

**FINDING OF SUITABILITY TO TRANSFER (FOST)
PRESTON AND STILWELL PARK DISPOSAL POLYGONS
FORMER FORT ORD, CALIFORNIA**

On the basis of the Community Environmental Response Facilitation Act (CERFA) Report for Fort Ord, I have determined that the Preston and Stilwell Park Disposal Polygons (the Property), at former Fort Ord, California, are suitable for transfer to the Fort Ord Reuse Authority (FORA) for housing. The Property to be assigned and transferred includes approximately 95 buildings on 102.1 acres in the Preston Park housing area (Polygons E4.4 and E5b; Plate 1) and approximately 250 buildings on 101.8 acres in the Stilwell Park housing area (Polygon E20.b; Plate 2).

A determination of the environmental condition of the Property was made by the U.S. Department of the Army by reviewing existing environmental documents and completing associated visual site inspections (2/6/97; 8/29/97). The documents reviewed included the final Fort Ord CERFA Report (April 1994), U.S. EPA Region IX's concurrence to the CERFA Report (19 April 1994), various remedial investigation/feasibility studies (RI/FS) documents, and remedial action reports and subsequent approval memoranda. The results of the document review indicate that the Property is environmentally suitable for transfer. The results are as follows:

- Three hundred and forty-four single and multi-family housing units are located on Polygons E4.4 and E20.b (Plates 1 and 2; Tables 1 and 2). No structures are present on Polygon E5b.
- Asbestos surveys were completed for representative groups of housing units within the Preston Park Polygon and for all 250 housing units within the Stilwell Park Polygon. Of the seven housing units surveyed at Preston Park, none contained friable asbestos-containing materials (ACM). Six of the seven housing units were found to have asbestos-containing roofing mastic rated 13 (biannual inspection recommended). The roofing mastic was nonfriable and was in good condition at the time of the survey. Therefore, the remaining 88 housing structures are presumed to be similar with respect to ACM. Of the 250 housing units surveyed at Stilwell Park, one contained friable ACM (7239 in fair condition). Six units (7034, 7119, 7200, 7216, 7239 and 7241) contain friable and/or nonfriable ACM (resilient floor tile, mastic, or fibrous paper shields) rated 2 (immediate repair, short-term removal recommended). All remaining housing structures contained nonfriable ACM that was identified as being in good condition and rated 12 or 13. The Army does not intend to remove the ACM in any of these structures, but rather only discloses the condition. Prior to occupancy recipient must remediate ACM rated 2. Recommended inspection of ACM present in these buildings is the responsibility of the recipient.
- The housing units within the Preston Park Polygon were constructed between 1987 and 1990, and are not expected to contain lead-based paint (LBP). The housing units within the Stilwell Park Polygon were constructed in 1953. The Army does not intend to remove LBP in these structures, but rather disclose its condition. The paint on the Stilwell Park housing units is in poor to excellent condition. No sampling for lead in soil has occurred on the Property; however, soil samples have been collected from soil surrounding two adjacent housing units (7601, 7641). Eight composite soil samples were collected (four from each housing unit) and analyzed for lead. Total lead was detected in all eight composite samples at concentrations ranging from 14.7 to 77.8 milligrams per kilogram (mg/kg), with an average concentration of 44 mg/kg. The maximum background concentration for lead in shallow soil at Fort Ord is 51.8 mg/kg (Harding

Lawson Associates. *Draft Final Basewide Background Soil Investigation. Fort Ord, California [HLA, 1993]*, dated March 15, 1993). The federal preliminary remediation goal (PRG) for residential soil is 400 mg/kg. These samples were collected from soil surrounding houses that are not on the Property to be transferred, but are thought to be representative of similar conditions because of comparable types and dates of house construction. On the basis of these results, the BRAC Cleanup Team decided that, with regard to LBP in soil on the Property, no further action was necessary (August 29, 1997). Appropriate LBP notice is provided herein.

- No radon levels above 4 picocuries per liter (pCi/L) were detected on the Property during a 1990 survey.
- No radiological surveys have been conducted within the buildings because radioactive materials were reportedly not used or stored in the buildings.
- Routine application of pesticides occurred around the residential areas on the former Fort Ord, based on available pesticide applications records which date from 1985 to the present. The records show the type of pesticide used, location and date of application, final application concentration and the name of the applicator. All pesticides were used in accordance with labeled instructions. The following is a list of the pesticides applied in residential areas of Fort Ord during this time. These pesticides are still in use today and are considered safe for use in residential or outdoor areas.
 - Carbamates - methylcarbamates (Ficam, Baygon); carbaryl (Sevin); propoxur (Terminate)
 - Chloropyrifos (Dursban, Empire)
 - Combination Pesticides - Purge (diazinon, pyrethrin, piperonyl butoxide); ULD-100 and Drione (pyrethrin, piperonyl butoxide and petroleum distillate); Precore (methoprene and permethrin)
 - Diazinon
 - Herbicides: glyphosate (Round-up, Rodeo); 2-4D; Amitrole; sulfometuron methyl (Oust)
 - Propetamphos (Safrotin)
 - Pyrethrum and synthetic Pyrethroids-pyrethrin; phenothrin; resmethrin; cypermethrin (Demon); cyfluthrin (Tempo)
 - Rodenticides: chlorophacinone; strychnine; brodifacoum; zinc phosphide
 - Thurgicide (Dipel)
- No polychlorinated biphenyl (PCB) transformers are on the Property, and no releases of PCB-contaminated dielectric fluids have been reported for the Property.

