

Final

**FINDING OF SUITABILITY TO TRANSFER
(FOST)**

**EASTERN BYPASS-EASTERN PORTION OF TRACT NO. 3
FORT McCLELLAN, CALHOUN COUNTY, ALABAMA**

October 2008

Final

**FINDING OF SUITABILITY
TO TRANSFER
(FOST)**

**Eastern Bypass-Eastern Portion of Tract No. 3
Fort McClellan, Calhoun County, Alabama**

October 2008

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LIST OF ACRONYMS

ACM	asbestos-containing material
ADEM	Alabama Department of Environmental Management
ALDOT	Alabama Department of Transportation
AST	aboveground storage tank
BRAC	Base Realignment and Closure
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERFA	Community Environmental Response Facilitation Act
CFR	Code of Federal Regulations
CWM	chemical warfare materiel
DOD	U.S. Department of Defense
EBS	Environmental Baseline Survey
ECP	Environmental Condition of Property
EPA	U.S. Environmental Protection Agency
EPP	Environmental Protection Provision
ESA	Endangered Species Act
FMC	Fort McClellan
FOST	Finding of Suitability to Transfer
FWS	U.S. Fish and Wildlife Service
IRP	Installation Restoration Program
IT	IT Corporation
LBP	lead-based paint
LUC	land use control
LUCAP	land-use control assurance plan
LUCIP	land use control implementation plan
MEC	munitions and explosives of concern
MRS	munitions response site
NFA	no further action
OES	ordnance and explosives site
PCB	polychlorinated biphenyl
RDX	cyclotrimethylenetrinitramine
Shaw	Shaw Environmental, Inc.
TNT	trinitrotoluene
U.S.C.	United States Code
UST	underground storage tank
UXO	unexploded ordnance

**FINDING OF SUITABILITY TO TRANSFER
(FOST)
Eastern Bypass-Eastern Portion of Tract No. 3
Fort McClellan, Calhoun County, Alabama
October 2008**

1.0 PURPOSE

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of the Eastern Bypass-Eastern Portion of Tract No. 3 property (hereafter referred to as the “Property”) at the U.S. Army Transition Force Fort McClellan (FMC), Alabama, for transfer to the Alabama Department of Transportation (ALDOT) consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §120(h) and U.S. Department of Defense (DOD) policy. In addition, the FOST includes the CERCLA Notice, Covenant, and Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

2.0 PROPERTY DESCRIPTION

Fort McClellan is located in Calhoun County in the foothills of the Appalachian Mountains in northeast Alabama. A map of the Fort McClellan Main Post is attached (Enclosure 1). The Property consists of approximately 266.4 acres with nine facilities. The Property begins on the western boundary of the Main Post of FMC in the immediate vicinity of Summerall Gate and extends to the east, south, and northeast. The Property was previously used for live-fire and other military training. The Property will be used for construction of a Bypass for a transportation route connecting Interstate 20 with Highways 431 and 21. This use is consistent with the Anniston-Calhoun County Fort McClellan Development Joint Powers Authority Reuse Plan. A site map of the Property is attached (Enclosure 2).

3.0 ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the Property was made based upon a review of the Environmental Baseline Survey (EBS) (Environmental Science and Engineering, Inc., 1998), Archives Search Report (U.S. Army Corps of Engineers, 2001), decision documents, and other existing environmental documents, historical and current aerial photographs, and recorded chain of title documents; physical and visual inspections of the Property and the properties immediately adjacent to the Property; and personal interviews. The information provided is a result of a complete search of agency files during

the development of these environmental surveys. A complete list of documents providing information on environmental conditions of the Property is attached (Enclosure 3).

4.0 ENVIRONMENTAL CONDITION OF PROPERTY

The DOD Environmental Condition of Property (ECP) categories for the Property are as follows:

ECP Category 1: Facility 3151, Court Area; Building 3161, Battalion Headquarters; Facility 3795, Facility Information Sign; Community Environmental Response Facilitation Act (CERFA) Parcels - Main Post, Parcel 161(1); Mounded Material West of Range 19, Parcel 232(1) and Non-CERCLA parcels – Building 3131, Company Headquarters, Parcel 13Q; Former Transformer near Building 3798, Parcel 57Q; Former Main Post Impact Area, Parcel 125Q-X; portions of the Iron Mountain Road Ranges: Skeet Range, Parcel 69Q; Range 12, Parcel 70Q; and Range 13, Parcel 71Q; and Ranges West of Iron Mountain Road, Parcels 73Q-X, 91Q-X, 116Q-X, 117Q-X, 200Q, 201Q, 228Q, 229Q-X, 231Q, and 232Q-X.

ECP Category 3: CERFA Parcels - Facilities 3139D, Diesel Underground Storage Tank (UST) and 3139N, Vehicle Fuel Outlet, Parcel 27(3); UST 3131F, Parcel 54(3); UST 3161F, Parcel 55(3); Former Fog Oil Storage Area West of the Skeet Range, Parcel 122(3); Building 3139, Vehicle Maintenance Shop; Building 3149, Oil Storage Building; Building 3196, Dispatch Building; Motor Pool 3100, 23 rd Street, Parcel 147(3); Aboveground Storage Tank (AST) at Range 13, Parcel 176(3); Training Area T-4, Parcel 181(3); and Fill Area West of Range 19, Parcel 233(3).

The Property to be transferred contains 260.8 acres of Category 1 and 5.6 acres of Category 3 parcels. A summary of the ECP categories for specific buildings and parcels and the ECP category definitions is provided in Table 1 – Description of Property (Enclosure 4). The parcels to be transferred are shown on Figures 3-1 and 3-2 – CERFA and Non-CERCLA Parcels, respectively (Enclosure 5).

4.1 Munitions and Explosives of Concern (MEC)

Based on a review of existing records and available information, there was evidence that Munitions and Explosives of Concern (MEC) were present on the Property. The Property was previously used for live-fire and other training that resulted in the presence of MEC. The term “MEC” means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 United States Code (U.S.C.) §101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or

(C) munitions constituents (e.g., trinitrotoluene [TNT] and cyclotrimethylenetrinitramine [RDX]), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

The munitions response sites (MRSs) on the Property consist of three distinct areas: i) a part of Ordnance and Explosives Site (OES) 1, ii) a majority of OES 2, and iii) a part of M1.01 Parcel/M3 Miscellaneous Property. A map depicting the locations of the MRSs on the Property is attached (Enclosure 6). Following are summaries of the munitions response actions conducted to date at each of these areas.

- OES 1. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted in the OES 1 area. A part of this MRS is located on the Property. In the part of OES 1 that is on the Property, no MEC were discovered. Approximately 18 munitions debris items (munitions debris poses no explosives safety risks) were recovered. In May 2002, the Statement of Clearance concluded that all MEC reasonably possible to detect had been removed from OES 1 and that the site may be used for any purpose for which the land is suited. A copy of the Statement of Clearance is attached (Enclosure 7).
- OES 2. Three munitions responses were conducted in OES 2. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted as an interim action to allow tree harvesting. A total of 1,046 MEC (UXO) and 38,630 munitions debris items were recovered. No Statement of Clearance for OES 2 was issued for this action because it was an interim action taken to allow tree harvesting. A second munitions response for removal of MEC to depth was conducted from April 2001 to April 2003 with the exception of 48 grids that contained large amounts of construction debris used as fill to construct a road in the 1950s. During this response, 668 MEC and 4,601 munitions debris items were recovered. This munitions response included a mechanical removal to depth in several areas that were heavily contaminated with MEC and metallic debris. This process recovered 486 MEC and 19,000 pounds of munitions debris. In April 2004, a Statement of Clearance concluded that all MEC reasonably possible to detect had been removed from OES 2, with the exception of the area where construction debris was located. The third munitions response was performed after ALDOT finalized the design for the Eastern Bypass. From June to August 2005, the Army performed a removal to depth on the construction debris area that would not receive at least 4 feet of fill deposited above the existing construction debris during bypass construction. In this action, no MEC was discovered, and nine

munitions debris items were recovered. In June 2006, a revised Statement of Clearance concluded that all MEC reasonably possible to detect had been removed from OES 2, with the exception of 30 full or partial grids. MEC removal was not conducted in the 30 full or partial grids where construction debris was not removed (the Construction Debris Grids). According to the Statement of Clearance, prior to future excavation activities (i.e., digging, drilling, or any other excavation or disturbance of the land surface or subsurface) in these Construction Debris Grids, on-site construction support and removal of MEC to depth will be provided, as required. For the entire OES 2 area, the following conditions apply. The Statement of Clearance specified that construction support be provided as required and as described in the Deed Notice. The Statement of Clearance also required that reasonable and prudent precautions be taken when conducting excavation activities on the OES 2. Such precautions are prudent because potential residual MEC may pose an explosive hazard. Prior to excavation activities, workers and construction personnel shall be advised of the military's use of the Property for live-fire and other training and of the potential for MEC to remain. Additionally, they will be provided munitions familiarization training prior to conducting excavation activities. A copy of the Statement of Clearance is attached (Enclosure 7).

- M1.01 Parcel and M3 Miscellaneous Property. From February to July 2002, a munitions response for removal of MEC to a 1-foot depth was conducted in the M1.01 Parcel and M3 Miscellaneous Property. A small part of this MRS is located on the Property. In the part of this MRS that is on the Property, no MEC were discovered. Approximately 17 munitions debris items were recovered. In April 2003, a Statement of Clearance for the M1.01 Parcel and M3 Miscellaneous Property concluded all MEC reasonably possible to detect had been removed from the M1.01 Parcel and M3 Miscellaneous Property and released the areas for unrestricted use. A copy of the Statement of Clearance is attached (Enclosure 7). Construction support will be provided as required by Alabama Department of Environmental Management (ADEM) and as described in the Deed Notice.

A summary of MEC discovered on the Property is provided in Table 2 – Notification of Munitions and Explosives of Concern (Enclosure 8). Given the Property's past use, the deed will include the Table 2 - Notification of MEC. In addition, the deed will include a restriction on excavation activities and a notice of potential presence of MEC (Enclosure 9).

4.2 Environmental Remediation Sites

There were three remediation sites comprising approximately 4 acres located on the Property: the Skeet Range, Parcel 69Q; Range 12, Parcel 70Q; and Range 13, Parcel 71Q. These

ranges are part of the Iron Mountain Road Ranges, a series of former weapons firing ranges located along Iron Mountain Road. Soils on these ranges were contaminated with lead and other metals associated with small arms ammunition. Soils from Range 12 (Parcel 70Q) were excavated to remove lead that exceeded the U.S. Environmental Protection Agency (EPA) industrial cleanup level of 880 milligrams per kilogram. Soils at the Skeet Range (Parcel 69Q) and Range 13 (Parcel 71Q) were not excavated because lead in soil did not exceed the EPA industrial cleanup level. Lead concentrations present in the soil exceed levels allowed for residential use but are below the EPA industrial cleanup level. The deed will include a land use restriction prohibiting residential use for the portions of the Property located within these three ranges. See the removal action report (Shaw Environmental, Inc. [Shaw], 2006a) and decision document (Shaw, 2006b) for additional information.

Site investigations were conducted at the following parcels on the Property:

- Former Fog Oil Storage Area West of the Skeet Range, Parcel 122(3)
- Former Motor Pool Area 3100, 23rd Street, Parcels 147(3), 27(3)
- Ranges West of Iron Mountain Road, Parcels 181(3), 73Q-X, 91Q-X, 116Q-X, 117Q-X, 200Q, 201Q, 228Q, 229Q-X, 231Q, and 232Q-X
- Fill Area West of Range 19, Parcel 233(3)
- Former Transformer near Building 3798, Parcel 57Q

All of the sites were recommended for “No Further Action” (NFA) and the Army signed final NFA decision documents for all of the sites. Site investigation reports and NFA decision documents for the referenced sites provide additional information and are listed in the Environmental Documentation (Enclosure 3).

4.3 Storage, Release, or Disposal of Hazardous Substances

There is no evidence that hazardous substances were stored, released, or disposed of on the property in excess of the 40 CFR Part 373 reportable quantities. The CERCLA 120(h)(3) Notice and Covenant at Enclosure 10 will be included in the deed.

4.4 Petroleum and Petroleum Products

4.4.1 Underground and Aboveground Storage Tanks (UST/AST)

Current UST/AST Sites

There is one UST at Facility 3139D, Parcel 27(3), and no ASTs on the Property. Facility 3139D, Parcel 27(3) was previously erroneously recorded in the EBS (Environmental

Science and Engineering, Inc., 1998) and the site investigation report (IT Corporation [IT], 2001a) as consisting of two 10,000-gallon diesel tanks. Personal communication with the FMC Environmental Office and Real Estate personnel indicated that there is only one 10,000-gallon tank that was installed in 1986 and currently remains on the Property. This tank is registered with the ADEM. There is no evidence of petroleum releases from this site. See site investigation report (IT, 2001a) and decision document (IT, 2001b) for additional information. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; the EPA concurred in a letter dated May 8, 2001. The Army signed the decision document indicating that no further action is required on May 17, 2001.

Former UST/AST Sites

Former UST Sites

Two USTs (Facilities 3131F, Parcel 54[3] and 3161F, Parcel 55[3]) that were located on the Property have been removed. There is evidence petroleum product releases occurred at these sites. In 1999, a UST closure assessment was conducted. UST closure assessment results indicated that there are no petroleum products associated with the sites that present an unacceptable risk to either human health or the environment. See the closure assessment report (IT, 2001c) and the decision document (IT, 2001d) for additional information. ADEM concurred that no further action was necessary in a letter dated February 20, 2001; EPA concurred in a letter dated September 29, 2000. The Army signed the decision document indicating that no further action is required on May 17, 2001.

