

FINDING OF SUITABILITY TO TRANSFER (FOST)
MONTEREY COLLEGE OF LAW PARCEL
FORMER FORT ORD, CALIFORNIA

On the authority delegated to me by the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health (20 July 1995), and on the basis of the Community Environmental Response Facilitation Act (CERFA) Report for Fort Ord, I have determined that the Monterey College of Law (MCL) Parcel, at Fort Ord, California (Property), is suitable for transfer to MCL for housing purposes. The area to be assigned and transferred includes 1 building on approximately 0.4 acre (Plate 1).

A determination of the environmental condition of the Property was made by the United States Army by conducting review of existing environmental documents and making associated visual site inspections. The documents reviewed included the final Fort Ord Community Environmental Response Facilitation Act (CERFA) Report (April 1994), U.S. EPA Region IX's concurrence to the CERFA Report (19 April 1994), and various remedial investigation/feasibility studies documents.

The results of this document review, which indicates that the Property is environmentally suitable for transfer to MCL, are as follows:

- One building (5365) is located on the Property. The building was previously used for family housing in the Preston Park Housing Area.
- A survey for asbestos containing materials (ACM) was not conducted by the Army for Building 5365. However, other nearby similar and representative buildings in the Preston Park Housing Area were surveyed and were found to contain nonfriable ACM in roofing mastic. These survey results indicate that it is likely that this structure also contains ACM in the roofing mastic. At this time, the Army does not intend to remove or repair the ACM in this structure.
- Because the building on the Property was constructed after 1978, it is not expected to contain lead-based paint.
- No elevated radon levels were detected on the Property during a 1990 survey at Fort Ord.

- No radiological surveys have been conducted within the Property because this building was not used to store radiological materials.
- There have been no reported releases of PCB-contaminated dielectric fluids on the Property.
- Ordnance and explosives (OE) archive searches show that no potential OE locations are within or immediately adjacent to the Property.
- No underground or aboveground storage tanks or solid waste management units are present on the Property, and no studies associated with them have been conducted by the Army for the Property.
- No groundwater wells are present on the Property.
- The final CERFA report identifies the Property as being within CERFA Parcel No. 220. No evidence was observed during the CERFA assessment to indicate storage, release, or disposal of hazardous substances or petroleum products or their derivatives on the Property. On the basis of the review of available information, this Property is not expected to be threatened by activities on adjacent or surrounding properties.

National Environmental Policy Act (NEPA) requirements for this transfer were satisfied by the analysis conducted in the June 1993 Fort Ord Disposal and Reuse Environmental Impact Statement (EIS).

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 where the proposed action is a transfer of ownership, interest and title in the land, facilities, and associated real and personal property.

On the basis of the above results from the EBS and subsequent investigations, certain terms, conditions, reservations, restrictions, and notifications are required. Disclosure of conditions and use restrictions are described below and will be included in the transfer documents.

NOTICE OF THE PRESENCE OF ASBESTOS.

A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials (ACM) has been found on the Property, as described in the environmental baseline survey. The ACM on the Property does not currently pose a threat to human health or the environment. All friable asbestos that posed a risk to human health has either been removed or encapsulated.

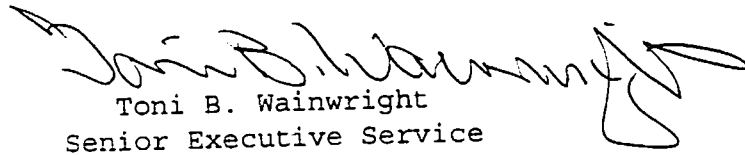
B. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Grantor assumes no liability for damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in this transfer, whether the Grantee, its successors or assigns have properly warned or failed properly to warn the individual(s) injured.

Comments received from U.S. EPA Region IX and California EPA DTSC on the Version 1 FOST were reviewed and incorporated where possible into this Version 2 FOST. All comments were resolved with the exception of one concerning certain language regarding asbestos, which is attached as an unresolved comment.

On the basis of the above and the EPA concurrence letter dated April 19, 1994, I conclude that the MCL Parcel should be assigned Department of Defense (DoD) Environmental Condition Category 1 and is transferable under Section (§) 120(h)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The deed for this transaction will contain:

- The covenant under CERCLA §120(h)(4)(D)(i) warranting that any response action or corrective action under CERCLA found to be necessary after the date of transfer shall be conducted by the United States.
- The clause under CERCLA §120(h)(4)(D)(ii) granting the United States access to the Property in any case in which response action or corrective action is found to be necessary after the date of transfer.