- Ordnance and explosives (OE) investigations, consisting of the Archive Search Report (ASR) and ASR Supplement No. 1 (December 1993 and November 1994, respectively), Site 39 Data Summary Work Plan (February 1994), OE contractor after-action reports (December 1994 and November 1995), working maps, Fort Ord Training Facilities Map, and associated interviews from various ordnance-related community relations activities, show no potential OE locations within the Stilwell and Preston Park Polygons. One potential OE location (OE Site 20) is located immediately adjacent to Stilwell Park (Plate 3). The OE site boundary shown on Plate 3 is based on the latest information (September 1997 map boundaries) provided by the OE removal contractor and the sources described above. Early preliminary surveys, including the ASR and ASR supplement (which included interviews with former Fort Ord employees), resulted in identification of a number of potential OE Sites. Some of the sites were identified by more than one source, resulting in multiple site boundaries for many of the potential OE sites. Subsequently, the Army conducted additional focused studies, including RI/FS studies associated with former OE use, an expanded ASR process, and OE sampling, mapping, global positioning systems (GPS) surveys, and OE removal actions which were performed as part of the Phase 1 and 2 Engineering Evaluation and Cost Analysis (EE/CA). These additional studies resulted in a refinement of the potential OE site boundaries. Plate 3 shows the current approximate extent of OE Site 20. Specific information regarding ordnance-related activities at OE Site 20 are provided in the Phase 1 EE/CA. The nearest potential OE site to the Preston Park Polygon is OE Site 13A. The eastern boundary of OE Site 13A is approximately 525 feet southwest of the Preston Park Disposal Polygon boundary (Plate 1). However, because OE was used throughout the history of Fort Ord, the potential exists for OE to be present on the Property. This notice will be included in the deed.
- No underground or aboveground storage tanks are present on the Property.
- No Installation Restoration Program (IRP) sites or solid waste management units (SWMUs) are located on the Property.
- The final CERFA report identifies the Preston Park Polygons as being within CERFA Parcel 220, and CERFA Qualified Parcel 142 (probable ACM). The CERFA report identified the Stilwell Park Polygon as being within CERFA Qualified Parcel 134 (probable LBP and ACM) and CERFA Parcel 213; the U.S. Environmental Protection Agency (EPA) Region IX and the State Department of Toxic Substances Control (DTSC) has concurred that these parcels are uncontaminated. As such, the Property would qualify for transfer under Section 120(h)(4) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- There was one former groundwater monitoring well on the Preston Park Polygon (E4.4; Plate 1). The monitoring well was destroyed during the construction of the Preston Park Housing area. The OU 2 groundwater plume does not extend beneath the Property.

National Environmental Policy Act (NEPA) requirements for this transfer were satisfied by the analysis conducted in the Fort Ord Disposal and Reuse Environmental Impact Statement (EIS) dated June 1993, the June 1996 Supplemental Fort Ord Disposal and Reuse Environmental Impact Statement (SEIS), and associated Records of Decision (RODs).

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 information, certain terms, conditions, reservations, restrictions, and notifications are required. Disclosure of conditions and use restrictions are described below and will be included in the deed.

NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

1. The Grantee is hereby informed and does acknowledge that friable asbestos or asbestos-containing materials ("ACM") have been found on the Property, as described in the EBS and referenced asbestos surveys. The interior asbestos does not present a "release or threat of release into the environment" as defined by CERCLA.
2. Several buildings have been determined to contain friable and non-friable asbestos that may pose a threat to human health. Of the 250 housing units surveyed at Stilwell Park, one contained friable ACM (7239 in fair condition). Six units (7034, 7119, 7200, 7216, 7239 and 7241) contain friable and/or nonfriable ACM (resilient floor tile, mastic, or fibrous paper shields) rated 2 (immediate repair, short-term removal recommended). All remaining housing structures contained nonfriable ACM that was identified as being in good condition and rated 12 or 13. Detailed information is contained in the EBS and referenced asbestos surveys.
3. The Grantor has agreed to convey said buildings and structures to the Grantee, prior to remediation of the asbestos hazards described above, in reliance upon the Grantee's express representation and promise that the Grantee will, prior to use or occupancy of said buildings, demolish said buildings or the portions thereof containing friable asbestos, disposing of ACM in accordance with applicable laws and regulations. With respect to the friable asbestos in said buildings and structures, the Grantee specifically agrees to undertake any and all abatement or remediation and agrees to be responsible for any future remediation of asbestos found to be necessary on the Property. . The Grantee acknowledges that the consideration for the conveyance of the Property was negotiated based upon the Grantee's agreement to the provisions contained in this Subsection. 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 any future remediation of asbestos or 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 or ACM on the Property, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured.. The Grantee assumes no liability for damages for personal injury, illness, disability, death or property damage arising from (i) any exposure or failure to comply with any legal requirements applicable to asbestos on any portion of the Property arising prior to the Grantor's conveyance of such portion of the Property to the Grantee pursuant to this Deed. or (ii) any disposal, prior to the Grantor's conveyance of the Property of any asbestos or ACM. The Grantee acknowledges that the consideration for the conveyance of the Property was negotiated based upon the Grantee's agreement to the provisions contained in this Subsection.
4. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety

and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

5. The Grantee acknowledges that it has inspected the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto prior to accepting the responsibilities imposed upon the Grantee under this section. The failure of the Grantee to inspect, or to be fully informed as to the asbestos condition of all or any portion of the property offered, will not constitute grounds for any claim or demand against the United States, or any adjustment under this Deed or the MOA.

6. The Grantee further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, exposure to asbestos on any portion of the Property after this conveyance of the Property to the Grantee or any future remediation or abatement of asbestos or the need therefor. The Grantee's obligation hereunder shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

NOTICE OF THE PRESENCE OF LEAD-BASED PAINT

A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. "Residential Real Property" means any housing constructed prior to 1978, except housing for the elderly (households reserved for and composed of one or more persons 62 years of age or more at the time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

B. Available information concerning known LBP and/or LBP hazards, the location of LBP or LBP hazards, and the condition of painted surfaces is contained in the U.S. Army Environmental Hygiene Agency report, *Industrial Hygiene Survey No. 55-71-R25A-94, Lead-Based Paint Inspection in Military Housing, Fort Ord, California, November 1, 1993- March 11, 1994*, dated June 6, 1994 and the Environmental Baseline Survey, which have been provided to the Grantee. All purchasers must also receive the federally approved pamphlet on lead poisoning prevention. No sampling for lead in soil has occurred on the Property. Lead sampling on similar parcels with like type and age of structures has shown concentrations in soil below levels of concern for residential use. The maximum background concentration for lead in shallow soil at Fort Ord is 51.8 mg/kg (HLA, 1993). The federal PRG for residential soil is 400 mg/kg. No other surveys or studies assessing the possible presence of lead-based

paint in former or existing buildings on the Property were performed by the Army. The Grantee hereby acknowledges receipt of the information described in this subparagraph.

