

APPENDIX G

ARMY RESPONSES TO COMMENTS  
ON THE DRAFT DEL REY OAKS MRA RI/FS

## APPENDIX G

### ARMY RESPONSES TO COMMENTS

Draft Track 2 Munitions Response Remedial Investigation/Feasibility Study,  
Del Rey Oaks Munitions Response Area, Former Fort Ord, California,  
dated March 27, 2007

*Note: The Responses to EPA Specific Comment 8 and Fort Ord Citizen's Advisory Comment 3 were revised based on conversations that occurred following issue of the Draft Final report.*

### **COMMENTS FROM UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION IX, DATED APRIL 26, 2007**

#### **GENERAL EPA COMMENTS**

**Comment 1:** The Draft Track 2 DRO MRA RI/FS contains excessive description of the regulatory process that does not contribute to the overall readability of the document. Please revise and streamline the Draft Track 2 DRO MRA RI/FS.

Response 1: Sections 5.1 through 5.3 of the Draft Final RI/FS were revised to streamline regulatory process discussions as suggested.

**Comment 2:** There are a number of instances in the Draft Track 2 Munitions Response Remedial Investigation/Feasibility Study, Del Rey Oaks Munitions Response Area (Revision C) (hereinafter referred to as the Draft Track 2 DRO MRA RI/FS), where the removal actions described therein are referred to as a "four foot clearance" or as clearances/removals conducted to "a depth of four feet." However, on pages 1-1 and 1-2, the Introduction states that, "The Army has conducted removal actions to remove all detected MEC to depth over the entire Del Rey Oaks MRS." While the removals and sampling action conducted were originally defined as "four foot removals," the Army has previously stated that all anomalies not resolved at that depth were prosecuted to resolution at the direction of the COE Safety Officer. This makes these "four foot removals," in effect, the same as a removal to depth.

Response 2: The Draft Final RI/FS was revised to clarify that the MEC removal actions were designed to address MEC to depths of four feet below ground surface (bgs); however, all anomalies (i.e., ferromagnetic material), even those deeper than four feet bgs, were investigated and all detected MEC was removed.

**Comment 3:** The phrasing of the proposed remediation alternatives in the Draft Track 2 DRO MRA RI/FS can be improved as follows:

- **Alternative 1: No Action.** This alternative should be evaluated as if no institutional controls and land use restrictions are currently in place.

- **Alternative 2: Land Use Controls.** This alternative should include site-wide construction support and MEC Recognition and Safety Training requirements only.
- **Alternative 3: Land Use Control with Sensitive Use Restriction.** This alternative should include site-wide construction support, MEC Recognition and Safety Training requirements, and sensitive use restriction due to instrument detection uncertainties. The sensitive use restriction can be removed if the uncertainties are resolved by implementing the DTSC Protocol and obtaining EPA and DTSC approval. Since Del Rey Oaks Munitions Response Area has already been transferred to the City of Del Rey Oaks and that the property was cleaned up to intended recreation and commercial uses at the time of the transfer, the City of Del Rey Oaks has agreed to and will be responsible for cost associated with the removal of the sensitive use restrictions.

**Please make appropriate changes throughout the document.**

- Response 3: Section 5.0 (Feasibility Study) of the Draft Final RI/FS was revised to identify and clarify the components of the remedial alternatives as suggested, using terminology agreed on in subsequent discussions between the Army, EPA, and DTSC, and EPA's transmittal dated July 19, 2007.
- Comment 4:** **Draft Track 2 DRO MRA RI/FS discussions on the approval required to remove the residential use restriction were inconsistent. Although the Draft Track 2 DRO MRA RI/FS mentioned that the Army and DTSC both have to act in order to allow residential reuse, Alternative 3 only refers to DTSC approval prior to residential uses. Please clarify that both the EPA and DTSC need to approve prior to residential uses.**
- Response 4: Section 5.0 (Feasibility Study) of the Draft Final RI/FS was revised as suggested to indicate both the EPA and DTSC would be required to approve removal of the restrictions on residential uses.
- Comment 5:** **EPA cannot accept local ordinance as the only Institutional Control (IC) implementation mechanism. The Draft Track 2 DRO MRA RI/FS needs to evaluate the ICs as an Alternative. In addition, the Draft Track 2 DRO MRS RI/FS also needs to state that the Army will be responsible for the compliance and enforcement of the ICs. Please revise.**
- Response 5: Please see Response to General Comment 3 above.
- Comment 6:** **The Draft Track 2 DRO MRA RI/FS is not clear if future development requires construction support for ground disturbance below 4 feet bgs. Please clarify. If a permit will be required for any ground disturbance below 4 feet bgs, please also provide the permit approval process.**
- Response 6: The Draft Final RI/FS was revised as suggested to clarify the construction support requirements for ground disturbance below 4 feet bgs.
- Comment 7:** **Included within the Cost Estimated in Table F-2, there is an incorrect reference to a deed notice. Please clarify the relationship between the proposed deed provision and the existing deed restriction.**

Response 7: The Draft Final RI/FS cost table and text was revised to clarify the purposes, costs, and responsibilities for implementing and maintaining the land use controls in the deed.

**SPECIFIC EPA COMMENTS:**

**Comment 1:** Acronyms, pages vi through vii: The acronym “EOD” is defined in the Acronyms list as “Exploded Ordnance Disposal.” It should read “Explosive Ordnance Disposal.” This error is repeated in the Glossary on page ix. Also, the acronym for the Fort Ord Reuse Authority is shown as “FOR A.” It should be shown as “FORA.” The acronym “ITRC” is defined as “Interstate Technology and Regulatory Corporation” in the Acronyms list. It is also defined as “Interstate Technology and Regulatory Cooperation” in the Glossary on page xiv. Neither is correct. The definition should read, “Interstate Technology and Regulatory Council.” Please make these corrections at the cited locations and elsewhere in the Draft Track 2 DRO MRA RI/FS as necessary.

Response 1: The Draft Final RI/FS Acronyms section was revised as suggested.

**Comment 2:** Glossary, pages ix through xiv: The Glossary contains a tabulation of the source documents for the definitions at the end of the listing. However, some of the definitions do not contain a source code. Please correct this or provide an explanation for this omission.

Response 2: The Draft Final RI/FS Glossary section was revised as suggested

**Comment 3:** Section 1.0, Introduction, page 1-2: The fourth paragraph on the cited page states that, “A UXO Safety Specialist with Shaw has provided technical review of this document. Qualifications of the UXO Safety Specialist are provided as an attachment to this report.” Review of the Draft Track 2 DRO MRA RI/FS found no such attachment to be present. Please correct this omission.

Response 3: The Draft Final RI/FS includes the qualifications as Attachment A to the report.

**Comment 4:** Section 2.1.2, General History, page 2-2: The second paragraph of this section contains the following statements: “By 1961, numbers has been assigned to some of the ranges following the numbering scheme already in use at the beach trainfire ranges. A training map from 1964 indicates that, by this date, all of the ranges within the Impact Area and Del Rey Oaks MRA were consecutively numbered. The locations and limits of the individual trainfire ranges have not changed appreciably since that time. At the time of base closure, twenty-eight ranges (numbered 18 through 48) were active or considered operational.”

It is unclear as to whether the term “trainfire” is intended to refer to the small arms (primarily rifle) ranges, which is correct use of the term, or if it is intended to include all of the ranges numbered 18 through 48, which would be an incorrect use of the term.

**Trainfire was an Army program established after a post-Korean Conflict study revealed that many soldiers involved in direct combat with the enemy did not fire their individual weapons, or if they did fire them, they often did not aim them at individual enemy soldiers. It was primarily used to train soldiers to fire their rifles at the enemy and did not include crew served or anti-armor weapons.**

**In addition, if the ranges were numbered 18 through 48 as stated, the total number would be thirty-one ranges, instead of the twenty-eight noted in the cited statements. Please correct the cited statements to remove the noted ambiguity.**

Response 4: The Draft Final RI/FS was revised to clarify the number of active ranges and indicate that the ranges were not all Trainfire ranges. Twenty-eight ranges were active at the time of base closure. Several of the numbered ranges were no longer active at base closure.

