FINDING OF SUITABILITY TO TRANSFER
(FOST)
AMENDMENT #2

Former Fort Ord, California

Parker Flats Munitions Response Area Parcels L2.3 and L2.4.1
(FOST 11)

July 2026

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(FOST 11)

July 2026

1. PURPOSE AND BACKGROUND

The purpose of this Finding of Suitability to Transfer (FOST) Amendment #2 is to update the November 2017 FOST 11 for Parcels L2.3 and L2.4.1 (the Property) at the former Fort Ord.[1] Specifically:

- FOST 11 Section 4. and Table 1 – Description of Property do not identify the Department of Defense (DOD) Environmental Condition of Property (ECP) categories for the Property. This FOST Amendment #2 revises FOST 11 Section 4. and Table 1 to add the ECP categories for the Property based on the findings of the February 2026 ECP Update No. 1. The updated Table 1 is provided at Enclosure 1.
- The February 2026 ECP Update No. 1 identifies several documents providing information on environmental condition of the Property that are not listed in FOST 11 Attachment 2. This FOST Amendment #2 revises and updates FOST 11 Attachment 2 to add such documents that were completed since the Environmental Baseline Survey was conducted in 1994 as part of the Community Environmental Response Facilitation Act (CERFA) Report (ADL, 1994), but were not listed in FOST 11 Attachment 2, and to add relevant documents that were completed since the November 2017 FOST 11. The updated Attachment 2 is provided at Enclosure 2.
- This FOST Amendment #2 adds to FOST 11 Section 4.1 to clarify that munitions and explosives of concern (MEC) are potentially hazardous substances under specific conditions.
- The U.S. Department of the Army (Army), as the proponent for transfer of the Property, is required to periodically review relevant existing National Environmental Policy Act (NEPA) analyses to ascertain the need for supplemental documentation. This FOST Amendment #2 updates FOST 11 Section 8. to note that this review was completed.

The FOST Amendment #2 is in preparation for the transfer of Parcels L2.3 and L2.4.1 (the Property) to the City of Seaside consistent with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and DOD policy. Site maps of the Property are in Attachment 1 to the November 2017 FOST 11 (Enclosure 3).

[1] FOST Amendment #1 changed the identified transferee. The original transferee, the Fort Ord Reuse Authority (FORA), ceased operations in 2020 and is no longer an entity that may hold title to real property. The City of Seaside assumed responsibilities as the successor in interest of FORA.

The Property is included in FOST 11, which was issued for regulatory agency and public comment from 10 July 2010 to 9 August 2010, and comments received were reviewed and incorporated, as appropriate. No public comments were received during the comment period. A copy of the regulatory agency comments is included at Attachment 7 to FOST 11, with the Army responses to comments provided in Attachment 8 (Enclosure 3).

2. AMENDMENT

The former Fort Ord FOST 11, dated November 2017, is amended as follows:

Section 4.1. Munitions and Explosives of Concern (MEC):

Section 4.1 is revised to add clarification that munitions and explosives of concern (MEC) are potentially hazardous substances under specific conditions:

To make a determination of whether MEC recovered at Fort Ord are hazardous waste, and thus hazardous substances under CERCLA, testing for the Resource Conservation and Recovery Act (RCRA) characteristics of ignitability or reactivity would be necessary during munitions response, or documentation of a reaction indicating a characteristic. MEC may exhibit the characteristic of ignitability if they have either of the following properties:

1. Capable of causing fire by functioning under standard temperature and pressure through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burn so vigorously and persistently that it creates a hazard.
2. Contain an oxidizer (e.g., perchlorate) that yields oxygen readily to stimulate combustion of organic matter.

MEC may exhibit the characteristic of reactivity if they have either of the following properties:

1. Capable of detonation or explosive reaction if subjected to a strong initiating source or if heated under confinement.
2. Readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

Personnel perform munitions responses for the purpose of addressing the explosives safety status of the material recovered. These personnel have graduated from military explosive ordnance disposal school or equivalent civilian certified unexploded ordnance (UXO) school. These individuals are highly trained and qualified to perform munitions responses; however, their training is not required nor expected to include testing or identifying RCRA hazardous waste characteristics that may be associated with some recovered MEC items. The recovered items are only managed with respect to their explosives safety status as the standard of practice and not evaluated or documented with respect to RCRA hazardous waste characteristics. It is not possible to determine whether a MEC item will exhibit a characteristic merely by the type of munition. However, a summary of the areas in which possible training involving military munitions occurred is provided in Table 2 – Notification of Munitions and Explosives of

Concern (MEC) in FOST 11 Attachment 3 and the CERCLA Section 120(h)(3) Notice, Description, and Covenant in FOST 11 Attachment 4 will be included in the Deed.

Attachment 2. Environmental Documentation:

The list of documents providing information on environmental condition of the Property in FOST 11 Attachment 2 is revised and updated to add documents providing information on the environmental condition of the Property since the Environmental Baseline Survey was conducted in 1994 as part of the CERFA Report (ADL, 1994). The revised and updated list is attached to this FOST Amendment #2 as Enclosure 2.

3. ENVIRONMENTAL CONDITION OF PROPERTY:

The DOD ECP category for the Property is as follows:

ECP Category 4: Parcels L2.3 and L2.4.1

A summary of the ECP categories for parcels and the ECP category definitions are provided in Table 1 – Description of Property (Enclosure 1).

The Property will be subject to the same CERCLA Section 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions presented in FOST 11. Similarly, the Deed transferring the Property will contain the same Environmental Protection Provisions, including a notice of the potential presence of MEC, as presented in FOST 11.

4. PUBLIC COMMENT PERIOD

The U.S. Environmental Protection Agency (USEPA) Region IX, the California Department of Toxic Substances Control (DTSC), and the public were notified of the initiation of this FOST Amendment #2. The comment period was from April 23, 2026 to April 30, 2026. No regulatory/ public comments were received during the comment period.

5. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the Property have been reviewed in accordance with NEPA to ascertain the need for supplemental documentation. The results of this review are documented in the March 2026 *Record of Environmental Consideration, Former Fort Ord Parcels L2.3 and L2.4.1, Conveyance to the City of Seaside*. There are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impact. There are also no substantial changes in the proposed action that are relevant to environmental concerns. Therefore, supplementation of the Environmental Impact Statement (EIS) is not required and the EIS continues to adequately cover the action.

6. FINDING OF SUITABILITY TO TRANSFER

ECP Category 4, CERCLA Section 120(h)(3), Contaminated Property:

Based on the above information and the Environmental Condition of Property Update No. 1, I conclude that all removal or remedial actions necessary to protect human health and the

environment have been taken and the Property is transferable under CERCLA Section 120(h)(3). In addition, all DOD requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions set forth in the attached Environmental Protection Provisions that shall be included in the deed for the Property. The deed will also include the CERCLA Section 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions.

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RICHARD C. RAMSDELL
BRAC Director
DASA-ESOH, Base Realignment and Closure (BRAC)

3 Enclosures
Encl 1 – Table 1 - Description of Property
Encl 2 – Environmental Documentation
Encl 3 – November 2017 FOST 11

ENCLOSURE 1

AMENDMENT #2 TABLE 1 – DESCRIPTION OF PROPERTY

Property Description	EBS Parcel Designation	Condition Category	Remedial Actions
Parcel L2.3 – 24.22-acre development parcel to be transferred to the City of Seaside. No buildings or structures are on the parcel. This parcel lies within MRS-13B (see Table 2 – Notification of MEC).	226 P - CERFA parcel[i]	4	None for hazardous or toxic wastes. The Fort Ord Basewide Range Assessment (BRA) evaluated the parcel, which is part of MRS-13B (also identified as HA-103), including a literature search, review of the information gathered during the munitions response, and reconnaissance of the site for hazardous substances. No targets, fighting positions, or other munitions-related training areas, structures, or equipment were observed. The site does contain range-related and other debris, including trash pits. No further action related to MC was recommended for HA-103 under the BRA (see the BRA Report dated June 3, 2009). Parcel L2.3 is within MRS-13B and a munitions response (removal action) was conducted on the Property. See Table 2 – Notification of MEC for a description of the munitions response action.
Parcel L2.4.1 – 2.79-acre development parcel to be transferred to the City of Seaside. No buildings or structures are on the parcel. This parcel lies within MRS-13B (see Table 2 – Notification of MEC).	226 P - CERFA parcel	4	None for hazardous or toxic wastes. For the BRA, MRS-13B was identified as HA-103. The evaluation of HA-103 included a literature search, review of the information gathered during the munitions response, and reconnaissance of the site. No targets, fighting positions, or other munitions-related training areas, structures, or equipment were observed. The site does contain range-related and other debris, including trash pits. No further action related to MC was recommended for HA-103 under the BRA (see the BRA Report dated June 3, 2009). Parcel L2.4.1 is within MRS-13B and a munitions response (removal action) was conducted on the Property. See Table 2 – Notification of MEC for a description of the munitions response action.