C. The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this Transfer.

D. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X). The Grantee shall, after consideration of the guidelines and regulations established pursuant to Title X and after consultation with the appropriate state environmental agency: (1) inspect for the presence of lead-based paint and/or lead-based-paint hazards; (2) abate and eliminate lead-based paint hazards; and (3) comply with all applicable notice and disclosure requirements under Title X and applicable state law. In complying with these requirements, the Grantee covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes.

E. The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for residential purposes.

NOTICE OF THE POTENTIAL FOR THE PRESENCE OF ORDNANCE AND EXPLOSIVES

Ordnance and explosives (OE) investigations indicate that OE is not likely on this Property. However, because this is a former military installation with a history of OE use there is a potential for OE to be present on the property. In the event Grantee or its successors and assigns should discover any ordnance on the Property, they shall not attempt to remove or destroy it, but shall immediately notify the local Police Department and the Directorate of Law Enforcement at the Presidio of Monterey. Competent U.S. Army Explosive Ordnance personnel will be dispatched promptly to dispose of such ordnance properly at no expense to the Grantee.

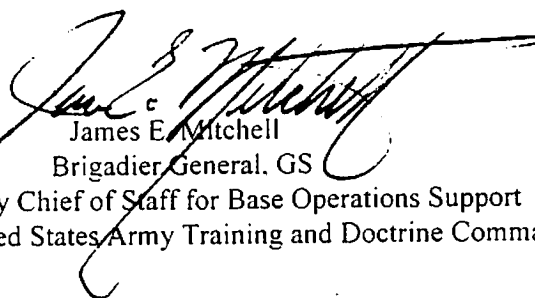
Comments received from U.S. EPA Region IX and California EPA DTSC on the Version 1 FOST were reviewed and incorporated where possible in the Version 2 FOST. All comments were resolved with the exception of one concerning certain language regarding asbestos and one regarding lead-based paint which are attached as unresolved comments.

On the basis of the above information, I conclude that the Preston Park and Stilwell Park Disposal Polygons (E4.4, E5a, E5b, and E20.b) should be assigned Department of Defense (DoD) Environmental Condition Category I (areas where no release or disposal of hazardous substances or petroleum products has occurred, [including no migration of these substances from adjacent to areas]) and is transferable

under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section (§)120(h)(4). The deed for this transaction will contain the following covenants:

- The covenant under CERCLA § 120 (h)(4)(B)(ii) warranting that any response action under CERCLA or corrective action found to be necessary after the date of transfer, shall be conducted by the United States.
- The covenant under CERCLA § 120 (h)(4)(C) 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.

02 MAR 1999



James E. Mitchell
Brigadier General, GS

Assistant Deputy Chief of Staff for Base Operations Support
Headquarters United States Army Training and Doctrine Command

UNRESOLVED COMMENTS

US EPA 4 December 1997 Comment:

1) Transferee Responsibility / Indemnification for Asbestos:

Public Law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property on closing military bases is transferred. 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 damage 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.

Consequently, EPA believes that the asbestos indemnification provision of the final FOST is not appropriate and must be eliminated from the FOST and the deed. If the FOST or the deed is to address the issue of liability for asbestos hazard, they should describe the statutory mechanism and advise the transferee that to the extent that the act or omission of the transferee contributes to the release of asbestos, the transferee will not be entitled to indemnification under the statute. EPA would be willing to work with the Army to craft language which provides protection for the Army which is consistent with the statutory indemnification provision.

Army Response:

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

2) Transferee Responsibility / Indemnification for LBP

EPA considers the presence of exterior lead-based paint (LBP) to pose a potential CERCLA release to the environment. There are currently indications of releases of lead associated with exterior LBP into the environment at the study areas covered by the subject FOST. Based on the available information regarding releases of lead associated with LBP at the facility, including the age of the structures (pre-1978) and soil sampling at similar structures considered to be representative of those located on the parcel to be transferred, EPA believes that a release has occurred. However, the levels should not present a risk to human health or the environment. Therefore, EPA believes that the parcel is suitable for transfer and that the covenant required by CERCLA section 120 (h) (3) can be given.

The FOST proposes that the transferee will be required to assume responsibility for the remediation of all LBP hazards following the transfer. The Army and the transferee may agree that the transferee will monitor the condition of any LBP hazard, maintain the structures and otherwise properly manage LBP hazards. The average residual lead concentrations in the soil surrounding the buildings and the structures on the parcel to be transferred do not exceed EPA's action level for lead of 400 mg/kg and no remedial action is currently required. However, based on the LBP conditions on the exterior of some buildings on the parcel, the threat of additional releases of lead into the surrounding soil remains. Therefore, where property has been transferred under CERCLA section 120 (h) (3), the United States must also covenant that it will perform any remedial action found necessary after the date of transfer.

Additionally, EPA believes that the provision of the FOST describing the Army's intention to obtain indemnification from the transferee and its successors and assigns is inconsistent with the provisions of Public Law 102-484, as amended by Public Law 103-160, which directs the Secretary of Defense to indemnify transferees of property at closing military bases. The law directs the military service to indemnify persons or entities acquiring ownership or control of property at closing military bases for liability for personal injury or property damage resulting from the release of a hazardous substance except to the extent that the person seeking indemnification contributed to the release. Consequently, EPA believes that the LBP indemnification provision of the draft final FOST is not appropriate and must be eliminated from the FOST and the deed. If the FOST or the deed is to address the issue of liability for LBP hazards, it should describe the statutory mechanism and advise the transferee that to the extent that the act or omission of the transferee contributes to the release of lead associated with LBP, the transferee will not be entitled to indemnification under the statute. EPA would be willing to work with the Army to craft language which provides protection for the Army which is consistent with the statutory indemnification provision.

