

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 9
 AND THE
 STATE OF CALIFORNIA
 AND THE
 DEPARTMENT OF THE ARMY

IN THE MATTER OF:)	
)	
The United States)	
Department of the Army)	FEDERAL FACILITY AGREEMENT
Fort Ord)	CERCLA Section 120
)	
)	AMENDMENT NO. 1 RELATED TO
)	EARLY TRANSFER PROPERTY
)	REFERENCED IN FOSET 5

WHEREAS, on November 19, 1990, the Environmental Protection Agency (“EPA”), State of California Department of Health Services (“DHS”), Regional Water Quality Control Board (“RWQCB”), and the Army entered into a Federal Facility Agreement (“the 1990 FFA”) requiring the Army to identify, perform and complete all necessary response actions and Operation and Maintenance at the former Fort Ord under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”); and

WHEREAS, the California Department of Toxic Substances Control (“DTSC”) is the successor agency to DHS; and

WHEREAS, on April 11, 2000, the United States Department of the Army, EPA and DTSC signed the “Strategic Management, Analysis, Requirements and Technology Team Operable Units for Ordnance and Explosives” agreeing to address munitions and explosives of concern (“MEC”) released on, at, or from the Fort Ord Superfund Site, pursuant to the 1990 FFA; and

WHEREAS, pursuant to the Memorandum of Agreement between the United States of America, acting by and through the Secretary of the Army, United States Department of the Army and the Fort Ord Reuse Authority (“FORA”), dated June 20, 2000, the Army approved FORA’s application for a no cost economic development

conveyance of portions of the former Fort Ord, to include the property described in the Finding of Suitability for Early Transfer, Former Fort Ord, California, Environmental Services Cooperative Agreement (ESCA) Parcels and Non-ESCA Parcels (Operable Unit Carbon Tetrachloride Plume) ("FOSET 5"); and

WHEREAS, FORA has requested an early transfer of certain parcels of property described in FOSET 5 within the Fort Ord Superfund Site, which will be referred to as the "Early Transfer Property"; and

WHEREAS, the Army and FORA have entered into an Environmental Services Cooperative Agreement ("ESCA") as a vehicle for the Army to fund FORA to conduct certain CERCLA response actions and Long Term Obligations for the Early Transfer Property necessary to protect human health and the environment and to facilitate reuse and to commence with redevelopment; and

WHEREAS, FORA and EPA Region IX, and DTSC have entered into an Administrative Order on Consent ("AOC"), for the performance of certain CERCLA response actions and Long Term Obligations on the Early Transfer Property for the protection of human health and the environment, and which provides for cleanup activities by FORA, including but not limited to the design, construction, and implementation of all environmental services to achieve all applicable or relevant and appropriate requirements and other Performance Standards described in the AOC, any Work Plans to be developed pursuant to the AOC, and/or in any Record of Decision or other Decision Document issued; and

WHEREAS, the Army will prepare a Covenant Deferral Request requesting the Representative of the EPA Administrator approve the Early Transfer, with the concurrence of the Governor of California, in accordance with CERCLA Section 120(h)(3)(C)(i)(I)-(IV) inclusive, which will demonstrate that the Early Transfer Property is suitable for transfer prior to the completion of all necessary response actions and for the reuse intended by the transferee; and

WHEREAS, the proposed CERCLA covenant deferral on the Early Transfer Property will be based upon use restrictions to be included in the federal deed and the state land use covenant; and

WHEREAS, because FORA will perform work pursuant to the ESCA and the AOC, certain Army obligations under the 1990 FFA as to the Early Transfer Property should be suspended, revised, or otherwise changed as set forth in this Amendment; and

WHEREAS, since the RWQCB is a party to the 1990 FFA and the RWQCB's

consent is required to any amendment of the 1990 FFA, the RWQCB is a party to this Amendment even though the Army is retaining all of its existing obligations with respect to (i) groundwater contamination associated with activity that occurred prior to the transfer of title of the Early Transfer Property at, under or, migrating to or from the Early Transfer Property, and (ii) soil or groundwater perchlorate contamination, which are the only conditions at the Early Transfer Property over which the RWQCB has exercised oversight jurisdiction;

