

**FINDING OF SUITABILITY TO TRANSFER (FOST)
MIRA PARCEL
FORMER FORT ORD, CALIFORNIA**

Based upon the authority granted to me by the Acting Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health, and based on an Environmental Baseline Survey (EBS) and regulatory agency comments on the EBS, I have determined that the Monterey Institute for Research In Astronomy (MIRA) Parcel (the Property), at former Fort Ord, California, is suitable for transfer to MIRA for educational and research purposes. The area to be assigned and transferred includes approximately 1.5 acres and four buildings (Plate 1).

A determination of the environmental condition of the Property was made by the United States Army by conducting an EBS that included reviewing 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 (Memorandum, 19 April 1994), and various remedial investigation/feasibility studies documents. The results of the EBS indicated that the Property is environmentally suitable for transfer to MIRA. The results of the EBS are as follows:

Four buildings (1638, 1653, 1660, 1661) are located on the Property. Building 1638 housed a moving target simulator; two of the other buildings were used for storage and one as a lavatory.

The Property is located within Installation Restoration Program (IRP) Site 18. Site 18, which was investigated under the Fort Ord RI/FS program, was categorized as a No Action site.

An asbestos survey conducted by the Army shows that three buildings (1638, 1660, and 1661) contain nonfriable asbestos. No asbestos was found in Building 1653.

Buildings 1653 and 1660 should be considered to contain lead-based paint (LBP) because of their pre-1978 construction dates.

No elevated radon levels were detected on the Property during a 1990 survey at Fort Ord.

Radiological surveys have not been conducted within the Property because these buildings were not used to store radiological materials.

There have been no reported releases of PCB-contaminated dielectric fluids from the electrical transformer present on the Property.

Ordnance and explosive (OE) surveys show that no potential ordnance training sites are within or immediately adjacent to the Property.

One former UST (1638-1) removed in 1992 was located within the Property. No releases of diesel fuel from the UST are known to have occurred, and it was granted closure by the Monterey County Department of Health. No AST's or SWMU's are present on the Property, and no studies associated with these potential activities have been conducted by the Army for this parcel.

The final CERFA report identifies the Property as being within CERFA Disqualified Parcel 4 because of its inclusion within IRP Site 18. However, no hazardous substances associated with Site 18 are known to have been present on the Property itself. Trench 5, at which chlorinated organics were found at levels which did not require action, is approximately 40 feet outside the southern boundary of this property.

One groundwater monitoring well is present on the Property and will continue to be sampled as part of the basewide groundwater monitoring program.

National Environmental Policy Act (NEPA) requirements for this transfer were satisfied by a Record Of Consideration based on 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 Army will not retain continuing authority to control emissions associated with the transferred property.

On the basis of the above results from the EBS and subsequent investigations, certain terms, conditions, reservations, restrictions, and notifications are required. Use restrictions and disclosure conditions are specific to the Property and are described below. These use restrictions and enclosures will be included in the transfer documents (deed).

NOTICE OF THE PRESENCE OF ASBESTOS. The Property existing on the date of this conveyance may contain certain amounts of asbestos in the floor tile, linoleum and associated mastic, asbestos-containing pipe and tank insulation, heating, ventilating, and air condition vibration joint cloths, exhaust flues, acoustic ceiling treatment, siding, drywall, drywall compound, debris in some of the buildings, and incidental amounts in the window putty or gasketing, etc.

The GRANTEE covenants and agrees, on behalf of it, its successors and assigns, that in its use and occupancy of the Property, it will comply 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, alterations, renovations, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in this Deed, regardless of whether the GRANTEE, its successors or assigns have properly warned or failed properly to warn the individual(s) injured.