Army Response:

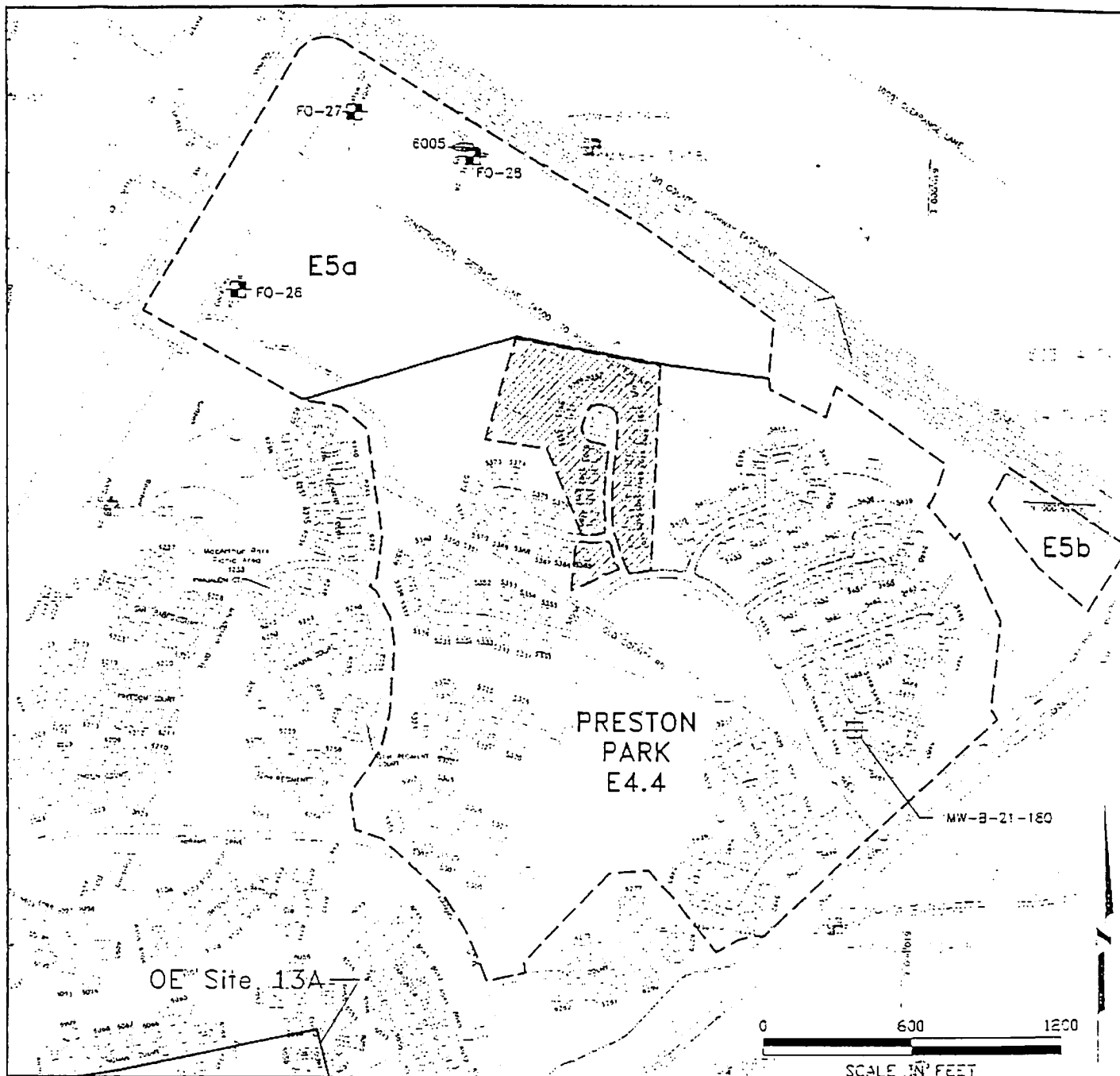
Army believes that the risk from lead-based paint in the soil around these buildings is negligible based on testing of similar structures. Additionally, Army believes that the standard Army indemnification language is legally sufficient. Army does not agree that lead-based paint in soil is governed under CERCLA, but rather under Title X of Public Law 102-550 for property used for residential habitation.

**TABLE I.
LIST OF BUILDING NUMBERS
FINDING OF SUITABILITY TO TRANSFER (FOST)
PRESTON PARK HOUSING DISPOSAL POLYGONS
FORMER FORT ORD, CALIFORNIA**

5300	5369	5466
5301	5370	5467
5302	5371	5468
5303	5372	5469
5304	5373	5470
5305	5374	5480
5306	5375	5481
5307	5376	5482
		5483
5320	5410	5484
5321	5411	
5322	5412	5490
5323	5413	5491
5324	5414	5492
5325	5415	5493
5326		5494
	5430	5495
5330	5431	5496
5331	5432	5497
5332	5433	
5333		5510
5334	5435	5511
5335	5436	5512
5336	5437	5513
5337	5438	
5338	5439	5520
5339	5440	5521
5340		5522
	5450	
5350	5451	6003
5351	5452	6004
5352	5453	6005
5353		
5354	5460	
5355	5461	
	5462	
5366	5463	
5367	5464	
5368	5465	

TABLE 2.
LIST OF BUILDING NUMBERS
FINDING OF SUITABILITY TO TRANSFER (FOST)
STILWELL PARK DISPOSAL POLYGON
FORMER FORT ORD, CALIFORNIA