THEREFORE, based on the information available to the undersigned Parties on the effective date of this Amendment to the 1990 FFA, and without trial or adjudication of any issues of fact or law, and in accordance with Section 29 (“AMENDMENT OR MODIFICATION OF AGREEMENT”) of the 1990 FFA, the Parties agree to amend the 1990 FFA, as provided below. All terms and conditions of the 1990 FFA remain in effect and in full force regarding all property within the Fort Ord Superfund Site, including the Early Transfer Property, unless expressly suspended or revised in this Amendment.

- I. Section 3 (DEFINITIONS) of the 1990 FFA is amended to add Section 3.2 consisting of the following definitions:
- A. “1990 FFA” shall mean the Federal Facility Agreement and all Appendices incorporated into the Agreement for Fort Ord that became effective on November 19, 1990, between EPA, the Army, DHS and RWQCB.
 - B. “Administrative Order on Consent” or “AOC” shall mean the agreement between FORA, EPA, and DTSC with CERCLA Docket No. 09-2007-03 that provides for performance of cleanup activities by FORA, including but not limited to, completion of remedial investigations and feasibility studies, the design, construction, and implementation by FORA of all necessary response activities to accomplish completion of remedial action and long term obligations on the Early Transfer Property.
 - C. “Amendment No. 1 to the 1990 FFA” or “Amendment”, or “FFA Amendment” shall mean this document which supplements and, in relation to the Early Transfer Property only, revises the 1990 FFA, between EPA, the Army, DTSC, and RWQCB.
 - D. “Army Continuing Responsibilities” shall mean the following ongoing Army responsibilities that will continue after the transfer of the Early Transfer Property:

- i. Endangered Species Act Consultation

Prior to Site Closeout and if FORA is required to seek a new biological opinion, the Army will conduct any consultation that may be necessary with the U.S. Fish and Wildlife Service
- ii. Parker Flats

The Army will complete the Remedial Investigation/Feasibility Study, Proposed Plan, and Record of Decision for the Parker Flats Munitions Response Area, as described in the *Superfund Proposed Plan, Remedial Action is Proposed For Parker Flats Munitions Response Area, Track 2 Munitions Response Remedial Investigation/Feasibility Study, Former Fort Ord, California*, dated February 9, 2007.
- iii. Groundwater Contamination

The Army will address any and all groundwater contamination associated with activity that occurred prior to the transfer of title of the Early Transfer Property at, under or, migrating to or from the Early Transfer Property.
- iv. Other Settlement Agreements

Any and all requirements, obligations, duties, or costs associated with compliance, performance and implementation of all applicable agreements, obligations, promises and covenants previously imposed by any court, administrative or consent order, settlement or consent agreement, or other obligations or agreement of any kind (excluding those imposed by statute), imposed upon or agreed to by the Army or DoD which affect the performance of the ESCA except those obligations imposed by the following two settlement agreements:

 - (i) Settlement Agreement between Monterey Bay Unified Air Pollution Control District (the "District") and the United States Army ("Army") and Dept. of Defense ("DOD"), dated May 22, 1998; and
 - (ii) Settlement Agreement between Plaintiff's Curt Gandy, Patricia Huth, Richard Bailey, Michael Weaver, Edward Oberweiser, Linda Millerick, and the Ft. Ord Toxics Project and the Army and DOD, dated April 28, 2004
- v. Basewide Range Assessment

The Army shall address all environmental conditions arising from, associated with, or identified in the *Draft Final Comprehensive*

Basewide Range Assessment Report, Former Fort Ord California,
prepared by Mactec Engineering and Consulting Services, Inc.,
dated November 24, 2006, except to the extent that such environmental
conditions involve MEC.

vi. Site Security Plan

The Army will continue to implement the Ft. Ord Site Security Plan related to the Early Transfer Property.