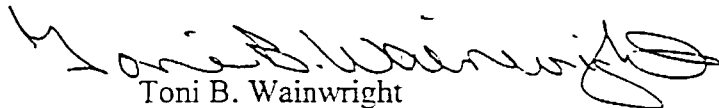
NOTICE OF THE PRESENCE OF LEAD-BASED PAINT. The GRANTEE is hereby informed and does acknowledge that any Property existing on the date of this Deed which was constructed or rehabilitated prior to 1978 is presumed to contain lead-based paint.

The GRANTEE, its successors and assigns, shall not permit the use of any such structure for residential habitation unless the GRANTEE has received certification from GRANTOR or others that the premises are safe or GRANTEE has eliminated the hazards of lead-based paint by treating any defective lead-based paint surface in accordance with all applicable laws and regulations. Residential structures are defined as any house, apartment, or structure intended for human habitation, including but not limited to a non-dwelling facility commonly used by children under 6 years of age such as a child care center, elementary school, or playground.

All comments received during review were resolved except for an EPA comment on Asbestos Indemnification that is attached to this document. Also attached are an EPA letter and Army response concerning Lead Based Paint (LBP).

On the basis of the above, I conclude that the MIRA Parcel should be assigned Department of Defense (DoD) Environmental condition Category 2. Although no hazardous substances were stored, released or disposed of in the parcel, petroleum was stored. Neither CERCLA 120(h)(3) nor CERCLA 120(h)(4) apply to this parcel. The deed for this transaction will contain the following covenants. "The Army shall hold harmless, defend, and indemnify in full the persons or entities described from and against any suit, claim, demand action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of defense activities at any military installation that is closed pursuant to a base closure law;" and a clause granting the United States access to the property in any case where remedial action or corrective action, for which the Army is responsible, is found to be necessary after the date of such transfer.

13 MAR 1996

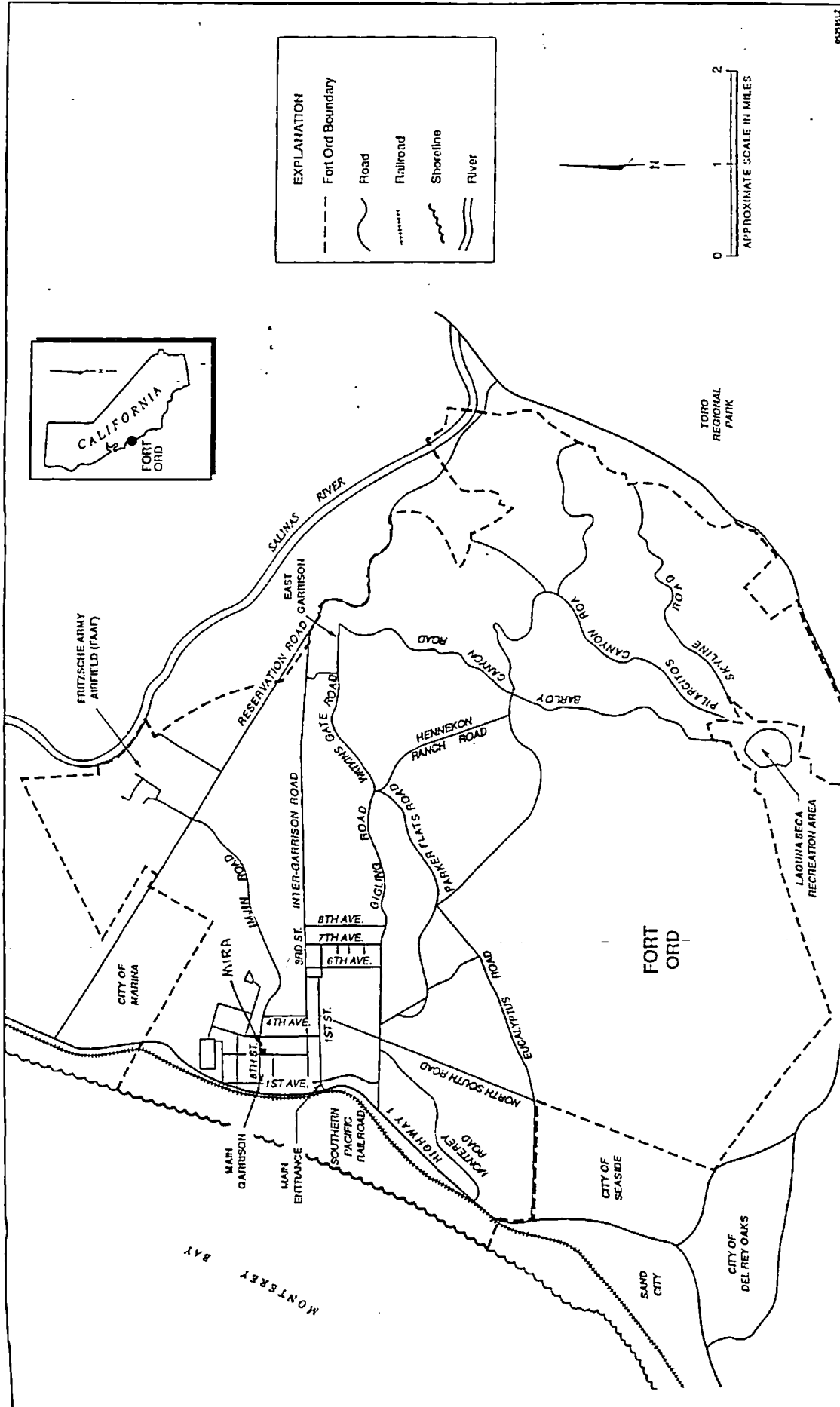
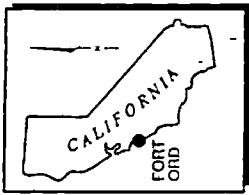