**Comment 5: Section 2.1.2, General History, page 2-3: The early transfer and the conditions required by the associated Finding of Suitability for Early Transfer (FOSET) are important bases for this report. Please include a discussion of the early transfer of the Del Rey Oaks Munitions Response Area and the relationship between the FOSET and this document.**

Response 5: The Draft Final RI/FS was revised to describe the relationship between the early transfer and FOSET process, and include the following information in Section 2.1.3.3 (Future Land Use):

“The Del Rey Oaks parcels were identified for early transfer of the property for the purpose of assisting in the economic recovery of the area and preventing further job and revenue loss by expediting reuse. When federal property, on which hazardous substances have been stored for more than a year, are known to have been released, or have been disposed of, by deed, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requires a covenant indicating 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 prior to transfer of such property by deed. The required covenant may be deferred under certain conditions where it can be shown that the intended reuse of the property is consistent with protection of human health and the environment during the deferral period. The purpose of the FOSET is to identify environmental factors of concern associated with the proposed property transfer and to demonstrate that the proposed property transfer prior to the completion of all remedial actions, with any appropriately required land use controls, is consistent with the protection of human health and the environment. The FOSET was completed in 2004 and the property was transferred to FORA in 2005.

Although the CERCLA covenant is deferred through the early transfer process, the Army is still responsible for satisfying the covenant under CERCLA. The Army has performed munitions response actions on the Del Rey Oaks parcels prior to early transfer pursuant to the Fort Ord Federal Facility Agreement (FFA). This Del Rey Oaks RI/FS documents these actions and is required under CERCLA and is the first step in preparing the formal decision document to complete the CERCLA process for the transferred property.”

**Comment 6:** Section 2.1.3.1, **Developed Land**, pages 2-3 through 2-4: This section contains a statement that reads, “An active training area, the Military Operations on Urbanized Terrain (MOUT) facility, is located in the far northeastern portion of the Impact Area and the Bureau of Land Management (BLM) headquarters is located in the northern portion of the Impact Area.” This statement refers to facilities that are not contiguous to the Del Rey Oaks MRA, and their inclusion here is questionable. Please review the cited section and revise it as necessary.

Response 6: The Draft Final RI/FS was revised to remove the references to the facilities that are not contiguous to the Del Rey Oaks MRA as suggested.

**Comment 7:** Section 3.3.1, **History of Investigations and Removals**, page 3-6: In the subsection entitled “Additional Sampling Activities,” a statement is found that reads, “Of the 169 grids, two, which were located in habitat area in MRS-15 DRO 01, were not investigated.” No specific reason for this is given, nor is a statement as to whether the grids were ever investigated is provided. Please revise the cited subsection to include the reason that the habitat grids were not investigated with the other 167 grids. Also, include a statement as to whether they were subsequently investigated to determine if MEC was present therein.

Response 7: The Draft Final RI/FS was revised to clarify (1) the After Action Report states these grids were “not investigated as directed due to the fact that they are located in an approximately 5-acre habitat area in the extreme west corner of Site MRS-15 DRO 01.”; (2) this 5-acre portion of MRS-15 DRO 01 was subdivided from MRS-15 DRO 01 and is now identified as MRS-15 DRO 01A; and (3) MRS-15 DRO 01A was evaluated as a Track 1 Plug-in Site.

**Comment 8:** Section 3.3.1, **History of Investigations and Removals**, page 3-6: In the subsection entitled “Non-Time Critical Removal Action,” a statement is found that reads, “All sample grids within the DRO Group were digitally surveyed using the either the EM61, EM61 hand held (HH) or the G-858 digital magnetometers.” As this sentence is constructed, it could be misinterpreted to indicate that the EM61 and the EM61HH instruments are magnetometers. Please replace the word “magnetometers” with the words “geophysical instruments” to eliminate the potential misinterpretation. Also, please remove the extra “the” from the cited sentence.

Response 8: The Draft Final RI/FS was revised as suggested to use the more general term “geophysical equipment” when referring to the geophysical instruments that were used to survey the grids.

**Comment 9:** Section 3.4.1.1, **Training up through the 1940s**, page 3-13: The second paragraph of the subsection entitled “2.36-inch Rocket Training” contains a statement that reads, “The M7 series practice rockets were inert warheads and loaded to conform to the characteristics of a live round, (Hogg, 2001).” This is a somewhat erroneous statement. In actuality, the M7 series practice rockets contained an inert warhead and a live rocket mortar. When fired, the spent motor and the inert warhead were propelled toward the target. Please revise the cited sentence to read, “The M7 series practice rockets contained inert warheads and a live rocket motor that was loaded to conform to the characteristics of a live round, (Hogg, 2001).”

Response 9: The Draft Final RI/FS was revised as suggested.

**Comment 10:** Section 3.4.1.1, Training up through the 1940s, page 3-14: The second paragraph of the subsection entitled “Rifle Grenade Training” contains a statement that reads, “Practice rifles are inert; other than possible blank cartridges used to fire the grenade.” As currently constructed, this sentence is difficult to interpret. It is assumed that the sentence should read, “Practice rifle grenades are inert. They are propelled downrange by a special blank cartridge used to fire the grenade from a launcher attached to the rifle.” Please make this correction.

Response 10: The Draft Final RI/FS was revised as suggested.

**Comment 11:** Section 3.4.1.1, Training up through the 1940s, page 3-22: The subsection entitled “Range 26” contains a statement that reads, “As of 1991, Range 26 was a semi-automatic weapon (SAW) machine gun range.” This appears to be incorrect nomenclature for the subject weapon, as the acronym “SAW” has been defined in the Acronyms section as “Squad Automatic Weapon.” Please make this correction.

Response 11: The Draft Final RI/FS was revised as suggested.

**Comment 12:** Section 3.5.2.2, Equipment Review, page 3-35: In the subsection entitled “Evaluation of Instrument Detection Efficiency at the Del Rey Oaks MRA,” there appears to be a formatting problem. There is a bulletized statement followed by another with no bullet. This is followed by the term “G-858” that is disconnected from both the preceding sentence and the following paragraph. Please review this subsection and correct it as necessary.

Response 12: The Draft Final RI/FS was revised to address the formatting errors associated with the bullets.

**Comment 13:** Section 5.3, Application of Risk Assessment Results, page 5-6: In the last paragraph in the section there are a series of sentences that read, “Although the risk is scored as an A for all receptors based on the RA protocol, it should be noted that the detection efficiency for the geophysical equipment is not assumed to be 100 percent. Therefore, while not expected, it is possible that MEC may remain below the surface at the site. Because MEC may remain below the surface it is possible that an intruding receptor could encounter a MEC item.” These sentences would seem to indicate that the only potential residual MEC threat is subsurface.

While it is true that the most likely residual threat to be found in the Del Rey Oaks MRA is subsurface MEC, the potential for surface MEC to be encountered cannot be ruled out. This threat is most likely to manifest itself in areas where wind or water erosion of the surface occur, or in areas where the removal activities encountered difficult terrain or dense vegetation. It is essential that a false sense of security is not created with respect to the surface MEC potential. It is therefore requested that the cited sentences be rewritten to read as follows: “Although the risk is scored as an A for all receptors based on the RA protocol, it should be noted that the detection efficiency for the geophysical equipment is not assumed to be 100 percent. Therefore, while not expected, it is possible that MEC may remain on and below the surface at

**the site. Because MEC may remain on or below the surface, it is possible that a receptor could encounter a MEC item.”**

