG-IN GROUP D AND TRACK 1 PLUG-IN PARCELS
  - INSTALLATION RESTORATION PROGRAM SITE
  - TRACK 1 MUNITIONS RESPONSE SITE
  - TRACK 1 PLUG-IN MUNITIONS RESPONSE SITE OR AREA

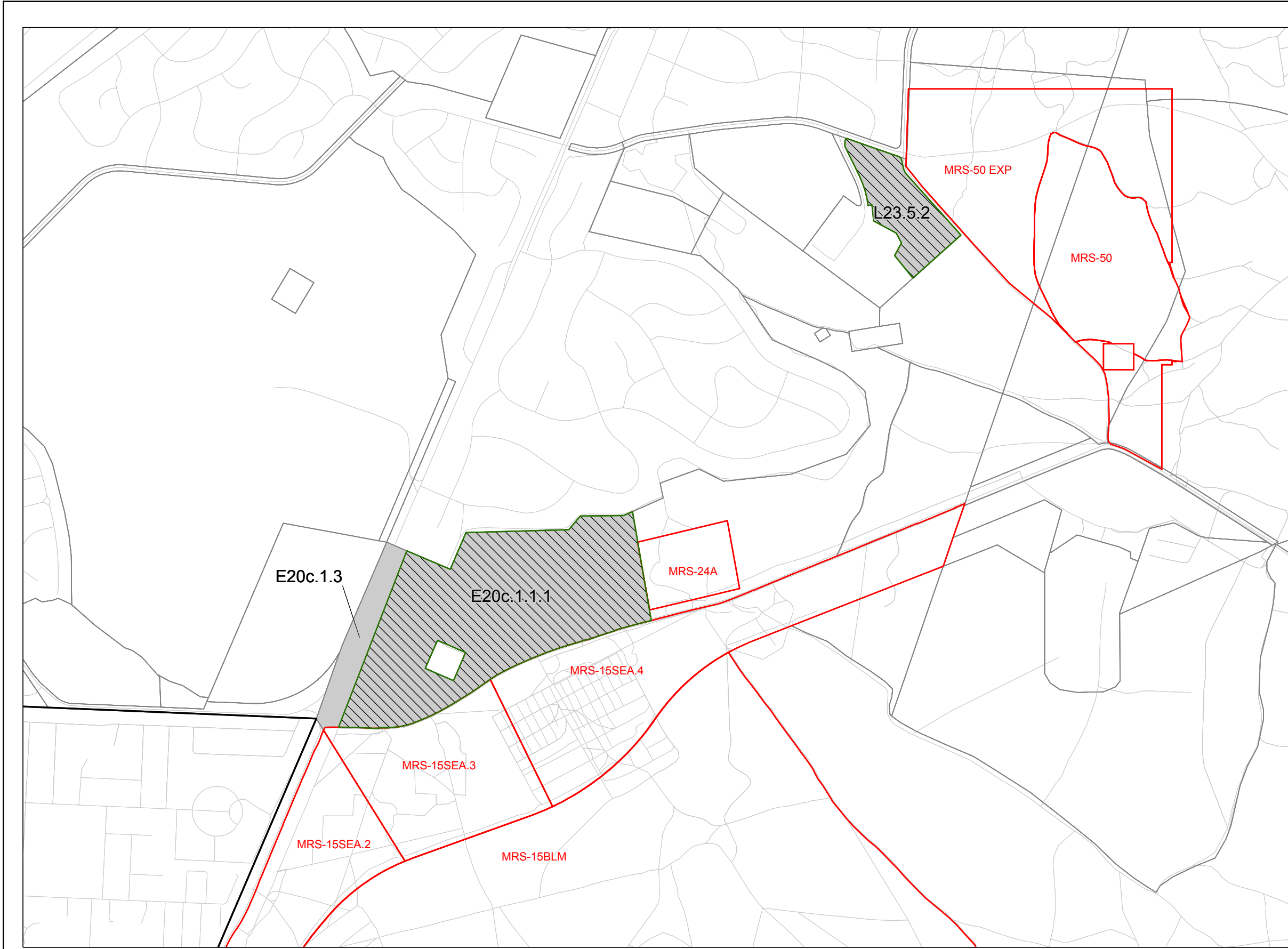


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DATE: 5/2006	DATE:





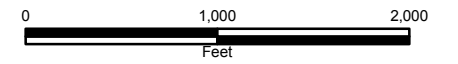
Finding of Suitability to Transfer  
 Track 0 Plug-In Group D, Track 1 Plug-In East Garrison  
 Areas 2 and 4 NE, and Track 1 Plug-In Groups 1-5 Parcels  
 Former Ford Ord, California

Location Map, Parcels  
 E11b6.3, E11b.7.1.2, E11b.7.2, L20.19.1.2, L20.19.1..2,  
 L20.2.2, L20.2.3.1, L23.3.2.2, L23.3.3.1, L23.3.3.2, and L35.4

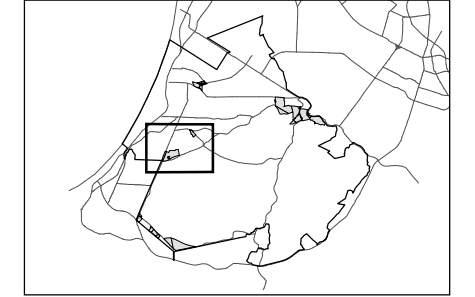


**EXPLANATION**

-  TRACK 0 PLUG-IN GROUP D AND TRACK 1 PLUG-IN PARCELS
-  TRACK 1 PLUG-IN AREA



**AREA SHOWN ON PLATE OUTLINED**



DRAWN: TJH	PROJECT NO: 4088053121 6.1.3
ENGINEER:	SCALE: AS SHOWN
CHECKED:	APPROVED:
DATE: 5/2006	DATE:

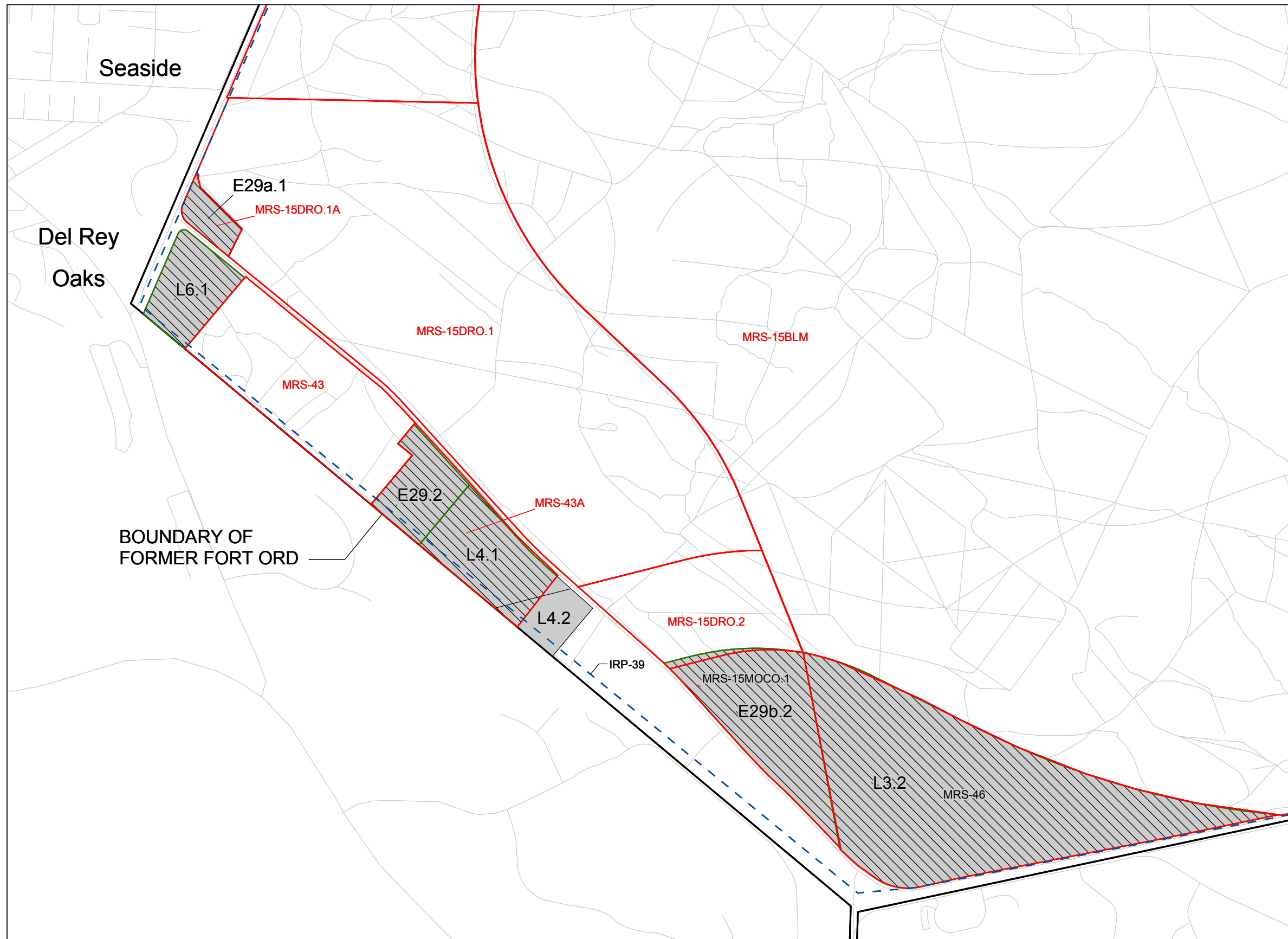





Finding of Suitability to Transfer  
 Track 0 Plug-In Group D, Track 1 Plug-In East Garrison  
 Areas 2 and 4 NE, and Track 1 Plug-In Groups 1-5 Parcels  
 Former Ford Ord, California

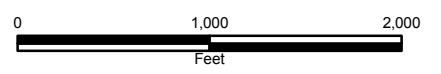
Location Map, Parcels E20c.1,  
 E20c.1.1.1, E20c.1.3, and L23.5.2

PLATE

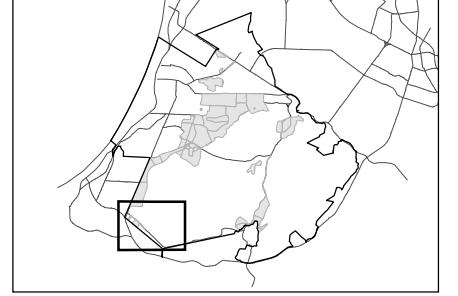
**4**



- EXPLANATION**
-  TRACK 0 PLUG-IN GROUP D AND TRACK 1 PLUG-IN PARCELS
  -  INSTALLATION RESTORATION PROGRAM SITE
  -  TRACK 1 PLUG-IN MUNITIONS RESPONSE SITE OR AREA



AREA SHOWN ON PLATE OUTLINED



DRAWN: TJH	PROJECT NO: 4088053121 6.1.3
ENGINEER:	SCALE: AS SHOWN
CHECKED:	APPROVED:
DATE: 02/2006	DATE:



Finding of Suitability to Transfer  
 Track 0 Plug-In Group D, Track 1 Plug-In East Garrison  
 Areas 2 and 4 NE, and Track 1 Plug-In Groups 1-5 Parcels  
 Former Ford Ord, California

Location Map  
 Parcels E29a.1, L6.1, E29.2,  
 E29b.2, L4.1, L4.2, and L3.2

PLATE

**5**

**ATTACHMENT 2**

**ENVIRONMENTAL DOCUMENTATION**

## ENVIRONMENTAL DOCUMENTATION<sup>13</sup>

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<sup>13</sup> In accordance with the Fort Ord Federal Facility Agreement, documents pertaining to the environmental cleanup at the former Fort Ord are initially issued by the Army in “Draft,” subject to review and comment by the regulatory agencies and the public. Following receipt of comments on a particular Draft document, the Army will respond to comments received and issue a “Draft Final” document subject to dispute resolution. The Draft Final document will become the “Final” document either thirty (30) days after the issuance of a draft final document if dispute resolution is not invoked or as modified by decision of the dispute resolution process. Typically, all comments are resolved upon issuance of the Draft Final document and that version becomes the Final document without modification; therefore, a Final document will often still be titled “Draft Final.”

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**ATTACHMENT 3**

**TABLES**

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>Parcel E2c.4.1.2 – 1.283-acre development parcel to be transferred to FORA. Includes Imjin Parkway and the associated right-of-way. No buildings or structures are on the parcel. This parcel lies within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the Basewide Range Assessment (BRA), MRS-2 was identified as HA-91. No evidence of chemical warfare training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>
<p>Parcel E2c.4.2.2 – 2.135-acre development parcel to be transferred to FORA. Parcel is currently undeveloped and no buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>
<p>Parcel E2c.4.3 – 2.639-acre development parcel to be transferred to FORA. Includes a portion of Imjin Road and the associated right-of-way. No buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>

<sup>14</sup> Munitions Response actions are described in Table 6 – Notification of Munitions and Explosives of Concern.