5300	7038	7077	7116	7155	7194	7233
7000	7039	7078	7117	7156	7195	7234
7001	7040	7079	7118	7157	7196	7235
7002	7041	7080	7119	7158	7197	7236
7003	7042	7081	7120	7159	7198	7237
7004	7043	7082	7121	7160	7199	7238
7005	7044	7083	7122	7161	7200	7239
7006	7045	7084	7123	7162	7201	
7007	7046	7085	7124	7163	7202	
7008	7047	7086	7125	7164	7203	
7009	7048	7087	7126	7165	7204	
7010	7049	7088	7127	7166	7205	
7011	7050	7089	7128	7167	7206	
7012	7051	7090	7129	7168	7207	
7013	7052	7091	7130	7169	7208	
7014	7053	7092	7131	7170	7209	
7015	7054	7093	7132	7171	7210	
7016	7055	7094	7133	7172	7211	
7017	7056	7095	7134	7173	7212	
7018	7057	7096	7135	7174	7213	
7019	7058	7097	7136	7175	7214	
7020	7059	7098	7137	7176	7215	
7021	7060	7099	7138	7177	7216	
7022	7061	7100	7139	7178	7217	
7023	7062	7101	7140	7179	7218	
7024	7063	7102	7141	7180	7219	
7025	7064	7103	7142	7181	7220	
7026	7065	7104	7143	7182	7221	
7027	7066	7105	7144	7183	7222	
7028	7067	7106	7145	7184	7223	
7029	7068	7107	7146	7185	7224	
7030	7069	7108	7147	7186	7225	
7031	7070	7109	7148	7187	7226	
7032	7071	7110	7149	7188	7227	
7033	7072	7111	7150	7189	7228	
7034	7073	7112	7151	7190	7229	
7035	7074	7113	7152	7191	7230	
7036	7075	7114	7153	7192	7231	
7037	7076	7115	7154	7193	7232	



EXPLANATION

--- PARCEL BOUNDARY

E4.4 PARCEL BOUNDARY

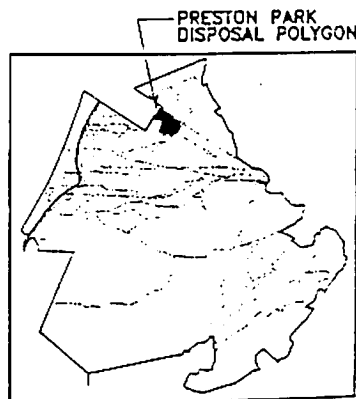
[Hatched Box] NOT PART OF THIS TRANSFER

— COMPOSITE BOUNDARY OF OE SITE
BASED ON DATA COMPILED FROM VARIOUS
STUDIES, REPORTS AND WORKING MAPS

6005 [Well Symbol] FORMER UST

MW-B-21-180 [Well Symbol] FORMER MONITORING WELL

[Well Symbol] FO-26 FORT ORD WATER SUPPLY WELL



KEY MAP

PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED TO REPRESENT THE LEGAL DESCRIPTION OF THE PARCEL(S).



Harding Lawson Associates
Engineering and
Environmental Services

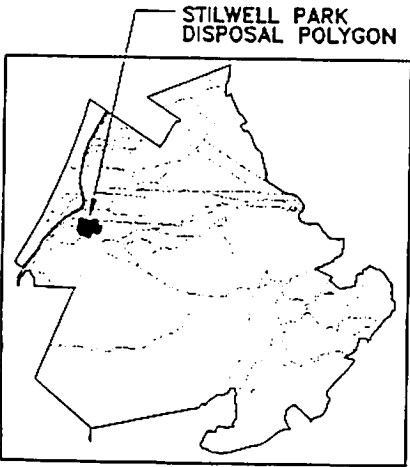
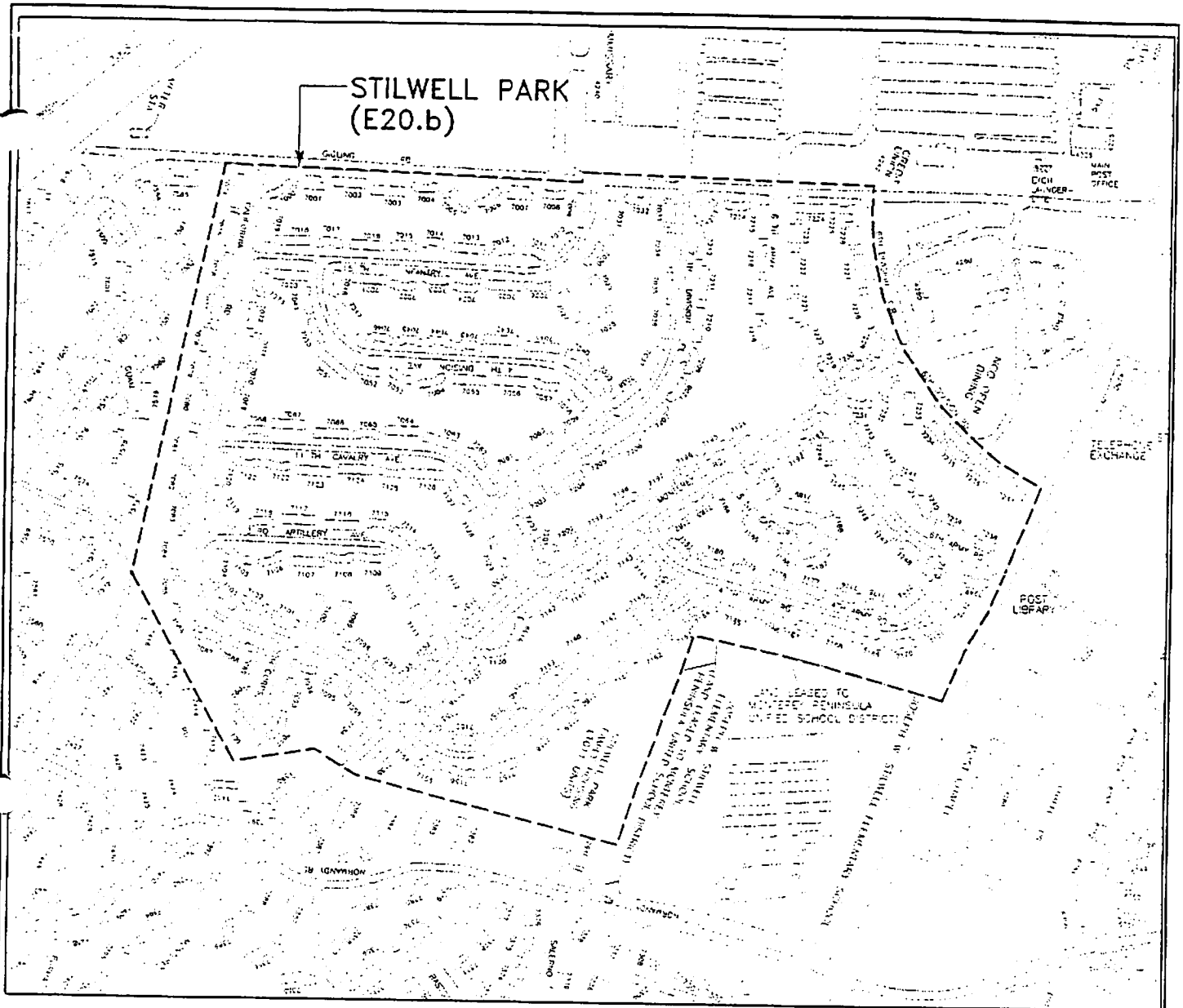
Site Map
Preston Park Disposal Polygons
Finding of Suitability to Transfer (FOST)
Former Fort Ord, California