Category 1: Areas where no release or disposal of hazardous substances or petroleum products above *de minimis* quantities has occurred, and to which there has been no migration of such substances from adjacent areas.
Category 2: Areas in which release or disposal of petroleum products above *de minimis* quantities has occurred.
Category 3: Areas in which release, disposal, or migration of hazardous substances has occurred, but in concentrations that do not require removal or other remedial response.
Category 4: Areas in which release, disposal, or migration of hazardous substances has occurred, but all removal or other remedial actions necessary to protect human health and the environment have been taken.

[i] CERFA parcel – A portion of the installation real property for which investigation revealed no evidence of storage for one year or more, release, or disposal of CERCLA hazardous substances, petroleum, or petroleum derivatives and no evidence of being threatened by migration of such substances.

ENCLOSURE 2

AMENDMENT #2 ENVIRONMENTAL DOCUMENTATION

California Department of Health Services (DHS), 1997. Memorandum documenting that, with respect to radiological issues, the buildings listed in the memorandum are acceptable for unrestricted release. October 1.

Fort Ord Reuse Authority (FORA), 1997. *Fort Ord Reuse Plan*. June 13.

Federal Facility Agreement (FFA), 2007. *United States Environmental Protection Agency Region 9 and the State of California and the Department of the Army, Federal Facility Agreement, CERCLA Section 120, Amendment No. 1 Related to Early Transfer Property Referenced in FOSET 5. In the Matter of: The United States Department of the Army, Fort Ord.* July 26. BW-0119B.

Harding ESE, 2002. *Draft Final Field Investigation and Data Review, Solid Waste Management Units, Fort Ord, California*. July 30. BW-1496A.

HLA, 1998. *Underground And Aboveground Storage Tank Management Plan Update, Former Fort Ord and Presidio of Monterey, Monterey County, California.* March 13.

HLA, 2000. *Draft Final Literature Review Report, Ordnance and Explosives Remedial Investigation/Feasibility Study, Former Fort Ord, California.* January 4. OE-0245H.

Human Factors Application, Inc. (HFA), 1994. *OEW Sampling and OEW Removal Action, Fort Ord Final Report Volume I*. December 1. OE-0012, OE-0011 (Vol 2), OE-0013 (Vol 3).

MACTEC Engineering and Consulting, Inc. (MACTEC), 2006. *Final Track 2 Munitions Response Remedial Investigation/Feasibility Study, Parker Flats Munitions Response Area, Former Fort Ord California*. August 31. OE-0523N.

Shaw Environmental, Inc. (Shaw), 2009. *Final Remedial Design/Remedial Action Work Plan, Parker Flats Munitions Response Area, Former Fort Ord, California, Revision 1*. June 30. OE-0667J.

Shaw, 2012. *Final Comprehensive Basewide Range Assessment Report, Former Fort Ord, California, Revision 2*. January 17. BW-2300L.

Uribe & Associates (U&A), 1997. *Above Ground Storage Tank Inventory, Former Fort Ord Complex.* February 21.

USA Environmental, Inc. (USA), 2000. *Final OE Removal After-Action Report, Inland Range Contract, Former Fort Ord, California, Site OE-13B, Volume II*. December 24. OE-0265C.

USA, 2001. *Final Sampling & OE Removal, Inland Range Contract Closure After Action Report, Former Fort Ord, California*. November 30. OE-0368.

U.S. Department of the Army (Army), 1994. *Fort Ord Ordnance and Explosive Waste Time-Critical Removal Action Memorandum, Former Fort Ord, Monterey County, California*. Final. September. OE-0002.

Army, 1996. *Final Supplemental Environmental Impact Statement Fort Ord Disposal and Reuse.* June. BW-1538.

Army, 1997a. *Memorandum for the Record, Chemical Agent Identification Sets (CAIS) Found on Fort Ord*. March 12. OE-0265D.

Army, 1997b. *Update Regarding Chemical Agent Identification Sets (CAIS) Discovered at the Former Fort Ord*. May 16. OE-0265E.

Army, 1997c. *Record of Decision, Fort Ord, California, Disposal and Reuse Supplemental Environmental Impact Statement*. June 18. BW-1790.

Army, 2002. *Draft Final First Five-Year Review Report For Fort Ord Superfund Site, Monterey, California.* August 23. BW-2167G.

Army, 2007. *Final Second Five-Year Review Report, Fort Ord Superfund Site, Monterey, California.* September 17. BW-2437.

Army, 2008. *Record of Decision, Parker Flats Munitions Response Area, Track 2 Munitions Response Site, Former Fort Ord, California*. June 24. OE-0661.

Army, 2012. *Final 3rd Five-Year Review Report for Fort Ord Superfund Site, Monterey County, California.* September. BW-2632.

Army, 2017a. *Final 4th Five-Year Review Report for Fort Ord Superfund Site, Monterey County, California*. September 8. BW-2834.

Army, 2017b. *Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Parker Flats Munitions Response Area Parcels L2.3 and L2.4.1 (FOST 11)*. November 1. OTH-254A.

Army, 2022. *Final 5th Five-Year Review Report for Fort Ord Superfund Site, Monterey County, California.* September. BW-2925.

Army, 2026. *U.S. Army Base Realignment and Closure, Environmental Condition of Property Report Update No. 1, Parcels L2.3 and L2.4.1, Former Fort Ord, California, For Transfer to the City of Seaside.* February.

Army, 2026. *Record of Environmental Consideration, Former Fort Ord Parcels L2.3 and L2.4.1, Conveyance to the City of Seaside.* March.

U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM), 1996. *Industrial Radiation Study No. 27-83-0981-6-95, Facility Close-Out and Termination Study, Fort Ord, California, 10 January 1994 – 30 September 1995)*. May 15. BW-1483.

USACHPPM, 1997. Memorandum recommending the properties identified in the USACHPPM Industrial Radiation Historical Data Review No. 27-43-E2HU-1-94, be released for unrestricted use to the general public. May 2. OTH-099.

U.S. Army Corps of Engineers (USACE), 1994. *U.S. Department of Defense, Base Realignment and Closure, Ordnance and Explosive Waste, Archives Search Report (Supplement No. 1) Fort Ord, California, Monterey County, California.* November. OE-0010.

USACE, 1996. *Final Supplemental Environmental Impact Statement, Fort Ord Disposal and Reuse.* June. BW-1538.

USACE, 1997a. *U.S. Department of Defense, Ordnance and Explosives, Revised Archives Search Report, Former Fort Ord, Monterey County, California.* OE-0022.

USACE, 1997b. *Installation-Wide Multispecies Habitat Management Plan (HMP) for Former Fort Ord, California.* April. BW-1787.

U.S. Army Environmental Hygiene Agency (USAEHA), 1994. *Industrial Radiation Survey Protocol No. 27-43-E2HU-1-94, Seventh Infantry Division and Fort Ord, Fort Ord California, 10 January – 15 April 1994*. BW-2387.

USAEHA, 1994. *Industrial Radiation Survey, No. 27-43-E2HU-2-94, Facility Close-Out and Termination Survey, Fort Ord, California, 10 January 1994 – 15 April 1994*. June 6. BW-2386.

U.S. Environmental Protection Agency (USEPA) Region IX, 1994. *Fort Ord Uncontaminated Property Identification*. April 19. BW-1658A.

USEPA, 2009. *Remedial Action Completion at the Parker Flats Munitions Response Area*. July 27. OE-0667L.

Zander Associates, 2002. *Assessment East Garrison – Parker Flats Land Use Modifications, Fort Ord, California.* May.

ENCLOSURE 3

FINDING OF SUITABILITY TO TRANSFER
(FOST)
FORMER FORT ORD, CALIFORNIA
PARKER FLATS MUNITIONS RESPONSE AREA PARCELS L2.3 AND L2.4.1
(FOST 11)

NOVEMBER 2017

FINDING OF SUITABILITY TO TRANSFER (FOST)

FORMER FORT ORD, CALIFORNIA

PARKER FLATS MUNITIONS RESPONSE AREA PARCELS L2.3 AND L2.4.1 (FOST 11)

November 2017

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- 1 Description of Property
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FINDING OF SUITABILITY TO TRANSFER (FOST)
FORMER FORT ORD, CALIFORNIA
PARKER FLATS MUNITIONS RESPONSE AREA
PARCELS L2.3 AND L2.4.1
(FOST 11)

November 2017

1. 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) 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. PROPERTY DESCRIPTION

The Property (two parcels) consists of approximately 27 acres of undeveloped land. There are no structures or buildings on the Property. The Property was previously used as a training facility for infantry troops. The Property is intended to be transferred for use as public transportation and maintenance facilities. This use is consistent with the intended reuse of the Property as set forth in the FORA Reuse Plan. A site map of the Property is attached (Attachment 1).

3. ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the Property was made based upon the Community Environmental Response Facilitation Act (CERFA) Report (*ADL, 1994*), the Main Garrison Parcels Environmental Baseline Survey (*HLA, 1997*), the Fort Ord Disposal and Reuse Environmental Impact Statement (*USACE, 1993*), the Basewide Remedial Investigation/ Feasibility Study (RI/FS) (*HLA, 1995*), the Ordnance and Explosives RI/FS Literature Review Report (*HLA, 2000*), the Parker Flats Munitions Response Area (MRA) Track 2 Munitions Response RI/FS (*MACTEC, 2006*), the Asbestos Survey Report (*DEI, 1993*), the Industrial Radiation Survey, Facility Close-Out and Termination Study (*USAEHA, 1996*), the Fort Ord Complex Radon Gas Survey (*Army, 1991*), the OEW Sampling and OEW Removal Action Report (*HFA, 1994*), the Site OE-13B Removal After Action Report (*USA, 2000*), the Parker Flats MRA Record of Decision (ROD) (*Army, 2008*), the Underground Storage Tank (UST) Management Plan (*HLA, 1991*), the Aboveground Storage Tank (AST) Inventory (*U&A, 1997*), the UST and AST Management Plan Update (*HLA, 1998*), and the Comprehensive Basewide Range Assessment Report (*MACTEC/Shaw, 2009a*). 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).

4. ENVIRONMENTAL CONDITION OF PROPERTY

4.1. 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, there are no military munitions remaining on the Property that upon evaluation by Explosive Ordnance Disposal or similarly qualified personnel would be determined to be Munitions and Explosives of Concern (MEC). Notwithstanding this determination, there is a possibility that, due to the former use of the Property for military training, MEC may exist on the Property.

The Army used the Property for infantry training, including live-fire training that included the use of a practice mortar range that could have resulted in the presence of MEC on the Property. The Army's training also included use of a bayonet assault course and training area (see *MACTEC, 2006*). 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. (See Attachment 6 for definitions of terms related to the Fort Ord Military Munitions Response Program (MMRP).)

The Army has performed munitions response actions on portions of the Property pursuant to the Fort Ord Federal Facility Agreement (FFA). Per an agreement with U.S. Environmental Protection Agency (USEPA) and the California EPA Department of Toxic Substances Control (DTSC), the Army is evaluating DoD military munitions at the former Fort Ord consistent with CERCLA and subject to the provisions of the FFA, as amended. The MMRP includes the implementation and documentation of munitions responses at MRSs. A summary of the munitions response sites (MRSs) on the Property is as follows:

Parcels L2.3 and L2.4.1 include a portion of MRS-13B, which is part of the Parker Flats Munitions Response Area (MRA) (Attachment 1, Plate 2). From January 6, 1994 through June 30, 1994, a munitions response to MEC (investigation) was conducted in MRS-13B. Based on the investigation's results, a munitions response (an investigation for MEC and removal to a depth of 4 feet below ground surface (bgs)) was recommended. Intermittently, from August 29, 1995 through April 6, 1998, a munitions response to MEC was conducted. During the response, detected anomalies were intrusively investigated, even those deeper than 4 feet bgs, with DoD military munitions and munitions debris encountered removed. During the responses, 52 DoD military munitions recovered were determined to be MEC and 942 pieces of munitions debris were recovered from Parcel L2.3; and 17 DoD military munitions recovered were determined to be MEC and 213 pieces of munitions debris were recovered from Parcel L2.4.1. The Army evaluated the munitions debris it recovered and determined that it did not to pose an explosive hazard. The Army disposed of the MEC and munitions debris recovered in compliance with applicable DoD policy and state and federal regulations.

Prior to 1998[1], suspected MEC encountered at the former Fort Ord were destroyed by detonation without determining whether the recovered DoD military munitions were MEC; therefore, the suspected MEC destroyed during munitions responses conducted on the Property may or may not have been a hazardous substance. Some or all of the suspected MEC destroyed may have been inert or expended. Although the Army cannot confirm that hazardous substances were present, the Army will include the CERCLA Covenant at Attachment 4 in the Deed for the Property.

The *Record of Decision, Parker Flats Munitions Response Area, Track 2 Munitions Response Site* (ROD; *Army, 2008*) concluded that the Army's munitions response actions to MEC and implementation of land use controls (LUC) provide protection for both human health and the environment by eliminating, controlling, or mitigating unacceptable risk from MEC that may remain on the Property.

Additional information on MRS-13B and a summary of the MEC recovered on the Property are provided in Table 2 – Notification of Munitions and Explosives of Concern (Attachment 3). The Property's deed will include the Table 2 – Notification of MEC (Attachment 3) and a MEC Notice (Attachment 5).

4.2. Environmental Remediation Sites

There are no environmental investigation/remediation sites and no evidence of groundwater contamination on the Property.

4.3. Storage, Release, or Disposal of Hazardous Substances

There is no evidence that non-munitions related hazardous substances were stored, released, or disposed of on the Property in excess of the 40 CFR Part 373 reportable quantities.

The CERCLA 120(h)(3) Notice, Description, and Covenant at Attachment 4 will be included in the Deed.

4.4. Petroleum and Petroleum Products

4.4.1. Underground and Aboveground Storage Tanks (UST/AST)

There is no evidence that petroleum products were stored in underground or aboveground storage tanks on the Property.

4.4.2. 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.

[1] This date was estimated based on anecdotal evidence and review of munitions response after action reports (AARs) prepared by USA Environmental, Inc. Specifically, it is noted in the MRS-14D AAR (*USA, 2000*) and the Inland Range Contract Closure AAR (*USA, 2001*) that new guidelines set forth after completion of the munitions response at MRS-14D in January 1997 included determination of the status and filler of each suspected UXO item, though the date of the new guidelines is not specified. Additionally, based on review of the AARs, it appears implementation of the guidelines may have been determined by site-specific conditions and/or the types of munitions items found.

4.5. Polychlorinated Biphenyls (PCB)

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

4.6. Asbestos

There are no buildings or structures on the Property and so there is no evidence that buildings or structures with Asbestos Containing Material (ACM) are located on the Property.

4.7. Lead-Based Paint (LBP)

There are no buildings or structures on the Property and so there is no evidence that buildings or structures with LBP are located on the Property.

4.8. Radiological Materials

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

4.9. Radon

There were no radon surveys conducted on the Property.

4.10. 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. ADJACENT PROPERTY CONDITIONS

There are no conditions adjacent to the Property that present an unacceptable risk to human health and the environment. A portion of MRS-13B, which is within the Parker Flats MRA, is adjacent to the Property; however, the Parker Flats MRA ROD (*Army, 2008*) concluded that the Army's munitions response actions to MEC and implementation of LUCs provide protection for both human health and the environment by eliminating, controlling, or mitigating unacceptable risk from MEC that may remain on the adjacent property. Based on its review of relevant documents, the USEPA also determined all remedial actions have been implemented and completed at the Parker Flats MRA in a letter dated July 27, 2009.

6. ENVIRONMENTAL REMEDIATION AGREEMENTS

The following environmental orders and agreements are applicable to the Property: The Parker Flats MRA ROD, 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 Fort Ord FFA (effective November 19, 1990), and the Fort Ord Part A Hazardous Waste Permit. All

remediation activities on the Property required by such agreements or orders are complete.[2] In accordance with the intent of the parties to the FFA, remedial actions that achieve compliance with CERCLA also satisfy the corrective action requirements of the Resource Conservation and Recovery Act (RCRA); therefore, no further RCRA corrective action is required on these parcels. The CERCLA Covenant and Access Provisions and Other Deed Provisions (Attachment 4), EPPs (Attachment 5), and deed will include provisions reserving the Army's right to conduct remediation activities and the Army's right of access.

7. REGULATORY/PUBLIC COORDINATION

The USEPA Region IX, the DTSC, and the public were notified of the initiation of this FOST. The 30-day public review period was from July 10, 2010 to August 9, 2010. No comments were received during the public comment period.

8. 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[3] identified in the NEPA analysis as necessary to protect human health or the environment are summarized in Table 3 – Disposal (Army Action) Impacts and Mitigation Measures (Attachment 3).

9. LAND USE RESTRICTIONS

9.1. Deed Restrictions and Notifications

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 deed restrictions and specific notifications that apply to the Property are identified in Attachment 4 – CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions and Attachment 5 – 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.

9.2. Covenants to Restrict Use of Property – Environmental Restrictions

To further ensure protection of human health and the environment, the Army has agreed to enter into a Covenant to Restrict Use of Property (CRUP) with the State of California. The CRUP will place use restrictions on all of the Property, as appropriate, and will be signed prior to

[2] There were no environmental investigation or remediation sites for hazardous or toxic waste on the site; however, munitions responses to MEC were completed and associated LUCs were implemented.

[3] 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.

transfer. The restrictions that will be included the CRUP are described below and will be in effect until terminated, removed, or modified, as specified in an appropriate CERCLA decision document. See the EPPs (Attachment 5) for additional information.