- E. "Army Obligations" shall mean "Army Continuing Responsibilities" and "Army-Retained Conditions."
- F. "Army Retained Conditions" shall mean any of the following conditions, for which the Army has full responsibility:
- i. Radiological Material;
 - ii. Chemical or biological warfare agents;
 - iii. Claims and settlements of natural resource damages under CERCLA 107(f)(1) or comparable state statutes which arise from releases of hazardous substances, pollutants and contaminants that have occurred due to Army ownership or activities on the Early Transfer Property except to the extent such damages are a result of Recipient's activities on the Early Transfer Property. If claims are made under comparable state statutes, the Army retains its rights and defenses to defend against such claims;
 - iv. Unknown Uninsured Conditions; and
 - v. Perchlorate contamination in soil or groundwater.

The term shall not include any other environmental conditions, including any naturally occurring substance or derivatives of products used in accordance with the state and Federal regulations, on, at, under, or emanating from the Early Transfer Property, in its unaltered form, or altered solely through natural occurring processes or phenomena.

- G. "Completion of Remedial Action" shall mean the point in time when FORA has performed all necessary response actions, including establishment of all required Land Use Controls, on a given site or parcel of property, except for

long-term operation and maintenance, and EPA has issued a Certificate of Completion of Remedial Action pursuant to Section XVII. of the AOC.

- H. "Decision Documents" shall mean any Record of Decision ("ROD"), Action Memorandum, Explanation of Significant Differences or ROD Amendment prepared and issued by the Army and/or EPA.
- I. "DTSC" shall mean the California Department of Toxic Substances Control, the successor agency to DHS, and any predecessor or successor departments or agencies to DTSC.
- J. "Early Transfer Property" shall mean those parcels of real property that the Army is conveying to FORA as described in the Finding of Suitability for Early Transfer, Former Fort Ord, California, Environmental Services Cooperative Agreement (ESCA) Parcels and Non-ESCA Parcels (Operable Unit Carbon Tetrachloride Plume) ("FOSET 5") as depicted in **Exhibit 1**.
- K. "ESCA" shall mean the Environmental Services Cooperative Agreement, effective March 30, 2007, between the Army and FORA.
- L. "FORA" shall mean the Fort Ord Reuse Authority, a body politic and corporate established pursuant to Title 7.85 of the California Government Code, Chapter 1 through 7, inclusive, commencing with Section 67650, *et seq.*, and selected provisions of the California Redevelopment Law, including Division 24 of the California Health and Safety Code, Part 1, Section 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et seq.*
- M. "Institutional Controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination (including but not limited to MEC) and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, construction support, and well drilling prohibitions.
- N. "Land Use Controls" shall mean any restriction or administrative action, including engineering and Institutional Controls, arising from the need to reduce risk to human health and the environment.

- O. "Long Term Obligations" shall mean any requirement of a ROD or the AOC that extends beyond the Completion of Remedial Action, including but not limited to, long-term review and monitoring; implementation and enforcement of Land Use Controls and other operation and maintenance activities, reporting, and performance of additional response actions, if needed.

- P. "Property Transfer" shall mean the transfer of the Early Transfer Property by deed from the Army to FORA.

II. The following obligations and rights of the Army in respect to the Early Transfer Property shall be suspended or otherwise changed as provided in this Amendment: Section 6 ("WORK TO BE PERFORMED"), Section 7 (CONSULTATION), Section 8 (DEADLINES), Section 9 (EXTENSIONS), Section 11 (EMERGENCIES AND REMOVALS), Section 12 (DISPUTE RESOLUTION), Section 14 (STIPULATED PENALTIES), Section 31 (COVENANT NOT TO SUE AND RESERVATION OF RIGHTS), Section 36 (EFFECTIVE DATE AND PUBLIC COMMENT), provided however, that none of these Sections shall be suspended with respect to any Army Obligations on the Early Transfer Property, including but not limited to submission of final proposed plans and Records of Decision.