Former AST Site

One AST (Parcel 176[3]) that was located on the Property at Range 13 has been removed. A petroleum product release occurred at this site. In 2005, a site investigation was conducted. Site investigation results indicated that there are no petroleum products associated with the site that present an unacceptable risk to either human health or the environment. See the letter report (Shaw, 2005a) and decision document (Shaw 2006a) for additional information. It should be noted that this parcel is located within the boundary of Parcel 71Q for which a deed restriction prohibiting residential use applies (reference Section 4.2 above). ADEM concurred that no further action for industrial reuse was necessary in a letter dated September 13, 2005; EPA concurred in a letter dated October 12, 2006. The Army signed a decision document requiring a restriction prohibiting residential use on June 14, 2006.

A summary of the UST and AST petroleum product activities is provided in Table 3-Notification of Petroleum Product Storage, Release or Disposal (Enclosure 11).

4.4.2 Non-UST/AST Storage, Release, or Disposal of Petroleum Products

There is no evidence that non-UST/AST petroleum products in excess of 55 gallons were stored for one year or more on the Property.

4.5 Polychlorinated Biphenyls (PCBs)

A transformer containing 175 parts per million of PCBs was removed from the Property in 1996. The transformer was located near a building, Facility 3798, that is not located on the Property to be transferred. There was no evidence of a release from this transformer.

4.6 Asbestos

There is friable and nonfriable asbestos in Building 3131 (Parcel 13Q). Building 3139 contains only friable asbestos. Friable white cementitious asbestos-containing insulation is present on the pipe fittings in the two buildings, Buildings 3131 and 3139. Nonfriable asbestos-containing vinyl floor tile and black mastic below the vinyl floor tile are present in Building 3131. See the asbestos-containing material report (Riesz Engineering, 1998) for additional information. Any remaining friable asbestos that has not been removed or encapsulated will not present an unacceptable risk to human health because the buildings will be demolished prior to the construction of the Bypass and occupation of the buildings will not be permitted prior to demolition. The deed will include an asbestos warning and covenant (Enclosure 9).

4.7 Lead-Based Paint (LBP)

The following buildings were built prior to 1978 and are presumed to contain lead-based paint (LBP): Building 3131, Company Headquarters; Building 3139, Vehicle Maintenance Shop; Building 3149, Oil Storage Building; Building 3161, Battalion Headquarters; and Building 3196, Dispatch Building. See the LBP risk assessment report (John Calvert Environmental, Inc., 1995) for additional information. The buildings were used for residential purposes; however, the transferee does not intend to use the buildings for residential purposes in the future. The deed will include an LBP warning and covenant (Enclosure 9).

4.8 Radiological Materials

There is no evidence that radioactive material or sources were stored or used on the Property.

4.9 Radon

In 1990, a radon survey was conducted for Building 3131. Radon was not detected above the EPA residential action level of 4 picoCuries per liter in the building.

4.10 Chemical Warfare Materiel

Based on a review of existing records and available information, chemical warfare materiel (CWM) was not used or disposed on the Property. Training Area T-4, Parcel 181(3) was reportedly a CWM site. Based on existing historical information, analyses of historical aerial photographs, site visits, and geophysical surveys conducted for the site, the engineering evaluation and cost analysis investigation concluded that chemical warfare training was likely not conducted at Parcel 181(3). Investigations found no evidence of soil contamination by chemical agent, and it was determined that risk of exposure to CWM at the site is unlikely. See the CWM engineering evaluation/cost analysis report and action memorandum (Parsons Engineering Science, Inc., 2002a, and 2002b) for additional information. ADEM concurred that no further action was necessary in a letter dated October 7, 2002; EPA concurred in a letter dated September 11, 2002. The Army signed the Action Memorandum indicating that no further action is required on October 18, 2002.

4.11 Endangered Species

The Property contains a small portion of an area that has been identified as suitable for gray bat foraging habitat. The endangered species map (Enclosure 12) shows moderate-quality foraging habitat on the Property. The deed will include the endangered species notice and covenant (Enclosure 9).

4.12 Other Property Conditions

There are no other hazardous conditions on the property that present an unacceptable risk to human health and the environment.

5.0 ADJACENT PROPERTY CONDITIONS

The following potentially hazardous conditions exist on adjacent property:

- MEC was found on adjacent land in the M1.01 Parcel and M3 Miscellaneous Property, M2 Parcel, OES 1, and Bravo Area as shown on the attached figure (Enclosure 6). The M1.01 Parcel and the M3 Miscellaneous Property have been cleared of MEC and the Army is providing construction support as required by ADEM. The M2 Parcel and OES 1 have been cleared of MEC and released for unrestricted reuse.
- MEC has been found on the adjoining Bravo Area property and, with the exception of the removal action in the Eastern Bypass “Y” Area Junction, has not yet undergone a removal action. The presence of MEC hazards on the adjacent Bravo Area property does not present an unacceptable risk to human health and

the environment with regard to use of the Property because site workers and construction personnel must receive ordnance familiarization training and must view the UXO video titled “Fort McClellan Community Outreach Program, UXO Awareness.” Additionally, gates and barriers on access roads into the Bravo areas are in place to prevent public access. The gates and barriers will remain in place pending completion of characterization and any response actions that may be required in the Bravo Area. Security patrols inspect the areas.

6.0 LAND USE CONTROL ASSURANCE PLAN

The U. S. Department of the Army, EPA Region 4, ADEM, and Joint Powers Authority entered into a land use control assurance plan (LUCAP) Memorandum of Agreement (December 2000). The LUCAP recognizes that properties may be transferred with land use controls (LUCs) to protect human health and the environment. The LUCAP signatories agreed that sites not meeting residential reuse requirements will employ appropriate LUCs to protect human health and the environment. Under the LUCAP, those LUCs will be addressed in a land use control implementation plan (LUCIP) to ensure the long-term effectiveness and viability of LUCs, to raise the visibility of LUCs, to ensure that risk assumptions and land use assumptions upon which the LUCs are based remain valid, and to develop redundant or layered LUCs where applicable. The LUCIP has the full force and effect of an EPP. See the attached LUCAP and LUCIP for additional information (Enclosure 13).

7.0 ENVIRONMENTAL REMEDIATION AGREEMENTS

There are no environmental remediation orders or agreements applicable to the Property being transferred. The deed will include a provision reserving the Army’s right to conduct remediation activities if necessary in the future (Enclosure 10).

8.0 REGULATORY/PUBLIC COORDINATION

The U.S. EPA Region 4, ADEM, and the public were notified of the initiation of this FOST. Regulatory/public comments received during the public comment period were reviewed and incorporated as appropriate. A copy of regulatory/public comments and the U.S. Army responses are included at Enclosures 14.

9.0 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the Property have been analyzed in accordance with the National Environmental Policy Act (NEPA). The results of

this analysis are documented in the Disposal and Reuse Environmental Impact Statement (U.S. Army Corps of Engineers, 1998). The NEPA analysis identified the following encumbrances: (1) covenants, restrictions, or notices, as appropriate, with respect to residual environmental contamination, MEC, LBP, asbestos, and protection of the gray bat; (2) existing easements (e.g., utility easements); and (3) easement and right of access for environmental remediation and MEC removal. These encumbrances identified in the analysis as necessary to protect human health or the environment have been incorporated and addressed in the FOST. In addition, the proposed transfer is consistent with the intended reuse of the Property as set forth in the Fort McClellan Comprehensive Reuse Plan, 1997, revised in 2000.

10.0 FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I conclude that all removal and remedial actions necessary to protect human health and the environment have been taken and the Property is transferable under CERCLA Section 120(h)(3). In addition, all DOD requirements to reach a finding of suitability to transfer the Property to the ALDOT have been met, subject to the terms and conditions in the attached EPPs that shall be included in the deed for the Property. The deed will also include the CERCLA 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions.



Thomas E. Lederle
Industrial Branch Chief
Base Realignment and Closure Division

ENCLOSURE 1

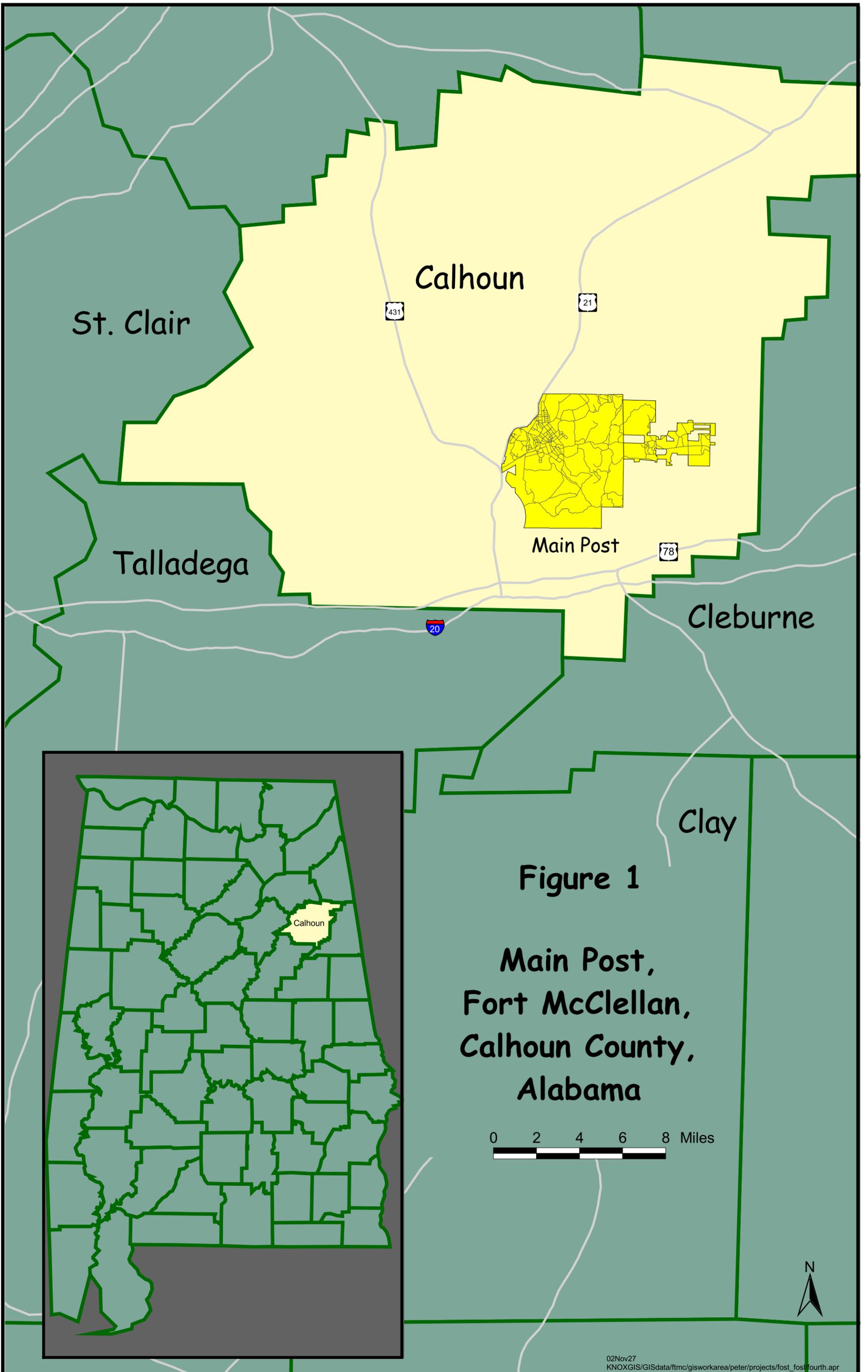


Figure 1
**Main Post,
Fort McClellan,
Calhoun County,
Alabama**

ENCLOSURE 2

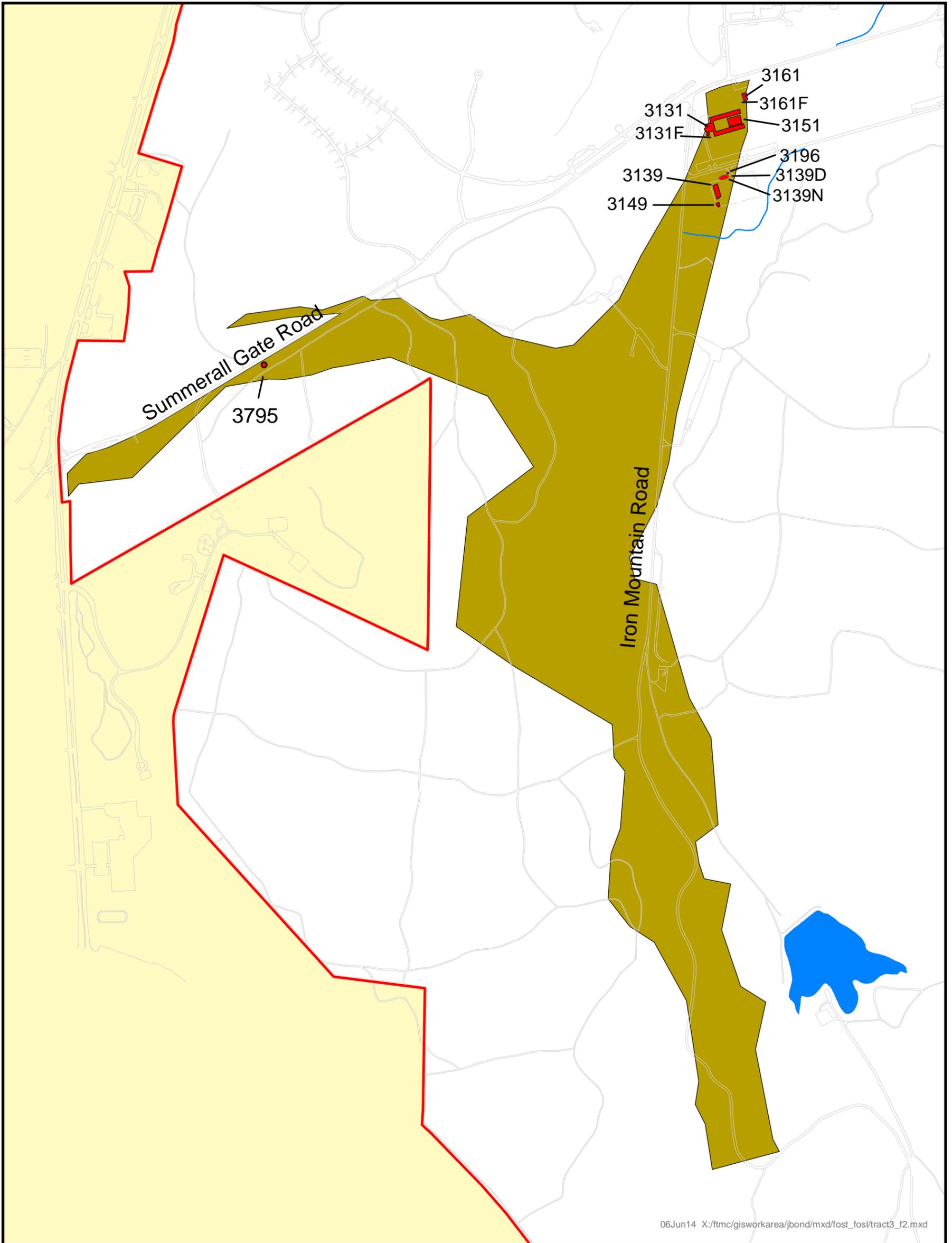
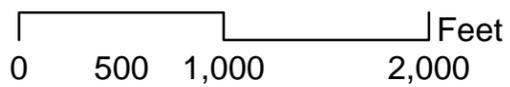
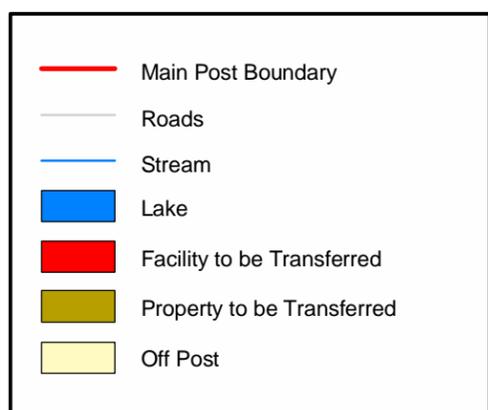