- **Soil Disturbance:** Due to the former use of the Property as a military installation, the Property may contain MEC and there remains a risk of encountering subsurface MEC; therefore, any person conducting ground disturbing or other intrusive activities (e.g., digging or drilling) must comply with Monterey County Code – Chapter 16.10. Any alterations, additions, or improvements to the Property in any way that may violate excavation restrictions, as defined in Monterey County Code – Chapter 16.10, are prohibited.

- **Residential Use:** The Property shall not be used for residential purposes. The USEPA believes any proposals for the residential reuse of the Property should be subject to regulatory review. For purposes of this provision, residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12.

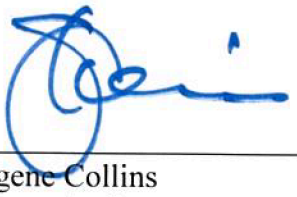
No actual or potential hazard exists on the surface of the Property from MEC that may be in the subsurface of the Property provided the parties adhere to the restrictions of the CRUP.

9.3. School Properties

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

10. FINDING OF SUITABILITY TO TRANSFER

Based on the information above, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken and the Property is transferable under CERCLA 120(h)(3). In addition, all Department of Defense requirements to reach a Finding of Suitability to Transfer have been met, subject to the terms and conditions set forth in the attached Environmental Protection Provisions 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. Finally, the MEC notification (Attachment 3, Table 2) shall be included in the deed.



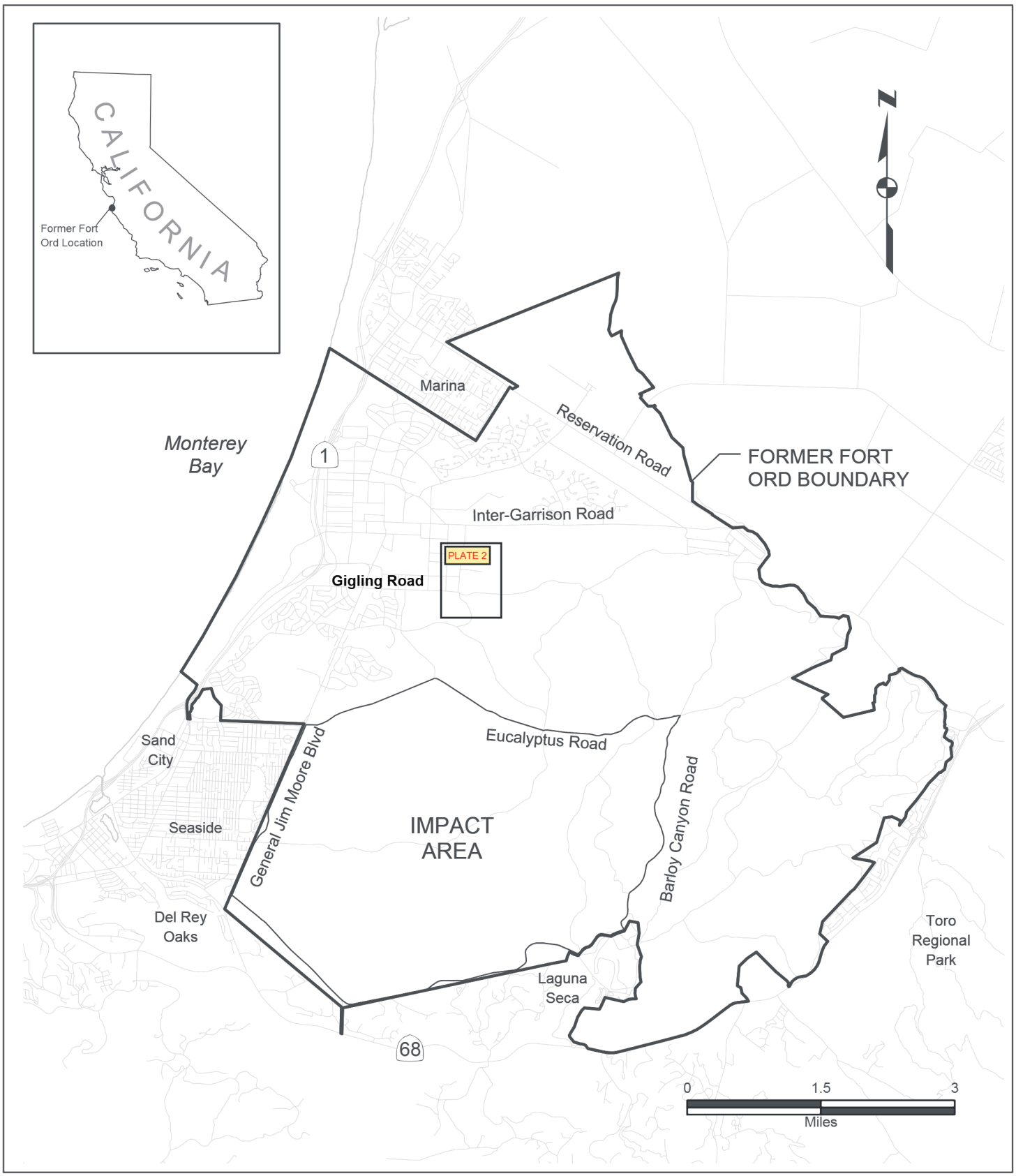
Eugene Collins
Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)

29 Oct 30

Date

ATTACHMENT 1

SITE MAPS OF THE PROPERTY



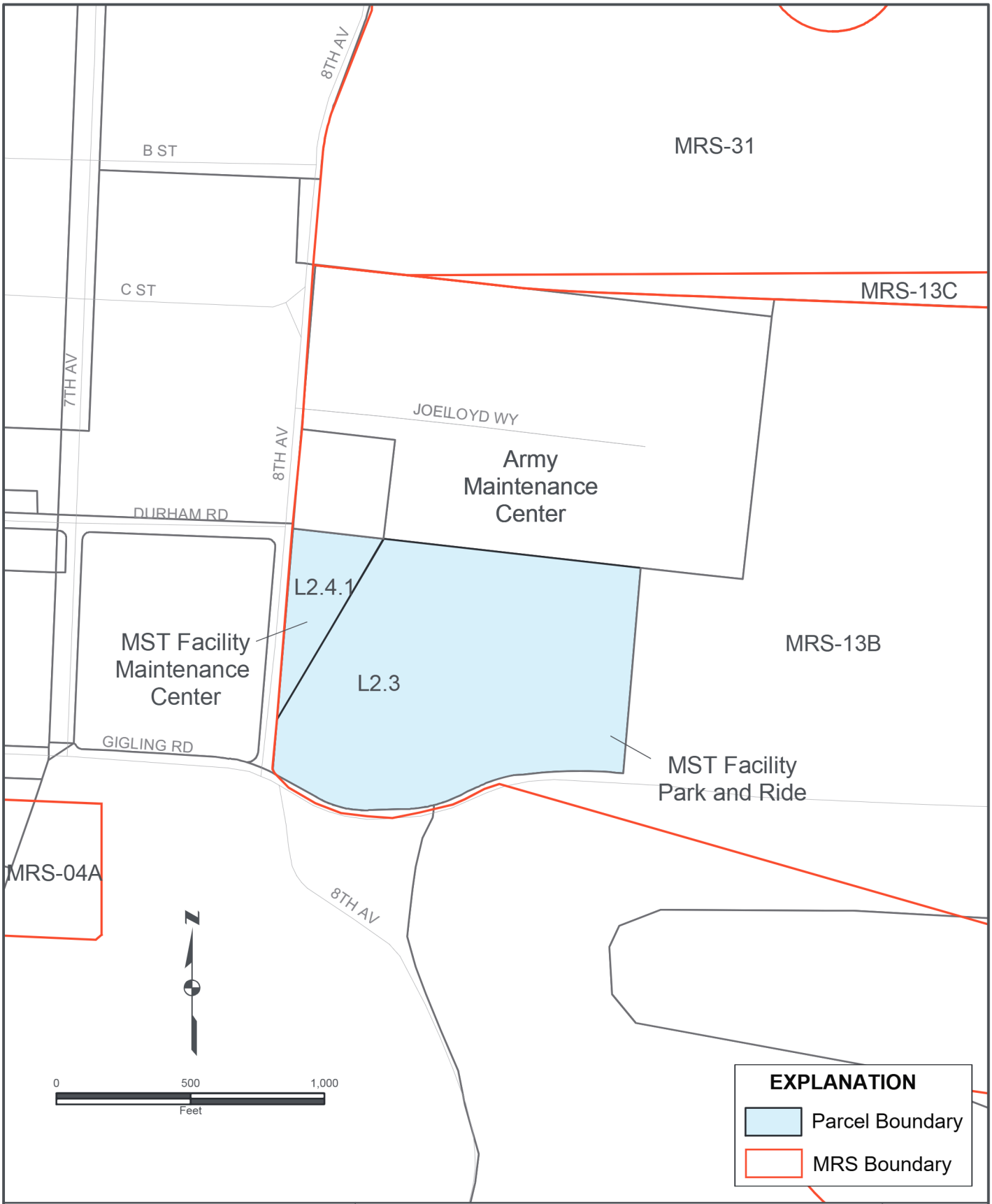
PLATE

1

Site Location Map

Finding of Suitability to Transfer
Parker Flats Munitions Response Area
Parcels L2.3 and L2.4.1 (FOST 11)
Former Ford Ord, Monterey County, California