DRAWN: RWS
JOB NUMBER: 25894 0017612

APPROVED: [Signature]

DATE: 12/96

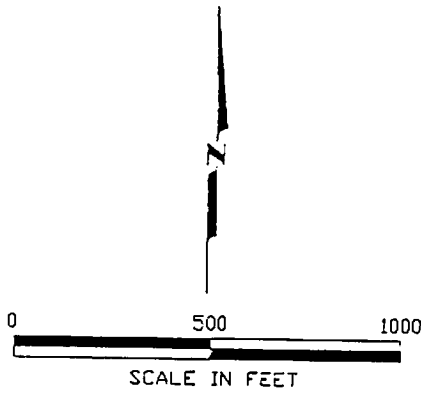
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KEY MAP

EXPLANATION

- PARCEL BOUNDARY
- (E20.b) POLYGON NUMBER



PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED TO REPRESENT THE LEGAL DESCRIPTION OF THE PARCELS.



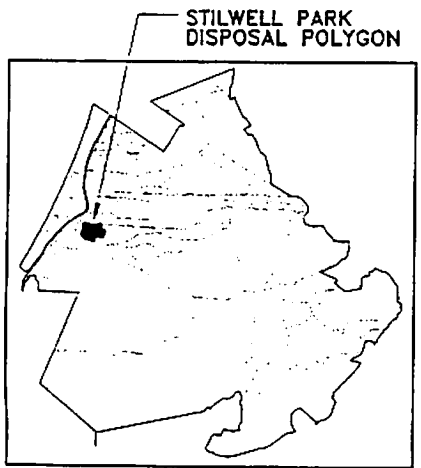
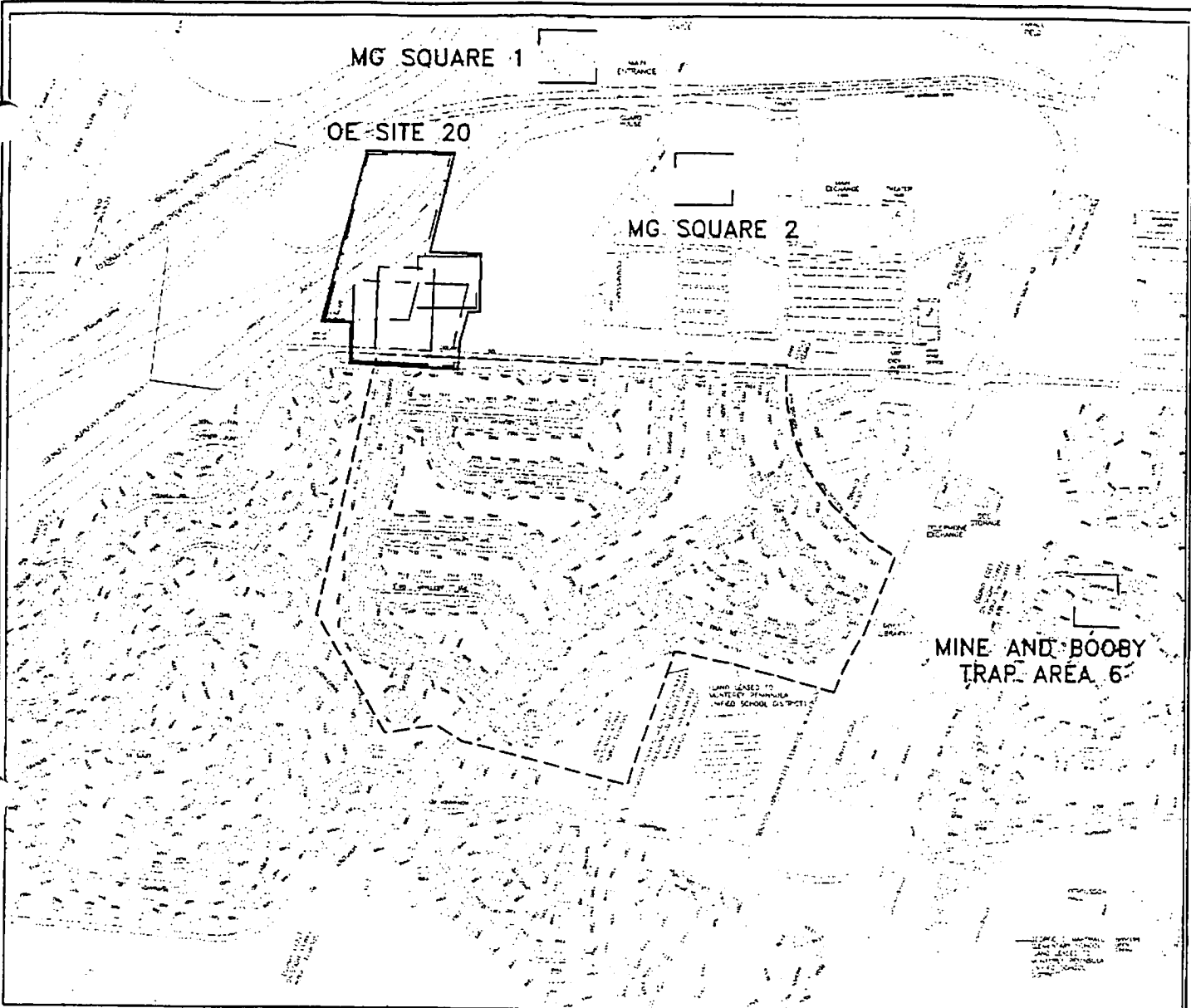
Harding Lawson Associates
Engineering and
Environmental Services