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>Parcel E2c.4.4 – 1.11-acre development parcel to be transferred to FORA. Includes a portion of Imjin Road and the associated right-of-way. No buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>
<p>Parcel E2d.3.2 – 21.529-acre development parcel to be transferred to FORA. Contains Administration General Purpose Building 3280. This parcel lies partially within IRP Site 16, MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, hazardous storage/release, probable ACM and LBP, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>IRP Site 16 (SWMU FTO-062). Excavation and removal of debris and soil containing hydrocarbons, VOCs, SOCs, dioxins, pesticides, oil and grease, and metals related to past dumping and releases. Agency concurrence of no further remedial action was granted by the USEPA on September 20, 1999 and by the DTSC on June 3, 1999.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data is insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p> <p>Building 3280 contains friable and non-friable ACM (see Table 7) and is presumed to contain LBP.</p>
<p>Parcel E11b.6.3 – 8.38-acre habitat reserve parcel to be transferred to FORA. No buildings or structures on the parcel. Lies within East Garrison Area 2 (EGA2, see Table 6 – Notification of MEC).</p>	<p>226 - CERFA Uncontaminated</p>	<p>1</p>	<p>A portion of HA-78 (Light Machine Gun Range) overlies this parcel. The evaluation of HA-78 included a literature review, site reconnaissance and site investigation sampling. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed and because soil sample results were below Fort Ord maximum background values, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p>

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>Parcel E11b.7.1.2 – 63.227-acre habitat reserve parcel to be transferred to FORA. No buildings or structures on the parcel. Includes IRP Site 41 (Crescent Bluff Fire Drill Area) and East Garrison Area 4 Northeast (EGA4 NE), which includes MRS-33 (see Table 6 – Notification of MEC).</p>	<p>226 – CERFA Uncontaminated; 101 – Qualified, Probable UXO; 70 – Disqualified, Probable hazardous release</p>	<p>4</p>	<p>The interim action (IA) at IRP Site 41 (Crescent Bluff Fire Drill Area) included the excavation and removal of approximately 76 cubic yards of soil from three former burn pits that are located on an adjacent parcel. Results of the confirmation sampling indicated soils with chemical concentrations above the target cleanup concentrations were removed. Results of the confirmation sampling and subsequent risk evaluation indicated that no further threat to human health, the environment, or groundwater was anticipated, and no further investigation or remediation was recommended. USEPA concurred that no further action was necessary at Site 41 in a letter dated April 14, 1997, and the DTSC concurred on March 10, 2006.</p> <p>The investigation of HA-165 (MRS-33) included a literature review. Because no evidence of a range was identified at the site, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p>
<p>Parcel E11b.7.2 – 7.36-acre habitat reserve parcel to be transferred to FORA. No buildings or structures on the parcel. Lies within East Garrison Area 2 (EGA2, see Table 6 – Notification of MEC).</p>	<p>226 – CERFA Uncontaminated; 101 – Qualified, Probable UXO</p>	<p>1</p>	<p>Because parcel partly overlapped by CERFA Parcel 101, which was qualified due to potential presence of UXO, EPA unable to concur with the “uncontaminated” property determination. Parcel lies within EGA2. No MEC or munitions debris were found within this parcel and no further military munitions investigation at EGA2 is required (see East Garrison Area 2 in Table 6 – Notification of MEC). Based on this information, Parcel E11b.7.2 meets the definition of CERFA Uncontaminated property.</p>
<p>Parcel E20c.1.1.1 – 82.87-acre development parcel to be transferred to FORA. Includes a portion of Eucalyptus Road. No buildings or structures are on the parcel.</p>	<p>214 - CERFA Uncontaminated</p>	<p>1</p>	<p>Parcel overlapped by CERFA Parcel 214, which was designated as uncontaminated; however, EPA unable to concur because of potential presence of residual pesticides and herbicides at a golf course located within Parcel 214. Parcel E20c.1.1.1 is not within, overlapped by, adjacent to, or associated with the golf course. No further military munitions investigation at E20c.1.1.1 is required (see Parcel E20c.1.1.1 in Table 6 – Notification of MEC). Based on this information Parcel E20c.1.1.1 meets the definition of CERFA Uncontaminated property.</p>
<p>Parcel E20c.1.3 – 10.396-acre development parcel to be transferred to FORA. Includes a portion of General Jim Moore Boulevard and the associated right-of-way. No buildings or structures are on the parcel.</p>	<p>215 - CERFA Qualified, Asbestos Containing Material (ACM) and Probable Lead-Based Paint (LBP).</p>	<p>1</p>	<p>None. Buildings with ACM and LBP are not located on Parcel E20c.1.3.</p>

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>Parcel E29.2 – 11.88-acre development parcel to be transferred to FORA. Lies within MRS-43A (see Table 6 – Notification of MEC). No buildings or structures are on the parcel.</p>	<p>229 - CERFA Uncontaminated</p>	<p>3</p>	<p>For the BRA, MRS-43A was identified as HA-173. The investigation of HA-173 included a literature review, site reconnaissance and site investigation sampling. Based on the analytical results that indicate no residue of explosive compounds in soil, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p>
<p>Parcel E29a.1 – 4.628-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. Lies within MRS-15DRO.1A (see Table 6 – Notification of MEC).</p>	<p>176 – CERFA Qualified, Probable UXO</p>	<p>1</p>	<p>The investigation of HA-110 included a literature review, site reconnaissance, sampling and remediation of small arms firing ranges adjacent to Parcel E29a.1 (Ranges 24 and 25). Because the remediation of Ranges 24 and 25 is complete, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>Parcel overlapped by CERFA Parcel 176 (Impact Area), which was qualified due to known or potential presence of UXO; therefore, EPA unable to concur with “uncontaminated” property determination. Parcel E29a.1 is congruent with MRS-15DRO.1A, the boundary of which was developed to support transfer of Parcel E29a.1 and not on evidence of munitions use. Research and investigations at MRS-15DRO.1A found no evidence military munitions were used at this site; therefore, no further military munitions investigation at MRS-15DRO.1 is required (see Table 6 – Notification of MEC). Based on this information, Parcel E29a.1 meets the definition of CERFA Uncontaminated property.</p>
<p>Parcel E29b.2 – 31.193-acre development parcel to be transferred to FORA. Lies within MRS-15MOCO.1 (see Table 6 – Notification of MEC). No buildings or structures are on the parcel.</p>	<p>176 – CERFA Qualified, Probable UXO</p>	<p>1</p>	<p>For the BRA, MRS-15MOCO.1 was identified as HA-116. The investigation of HA-116 included a literature search and a review of the information gathered during munitions responses conducted at MRS-15MOCO.1. No historical ranges were identified within the HA-116 boundaries and no MEC were identified during investigation. Because no MEC were identified during investigation and no ranges were identified within the HA-116 boundaries, the BRA recommended no further action related to chemical contamination for HA-116 (<i>MACTEC/Shaw, 2005</i>).</p> <p>Parcel overlapped by CERFA Parcel 176 (Impact Area), which was qualified due to known or potential presence of UXO; therefore, EPA unable to concur with “uncontaminated” property determination. Parcel E29b.2 contains MRS-15MOCO.1, the boundary of which was developed to support the transfer of Parcel E29b.2 and not on evidence of munitions use, and MRS-15DRO.2A. Research and investigations conducted at MRS-15MOCO.1 and MRS-15DRO.2A found no evidence military munitions were used at these sites; therefore, no further military munitions investigations at MRS-15MOCO.1 and MRS-15DRO.2A are required (see Table 6 – Notification of MEC). Based on this information, Parcel E29b.2 meets the definition of CERFA Uncontaminated property.</p>

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>Parcel L2.2.2 – 4.54-acre development parcel to be transferred to Monterey-Salinas Transit. No buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>
<p>Parcel L3.2 – 101.196-acre development parcel to be transferred to York School. Includes an athletic field constructed by York School. This parcel includes MRS-46 (see Table 6 – Notification of MEC).</p>	<p>176 – CERFA Qualified, Probable UXO</p>	<p>1</p>	<p>The evaluation of HA-64 (Rifle Night Fire) included a literature review and site reconnaissance. Because there were no munitions-related concerns (e.g. spent small arms ammunition) or evidence of ranges other than HA-27 identified at HA-64 the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>The evaluation of HA-176 (MRS-46) included a literature review, which did not identify any small arms ranges within MRS-46 and the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>Parcel overlapped by CERFA Parcel 176 (Impact Area), which was qualified due to known or potential presence of UXO; therefore, EPA unable to concur with “uncontaminated” property determination. Parcel L3.2 is congruent with MRS-46, the boundary of which was developed to support the transfer of Parcel L3.2 and not on evidence of munitions use. Research, field investigations and surface removal conducted at MRS-46 identified evidence of past training with only practice and pyrotechnic items not designed to cause injury; therefore, no further military munitions investigation at MRS-46 is required (see Table 6 – Notification of MEC). Based on this information, Parcel L3.2 meets the definition of CERFA Uncontaminated property.</p>
<p>Parcel L4.1 – 18.1-acre development parcel to be transferred to the City of Monterey. Lies within MRS-43A (see Table 6 – Notification of MEC). No buildings or structures are on the parcel.</p>	<p>229 - CERFA Uncontaminated</p>	<p>1</p>	<p>For the BRA, MRS-43A was identified as HA-173. The investigation of HA-173 included a literature review, site reconnaissance and site investigation sampling. Based on the analytical results that indicate no residue of explosive compounds in soil, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p>
<p>Parcel L4.2 – 7.032-acre development parcel to be transferred to the City of</p>	<p>229 - CERFA Uncontaminated</p>	<p>1</p>	<p>For the BRA, MRS-43A was identified as HA-173. The investigation of HA-173 included a literature review, site reconnaissance and site investigation sampling. Based on the analytical results that indicate munitions constituents (e.g.</p>



Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
Monterey. Small portion lies within MRS-43A (see Table 6 – Notification of MEC). No buildings or structures are on the parcel.			explosive residues) were not in soil, the BRA recommended no further action ( <i>MACTEC/Shaw, 2005</i> ).
Parcel L5.9.2 – 3.218-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.	4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO	4	Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.  For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site ( <i>MACTEC/Shaw, 2005</i> ). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).
Parcel L6.1 – 13.27-acre habitat reserve parcel to be transferred to FORA. No buildings or structures are on the parcel. Lies adjacent to MRS-43, which was reportedly used as a backstop for rifle grenades and shoulder-launched projectiles in the early 1940s.	229 - CERFA Uncontaminated	1	See Table 6 – Notification of MEC.
Parcel L20.2.2 – 115.774-acre development parcel with a habitat corridor to be transferred to Monterey County. Includes campground called the Travel Camp, and portion of a small arms range. Buildings and structures on parcel were used for range support (414 and 417), recreation (456 and 457) and a latrine (465). Includes portions of two MRSs	65 and 67 – CERFA Disqualified, petroleum storage and hazardous release; 175 – CERFA Qualified, Probable UXO; 226 - CERFA Uncontaminated	4	The IA at IRP Site 39A (East Garrison Ranges) was completed in 1998 and included the removal of soils containing lead, arsenic, and PAHs exceeding PRGs, resulting from accumulation of expended small arms ammunition, lead shot and clay target debris in four study areas. Study Area 2 and Study Area 3 are located on Parcel L20.2.2. Based on results of site investigation, IA was proposed at Study Area 2 and no further work was recommended for Study Area 3. IA at Study Area 2 included removal of surface soil containing expended small arms ammunition in two localized areas containing 1% to 10% surface coverage on backstop area of range. Site 39A IA Confirmation Report submitted to regulatory agencies in October 1998. USEPA concurred no further action is necessary at Site 39A in a letter dated February 2, 2002. In a letter dated March 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination of Site 39A.

