

**FINDING OF SUITABILITY TO TRANSFER (FOST)
AMENDMENT #1**

Parcel L36

Fort Ord, California

November 2023

1. Purpose and Background

The purpose of this Amendment is to update the Finding of Suitability to Transfer 13 (FOST13) for Parcel L36, dated May 2020 to amend Enclosure 5, Environmental Protection Provisions, Paragraph 2.A and 2.C.(3).

Information for Munitions and Explosives of Concern (MEC) responses specific to the Fort Ord MEC program require clarification language being added to Paragraph 2.A of Enclosure 5. An additional liability statement, not inconsistent with access rights provisions found in Enclosure 4, is being added to Paragraph 2.C.(3) of Enclosure 5. The FOST Amendment is necessary to update that portion of the FOST.

2. Amendment

The Fort Ord FOST13 dated May 2020 is amended as follows:

- **Enclosure 5, Environmental Protection Provisions, Notice of the Potential Presence of Munitions and Explosives of Concern (MEC), Paragraph 2.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. §1019e(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 and these environmental protection provisions, 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).

- **Enclosure 5, Environmental Protection Provisions, Notice of the Potential Presence of Munitions and Explosives of Concern (MEC), Easement and Access Rights, Paragraph 2.C.(3):**

(3) In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case maybe, shall have any claim at law or equity against the GRANTOR or any officer, employee, agent,

contractor of any tier, or servant of the GRANTOR based on actions taken by the GRANTOR 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. In addition, the GRANTEE, its successors and assigns, shall not interfere with any munitions response action conducted by the GRANTOR on the Property.

All remaining provisions of the FOST remain the same.

3. Finding of Suitability to Transfer

Based on the above information, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken and the Property is transferable under CERCLA §120(h)(4). 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)(4) Notice, Covenant, and Access Provisions and Other Deed Provisions.

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Richard C. Ramsdell
Chief, BRAC Branch
U.S. Army Environmental Division

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