Figure 2 Finding of Suitability to Transfer Site Map
Eastern Bypass - Eastern Portion of Tract No.3



NAD83 State Plane Coordinates

June 2006



US Army Corps of Engineers
 Mobile District
 Fort McClellan
 Calhoun County, Alabama
 Contract No. DACA21-96-D-0018

Fort McClellan



Environmental Office

ENCLOSURE 3

ENVIRONMENTAL DOCUMENTATION

3D/International, Inc., 1998, *Biological Assessment: Disposal and Reuse of Fort McClellan, Alabama*, April.

EDAW, Inc., 1997, *Fort McClellan Comprehensive Reuse Plan, Fort McClellan Reuse and Redevelopment Authority of Alabama*, November; Fort McClellan, Updated Reuse Map, Rev. March 2000.

Environmental Science and Engineering, Inc., 1998, *Final Environmental Baseline Survey, Fort McClellan, Alabama*, prepared for U.S. Army Environmental Center, Aberdeen Proving Ground, Maryland, January.

EOD Technology, Inc.(EODT), 2001, *Final Removal Report, Ordnance and Explosives Surface Clearance for Construction Support, Proposed Eastern Bypass, Fort McClellan, Calhoun County Alabama*, October.

Foster Wheeler Environmental Corporation, 2006, *Site-Specific Final Report, Eastern Bypass Ordnance and Explosives Removal, Fort McClellan, Alabama*, April.

Foster Wheeler Environmental Corporation, 2006, *Draft-Final Engineering Evaluation/Cost Analysis Bravo Area of the Redevelopment Area, Fort McClellan, Alabama*, July.

Foster Wheeler Environmental Corporation, 2003, *Site-Specific Final Report, M1.01 Parcel and M3 Miscellaneous Property, Fort McClellan, Alabama*, March.

Foster Wheeler Environmental Corporation, 2001, *Final Engineering Evaluation/Cost Analysis for M1.01 Parcel*, December.

Foster Wheeler Environmental Corporation, 2000, *Ordnance and Explosives, Final Removal Action Report, M2 Parcel, Fort McClellan, Alabama*, September.

IT Corporation (IT), 2001a, *Final Site Investigation Report, Former Motor Pool Area 3100, 23rd Street, Parcels 147(7), 27(7), 28(7), and 72(7)*, March.

IT Corporation (IT), 2001b, *Final Decision Document for Former Motor Pool Area 3100, 23rd Street, Parcels 147(7), 27(7), 28(7), and 72(7)*, March.

IT Corporation (IT), 2001c, *Final Underground Storage Tank Closure Assessment Report*, February.

IT Corporation (IT), 2001d, *Decision Document for the Underground Storage Tanks Parcels, Fort McClellan, Alabama*, April.

IT Corporation (IT), 2001e, *Final Site Investigation Report, Former Fog Oil Storage Area West of the Skeet Range, Parcel 122(7)*, March.

IT Corporation (IT), 2001f, *Final Decision Document for the Former Fog Oil Storage Area West of the Skeet Range, Parcel 122(7)*, March.

IT Corporation (IT), 2000a, *Final Site Investigation Report, Former Transformer Near Building 3798, Parcel 57Q*, October.

IT Corporation (IT), 2000b, *Final Decision Document for the Former Transformer Near Building 3798, Parcel, 57Q*, October.

John Calvert Environmental, Inc., 1995, *Lead-Based Paint Risk Assessment Report for Fort McClellan, Alabama*, July.

Parsons Engineering Science, Inc., 2002a, *Final Chemical Warfare Materiel (CWM) Engineering Evaluation/Cost Analysis, Fort McClellan, Alabama*, June.

Parsons Engineering Science, Inc., 2002b, *Final Action Memorandum Chemical Warfare Materiel (CWM) Engineering Evaluation/Cost Analysis, Fort McClellan, Alabama*, October.

Riesz Engineering, 1998, *Asbestos-Containing Material Report, Fort McClellan, Calhoun County*, Alabama.

Shaw Environmental, Inc. (Shaw), 2006a *Final Removal Action Report, Iron Mountain Road Ranges Soil Remediation on ALDOT Eastern Bypass Corridor Property, Fort McClellan, Alabama*, March.

Shaw Environmental, Inc. (Shaw), 2006b *Decision Document, Portion of Iron Mountain Road Ranges on ALDOT Eastern Bypass Corridor Property, Fort McClellan, Alabama*, June.

Shaw Environmental, Inc. (Shaw), 2005a, *Letter Report: Sample Results for Former AST Range 13, Parcel 176(7), Fort McClellan, Alabama*, August

Shaw Environmental, Inc. (Shaw), 2005b, *Final Site Investigation Report, Ranges West of Iron Mountain Road, Parcels 73Q-X, 91Q-X, 115Q, 116Q-X, 117Q-X, 129Q-X, 151Q, 181(7), 194(7)/518(7), 200Q, 201Q, 228Q, 229Q-X, 231Q, 232Q-X, Washington Tank Range, and 1950 Rocket Launcher Range*, August.

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Tetra Tech EC, Inc., 2006, *Final Letter Report Site Characterization M1.01 Parcel and M3 Miscellaneous Properties, Ordnance and Explosive Response at Fort McClellan, Alabama*, November.

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U.S. Army Corps of Engineers, Mobile District, 1998, *Final Environmental Impact Statement, Disposal and Reuse of Fort McClellan Alabama*, August.

U.S. Army Engineering Support Center, Huntsville Alabama, 2000, *Addenda to the Action Memorandum M2 Parcel, Fort McClellan, Alabama*, November.

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ENCLOSURE 4

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 1 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Building 3131 is a 81,212 sq. ft. company headquarters building	13Q	1	None
Facility 3131F is a former 20,000-gallon heating oil UST	54(7)	3	In 1996, the UST was removed. In 1999, a UST closure assessment was conducted. UST closure assessment results indicated evidence of petroleum product release at this site; however, there are no petroleum products associated with the site that present an unacceptable risk to either human health or the environment. See the closure assessment report (IT, 2001c) and the decision document (IT, 2001d) for additional information. ADEM concurred that no further action was necessary in a letter dated February 20, 2001; EPA concurred in a letter dated September 29, 2000. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.
Building 3139 is a 5,028 sq. ft. vehicle maintenance building	147(7)PS/PR(P)	3	Motor pool operations were conducted in this building. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. A decision document indicating that no further action is required for the site was signed by the Army on May 17, 2001.
Facility 3139D is a 10,000-gallon diesel UST	27(7)PS	3	The UST is in place but is empty. There is no evidence of petroleum releases from this site. See site investigation report (IT, 2001a) and decision document (IT, 2001b) for additional information. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 2 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Facility 3139N is a vehicle fuel outlet	27(7)PS	3	These were pumps used for vehicle refueling. There is no evidence of petroleum releases from this site. See site investigation report (IT, 2001a) and decision document (IT, 2001b) for additional information. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.
Building 3149 is an oil storage building	147(7)PS/PR(P)	3	Products for motor pool operations were stored in this building. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. A decision document indicating that no further action is required for the site was signed by the Army on May 17, 2001.
Facility 3151 is a court area	161(1)	1	None
Building 3161 is a 2,655 sq. ft. battalion headquarters building	161(1)	1	None
Facility 3161F is a former 1,000-gallon heating oil UST	55(7)	3	In 1996, the UST was removed. During tank removal, the tank appeared to be in good condition. Evidence of contamination was not observed. In 1999, a UST closure assessment was conducted. UST closure assessment results indicated evidence of petroleum product release at this site; however, there are no petroleum products associated with the site that present an unacceptable risk to either human health or the environment. See the closure assessment report (IT, 2001c) and the decision document (IT, 2001d) for additional information. ADEM concurred that no further action was necessary in a letter dated February 20, 2001; EPA concurred in a letter dated September 29, 2000. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 3 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Building 3196 is a 192 sq. ft. dispatch building	147(7)PS/PR(P)	3	Dispatch operations for the motor pool were conducted in this building. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. A decision document indicating that no further action is required for the site was signed by the Army on May 17, 2001.
Facility 3795 is a facility information sign	161(1)	1	None
CERFA Parcel, Main Post	161(1)	1	None
Former fog oil storage area, west of Skeet Range	122(7)	3	A fog oil storage area reportedly was established at this site but dates of use could not be determined. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated April 13, 2001; EPA concurred in a letter dated March 28, 2001. A decision document indicating that no further action is required for the site was signed by the Army on July 16, 2001.
Motor Pool Area 3100, 23 rd Street	147(7)	3	Motor pool operations were conducted at this site. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. A decision document indicating that no further action is required for the site was signed by the Army on May 17, 2001.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 4 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
500-gallon heating oil AST at Range 13	176(7)	3	The AST was removed following closure of FMC in 1999. A petroleum product release occurred at this site. Site investigation results indicated that there are no petroleum products associated with the site that present an unacceptable risk to either human health or the environment. See the letter report (Shaw, 2005a) and decision document (Shaw 2006a) for additional information. It should be noted that this parcel is located within the boundary of Parcel 71Q for which a deed restriction prohibiting residential use applies (reference Section 4.2). ADEM concurred that no further action for industrial reuse was necessary in a letter dated September 13, 2005, EPA concurred in a letter dated October 12, 2006. The decision document requiring a restriction prohibiting residential use was signed by the Army on June 14, 2006.
Training Area T-4	181(7)	3	Training Area T-4 was reportedly a chemical warfare materiel site. The EE/CA investigation concluded that it was not likely that chemical warfare training was conducted at Parcel 181(3). Investigations found no evidence of soil contamination by chemical agent, and it was determined that risk of exposure to CWM at the site is unlikely. ADEM concurred that no further action was necessary in a letter dated October 7, 2002; EPA concurred in a letter dated September 11, 2002. The Action Memorandum indicating that no further action is required was signed by the Army on October 18, 2002. Additionally, this site was included in the site investigation for Ranges West of Iron Mountain Road. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred in a letter dated May 25, 2005. A decision document indicating that no further action is required for the site was signed by the Army on August 26, 2005.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 5 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Mounded material west of Range 19	232(7)	1	This parcel originally was classified as a Category 7 site in the EBS where it was identified as "Mounded Material West of Iron Mountain"; however, it was determined to be the result of grading for access roads to the Iron Mountain Road Ranges and did not represent any type of fill activity. After a site visit by ADEM, EPA, and U.S. Army Corps of Engineers representatives, the parcel was administratively closed with no further action (EPA and ADEM concurrence letters dated October 11, 2001 and October 11, 2002, respectively). It was reclassified as a Category 1 parcel. The parcel is no longer visible due to extensive clearing and grading associated with MEC clearance activities for the Eastern Bypass.
Fill Area West of Range 19	233(7)	3	There is no information on the operational dates or types of material disposed at this potential fill area identified from a 1949 aerial photo. Based on trench data, there was no indication of fill material below ground surface. Exposed waste debris, mostly construction debris, was present on the surface. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated May 6, 2005; EPA concurred in a letter dated September 27, 2004. A decision document indicating that no further action is required for the site was signed by the Army on July 26, 2005.
Former Transformer near Building 3798	57Q	1	The transformer was removed and a small area of stained soil beneath the transformer was excavated. Site investigation results indicated that the level of PCBs in the soil was less than 1 part per million, that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment, and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated November 6, 2000; EPA concurred in a letter dated October 18, 2000. A decision document indicating that no further action is required for the site was signed by the Army on December 4, 2000.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 6 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Skeet Range	69Q	1	Soil was contaminated with lead associated with small-arms ammunition. No excavation was conducted because soil lead concentrations were less than the EPA industrial cleanup level. ADEM concurred with the report in a letter dated May 26, 2006; EPA concurred in a letter dated October 4, 2005. A decision document requiring a restriction prohibiting residential use was signed by the Army on June 14, 2006. The performance of industrial and/or commercial operations at this site according to the deed restrictions and the LUCIP will not pose an unacceptable risk to human health.
Range 12: Competitive Pistol Range	70Q	1	Soil contaminated with lead associated with small-arms ammunition was excavated from the site to levels that were below the EPA industrial clean up level. ADEM concurred with the report in a letter dated May 26, 2006; EPA concurred in a letter dated October 4, 2005. A decision document requiring a restriction prohibiting residential use was signed by the Army on June 14, 2006. The performance of industrial and/or commercial operations at this site according to the deed restrictions and the LUCIP will not pose an unacceptable risk to human health.
Range 13: Qualification Pistol Range	71Q	1	Soil was contaminated with lead associated with small-arms ammunition. No excavation was conducted because soil lead concentrations were less than the EPA industrial cleanup level. ADEM concurred with the report in a letter dated May 26, 2006; EPA concurred in a letter dated October 4, 2005. A decision document requiring a restriction prohibiting residential use was signed by the Army on June 14, 2006. The performance of industrial and/or commercial operations at this site according to the deed restrictions and the LUCIP will not pose an unacceptable risk to human health.
Former Main Post Impact Area (Larger caliber rounds outside established impact area)	125Q-X	1	This parcel is the location where a large caliber round was observed outside the impact areas of ranges that were operating at the time of the EBS. The area was included in the OES 2 munitions response action. ADEM concurred with the Site Specific Final Report Eastern Bypass OE Removal, dated April 2006, and Site Specific Final Report Addendum Construction Debris Removal Area of the Eastern Bypass, dated May 2006, in an ADEM letter dated May 25, 2006.