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>identified during archives search, MRS-5 and MRS-45A (see Table 6 – Notification of MEC).</p>			<p>Under the BRA, the small arms ammunition firing ranges within Parcel L20.2.2 were identified as HA-77 and HA-88. The evaluation of HA-77 under the BRA included a literature review and site reconnaissance. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed, the BRA recommended no further action at HA-77 (<i>MACTEC/Shaw, 2005</i>).</p> <p>The evaluation of HA-88 under the BRA included a literature search and a review of the information gathered during a prior remedial action (IA Site 39A). During the IA, Site 39A was divided into Study Areas. A portion of Study Area 2 that includes HA-88 was located within Parcel L20.2.2. The historical area was mapped and sampled and soil containing metals (primarily lead) at concentrations exceeding the IA ROD PRGs was excavated and removed (<i>HLA, 1998</i>). The USEPA concurred that the remedial action objectives have been met and no further action is required at Site 39A – East Garrison Ranges, in a letter dated February 5, 2002. In a letter dated March 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination at Site 39A. Because HA-88 was remediated, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>The evaluation of HA-95 (MRS-5) included a literature search and review of the information gathered during the reconnaissance of adjacent HA-77, HA-80 and HA-85. Portions of HA-95 were walked as part of the reconnaissance of adjacent sites. Based on the review of the data, the BRA recommended no further action related to chemical contamination for HA-95 (<i>MACTEC/Shaw, 2005</i>). The potential for lead contamination related to small arms use in the area was evaluated as part of the HA-77 through HA-89 investigations.</p> <p>The evaluation of HA-175 (MRS-45) included a literature search, review of the information gathered during the munitions response, and reconnaissance of the site. No evidence of small arms ammunition, targets or MEC-related items were observed. Several fighting positions were observed. Because no evidence of a range or concentrated areas of military munitions were found at this site, the BRA recommended no further action related to chemical contamination for HA-175 (<i>MACTEC/Shaw, 2005</i>).</p> <p>Buildings 414, 417, 456, and 465 contain non-friable ACM (see Table 7). Buildings 414, 417, and 456 are presumed to contain LBP.</p>
<p>Parcel L20.2.3.1 – 29.127-acre development parcel with a habitat corridor to be transferred to Monterey County. No</p>	<p>226 - CERFA Uncontaminated</p>	<p>3</p>	<p>The evaluation of HA-95 (MRS-5) included a literature search and review of the information gathered during the reconnaissance of adjacent HA-77, HA-80 and HA-85. Portions of HA-95 were walked as part of the reconnaissance of adjacent sites. Based on the review of the data, the BRA recommended no further action related to chemical</p>

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Condition Category <sup>1</sup>	Remedial Actions <sup>14</sup>
<p>buildings or structures on the parcel. This parcel includes portions of three MRSs that were identified during the archives search, including MRS-5, MRS-27F and MRS-59B (see Table 6 – Notification of MEC).</p>			<p>contamination for HA-95 (<i>MACTEC/Shaw, 2005</i>). The potential for lead contamination related to small arms use in the area was evaluated as part of the HA-77 through HA-89 investigations.</p> <p>The evaluation of HA-138 (MRS-27F) included a literature search and site reconnaissance. No small arms ammunition, fighting positions, or MEC-related items were observed. Because no evidence of a range or stained soil was observed, the BRA recommended no further action related to chemical contamination for HA-138 (<i>MACTEC/Shaw, 2005</i>).</p> <p>MRS-59A and MRS-59B were evaluated under the BRA as MRS-59. For the BRA MRS-59 was identified as HA-189. The evaluation of HA-189 included a literature search and reconnaissance of the site. No evidence of small arms ammunition, targets or MEC-related items were observed. One fighting position was observed, however. Access to the southern portion of HA-189 was limited to trails and roads due to dense vegetation. Because no target locations or concentrated areas of military munitions were found at this site, the BRA recommended no further action related to chemical contamination for HA-189 (<i>MACTEC/Shaw, 2005</i>).</p>
<p>Parcel L20.17.2 – 8.263-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. This parcel lies partially within MRS-2 (see Table 6 – Notification of MEC) and overlies the OU2 groundwater plume.</p>	<p>4 - CERFA Disqualified, OU2 groundwater plume, Probable UXO</p>	<p>4</p>	<p>Migration of groundwater plume containing VOCs at concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully January 4, 1996.</p> <p>For the BRA, MRS-2 was identified as HA-91. No evidence of chemical training in the area was identified during the munitions response; however, the site was not identified for no action because the available data was insufficient for determining whether chemicals related to training, such as CAIS, remain on site (<i>MACTEC/Shaw, 2005</i>). HA-91 was further evaluated in conjunction with the munitions response program (see MRS-2 in Table 6 – Notification of MEC).</p>
<p>Parcel L20.19.1.2 – 3.262-acre portion of Barloy Canyon Road and associated right-of-way to be transferred to FORA. No buildings or structures are on the parcel. Lies within East Garrison Area 2 (EGA2, see Table 6 – Notification of MEC), and adjacent to IRP Site 31, MRS-5, MRS-59A, MRS-59, and EGA 4 NE.</p>	<p>226 - CERFA Uncontaminated; 90 – Qualified, Probable UXO (adjacent); 184 – Disqualified, Probable hazardous release and UXO and Qualified, suspected radiological storage (adjacent)</p>	<p>1</p>	<p>A portion of HA-78 (Light Machine Gun Range) overlies this parcel. The evaluation of HA-78 included a literature review, site reconnaissance and site investigation sampling. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed and because soil sample results were below Fort Ord maximum background values, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p>

Table 1 – Description of Property

<p>Parcel L23.3.2.2 – 63.689-acre development parcel to be transferred to FORA. Includes buildings and structures used for latrines (4A14, 4A74, 4B63, and 650), relocatable storage (R062), operations general purpose (656, 659, and 660), and covered training areas (657 and 658). This parcel includes IRP Site 31 and lies within East Garrison Area 2 (EGA2, see Table 6 – Notification of MEC).</p>	<p>69 – CERFA Disqualified, IRP Site 31 (adjacent)</p>	<p>4</p>	<p>A release occurred at IRP Site 31, the former East Garrison Dump Site. Remediation included the excavation and removal of unincinerated and incinerated debris containing lead. USEPA and DTSC concurred no further remedial action is necessary in letters dated September 20, 1999 and June 28, 2006, respectively. In its letter, the DTSC requested long-term management in the form of a land used covenant prohibiting excavation, exposure of the soil, or use of the area as part of any residential development be completed.</p> <p>A portion of HA-78 (Light Machine Gun Range) overlies this parcel. The evaluation of HA-78 included a literature review, site reconnaissance and site investigation sampling. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed and because soil sample results were below Fort Ord maximum background values, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>Buildings 4A14, R062, 4A74, 650, 657, 658, 659, and 660 contain non-friable ACM (see Table 7). Buildings 4A14, R062, 4A74, 650, and 660 are presumed to contain LBP.</p>
<p>Parcel L23.3.3.1 – 57.646-acre development parcel to be transferred to FORA. Includes buildings and structures used as a fire station/water pump (122), range support (401, 415, 416, and 419), and latrines (413 and 418). This parcel includes portions of IRP Site 39A, MRS-5 and MRS-59A (see Table 6 – Notification of MEC).</p>	<p>67 – CERFA Disqualified, hazardous release; 175 – CERFA Qualified, Probable UXO;</p>	<p>4</p>	<p>This parcel includes several historic small arms ammunition firing ranges. An initial IA at Site 39A (East Garrison Ranges) was completed in 1998 and included the removal of soils containing lead, arsenic, and PAHs exceeding PRGs, resulting from accumulation of expended small arms ammunition, lead shot and clay target debris in four study areas. Only Study Area 1 is located on Parcel L23.3.3.1. The IA at Study Area 1 included removal of surface soil containing expended small arms ammunition in front of the range firing lines to a distance of 20 feet downrange, backstop areas, and a narrow band at the 25-meter and 50-meter target row locations. The Site 39A IA Confirmation Report was submitted to the regulatory agencies in October 1998. The USEPA concurred that no further action is necessary at Site 39A in a letter dated February 2, 2002. In a letter dated March 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination at Site 39A.</p> <p>Under the BRA, the small arms ammunition firing ranges within Parcel L23.3.3.1 were identified as HA-79 through HA-87. The evaluation of HA-79 (East Garrison .22 Caliber Range) included a literature review, site reconnaissance and site investigation and site characterization sampling. Lead, copper and antimony were detected at concentrations below the Fort Ord PRGs and no areas were identified that contain lead above the NoFA ROD cleanup level. The BRA recommended no further action because all analytical results showed lead concentrations below the IA ROD PRG of 240 mg/kg (<i>MACTEC/Shaw, 2005</i>).</p> <p>The evaluation of HA-81 through HA-84, HA-86 and HA-87 under the BRA included a literature search and a review of the information gathered during a prior remedial action (IA Site 39A). During the IA, Site 39A was divided into Study Areas.</p>

Table 1 – Description of Property

			<p>Study Area 1 was located within Parcel L23.3.3.1. HA-81 through HA-84, HA-86, and HA-87 were located within Study Area 1 (<i>MACTEC/Shaw, 2005</i>). These historical areas were mapped and sampled and soil containing metals (primarily lead) at concentrations exceeding the IA ROD PRGs was excavated and removed (<i>HLA, 1998</i>). The USEPA concurred that the remedial action objectives have been met and no further action is required at Site 39A – East Garrison Ranges, in a letter dated February 5, 2002. In a letter dated March 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination at Site 39A. Because HA-81 through HA-84, HA-86 and HA-87 were remediated, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>A follow-up IA has been completed at HA-80 and HA-85, two former small arms ammunition firing ranges located within Parcel L23.3.3.1 adjacent to Study Area 1. These ranges were identified during the historical literature search performed during the BRA. The IA included the removal of approximately 600 cubic yards of shallow soil containing lead at HA-80 and HA-85. The DTSC and the USEPA concurred that no further action is necessary at HA-80 and HA-85 in letters dated April 17, 2006 and May 25, 2006, respectively.</p> <p>MRS-59A and MRS-59B were evaluated under the BRA as MRS-59. For the BRA MRS-59 was identified as HA-189. The evaluation of HA-189 included a literature search and reconnaissance of the site. No evidence of small arms ammunition, targets or MEC-related items were observed. One fighting position was observed. Access to the southern portion of HA-189 was limited to trails and roads due to dense vegetation. Because no target locations or concentrated areas of military munitions were found at this site, the BRA recommended no further action related to chemical contamination for HA-189 (<i>MACTEC/Shaw, 2005</i>).</p> <p>A portion of HA-78 (Light Machine Gun Range) overlies this parcel. The evaluation of HA-78 included a literature review, site reconnaissance and site investigation sampling. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed and because soil sample results were below Fort Ord maximum background values, the BRA recommended no further action (<i>MACTEC/Shaw, 2005</i>).</p> <p>Buildings 122, 401, 413, 415, 416, and 418 contain non-friable ACM (see Table 7). Buildings 401, 413, 415, 416, and 418 are presumed to contain LBP.</p>
<p>Parcel L23.3.3.2 – 31.617-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. This parcel lies to the south of IRP</p>	<p>226 - CERFA Uncontaminated;</p>	<p>1</p>	<p>USEPA concurred CERFA Parcel 226, which includes this parcel, was uncontaminated; however, a small portion of IRP Site 39A, East Garrison Ranges, overlaps this parcel. A release at IRP Site 39A occurred in the target areas of the former small arms ranges (Interim Action Site 39A) approximately 700 feet to the northwest and outside of this parcel.</p> <p>A portion of HA-78 (Light Machine Gun Range) overlies this parcel. The evaluation of HA-78 included a literature review,</p>

Table 1 – Description of Property

Site 39A. Includes a portion of East Garrison Area 2 (EGA2, see Table 6 – Notification of MEC).			site reconnaissance and site investigation sampling. Because no concentrations of spent small arms ammunition or concentrations of military munitions were observed and because soil sample results were below Fort Ord maximum background values, the BRA recommended no further action ( <i>MACTEC/Shaw, 2005</i> ).
Parcel L23.5.2 – 14.52-acre development parcel to be transferred to Monterey Peninsula College. No buildings or structures are on the parcel. Includes a portion of a former “Field Battalion Training Area” or “Firing Battery Training Area” (FBTA).	226 - CERFA Uncontaminated; 117, 132 - Qualified Probable ACM and LBP	1	See FBTA description in Table 6 – Notification of MEC. Parcel partly overlapped by CERFA Parcel 117. EPA unable to concur with “uncontaminated” property determination because a facility within the parcel was designated “LPG Storage” (liquid propane gas storage), which indicated storage of petroleum products for one year or more. The portion of CERFA Parcel 117 within Parcel L23.5.2 does not include the LPG storage facility. Based on this information, Parcel L23.5.2 meets the definition of CERFA Uncontaminated property.
Parcel L35.4 – 1.094-acre development parcel to be transferred to Marina Coast Water District. Contains water storage Tank 460. This parcel lies partially within MRS-45A (see Table 6 – Notification of MEC).	226 - CERFA Uncontaminated	1	The evaluation of HA-175 (including MRS-45A) included a literature search, review of the information gathered during the munitions response, and reconnaissance of the site. No evidence of small arms ammunition, targets or MEC-related items were observed. Several fighting positions were observed. Because no evidence of a range or concentrated areas of military munitions were found at this site, the BRA recommended no further action related to chemical contamination for HA-175 ( <i>MACTEC/Shaw, 2005</i> ).

<sup>1</sup> Environmental 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.

**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 2 – Track 0 Plug-In Parcels, Track 1 Plug-In Parcels and Associated Track 1 Sites

Parcel Number	Approximate Total Parcel Acreage	Track 1 Sites Overlapping the Parcel	Sites Adjacent to the Parcel	Approximate Parcel Acreage Outside Track 1 Sites <sup>15</sup>	Approximate Parcel Acreage Within Track 1 Sites <sup>16</sup>
Track 0 Plug-In Parcels and Associated Track 1 Sites					
E2c.4.3	3	MRS-2	--	0.8	2.2
E2d.3.2	22	MRS-2	--	6	16
L5.9.2	3	MRS-2	--	0.5	2.5
L20.17.2	8	MRS-2	--	7.5	0.5
L35.4	1	MRS-45A	MRS-45	0.8	0.2
L20.2.2	116	MRS-5, MRS-45A	MRS-45, MRS-59A, MRA-59B	103	13
L20.2.3.1	29	MRS-5, MRS-27F, MRS-59B	MRS-27E, MRS-59A, MRS-59	20	9
L23.3.3.1	58	MRS-5, MRS-59A	East Garrison Area 2, MRS-59	20	38
E20c.1.3	10	--	MRS-15SEA.2, MRS-15SEA.3	10	0
L4.1	18	MRS-43A	MRS-15DRO.1, MRS-15DRO.2	0.5	17.5
L4.2	7	MRS-43A	MRS-15DRO.1, MRS-15DRO.2	6	1

<sup>15</sup> 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 D* (December 13, 2005), or the *Track 0 Approval Memorandum, East Garrison Area 1* (December 2003).

<sup>16</sup> 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, Multiple Sites, Groups 1-5* (December 27, 2005), or the *Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE* (December 19, 2005).