- Response 13: As described in Section 3.5.2.4, QC/QA was performed for all sampling and removal activities conducted with the Del Rey Oaks MRA. With the exception of the 11 grid area, no significant issues related to QC/QA were identified. Although all MEC detected was removed and QC/QA was conducted without significant issues, the potential for MEC remaining in the subsurface cannot be ruled out; it is unlikely that previously identified MEC remains on the surface of the Del Rey Oaks MRA.
- Comment 14: Section 5.6.3, Construction Support, page 5-19: In the first paragraph on this page there is a sentence that states, “The specific location of each of the 11 grid area is delineated on Plate 3-3.” As currently constructed, this sentence is confusing as to its intent. To better express the intended meaning, please revise it to read, “The specific location of each of the grids found in the 11 grid area is delineated on Plate 3-3.”**
- Response 14: The Draft Final RI/FS was revised as suggested.
- Comment 15: Plate 3-2, Munitions Debris Removed from the Del Rey Oaks Munitions Response Area: The Explanation table provided with this plate lists a category entitled “40mm Cartridge” as one of the types of munitions debris (MD) found and removed from the MRA. This same designation (a cartridge as MD) is also found in Appendix C, Tables. It is unclear as to how this can be a correct designation. A cartridge is generally defined as all of the items necessary to fire a weapon once. This almost always includes primer and propellant. It may include a projectile (with or without fuze) and a cartridge case. In all cases, the presence of the unfired primer and/or propellant precludes the classification of the item as munitions debris. Please review the cited Plate and the tables in Appendix C and remove the cartridge designation from the items classified as MD, reclassify them as MEC, or provide an explanation as to why the designation of a cartridge as MD is correct.**
- Response 15: The Draft Final RI/FS was revised as suggested to address the errors in the tables and plate.
- Comment 16: Appendix B, Risk Assessment, Section 1.1 Data and Data Usability, page B2: In the subsection entitled “Selection of Data Sets,” the last sentence states that, “The data sets used to prepare the RA are provided as Attachment A.” A review of the document could not locate an Attachment A. Please include the subject attachment in the next revision of the Draft Track 2 DRO MRA RI/FS.**
- Response 16: The Draft Final RI/FS was revised as suggested to correct the reference to the data that are included in Appendix C.
- Comment 17: Appendix B Tables, page B7 through B18: The tables on these pages (Tables B-13 through B18) are not specifically identified as containing data from the Baseline Risk analysis conducted after the completion of the removal action in the Del Rey Oaks MRA. As a result, some confusion on the part of the reader may result as to whether these tables represent conditions prior to or after the removal actions. Please add verbiage to the table titles that indicates that they are post-removal results.**



Response 17: The Draft Final RI/FS was revised as suggested so that the table titles indicate that the results represent post-removal conditions.

**COMMENTS FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC),  
DATED APRIL 26, 2007**

**GENERAL DTSC COMMENTS:**

**Comment 1:** It must be made clear throughout the document that the proposed residential protocol is only draft and will be finalized in the ROD. Need to revise globally to clarify this point.

Response 1: The Draft Final RI/FS was revised as suggested to clarify the procedures that would lift the residential restrictions from within the Del Rey Oaks MRA provided by DTSC are draft.

**Comment 2:** Need to revise globally to reflect that DRO will now be producing an EIR.

Response 2: The Draft Final RI/FS was revised as suggested to describe the EIR that will be prepared for the Del Rey Oaks MRA. Section 2.1.3.3 Future Land Use was revised to (1) provide background information on the reuse currently being contemplated by the City of Del Rey Oaks; and (2) include references to the Draft Initial Study and Mitigated Negative Declaration for the City of Del Rey Oaks Housing Element and Amendments to the General Plan, Redevelopment Plan, and Zoning Ordinance (Initial Study/Negative Declaration) and indicates that an Environmental Impact Report will now be prepared in place of the Initial Study/Negative Declaration.

**Comment 3:** Page xiii; Track 2 sites. Add that in order to satisfy Track 2 criteria, the site must also be suitable for the intended use. Just completing a removal does not qualify a parcel for Track 2.

Response 3: Under the Track 2 MR RI/FS program, the Army intends to evaluate munitions response sites where MEC removals were conducted. Reasonably anticipated future land use is considered in the development and evaluation of cleanup alternatives. Because a substantial cleanup has already occurred at Track 2 sites, possible outcomes of a Track 2 RI/FS and ROD include no further action, land use control, and/or additional MEC removal.

The description of Track 2 sites in the Draft Final RI/FS Glossary was revised to provide additional clarification and indicate: "Sites at the former Fort Ord where MEC items were present, and MEC removal has been conducted (e.g. Del Rey Oaks MRA). These areas are evaluated in area-specific RI/FSs to assess whether they are in a protective state based on their reasonably anticipated future land uses. Possible outcomes of a Track 2 RI/FS and ROD could include no further action, land use control, and/or additional MEC removal."

**Comment 4:** Section 2.1.3.3; add that DRO intends to also use these parcels for residential use.

Response 4: This information is included in Section 2.1.3.3 of the Draft Final RI/FS.

- Comment 5:** Section 5.10, page 5-35, first sentence; change to; “...for Alternative 2, the proposed Residential Protocol.
- Response 5: Draft Final RI/FS was revised as suggested to clarify that the procedures that would lift the residential restriction from within the Del Rey Oaks MRA provided by DTSC are “draft.”
- Comment 6:** Section 5.6.3, Construction Support, first paragraph; The statement that if a MEC item is found, local law enforcement agencies should be called is a change in Army policy at Fort Ord. The Army has historically stated that the Army will be responsible for all MEC items found on the former Fort Ord. Please discuss the origin of this decision, when it was made, and the rationale behind it. (Similar references are elsewhere in the document).
- Response 6: The local law enforcement agency has the authority to respond to the call, ability to ascertain if it could be military munitions-related, and the authority to request EOD assistance if warranted. The EOD unit currently assigned to cover our area is 60th Civil Engineering Squadron (EOD) located at Travis AFB, California. Procedures for such notification are described in the MRS Security Program. Should further munitions response, in the form of investigation or removal, be needed, the Army will be the responsible party for conducting such an action.
- Comment 7:** Throughout the document is stated that the Del Rey Oaks property is being assessed for Munitions and Explosives of Concern (MEC) only and chemical hazards will be or have been addressed in the Basewide Range Assessment, under the Hazardous and Toxic Waste (HTW) program. It is unclear as to the current status of chemical hazards possibly associated with the Del Rey Oaks parcels. Please state the current status of the property regarding chemical or toxic waste hazards.
- Response 7: Section 1.0 (second paragraph) and Section 1.1 (first paragraph) of the Draft Final RI/FS were revised to clarify the HTW work was completed and the result of the lead contaminated soil cleanup has been accepted by EPA and DTSC, as suggested.
- Comment 8:** The document states that there no Applicable or Relevant and Appropriate Requirements (ARARs) associated with the Del Rey Oaks property; however, parcels E29a and E29b.1 were identified in the Early Transfer documents as Borderland Property. According to the Habitat Management Plan these transferred parcels must adhere to habitat-related requirements. Explain in the text the rationale for not including an ARAR table for evaluation which may be applicable to the Del Rey Oaks parcels. Please include a Table of ARARs for evaluation as this is an important component in determining if the Remedial Action Objectives (RAOs) have been successfully completed.
- Response 8: The HMP requirements for borderland parcels are related to reuse activities and are reusers’ responsibility. Since they do not apply to any of the remedial alternatives, they are not considered as potential ARARs. The Army found no potential ARARs that would apply to land use control alternatives.

**Comment 9:** Risk Assessment; Section 4-2 states that chemical hazards were addressed in the Basewide Range Assessment (BRA); however, the document has not been finalized. Please indicate that the completion the BRA is pending.

Response 9: Please see Response to Comment 7 above.

**Comment 10:** Section 5.6.5; 3rd sentence; change to: "...the Army has entered into a Land Use Covenant..."

Response 10: Section 5.5.5 of the Draft Final RI/FS was revised to clarify that the Army entered into a land use covenant at the time of early transfer of the subject parcels.

**Comment 11:** Section 5.6.6; retain the first sentence and strike the rest of the paragraph. Add a new sentence after the first sentence: However, DTSC has proposed a protocol that it believes will be sufficient to evaluate and remove MEC items, if necessary, and provide assurance that residential and other uses are appropriate.

Response 11: Section 5.5.6 of the Draft Final RI/FS was revised as suggested.