Table 1

**Description of Property
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

(Page 7 of 7)

Property Description	EBS Parcel Designation	Condition Category	Remedial Action
Ranges West of Iron Mountain Road	73Q-X, 91Q-X, 116Q-X, 117Q-X, 200Q, 201Q, 228Q, 229Q-X, 231Q, and 232Q-X	1	These ranges were used for military training and for live firing. Site investigation results indicated that there are no chemicals associated with the site that present an unacceptable risk to either human health or the environment and that the site could be released for unrestricted land reuse. ADEM concurred that no further action was necessary in a letter dated May 25, 2005. A decision document indicating that no further action is required for the site was signed by the Army on August 26, 2005.

Category 1: Areas where no release or disposal of hazardous substance or petroleum products has occurred (including no migration of these substances from adjacent areas)

Category 3: Areas where release, disposal, and or migration of hazardous substance has occurred, but at concentrations that do not require a removal or remedial response

ENCLOSURE 5

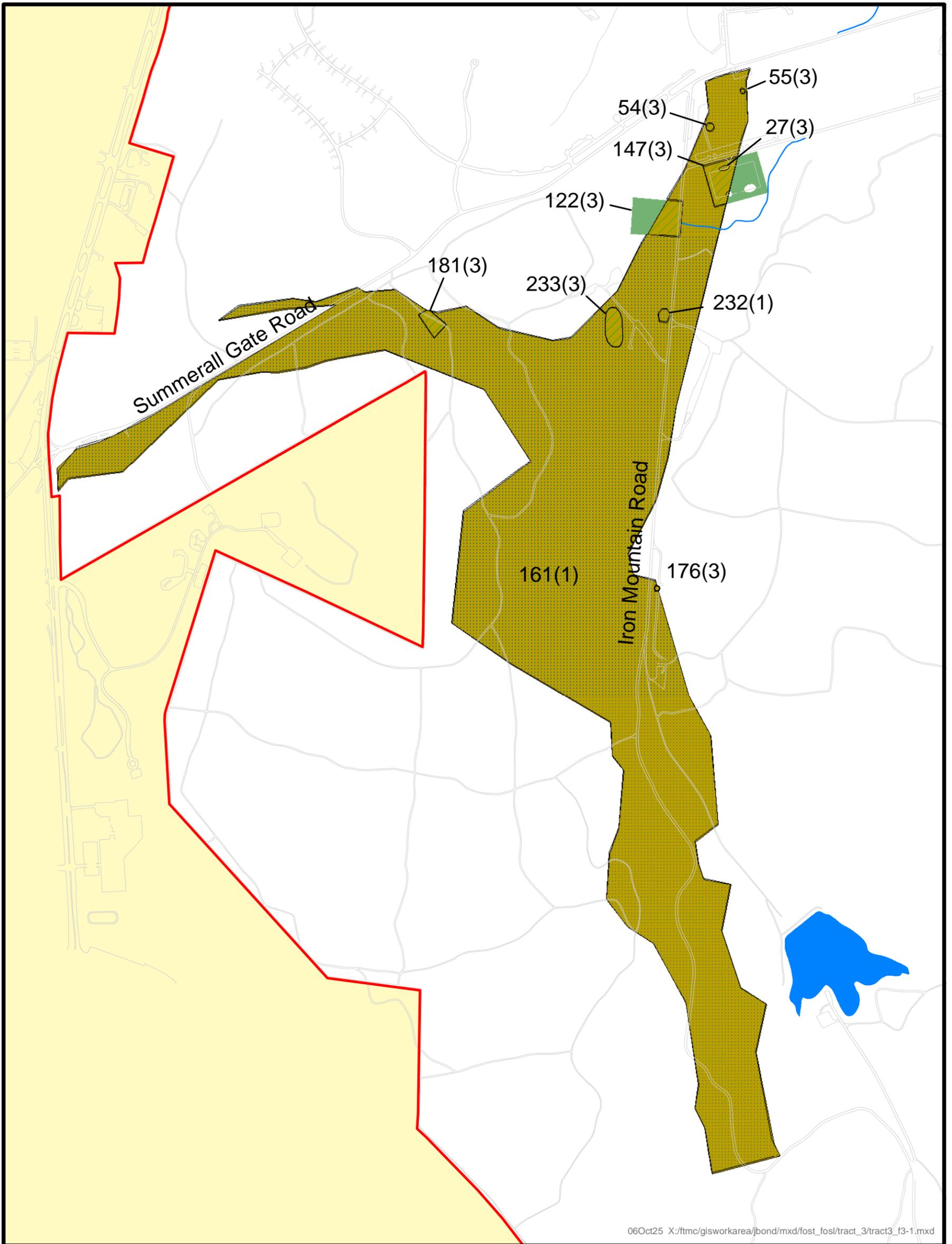


Figure 3-1 Finding of Suitability to Transfer CERFA Parcels
Eastern Bypass - Eastern Portion of Tract No.3

- Main Post Boundary
- Roads
- Stream
- Lake
- CERFA Category 1
- CERFA Category 3
- Adjacent Parcel
- Property to be Transferred
- Off Post

0 500 1,000 2,000 Feet

NAD83 State Plane Coordinates

June 2006



US Army Corps of Engineers
 Mobile District
 Fort McClellan
 Calhoun County, Alabama
 Contract No. DACA21-96-D-0018

Fort McClellan



Environmental Office

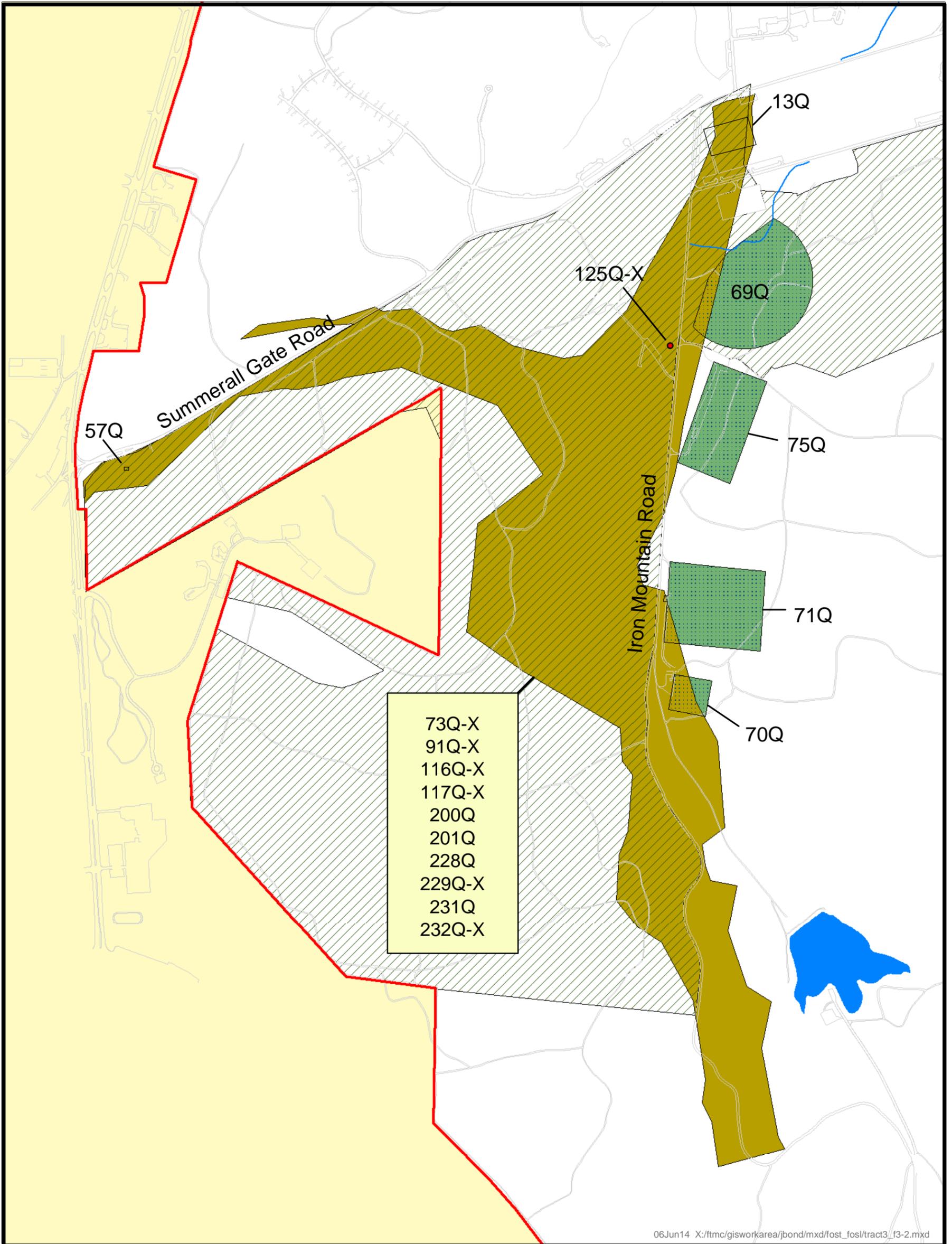
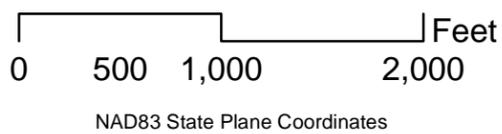


Figure 3-2 Finding of Suitability to Transfer Non-CERCLA Parcels Eastern Bypass - Eastern Portion of Tract No.3



June 2006

US Army Corps of Engineers
 Mobile District
 Fort McClellan
 Calhoun County, Alabama
 Contract No. DACA21-96-D-0018

Fort McClellan



Environmental Office

ENCLOSURE 6

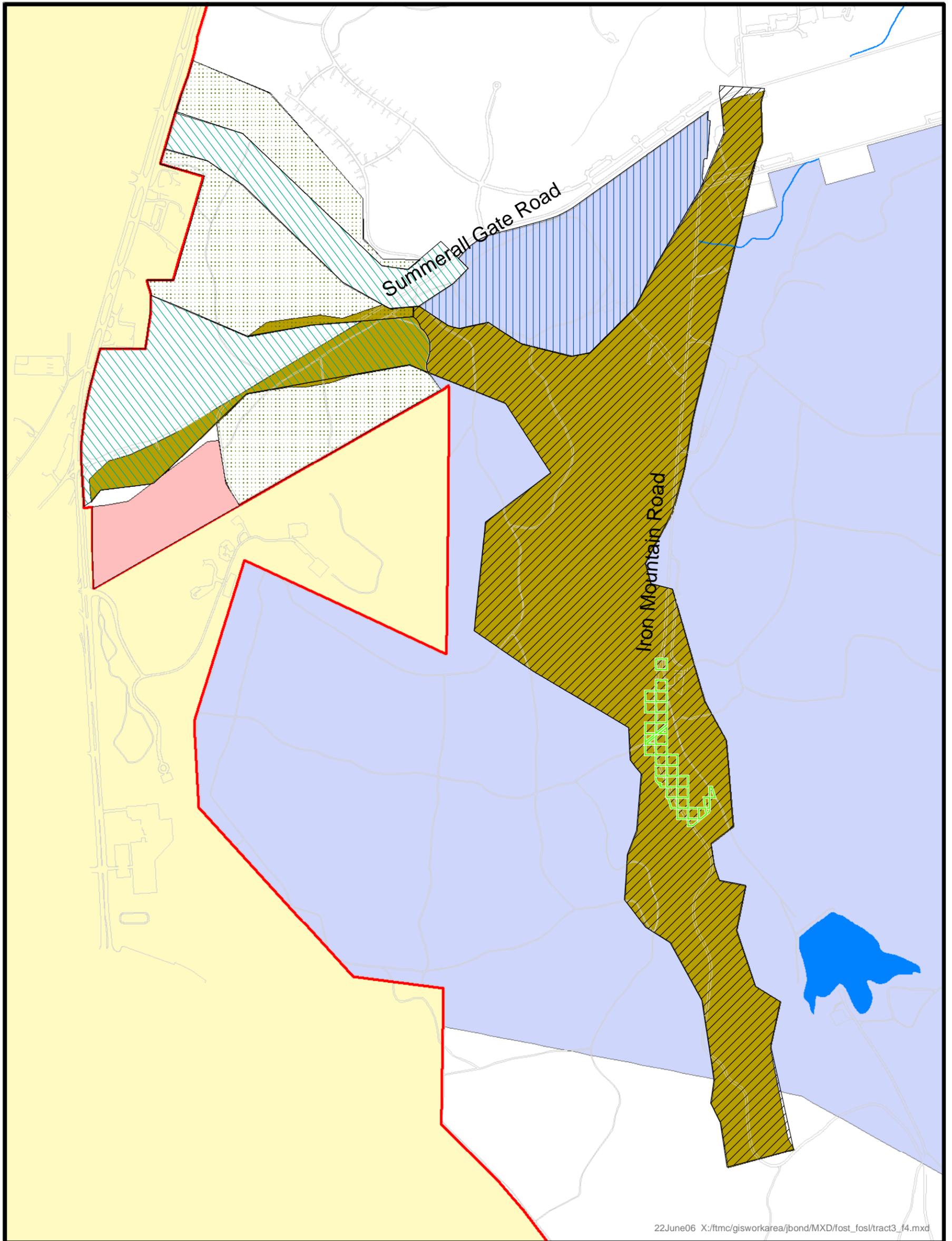
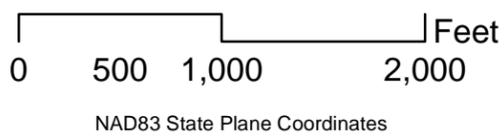