DRAWN	JOB NUMBER	APPROVED	DATE	REVISED DATE
DSL			9/2009	



Location Map, Parcels L2.3 and L2.4.1
Finding of Suitability to Transfer, Parker Flats Munitions Response Area (FOST 11), Former Fort Ord, California

PLATE
2

DRAWN	JOB NUMBER	CHECKED	CHECKED DATE	APPROVED	APPROVED DATE
DSL					

ATTACHMENT 2

ENVIRONMENTAL DOCUMENTATION

ENVIRONMENTAL DOCUMENTATION[1]

- Arthur D. Little, Inc. (ADL), 1994. *Final Community Environmental Response Facilitation Act (CERFA) Report, Fort Ord, Monterey, California.* April.
- California Department of Health Servic*es (DHS), 1997. Memorandum documenting that, with respect to radiological issues, the buildings listed in the memorandum are acceptable for unrestricted release*. Oc*tober 1.*
- *Diagnostic Environmental, Inc., 1993. Asbestos Survey Report U.S. Army Corps of Engineers, Fort Ord Installation, Fort Ord, California*. April 26.
- Federal Facility Agreement (FFA), 1990. *United States Environmental Protection Agency Region 9, the State of California and the United States Army Federal Facility Agreement under CERCLA Section 120. In the Matter of: The United States Department of the Army, Fort Ord, Headquarters, Seventh Infantry Division (Light)*. November 19.
- Harding ESE, 2002. *Draft Final Field Investigation and Data Review, Solid Waste Management Units, Fort Ord, California*. July 30.
- Harding Lawson Associates (HLA), 1991. *Underground Storage Tank Management Plan, Fort Ord Complex, Monterey County, California*. October 30.
- HLA, 1995. *Final Basewide Remedial Investigation/Feasibility Study (RI/FS), Fort Ord, California. Volumes I-V*. October 18.
- HLA, 1997. *Environmental Baseline Survey, Main Garrison Parcels, Former Fort Ord, California, Version 1*. September 26.
- HLA, 1998. *Underground and Aboveground Storage Tank Management Plan Update, Former Fort Ord and Presidio of Monterey, Monterey County, California.* March 13.
- HLA, 2000. *Draft Final Literature Review Report, Ordnance and Explosives Remedial Investigation/Feasibility Study, Former Fort Ord, California.* January 4.
- Human Factors Application, Inc. (HFA), 1994. *OEW Sampling and OEW Removal Action, Fort Ord Final Report Volume I*. December 1.
- MACTEC Engineering and Consulting, Inc. (MACTEC), 2006. *Final Track 2 Munitions Response Remedial Investigation/Feasibility Study, Parker Flats Munitions Response Area, Former Fort Ord California*. August 31.
- MACTEC/Shaw Environmental, Inc. (MACTEC/Shaw), 2009a. *Final Comprehensive Basewide Range Assessment Report, Former Fort Ord, California. Revision 1*. June 3.
- MACTEC/Shaw, 2009b. *Final Remedial Design/Remedial Action Work Plan, Parker Flats Munitions Response Area, Former Fort Ord, California. Revision 1*. June 30.
- Roy F. Weston, Inc. (Weston), 1990. *Task Order II-Enhanced Preliminary Assessment for Fort Ord.* Prepared for U.S. Army Toxic and Hazardous Materials Agency, Aberdeen Proving Ground, Maryland. December.
- Uribe & Associates (U&A), 1997. *Above Ground Storage Tank Inventory, Former Fort Ord Complex.* February 21.

[1] 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."

- USA Environmental, Inc. (USA), 2000. *Final OE Removal After-Action Report, Inland Range Contract, Former Fort Ord, California, Site OE-13B, Volume II*. December 24.
- USA, 2001. *Final OE Removal After-Action Report, Inland Range Contract, Former Fort Ord, California, Site OE-14D (14 West), Volume II*. April 19.
- USA, 2001. *Final Sampling & OE Removal, Inland Range Contract Closure After Action Report, Former Fort Ord, California*. November 30.
- U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM), 1997. *Memorandum recommending that the properties identified in the USACHPPM Industrial Radiation Historical Data Review No. 27-43-E2HU-1-94, be released for unrestricted use to the general public*. May 2.
- U.S. Army Corps of Engineers, (USACE), 1993. *Final Environmental Impact Statement (EIS) Fort Ord Disposal and Reuse.* June 1.
- USACE, 1997. *Installation-Wide Multispecies Habitat Management Plan (HMP) for Former Fort Ord, California.* April.
- U.S. Army Engineer Division, Huntsville (USAEDH), 1993. *U.S. Department of Defense Base Realignment and Closure Ordnance and Explosive Waste Archives Search Report, Fort Ord, California.* Prepared by U.S. Army Corps of Engineers, St. Louis Division. December.
- USAEDH, 1994. *Archives Search Report (Supplement No. 1), Fort Ord, California, Monterey County, California.* Prepared by U.S. Army Corps of Engineers, St. Louis Division. November.
- USAEDH, 1997. *Revised Archives Search Report, Fort Ord, California, Monterey County, California.* Prepared by U.S. Army Corps of Engineers, St. Louis Division. December.
- U.S. Army Environmental Hygiene Agency (USAEHA), 1988. *Interim Final Report, Hazardous Waste Consultation NO. 37-26-0176-89, Evaluation of Solid Waste Management Units, Fort Ord, California*. September 18-22.
- USAEHA, 1994. *Industrial Radiation Historical Data Review, No. 27-43-E2HU-1-94, Seventh Infantry Division and Fort Ord, Fort Ord California*. January 10 – April 15.
- USAEHA, 1996. *Industrial Radiation Survey, No. 27-83-0981-6-95, Facility Close Out and Termination Survey, Fort Ord, California (January 10, 1994 – September 30, 1995)*. May 15.
- U.S. Army, Fort Ord Base Realignment and Closure Office, 2005. *Munitions Response Site (MRS) Security Program (formerly Ordnance and Explosives (OE) Site Security 2002 Program Summary), Former Fort Ord, California*. April.
- U.S. Department of the Army (Army), 1990. *Radon Survey conducted during FY89/FY90 at Fort Ord (FO), Presidio of Monterey (POM), and Fort Hunter Liggett*.
- Army, 1993. *Fort Ord, California Disposal and Reuse Environmental Impact Statement Record of Decision*. December 23.
- Army, 1996. *Final Supplemental Environmental Impact Statement Fort Ord Disposal and Reuse.* June.
- Army, 1997a. *Memorandum for the Record, Chemical Agent Identification Sets (CAIS) Found on Fort Ord.* March 12.
- Army, 1997b. *Update Regarding Chemical Agent Identification Sets (CAIS) Discovered at the Former Fort Ord.* March 16.

- Army, 1997c. *Record of Decision, Fort Ord, California Disposal and Reuse Final Supplemental Environmental Impact Statement*. June 18.
- Army, 2002. *Draft Final Five-Year Review Report, First Five-Year Review Report for Fort Ord Superfund Site, Monterey, California.* August 23.
- Army, 2007. *Final Second Five-Year Review Report, Fort Ord Superfund Site, Monterey, California.* September 10, 2008.
- Army, 2008. *Record of Decision, Parker Flats Munitions Response Area, Track 2 Munitions Response Site, Former Fort Ord, California*. June 24.
- U.S. Environmental Protection Agency (USEPA) Region IX, 1994. *Fort Ord Uncontaminated Property Identification*. April 19.
- USEPA, 2009. *Remedial Action Completion at the Parker Flats Munitions Response Area.* July 27.
- U.S. Fish and Wildlife Service (USFWS), 1999. *Biological and Conference Opinion on the Closure and Reuse of Fort Ord, Monterey County, California (1-8-99-F/C-39R).* March 30.
- USFWS, 2002. *Biological Opinion on the Closure and Reuse of Fort Ord, Monterey County, California, as it affects Monterey Spineflower Critical Habitat, (1-8-01-F-70R)*. October 22.
- USFWS, 2005. *Biological Opinion on Cleanup and Reuse of Former Fort Ord, Monterey County, California, as it affects California Tiger Salamander and Critical Habitat for Contra Costa Goldfields, (1-8-04-F-25R)*. March 14.
- Zander Associates, 2002. *Assessment East Garrison - Parker Flats Land Use Modifications, Fort Ord, California.* May.