III. Section 6 (WORK TO BE PERFORMED) of the 1990 FFA is amended to add the following sections as follows:

- 6.5. ASSUMPTION OF WORK ON EARLY TRANSFER PROPERTY BY FORA
 - 6.5.1 Under the terms of the ESCA, the Army has agreed to provide funds to FORA in exchange for FORA's agreement to assume the Army's responsibilities to perform certain CERCLA response actions, including but not limited to remedial investigation and feasibility studies and remedial actions selected in Records of Decision for the Early Transfer Property. In furtherance of the agreements reached between the Army and FORA in the ESCA, and FORA's commitments contained in the AOC, EPA and DTSC agree that FORA assumes full responsibility for completion of necessary CERCLA response actions, except Army Obligations, on the Early Transfer Property.
 - 6.5.2 FORA's assumption of responsibilities will not relieve the Army of its liability and obligations under CERCLA §§ 107 and 120, except to the

extent the activities of FORA cause a release or threatened release unrelated to the performance of the environmental services.

- 6.5.3. The Army agrees that it will conduct necessary response actions for Army Obligations. The Army will notify EPA, RWQCB and DTSC upon receipt of a claim by FORA that it has encountered an Army Obligation. Under the AOC, if EPA or DTSC directs FORA to proceed with addressing the obligation encountered and the issue is under dispute resolution under the ESCA, the Army shall, within 15 days of the receipt of FORA's workplan, either agree to undertake such work itself under the 1990 FFA, or authorize FORA to conduct such work under the AOC schedule.
- 6.5.4. The Army's obligations suspended under Section II of this Amendment shall resume upon (1) the date of ESCA termination if prior to the end of the ESCA term; or (2) the Army's receipt of a Finding of Default under the AOC. Such obligations shall include, but are not limited to, (i) implementation of any selected response actions that have not yet been fully performed and (ii) completion of any investigations and preparation of any such deliverables not yet completed to reach a final response decision.
- 6.5.5. Within 30 days after the Army resumes its responsibilities under the 1990 FFA as described in subsection 6.5.4. above, the Army will provide EPA and DTSC with its schedule for the implementation of all response actions remaining to be performed on the Early Transfer Property. If the Parties fail to agree within 30 days from receipt of the proposed schedule for implementation, the matter shall immediately be submitted for dispute resolution pursuant to the 1990 FFA.
- 6.5.6. In the event that the Army resumes responsibility under the 1990 FFA, it shall perform the response actions required by a Record of Decision issued prior to the ESCA's termination or a Finding of Default. If a Record of Decision has not been issued prior to the Army's resumption of responsibilities, the Army may, within 21 days of Army's resumption, propose to EPA and DTSC modifications to the relevant Work Plan(s). To the extent that EPA, DTSC, or the Army does not agree with respect to such an Army proposal, any Party may initiate Dispute Resolution pursuant to the 1990 FFA.

6.5.7 Notices/Management Group Meetings

Notice of activities under this FFA Amendment shall be provided to the following addresses:

(1) For the Army:

Gail Youngblood
Fort Ord BRAC Environmental Coordinator
P.O. Box 5008
Monterey, CA 93944-5008
Tel (831) 242-7918
Fax: (831) 242-7091

(2) For EPA:

Kathleen Johnson, Chief
Federal Facilities and Site Clean-up Branch
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105
Tel (415) 972 3873
Fax (415) 947 3520

Judy Huang
EPA Project Coordinator
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105
Tel (415) 972 3681
Fax (415) 947 3520

(3) For DTSC:

Anthony J. Landis, P.E.
Chief, Northern California Operations
Office of Military Facilities
Department of Toxic Substance

8800 Cal Center Drive
Sacramento, CA 98526-3200
Tel (916) 255 3732
Fax (916) 255 3734

Roman Racca
Project Coordinator
DTSC
8800 Cal Center Drive
Sacramento, CA 95746
Tel (916) 255 6403
Fax (916) 255 3734

(4) For RWQCB:

Roger W. Briggs
Executive Officer
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Tel. (805) 549-3140
Fax (805) 543-0397

- 6.5.8. Nothing in this Section shall be construed to interfere with or alter the internal organization or procedures of a Party, including, without limitation, signature authority.