Table 2 – Track 0 Plug-In Parcels, Track 1 Plug-In Parcels  
and Associated Track 1 Sites

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
Track 1 Parcels and Associated Track 1 Sites <sup>17</sup>					
E2c.4.1.2	1	MRS-2	--	0	1
E2c.4.2.2	2	MRS-2	--	0	2
E2c4.4	1	MRS-2	--	0	1
L2.2.2	5	MRS-2	--	0	5
E20c.1.1.1	83	First Tee	MRS-24A, MRS-15SEA.3, MRS-15SEA.4	0	83
L23.5.2	14	Field Battery Training Area	MRS-49, MRS-50EXP	0	14
E29a.1	5	MRS-15DRO.1A	MRS-15DRO.1	0	5
L6.1	13	L6.1 <sup>18</sup>	MRS-43, MRS-15DRO.1, MRS15DRO.1A	0	13
E29.2	12	MRS-43A	MRS-43, MRS-15DRO1	0	12
E29b.2	31	MRS-15MOCO.1, MRS-15DRO.2	MRS-46, MRS-15BLM	0	31
L3.2	101	MRS-46	MRS-15MOCO.1, MRS-15BLM	0	101
E11b.6.3	8	East Garrison Area 2	MRS-59, MRS-59A	0	8
E11b.7.2	66	East Garrison Area 2	East Garrison Area 4 NE	0	66
E11b.7.1.2	7	East Garrison Area 4 NE, MRS-33	MRS-23, MRS-60, East Garrison Area 2	0	7
L20.19.1.2	3	East Garrison Area 2	MRS-5 MRS-59A	0	3

<sup>17</sup> 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), and the *Track 1 Plug-In Approval Memorandum, Multiple Sites, Group 1-5* (December 27, 2005), or the *Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE* (December 19, 2005).

<sup>18</sup> Parcel L6.1 is not a Track 1 Site, but was evaluated as a Track 1 area because of its proximity to adjacent sites.



Table 2 – Track 0 Plug-In Parcels, Track 1 Plug-In Parcels  
and Associated Track 1 Sites

<b>Parcel Number</b>	<b>Approximate Total Parcel Acreage</b>	<b>Track 1 Sites Overlapping the Parcel</b>	<b>Sites Adjacent to the Parcel</b>	<b>Approximate Parcel Acreage Outside Track 1 Sites</b>	<b>Approximate Parcel Acreage Within Track 1 Sites</b>
L23.3.2.2	63	East Garrison Area 2	MRS-5, MRS-59A, East Garrison Area 4 NE	0	63
L23.3.3.2	32	East Garrison Area 2	MRS-5, MRS-59, MRS-59A	0	32

Table 3 – Applicable Decision Documents by Parcel

Parcel Number	Applicable Decision Documents Supporting Determination of Suitability to Transfer
E2c.4.1.2	<ul style="list-style-type: none"> <li>• Final Community Environmental Response Facilitation Act (CERFA) Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E2c.4.2.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E2c.4.3	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Final Record of Decision, No Action Regarding Ordnance-Related Investigation (Track 0 ROD [2002])</li> <li>• Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E2c.4.4	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E2d.3.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Final Basewide Remedial Investigation Sites ROD (Basewide ROD [1997])</li> <li>• Remedial Action Confirmation Report And Post-Remediation Screening Risk Assessment, Sites 16 and 17 (1999)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>

Table 3 – Applicable Decision Documents by Parcel

<b>Parcel Number</b>	<b>Applicable Decision Documents Supporting Determination of Suitability to Transfer</b>
L2.2.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L20.17.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Demonstration that Remedial Action is “Operating Properly and Successfully” Sites 2/12 Groundwater Remedy (2002)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L5.9.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Fort Ord – CERCLA §120(h)(3) Transfer of Property Overlying OU-2 (Landfills) Groundwater Plume (1996)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E29a.1	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L6.1	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E29.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E29b.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L4.1	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> </ul>

Table 3 – Applicable Decision Documents by Parcel

Parcel Number	Applicable Decision Documents Supporting Determination of Suitability to Transfer
	<ul style="list-style-type: none"> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L4.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E20c.1.1.1	<ul style="list-style-type: none"> <li>• CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E20c.1.3	<ul style="list-style-type: none"> <li>• CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 0 ROD (2002)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> </ul>
L23.5.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
E11b.6.3	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
E11b.7.1.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Interim Action ROD, Contaminated Surface Soil Remediation (IAROD [1994])</li> <li>• Interim Action Confirmation Report, Site 41 – Crescent Bluff Fire Drill Area (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
E11b.7.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
L3.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L20.2.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• IAROD (1994)</li> <li>• MCDOH Closure Letter, USTs 456.1 and 456.2 (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Interim Action Confirmation Report, Site 39A – East Garrison Ranges (1998)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 0 ROD (2002)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>
L20.2.3.1	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Track 0 ROD (2002)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> </ul>

Table 3 – Applicable Decision Documents by Parcel

<b>Parcel Number</b>	<b>Applicable Decision Documents Supporting Determination of Suitability to Transfer</b>
	<ul style="list-style-type: none"> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
L20.19.1.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
L23.3.2.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Remedial Action Confirmation Report, Site 31 Remedial Action, Basewide Remediation Sites (1999)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
L23.3.3.1	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• IAROD (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Track 0 ROD (2002)</li> <li>• Track 0 Approval Memorandum, East Garrison Area 1 (2003)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> <li>• Interim Action Confirmation Report, IA Areas 39A HA-80 and 39A HA-85, Site 39A East Garrison Ranges (2006)</li> </ul>
L23.3.3.2	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (2006)</li> </ul>
L35.4	<ul style="list-style-type: none"> <li>• Final CERFA Report (1994)</li> <li>• Basewide ROD (1997)</li> <li>• Track 0 ROD (2002)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels, Group B (2005)</li> <li>• Final Comprehensive Basewide Range Assessment Report (2005)</li> <li>• Track 1 ROD (2005)</li> <li>• Track 0 Plug-In Approval Memorandum, Selected Parcels – Group D (2006)</li> <li>• Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 – 5 (2006)</li> </ul>

Table 4 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
<p>Parcels E2c.4.1.2, E2c.4.2.2, Ec.4.3, E2c.4.4, E2d.3.2, L2.2.2, L5.9.2, L20.17.2</p>	<p>Benzene (71432); Carbon tetrachloride (56235); Chloroform (67663); 1,1-dichlorethane (75343); 1,2-dichlorethane (107062); cis-1,2-dichlorethane (156605); 1,2-dichlorpropene (78875); dichloromethane (75092); tetrachloroethene (127184); trichloroethene (79016); vinyl chloride (75014)</p>	<p>1956-2002</p>	<p>Release of volatile organic compounds (VOCs) from Operable Unit 2 (OU2) Fort Ord Landfills; Solid Waste Management Unit (SWMU) FTO-002. Migration of groundwater plume containing VOCs at concentrations exceeding Maximum Cleanup Levels (MCLs) from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully in letters dated January 4, 1996 and September 20, 2002.</p>
<p>Parcel E2d.3.2</p>	<p>Tetrachloroethene (127184); trichloroethene (79016); pentachlorophenol (87865); 4,4-DDT (50293); xylenes (13330207); copper (7440508); lead (7439921); cadmium (7440439); zinc (7440666); hydrocarbons, dioxins, and oil and grease.</p>	<p>1950s-1994</p>	<p>IRP Site 16 (SWMU FTO-062). Excavation and removal of debris and soil containing hydrocarbons, VOCs, SOCs, dioxins, pesticides, oil and grease, and metals related to past dumping and releases. Agency concurrence of no further remedial action was granted by the USEPA on September 20, 1999 and by the DTSC on June 3, 1999.</p>
<p>Parcel E11b.7.1.2</p>	<p>Toluene (108883); pentachlorophenol (87865); dioxins; arsenic (7440382); beryllium (7440417); cadmium (7440439); total chromium (7440473); copper (7440508); lead (7439921); nickel (744020); selenium (7782492); silver (7440224); thallium (7440280); zinc</p>	<p>Possibly the 1940s and 1950s</p>	<p>IRP Site 41. The interim action (IA) at IRP Site 41 (Crescent Bluff Fire Drill Area) included the excavation and removal of approximately 76 cubic yards of soil from three former burn pits. Results of the confirmation sampling indicated soils with chemical concentrations above the target cleanup concentrations were removed. Results of the confirmation sampling and subsequent risk evaluation indicated that no further threat to human health, the environment, or groundwater was anticipated and no further investigation or remediation was recommended. USEPA concurred that no further action was necessary at Site 41 in a letter dated April 14, 1997, and the DTSC concurred in a letter dated March 10, 2006. The boundary of IRP Site 41 overlaps Parcel</p>

Table 4 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
	(7440666)		E11b.7.1.2; however, the IA occurred outside of the parcel.
Parcel L20.2.2	Lead (7439921); copper (7440508); antimony (7440360)	1930s to 1993	IRP Site 39A. The initial IA at IRP Site 39A (East Garrison Ranges) was completed in 1998 and included the removal of soils containing lead, arsenic, and PAHs exceeding PRGs, resulting from accumulation of expended small arms ammunition, lead shot and clay target debris in four study areas. Study Area 2 and Study Area 3 are located on Parcel L20.2.2. Based on the results of the site investigation, IA was proposed at Study Area 2 and no further work was recommended for Study Area 3. IA at Study Area 2 included removal of surface soil containing expended small arms ammunition in two localized areas containing 1% to 10% surface coverage on the backstop area of the range. The Site 39A IA Confirmation Report was submitted to the regulatory agencies in October 1998. The USEPA concurred that no further action is necessary at Site 39A in a letter dated February 2, 2002. In a letter dated Mach 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination at Site 39A.
Parcel L23.3.3.1	Lead (7439921); copper (7440508); antimony (7440360)	1930s to 1993	<p>IRP Site 39A (Study Area 1). Study Area 1 lies within Parcel L23.3.3.1. The IA at Study Area 1 included the removal of surface soil containing lead from expended small arms ammunition in five localized areas containing 1% to 10% surface coverage. The Site 39A IA Confirmation Report was submitted to the regulatory agencies in October 1998. The USEPA concurred that no further action is necessary at Site 39A in a letter dated February 2, 2002. In a letter dated Mach 10, 2006, the DTSC stated that their concerns had been adequately addressed regarding chemical contamination at Site 39A.</p> <p>IRP Site 39A, HA-80 and HA-85. The IA at HA-80 and HA-85 included the removal of shallow soil (1 to 2 feet) containing lead, copper and antimony from expended small arms ammunition at concentrations exceeding target cleanup concentrations. Approximately 600 cubic yards was removed in three localized areas. The DTSC and USEPA concurred that no further action is necessary at Site 39A HA-80 and 39A HA-85 in letters dated April 17, 2006 and May 25, 2006 respectively.</p>

Table 4 – Notification of Hazardous Substance Storage, Release, or Disposal

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
Parcel L23.3.2.2	Arsenic (7440382); antimony (7440360); cadmium (7440439); copper (7440508); lead (7439921); dieldrin (60571); endrin (&2208); gamma-BHC (58899); heptachlor (76448); 4,4'-DDE (72559); 4,4'-DDT (50293); dioxins/furans; diesel; polynuclear aromatic hydrocarbons	1940s through 1950s	IRP Site 31 (SWMU FTO-070). One soil remedial unit (SRU) was identified as requiring remediation at Site 31 (East Garrison Dump Site). Remediation of SRU 31 included the excavation and removal of approximately 1,500 cubic yards of un-incinerated and incinerated debris and soil containing lead. The Site 31 Remedial Action Confirmation Report and Post-Remediation Risk Assessment were submitted to the regulatory agencies in April 1999. Agency concurrence of no further remedial action was granted by the DTSC on June 1, 2006 and by the USEPA on September 20, 1999. In its letter, the DTSC requested that long-term management in the form of a land use covenant (LUC) be completed prohibiting excavation, exposure of the soil, or use of the area as part of any residential development. This LUC will be recorded with the deed for Parcel L23.3.2.2.

\* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or ‘Superfund’) 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance’s CERCLA reportable quantity (which ever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.