Toni B. Wainwright
Assistant Deputy Chief of Staff for Base Operations Support

MIRA PARCEL
UNRESOLVED COMMENTS

U.S. Environmental Protection Agency's concern regarding Asbestos Indemnification , page 2, sixth full paragraph:

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. It is unclear whether the FOST's statements on the Army not assuming liability for the transferee's contact with asbestos are consistent with the indemnification required by law. We request that the Army look into whether the FOST text is consistent with the required indemnification and suggest that this paragraph should explicitly cite public law 103-160, with an explanation of the intent of this law, in order to ensure full disclosure to the transferee on the issue of indemnification.



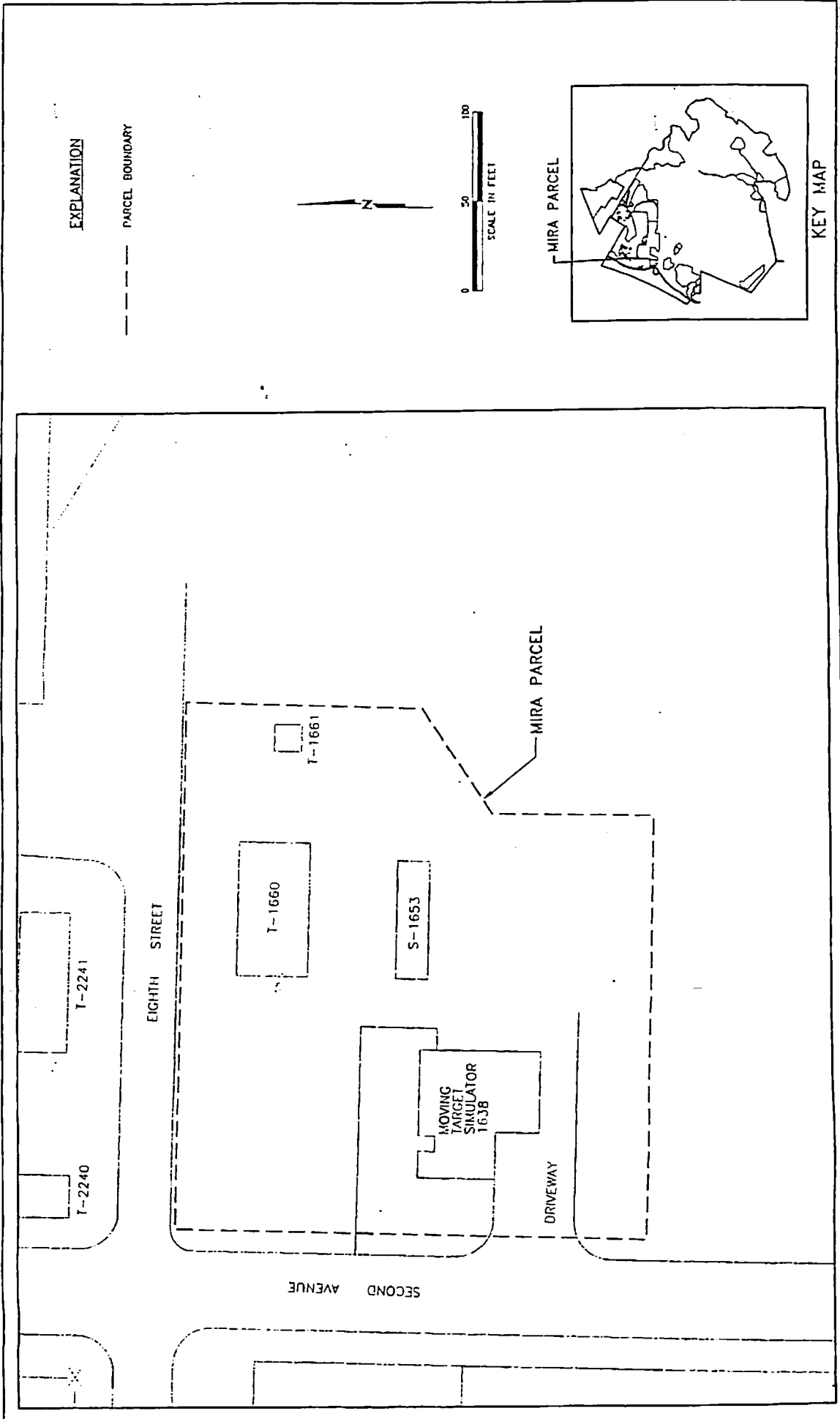
EXPLANATION	