**Comment 12:** Section 5.8.2; page 5-25, last paragraph of section. Is it ok to leave this statement that Alternative 2 is acceptable to the Army? Is this a predecisional statement?

Response 12: Section 5.7.2 of the Draft Final RI/FS was revised to remove the statement.

**Comment 13:** Appendix E needs to be changed to be a draft, proposed protocol.

Response 13: Appendix E and the text of the Draft Final RI/FS were revised as suggested to describe the procedures that were proposed by DTSC, implementation of which will provide assurance to DTSC that residential and other uses are appropriate within certain portions of the Del Rey Oaks MRA. The photocopy of the "final" protocol was deleted. Plate E-1 will remain in the appendix.

**Comment 14:** Remove the December 5, 2005 plate. This was never a final document, and will be addressed in the ROD.

Response 14: Please see Response to Comment 13 above.

#### **SPECIFIC DTSC COMMENTS:**

**Comment 1:** Page 3-33; first sentence replace this with thick. Sentence should read: "This instrument is easy to use in the open areas but is difficult to use in areas of thick vegetation or steep terrain."

Response 1: The Draft Final RI/FS was revised as suggested.

**Comment 2:** Page 3-33; Del Rey Oaks Survey Procedures; third sentence; insert mechanical in front of cleared.

Response 2: The Draft Final RI/FS was revised as suggested.

**Comment 3: Page 3-38; a space is missing after 100, 30 and 20 of Step One, Step Two and Step Three process.**

Response 3: The Draft Final RI/FS was revised as suggested.

**Comment 4: Section 5.9.2; No Further Action; may need to be corrected to address a potential ARAR associated with the habitat-related issues.**

Response 4: Please see Response to General Comment 8 above.

**COMMENTS FROM ENVIRONMENTAL STEWARDSHIP CONCEPTS (ESC) ON  
BEHALF OF THE FORT ORD ENVIRONMENTAL JUSTICE NETWORK, INC. (FOEJN),  
DATED APRIL 27, 2007**

**FOEJN COMMENTS**

**Comment:** FOEJN is concerned that other unclean property will be turned over to FOR A, which is privately run. This should not be done until the Army has completed their agreement to completely clean-up the sites. Fort Ord is on the National priority list as a Superfund site which is governed by Federal and State regulations. Regarding clean-up.

Negotiations regarding the AOC were held without representation from local residents, nor were they informed that such an agreement was even on the table until after its release. ESC and FOEJN seek assurances that no similar agreements are being negotiated that involve the rest of the Del Ray Oaks MRA. The Army's credibility with the public is at an all time low, and the only way that they can regain it is to be completely open and honest with the public regarding all aspects, past present and future, of the cleanup.

**If you wish to discuss contents of this report further, please contact LeVonne Stone, FOEJN TAG Program Manager at 831-582-0803.**

**Response:** The Army has signed the Environmental Services Cooperative Agreement (ESCA) with the Fort Ord Reuse Authority (FORA). Under this agreement, FORA will conduct certain environmental cleanup activities in specific parts of the former Fort Ord, under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or Superfund, and under the supervision of the U.S. Environmental Protection Agency (EPA) and California Department of Toxic Substances Control (DTSC). The property affected by the ESCA has not been transferred, pending the publication of a Finding of Suitability to Early Transfer (FOSET) for a 30-day public comment period. All remedial actions necessary to protect the human health and the environment will eventually be completed in the proposed early transfer property. Please note that the Del Rey Oaks Munitions Response Area, which is the subject of this Track 2 Remedial Investigation/Feasibility Study, is not part of the ESCA or the upcoming FOSET. This RI/FS addresses a group of three munitions response sites that cover the areas of the former Fort Ord that have already been transferred to the City of Del Rey Oaks.

The Administrative Order on Consent (AOC) cited in the comment is an agreement between the regulatory agencies and FORA, regarding the performance of certain cleanup activities by FORA at the former Fort Ord under the ESCA described above. The AOC does not affect the development and evaluation of remedial alternatives for the Del Rey Oaks MRA. Comments and concerns regarding any future possible AOCs should be directed to EPA

## ESC COMMENTS

These comments were prepared at the request of the Fort Ord Environmental Justice Network (FOEJN) to provide technical comment to the Army regarding the clean up of unexploded ordnance at the former base. FOEJN represents the affected community in the greater Ford Ord area in the clean up of contamination and ordnance related waste.

### Recommendations:

- The Army should proceed with its preferred remedial alternative of Land Use Controls Including Use Prohibitions.
- More data regarding metal concentrations in soils should be included in the report.
- The Army should note the proposed AOC in the document and clearly state if any other similar negotiations are taking place.
- The risk assessment needs to be revised to reflect the low MEC density still possible after removal actions.
- MEC recognition and safety training should be required for intrusive workers and not merely recommended.

### Document Summary

This document reviews previous actions and current conditions regarding munitions and explosives of concern (MEC) at the Del Ray Oaks Munitions Response Area (MRA) in the southwestern corner of the former Fort Ord. Based on a risk assessment that concluded that individuals in the area would be at low risk from MEC, the Army has recommended that the preferred remedial alternative be Land Use Controls Including Use Prohibitions. This plan would restrict some areas of the MRA's use to non-residential use only, in addition to other deed restrictions and ordinances already in place.

### GENERAL ESC COMMENTS:

**Comment 1:** ESC agrees with most of the major recommendations presented in the report. Land Use Controls Including Use Prohibitions was selected as the preferred alternative. Based on the fact that numerous past removal actions have been performed at the Del Ray Oaks MRS, ESC believes that these controls are necessary and no further removal actions are required. However, many significant flaws in the document still exist.

The document is incomplete as it lacks any data regarding soil concentrations of heavy metals such as lead, copper, and zinc which are often associated with the activities involving small arms that have been documented in the Del Ray Oaks area. These issues are directly associated with MEC and should be included in the RI/FS documents for all Track classifications and locations. Past soil removal actions are noted but no information is provided to describe current soil conditions. The degree to which the Army has fragmented the cleanup process through these types of omissions has almost certainly had a negative effect on the rate of the cleanup and the costs to both the Army and FOEJN through the generation and review of numerous redundant reports related to similar topics. This may require significant restructuring of the decision making process but in the end will allow project

**managers to make more informed decisions in less time. All parties can only benefit from such an arrangement.**

Response 1: The HTW work was completed within the Del Rey Oaks MRA and the result of the lead contaminated soil cleanup has been accepted by EPA and DTSC. The following sentence will be added to Section 1.0 (second paragraph) and Section 1.1 (first paragraph): “All necessary response actions with respect to lead in soil from previous small arms use had been taken within the Del Rey Oaks early transfer area (*Army, 2004*). No further action is required with respect to any contaminants evaluated under the BRA (*MACTEC, 2006*). Both EPA and DTSC concurred that, in terms of exposure to residual chemicals in soil, no restriction on reuse of the property was necessary.

A summary of the Post Remediation Human Health and Ecological Risk Assessments performed following remediation of small arms ranges within the Del Rey Oaks MRA is provided in Appendix B, Section B.2 of this document.

**Comment 2: Another aspect of this fragmentation that has direct implications for the Del Ray Oaks sites is the proposed Agreed Order on Consent (AOC). The proposed agreement would transfer property at Fort Ord from the Army to the privately run Fort Ord Reuse Authority (FORA) before the Army has completed its obligations regarding the cleanup of those sites. The AOC includes a number of Track 2 sites, including what appears to be part of the “E” designated areas on the southwestern border of Fort Ord included in the Del Ray Oaks Track 2 RI/FS. No mentions of this agreement or its implications are mentioned in this document, even though the AOC was released well before the publication of the RI/FS. This is unacceptable. The AOC should have at least been mentioned in the Proposed Alternatives section, if not during the discussion of the site’s background.**

**It is also a concern to ESC and FOEJN that another such agreement may be planned for other areas. Negotiations regarding the AOC were held without representation from local residents, nor were they informed that such an agreement was ever on the table until after its release. ESC and FOEJN seek assurances that no similar agreements are being negotiated that involve the rest of the Del Ray Oaks MRA. The Army’s credibility with the public is at an all time low, and the only way that they can regain it is to be completely open and honest with the public regarding all aspects, past present and future, of the cleanup.**

Response 2: The Administrative Order on Consent (AOC) cited in the comment is an agreement between the regulatory agencies and FORA, regarding the performance of certain cleanup activities by FORA at the former Fort Ord under the ESCA. The AOC does not affect the development and evaluation remedial alternatives for the Del Rey Oaks MRA. Comments and concerns regarding any future possible AOCs should be directed to EPA.