ATTACHMENT 3

TABLES

Table 1 – Description of Property

Property Description	EBS Parcel Designation	Remedial Actions[1]
Parcel L2.3 – 24.22-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. This parcel lies within MRS-13B (see Table 2 – Notification of MEC).	226 P - CERFA parcel[2]	None for hazardous or toxic wastes. The Fort Ord Basewide Range Assessment (BRA) evaluated the parcel, which is part of MRS-13B (also identified as HA-103), including a literature search, review of the information gathered during the munitions response, and reconnaissance of the site for hazardous substances. No targets, fighting positions, or other munitions-related training areas, structures, or equipment were observed. The site does contain range-related and other debris, including trash pits. No further action related to MC was recommended for HA-103 under the BRA (see the BRA Report dated June 3, 2009). Parcel L2.3 is within MRS-13B and a munitions response (removal action) was conducted on the Property. See Table 2 – Notification of MEC for a description of the munitions response action.
Parcel L2.4.1 – 2.79-acre development parcel to be transferred to FORA. No buildings or structures are on the parcel. This parcel lies within MRS-13B (see Table 2 – Notification of MEC).	226 P - CERFA parcel	None for hazardous or toxic wastes. For the BRA, MRS-13B was identified as HA-103. The evaluation of HA-103 included a literature search, review of the information gathered during the munitions response, and reconnaissance of the site. No targets, fighting positions, or other munitions-related training areas, structures, or equipment were observed. The site does contain range-related and other debris, including trash pits. No further action related to MC was recommended for HA-103 under the BRA (see the BRA Report dated June 3, 2009). Parcel L2.4.1 is within MRS-13B and a munitions response (removal action) was conducted on the Property. See Table 2 – Notification of MEC for a description of the munitions response action.

[1] Munitions Response actions are described in Table 2 – Notification of Munitions and Explosives of Concern.

[2] CERFA parcel – A portion of the installation real property for which investigation revealed no evidence of storage for one year or more, release, or disposal of CERCLA hazardous substances, petroleum, or petroleum derivatives and no evidence of being threatened by migration of such substances.

Table 2 – Notification of Munitions and Explosives of Concern (MEC)[1]

Munitions Response Site	Type of Military Munitions ------ Munitions Debris	Date of Military Munitions Use	Munitions Response Actions
MRS-13B Grids 20B – 32D (85 full grids and 39 partial grids in Parcel L2.3) Grids 31E – 34H (6 full grids and 20 partial grids in Parcel L2.4.1)	Unexploded Ordnance (UXO) Discarded Military Munitions (DMM) Munitions Debris (MD)	1940s – 1994	A portion of MRS-13B lies within Parcels L2.3 and L2.4.1. MRS-13B is labeled as "Sinkhole Training Area" and "Sinkhole Practice Mortar" on 1950's training maps. A munitions response (investigation) was conducted within 57 grids in 1993 and 1994. Based on the results of the investigation, MRS-13B (654 grids) underwent a munitions response (removal action) to a depth of 4 feet[1] from August 1995 to April 1998. Using geophysical equipment, detected anomalies were investigated. (Approximately seven grids within Parcel L2.3 were not geophysically surveyed due to the presence of asphalt pavement.) Prior to 1998 , DoD military munitions recovered at the former Fort Ord were destroyed by detonation without determining whether they actually were MEC; therefore, all or some of the suspected MEC destroyed during the munitions responses conducted between 1993 and 1998 may have been inert or expended. The MMRP database indicates that 52 recovered DoD military munitions (35 UXO, 17 DMM) were suspected to be MEC, and 942 pieces of MD were recovered and disposed of during munitions response actions conducted at Parcel L2.3. The UXO recovered at Parcel L2.3 included: • M744 practice 22mm subcaliber projectile • M30 practice hand grenade • MK II practice hand grenades • M18 series smoke hand grenade • M5 release firing device • M80 explosive detonation simulators • M49 series trip surface flares • M48 trip parachute flares • M228 practice hand grenade fuzes • M382 practice 40mm projectile • M110 flash artillery simulators • electric squibs • M22 series smoke rifle grenade • AN-M8 HC smoke hand grenade • M126 series ground illumination signal • M213 hand grenade fuze

[1] The Army designed the munitions response to MEC to address munitions to depths of 4 feet below ground surface (bgs); however, every anomaly (i.e., ferromagnetic material), even those deeper than 4 feet bgs, were investigated. The Army disposed of the DoD military munitions recovered within the Parker Flats MRA as MEC. However, prior to 1998, DoD military munitions recovered at Fort Ord were destroyed by detonation without determining whether they were MEC; therefore, some or all of the suspected MEC destroyed may have been inert or expended.

Table 2 – Notification of Munitions and Explosives of Concern (MEC)*

Munitions Response Site	Type of Military Munitions ------ Munitions Debris	Date of Military Munitions Use	Munitions Response Actions
			The DMM recovered at Parcel L2.3 included: • MK II practice hand grenades • M228 practice hand grenade fuze • M9 series antitank rifle grenades • M2 series ignition cartridge According to the MMRP database, there were 17 recovered DoD military munitions (UXO) that were suspected to be MEC and 213 pieces of MD recovered and disposed of during munitions response actions conducted at Parcel L2.4.1. The UXO recovered at Parcel L2.4.1 included: • M204 series hand grenade fuzes • M75 practice general purpose grenades MD was evaluated and determined not to pose an explosive hazard. Numerous trash pits containing range-related debris were also observed at MRS-13B. Additionally, two M1 K951 chemical agent identification sets (CAIS) were recovered in a pit in Grid 16I, approximately 500 feet east of Parcel L2.3. The M1 K951 CAIS contain dilute solutions of chemical agents in small (1-ounce) hermetically sealed glass containers. CAIS were used to train soldiers to recognize and protect themselves from chemical agents. The Army's Technical Escort Unit from Dugway Proving Ground, Utah, removed and disposed of the CAIS vials recovered. There were no other CAIS encountered during intrusive investigations on the Parker Flats MRA or at the former Fort Ord. The results of the munitions response actions conducted were evaluated in the Final Track 2 Munitions Response RI/FS for the Parker Flats MRA. The RI/FS verified that every DoD military munition reasonably possible to detect were removed during munitions responses conducted within the Parker Flats MRA. Because MEC are not expected to remain present within MRS-13B, additional munitions response actions were not recommended (see the Final Track 2 Parker Flats MR RI/FS dated August 31, 2006). Although the Army does not believe that additional DoD military munitions will be encountered within the Parker Flats MRA. However, it is possible DoD military munitions may remain present and some may, upon evaluation by qualified personnel, be determined to be MEC. Land Use Controls (LUCs) are the selected remedy for the Property under the Parker Flats MRA ROD (see the Parker Flats MRA ROD dated August 26, 2008) and procedures for LUC implementation are described in the RD/RA Work Plan dated March 31, 2009. The USEPA determined all remedial actions have been implemented and completed for the Parker Flats MRA in a letter dated July 27, 2009.

* 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 §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.

Table 3 – Disposal (Army Action) Impacts and Mitigation Measures

Issue Area	Impact	Mitigation Measure	How Addressed in FOST[1] and EPPs[2]
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.	NA – there is no evidence that buildings or structures with ACM are located on the Property.
Hazardous and Toxic Waste Site Remedial Action	Potential risks to public health and safety associated with hazardous materials.	Continue State and Federally mandated cleanup process and remedial actions; cleanup of wastes is part of the project.	NA – there is no evidence that hazardous substances were stored, released, or disposed of on the Property in excess of the 40 CFR Part 373 reportable quantities.
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 Section 4.1 and Tables 1 and 2 (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 – the HMP is an applicable environmental remediation agreement listed in Section 6.

[1] Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Parker Flats Munitions Response Area, Parcels L2.3 and L2.4.1 (FOST 11).

[2] 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

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

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 11 Table 2 – Notification of Munitions and Explosives of Concern (MEC) should be included as a deed exhibit]**, attached hereto and made a part hereof.

2. CERCLA COVENANT

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

A. All remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this deed, and

B. Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

C. 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. 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.

3. RIGHT OF ACCESS

A. Pursuant to section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(iii)), 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 a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial 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 and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and 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 clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. 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 or employee 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 clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

4. "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. Except as otherwise provided herein, 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.

5. HOLD HARMLESS

A. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from: (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos or 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.

6. 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.

7. ENVIRONMENTAL PROTECTION PROVISIONS

The Environmental Protection Provisions are at Exhibit __, which is attached hereto and made a part hereof. These provisions are intended to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at the former Fort Ord. The Grantee shall not transfer or lease the Property or any portion thereof, or grant any interest, privilege, or license whatsoever in connection with the Property, or any portion thereof, without the inclusion of the Environmental Protection Provisions contained herein to the extent applicable to the Property or a portion thereof, and shall require the inclusion of the applicable Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license concerning the Property or the applicable portion thereof.