Table 5 – Notification of Petroleum Product Storage,  
Release, or Disposal

Tank Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
456.1 (Parcel L20.2.2)	Kerosene	Undocumented	No remedial action necessary. 1,000-gallon UST removed in 1991. No evidence of a release was observed. Closure granted by the MCDOH in April 1994.
456.2 (Parcel L20.2.2)	Diesel	Undocumented	No remedial action necessary. 2,000-gallon UST removed in 1991. No evidence of a release was observed. Closure granted by the MCDOH in April 1994.
122A (Parcel L23.3.3.1)	Diesel	315-gallon active AST installed in 1995. No evidence of petroleum release.	None Necessary
122B (Parcel L23.3.3.1)	Diesel	315-gallon active AST installed in 1995. No evidence of petroleum release.	None Necessary

Table 6 – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
<p>MRS-2 (Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L.5.9.2, and L20.17.2)</p>	<p>Munitions Debris (MD)</p>	<p>None</p>	<p>MRS-2 was identified during the Fort Ord Archives Search as a chemical warfare training area and a landmine warfare training area. Results of the Archives Search Report (ASR) also indicated that MRS-2 was not an impact area. During the ASR, it was reported that Chemical Agent Identification Sets (CAIS) may have been buried in the site vicinity along Imjin Road. In 1994, a munitions response was conducted and twenty 100-foot by 100-foot grids were sampled to a depth of 4 feet. Two munitions debris items were found (a practice grenade and a practice bomb) and removed during grid sampling.</p> <p>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. The 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 was found during sampling. The burial area within MRS-2 (Pete’s Pond) is a Special Case Track 0 area as described in the Track 0 ROD (<i>Army, 2002</i>).</p> <p>MRS-2 was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and sampling conducted at this site found no evidence of past training involving military munitions. There are unconfirmed reports this site was used for chemical warfare and landmine training; however, no mines or chemical warfare materials (i.e., CAIS) have been found during sampling and site walks conducted at MRS-2 and the site vicinity. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation is required at MRS-2 (<i>Army, 2006c</i>) and the USEPA and DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p> <p>Portions of Parcels E2c.4.3, E2d.3.2, L.5.9.2, and L20.17.2 are outside of MRS-2 and were evaluated in the MR RI/FS as Track 0 Plug-In parcels. The Track 0 PAM, Group D, determined that MEC are not likely to be present on these parcels (<i>Army, 2006a</i>) and the USEPA and the DTSC concurred in letters dated June 27, 2006 and July 12, 2006, respectively.</p>
<p>MRS-5 (Parcels L20.2.3.1 and L23.3.3.1)</p>	<p>MD</p>	<p>None</p>	<p>MRS-5 was evaluated in the Track 1 OE RI/FS as a Track 1 site. The Track 1 OE RI/FS recommended no further action at MRS-5 (<i>MACTEC, 2005</i>). In accordance with the Track 1 ROD, no further action related to MEC is required for this site (<i>Army, 2005a</i>).</p>
<p>MRS-27F and MRS-59B (Parcel L20.2.3.1)</p>	<p>MD</p>	<p>1940s through the 1980s</p>	<p>MRS-27F and MRS-59B were evaluated in the MR RI/FS as a Track 1 Plug-In sites. Historical research and field investigations (site walks) conducted at MRS-27F and MRS-59B identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury.</p>

Table 6 – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at MRS-27F and the portion of MRS-59B overlapping Parcel L20.2.3.1 is required ( <i>Army, 2006c</i> ) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.
MRS-43A (Parcel E29.2, L4.1 and L4.2)	None	Unknown	MRS-43A was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigations (site walks and sampling) conducted on these parcels found no evidence to indicate military munitions were used. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at MRS-43A is required ( <i>Army, 2006c</i> ) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.
MRS-45A (Parcel L20.2.2 and L35.4)	None	1950s through the 1970s	<p>MRS-45A was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigations (site walks and sampling) conducted at MRS-45A identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at MRS-45A is required (<i>Army, 2006c</i>) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p> <p>The portions of Parcel L35.4 outside of MRS-45A were evaluated in the MR RI/FS as either Group B or Group D Track 0 Plug-In parcels. The Track 0 PAM, Group B, determined that MEC are not likely to be present on a portion of Parcel L35.4 (<i>Army, 2005d</i>) and the USEPA and the DTSC concurred in letters dated June 7, 2005 and June 23, 2005, respectively. The Track 0 PAM, Group D, also determined that MEC are not likely to be present on the remaining portion of Parcel L35.4 (<i>Army, 2006a</i>) and the USEPA and the DTSC concurred in letters dated June 27, 2006 and July 12, 2006, respectively.</p>
MRS-46 (Parcel L3.2)	MEC MD	Unknown	<p>MRS-46 lies within the former Fort Ord Impact Area. No ranges are noted on Fort Ord training maps within this site. The boundary of MRS-46 is coincident with Parcel L3.2 and was developed to support the transfer of the parcel and not on evidence of munitions use. A portion of Parcel L3.2 was leased to York School for construction of an athletic field.</p> <p>Several munitions responses to MEC were conducted at MRS-46, including grid sampling, fuel break clearance, digital geophysical survey within a portion of MRS-46 leased to York School, and surface removal of accessible areas outside of the lease area. MRS-46 is a Track 1, Category 3 site because historical research and field investigations (site walks, sampling, geophysical investigation [31-acre lease area only] and surface removal [accessible areas outside of the 31-acre lease area]) conducted at MRS-46 identified evidence of past training involving only practice and pyrotechnic items not designed to cause injury. Except for the surface removal, all</p>

Table 6 – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			<p>identified anomalies were investigated to a depth of 4 feet, with deeper excavations as approved by the USACE Safety Specialist. No MEC or munitions debris were found during the digital geophysical investigation of the lease area or during the surface removal conducted outside of the lease area. The Army conducted the digital geophysical investigation to support construction of the athletic field within the 31-acre area and not because of the presence of military munitions. MRS-46 is documented in the Track 1 PAM Groups 1-5 as a variant Track 1 site because a digital geophysical investigation was conducted within a 31-acre portion of MRS-46 after completion of 100 percent grid sampling. MRS-46 does not fit the strict definition of a Track 1 site because a removal was performed. The Track 1 PAM Groups 1-5 determined no further military munitions investigation at MRS-46 is required (<i>Army, 2006c</i>) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p>
MRS-59A (Parcel L23.3.3.1)	MD	1940s through the 1980s	<p>The Track 1 OE RI/FS recommended no further action at MRS-59A (<i>MACTEC, 2005</i>). In accordance with the Track 1 ROD, no further action related to MEC is required for this site (<i>Army, 2005a</i>).</p>
MRS-15MOCO.1 (Parcel E29b.2)	None	Unknown	<p>MRS-15MOCO.1 lies within the former Fort Ord Impact Area. The boundary of MRS-15MOCO.1 was developed to support the transfer of Parcel E29b.2 and not on evidence of munitions use. MRS-15MOCO.1 was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigations (site walks and sampling) conducted at this site found no evidence to indicate military munitions were used at this site. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at MRS-15MOCO.1 is required (<i>Army, 2006c</i>) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p>
MRS-15DRO.1A (Parcel E29a.1)	None	Unknown	<p>MRS-15DRO.1A lies within the former Fort Ord Impact Area. The boundary of MRS-15DRO.1A was developed to support the transfer of Parcel E29a.1 and not on evidence of munitions use. MRS-15DRO.1A was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigation (site walks and sampling) conducted at this site found no evidence to indicate military munitions were used at this site. The Track 1 PAM, Groups 1-5 determined no further military munitions investigations at MRS-15DRO.1A is required (<i>Army, 2006c</i>) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p>
MRS-15DRO.2A (Parcel E29b.2)	None	Unknown	<p>The boundary of Parcel E29b.2 was intended to be coincident with MRS-15MOCO.1; however, due to a mapping error, a small portion of Parcel E29b.2 was within MRS-15DRO.2. To facilitate the evaluation for military munitions, the portion of Parcel E29b.2 within MRS-15DRO.2 was renamed MRS-15DRO.2A.</p>

Table 6 – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			<p>The initial evaluation of MRS-15DRO.2 included sampling of the site. The sampling evaluation included a portion of Parcel E29b.2. On the basis of the sampling results, the northern portion of MRS-15DRO.2 was identified for a non-time critical removal action. Upon completion of the removal action, the removal area and the rest of the site, including the portion of Parcel E29b.2 that lies within the southern portion of MRS-15DRO.2 (now MRS-15DRO.2A), was resurveyed using digital geophysical equipment. This evaluation was conducted to support the early transfer of the parcel adjacent to Parcel E29b.2 and not on evidence of the use of military munitions. No MEC or munitions debris were found within Parcel E29b.2 during sampling or during the digital geophysical survey. Historical research and field investigations (sampling and geophysical investigation) conducted at MRS-15DRO.2A found no evidence to indicate military munitions were used at this site. MRS-15DRO.2A is a variant Track 1 site because a digital geophysical investigation was conducted at MRS-15DRO.2A after completion of sampling. The Track 1 PAM, Groups 1-5 determined no further military munitions investigations at MRS-15DRO.2A is required (<i>Army, 2006c</i>) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.</p>
<p>East Garrison Area 2 (Parcels E11b.6.3, E11b.7.2, L20.19.1.2, L23.3.2.2, and L23.3.3.2)</p>	<p>MEC</p>	<p>Unknown</p>	<p>EGA2 was evaluated in the MR RI/FS as a Track 1 Plug-In site (<i>Army, 2005f</i>). Historical research and field investigations (site walks) conducted at EGA2 identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury. The Track 1 PAM, EGA2/4 NE determined no further military munitions investigation at EGA2 is required (<i>Army, 2006b</i>) and the USEPA and the DTSC concurred in letters dated June 1, 2006 and May 30, 2006, respectively.</p>
<p>East Garrison Area 4 Northeast (including MRS-33) (Parcel E11b.7.1.2)</p>	<p>MEC</p>	<p>Unknown</p>	<p>MRS-33 was identified by the Fort Ord federal police, and is represented by a foxhole that contained 374 military munitions items (e.g. blanks and 40mm cartridges). These items were removed.</p> <p>EGA4 NE was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigations (site walks) conducted at EGA4 NE identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury. The Track 1 PAM, EGA2/4 NE determined no further military munitions investigation at EGA4 NE is required (<i>Army, 2006b</i>), and the USEPA and the DTSC concurred in letters dated June 1, 2006 and May 30, 2006, respectively.</p>

Table 6 – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
FBTA (Parcel L23.5.2)	None	1950s	The FBTA (possibly meaning “Field Battalion Training Area” or “Firing Battery Training Area”) was evaluated in the MR RI/FS as a Track 1 Plug-In site. Munitions debris (empty M1 ammunition clip) was found during a field investigation (site walk); however, its presence does not necessarily indicate that training involving military munitions occurred on this parcel. If training did occur, historical research indicates that only practice and pyrotechnic items, which are not designed to cause injury, would have been used in the FBTA. The Track 1 PAM Groups 1-5 determined no further military munitions investigation at the FBTA is required ( <i>Army, 2006c</i> ) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.
Parcel E20c.1.1.1	MD	1950s	Parcel E20c.1.1.1 was evaluated in the MR RI/FS as a Track 1 Plug-In site. Historical research and field investigations (site walks) conducted on Parcel E20c.1.1.1 identified evidence of past training involving only practice and pyrotechnic items that are not designed to cause injury. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at Parcel E20c.1.1.1 is required ( <i>Army, 2006c</i> ) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.
Parcel L6.1	None	Unknown	Parcel L6.1 was evaluated in the MR RI/FS as a Track 1 Plug-In area (Parcel L6.1). Historical research and field investigations (site walks and sampling) conducted on this parcel found no evidence of past training involving military munitions. The Track 1 PAM, Groups 1-5 determined no further military munitions investigation at Parcel L6.1 is required ( <i>Army, 2006c</i> ) and the USEPA and the DTSC concurred in letters dated July 21, 2006 and July 26, 2006, respectively.
<p>*<b>Munitions and Explosives of Concern (MEC).</b> 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 §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.</p>			

Table 7 - Notification of the Presence of Asbestos Containing Material (ACM)

<b>Facility Number(s)</b>	<b>Material</b>
Parcel L23.3.2.2	
4A14	Roof Penetration Mastic
R062	Roof Penetration Mastic
4A74*	Roofing Mastic
650	Roofing Mastic
657	Roof Penetration Mastic, Roofing Mastic
658	Roof Penetration Mastic, Roofing Mastic
659	Window Putty
660	Roofing Mastic
Parcel L23.3.3.1	
122	Roof Penetration Mastic
401	Roof Penetration Mastic
413	Roof Penetration Mastic
415	Roof Penetration Mastic
416	Roof Penetration Mastic
418	Roof Penetration Mastic
Parcel L20.2.2	
414	Joint Compound
417	Roof Penetration Mastic and Textured Paint
456	Resilient Floor Tile, Floor Tile Mastic, and roof Penetration Mastic
465	Roofing Felt
Parcel E2d.3.2	
3280	Friable Caulking/ Sealant. Non-Friable Joint Compound, Resilient Floor Tile, Roof Penetration Mastic, Transite Pipe, Transite Sheet Material, and Window Putty

\*This building was damaged by fire.

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

<b>Issue Area</b>	<b>Impact</b>	<b>Mitigation Measure</b>	<b>How Addressed in FOST<sup>1</sup> and EPPs<sup>2</sup></b>
Land Use	Potential temporary land use conflicts between interim uses allowed by Army and necessary remediation activities.	Limit properties that may be out granted 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 and Table 7 (Attachment 3).  EPPs – 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 – remedial actions on the property are completed or operating properly and successfully and are described in Sections 4.1 and 4.2, and Tables 1 and 3 (Attachment 3). Completed and ongoing remedial actions adjacent to the property are described in Section 5.0.  EPPs – Land Use Restrictions are described in Section 2. Presence of contaminated groundwater disclosed in Section 6. Presence of Fort Ord Landfills disclosed in Section 7.
Munitions and Explosives of Concern (MEC)	Potential risks to public health and safety associated with MEC.	Continue munitions responses to MEC; preparation of engineering evaluations, community education plan, and site maintenance and emergency response plan; and inform property recipients of the potential for MEC to be present.	FOST – Military Munitions Response Program described in Sections 4.9 and 5.0, and Tables 1 and 4 (Attachment 3).  EPPs – 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.  EPPs – HMP protective covenants are given in Section 8.

<sup>1</sup> Finding of Suitability to Transfer (FOST), Track 0 Plug-in Group D and Track 1 Plug-in Parcels.