Figure 4

Finding of Suitability to Transfer
Munitions and Explosives of Concern Areas
Eastern Bypass - Eastern Portion of Tract No.3



June 2006

US Army Corps of Engineers
Mobile District
Fort McClellan
Calhoun County, Alabama
Contract No. DACA21-96-D-0018

Fort McClellan



Environmental Office

	Main Post Boundary
	Roads
	Stream
	Lake
	Y Area
	Construction Debris Areas
	M1.01/M3 Areas
	OES1
	OES2
	M2 Area
	Bravo Area
	Property to be Transferred
	Off Post

ENCLOSURE 7



DEPARTMENT OF THE ARMY
HUNTSVILLE CENTER, CORPS OF ENGINEERS
P.O. BOX 1600
HUNTSVILLE, ALABAMA 35807-4301

REPLY TO
ATTENTION OF:

CEHNC-DE (200-1c)

10 MAY 2002

MEMORANDUM FOR Commander, U.S. Army Garrison, Environmental
Section, ATTN: ATZN-EVN (Mr. Ron Levy), Building 215, 15th Ave,
Fort McClellan, Alabama 36205-5000

SUBJECT: Statement of Clearance for Ordnance and Explosive
Site 1, Fort McClellan, Alabama

1. Enclosed for your use is the Statement of Clearance related to Ordnance and Explosives (OE) Removal Actions completed on the subject property. The U.S. Army Engineering and Support Center, Huntsville has reviewed the Final Removal Report and concurs with its findings. The report discusses the action taken and the OE items recovered from the property.
2. Based upon the actions taken, as documented in the final Removal Report, it is recommended that the Ordnance and Explosive Site 1 parcel be made available for unrestricted use. Any residual risk remaining as a result of this removal action will be managed thru a deed notice. This deed notice will provide information on notification requirements in the event an OE item is encountered.
3. If you have any questions or comments regarding this submittal, please contact me at 256 895-1300 or Mr. Douthat, OE Director, at (256) 895-1510.

HARRY L. SPEAR
COL, EN
Commanding

Encl

RCVD MAY 21 '02 AM 10:05



**Statement of Clearance
Ordnance and Explosives Site 1 (OES 1)
of the Proposed Eastern Bypass at
Fort McClellan, Alabama**

The Proposed Eastern Bypass at Fort McClellan was divided into three Ordnance and Explosives Sites (OES). The signed Action Memo for the Eastern Bypass recommends different actions for each OES. This statement of clearance covers only OES 1. The OES 1 of the Proposed Eastern Bypass, located within the boundary of Fort McClellan, Alabama, has been given careful search and has been cleared of all dangerous and explosive ordnance reasonably possible to detect. The ordnance items described in the enclosed final removal report were recovered from within both OES 1 and 2. This report was prepared by EODT, Inc. under contract DACA87-97-D-0005, Task Order 0012 to US Army Engineering and Support Center, Huntsville.

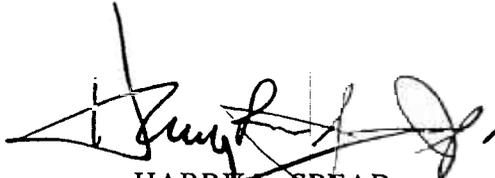
It is recommended that:

The OES of the Proposed Eastern Bypass be used for any purpose for which the land is suited.

This action has been conducted in accordance with Army Regulation 384-64 (Ammunition and Explosives Safety Standards), AR 405-90 (Disposal of Real Estate), and the DDESB approved Explosives Safety Submission.

SUBMITTED BY:

24 April 2002
Date


HARRY L. SPEAR
COL, EN
Commanding

APPROVED BY:

1 May 2002
Date


GLYNN D. RYAN
BRAC Site Manager

Enclosure:

Ordnance and Explosives Subsurface Clearance for Construction Support
Final Removal Report, Proposed Eastern Bypass, Fort McClellan, Alabama



DEPARTMENT OF THE ARMY
HUNTSVILLE CENTER, CORPS OF ENGINEERS
P.O. BOX 1600
HUNTSVILLE, ALABAMA 35807-4301

REPLY TO
ATTENTION OF:

CEHNC-OE-DC

18 December 2007

MEMORANDUM FOR Site Manager, US Army Garrison (Mr. Scott Bolton), 291 Jimmy Park Boulevard, Fort McClellan, Alabama 36205-5000

SUBJECT: Statement of Clearance for the Ordnance and Explosives Site 2 (OES 2) of the Eastern Bypass at Fort McClellan, Alabama

1. Enclosed is the revised Statement of Clearance related to Munitions and Explosives of Concern (MEC) Removal Action completed on the subject property. This revised Statement of Clearance has been prepared to address Amendment 8 of the Explosive Safety Submission for the Eastern Bypass, which was approved by the Department of Defense Explosives Safety Board (DDESB) on 16 November 2007. Amendment 8 withdraws the requirement to post signs around the Eastern Bypass OES 2, based upon the fact that clearance to depth has been completed for all areas not covered with at least four feet of fill material.
2. The US Army Engineering and Support Center, Huntsville, has previously reviewed and concurred with the findings contained in the *Site Specific Final Report, Eastern Bypass OE Removal, Fort McClellan, Alabama*, and the *Site Specific Final Report Addendum, Construction Debris Removal Area of the Eastern Bypass, Fort McClellan, Alabama*.
3. Based upon the actions taken, as documented in the final removal reports, it is recommended that the OES2 of the Eastern Bypass at Fort McClellan, Alabama be made available for use contingent on the requirements stated in the revised Statement of Clearance. Any residual risk remaining as a result of this removal action will be managed through land use controls and a deed notice. The deed notice will provide information on notification requirements in the event that MEC is encountered.
4. If you have any questions or comments regarding this submittal, please contact me at (256) 895-1310, or Dr. John C. Potter, Ordnance and Explosives Director, at (256) 895-1510.

Encls


LARRY D. McCALLISTER
Colonel, EN
Commanding

**Statement of Clearance
Ordnance and Explosives Site 2
of the Proposed Eastern Bypass at
Fort McClellan, Alabama**

The Proposed Eastern Bypass at Fort McClellan was divided into three Ordnance and Explosives Sites (OES) as shown in the attached Eastern Bypass Overview figure. The signed Action Memo for the Eastern Bypass recommended different actions for each OES. This statement of clearance covers only OE Site 2 (OES 2). The OES 2 of the Proposed Eastern Bypass, located within the boundary of Fort McClellan, Alabama, has been given careful search and has been cleared to depth of all dangerous and explosive ordnance reasonably possible to detect with the exception of the construction debris grids identified in the attached figure showing Construction Debris and Culvert Information. The ordnance items described in the *Site-Specific Final Report, Eastern Bypass OE Removal, Fort McClellan, AL, Revision April 2006, and Site-Specific Final Report Addendum, Construction Debris Removal Area of the Eastern Bypass, Fort McClellan, Alabama, May 2006* were recovered from within OES 2.

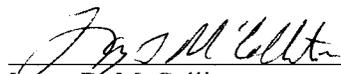
It is recommended that the OES 2 of the Proposed Eastern Bypass may be used for any purpose for which the land is suited contingent upon the following:

- 1) A total of 30 full or partial grids were not cleared due to a high content of construction debris. Based on the bypass design, it was decided by the Army, ALDOT, and ADEM that a clearance to depth was not necessary on any of the construction debris grids that would receive at least four feet of fill during bypass construction. If the highway design should change or intrusive activities are necessary, construction support as required for an unknown risk of encountering MEC would be provided in the 30 full or partial grids identified as construction debris areas in the Site-Specific Final Report Addendum, dated May 2006. This is further explanation of the action identified in the Action Memo and is not a change in the recommended action.
- 2) Construction support be provided in the remainder of OES 2 as described in the deed notice.
- 3) Reasonable and prudent precautions are taken when conducting intrusive operations on the transferred property since the Army cannot guarantee that 100% of the ordnance has been removed. These precautions will include, at a minimum, Ordnance Familiarization Training and notification procedures for all construction workers.
- 4) Any residual risk remaining as a result of this removal action will be managed through land use controls and a deed notice. This deed notice will provide information on notification requirements in the event that a MEC item is encountered.

This action has been conducted in accordance with Army Regulation 384-64 (Ammunition and Explosives Safety Standards), AR 405-90 (Disposal of Real Estate), and the Explosives Safety Submission as amended and approved by the Department of Defense Explosives Safety Board.

SUBMITTED BY:

APPROVED BY:


Larry B. McCallister 18 Dec 07
Date

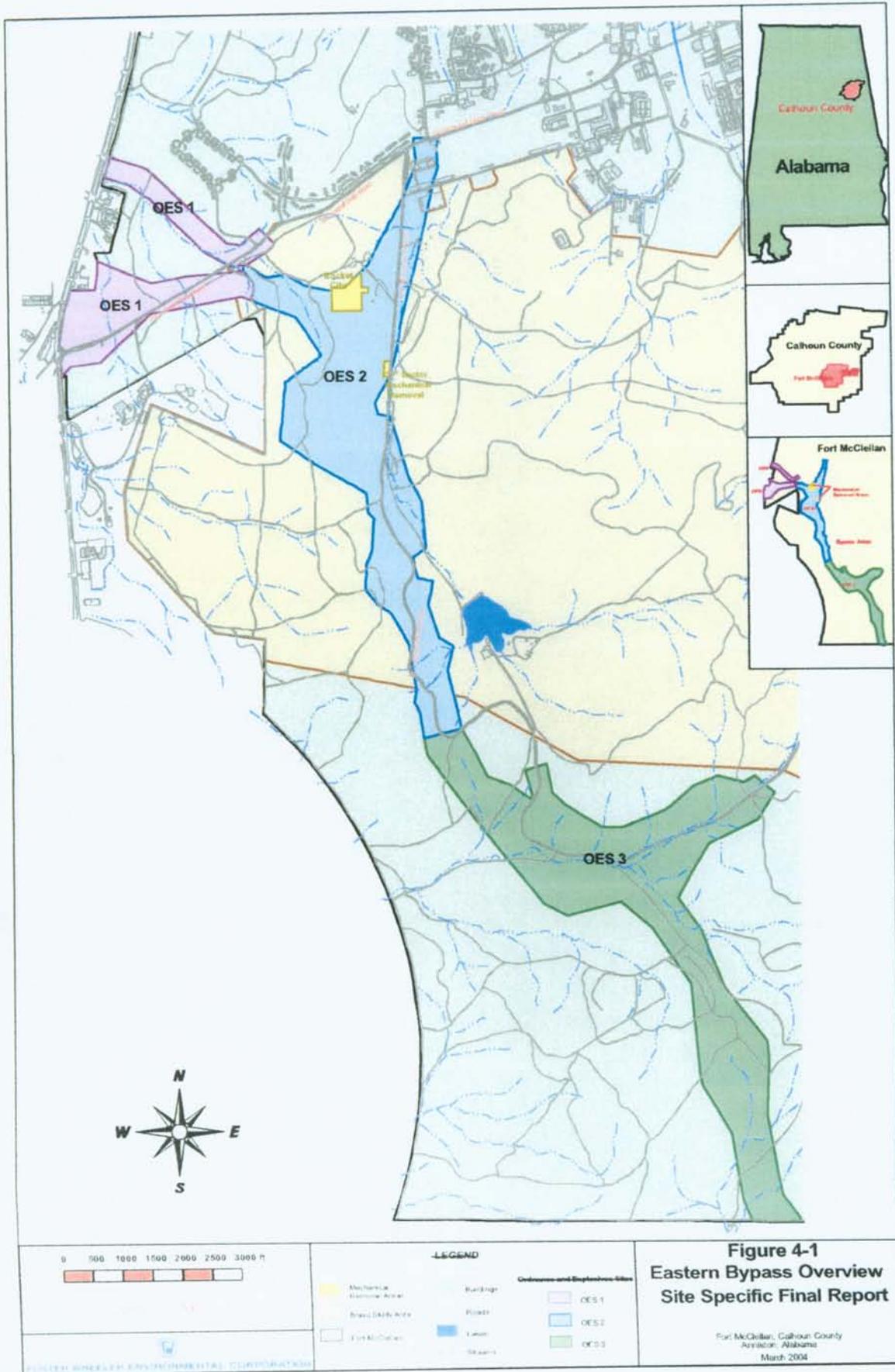

Mr. Scott Bolton 7 Jan 08
Date

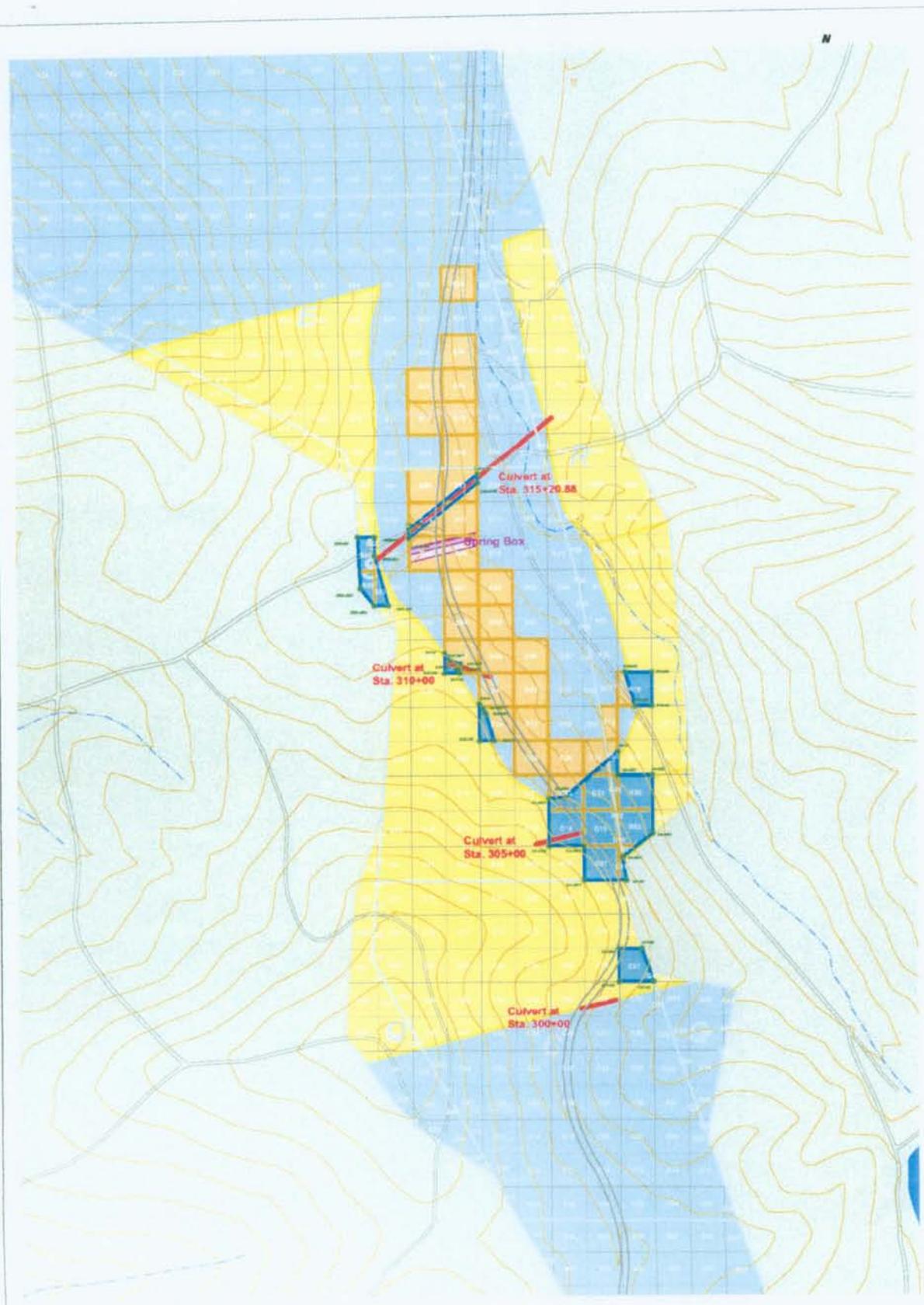
COL, EN
Commander, Engineering and Support Center, Huntsville

BRAC Site Manager

Enclosures

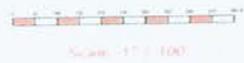
Figures – 4.1 Eastern Bypass Overview, and 4.1 – Construction Debris and Culvert Information Memorandums, Subject: Department of Defense Explosives Safety Board (DDESB) Approval of Amendment 8, Approved Conventional Explosives Safety Submission (ESS) Munitions Response (Removal) Eastern Bypass, Fort McClellan, Alabama with Amendments 1 through 7, dated November 20, 2007 and November 16, 2007





LEGEND

- Clearance Survey Points
- Culverts
- Bypass Grids
- Spring Box
- 10% Clearance at Station 310+00
- 40% Clearance at Station 310+00
- Clearance Areas
- 40' of Fill Grids
- Construction Debris Grids
- Bypass R.O.W. Area
- Buildings
- Roads
- Lakes
- Streams
- 20' Contours
- Fort McClellan



Eastern Bypass

**Figure 4-1
Construction Debris and
Culvert Information**

May 2006



DEPARTMENT OF DEFENSE EXPLOSIVES SAFETY BOARD
2461 EISENHOWER AVENUE
ALEXANDRIA, VIRGINIA 22331-0600

NOV 16 2007

DDESB-PE

MEMORANDUM FOR DIRECTOR, U.S. ARMY DEFENSE AMMUNITION CENTER
ATTENTION: SJMAC-ESM

SUBJECT: DDESB Approval of Amendment 8, Approved Conventional Explosives Safety Submission (ESS) Munitions Response (Removal) Eastern Bypass, Fort McClellan, Alabama with Amendments 1 through 7

References: (a) DAC SJMAC-ESM Memorandum, 17 October 2007, Subject: Amendment 8, Approved Conventional Explosives Safety Submission (ESS) Munitions Response (Removal) Eastern Bypass, Fort McClellan, Alabama with Amendments 1 through 7

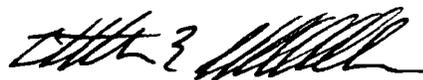
(b) DoD 6055.9-STD, DoD Ammunition and Explosives Safety Standards, 5 October 2004

The Department of Defense Explosives Safety Board (DDESB) Staff has reviewed the subject explosives safety submission (ESS) forwarded by reference (a), against the requirements of reference (b). Based on the information provided, approval is granted for ESS Amendment 8 to remove the requirement to post signs around the Eastern Bypass OES-2 at Fort McClellan, AL. This approval is based on the following:

a. The Army will need to investigate and take action to remove any explosives hazard in the event any future discovery of munitions and explosives of concern at Eastern Bypass OES-2 occurs.

b. All other stipulations and requirements established via the original ESS and subsequent amendments remain in effect.

The point of contact for this action is Mr. Tony Dunay, (703) 325-3513, DSN 221-3513, E-mail address: tony.dunay@ddesb.osd.mil.


FOR CURTIS M. BOWLING
Chairman
DDESB



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
US ARMY DEFENSE AMMUNITION CENTER
1 C TREE ROAD
MCALESTER OK 74501-9053

SJMAC-ESM

MEMORANDUM FOR U.S. Army Corps of Engineers (CEHNC-DE/Mr. Hank Hubbard),
P.O. Box 1600, Huntsville, AL 35807-4301

SUBJECT: Department of Defense Explosives Safety Board (DDESB) Approval of Amendment 8, Approved Conventional Explosives Safety Submission (ESS) Munitions Response (Removal) Eastern Bypass, Fort McClellan, Alabama with Amendments 1 through 7

1. References:

a. Memorandum, DDESB, DDESB-PE, 16 Nov 2007, subject: SAB (enclosed).

b. Memorandum, Department of Army, Huntsville Center, Corps of Engineers, CEHNC-OE-CX, 03 Oct 2007, subject: Amendment 8, Approved Conventional Explosives Safety Submission (ESS), Munitions Response (Removal), Eastern Bypass, Fort McClellan, Alabama with Amendments 1 through 7

c. DOD 6055.9-STD, Ammunition and Explosives Safety Standards, 5 October 2004.

2. Reference 1a provides DDESB final approval for Amendment 8 to the Ft McClellan Eastern Bypass ESS (reference 1.b) and imposes no new conditions. This amendment withdraws the requirement to post signs around the Eastern Bypass OES-2 that were intended to prohibit excavation activities. A clearance to depth of detection has been performed on all areas of the Eastern Bypass OES-2 except for locations that will have a minimum of four feet of fill placed on them. There is no longer a need to post warning signs around the Eastern Bypass OES-2.

3. Point of contact (POC) is Karl J. Raue, SJMAC-ESM, DSN 956-8122, (918) 420-8122, FAX 8503, karl.raue@dac.army.mil.

FOR THE DIRECTOR:

Encl
as

CLIFFORD H. DOYLE
MEC Team Leader
Explosives Safety Knowledge,
OE and Chemical Division
US Army Technical Center for Explosives Safety



DEPARTMENT OF THE ARMY
HUNTSVILLE CENTER, CORPS OF ENGINEERS
P.O. BOX 1600
HUNTSVILLE, ALABAMA 35807-4301

REPLY TO
ATTENTION OF:

14 APR 2003

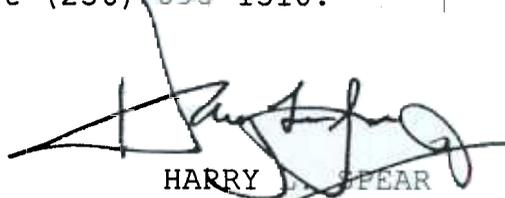
CEHNC-DE

MEMORANDUM for Site Manager, U.S. Army Garrison, ATTN: ATZN-ENV
(Mr. Ron Levy), 291 Jimmy Park Boulevard, Fort McClellan,
Alabama 36205-5000

SUBJECT: Statement of Clearance for the M1.01 parcel and M3
Miscellaneous Property at Fort McClellan, Alabama

1. Enclosed for your use is the Statement of Clearance related to Ordnance and Explosives (OE) Removal Action completed on the subject property. The U.S. Army Engineering and Support Center, Huntsville has reviewed the Final Removal Report and concurs with its findings. The report discusses the action taken and the OE items recovered from the property.
2. Based upon the actions taken, as documented in the Final Removal Report, it is recommended that the M1.01 parcel and M3 miscellaneous property be made available for unrestricted use. Any residual risk remaining as a result of this removal action will be managed through a deed notice. This deed notice will provide information on notification requirements in the event an OE item is encountered.
3. If you have any questions or comments regarding this submittal, please contact me at (256) 895-1300 or Mr. David Douthat, OE Director, at (256) 895-1510.

Encl


HARRY D. SPEAR
COL, EN
Commanding

**Statement of Clearance
Ordnance and Explosives
M1.01 Parcel and M3 Miscellaneous Property at
Fort McClellan, Alabama**

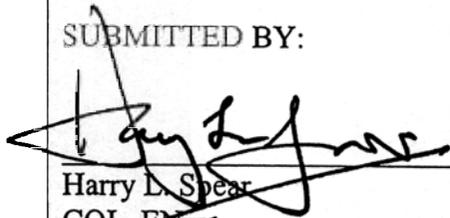
The M1.01 Parcel and M3 Miscellaneous Property located within the boundary of Fort McClellan, Alabama has been given careful search and has been cleared of all dangerous and explosive ordnance reasonably possible to detect. The ordnance items described in the enclosed final removal report were recovered from the property.

It is recommended that:

The M1.01 Parcel and M3 Miscellaneous Property may be used for any purpose for which the land is suited.

This action has been conducted in accordance with Army Regulation 384-64 (Ammunition and Explosives Safety Standards), AR 405-90 (Disposal of Real Estate), and the DDESB approved Explosives Safety Submission.

SUBMITTED BY:



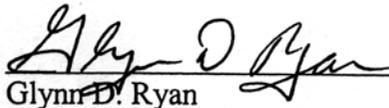
14 April '03

Harry D. Spear
COL, EN

Date

Commander, Engineering and Support Center,
Huntsville

APPROVED BY:



17 April 03

Glynn D. Ryan

Date

BRAC Site Manager

Enclosure:

Ordnance and Explosives Site Specific Final Report, M1.01 Parcel and M3
Miscellaneous Property, Fort McClellan, Alabama

ENCLOSURE 8

Table 2

**Notification of Munitions and Explosives of Concern (MEC*)
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

Site	Type of MEC and/or Munitions Debris (MD)	Date of MEC Activity	Munitions Response Actions
OES 1	Munitions Debris recovered on the Property: 60mm M69 practice mortars, slap flares, 2.36" practice rockets, 37mm APTs, practice hand grenades	World War II through 1960s	A portion of OES 1 is being transferred for the Eastern Bypass right-of way. According to the Archives Search Report two conventional munitions ranges were located on this part of the Property. The Engineering Evaluation/Cost Analysis determined the area was used as a training range. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted. In the part of OES 1 that is on the Property, no MEC were discovered. Approximately 18 munitions debris items were recovered and removed. See removal report (EODT, 2001).
OES 2	MEC recovered on the Property: 2.36" HE rockets; warheads, motors and fuzes for 2.36" HE rockets; 2.36" practice rockets; 60mm HE mortars; 60mm M83 illumination mortar; 81mm mortar M43; 3" Stokes mortars fuzed and unfuzed; 105mm smoke; MKII hand grenade; live slap flares; M49 live trip flares; live rocket fuzes; live smoke grenade fuze; M23 rifle grenade flare; M9A1 rifle grenade HE; M17A1 and M19 rifle grenade illumination; M2 hand grenade; M9A1 rifle grenade; M18 smoke grenades; M8HC smoke grenade; 37mm projectile HE; 37mm projectile LE; M3 firing device; primer cartridge case; 40mm grenade fuzes. MD recovered on the Property: 3" Stokes mortars, 3" Stokes mortar booster, 2.36" rockets, 60mm mortar illumination, 60mm mortar M50, 60mm mortar M69, used slap flare, expended smoke grenade fuze, practice hand grenade, smoke rifle grenade, smoke hand grenade, bounding mine, practice mine, 37mm APT, 81mm practice mortar, 105mm smoke canister, 2.36" rocket fuze	World War II through 1960s	The majority of OES 2 is being transferred for the Eastern Bypass right-of-way. According to the Archives Search Report six conventional munitions ranges were found to intersect with the OES 2 area. Live-fire training and impact areas are located in OES 2. Three munitions responses were conducted in OES2. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted as an interim action taken to allow tree harvesting. A total of 1,046 MEC (UXO) and 38,630 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. See removal report (EODT, 2001). A second munitions response for removal of MEC to depth was conducted from April 2001 to April 2003, with the exception of 48 grids that contained large amounts of construction debris used as fill to construct a road in the 1950s. During this response, 668 MEC and 4,601 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. This munitions response included a mechanical removal to depth in several areas that were heavily contaminated with MEC and metallic debris. This process recovered 486 MEC and 19,000 pounds of munitions debris. MEC were detonated in place and munitions debris was removed. See removal report (FWENC, 2006). The third munitions response was performed after ALDOT finalized the design for the Eastern Bypass. From June to August 2005, the Army performed a removal to depth on the construction debris area that would not receive at least 4 feet of fill deposited above the existing construction debris during bypass construction. In this response, no MEC was discovered and nine munitions debris items were recovered and removed. See removal report addendum (TetraTech EC, Inc., 2006). There remain 30 full or partial grids (Construction Debris Grids) where removal of MEC was not performed. Prior to future excavation activities in these Construction Debris Grids, on-site construction support and removal of MEC to depth will be provided, as required. For the entire OES 2 area, the following conditions apply. Construction support as described in the deed notice will be provided, as required. Reasonable and prudent precautions are to be taken when conducting excavation activities because of potential residual MEC that may pose an explosive hazard. Prior to excavation activities, workers and construction personnel shall be advised of the military's use of the Property for live-fire and other training and of the potential for MEC to remain and shall be provided munitions familiarization training. (See Statement of Clearance dated December 2007.)