Community involvement is an important priority in the environmental cleanup process at the former Fort Ord. Community involvement opportunities are incorporated into the process, including making cleanup-related documents available in the Administrative Record and soliciting public comments on proposed remedy selection. The Army will work with EPA and FORA to make information related to the AOC available to the public



in a timely fashion. However, comments regarding the AOC should be directed to EPA and FORA

**Comment 3:** ESC disagrees with the portions of the risk assessment regarding construction and outdoor maintenance workers. The risk assessment concludes that all potential receptors are at the lowest risk level based on MEC density, frequency and intensity of contact with the soil, and other factors. The Army has made the assumption that 100% of the MEC in these areas has been removed. The Army cannot guarantee this level of clearance, particularly given some of the quality assurance problems noted in the review of previous actions and as well as recent findings by the Army regarding MRS 43-48 that indicate that even after removal actions high risks persist for workers involved in intensive contact with soils.

It is more likely and more conservative to assume that conditions more closely match the “low MEC Density” criteria of less than 0.1 MEC items per acre. If the Army had any confidence that a 100% removal rate had been achieved, there would be no need for MEC training or supervision for these intrusive workers. This error affects the Exposure Factor score significantly for construction and maintenance workers, and is reflected in their overall risk classification. As a result, risks for these two groups have been significantly underestimated. The risk assessment should be revised to correct these errors and bring its conclusions more in line with similar assessments that have been performed in the past.

Response 3: The MEC density and MEC depth below ground surface were both assigned a score of “1” because 100 percent of detected MEC was removed and the removal action met the data quality objectives. These are the requirements for using a score of “1” according to the Final Fort Ord Risk Assessment Protocol. The use of a score of “1” does not require that 100 percent of MEC present at the site was removed.. The uncertainty analysis provided in Section B.1.5 discusses the fact that removing all detected MEC and meeting the investigation objectives does not eliminate the possibility that MEC could still be present below the ground surface. Because of this uncertainty, the risk assessment recommended that land use controls be evaluated as part of the feasibility study.

**Comment 4:** ESC maintains its position that MEC recognition and training should not be merely recommended for workers involved in soil-intrusive activities at Fort Ord but required. Previous risk assessments have identified these workers to be at high risk from MEC and training is an inexpensive and easy way to reduce those risks. In such high risk situations it is preferable to be proactive rather than reactive.

Response 4: The training provided by the Army to workers involved in the Fort Ord Base Realignment and Closure (BRAC) Prescribed Burn Program is for Munitions and Explosives of Concern (MEC) safety and recognition. That free training is offered to local community members and groups by the Fort Ord BRAC office as part of the community relations program. Interested community groups or individuals may contact the community relations office at (831) 393-1284 or email Ms. Melissa Broadston at [Melissa.broadston@monterey.army.mil](mailto:Melissa.broadston@monterey.army.mil) to request this training.

## COMMENTS FROM FEDERAL/JER ASSOCIATES LLC, DATED MAY 2, 2007

### Comment 1: Future Land Uses (Section 2.1.3.3)

Throughout the RI/FS, and specifically at pages 3-26 and pages 3-27, the timing the proposal for the residential reuse as it relates to the transfer of the property has been mis-characterized. The RI/FS provides, “At the time of property transfer, proposed parcel reuse in the Del Rey Oaks MRA included the establishment of a golf course with lodging over much of MRS-15 DRO 01, and the development of a business park for light industrial use and research and development.” (p. 3-26) It further provides, “[f]ollowing transfer the City of Del Rey Oaks proposed revising the reuse to include residential development.” (p. 3-37) This characterization of event is inaccurate. The proposal for residential reuse of the property was first presented in 2003, while the transfer of property to Del Rey Oaks did not occur until late 2006.

Response 1: At the time the FOSET was developed and the property was transferred, the City’s proposal for revising the reuse to include residential development was not officially reflected in the base reuse plan. The subject section will be revised to be consistent with revised Section 2.1.3.3. It would state that the property was transferred under the early transfer authority for the intended reuse at the time that did not include residential use, and that the City of Del Rey Oaks identified in 2003 possible residential reuse in the early-transfer parcels

### Comment 2: Protocol for Authorizing Residential Use (Section 5.6.6)

#### **i. The City of Del Rey Oaks has Decided to Prepare a Full Environmental Impact Report Rather Than a Mitigated Negative Declaration.**

Section 5.6.6 refers to the *Draft Initial Study/Mitigated Negative Declaration for the City Housing Element and Amendments to the General Plan, Redevelopment Plan and Zoning Ordinance* (Duffy & Associates, 2006). The decision has now been made to incorporate the environmental review of the proposed planning document amendments into a full environmental impact report (“EIR”) that the City of Del Rey Oaks will prepare for the proposed project known as the Resort at Del Rey Oaks. That EIR will be initiated once a project application has been submitted to the City.

Response 2: Please see response to DTSC Comment 2. Section 2.1.3.3 was also revised to include reference to the Draft Initial Study and Mitigated Negative Declaration for the City of Del Rey Oaks Housing Element and Amendments to the General Plan, Redevelopment Plan, and Zoning Ordinance (Initial Study/Neg Dec) and indicates that an Environmental Impact Report will now be prepared in place of the Initial Study/Neg Dec

### Comment 3: Long Term Management Measures Specific to the Del Rey Oaks MRA (Section 5.7).

Section 5.7 provides that long term management measures to be implemented at the Del Rey Oaks MRA include annual monitoring and five-year review reporting. Further, it provides that “these mitigation measures are considered as implementation and management aspects of the remedial alternatives, rather than

specific mitigation measures and are implemented as a standard process under any remedial alternative.”

**i. The Work to be Performed at Del Rey Oaks is More Properly Characterized as Verification Than as Remedial Work.**

A requirement for monitoring seems misplaced as the work to be done at the Del Rey Oaks property is more properly characterized as verification rather than remedial work. As noted throughout the Draft RI/FS, the nature and extent of MEC present within the Property have been investigated during at least nine previous efforts through a series of munitions response (MR) actions on the entire Property from 1993 through 2003. During the early efforts at the Property, geophysical signals (anomalies) were prosecuted to four feet below the ground surface. During the last investigation and removal effort, anomalies were prosecuted to depth. Further, the Finding of Suitability for Early Transfer (“FOSET”), executed July 28, 2004, found that the Property had been cleared of all dangerous and/or explosive material reasonably possible to detect, that no further MR actions were needed on the Property and deferral of the CERCLA covenant was proper. Based on these previous actions, and the more accurate representation of the work to be performed as a verification process, a long term monitoring requirement is not appropriate.

**ii. Monitoring was Not Required in the Transfer Documents**

Additionally, monitoring was not required as part of the transfer documents, specifically the Finding of Suitability for Early Transfer (“FOSET”), executed by the Army on July 28, 2004. The FOSET declared that the property had been cleared of all dangerous and/or explosive material reasonably possible to detect, that no further MR actions were needed on the Property and that deferral of the CERCLA covenant was proper. The FOSET provided that future use of the Property did not present a current or future risk to human health or the environment, subject to inclusion and compliance with the appropriate notices, disclosures, and restrictions. The FOSET placed land use controls on the Property to require implementation of special safety procedures to reduce the likelihood that an untrained person could come into contact with any MEC on the Property. The measures included: (1) the Del Rey Oaks ordinance entitled “Digging and Excavation on the Former Ford Ord” that addresses the potential MEC risk by requiring permits for certain excavation activities; (2) the agreement between the Department of Toxic substances Control (“DTSC”), Del Rey Oaks, and FORA, which specifies construction support and OE education and safety measures that must occur at the Property and that the DRO digging and excavation ordinance may only be amended with the concurrence of DTSC; and (3) a Covenant to Restrict Use of the Property (“CRUP”) that restricts residential reuse. However, neither annual monitoring nor a five-year review reporting were required in the FOSET.