12 6 SEP 1996



Toni B. Wainwright
Senior Executive Service
Acting Deputy Chief of Staff
for Base Operations Support
United State Army Training and Doctrine Command.

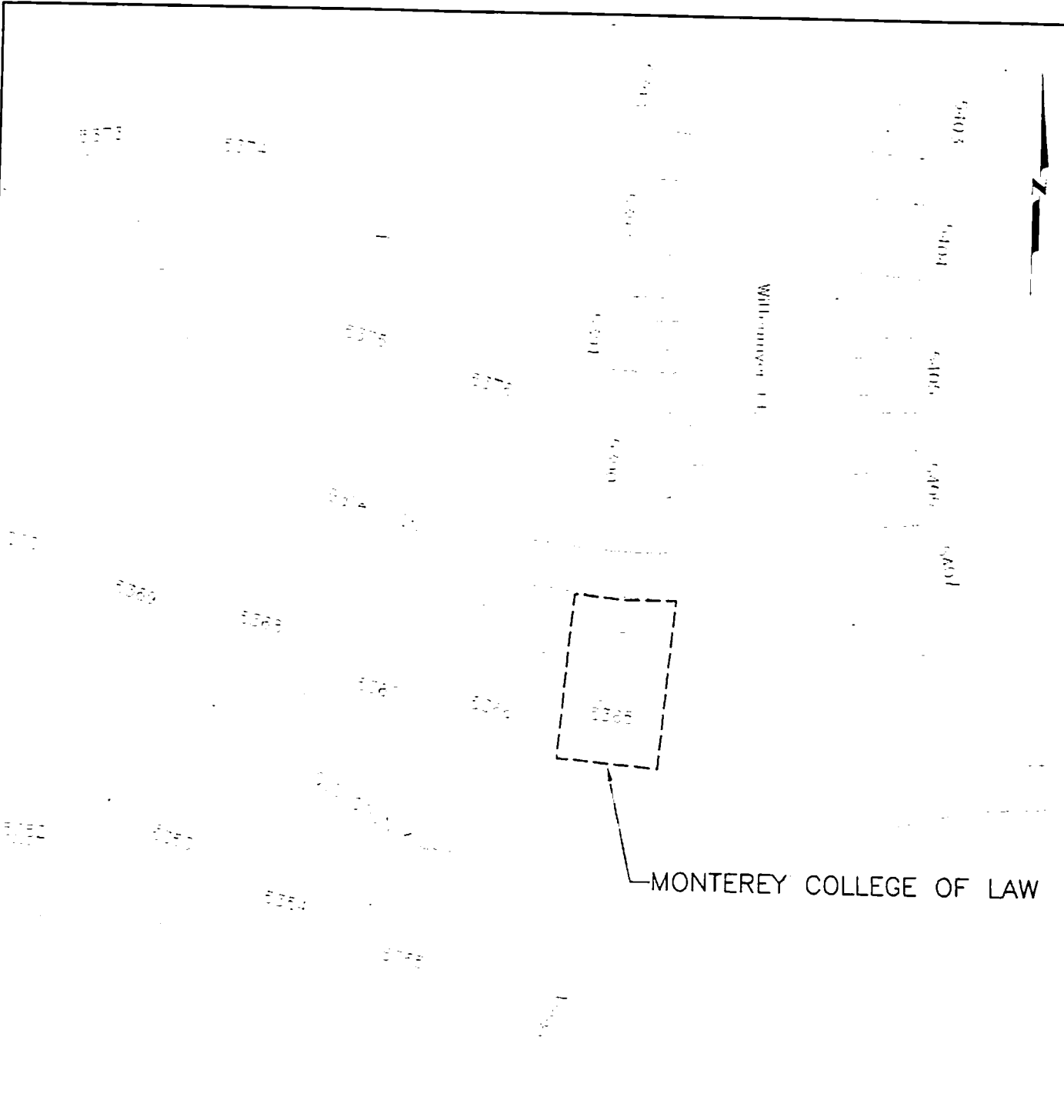
UNRESOLVED AGENCY COMMENT

Region IX EPA Comment:

Public law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property is transferred or leased. This law provides that the military indemnify persons and entities acquiring ownership or control of property at a closing military base from liability for personal injury and property damages resulting from the release or threatened release of a hazardous substance (such as asbestos), unless the person or entity acquiring the property contributed to the release. The Army's statement in the FOST may conflict with the required indemnification. We recommend that the Army delete this paragraph and rely on the statutory language to determine any future liability as a result of exposure to asbestos.