<sup>2</sup> Environmental Protection Provisions (EPPs), Attachment 5.



**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

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E11b.7.1.2, E29.2, L.2.2.2, L5.9.2, L20.2.2, L20.2.3.1, L20.17.2, L23.3.2.2, and L23.3.3.1:

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 4 – Hazardous Substance, Storage, Release or 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 Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1 – 5 Parcels 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 1 – Description 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 Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1 – 5 Parcels and documents referenced therein.

### 2. CERCLA COVENANT

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E11b.7.1.2, E29.2, L.2.2.2, L5.9.2, L20.2.2, L20.2.3.1, L20.17.2, L23.3.2.2, and L23.3.3.1:

Pursuant to sections 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 or any portion thereof is transferred is a potentially responsible party with respect to the Property or any portion thereof. 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. Further, the Grantor shall not be relieved of any obligation under CERCLA to perform any remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as of the date of this Deed if the Grantee is subsequently determined to be a potentially responsible party with respect to hazardous substances placed on the Property after the date of this Deed.

### 3. CERCLA COVENANT

Applicable to Parcels E11b.6.3, E11b.7.2, E20c.1.1.1, E20c.1.3, E29a.1, E29b.2, L3.2, L4.1, L4.2, L6.1, L20.19.1.2, L23.3.3.2, L23.5.2 and L35.4:

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 or any portion thereof is transferred is a potentially responsible party with respect to the Property or any such portion thereof. 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. Further, the Grantor shall not be relieved of any obligation under CERCLA to perform any remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as of the date of this Deed if the GRANTEE is subsequently determined to be a potentially responsible party with respect to hazardous substances placed on the Property after the date of this Deed.

### 4. 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, related to the Fort Ord Installation Restoration Program (IRP), Military Munitions Response Program (MMRP), or Federal Facilities Agreement (FFA) 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 (USEPA) 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 with regards to implementing the Fort Ord IRP, MMRP, or FFA;
- 2) To conduct any test or survey related to the implementation of the IRP by the USEPA or the DTSC relating to the implementation of the FFA or environmental conditions at Fort Ord, or to verify any data submitted to the USEPA or the DTSC by the Grantor relating to such conditions.

5. "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.

6. 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 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.

## 7. POST-TRANSFER DISCOVERY OF CONTAMINATION

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.

## 8. 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.

### 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), and any amendments thereto, entered into by the United States Environmental Protection Agency Region IX (USEPA), 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 future 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

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L5.9.2, L20.2.2, L20.2.3.1, L20.17.2, L23.3.3.1, and L35.4:

- 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.

**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 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, are restricted from accessing or using 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).



**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 applicable Covenants to Restrict Use of Property (CRUPs). 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 for modifications to the above restrictions to Grantor, the USEPA, 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) USEPA: 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, all of the parcels 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 (EPPs), MEC does not include small arms ammunition (i.e. ammunition .50 caliber or smaller, or for shotguns, with projectiles not containing explosives, other than tracers).

- B. The Property was previously used for a variety of purposes, including operational ranges for live-fire training (small arms ammunition); leadership reaction course; combat leader course; field battalion training; mechanic training; engineering training; field expedient training; and tactical training. Munitions responses were conducted on the Property. Any MEC discovered were disposed of by a variety of methods, including open detonation, either in place or as a consolidated shot, or destroyed using contained detonation. A summary of MEC discovered on the Property is provided in Exhibit \_\_\_ [Include FOST Table 6 – Notification of Munitions and Explosives of Concern (MEC) as a deed exhibit]. Site maps depicting the locations of munitions response sites are provided at Deed Exhibit \_\_\_\_\_.
- C. The Grantor represents that, to the best of its knowledge, no MEC are 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. Per this acknowledgment, and to promote safety, the Grantor provides munitions recognition and safety training to anyone who requests it. 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 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.

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E11b.6.3, E11b.7.2, E20c.1.1.1, L2.2.2, L3.2, L5.9.2, L20.2.2, L20.2.3.1, L20.17.2, L20.19.1.2, L23.3.2.2, L23.3.3.1, L23.3.3.2, L23.5.2, and L35.4:

- D. Because the Grantor cannot guarantee all MEC have 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 explosives safety and munitions recognition training. For specific Track 1 sites and Track 1 areas that overlap the Property (MRS-2, MRS-5, MRS-27F, MRS-45A, MRS-46, MRS-59A, MRS-59B, East Garrison Area 2, FBTA and Parcel E20c.1.1.1), the Grantor recommends construction personnel involved in intrusive operations at these sites attend the Grantor’s explosives safety and munitions recognition training. To accomplish that objective, the Grantee will notify the Grantor of planned intrusive activities. The Grantor will, in turn, provide explosives safety and munitions recognition training to construction personnel prior to the start of any intrusive work, as appropriate. For the Track 1 sites

and Track 1 areas where explosives safety and munitions recognition training is recommended (MRS-2, MRS-5, MRS-27F, MRS-45A, MRS-46, MRS-59A, MRS-59B, East Garrison Area 2, FBTA and Parcel E20c.1.1.1), the Grantor will assess whether the education program should continue during the next five-year review (2007). If information indicates no MEC items have been found in the course of development or redevelopment of the site, it is expected the education program may, with the concurrence of the regulatory agencies, be discontinued, subject to reinstatement if MEC 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 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 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 Track 0 Record of Decision (June 2002), the Track 1 Record of Decision (March 2005), the Track 0 Plug-In Approval Memorandum, Group D Parcels (May 2006); the Track 0 Approval Memorandum, East Garrison Area 1 (December 2003); the Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (March 2006); and the Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 - 5 (July 2006).

#### 4. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

Applicable to Parcels E2d.3.2, L20.2.2, L23.3.2.2, and L23.3.3.1:

- 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 (USEPA) 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.

Applicable to Parcel E2d.3.2:

- B. Building 3280 on the Property has been determined to contain friable asbestos. 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.

Applicable to Parcels E2d.3.2, L20.2.2, L23.3.2.2, and L23.3.3.1:

- 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.

Applicable to Parcels E2d.3.2, L20.2.2, L23.3.2.2, and L23.3.3.1:

- 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

Applicable to Parcels E2d.3.2, L20.2.2, L23.3.2.2, and L23.3.3.1:

- A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, 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 there is a risk of 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 the Property 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 the Property, where its use subsequent to sale 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

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, L2.2.2, L5.9.2, and L20.17.2:

- A. The groundwater beneath portions of the Property is contaminated with volatile organic compounds (VOCs), primarily trichloroethene (TCE). The most recent analytical data available (Report of Quarterly Monitoring, April through July 2006) indicates that Parcel L20.17.2 overlies the OU2 groundwater plume where the concentration of TCE in groundwater equals or exceeds 5.0 micrograms per liter ( $\mu\text{g/L}$ ). For the Property within the OU2 groundwater plume area, the maximum TCE concentration in the groundwater beneath the Property (Parcel L20.17.2) is between 5.0  $\mu\text{g/L}$  and 10  $\mu\text{g/L}$  and depth to groundwater is 117 to 138 feet below ground surface.
- B. The maximum concentrations of the chemicals of concern (associated with the OU2 groundwater plume) detected in the groundwater monitoring wells on the Property (June 2005) are listed below. The quantity released of these compounds is unknown. The OU2

groundwater aquifer cleanup levels (ACLs), presented in the OU2 Fort Ord Landfills Record of Decision (ROD; *July 1994*), are provided for comparison.

### Chemicals of Concern in Groundwater and Aquifer Cleanup Levels (OU2)

Chemical Name	Regulatory Synonym	CASRN*	RCRA Waste Number	Parcel	Well (MW-OU2)	Maximum Concentrations (µg/L)	ACL (µg/L)
Benzene	Benzol	71432	U019	L20.17.2	-51-180	ND	1.0
Carbon Tetrachloride	Methane, tetrachloro-	56235	U211	L20.17.2	-51-180	ND	0.5
Chloroform	Methane, trichloro-	67663	U044	L20.17.2	-51-180	ND	2.0
1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076	L20.17.2	-51-180	ND	5.0
1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077	L20.17.2	-51-180	ND	0.5
Cis-1,2-Dichloroethene	Ethene, 1,2-dichloro(E)	156605	U079	L20.17.2	-51-180	0.3	6.0
1,2-Dichloropropane	Propane, 1,2-dichloro-	78875	U083	L20.17.2	-51-180	ND	1.0
Methylene Chloride	Methane, dichloro-	75092	U080	L20.17.2	-51-180	ND	5.0
Tetrachloroethene	Ethene, tetrachloro-	127184	U210	L20.17.2	-51-180	0.52	3.0
Trichloroethene	Ethene, trichloro-	79016	U228	L20.17.2	-51-180	3.0	5.0
Vinyl chloride	Ethene, chloro-	75014	U043	L20.17.2	-51-180	ND	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 express 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.

Applicable to Parcels L20.2.2, L20.2.3.1, L23.3.3.1, and L35.4:

- 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 USEPA, 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 USEPA, 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 express 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.

## 7. NOTICE OF THE PRESENCE OF THE FORT ORD LANDFILLS

Applicable to Parcel E2c.4.3:

- A. Portions of the Property are located within 1,000 feet of the Fort Ord Landfills. Future landowners should refer to California Integrated Waste Management Board (CIWMB) regulations (Title 27 California Code of Regulations [27CCR], Section 21190), which identify protective measures for structures built on or within 1,000 feet of a landfill. The selected remedial action for the Fort Ord Landfills presented in the OU2 ROD (July 15, 1994) included placement of an engineered cover system over buried refuse, which was completed in December 2002.
- B. 27CCR requires methane concentrations do not exceed the lower explosive limit of 5% at the landfill boundary. In addition, trace gases must be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds. In accordance with 27CCR, methane and volatile organic compounds (VOCs) are monitored at the Fort Ord Landfills boundary and a landfill gas extraction and treatment system is in operation to extract and treat both methane and VOCs where methane would otherwise exceed the 5% standard at the landfill boundary.
- C. The Grantor 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 Fort Ord Landfills. The HHRA determined no further corrective action was necessary to address risks or hazards from VOCs potentially originating from the Fort Ord Landfills. The USEPA provided comments to the Draft HHRA in a letter dated November 8, 2004, in which it concurred that the Fort Ord Landfills are not contributing significantly to VOC concentrations in ambient air downwind of the Fort Ord Landfills. The DTSC provided comments in a memorandum dated November 17, 2004, in which it concurred that risks upwind and downwind of the Fort Ord Landfills are approximately equal.

## 8. NOTICE OF RARE, THREATENED AND ENDANGERED SPECIES MANAGEMENT

Applicable to Parcels E2c.4.1.2, E2c.4.2.2, E2c.4.3, E2c.4.4, E2d.3.2, E20c.1.1.1, E20c.1.3, E29.2, E29a.1, E29b.2, L2.2.2, L4.1, L4.2, L5.9.2, L20.17.2, L20.19.1.2, L23.3.2.2, L23.3.3.1, L23.3.3.2, L23.5.2, and L35.4:

The Grantee acknowledges and agrees to implement the following provisions, as applicable, relative to listed species:

- A. The Property is within a Habitat Management Plan (HMP) Development Area. No resource conservation requirements are associated with the HMP for these parcels. However, small pockets of habitat may be preserved within and around the Property.
- B. The March 30, 1999 Biological and Conference Opinion on the Closure and Reuse of Fort Ord, Monterey County, California (1-8-99-F/C-39R); the October 22, 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); and the March 14, 2005 Biological Opinion for the Cleanup and Reuse of Former Fort Ord, Monterey County, California, as it affects California Tiger Salamander and Critical Habitat for Contra Costa Goldfields Critical Habitat (1-8-04-F-25R) identify sensitive biological



resources that may be salvaged for use in restoration activities within reserve areas, and allows for development of the Property.

- C. The HMP does not exempt the Grantee from complying with environmental regulations enforced by Federal, State, or local agencies. These regulations could include obtaining the Endangered Species Act (ESA) (16 U.S.C. §§ 1531 - 1544 et seq.) Section 7 or Section 10(a) permits from the U.S. Fish and Wildlife Service (USFWS); complying with prohibitions against take of listed animals under ESA Section 9; 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 California ESA, or California Environmental Quality Act (CEQA); and, complying with local land use regulations and restrictions.
- D. The HMP serves as a management plan for both listed and candidate species, and is a prelisting agreement between the USFWS and the local jurisdiction for candidate species that may need to be listed because of circumstances occurring outside the area covered by the HMP.
- E. Implementation of the HMP would be considered suitable mitigation for impacts to HMP species within HMP prevalent areas and would facilitate the USFWS procedures to authorize incidental take of these species by participating entities as required under ESA Section 10. No further mitigation will be required to allow development on the Property unless species other than HMP target species are proposed for listing or are listed.
- F. The HMP does not authorize incidental take of any species listed as threatened or endangered under the ESA by entities acquiring land at the former Fort Ord. The USFWS has recommended that all non-Federal entities acquiring land at former Fort Ord apply for ESA Section 10(a)(1)(B) incidental take permits for the species covered in the HMP. The definition of “take” under the ESA includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Although the USFWS will not require further mitigation from these entities that are in conformation with the HMP, those entities without incidental take authorization would be in violation of the ESA if any of their actions resulted in the take of a listed animal species. To apply for a Section 10 (a)(1)(B) incidental take permit, an entity must submit an application form (Form 3-200), a complete description of the activity sought to be covered by the permit, and a conservation plan (50 CFR 17.22[b]).