Response 3: Please see Response to DTSC General Comment 11. The Draft Final RI/FS was revised as suggested so describe the residential protocol as follows: “DTSC has proposed a protocol that it believes will be sufficient to evaluate and remove MEC items, if necessary, and provide assurance that residential and other uses are appropriate.” The protocol is

described as a verification process that could occur under Alternative 3, as the commentator suggests.

Because the former Fort Ord is a National Priority List (NPL) site, and at the Del Rey Oaks MRA the possibility of subsurface MEC item remaining cannot be eliminated, the Army, as the lead agency, is required to periodically review the selected remedy to ensure it remains protective. That is the purpose of the annual monitoring and five-year review reporting that are described in the RI/FS as part of the “long-term management measures.” Unless specifically identified otherwise, such recurring reviews are the lead agency’s responsibility.

**Comment 4:** **Conceptual Site Model Diagram (Plate 3.4) – The “Conceptual Site Model Diagram” (Plate 3.4) does not appear to accurately depict the stage of extensive investigations and removal conducted between the active military base uses and possible future reuses after property transfer. As the RI/FS describes throughout the text, “numerous investigations conducted in support of, or independent of the Fort Ord military munitions response program have been conducted within the Del Rey Oaks MRA. These include a road and trail clearance, a fuel-break removal action, Impact Area grid sampling, a GridStats/SiteStats clearance, remediation activities, non-time critical removal action, eastern boundary removal, berm removal, and machine gun link removal. Once these actions were completed, the entire Del Rey Oaks MRA had been subjected to MEC removal to depth.” (p.3-3) The Conceptual Site Model Diagram does not accurately depict this history of investigations and removals.**

**Response 4:** Plate 3.4 has been modified to indicate that the Potential Exposure Pathways depict post removal action site conditions.

**COMMENTS FROM LFR ENVIRONMENTAL MANAGEMENT (LFR),  
DATED APRIL 25, 2007**

**GENERAL LFR COMMENTS:**

**Comment 1:** The Track 2 Munitions Response Remedial Investigation/Feasibility Study, Del Rey Oaks Munitions Response Area Former Fort Ord, California, Revision C dated March 27, 2007 (the RI/FS) contains an excellent summary of the work conducted to date at the Del Rey Oaks Munitions Response Area (MRA), succinctly summarizes the risks posed to potential future receptors at the Site and presents at least two remedial options which we agree satisfy the statutory requirements for CERCLA remedial actions. Our only comments on the document relate to clarifying some of the issues raised by the Army with the intent of making the RI/FS easier to understand for members of the community not as familiar with military munitions as the RI/FS's authors. We appreciate the Army's willingness to consider these comments.

Response 1: Comment acknowledged.

**Comment 2:** The non-standard term "Impact Area" is used inconsistently in the document. In some portions of the document, the Del Rey Oaks Munitions Response Area (MRS) is considered to be part of the Impact Area and in other parts of the document it is not. As the term "Impact Area" conjures up visions of artillery shells landing promiscuously about the landscape (which describes the Multi-Use Range but not the Del Rey Oaks MRA) it would be better to remove the term from the document. It would be better to indicate that gun rounds up to 3 inches in diameter were fired from the Del Rey Oaks MRA at targets that were mostly located in the Multi-Use Range, though apparently the hillside in MRS-43 was also used as a target for 37mm (1.5 inch) anti-tank rounds.

Response 2: A portion of the Del Rey Oaks Impact Area MRA, MRS-15 DRO 01 and MRS-15 DRO 02 are within the historical Impact Area. MRS-43 is outside of the historical Impact Area. The historical Impact Area includes not only the downrange portions (target and impact areas) of the individual range fans, but also staging areas, firing lines, and areas between range fans. The majority of the Del Rey Oaks MRA located within the historical Impact Area consists of staging areas, firing lines, and areas in between historic range fans.

The term "Impact Area" has replaced "Multi-Range Area" to describe the area historically known as the "Multi Range Area" (i.e., historical Impact Area) at Fort Ord. This change was made as a result of changes in DOD terminology for the Military Munitions Response Program (MMRP). The MMRP terminology includes the term "munitions response area" which is abbreviated MRA, which was the consistent abbreviation for the Multi Range Area. To avoid confusion with munitions response areas, the term historical Impact Area is now used for the historical Multi Range Area, which includes the majority of the Del Rey Oaks MRA. The text of the document was reviewed to ensure consistent use of the term.

**Comment 3:** There are several locations in the document and in Appendix B where the text indicates that there is a Covenant to Restrict Use of Property (CRUP) on the Del Rey Oaks MRA which forbids its residential reuse. The text indicates that even though residential reuse is currently restricted, the Army will consider residential reuse in the risk assessment. We agree with the Army, but believe that the reference to the CRUP should be modified to make it clear that the residential reuse risk assessment is required by CERCLA. CERCLA Guidance<sup>1</sup> requires that likely future risk scenarios be considered. As the Del Rey Oaks MRA abuts on residential areas, the Army should consider that residential reuse is likely regardless of the CRUP. This was the position taken by the Army for the lead in soil issues at the Del Rey Oaks MRA (please see the first specific comment) where the threat to potential future child and adult residents posed by residual lead in soil at the Del Rey Oaks MRA was found to be negligible. Hence, the RI/FS should be modified to indicate that the assessment of risk to future residents was made based on likely future uses of the Site.

Response 3: At the time the HTW soil issues were identified, the reuse of the property was not established and the CRUP that restricted residential use was not in place; therefore, residential use was considered. As stated in the text, the Army is considering residential use for the MRA because residential reuse has been proposed for the area. As stated in the CERCLA Guidance, "There are no hard-and-fast rules by which to determine land use". The Guidance requires that likely future risk scenarios be considered, it does specify what rationale needs to be presented for the selection. The Army has clearly presented the rationale for inclusion of residential reuse scenario, even though this land use is prohibited by the CRUP.

### SPECIFIC LFR COMMENTS

**Comment 1:** Section 1.1, Description of the Munitions Response RI/FS Program, Page 1-3: The RI/FS indicates, "This MR RI/FS only addresses the physical or explosive risk from MEC. The potential chemical risk from soil contamination from small arms and military munitions ranges is being addressed under the Basewide Range Assessment (BRA) program as part of the hazardous and toxic waste (HTW) investigations at Fort Ord (IT, 2001)." For completeness, the RI/FS should indicate that the remedy selected for chemical contamination from the Fort Ord Small Arms Ranges was documented in the Record of Decision, the Basewide Remedial Investigation Sites, Fort Ord, California (RI Sites ROD) (*Department of the Army, January 13, 1997*). The chemical remedial action was subsequently completed (Remedial Action Confirmation Report, Site 39, Ranges 24 and 25 and Post-Remediation Risk Assessment Site 39, Ranges 24, 25, and 26 Basewide Remediation Sites Former Fort Ord, California Draft Final, October 2000). The Post Remedial Action Risk Assessment (PRARA) indicated that chemical contamination at the site did not pose a significant risk to either child or adult residential receptors. Both US EPA and the California Department of Toxic Substances Control (DTSC) concurred with the findings of the PRARA.

Response 1: The above information is included in Section 1.1 of the draft final report.

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<sup>1</sup> Risk Assessment Guidance for Superfund, Part A, EPA, December 1989, Page 6-7.

**Comment 2:** Section 2.1.1 Location, Page 2-1: For clarity, please add “Portions of the up-range ends of....” to the beginning of paragraph 3.

Response 2: The text was revised to clarify the location of the portions of the ranges described.

**Comment 3:** Section 2.1.2, General History, Page 2-2 and Sections 3.2, Site History and Development, page 3-1: If known, please include the date the Del Rey Oaks parcel was purchased by the Army and incorporated into Fort Ord.