Response:

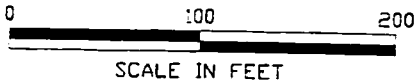
Army believes that the standard Army indemnification language is legally sufficient.



MONTEREY COLLEGE OF LAW

EXPLANATION

----- PARCEL BOUNDARY



NOTE: PARCEL BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED TO REPRESENT THE LEGAL DESCRIPTION OF THE PARCEL.

25094357 100.0
1000000 1000'



Harding Lawson Associates
Engineers and
Environmental Services

Parcel Map
Monterey College of Law
Finding of Suitability to Transfer
Former Fort Ord, California

PLATE
1

DRAWN	BY NUMBER	APPROVED	DATE	REVISED DATE

FOST FOSL COMPLETION CHECK LIST				
TYPE: FOST				
NAME: FORT ORD - MONTEREY COLLEGE OF LAW				
INITIAL REVIEW				COMPLETE
REGULATOR REVIEW				COMPLETE
FINAL REVIEW				COMPLETE
IDENTIFY PROPERTY				1 BLDG / 0.4 ACRE
IDENTIFY DOD CATEGORY				L
IDENTIFY CONTAMINANTS				ASBESTOS
IDENTIFY REMEDIATION STANDARDS				N/R
IDENTIFY REMEDIATION				N/R
IDENTIFY REUSE				EDUCATION
IDENTIFY RESTRICTIONS				ASBESTOS
EPA LETTER ATTACHED				N/R
STATE LETTER ATTACHED				N/R
UNRESOLVED COMMENTS ATTACHED				ASBESTOS LANA
SATISFY NEPA REQUIREMENTS				1993 EIS
SATISFY CLEAN AIR ACT REQS				RONA
COORDINATION		PHONE	NAME	DATE
BRACO	ATCS-OR	727-3849	MS JOHNSON	9/13/96
ENVR	ATBO-SE	727-2299	MR AIKEN	9/26/96
REAL ESTATE	ATBO-GP	727-2569	MR BLANCHARD	9/12/96
LEGAL	ATJA	727-2773	MAJ EGAN	9/12/96
PAO	ATPA	727-3506	CAPT HENSON	9/18/96

ATZP-EP

September 1996

MEMORANDUM FOR THE RECORD

SUBJECT: Record of Non-Applicability (RONA) to the Clean Air Act Amendment General Conformity Rule Regarding the Transfer of Real Property Designated for Monterey College of Law (MCL). This Action Covers Activities Associated with Land Conveyance Between the U.S. Army and MCL .

1. Scope Definition: The Department of the Army is granting parcels of land located at the former Fort Ord, California for use by MCL. Subject parcel requested by MCL was formerly utilized by the U.S. Army for family housing.
2. Presidio of Monterey, Defense Language Institute is required to make a review of direct and indirect air emission sources for each criteria pollutant as outlined in 40 CFR 51.853 and 93.153 for federal initiatives located within a region designated as nonattainment to national ambient air quality standards (NAAQS). The analysis is to ensure that federal actions will not delay or prevent an area from achieving attainment status.
3. Intended future reuse of subject parcel by grantee is for visitor housing .
4. The General Conformity Rule requirements do not apply to subject Federal action under CAA Section 176(c), 40 CFR part 51 subpart W, and pursuant to Section 201(c)2i of Monterey Bay unified Air Pollution Control District rule, as incorporated in the State Implementation Plan (SIP), where the National Environmental Policy Act (NEPA) documentation was completed prior to 31 January 1994 (Fort Ord Disposal and Reuse Final Environmental Impact Statement, Harding Lawson Associates, June 1993).
5. Any utilization of subject parcel by the grantee influencing facility emissions not identified in the State Implementation Plan, has neither been disclosed to Army Environmental personnel, nor considered in this determination.



CHRISTINE LAWSON
Air Pollution Environmental Coordinator
Directorate Environmental and Natural
Resources Management