Applicable to Parcels E11b.6.3, E11b.7.1.2, E11b.7.2, L3.2, L6.1, L20.2.2, L20.2.3.1, L23.3.2.2, L23.3.3.1, and L23.3.3.2:

- 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, 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 : E11b.6.3, E11b.7.1.2, E11b.7.2, and L6.1;
  - 2) Habitat Corridor with Allowance for Future Development Parcels: L20.2.2 and L20.2.3.1; and
  - 3) Borderland Development Areas along Natural Resource Management Area (NRMA) Interface Parcels: L3.2, L20.2.2, L20.2.3.1, L23.3.3.1, L23.3.2.2, and L23.3.3.2.
- D. Any boundary modifications to 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.

**ATTACHMENT 6**

**DEFINITIONS FOR THE FORMER FORT ORD MUNITIONS RESPONSE REMEDIAL  
INVESTIGATION/FEASIBILITY STUDY PROGRAM AND THE MILITARY  
MUNITIONS RESPONSE PROGRAM**

## **Definitions for the Former Fort Ord Munitions Response Remedial Investigation/Feasibility Study Program**

**Track 0** – areas at the former Fort Ord 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.

**Track 1** – sites at the former Fort Ord where military munitions were suspected to have been used, but based on the results of the MR RI/FS each site 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).

## **Definitions for the Military Munitions Response Program<sup>19</sup>**

**Military Munitions Response Program (MMRP)** – DOD-established program to manage environmental, health, and safety issues presented by munitions and explosives of concern (MEC). Small arms ammunition (i.e. ammunition with projectiles that do not contain explosives, other than tracers, that is .50 caliber or smaller or for shotguns) is not addressed by the Fort Ord MMRP.<sup>20</sup>

**Military Munitions** – All ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the U.S. Coast Guard (USCG), the Department of Energy (DoE), and the National Guard. The term includes confined gaseous, liquid, and solid

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<sup>19</sup> These are concise definitions. The reader is referred to United States Code as referenced in the definitions above for detailed information.

<sup>20</sup> 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.

propellants; explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives, and chemical warfare agents; chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges; and devices and components thereof.

The term does not include wholly inert items; improvised explosive devices; and nuclear weapons, nuclear devices, and nuclear components, other than non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the DoE after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed (10 U.S.C. 101(e)(4)(A) through (C)).

**Military Munitions Burial Site** – A site where military munitions, regardless of configuration, were intentionally buried with the intent to abandon or discard. The term does not include sites where munitions were intentionally covered with earth during authorized destruction by detonation.

**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 (MC), or to support a determination that no removal or remedial action is required.

**Munitions Response Area (MRA)** – Any area on a defense site that is known or suspected to contain UXO, DMM or MC. A munitions response area is comprised of one or more munitions response sites.

**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.

**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



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., target debris, military munitions packaging and crating material).

**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.

**Time Critical Removal Action (TCRA)** – Removal actions where, based on the site evaluation, a determination is made that a removal is appropriate, and that less than 6 months exist before on-site removal activity must begin (40 CFR 300.5).

**ATTACHMENT 7**

**REGULATORY/PUBLIC COMMENTS**

The thirty-day public review period for this FOST was from July 31, 2006 to August 29, 2006. No comments were received from the public. Comments were received during the public review period from the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC; attached).

The DTSC and the United States Environmental Protection Agency (EPA), Region IX, provided additional comments in their concurrence letters (attached) to this FOST. The DTSC referenced and included Table 1 of this FOST with its concurrence letter. Because Table 1 is already provided in Attachment 3 of this FOST, it is not included here with the concurrence letter.

After receipt of the concurrence letters from the DTSC and the EPA, the U.S. Department of the Army (Army) determined that additional minor revisions to this FOST were appropriate. The DTSC and the EPA reviewed the revised FOST and resubmitted concurrence letters (attached). The DTSC provided one additional comment in its concurrence letter. A response to comments on this FOST is provided in Attachment 8.



## Department of Toxic Substances Control

Linda S. Adams  
Secretary for  
Environmental  
Protection

Maureen F. Gorsen, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



Arnold Schwarzenegger  
Governor

August 29, 2006

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

COMMENTS ON FINDING OF SUITABILITY TO TRANSFER, TRACK 0 PLUG-IN GROUP D, TRACK 1 PLUG-IN EAST GARRISON AREAS 2 AND 4 NE, AND TRACK 1 PLUG-IN GROUPS 1 – 5 PARCELS (FOST 10), FORMER FORT ORD, MONTEREY, CALIFORNIA, JULY 2006

Dear Ms. Youngblood:

The Department of Toxic Substances Control (DTSC) has reviewed the Finding of Suitability to Transfer (FOST) Track 0 Plug-In Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1 – 5 Parcels (FOST 10) dated July 2006 for the subject parcels and has the following general comments.

**General Comment 1.** 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. The provisions state 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

Ms. Gail Youngblood  
August 29, 2006  
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Protection Provisions and the State laws and regulations are complied with regarding lead contaminated soil on former Fort Ord.

**General Comment 2.** Please add the following text to Section 3.1 of the FOST for informational purposes:

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. 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.

Please incorporate these revisions into the final document or response appropriately. If you have any questions, please contact me at (916) 255-6403.



Susan Goss  
Remedial Project Manager  
Office of Military Facilities

cc: Mr. Derek Lieberman  
Fort Ord Base Realignment and Closure Office  
Post Office Box 5004  
Monterey, California 93944-5004

Ms. Gail Youngblood  
August 29, 2006  
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cc: Mr. Hunter Harvath, AICP  
Director of Administration  
Monterey-Salinas Transit  
One Ryan Ranch  
Monterey, California 93940

Mr. Michael Houlemard  
Fort Ord Reuse Authority  
100 12<sup>th</sup> Street, Building 2880  
Marina, California 93933

Ms. Claire Trombadore  
United States Environmental Protection Agency  
Region IX  
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San Francisco, California 93944-5004

Mr. David Murray  
Department of Transportation  
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Mr. Grant Himebaugh  
Regional Water Quality Control Board  
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Ms. Gail Youngblood  
August 29, 2006  
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bcc: Mr. Roman Racca, R.G.  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826

Ms. Theresa McGarry  
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Linda S. Adams  
Secretary for  
Environmental  
Protection



## Department of Toxic Substances Control

Maureen F. Gorsen, Director  
8800 Cal Center Drive  
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Arnold Schwarzenegger  
Governor

September 12, 2006

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

APPROVAL OF FINDING OF SUITABILITY TO TRANSFER, TRACK 0 PLUG-IN GROUP D, TRACK 1 PLUG-IN EAST GARRISON AREAS 2 AND 4 NE, AND TRACK 1 PLUG-IN GROUPS 1 - 5 PARCELS (FOST 10), FORMER FORT ORD, MONTEREY, CALIFORNIA, JULY 2006

Dear Ms. Youngblood:

The Department of Toxic Substances Control (DTSC) has reviewed the Final Finding of Suitability to Transfer (FOST) Track 0 Plug-In Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1 – 5 Parcels (FOST 10) dated September 8, 2006, and the response to DTSC's August 29, 2006 comments. The parcels, acreage, intended use and recipient are listed in Table 1, attached.

DTSC has reviewed Final FOST 10 for the subject parcels and concurs that the parcels are suitable to transfer with the following stipulation. Please include the following as an unresolved comment. DTSC believes the recipient must be aware of the State of California position, which is reiterated below.

*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.*



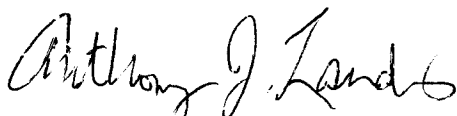
Ms. Gail Youngblood  
September 12, 2006  
Page 2

*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.*

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.

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 Ms. 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. Hunter Harvath, AICP  
Director of Administration  
Monterey-Salinas Transit  
One Ryan Ranch  
Monterey, California 93940

Ms. Gail Youngblood  
September 12, 2006  
Page 3

cc: Mr. Derek Lieberman  
Fort Ord Base Realignment and Closure Office  
Post Office Box 5004  
Monterey, California 93944-5004

Mr. Michael Houlemard  
Fort Ord Reuse Authority  
100 12<sup>th</sup> Street, Building 2880  
Marina, California 93933

Mr. David Murray  
Department of Transportation  
50 Higuera Street  
San Luis Obispo, California 934401-5415

Ms. Claire Trombadore  
United States 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

Ms. Theresa McGarry  
Department of Toxic Substances Control  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826

Ms. Gail Youngblood  
September 12, 2006  
Page 4

bcc: Mr. Roman Racca, P.G.  
Department of Toxic Substances Control  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826



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

October 6, 2006

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

Re: *Finding of Suitability to Transfer (FOST 10)*  
*Former Fort Ord, California*  
*Track 0 Plug-in Group D, Track 1 Plug-in East Garrison Areas 2 and 4 NE,*  
*And Track 1 Plug-in Groups 1-5 Parcels*  
September 2006

Dear Ms. Youngblood:

The U.S. Environmental Protection Agency (EPA) is in receipt of your September 11, 2006 letter requesting EPA concurrence on FOST 10 as referenced above. The Army also informed EPA that no public comments were received on FOST 10 during the 30-day public review and comment period that ended on August 29, 2006.

Pursuant to FOST 10, the Army is proposing to transfer portions of the property under both Sections 120(h)(3) and 120(h)(4) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9620(h)(3) and (4). When entering into a deed for transfer under CERCLA Section 120(h)(3), the Army is required to include in such deed a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the property has been taken before the date of the transfer, and that any additional remedial action found to be necessary after the date of the transfer shall be conducted by the United States. When entering into a deed for transfer under CERCLA Section 120(h)(4), the Army is required to include in such deed a covenant that any additional remedial action or corrective action found to be necessary after the date of transfer shall be conducted by the United States.

In the FOST, the Army designated the following parcels as ECP-1 (uncontaminated): E11b.7.2, E20c.1.1.1, E29a.1, E29b.2, L3.2, and L23.5.2. Without independent investigation or verification of information contained in the documentation, the undersigned concurs with the Army's determination that the parcels designated as ECP-1 meet the criteria for "uncontaminated" property which can be transferred pursuant to 120(h)(4) and that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the other parcels included in FOST 10 has been taken. EPA concurs that

the parcels included in FOST 10 are suitable for transfer. However, we note that there remains an unresolved EPA comment presented in an attachment to this letter. Please note in the body of the FOST that this comment is unresolved and attach the comment to the FOST.

The review of the documentation was completed pursuant to CERCLA Section 120(h)(3) and 120(h)(4), and the sole purpose of this letter is to satisfy the requirements of these provisions. This concurrence shall not be construed in any manner inconsistent with any obligation, right or authority existing under the Fort Ord Federal Facilities Agreement and all amendments thereto, entered into by EPA, the State of California and the Army. The undersigned expressly reserves all rights and authorities relating to information not contained in this FOST and accompanying documentation, whether such information is known as of the date or is discovered in the future.

If you have any questions or comments, please contact Ms. Claire Trombadore of my staff at (415) 972-3013.

Sincerely,



Kathleen H. Johnson

Chief

Superfund Federal Facility and Site Cleanup Branch

cc: Roman Racca, DTSC  
Grant Himebaugh, RWQCB

Attachment

**The Army has adequately responded to all of EPA's comments on FOST 10, except for the comment repeated below. Please note in the body of the FOST that this comment is unresolved and attach the comment to the FOST.**

**USEPA Comment on FOST 10, Former Fort Ord:** In reviewing the Army's proposed FOST 10 parcels there are a number of issues raised by the language proposed for inclusion in the deed or other transfer document. This language appears to be similar to Army language in other documents under review and does not, EPA asserts, properly reflect the Army's obligation under CERCLA 120(h).

The text on page 2 of 5 in Attachment 4 of FOST 10 limits the covenant required under 120(h)(3). The text should be modified to eliminate the reference to "such property" and replace it with "hazardous substances present on such property prior to transfer." In the alternative, the following sentence describing the exception should be modified to add the phrase "prior to the transfer of the property" at the end of the sentence. This clarification is needed to avoid an argument that an action by the transferee which results in the release of Army hazardous substances, e.g. uncovering a damaged drum, would invalidate the covenant.

FOST language at page 2 of 5 of Attachment 4 for the "uncontaminated parcels" contains similar language limiting the covenant under 120(h)(4). This language should be eliminated since there is no statutory basis for such a limitation. The (h)(4) covenant is given on the basis of a determination that no hazardous substances or petroleum products have been released or disposed of on the property, but is intended to protect the purchaser in the event that the military failed to discover contamination on the property. Unlike (h)(3) which includes an exception for persons who are potentially responsible parties at the time of transfer, the (h)(4) covenant is available to all purchasers of "uncontaminated parcels"

FOST 10 also contains language, at page 4 of 5 of Attachment 4, describing the response to newly discovered contamination which needs be rewritten (7. Post transfer discovery of contamination). The statute does not require that the transferee meet any burden of proof; rather it imposes an unqualified obligation on the Army to respond. Further the language requiring the transferee to immediately "secure the site" and take no further action until written authorization is received from the Army ignores the potential risks associated with encountering unexpected Army hazardous substance, e.g. utility installation in an existing residential area, and could even be read to limit the ability of the transferee to characterize the type and quantity of material to determine an appropriate response consistent with its obligations under the "all appropriate Inquiries" regulation to preserve its status as a Bona Fide Prospective Purchaser (BFPP). If the material encountered is Munitions and Explosives of Concern (MEC), other provisions in the deed would direct the person encountering the MEC to immediately notify emergency responders. It is certainly appropriate to require prompt notice of the discovery of hazardous substances and the Army should be given an opportunity to respond, but the current language is too restrictive. It is noteworthy that there is no saving clause for this section acknowledging then Army's CERCLA obligations as appears in other sections of the document e.g. the "as is" provision.