Parcel Map
Stillwell Park Disposal Polygon
Finding of Suitability to Transfer
Former Fort Ord, California

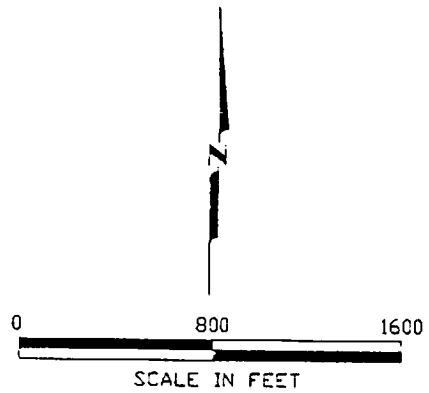
PLATE

2

1997/02/122H
5005
K064852



KEY MAP



EXPLANATION

- Parcel Boundary
- HLA Draft Data Summary Work Plan - Site 39
- Working Maps for Time-Critical Removal Actions
- Archive Search Report and Supplement
- HFAI Final Report
- Composite Boundary of OE Sites Based on Data Compiled from Various Studies, Reports, and Working Maps

PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED TO REPRESENT THE LEGAL DESCRIPTION OF THE PARCELS.

25894-81 8000
199612101424



Harding Lawson Associates
Engineering and Environmental Services

OE Areas
Stillwell Park Disposal Polygon
Finding of Suitability to Transfer
Former Fort Ord, California

PLATE

3



Cal/EPA

Department of
Toxic Substances
Control

10151 Croydon Way
Suite 3
Sacramento, CA
95827-2106

December 22, 1997



Pete Wilson
Governor

Peter M. Rooney
Secretary for
Environmental
Protection

Department of the Army
Commander, DLIFLC and POM (Fort Ord)
ATTN: ATZP-EP (Ms. Christine Lawson)
Presidio of Monterey, California 93944-5006

REVIEW OF THE DRAFT FINDING OF SUITABILITY TO TRANSFER
DOCUMENTS (FOSTS) FOR MONTEREY PENINSULA COLLEGE (BOQ, 12TH
CAMPUS) PHASE 1 PARCEL, PRESTON/STILLWELL AND PATTON/ABRAMS
PARCELS, DATED DECEMBER 9, 1997, FORMER FORT ORD, CALIFORNIA

Dear Ms. Lawson:

The Department of Toxic Substances Control (DTSC) has reviewed the subject documents and finds that the Army has adequately described the environmental condition of each parcel for transfer.

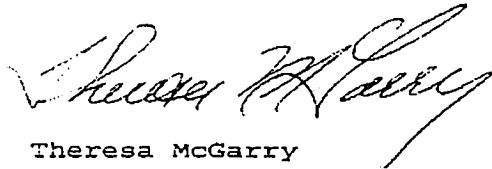
Originally, DTSC had concerns about the release of lead-based paint (LBP) to the soils. However, after further evaluation of the parcels, the Base Realignment and Closure Cleanup Team determined that residual concentrations do not require remedial action. However, DTSC notes that the provision of the FOST describing the Army's intention to obtain indemnification from the transferee for releases of LBP and asbestos appears to be inconsistent with the provisions of Public Law 102-484 as amended by Public Law 103-160. We understand that this law directs the military to indemnify persons or entities acquiring ownership or control of property at closing military bases for liability for personal injury or property damage resulting from the release of a hazardous substance except to the extent that the person seeking indemnification contributed to the release. Therefore, DTSC believes that the indemnification provision should be removed from the FOST.



Ms. Christine Lawson
December 22, 1997
Page 2

If you have any questions, please feel free to contact me at (916) 323-3466 or Mr. Bill Kilgore, Project Manager, at (916) 255-3738

Sincerely,



Theresa McGarry
Environmental Assessment
and Reuse Specialist
Office of Military Facilities

cc: Ms. Lida Tan
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105

Mr. Grant Himebaugh
California Regional Water Quality Control Board
Central Coast Region
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5414

Ms. Gail Youngblood
Base Realignment and Closure Coordinator
Department of the Army
Commander, DLIFC and POM (Fort Ord)
ATTN: ATZP-EP
Presidio of Monterey, California 93944-5006

Mr. Dennis Potter
Fort Ord Reuse Authority (FORA)
100 12th Street Building 2880
Marina, California 93933

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

December 4, 1997

Department of the Army
Commander, DLIFLC and POM (Fort Ord)
ATTN: ATZP-EP (Christine Lawson)
Presidio of Monterey, CA 93944-5006

Re: Draft Final Finding of Suitability To Transfers (FOSTs) for
Golf Course Phase II, Site 33
Monterey Peninsula College Phase I Parcel
Patton & Abrams Parks
Preston & Stilwell Parks

Dear Ms. Lawson:

The U.S. Environmental Protection Agency, Region IX (EPA) has received the draft final FOSTs dated October 30, 1997 for the properties at Fort Ord, California, identified below:

1. Golf Course Phase II, Site 33
2. Monterey Peninsula College Phase I Parcel
3. Patton & Abrams Parks
4. Preston & Stilwell Parks

When entering into a deed for transfer under section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9620(h)(3), the Army is required to include in such deed a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken before the date of transfer, and that any additional remedial action found to be necessary after the date of the transfer shall be conducted by the United States.

EPA initially had concerns with the draft final FOSTs regarding lead-based paint presumed to be present on the exterior of the buildings located on the parcels. Each of the parcels in the above mentioned draft final FOSTs includes buildings or structures which were built before 1978 and thus are considered to contain exterior lead-based paint.