IV. Section 7 (CONSULTATION: REVIEW AND COMMENT PROCESS FOR DRAFT AND FINAL DOCUMENTS) is suspended in regards to the Army's consultation responsibilities for the Early Transfer Property except for the following subsections:

- 7.11. The Army will coordinate with FORA, and FORA, on behalf of the Army, will submit all drafts of Proposed Plans and Records of Decision to EPA and DTSC for review, comment, and approval. EPA and DTSC will submit comments to the Army on the draft Proposed Plans and Records of Decision as further described in Paragraph 7.15 below. Upon the resolution of comments, the Army will submit to EPA and DTSC all draft final versions of the Proposed Plans and Records of Decision.
- 7.12. FORA, on behalf of the Army, shall be responsible for the submission of all documents and deliverables pursuant to the AOC, except draft final

Proposed Plans and Records of Decision. Under the process and schedule contained in the AOC, FORA will submit for review, comment, and approval all documents, deliverables, reports, and other information necessary to implement response actions on the Early Transfer Property and achieve Completion of Remedial Action.

- 7.13. The Army and FORA will coordinate, as necessary, on all documents and deliverables required under the AOC before FORA submits them to EPA and DTSC.
 - 7.14. The schedule for submission of Proposed Plans and Records of Decision shall be the schedule contained in the approved RI/FS Work Plan or such other document that EPA agrees will contain the RI/FS and ROD schedule under the AOC.
 - 7.15. EPA and DTSC will review and provide the Army with comments on the first drafts of Proposed Plans and Records of Decision within 60 days of receipt of the first draft, unless the Parties mutually agree, as provided in Section 7.7(b) of the 1990 FFA, that an additional 30 days is required. The Army and FORA shall address EPA and DTSC comments, and the Army will submit a revised draft final document within 60 days of receipt of EPA and DTSC comments, unless an extension is requested in accordance with Section 9 below. EPA and DTSC will review the draft final document and the Army's response to their comments within 30 days of receipt unless an extension is requested. Disputes on the Army's draft final version shall be conducted in accordance with Section 12 of this FFA Amendment.
 - 7.16. Appendix B is suspended as to the Early Transfer Property and non-Army Obligations and will be replaced by a new schedule to be submitted by FORA and approved by EPA under the AOC.
- V. Section 8 (DEADLINES) is amended to add the following subsection which applies only to the Early Transfer Property:
- 8.6. The Army will meet the deadlines contained in this Amendment and those RI/FS and ROD schedules developed under the AOC.
- VI. Section 9 (EXTENSIONS) is amended to add the following subsection applicable only to the Early Transfer Property:
- 9.8. The Army may request extensions to the schedules for submission of

Proposed Plans and Records of Decision for the Early Transfer Property in accordance with Sections 9.1 through 9.7 of the 1990 FFA. Furthermore, EPA and DTSC may request an extension to their reviews of such deliverables in accordance with Sections 9.1 through 9.7 of the 1990 FFA.

VII. Section 11 (EMERGENCIES AND REMOVALS) is amended to add the following subsection with respect to the Early Transfer Property:

11.6. FORA, under the terms of the ESCA and AOC, shall be responsible for providing notice on its discovery or awareness of a release of a hazardous substance or an emergency situation. Nonetheless, to the extent that Army personnel and/or its contractors become aware of an emergency or other situation that may present an endangerment to public health, welfare or the environment at or near the Early Transfer Property, the Army shall notify EPA, RWQCB and DTSC in accordance with Section 11.1 of the 1990 FFA. For those situations that involve and/or pertain to an Army Obligation, the Army will take on all responsibilities outlined in Sections 11.1 to 11.5 of the 1990 FFA upon the Army's discovery, or after receipt of notice from FORA, EPA or DTSC, whichever occurs first.