**Army Response:** The Army believes the standard language in Attachment 4 is legally sufficient



## Department of Toxic Substances Control

Linda S. Adams  
Secretary for  
Environmental  
Protection

Maureen F. Gorsen, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



Arnold Schwarzenegger  
Governor

June 1, 2007

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

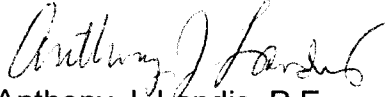
CONDITIONAL APPROVAL OF FINAL FINDING OF SUITABILITY TO TRANSFER,  
TRACK 0 PLUG-IN GROUP D, TRACK 1 PLUG-IN EAST GARRISON AREAS 2 AND  
4 NE, AND TRACK 1 PLUG-IN GROUPS 1 – 5 PARCELS (FOST 10),  
FORMER FORT ORD, MONTEREY, CALIFORNIA

Dear Ms. Youngblood:

On September 12, 2006, the Department of Toxic Substances Control (DTSC) approved the Finding of Suitability to Transfer, Track 0 Plug-In Group D, Track 1 Plug-In East Garrison Areas 2 and 4 NE, and Track 1 Plug-In Groups 1 – 5 Parcels (FOST 10) dated September 8, 2006. Subsequent to regulatory approval, the Army made additional revisions to the FOST 10, which was issued April 13, 2007.

DTSC has reviewed the revisions and concurs with the Final FOST 10 dated April 2007, with the following clarification. We concur that an adequate fence must be constructed along the boundary between Parcel L3.2, the York School parcel, and the Fort Ord Impact Area. In our comments on the Track 3 Remedial Investigation/Feasibility Study, which addresses the Fort Ord Impact Area, we have proposed a six foot high chain link fence topped with three strands of barbed wire. Parcels L3.2 should not be transferred until DTSC concurs on the type of fence to be installed.

If you have any questions, please contact Mr. Roman Racca, of my staff, at (916) 255-6407.

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

cc: See next page.

Ms. Gail Youngblood  
June 1, 2007  
Page 2

cc: Mr. Hunter Harvath, AICP  
Director of Administration  
Monterey-Salinas Transit  
One Ryan Ranch  
Monterey, California 93940

York School  
c/o Mark E. Myers, Esq  
Grunsky, Ebey, Farrar & Howell  
240 Westgate Drive  
Watsonville, California 95076

Mr. Derek Lieberman  
Fort Ord Base Realignment and Closure Office  
Post Office Box 5004  
Monterey, California 93944-5004

Mr. Michael Houlemard  
Fort Ord Reuse Authority  
100 12<sup>th</sup> Street, Building 2880  
Marina, California 93933

Mr. David Murray  
Department of Transportation  
50 Higuera Street  
San Luis Obispo, California 934401-5415

Ms. Judy Huang  
United States 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



Ms. Gail Youngblood  
June 1, 2007  
Page 3

bcc: Mr. Roman Racca, R.G.  
Department of Toxic Substances Control  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826

Ms. Theresa McGarry  
Department of Toxic Substances Control  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826

Ms. Susan Goss  
Department of Toxic Substances Control  
Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, California 95826



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

July 9, 2007

Ms. Gail Youngblood  
Fort Ord Base Realignment and Closure Office  
P.O. Box 5008  
Monterey, CA 93944-5004

Re: **Concurrence on Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Track 0 Plug-in Group D, Track 1 Plug-in East Garrison Areas 2 and 4 NE and Track 1 Plug-in Groups 1-5 Parcels (FOST 10), dated April 2007**

Dear Ms. Youngblood:

The U.S. Environmental Protection Agency (EPA), Region IX has received the above-referenced FOST from the U.S. Army (Army) dated April 2007. The FOST addresses the properties at Former Fort Ord identified as Track 0 Plug-in Group D, Track 1 Plug-in East Garrison Areas 2 and 4 NE, and Track 1 Plug-in Groups 1-5 Parcels. These parcels, herein after referred to as "the Property," are proposed for transfer to the Fort Ord Reuse Authority (FORA), the County of Monterey, the City of Monterey, the Marina Coast Water District (MCWD), Monterey Peninsula College (MPC), Monterey-Salinas Transit (MST), and York School.

Pursuant to this FOST, the Army is proposing to enter into deeds for transfer under § 120(h)(3) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9620(h)(3). When entering into a deed for transfer under CERCLA § 120(h)(3), the Army is required to include in such deed a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the property has been taken before the date of the transfer, and that any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States.

EPA has reviewed the Final FOST and the associated EPA concurrence letters for *Track 0 Plug-in Approval Memorandum, Selected Parcels – Group D*, dated June 27, 2006, *Track 1 Plug-in Approval Memorandum, multiple Sites, Groups 1-5*, dated July 21, 2006, and the *Track 1 Plug-in Approval Memorandum, East Garrison Areas 2 and 4 NE*, dated June 1, 2006.

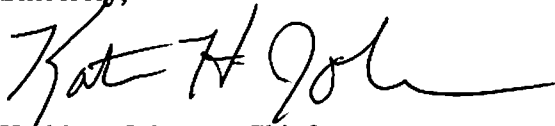
Without independent investigation or verification of certain information contained in the documentation, the undersigned concurs, to the extent set forth below, with the Army's determination that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the Property has been taken. The concurrence shall not be construed in any manner inconsistent with any obligation, right or authority existing under the Fort Ord Federal Facilities Agreement entered into by EPA, the State of California, and the Army. The review of the documentation was completed pursuant to

CERCLA § 120(h)(3), and the sole purpose of this letter is to satisfy the requirements of these provisions. The undersigned expressly reserves all rights and authorities relating to information not contained in this FOST and accompanying documentation, whether such information is known as of this date or is discovered in the future.

Notwithstanding the unresolved EPA comment attached to this FOST regarding the lead-based paint, EPA concurs that the above-referenced parcels are suitable for transfer and the intended reuse, given the environmental restrictions identified.

We appreciate the opportunity to review the FOST and the Army's cooperative efforts in transferring another 720 acres for reuse. If you have any questions regarding this letter, please contact Judy Huang at (415) 972-3681 or e-mail her at: [huang.judy@epa.gov](mailto:huang.judy@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Johnson", with a long horizontal flourish extending to the right.

Kathleen Johnson, Chief  
Federal Facilities and Site Cleanup Branch  
Superfund Division

cc: Mr. Derek Lieberman  
Fort Ord Base Realignment and Closure Office  
P.O. Box 5004  
Monterey, CA 93944-5004

Dan Ward (DTSC)  
Site Mitigation/Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, CA 95826

Roman Racca (DTSC)  
Site Mitigation/Office of Military Facilities  
8800 Cal Center Drive  
Sacramento, CA 95826

**ATTACHMENT 8**

**ARMY RESPONSE**

**ARMY RESPONSE TO COMMENTS SUBMITTED BY THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC) IN A LETTER DATED AUGUST 29, 2006 (ATTACHMENT 7):**

**DTSC General Comment 1:** 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. The provisions state that the property recipient shall not permit the occupancy or use [of] 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 laws and regulations are complied with regarding lead contaminated soil on former Fort Ord.

**Army Response to DTSC General Comment 1:** Comment noted.

**DTSC General Comment 2:** Please add the following text to Section 3.1 of the FOST for informational purposes:

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 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. Should the 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.

**Army Response to DTSC General Comment 2:** The Army believes addition of such language to Section 3.1 is unnecessary because of the CERCLA-RCRA integration provision in the Fort Ord Federal Facility Agreement; however, the Army has revised Section 6.0 to include information about the applicability of RCRA.

**ARMY RESPONSE TO COMMENT SUBMITTED BY THE DTSC IN A LETTER DATED SEPTEMBER 12, 2006 (ATTACHMENT 7):**

**DTSC Comment:** DTSC has reviewed FOST 10 for the subject parcels and concurs that the parcels are suitable for transfer with the following stipulation. Please include the following as an unresolved comment. DTSC believes the recipient must be aware of the State of California position, which is reiterated below.

*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. The provisions state that the property recipient shall not permit the occupancy or use [of] 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 laws and regulations are complied with regarding lead contaminated soil on former Fort Ord.*

**Army Response to DTSC Comment:** As requested by the DTSC, the comment regarding lead contaminated soil as given in the DTSC's letter is included as an unresolved comment.

**ARMY RESPONSE TO COMMENTS SUBMITTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION IX, RECEIVED BY THE ARMY IN A LETTER DATED OCTOBER 6, 2006 (ATTACHMENT 7):**

**EPA Comment:** The Army has adequately responded to all of EPA's comments on FOST 10, except for the comment repeated below. Please note in the body of the FOST that this comment is unresolved and attach the comment to the FOST.

USEPA Comment on FOST 10, Former Fort Ord: In reviewing the Army's proposed FOST 10 parcels there are a number of issues raised by the language proposed for inclusion in the deed or other transfer document. This language appears to be similar to Army language in other documents under review and does not, EPA asserts, properly reflect the Army's obligation under CERCLA 120(h).

The text on page 2 of 5 in Attachment 4 limits the covenant required under 120(h)(3). The text should be modified to eliminate the reference to "such property" and replace it with "hazardous substances present on such property prior to transfer" In the alternative, the following sentence describing the exception should be modified to add the phrase "prior to the transfer of the property" at the end of the sentence. This clarification is needed to avoid an argument that an action by the transferee which results in the release of Army hazardous substances, e.g. uncovering a damaged drum, would invalidate the covenant.

FOST language at page 2 of 5 of Attachment 4 for the “uncontaminated parcels” contains similar language limiting the covenant under 120(h)(4). This language should be eliminated since there is no statutory basis for such a limitation. The (h)(4) covenant is given on the basis of a determination that no hazardous substances or petroleum products have been released or disposed of on the property, but is intended to protect the purchaser in the event that the military failed to discover contamination on the property. Unlike (h)(3) which includes an exception for persons who are potentially responsible parties at the time of transfer, the (h)(4) covenant is available to all purchasers of “uncontaminated parcels”

FOST 10 also contains language, at page 4 of 5 of Attachment 4, describing the response to newly discovered contamination which needs be rewritten (7. Post transfer discovery of contamination). The statute does not require that the transferee meet any burden of proof; rather it imposes an unqualified obligation on the Army to respond. Further the language requiring the transferee to immediately “secure the site” and take no further action until written authorization is received from the Army ignores the potential risks associated with encountering unexpected Army hazardous substance, e.g. utility installation in an existing residential area, and could even be read to limit the ability of the transferee to characterize the type and quantity of material to determine an appropriate response consistent with its obligations under the “all appropriate Inquiries” regulation to preserve its status as a Bona Fide Prospective Purchaser (BFPP). If the material encountered is Munitions and Explosives of Concern (MEC), other provisions in the deed would direct the person encountering the MEC to immediately notify emergency responders. It is certainly appropriate to require prompt notice of the discovery of hazardous substances and the Army should be given an opportunity to respond, but the current language is too restrictive. It is noteworthy that there is no saving clause for this section acknowledging then Army’s CERCLA obligations as appears in other sections of the document e.g. the “as is” provision.

**Army Response to EPA Comment:** The text in Attachment 4 has been modified, as subsequently agreed to by EPA and the Army.

**ARMY RESPONSE TO COMMENT SUBMITTED BY THE DTSC IN A LETTER DATED JUNE 1, 2007 (ATTACHMENT 7):**

**DTSC Comment:** DTSC has reviewed the revisions and concurs with the Final FOST 10 dated April 2007, with the following clarification. We concur that an adequate fence must be constructed along the boundary between Parcel L3.2, the York School parcel, and the Fort Ord Impact Area. In our comments on the Track 3 Remedial Investigation/Feasibility Study, which addresses the Fort Ord Impact Area, we have proposed a six foot high chain link fence topped with three strands of barbed wire. Parcels L3.2 should not be transferred until DTSC concurs on the type of fence to be installed.

**Army Response to DTSC Comment:** The Army responded to this comment in a letter dated August 3, 2007 as follows:

*[The Army] understand[s]... that DTSC has spoken with representatives from York School, who have indicated that they will not be using the area within their parcel nearest the Impact Area in the near future. In addition, the Army has not completed the required munitions response in the*

*Impact Area abutting the parcel. The munitions response action will require that any fence constructed on the boundary be removed during the cleanup process.*

*The Army will install a four-strand barbed wire fence, backed by concertina wire prior to transferring parcel L3.2. As with the existing fence, this will prevent people from unknowingly entering the Impact Area. When the munitions response in the Impact Area adjacent to Parcel L3.2 is complete, the Army, EPA and DTSC will evaluate the type of fencing that will be most appropriate and the Army will install the agreed-upon fence.*

DTSC concurred with this proposal and the suitability of Parcel L3.2 to be transferred in a letter dated August 6, 2007.