Response 3: The property was acquired by the Army in 1917. This information will be added to the text.

**Comment 4:** Section 3.3.1, History of Investigations and Removals, Road and Trail Clearance, page 3-4: For clarity, please indicate that the trench mortar projectile located along Flechette Road was a smoke mortar projectile. If known, please indicate if the projectile was fired or abandoned along the road.

Response 4: Further review of the database indicates that the item in question has been reclassified as munitions debris and that it was determined to be plaster filled instead of white phosphorus. The text has been modified to indicate that no MEC was found during the road clearance completed within DRO.

**Comment 5:** Section 3.3.1, History of Investigations and Removals, Fuel-Break Removal Action, page 3-4: For clarity, please indicate that the 2.36-inch rockets were M7 practice rockets.

Response 5: The text has been revised as suggested. The 2.36-inch rockets found within the fuel-breaks were all M-7 practice rockets.

**Comment 6:** Section 3.3.1, History of Investigations and Removals, Non-Time Critical Removal Action, Page 3-6: The text indicates that the non-time critical removal actions (NTCRA) were taken because of an “imminent and substantial endangerment.” However, no finding of substantial or imminent endangerment was ever made for the Del Rey Oaks MRA – had there been the removal action would likely have been “time critical”. The NTCRA were taken by the Army as a voluntary measure to reduce future risks to human health. Please clarify the reason for the NTCRA at the Del Rey Oaks.

Response 6: The text was revised to state: four areas of concern were identified for removal actions to remove threats to human health (public safety) or welfare or the environment from MEC.

**Comment 7:** Section 3.6.1, conclusions, Page 3-41: For clarity, so that readers unfamiliar with military munitions will not confuse the 37mm anti-tank gun with howitzers, please add “anti-tank gun” after 37mm. If the 37mm projectiles found on the Del Rey Oaks MRA were from the 37mm M3 anti-tank gun, it might be useful to note that this weapon came into Army service in 1940.

Response 7: It is unknown which gun the 37mm projectiles were fired from; therefore the text has not been modified.

**ERRATA**

**Comment:**        **Appendix E, First Line, “authoring” should probably be “authorizing”.**

**Response:**        The text was revised as suggested.



**COMMENTS FROM MIKE WEAVER, ACTING SECRETARY, FORT ORD  
CITIZEN'S ADVISORY GROUP (FOCAG), DATED MAY 10, 2007**

**COMMENTS:**

**Comment 1:** According to FORA, the Habitat Management Plan is incomplete, although there is a draft. As this area borders habitat management areas, should not The Habitat Management Plan be completed first?

Response 1: The Installation-Wide Multispecies Habitat Management Plan (HMP) was finalized in April 1997, and has subsequently been updated. The HMP describes habitat management requirements that apply to the Army's environmental cleanup actions, as well as habitat management guidelines for the reuse of the former Fort Ord lands.

A Habitat Conservation Plan is currently being developed by Fort Ord Reuse Authority in coordination with several reusers of the former Fort Ord lands. The Habitat Conservation Plan will provide additional detail on activities that will be conducted in the Reserve areas and requirements for borderland parcels. These requirements will be considered as part of the property development.

**Comment 2:** According to the Army, approximately \$25 Million taxpayer dollars have already been spent on this area because it was considered an "imminent safety hazard" due to its proximity to Del Rey Oaks. Justification for this large expenditure was given in Community Meetings by asking, "What if some 14 year old goes to that area with a shovel and starts digging around? What might happen? He could be killed or seriously injured."

Response 2: Munitions and explosives of concern (MEC) removal actions were completed to remove threats to human health (public safety) or welfare or the environment from MEC. The basis for taking these actions are described in two Notices of Intent that are discussed in the RI/FS report. The cost of prior removal actions at the Del Rey Oaks MRA is much less than \$25 million cited in the comment.

**Comment 3:** The historical literature review failed to disclose there were tanks and tank training on former Fort Ord. In fact the Army denied there was. People who had witnessed these tanks spoke up and the Army found there were tanks, tank training, and anti-tank training on former Fort Ord. This site next to Del Rey Oaks was one of the places used for this.

Response 3: Based on review of available 1938 and 1940s era film footage, it appears that tank driving training did occur at the former Fort Ord; however, no evidence of firing from tanks has been identified based on historical records. There is however, some evidence that limited tank firing may have occurred at Fort Ord based on the discovery of small quantities of fired munitions/munitions debris of tank gun calibers on the range areas. Based on the maximum length of the Impact Area at Fort Ord, the only main/secondary guns that could have been fired at Fort Ord (except under very unusual conditions) were the 37mm guns on the WW II and earlier light and medium tanks. There is evidence that anti-tank training did occur at the former Fort Ord and this information is presented in Section 3.4.1.2 which

describes training through the 1940s. A description of 2.36-inch Rocket Training at the Austin Anti-Tank Range is presented on page 3-13.

**Comment 4: It is still a Track 2 site, AFTER the \$25 Million clean up.**

Response 4: The Del Rey Oaks MRA was evaluated as a Track 2 site. Track 2 sites are sites at the former Fort Ord where MEC items were present, and MEC removal has been conducted (e.g., Del Rey Oaks MRA and Parker Flats MRA). These areas are evaluated in area-specific RI/FSs to assess whether they are in a protective state based on their reasonably anticipated future land uses. Possible outcomes of a Track 2 RI/FS and ROD could include further action, land use control, and/or additional MEC removals. This RI/FS is the process for evaluating the Del Rey Oaks MRA to determine whether future actions are required following the MEC removal conducted to date.

**Comment 5: DTSC imposed a land use covenant restricting residential development. In speaking with DTSC representatives, they thought Timeshares could be allowed, but NOT condos, nor residential. When asked what the difference was. The explanation was that the Timeshares, people staying there would be temporary residents, thus not likely to be digging around doing gardening and planting flowers. This would be unlike condos or other types of owner residences where people would likely be planting flowers and shrubs. My stated concern that the risk would be the same for either owners of condos or low paid gardeners working for a Timeshare company, has never been adequately addressed to me.**

Response 5: The risk to gardeners was evaluated in the Risk Assessment (Appendix B) and considered in the preparation of the Feasibility Study. The gardener is classified as an outdoor maintenance worker. The results of the risk assessment show lowest risk for both the resident and the outdoor maintenance worker. Subsurface MEC removal was completed at the Del Rey Oaks MRA, during which all detected MEC was removed. The Army will provide MEC recognition and safety training to outdoor maintenance workers under remedial alternatives 2 and 3. This training is available to anyone who requests it, at no expense to the requester.

**I believe the above should be made clear in this document.**

#### **SPECIFIC COMMENT ON APPENDIX E**

**Comment: Appendix E, Titled “Residential Use Prohibition and Applicability of DTSC Residential Protocol” is very troubling. This document, produced, I assume, at taxpayer expense, is a Remedial Investigation/Feasibility Study, but for what? What residential? There seems to be a lot of filler, leading up to this Appendix. That includes what is labeled a “Protocol for Authorizing Residential Uses at Del Rey Oaks- Final –December 2005”.**

**The Appendix E and Protocol are not signed but a reader might assume it was written by and/or approved by Shaw Environmental, Inc., the authors of this RI/FS and that the United States Army concurs, as it is in this RI/FS, submitted to the U.S. Army Corps of Engineers.**

**However, due to the results of a California Public Records Act Request to DTSC on January 18, 2007, I was able to obtain documents, including one from the Company**

**LFR (Levine-Fricke). Now LFR works for and is part of a development company called Federal Development. Federal Development happens to have the exclusive option to develop this area of former Fort Ord next to Del Rey Oaks. The area that is covered in this RI/FS. A document on LFR letterhead and prepared for Federal Development, LLC lays out the identical protocol as outlined in your RI/FS. This document is dated November 10, 2005.**

**(Note: Attachment sent with hard copy in U.S. Mail)**

**Somehow, LFR's protocol, became the suggested protocol of the development consultant working for the City of Del Rey Oaks, which then turned up as the suggested protocol in this Draft RI/FS, for the U.S. Army Corps of Engineers.**

**My question is where is the objectivity? Where is the science? As a member of the Fort Ord Citizen's Advisory Group, I am extremely concerned that critical safety issues appear to be being "massaged". Using the Army's own language, what happens when a 14-year old kid with a shovel goes into his backyard to dig around?**

Response: The cited protocol is considered draft and was developed for the property that was Del Rey Oaks early transfer property with input from the regulatory agencies to identify a process that, if implemented successfully, would show that the land within the property that was early-transferred to the City of Del Rey Oaks would be suitable for residential use. The protocol was included in the draft Initial Study and Mitigated Negative Declaration for the City of Del Rey Oaks Housing Element and Amendments to the General Plan, Redevelopment Plan and Zoning Ordinance. It is provided in the RI/FS to provide information on a possible process that could be used to remove the residential use restrictions in the future, as identified in Remedial Alternative 3. Any modification or removal of remedial land use control would require approval by both EPA and DTSC.