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 FACILITY 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), as amended, entered into by the United States Environmental Protection Agency Region IX (USEPA), the State of California, and the United States Department of the Army (Army), effective on November 19, 1990, and will provide the Grantee with a copy of Amendment No. 1 to the FFA and 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 Army activities required by the FFA, as amended. In addition, should any conflict arise between the FFA, as amended, and the deed provisions, the FFA provisions, as amended, will take precedence. The Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA, as amended, interfere with their use of the Property.

2. LAND USE RESTRICTIONS

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

(1) Excavation Restriction. Because of the possibility of munitions and explosives of concern remaining on the Property, the Grantee, its successors and assigns shall comply with Monterey County Code – Chapter 16.10 when conducting or permitting others to conduct any ground disturbing or intrusive activities (e.g. digging, drilling, etc.).

(a) DoD Military Munitions Recognition and Safety Training. 3Rs Explosives Safety Education (see 3Rs.mil) including munitions recognition training is required for personnel conducting ground disturbing or intrusive activities. Prior to conducting any planned ground-disturbing or intrusive activities, the Grantee, its successors and assigns shall provide Notice to the Army and shall ensure that all personnel have been made aware of the 3Rs Explosives Safety Construction Guide, which is available at 3Rs.mil, and completed received training prior to performing ground-disturbing or intrusive activities.

(b) Construction Monitoring. Construction monitoring is required during any ground-disturbing or intrusive activities that disturb more than 10 cubic yards of soil. Construction monitoring shall be arranged during the planning stages of a construction project, prior to the start of any ground-disturbing or intrusive activities. UXO-qualified personnel will

monitor ground-disturbing and intrusive construction activities for the potential presence of DoD military munitions. Personnel providing this support will meet the requirements of DoD Explosives Safety Board's Technical Paper 16, Minimum Qualifications for Personnel Conducting Munitions and Explosives of Concern-Related Activities, and be equipped with appropriate geophysical equipment. If munitions are known or suspected to have been encountered, ground disturbing activities in the area and adjacent areas shall cease and the encounter will be reported to local law enforcement. The local law enforcement agency will promptly request DoD support of an explosives and munitions emergency.

Should DoD Explosive Ordnance Disposal (EOD) determine that the DoD military munition encountered was MEC, the Army, in coordination with USEPA and the California Department of Toxic Substances Control (DTSC), will reassess the probability of encountering MEC. Such an assessment may determine that additional investigation is required, the required action will be coordinated with USEPA and DTSC. As part of the assessment the Army will evaluate available historical records, onsite investigation data and other physical evidence, such as:

- DoD military munitions to include munitions determined to be MEC and munitions debris encountered to-date during the ongoing construction project.
- Most-recent five-year review.
- Annual reports since the most recent five-year review.

The Army will propose to USEPA and DTSC an appropriate site-level designation (low or moderate/high) to indicate the probability of encountering additional DoD military munitions. This designation will be used as a basis for determining the support required to continue the construction safely. The agency consultation process will be completed as expeditiously as practicable.

The probability of encountering MEC and the resulting support required will be determined jointly by the Army and USEPA, in consultation with DTSC. If the probability of encountering DoD military munitions is low, construction may resume with construction monitoring. If the probability of encountering DoD military munitions is moderate/high, the level of construction support may be modified based on an evaluation of the available information and applicable explosives safety criteria. If the Army or USEPA, in consultation with DTSC, determine that the selected remedy is no longer protective, the Army will propose additional munitions response actions or a modification of the current remedy. The Army and USEPA will jointly select the action to be conducted. DTSC will be provided an opportunity to review and comment on the proposal. The additional actions and remedial objectives required will be documented in an Explanation of Significant Differences (ESD) or Amendment to the Record of Decision (ROD), as appropriate.

(c) Annual Monitoring and Reporting. The Grantee, its successors and assigns shall conduct annual, physical on-site inspections to confirm continued compliance with the Excavation Restriction in accordance with Memorandum of Agreement (MOA) between DTSC, the Fort Ord Reuse Authority (FORA), and the local jurisdictions. The monitoring results will be included in a separate report or as a section to another environmental report, if appropriate, and be provided to the Grantor, USEPA and DTSC. The Grantee, its successors and

assigns will (a) notify the regulatory agencies, as soon as practicable, upon an encounter with a DoD military munition during use of the Property; and (b) report the results of monitoring activities annually. The Army will use the annual monitoring information in its preparation of the five-year review to evaluate the effectiveness of the remedy. As part of the annual monitoring and five-year review reporting, the Army, USEPA, and DTSC will review DoD military munitions-related data collected during the Property's development to determine whether the 3Rs Explosives Safety Education training and/or construction monitoring should continue. If MEC has not been encountered during development or use of the Property, the training and/or construction monitoring may, with regulatory approval, be discontinued; however, it may be subject to reinstatement if additional DoD military munitions are encountered in the future.

(2) Residential Use Restriction. The Grantee, its successors and assigns, shall not use the Property for residential purposes. The Army has agreed to enter into a Covenant to Restrict Use of Property (CRUP), which will include a Residential Use Restriction, with the California EPA Department of Toxic Substances Control (DTSC) pursuant to California Health and Safety Code sections 25222.1 and 25355.5 and California Civil Code Section 1471. Any proposal for residential development on the Property will be subject to regulatory review. The CRUP will place additional use restrictions on all of the transferring Property and will be signed prior to transfer. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; childcare facilities; nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

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 (EPPs) and the provisions of the applicable CRUP. 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, and the DTSC, in accordance with the provisions of the CRUP, 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: Supervising Hazardous Substances Engineer II
Brownfields and Environmental Restoration Program
Department of Toxic Substances Control
Sacramento Office
8800 Cal Center Drive
Sacramento, CA 95826-3200

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

A. The Grantee is hereby notified that, due to the former use of the Property as a military installation, the Property may contain munitions and explosives of concern (MEC). The term MEC means specific categories of military munitions that may pose unique explosives safety risks and includes: (1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (2) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard. For the purposes of the Fort Ord Military Munitions Response Program (MMRP) and these EPPs, MEC does not include small arms ammunition (i.e., ammunition, without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns).

B. The Property includes a portion of MRS-13B, which was previously used for a variety of training activities since the 1940s, including practice mortar training, bayonet training, hand-to-hand combat training, physical fitness training, and possibly rifle grenade training. The Army conducted munitions responses on the Property and detected DoD military munitions, some of which may have been determined to be MEC, were removed. The Army MEC disposed of the MEC recovered by a variety of methods (e.g., open detonation, either in place or in a consolidated shot, or by contained detonation). A summary of MEC discovered on the Property is provided in Exhibit __ [Include FOST Table 2 – 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, there are no military munitions remaining on the Property that upon evaluation by Explosive Ordnance Disposal or similarly qualified personnel would be determined. Notwithstanding the Grantor's determination, the parties acknowledge that there is a possibility that MEC may exist on the Property. If the Grantee, any subsequent owner, or any other person should encounter or suspect they have encountered a munition on the Property, they shall (1) immediately stop intrusive or ground-disturbing work in the area and adjacent areas; (2) not attempt to approach, move or disturb it; and immediately notify the local law enforcement agency having jurisdiction on the Property. Law enforcement will request Explosive Ordnance Disposal (EOD) support of an explosives or munitions emergency to address the suspect munition. . EOD's support of an explosives or munitions emergency is at no expense to the Grantee.

D. 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.

E. The Grantee acknowledges receipt of the Record of Decision, Parker Flats Munitions Response Area, Track 2 Munitions Response Site (August 2008), and the Remedial Design/Remedial Action Work Plan, Parker Flats Munitions Response Area (March 2009).

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); 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).

Track 2 – sites at the former Fort Ord where MEC was found and a MEC removal action was completed. Track 2 sites differ from Track 1 sites in that a removal action has been completed and that land use controls may be applicable based on future identified land uses and results of removal actions.

DEFINITIONS FOR THE MILITARY MUNITIONS RESPONSE PROGRAM[1]

Military Munitions Response Program (MMRP) – DOD-established program to manage environmental, health, and safety issues presented by munitions and explosives of concern (MEC). For the purposes of the Fort Ord MMRP and this FOST, MEC does not include small arms ammunition (i.e., ammunition that is .50 caliber or smaller or for shotguns and has projectiles that do not contain explosives, other than tracers).[2] The below definitions are used within the MMRP:

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

[2] Per U.S. Army Engineering and Support Center, Huntsville, Ordnance and Explosives Center of Expertise guidance, small arms ammunition, defined as "ammunition, without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns," are considered to pose very low risk to the public because 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.

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)). (Note: For the purposes of the Fort Ord MMRP and this FOST, DMM does not include small arms ammunition, defined as, "ammunitions without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns.)

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.

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 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, and 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.

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.

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.

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).

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.

Other Debris – Debris found on operational or MRSs that may be removed to facilitate a range clearance or munitions response that is not related to munitions or range operations. Such debris includes, but is not limited to, rebar, household items (e.g., refrigerators and washing machines), automobile parts and automobiles that were not associated with range targets, fence posts, and fence wire.