VIII. Section 12 (DISPUTE RESOLUTION) is amended to add the following subsections:

12.13. The Parties agree that while the AOC is in effect, the AOC dispute resolution process is the exclusive dispute process between FORA, EPA and DTSC related to all responsibilities that FORA has agreed to assume for the Army under the AOC. The Army agrees that a resolution of a dispute between FORA, EPA and DTSC under the AOC may not be disputed by the Army under Section 12 of the 1990 FFA.

12.14. Section 12 of the 1990 FFA remains in effect relative to violations of the 1990 FFA, this Amendment, and the Army's Obligations. EPA, State, or the Army may raise a dispute in accordance with Section 12 of the 1990 FFA regarding submission of a draft final Proposed Plan or Record of Decision submitted by the Army under this Amendment.

12.15. In the event of FOR A's default under the AOC, EPA will provide notice to the Army by sending a copy of the Notice of Intent to Default provided for in the AOC. The Army may submit comments on the Notice within 20 days of its receipt for EPA to consider during discussions and/or a dispute with FOR A. Neither EPA's Notice of Intent nor final Finding of Default

under the AOC is subject to dispute by the Army.

12.16. In Section 12.4 of the 1990 FFA, the Army's designated member of the DRC shall be changed to the Chief of the Army BRAC Division.

IX. Section 31 (COVENANT NOT TO SUE AND RESERVATION OF RIGHTS) is amended to add the following subsection related exclusively to the Early Transfer Property:

31.2. In consideration of the Army's compliance with this Amendment and the 1990 FFA, and based on the information known to the Parties or reasonably available on the effective date of this Amendment, EPA, the Army, and DTSC, agree that compliance with this Amendment and the 1990 FFA shall stand in lieu of any administrative, legal, and equitable remedies against the Army available to them regarding the releases or threatened releases of hazardous substances including hazardous wastes, pollutants or contaminants at the Site which are the subject of an RI/FS conducted pursuant to this Amendment and the 1990 FFA by the Army, or FORA pursuant to the ESCA.

X. Section 36 (EFFECTIVE DATE AND PUBLIC COMMENT) is amended to add the following subsection applicable on to the Early Transfer Property:

36.4. The FFA Amendment becomes effective after all Parties have signed this Amendment, and approval of the Covenant Deferral Request by EPA, with the concurrence of the State. When these conditions are met, EPA shall promptly notify all Parties in writing of the effective date.

XI. Section 39 (LAND USE CONTROLS) shall be added to the 1990 FFA.

39.1. As a condition to deferring the CERCLA Covenant, land, water, and resource use restrictions will be defined in the FOSET. The Army, RWQCB and DTSC will establish the land, water, and resource use restrictions on the Early Transfer Property, by entering into a Covenant to Restrict the Use of Property ("CRUP"), prior to the conveyance of the Early Transfer Property. The restrictions contained in the CRUP also will be included in the federal quitclaim deed transferring the Early Transfer Property to FORA.

39.2. These restrictions in the CRUP and the federal deed were placed over the

property as a condition of deferring the CERCLA covenant in order to ensure the protection of human health and the environment prior to completing all remedial actions. The Army agrees to comply with the land, water, and resource restrictions. The Army shall report any activities prohibited by the CRUP and federal deed known by it or reported to the Army during the course of the Army or FORA's activities at or near the Early Transfer Property. The Army will seek to enforce any such restriction, to the extent it has authority, if FORA, DTSC, or another entity has not initiated necessary enforcement action.

XII. Section 40 shall be added to the 1990 FFA:

40. SELECTION OF RESPONSE ACTIONS

40.1. Notwithstanding that FORA has assumed certain Army responsibilities under the ESCA, consistent with Sections 7, 8, 9, and 12 above, the Army and/or EPA shall select a remedial action in accordance with CERCLA, the NCP, and the 1990 FFA for the Early Transfer Property with the participation of DTSC and, to the extent applicable, RWQCB.