---	Fort Ord Boundary
—	Road
—+—+—+—	Railroad
~	Shoreline
	Fliver



DRAWN BY: DJPC
 PROJECT NUMBER: 2589A 0017713
 DATE: 2/95
 APPROVED: *[Signature]*

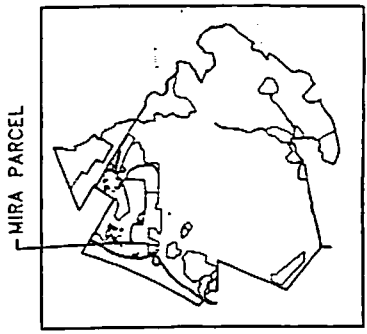
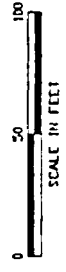
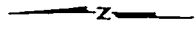
Fort Ord and Neighboring Areas
 Monterey Institute for Research in Astronomy
 (MIRA) Parcel
 Environmental Baseline Survey
 Former Fort Ord, California

SHEET: 003912
 PLATE: 1



EXPLANATION

--- PARCEL BOUNDARY



KEY MAP

	Harding Lawson Associates Engineering and Environmental Services	Parcel Map Monterey Institute for Research in Astronomy (MIRA) Parcel Environmental Baseline Survey Former Fort Ord, California	PLATE <h1 style="font-size: 2em;">3</h1>
	DRAWN RJP	JOB NUMBER 24894 001713	DATE 1/94

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