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)).

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).

Small Arms Ammunition – Ammunition with projectiles that do not contain explosives (other than tracers) that are .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).

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)).

ATTACHMENT 7

REGULATORY/PUBLIC COMMENTS

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

August 13, 2013

Mr. William Collins
Fort Ord Base Realignment and Closure Office
P.O. Box 5008
Monterey, CA 93944-5008

Re: **Concurrence on Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Parker Flats Munitions Response Area Parcels L2.3 and L2.4.1 (FOST 11), dated August 2013**

Dear Mr. Collins:

The U.S. Environmental Protection Agency (EPA), Region IX has received the above referenced revised FOST from the U.S. Army (Army) dated August 2013. The FOST addresses the properties at Former Fort Ord identified as Parker Flats Munitions Response Area Parcels L2.3 and L2.4.1.

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 revised FOST, received by EPA via email on August 13, 2013, and the associated Record of Decision, Parker Flats Munitions Response Area, Track 2 Munitions Response Site signed by EPA on August 26, 2008.

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.

Based on the Army's stated position that any recovered MEC item with positively identified explosive/energetic filler will be documented as a hazardous waste/hazardous substance as defined by CERCLA, EPA withdraws our non-concurrence letter dated February 9, 2012 and 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 27 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.

Sincerely,

for

Michael Montgomery, Assistant Director
Federal Facilities and Site Cleanup Branch
Superfund Division

cc: Mr. Derek Lieberman
Fort Ord Base Realignment and Closure Office
P.O. Box 5008
Monterey, CA 93944-5004

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

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
8800 Cal Center Drive
Sacramento, California 95826-3200

Edmund G. Brown Jr.
Governor

September 9, 2013

Mr. Bill Collins
BRAC Environmental Coordinator
Fort Ord Base Realignment and Closure Office
P.O. Box 5008, Building #4463 Gigling Road
Monterey, California 93944-5008

FINDING OF SUITABILITY TO TRANSFER (FOST), FORMER FORT ORD, CALIFORNIA, PARKER FLATS MUNITIONS RESPONSE AREA, PARCELS L2.3 AND L2.4.1 (FOST 11)

Dear Mr. Collins:

The Department of Toxic Substances Control (DTSC) has reviewed the document entitled "Finding of Suitability to Transfer, Former Fort Ord, California, Parker Flats Munitions Response Area Parcels L2.3 and L2.4.1 (FOST 11), dated August 2013.

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

DTSC provided a concurrence letter for the August 2010 version of the subject FOST. On January 30, 2012 DTSC received a revised version of that FOST. Based on a modification to text in the January 30 2012 version it was DTSC's opinion that munitions and Explosives of concern (MEC) were not adequately defined to be covered under the CERCLA warranty. As a result of the FOST 11 text modification DTSC issued a non-concurrence letter on March 9, 2012.

The Army has subsequently modified the text to indicate that prior to 1998, suspected MEC items encountered at the former Fort Ord were destroyed by detonation without determining whether the items were MEC; therefore, suspected MEC destroyed during the munitions responses on the Property may or may not have been a hazardous substance, and may have been inert or expended. Although the Army cannot confirm

that hazardous substances were present, the Army will include the CERCLA Covenant in the Deed for the Property. Based on this modification it is DTSC's opinion that should MEC be found, it will be addressed by the Army per the CERCLA warranty. DTSC's comments have been adequately addressed and withdraws the March 9, 2012, non-concurrence.

Please note that should this property be considered for 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.

DTSC concurs that the above referenced parcels are suitable for transfer and the intended reuse. 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.

If there are any questions pertaining to the comments provided, please contact me at (916) 255-4988 or by email at ed.walker@dtsc.ca.gov.

Sincerely,

Ed Walker
Project Manager
Military Sites and Corrective Action Unit
Brownfields and Environmental Restoration Program

Enclosure

cc: Ms. Judy C. Huang, P.E.
U.S. Environmental Protection Agency
75 Hawthorne Street
Mail Code: SFD-8-3
San Francisco, California 94105

Mr. Derek Lieberman
Fort Ord Office, Army Base Realignment and Closure
P.O. Box 5008, Building #4463 Gigling Road
Monterey, California 93944-5008

cc: Ms. Chieko Nozaki
Fort Ord Office, Army Base Realignment and Closure
P.O. Box 5008, Building #4463 Gigling Road
Monterey, California 93944-5008

Mr. Noel Shrum
Unit Chief
Military Sites and Corrective Action Unit
Brownfields and Environmental Restoration Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

ATTACHMENT 8

ARMY RESPONSE

LETTER RECEIVED FROM UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX (USEPA) DATED AUGUST 13, 2013: CONCURRENCE ON FINDING OF SUITABILITY TO TRANSFER (FOST), FORMER FORT ORD, CALIFORNIA, PARKER FLATS MUNITIONS RESPONSE AREA PARCELS L2.3 AND L2.4.14 (FOST 11), DATED AUGUST 2013.

Comment:

Based on the Army's stated position that any recovered MEC [munitions and explosives of concern][1] item with positively identified explosive/energetic filler will be documented as a hazardous waste/hazardous substance as defined by CERCLA, EPA withdraws our non-concurrence letter dated February 9, 2012 and concurs that the above referenced parcels are suitable for transfer and the intended reuse, given the environmental restrictions identified.

Response:

Munitions responses at the former Fort Ord are performed by personnel who are trained and experienced in the identification and safe handling of used and unused military munitions identified as Material Potentially Presenting an Explosive Hazard (MPPEH), which may be further classified as material documented as an explosive hazard (MDEH) or material documented as safe (MDAS).[2] MDEH is specifically MPPEH that cannot be documented as MDAS, and has been assessed and documented as to the maximum explosive hazards[3] the material is known or suspected to present. The MDEH characterization only addresses the explosives safety status of the material, and not whether the item exhibits a RCRA characteristic.

To make a determination of whether MEC recovered at Fort Ord is a hazardous waste, and thus a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a determination through testing for a the Resource Conservation and Recovery Act (RCRA) characteristic of ignitability or reactivity would be necessary during munitions response, or documentation of a reaction indicating a characteristic.

MEC may exhibit the characteristic of ignitability if they have either of the following properties:

1. Capable of causing fire by functioning under standard temperature and pressure through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burn so vigorously and persistently that it creates a hazard.

2. Contain an oxidizer (e.g., perchlorate) that yields oxygen readily to stimulate combustion of organic matter.

MEC may exhibit the characteristic of reactivity if they have either of the following properties:

1. Capable of detonation or explosive reaction if subjected to a strong initiating source or if heated under confinement.

[1] See Attachment 6 for definitions.
[2] Under the control of the Department of Defense (DoD) and its contractors in accordance with DoD Instruction (DoDI) 4140.62.
[3] 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 (DoD 6055.09-STD).

2. Readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

As described above, personnel perform munitions responses for the purpose of addressing the explosives safety status of the material recovered. These personnel have graduated from military explosive ordnance disposal (EOD) school or equivalent civilian certified unexploded ordnance (UXO) school. These individuals are highly trained and qualified to perform munitions responses; however, their training is not required nor expected to include testing or identifying RCRA hazardous waste characteristics that may be associated with some recovered MEC items. The recovered items are only managed with respect to their explosives safety status as the standard of practice and not evaluated or documented with respect to RCRA hazardous waste characteristics. It is not possible to determine whether a MEC item will exhibit a characteristic merely by the type of munition.

LETTER RECEIVED FROM CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC) DATED SEPTEMBER 9, 2013: FINDING OF SUITABILITY TO TRANSFER (FOST), FORMER FORT ORD, CALIFORNIA, PARKER FLATS MUNITIONS RESPONSE AREA PARCELS L2.3 AND L2.4.14 (FOST 11).

Comment:

The Army has… modified the text [of FOST 11] to indicate that prior to 1998, suspected MEC items encountered at the former Fort Ord were destroyed by detonation without determining the items were MEC; therefore, suspected MEC destroyed during the munitions responses on the Property may or may not have been a hazardous substance, and may have been inert or expended. Although the Army cannot confirm that hazardous substances were present, the Army will include the CERCLA Covenant in the Deed for the Property. Based on this modification it is DTSC's opinion that should MEC be found, it will be addressed by the Army per the CERCLA warranty.

Response:

The Army will include the CERCLA Covenant in the Deed for the Property and, because recovered items are only managed with respect to their explosives safety status as the standard of practice and not evaluated or documented with respect to RCRA hazardous waste characteristics, and it is not possible to determine whether an item will exhibit a characteristic merely by the type of munition, the Army will address MEC found on the Property pursuant to the Notice of the Potential for the Presence of MEC provided in the Environmental Protection Provisions (Attachment 5 to this FOST), which will also be included in the Deed for the Property. Additional information is provided in the response to the USEPA comment above.