XIII. Section 41 shall be added to the 1990 FFA:

41. EFFECT OF AMENDMENT NUMBER No.1 TO THE 1990 FFA

- 41.1. Nothing in this Amendment to the 1990 FFA shall modify any term or condition of the 1990 FFA unless expressly set forth herein. Nothing in this Amendment creates any third party rights.
- 41.2. Nothing in this Amendment to the 1990 FFA shall require EPA or the State to perform response actions at the Early Transfer Property.
- 41.3. Nothing in this Amendment to the 1990 FFA shall affect whatever ability the Army has to contract or agree with third parties to conduct response actions for Army Obligations.
- 41.4. The Army acknowledges its ultimate liability under CERCLA to complete all necessary response actions at the Early Transfer Property, in accordance with CERCLA, including the performance of any transferred operational responsibilities as described in Section 41.3. The Parties acknowledge that FORA shall perform response actions for the cleanup of the Early Transfer

Property pursuant to the ESCA and the AOC. In the event the ESCA is terminated, or FORA defaults under the ESCA or AOC, the Army will be responsible for all such remaining obligations under the 1990 FFA, as amended. The parties further agree that it is to the benefit of both the citizens of the State of California and of the United States to address these requirements.

- 41.6. Nothing in this Amendment to the 1990 FFA will be precedent for agreements concerning any other Superfund Site.

XIV. Section 42 shall be added to the 1990 FFA:

42. ARMY NOTICE AND RESPONSIBILITIES IN EVENT OF MATERIAL BREACH BY FORA OR ESCA DISPUTE.

- 42.1. The Army shall notify EPA in writing within 14 days, with a copy to DTSC and RWQCB, upon learning of any information that may constitute a material breach by FORA under the ESCA, or within 14 days of a dispute arising under the ESCA.

AUTHORIZED SIGNATURES

Each of the undersigned representatives of the Parties certifies that he or she is fully authorized by the entity he or she represents to enter into the terms of this First Amendment to the 1990 FFA and to legally bind such entity to this First Amendment to the 1990 FFA.

IT IS SO AGREED:

by

UNITED STATES DEPARTMENT OF ARMY



Addison D. Davis, IV
Deputy Assistant Secretary of the Army
Environment, Safety and Occupational Health

26 JUL 07

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

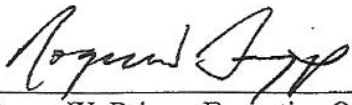
Kei-ku Takata

1-25-01

~~for~~ Laura Yoshi
Deputy Regional Administrator
U.S. Environmental Protection Agency Region IX

FEDERAL FACILITY AGREEMENT
CERCLA Section 120
AMENDMENT NO. 1 RELATED TO
EARLY TRANSFER PROPERTY REFERENCED IN FOSET 5

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

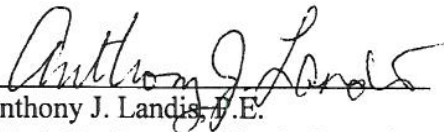


Roger W. Briggs, Executive Officer
California Regional Water Quality Control Board