## COMMENTS FROM ALEX HULANICKI, DATED MAY 10, 2007

### GENERAL COMMENTS

**Comment 1:** I was surprised to hear from former Del Rey Oaks councilmember Kathi Smith that the document referenced above was being circulated for public comment. I have attempted to read the document and understand the process, the document's purpose and ultimate implementation. However, to begin, I do not see how this document can be prepared – and at whose behest and expense – without a triggering mechanism, if you will please excuse the pun: missing in this document and also at any hearings and public meetings conducted in Del Rey Oaks is the proposed and/or adopted development plan by the City of Del Rey Oaks and its *de facto*, if not consummated, development partner, Federal Development LLC.

Federal Development has not submitted a development application to Del Rey Oaks and the (City of) Del Rey Oaks has extended its exclusive right to negotiate agreement (ERNA) with Federal Development for another year. Thus, without knowing the extent of development proposed for the Munitions Response Area (MRA), it is difficult for anyone, including the Army, to discuss the extent of cleanup and other mitigation measures. One would have to draw an inference – because a conclusion would certainly be premature – that discussions are being held among the city, its development partner, and federal and state toxic substance and munitions cleanup regulators. Why else would this document be prepared? And, I ask again, at whose expense? The public's? Why?

**Response 1:** Preparation of a Remedial Investigation/Feasibility Study and follow-on Proposed Plan and Record of Decision are required for sites such as the Former Fort Ord that are included on the National Priorities List (NPL), a list of sites with known or suspected environmental hazards, developed under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund). These documents are prepared to identify remedial actions that are required for cleanup of a site. In the case of the Del Rey Oaks MRA, a MEC removal action has already been completed and all detected MEC was removed. However, although not expected at the site, there is a possibility that a MEC item remains in the subsurface. This document provides a review of the work completed to date, and evaluates land use controls that may be appropriate to ensure safe use of the property in the future. This document analyzes currently available reuse information for the preparation of the report. A detailed development plan, such as one suggested in the comment, is not necessary in developing and evaluating remedial alternatives for the Del Rey Oaks MRA. This document was prepared for the Army as required under CERCLA.

**Comment 2:** In the absence of a clear development proposal, public disclosure and/or hearing on a definitive development plan that goes beyond what was outlined in the Army's Finding of Suitability for Early Transfer (FOSET, 2004), which is used as a basis of the work contained in this "Revision C", I can only guess – see the mention of an inference above – about what is transpiring at city, state and federal levels. Thus, I ask for far more information than what is outlined in this "Revision C." If your office actually has possession of any development proposals by the City of Del Rey Oaks and its proposed developer, Federal Development, would you please provide those materials.

Response 2: The Remedial Investigation/Feasibility Study evaluates remedial alternatives to address risks from MEC that potentially remains in the Del Rey Oaks incorporating currently available reuse information. A detailed development plan, such as one suggested in the comment, is not necessary in developing and evaluating remedial alternatives.

**Comment 3: Page 1-1. It is stated that the document under consideration was prepared “On behalf of the U.S. Army Corps of Engineer (USACE) – Sacramento District, MACTEC Engineering and Consulting, Inc. (MACTEC), at the direction of Shaw E&I. Well, who directed Shaw E&I? The City of Del Rey Oaks? Federal Development? The California Division of Toxic Substance Control (DTSC)? It is not clear, nor can any of the balance of the document be definitive without having a clear, defined proposal for development.**

Response 3: Shaw was contracted by the U. S. Army Corps of Engineers to prepare the document on behalf of the U. S. Army. As stated in response to Comment 1, the document is required under CERCLA.

**Comment 4: Page 1-2 It is stated “The proposed reuse of the property includes the development of a resort hotel and golf course, commercial/retail facilities, office and associated infrastructure” (FOSET).**

**“In addition, residential use of portions of the Del Rey Oaks MRA came into consideration by the City of Del Rey Oaks after the land had been transferred to the City.”**

**Nowhere in the “Revision C” and certainly not on Page 1-2 in the document’s introduction is there stated beyond “residential use . . . came into consideration.”**

**Shouldn’t the proposed plan of residential development be a key element of “Revision C”? What is the rush of the Department of the Army? Without the development proposal any further discussion of “remedial investigation” and “feasibility” is moot and premature unless there are substantive discussions among the City of Del Rey Oaks, Federal Development, state and federal authorities.**

**This point must be emphasized considering that the MRA being investigated has a “Covenant to Restrict the Use of Property,” as a result of an agreement between the City of Del Rey Oaks and the California Division of Toxic Substance Control. In that covenant, additional “restrictions prevent residential use, day care centers that do not prevent contact with soil, schools for persons under 21 years of age, and hospitals for humans. (Page 2-4, 2-5 Revision C).**

**“More recently, DTSC and the City of Del Rey Oaks have discussed removing the restriction on residential development” (Page 2-5 Revision C).**

**On what basis would the discussion occur on removing the covenant? Nothing has been adopted by the City of Del Rey Oaks after public hearing or revision of the city’s General Plan, Redevelopment Plan, Zoning Ordinance or Housing Element to act as catalyst for removal of the residential restrictions in the DTSC covenant.**

Response 4: According to another commenter, discussions of possible residential use of the property were identified as early as 2003. The potential for residential land use was identified in the Draft Initial Study and Mitigated Negative Declaration for the City of Del Rey Oaks Housing Element and Amendments to the General Plan, Redevelopment Plan, and Zoning Ordinance dated November 17, 2006. Because this document identifies possible residential land use, it was included as a potential reuse option in developing the risk assessment and feasibility study provided in this document.

**Comment 5: Revision C includes in its References (Page 7-1) the Draft Initial Study/Mitigated Negative Declaration, Nov. 17, 2006 (DIS/MND). However, it should be noted that any mitigation plan on removal of munitions and explosives of concern (MEC) contained in that DIS/MND to the extent of cleanup to the level of removing the abovementioned covenant has NOT been adopted by the City of Del Rey Oaks and, according to Del Rey Oaks Mayor Joseph Russell, an Environmental Impact Report for any development plan would have to be completed and for that to occur a development application would have to be submitted to the City of Del Rey Oaks.**

**Therefore, how can Revision C and any discussion of the expected mitigation plans occur without having said development in hand.**

**On behalf of Wake Up Del Rey Oaks, a group of concerned Del Rey Oaks residents and residents of nearby communities, I request that your office disclose and/or distribute appropriate development proposals and include them in your further revisions of the document under comment so that appropriate mitigation plans can be discussed and adopted. Until then, we can only guess as to the extent, the costs and the purposes of an MEC mitigation and removal plan. Meanwhile, the public's interest have not been adequately observed nor included in these documents. Thanks you for your consideration.**

Response 5: The document has been revised to include a statement that an Environmental Impact Report is being prepared for the proposed zoning revisions that include residential land use in the Del Rey Oaks MRA. As stated in response to your Comment 1, this Remedial Investigation/Feasibility Study is required under CERCLA and incorporates available information into the analysis of remedial alternatives to address risks from MEC that potentially remains at the site. Additional information and details on specific reuse will be incorporated into future documents as it becomes available.