In July 1997, the Army submitted a report, the Lead Investigation, which summarized the results of lead samples taken at twenty three buildings or structures at Fort Ord. The

buildings sampled exhibited the worst lead-based paint conditions such as peeling paint on the exterior of the buildings and paint chips falling into the surrounding soil. Although these buildings/structures are not those located on the parcels to be transferred, the Fort Ord Base Closure Team (BCT) agreed that the results in the report would be representative of similar buildings or structures identified in the subject draft final FOSTs. The average lead concentration levels in the soil surrounding the buildings sampled are all below EPA's action level for lead at 400 mg/kg. After several visual inspections by the Army, EPA and the California Department of Toxic Substances Control (DTSC), in addition to the review of the FOSTs and the Lead Investigation Report, the BCT agreed that the residual concentrations do not require remedial action.

EPA is very encouraged with the Army's willingness to conduct lead-based paint soil sampling at Fort Ord. Since many of the buildings and structures at Fort Ord can be categorized into various groups, the establishment of the lead-based paint soil sample database has proved to be cost-effective and time efficient. Although the current lead-based paint database is not representative of all the buildings and structures at Fort Ord and EPA may request site specific lead-based paint data under circumstances, the database has provided the BCT with useful information to address the lead-based paint issues associated with many of the parcel transfers at Fort Ord.

After review of the above documentation, EPA concurs with the Army's determination that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the respective parcels has been taken.

The following comments are provided and, unless the Army modifies the final FOSTs in response to the comments, they should be attached as unresolved comments in each final FOST for the subject properties:

1) Transferee Responsibility/Indemnification for Asbestos:

Public Law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property on closing military bases is transferred. 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 damage 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.

Consequently, EPA believes that the asbestos indemnification provision of the final FOST is not appropriate and must be eliminated from the FOST and the deed. If the FOST or the deed is to address the issue of liability for asbestos hazard, they should describe the statutory mechanism and advise the transferee

that to the extent that the act or omission of the transferee contributes to the release of asbestos, the transferee will not be entitled to indemnification under the statute. EPA would be willing to work with the Army to craft language which provides protection for the Army which is consistent with the statutory indemnification provision.

2) Transferee Responsibility/Indemnification for LBP

EPA considers the presence of exterior lead-based paint (LBP) to pose a potential CERCLA release to the environment. There are currently indications of releases of lead associated with exterior LBP into the environment at the study areas covered by the subject FOST. Based on the available information regarding releases of lead associated with LBP at the facility, including the age of the structures (pre-1978) and soil sampling at similar structures considered to be representative of those located on the parcel to be transferred, EPA believes that a release of LBP has occurred. However, the levels should not present a risk to human health or the environment. Therefore, EPA believes that the parcel is suitable for transfer and that the covenant required by CERCLA section 120(h)(3) can be given.

The FOST proposes that the transferee will be required to assume responsibility for the remediation of all LBP hazards following the transfer. The Army and the transferee may agree that the transferee will monitor the condition of any LBP hazard, maintain the structures and otherwise properly manage LBP hazards. The average residual lead concentrations in the soil surrounding the buildings and the structures on the parcel to be transferred do not exceed EPA's action level for lead of 400 mg/kg and no remedial action is currently required. However, based on the LBP conditions on the exterior of some buildings on the parcel, the threat of additional releases of lead into the surrounding soil remains. Therefore, where property has been transferred under CERCLA section 120(h)(3), the United States must also covenant that it will perform any remedial action found to be necessary after the date of transfer.

Additionally, EPA believes that the provision of the FOST describing the Army's intention to obtain indemnification from the transferee and its successors and assigns is inconsistent with the provisions of Public Law 102-484, as amended by Public Law 103-160, which directs the Secretary of Defense to indemnify transferees of property at closing military bases. The law directs the military service to indemnify persons or entities acquiring ownership or control of property at closing military bases for liability for personal injury or property damage resulting from the release of a hazardous substance except to the extent that the person seeking indemnification contributed to the release. Consequently, EPA believes that the LBP indemnification provision of the draft final FOST is not appropriate and must be eliminated from the FOST and the deed. If the FOST or the deed is to address the issue of liability for LBP hazards, it should describe the statutory mechanism and advise the transferee that

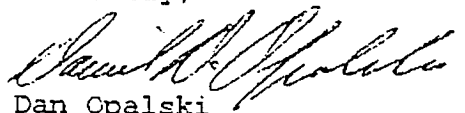
to the extent that the act or omission of the transferee contributes to the release of lead associated with LBP, the transferee will not be entitled to indemnification under the statute. EPA would be willing to work with the Army to craft language which provides protection for the Army which is consistent with the statutory indemnification provision.

EPA has reviewed the subject draft FOSTs dated October 29, 1997; the accompanying maps dated October 29, 1997; the Lead Investigation Report dated July 18, 1997; the Fort Ord CERFA report dated April 1994; EPA's concurrence letter on the CERFA report dated April 19, 1994; EPA's January 4, 1996 letter concurring that the pump-and-treat system for remediation of the OU 2 groundwater plume is operating "properly and successfully"; Remedial Investigation Record of Decision dated January 17, 1997; No Action Memo for Site 28 on August 10, 1995 and various remedial investigation/ feasibility study documents (collectively, "Documentation").

The review of the Documentation was completed pursuant to section 120(h)(3)(B)(I), and the sole purpose of this letter is to satisfy the requirements of this provision. The concurrence shall not be construed in any manner inconsistent with any obligation, right or authority existing under the Fort Ord Federal Facility Agreement, and all amendments thereto, entered into by EPA, the State of California and the Army. The undersigned expressly reserves all rights and authorities relating to information not contained in the Documentation, whether such information is known as of this date, or is discovered in the future. The undersigned recommends that this document be made available to the public with the signed FOSTs.

If you have any questions, please call my staff, Lida Tan, EPA Remedial Project Manager for the Fort Ord Site, at (415)744-2212.

Sincerely,



Dan Opalski
Chief
Federal Facilities Cleanup Branch

cc: Bill Kilgore, DTSC
Gail Youngblood, Fort Ord BEC
Theresa McGarry, CA DTSC Base Closure
Grant Himebuagh, RWQCE
Michael Houlemard, Fort Ord Reuse Authority