7-26-07

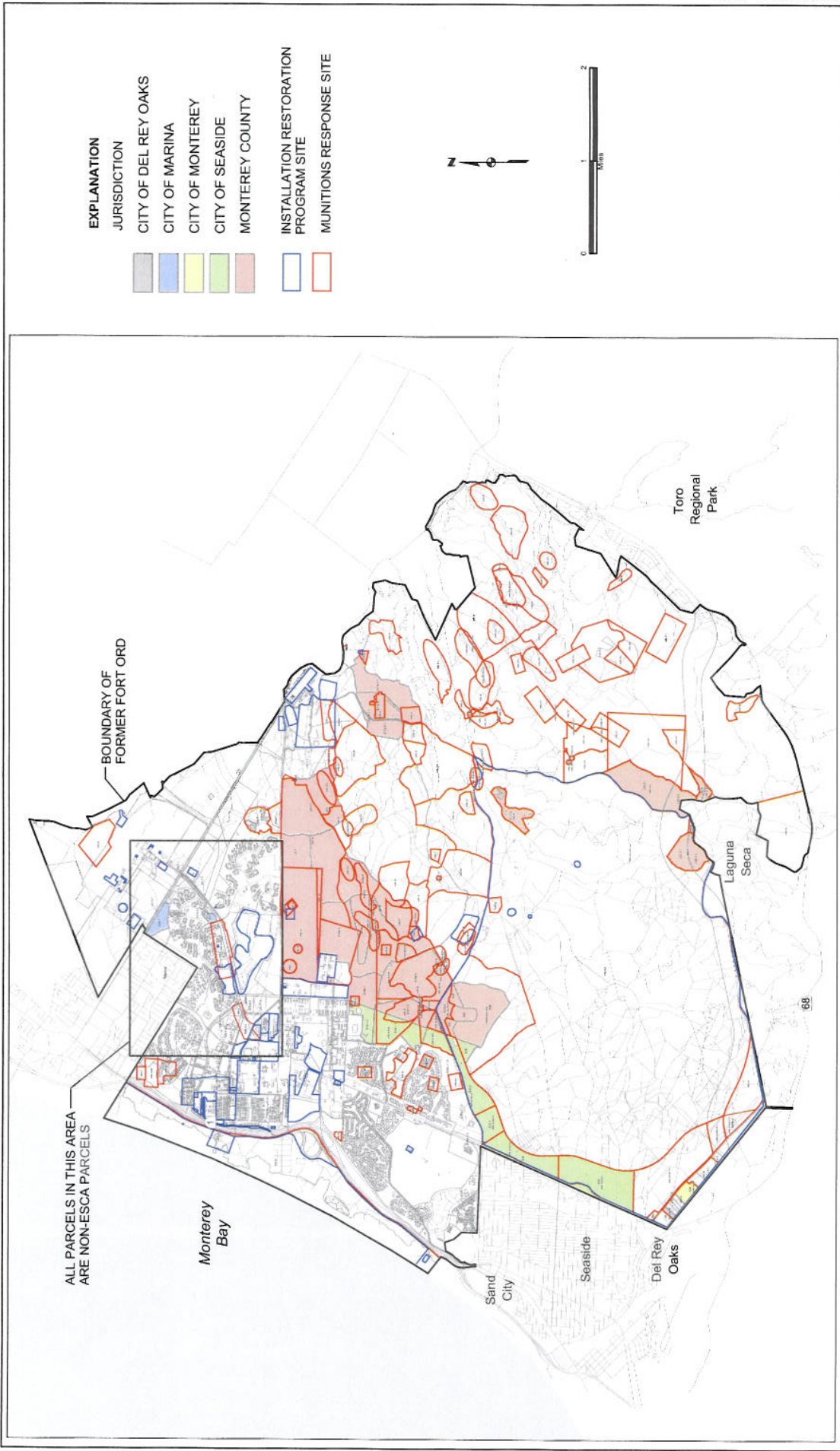
FEDERAL FACILITY AGREEMENT
CERCLA Section 120
AMENDMENT NO. 1 RELATED TO
EARLY TRANSFER PROPERTY REFERENCED IN FOSET 5

CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL



Anthony J. Landis, P.E.
Chief, Northern California Operations
Office of Military Facilities
California Department of Toxic Substances Control

7-26-07



ALL PARCELS IN THIS AREA ARE NON-ESCA PARCELS

BOUNDARY OF FORMER FORT ORD

EXPLANATION

- JURISDICTION
- CITY OF DEL REY OAKS
- CITY OF MARINA
- CITY OF MONTEREY
- CITY OF SEASIDE
- MONTEREY COUNTY
- INSTALLATION RESTORATION PROGRAM SITE
- MUNITIONS RESPONSE SITE



DRAWN: FPC	PROJECT NO: 4088053121.04
ENGINEER:	SCALE: AS SHOWN
CHECKED:	APPROVED:
DATE: 11/2005	DATE:



Finding of Suitability for Early Transfer
FOSET 5
Former Fort Ord, California

Parcel Location Map