

**AMENDMENT #1  
to the  
FINDING OF SUITABILITY TO TRANSFER  
(FOST)  
FORMER FORT ORD, CALIFORNIA  
TRACK 0 AND TRACK 0 PLUG-IN B PARCELS  
dated June 2005**

**September 2005**

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FORMER FORT ORD, CALIFORNIA  
TRACK 0 AND TRACK 0 PLUG-IN B PARCELS**

**1.0 PURPOSE**

The purpose of this Amendment is to modify Section 6 (NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER) of the Environmental Protection Provisions (EPP, Attachment 1 of the FOST) to reflect which notice of the presence of contaminated groundwater is required for the parcels referred to in the EPP's table of Applicable Notices. More specifically this amendment will clarify which parcels of property are within particular "Groundwater Protection Zones" and therefore require a specific notice to be included in the deeds for those parcels.

**2.0 BACKGROUND**

Because of concerns about the extent of future development at the former Fort Ord, its potential impact on groundwater remedial activities, and protection of public health and the environment, Monterey County promulgated an ordinance in 1999 that established a "Special Groundwater Protection Zone" at the former Fort Ord. Within this zone, property recipients are restricted from drilling new water wells. The Special Groundwater Protection Zone is divided into the "Prohibition Zone," where construction of water wells is prohibited, and the "Consultation Zone," where the County evaluates water well permit applications on a case-by-case basis in consultation with the Army, U.S. EPA Region IX, California Department of Toxic Substances Control (DTSC) and the California Regional Water Quality Control Board (RWQCB). Additionally, the DTSC has required for previous FOSTs the Army to be party to a Covenant to Restrict Use of Property Covenant (CRUP) for each group of properties being transferred that were located within the Special Groundwater Protection Zone.

During development of this FOST, the DTSC determined it only had regulatory authority to enforce CRUPs on property within the Prohibition Zone, but not the Consultation Zone. The Army revised the list of parcels requiring a CRUP accordingly; however, after the FOST was finalized, the Army determined the table of Applicable Notices in the EPP still indicated all parcels within the Special Groundwater Protection Zone required the Notice of Contaminated Groundwater, which describes all such parcels as being included in a CRUP. As a result, the Notice of Contaminated Groundwater was inappropriately included in the draft deeds for property within the Consultation Zone based on the information in the table of Applicable Notices.

**3.0 REGULATORY/PUBLIC COMMENT**

A copy of this FOST Amendment will be distributed to the U.S. EPA Region IX, the DTSC and the RWQCB. The Army will include this FOST Amendment as part of its Administrative Record for the former Fort Ord, California.

#### 4.0 FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I have concluded that all DOD requirements to reach a Finding of Suitability to Transfer have been fully met for the Property, subject to the terms and conditions set forth in the Environmental Protection Provisions, as modified (Attachment 1).



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Thomas E. Lederle  
Director, Hampton Field Office  
Army BRAC

Enclosure

Attachment 1, Environmental Protection Provisions Section 6 as amended.

## ATTACHMENT 1

### ENVIRONMENTAL PROTECTION PROVISIONS

#### 6. NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER

For Parcels E2d.3.1, E5a.2 and L5.10.2:

Without the expressed written consent of the Grantor in each case first obtained, neither the Grantee, its successors or assigns, nor any other person or entity acting for or on behalf of the Grantee, its successors or assigns, shall interfere with any response action being taken on the property by or on behalf of the Grantor, or interrupt, relocate, or otherwise interfere with any remediation system now or in the future located on, over, through, or across any portion of the property.

The deed will reserve a non-exclusive easement to allow continued access for the Army (or its designated contractor) and the regulatory agencies to permit necessary groundwater monitoring at wells located on the property and the installation of new treatment or monitoring wells if required for the pump and treat operations. Furthermore, the deed will prohibit all others from tampering with the groundwater monitoring wells.

A. Restrictions and Conditions – A Covenant to Restrict Use of Property (CRUP) for the property within the “Prohibition Zone” of the “Special Groundwater Protection Zone” will be established between the United States Army and the State of California (DTSC and the California Regional Water Quality Control Board, Central Coast Region). The Prohibition Zone encompasses the area overlying or adjacent to the four identified groundwater contamination plumes at the former Fort Ord. The Prohibition Zone is identified on the “Former Fort Ord Special Groundwater Protection Zone Map” (the Map), which is on file with the County of Monterey (the County).

The Grantee, for itself, its successors or assigns covenants that it will not undertake nor allow any activity on or use of the property in the “Prohibition Zone” that would violate the restrictions contained in the CRUP. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable. For the purpose of this restriction, “groundwater” shall have the same meaning as in section 101(12) of CERCLA.

B. Enforcement – The restrictions and conditions stated in Section A benefit the public in general and the territory surrounding the property, including lands retained by the United States, and, therefore, are enforceable by the United States government. The Grantee covenants for itself, its successors, and assigns that it shall include and otherwise make legally binding, the restrictions in Section A in all subsequent lease, transfer or conveyance documents relating to the property subject hereto.

C. Army Access – The Army and its representatives shall, for all time, have access to the property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and/or physical testing of wells to evaluate water quality and/or aquifer characteristics. The property owner shall allow ingress and egress of all equipment necessary to accomplish the same.

For Parcels E11a.1, E18.2.1, E18.2.2, E18.3, L35.5, S3.2.1 and S3.2.2:

A. The property is within the “Consultation Zone” of the Former Fort Ord Special Groundwater Protection Zone. The Consultation Zone includes areas surrounding the Prohibition Zone where groundwater extraction may impact or be impacted by the four identified groundwater contamination plumes at the former Fort Ord. The Consultation Zone is also identified on the Former Fort Ord Special Groundwater Protection Zone Map, which is on file with the County of Monterey (the County). County Ordinance No. 04011 requires consultation with the Grantor, the US EPA, the DTSC, the RWQCB and the County for proposed water well construction within the Consultation Zone.

B. Enforcement – The restrictions and conditions stated in Section A benefit the public in general and the territory surrounding the property, including lands retained by the United States, and, therefore, are enforceable by the United States government. The Grantee covenants for itself, its successors, and assigns that it shall include and otherwise make legally binding, the restrictions in Section A in all subsequent lease, transfer or conveyance documents relating to the property subject hereto.

C. Army Access – The Army and its representatives shall, for all time, have access to the property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and/or physical testing of wells to evaluate water quality and/or aquifer characteristics. The property owner shall allow ingress and egress of all equipment necessary to accomplish the same.