Table 2

**Notification of Munitions and Explosives of Concern (MEC*)
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Alabama**

Site	Type of MEC and/or Munitions Debris	Date of MEC Activity	Munitions Response Actions
M1.01 Parcel and M3 Misc Property	Munitions Debris recovered on the Property: 2.36" practice rockets, M17A1 illumination signals, M11A3 practice rifle grenades, M125 series illumination flare, 60mm practice mortar, M22/23 practice rifle grenade, smoke bomblet	Prior to the late 1940s	A portion of the M1.01 Parcel and the M3 Miscellaneous Property is being transferred for the Eastern Bypass right-of-way. According to the Archives Search Report undocumented conventional munitions training ranges were suspected of being located in the area. From February to July 2002, a munitions response for removal of MEC to a 1-foot depth was conducted. In the part of the M1.01 Parcel and M3 Miscellaneous Property that is on the Property, no MEC was discovered. Approximately 17 munitions debris items were recovered and removed. See removal report (FWENC, 2003). Construction support as described in the deed notice will be provided, as required.
<p>* <u>Munitions and Explosives of Concern (MEC)</u>. This term, which distinguishes specific categories of military munitions that may pose unique explosive safety risks, means: (a) Unexploded Ordnance(UXO), as defined in 10 §101(e)(5); (b) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (c) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.</p>			

ENCLOSURE 9

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be attached, in substantially similar form, as an exhibit to the deed and be incorporated therein by reference in order to ensure protection of human health and the environment.

LAND USE RESTRICTIONS

A. The United States Department of the Army has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of the Property that would violate the land use restrictions contained herein. These land use restrictions are documented in a Land Use Control Implementation Plan (LUCIP) that was provided to the Grantee. A Land Use Control Assurance Plan (LUCAP) memorandum of agreement entered into by the Army, EPA Region 4, and the JPA on December 12, 2000, required LUCIPs at sites where land use controls were instituted.

(1) **Restrictions on Excavation Activities.** The Grantee, its successors and assigns, shall not conduct or permit others to conduct any excavation activities (i.e., digging, drilling, or any other excavation or disturbance of the land surface or subsurface) in the Construction Debris Grids of the ordnance and explosives site (OES) 2 area where construction debris was not removed and removal of munitions and explosives of concern (MEC) was not performed. On-site construction support and removal of MEC to depth will be provided prior to construction activity in the Construction Debris Grids, as required. Additionally, the Grantee, its successors and assigns, shall ensure that prior to conducting any excavation activities throughout OES 2, workers and construction personnel will be advised of the military's use of the Property for live-fire and other training and of the potential for MEC to remain and will be provided munitions familiarization training. This training shall be documented. This training shall include education of workers on the explosive hazards associated with MEC that may be present, particularly Unexploded Ordnance (UXO), and the actions they should take (Recognize, Retreat, Report) should they encounter MEC. Site access shall be granted only to those persons who have viewed the UXO safety video titled "Fort McClellan Community Outreach Program, UXO Awareness". Warning signs around the boundary of the OES 2 area shall be maintained. Maps depicting the location of OES 2 and the Construction Debris Grids where MEC was not removed below the debris field are provided in Exhibit XXX. These maps are included in the LUCIP.

(2) **Residential Use Restriction.** The Grantee, its successors and assigns, shall use the Property impacted by portions of the Iron Mountain Road Ranges (Parcels 69Q, 70Q, and 71Q) solely for commercial or industrial activities and not for residential purposes. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12. Maps depicting the location of the areas with a residential use restriction are provided in Exhibit XXX. These maps are also included in the LUCIP.

B. Modifying Restrictions. Nothing contained herein shall preclude the Grantee, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, Grantee shall consult with and obtain the approval of the Grantor, and, as appropriate, the State or Federal regulators, or the local authorities. Upon the Grantee's obtaining the approval of the Grantor and, as appropriate, State or Federal regulators, or local authorities, the Grantor agrees to record an amendment hereto. This recordation shall be the responsibility of the Grantee and at no additional cost to the Grantor.

C. Submissions. The Grantee, its successors and assigns, shall submit any requests for modifications to the above restrictions to Grantor and to ADEM and EPA regulators, by first class mail, postage prepaid, addressed as follows:

a. Grantor

U.S. Army Transition Force
291 Jimmy Parks Blvd.
Fort McClellan, AL 36205

b. State Regulators/EPA Region 4

Alabama Department of Environmental Management
Hazardous Waste Branch, Land Division
1400 Coliseum Boulevard
Montgomery, AL 36110-2059

U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-3104

NOTICE OF THE POTENTIAL PRESENCE OF MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. The Grantee is hereby notified that due to former use of the Property as a military installation, the Property may contain MEC. The term MEC means specific categories of military munitions that may pose unique explosive safety risks and includes: (1) unexploded ordnance (UXO), as defined in U.S.C. 10 §101(e)(5); (2) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (3) munitions constituents (e.g., trinitrotoluene [TNT] and cyclotrimethylenetrinitramine [RDX]), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

B. The Property was previously used for live-fire and other training that resulted in the presence of MEC. The munitions response sites (MRSs) on the Property consist of three distinct areas: (1) a part of OES 1, (2) a majority of OES 2, and (3) a part of M1.01 Parcel/M3 Miscellaneous Property.

- OES 1. This MRS was used for military training with conventional munitions. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted. A part of this MRS is located on the Property. In the part of OES 1 that is on the Property, no MEC were discovered. Approximately 18 munitions debris items (munitions debris poses no explosives safety risks) were recovered and removed. The munitions debris included 60mm M69 practice mortars, used slap flares, 2.36" practice rockets, 37mm Armor Piercing Tracer rounds, and practice grenades.
- OES 2. Live-fire training and impact areas are located in OES 2. Three munitions responses were conducted in OES2. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted as an interim action taken to allow tree harvesting. A total of 1,046 MEC (UXO) and 38,630 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. The MEC recovered and destroyed included: 2.36" HE rockets and rocket warheads, 60mm M49 HE mortars, live slap flares, M49 live trip flares, live rocket fuzes, live smoke grenade fuze, M23 rifle grenade flare, M2 hand grenade, M9A1 rifle grenade, M18 smoke grenades, M8HC smoke grenade, 37mm projectile LE, M3 firing device, and a primer cartridge case. The munitions debris items removed included: 3" stokes mortars, 2.36" rockets, 60mm mortar illumination, M50 60mm mortar, M69 60mm mortar, used slap flare, expended

smoke grenade fuze, practice hand grenade, smoke rifle grenade, smoke grenade, bounding mine, practice mine, 37 mm APT, 81 mm practice mortar, 105mm smoke canister, 3" stokes mortar booster, and 2.36" rocket fuzes. A second munitions response for removal of MEC to depth was conducted from April 2001 to April 2003, with the exception of 48 grids that contained large amounts of construction debris used as fill to construct a road in the 1950s. During this response, 668 MEC and 4,601 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. The MEC recovered and destroyed included: 2.36" rockets M6 HE and fuzes, motors, and warheads, 2.36" practice rockets M6 and M7, 37 mm projectile HE, 40mm grenade fuzes, 60 mm mortar M49 HE, 60 mm mortar M83 illumination, 81 mm mortar M43 HE, 3" Stokes mortars fuzed and unfuzed, MKII hand grenade, M18 Hand Grenade smoke, rifle grenade M9A1 HE, and rifle grenade M17A1 and M19 illumination. This munitions response included a mechanical removal to depth in several areas that were heavily contaminated with MEC and metallic debris. This process recovered 486 MEC and 19,000 pounds of munitions debris. MEC were detonated in place and munitions debris was removed. The MEC included 2.36" M6 rockets, warheads, fuzes, motors, one 60 mm mortar HE, 3" stokes mortars fuzed and unfuzed, 105 mm smoke, hand grenades smoke. The third munitions response was performed after ALDOT finalized the design for the Eastern Bypass. From June to August 2005, the Army performed a removal to depth on the construction debris area that would not receive at least 4 feet of fill deposited above the existing construction debris during bypass construction. In this response, no MEC was discovered and nine munitions debris items were recovered and removed. There remain 30 full or partial grids (Construction Debris Grids) where removal of MEC was not performed. Prior to future excavation activities in these Construction Debris Grids, on-site construction support and removal of MEC to depth will be provided, as required. For the entire OES 2 area, the following conditions apply. Construction support as described in Paragraph C of this Deed Notice will be provided, as required. Reasonable and prudent precautions are to be taken when conducting excavation activities because of potential residual MEC that may pose an explosive hazard. Prior to excavation activities, workers and construction personnel shall be advised of the military's use of the Property for live-fire and other training and of the potential for MEC to remain. Additionally, they will be provided munitions familiarization training prior to conducting excavation activities. This training shall include viewing the UXO Safety video titled "Fort McClellan Outreach Community Program, UXO Awareness." This training shall be documented.

- M1.01 Parcel/M3 Miscellaneous Property. This MRS was used for military training with conventional munitions. From February to July 2002, a munitions response for removal of MEC to a 1-foot depth was conducted. A small part of this MRS is located on the Property. In the part of this MRS that is on the Property, no MEC was discovered. Approximately 17 munitions debris items were recovered and removed. Munitions debris recovered included: 2.36” practice rockets, M17A1 illumination signals, M11A3 practice rifle grenades, M125 series illumination flare, 60mm practice mortar, M22/23 practice rifle grenade, and smoke bomblets. For the M1.01 Parcel/M3 Miscellaneous Property, the following condition applies. Construction support as described in Paragraph C of this Deed Notice will be provided, as required by ADEM.

A summary of MEC discovered on the Property is provided in Exhibit XXX. A map depicting the location of munitions response sites is provided in Exhibit XXX.

C. The Grantor represents that, to the best of its knowledge, the area was cleared of all MEC reasonably possible to detect with the exception of 30 full or partial Construction Debris Grids. The parties acknowledge there is a possibility that MEC may exist on the Property. The Grantee agrees to abide by the land use restrictions included in the Environmental Protection Provisions and further described in the Land Use Control Implementation Plan. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the Local Police Department so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

D. Easement and Access Rights.

(1) The Grantor reserves a perpetual and assignable right of access on, over, and through the Property, to access and enter upon the Property in any case in which a munitions response action is found to be necessary or such access and entrance is necessary to carry out a munitions response action on adjoining property. Such easement and right of access includes, without limitation, the right to perform any additional investigation, sampling, testing, test-pitting, surface and subsurface clearance operations, or any other munitions response actions necessary for the United States to meet its responsibilities under applicable

laws and as provided for in this Deed. This right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.

(2) In exercising this easement and right of access, the Grantor shall give the Grantee or the then record owner, reasonable notice of the intent to enter on the Property, except in emergency situations. Grantor shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the Grantee's and Grantee's successors' and assigns' quiet enjoyment of the Property. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

(3) In exercising this easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this Paragraph. In addition, the Grantee, its successors and assigns, shall not interfere with any munitions response action conducted by the Grantor on the Property.

E. The Grantee acknowledges receipt of the:

- Final Report for the Ordnance and Explosives Surface Clearance For Construction Support Proposed Eastern Bypass dated October 2001
- Site Specific Final Report Eastern Bypass OE Removal dated April 2006,
- Final Site Specific Final Report Addendum Construction Debris Removal Area of the Eastern Bypass dated May 2006,
- Site Specific Final Report M1.01 Parcel and M3 Miscellaneous Property dated March 2003;
- Final Letter Report Site Characterization M1.01 Parcel and M3 Miscellaneous Properties dated November 2006,
- Statement of Clearance for OES 1 dated May 2002,
- Statement of Clearance for OES 2 dated December 2007,
- Statement of Clearance for M1.01 Parcel/M3 Miscellaneous Property dated April 2003;

- Land Use Control Implementation Plan for OES 2 included as an attachment to the LUCAP in Enclosure 13 of the FOST.

NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing material “ACM” has been found on the Property. The Property may also contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain friable and non-friable asbestos or ACM. The Occupational Safety and Health Administration and the Environmental Protection Agency (EPA) have determined that unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

B. Buildings 3131 and 3139 on the Property have been determined to contain friable asbestos. The Grantee agrees to undertake any and all asbestos abatement or remediation in the aforementioned buildings that may be required under any law or regulation at no expense to the Grantor. The Grantor has agreed to transfer said buildings to the Grantee, prior to remediation or abatement of asbestos hazards, in reliance upon the Grantee’s express representation and covenant to perform the required asbestos abatement or remediation of these buildings.

C. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The Grantee agrees to be responsible for any future remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

D. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or ACM hazards or concerns.

NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSES:

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 (LBP). 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.

B. 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, as defined under 24 Code of Federal Regulations Part 35, 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 U.S. 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).

C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazard or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any lead-based paint hazards or concerns.

NOTICE OF THE PRESENCE OF ENDANGERED SPECIES AND COVENANT

1. Gray bats (*Myotis grisescens*) are known to forage near Yahou Lake and are known to roost in caves and under bridges in the vicinity. Areas within the Property that are adjacent to Yahou Lake have been identified as suitable gray bat foraging habitat. Gray bats are listed as endangered by the U.S. Fish and Wildlife Service (FWS) and are afforded Federal protection under the Endangered Species Act (ESA) of 1973, as amended. Section 9 of the ESA prohibits private landowners from "taking" (harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) endangered species.

2. The following measures will limit potential take of gray bats on the Property. Failure to follow these measures could subject the violator to criminal sanctions of the ESA:

- a) Gray bats are known to use man-made structures in the vicinity of the Property. Prior to removing or altering the structure of a bridge, abandoned

buildings, or cistern, the structure should be checked for the presence of gray bats. The FWS will be contacted if bats are found to be present.

- b) Trees along Yahou Lake with moderate quality foraging habitat on the Property provide protective cover and prey for foraging gray bats. Forest within 50 feet of this lake should not be removed. If removal of dead or live trees within 50 feet of this lake is necessary, the FWS should be consulted prior to cutting.
- c) Gray bats primarily feed on insects with an aquatic life stage; therefore, water quality and the physical characteristics of the lake affect the amount and types of insects available for these bats. State and Federal regulations pertaining to water quality and erosion control should be followed. Additionally, modification of the lake banks and water flow should be avoided to maintain present water quality and physical structure.
- d) Use of pesticides, particularly Malathion, should be managed according to a FWS consultation letter dated June 11, 1998. The Grantee should avoid (or eliminate or minimize) fogging in the vicinity of all moderate quality foraging habitat. FWS requested that if Malathion is used it should be sprayed only during daylight hours no earlier than one hour after sunrise and no later than one hour prior to sunset between March 15 and October 31. Use atmospheric conditions to determine appropriate timing for fogging on lands directly adjacent to foraging areas. See the Biological Assessment Report (3D/International, Inc., 1998) for additional information.

ENCLOSURE 10

**CERCLA NOTICE, COVENANT, AND ACCESS PROVISIONS
AND OTHER DEED PROVISIONS**

The following CERCLA Notice, Covenant, and Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at Fort McClellan.

1. CERCLA NOTICE

For the Property, the Grantor provides the following notice, description, and covenant:

Pursuant to section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (42 U. S. C. §9620(h)(3)(A)(i)), and to the extent such information is available on the basis of a complete search of Department of the Army files, notice is hereby provided that no hazardous substance is known to have been stored for one year or more, or to have been released or disposed of on the Property in excess of reportable quantities as provided in 40 C.F.R. Part 373. Additional information regarding the Property has been provided to the Grantee, receipt of which the Grantee hereby acknowledges.

2. CERCLA COVENANT

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(ii) and (B)) the United States warrants that:

A. All remedial action necessary to protect human health and the environment with respect to any hazardous substances pursuant to section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken, as necessary, before the date of this Deed, and

B. Any additional remedial action found to be necessary after the date of this Deed shall be conducted by the United States.

This warranty shall not apply in any case in which the person or entity to whom the Property is transferred is a potentially responsible party with respect to such property. For purposes of this warranty, Grantee shall not be considered a potentially responsible party solely due to a

hazardous substance remaining on the Property on the date of this instrument, provided that Grantee has not caused or contributed to a release of such hazardous substance.

3. RIGHT OF ACCESS

A. Pursuant to section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. §[9620(h)(3)(A)(iii)], the United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which an environmental response action or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.

B. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this covenant, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means, but without significant additional costs to the United States, to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

C. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this covenant. In

addition, the Grantee, its successors and assigns, shall not interfere with any response action or corrective action conducted by the Grantor on the Property.

4. “AS IS”

A. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. The Grantee understands and agrees that the Property and any part thereof is offered “AS IS” without any representation, warranty, or guaranty by the Grantor as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.

B. No warranties, either express or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.

C. Nothing in this “As Is” provision will be constructed to modify or negate the Grantor’s obligation under the CERCLA Covenant or any other statutory obligations.

5. HOLD HARMLESS

A. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of conveyance.

B. The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the

NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

C. Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

6. POST-TRANSFER DISCOVERY OF CONTAMINATION

A. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of conveyance, Grantee, its successors or assigns, shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor's activities, use, or ownership of the Property. If the Grantee, its successors or assigns believe the discovered hazardous substance is due to Grantor's activities, use or ownership of the Property, Grantee will immediately secure the site and notify the Grantor of the existence of the hazardous substances, and Grantee will not further disturb such hazardous substances without the written permission of the Grantor.

B. Grantee, its successors and assigns, as consideration for the conveyance of the Property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

7. ENVIRONMENTAL PROTECTION PROVISIONS

The Environmental Protection Provisions are at Exhibit XXX, which is attached hereto and made a part hereof. The Grantee shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

ENCLOSURE 11

Table 3

**Notification of Petroleum Product Storage, Release or Disposal
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Calhoun County, Alabama**

(Page 1 of 2)

Facility No.	Parcel No.	Name of Petroleum Product	Date of Storage, Release, or Disposal	Remedial Actions
3139 D	27(3)	Diesel	One 10,000-gallon underground storage tank was installed in 1986.	The UST is in place but is empty. There is no evidence of petroleum releases from this site. See site investigation report (IT, 2001a) and decision document (IT, 2001b) for additional information. ADEM concurred that no further action was necessary in a letter dated March 16, 2001; EPA concurred in a letter dated May 8, 2001. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.
3131F	54(3)	Heating Oil	One 20,000-gallon underground storage tank was installed in 1980 and removed in 1996.	In 1996, the UST was removed. In 1999, a UST closure assessment was conducted. UST closure assessment results indicated evidence of petroleum product release at this site; however, there are no petroleum product constituents associated with the site that present an unacceptable risk to either human health or the environment. See the closure assessment report (IT, 2001c) and the decision document (IT, 2001d) for additional information. ADEM concurred that no further action was necessary in a letter dated February 20, 2001; EPA concurred in a letter dated September 29, 2000. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.
3161F	55(3)	Heating Oil	One 1,000-gallon underground storage tank was installed in 1980 and removed in 1996.	In 1996, the UST was removed. During tank removal, the tank appeared to be in good condition. Evidence of contamination was not observed. In 1999, a UST closure assessment was conducted. UST closure assessment results indicated evidence of petroleum product release at this site; however, there are no petroleum product constituents associated with the site that present an unacceptable risk to either human health or the environment. See the closure assessment report (IT, 2001c) and the decision document (IT, 2001d) for additional information. ADEM concurred that no further action was necessary in a letter dated February 20, 2001; EPA concurred in a letter dated September 29, 2000. The decision document indicating that no further action is required was signed by the Army on May 17, 2001.

Table 3

**Notification of Petroleum Product Storage, Release or Disposal
Eastern Bypass-Eastern Portion of Tract No. 3 Transfer
Fort McClellan, Calhoun County, Alabama**

(Page 2 of 2)

Facility No.	Parcel No.	Name of Petroleum Product	Date of Storage, Release, or Disposal	Remedial Actions
Range 13	176(3)	Heating Oil	One 500-gallon aboveground storage tank was installed in 1986 and was removed following closure of the fort in 1999.	The AST was removed following closure of FMC in 1999. A petroleum product release occurred at this site. In 2005, a site investigation was conducted. Site investigation results indicated that there are no petroleum product constituents associated with the site that present an unacceptable risk to either human health or the environment. See the letter report (Shaw, 2005a) and decision document (Shaw 2006a) for additional information. It should be noted that this parcel is located within the boundary of Parcel 71Q for which a deed restriction prohibiting residential use applies. ADEM concurred that no further action for industrial reuse was necessary in a letter dated September 13, 2005; EPA concurred in a letter dated October 12, 2006. The decision document requiring a restriction prohibiting residential use was signed by the Army on June 14, 2006.

ENCLOSURE 12

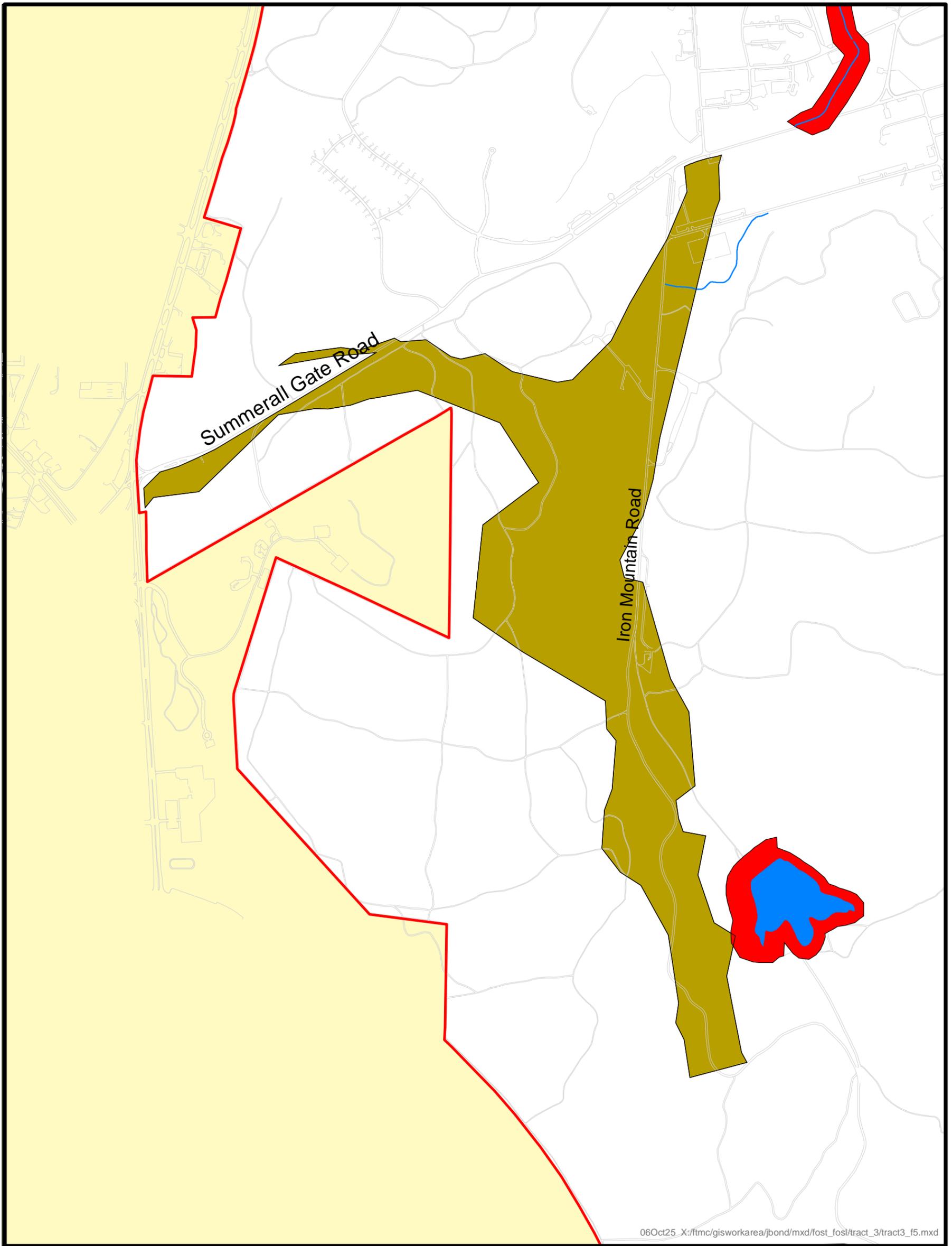


Figure 5

Finding of Suitability to Transfer
Endangered Species

Eastern Bypass - Eastern Portion of Tract No.3

-  Main Post Boundary
-  Roads
-  Stream
-  Moderate Quality Gray Bat Foraging Habitat
-  Lake
-  Property to be Transferred
-  Off Post

0 500 1,000 2,000 Feet

NAD83 State Plane Coordinates

June 2006



US Army Corps of Engineers
Mobile District
Fort McClellan
Calhoun County, Alabama
Contract No. DACA21-96-D-0018

Fort McClellan



Environmental Office

ENCLOSURE 13

**MEMORANDUM OF AGREEMENT
AMONG
U.S. ENVIRONMENTAL PROTECTION AGENCY
THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
THE
U.S. DEPARTMENT OF THE ARMY
FOR FORT MCCLELLAN
AND THE
ANNISTON-CALHOUN COUNTY FORT MCCLELLAN DEVELOPMENT
JOINT POWERS AUTHORITY**

THIS AGREEMENT, constituting the Land Use Control Assurance Plan (LUCAP) for Fort McClellan, is entered into this 12th day of December 2000, among the U.S. Environmental Protection Agency (U.S. EPA), the Alabama Department of Environmental Management (ADEM), the U.S. Department of the Army (Army) on behalf of Fort McClellan, Alabama, (FMC or Installation) and the U.S. Army Training and Doctrine Command (TRADOC), and the Joint Powers Authority (JPA), also referred to herein as "the Parties", for the specific purposes hereinafter set forth.

I. BACKGROUND

Fort McClellan was closed on September 30, 1999, in accordance with the 1995 Defense Base Closure and Realignment Commission recommendation, made in conformance with the provisions of the Defense Base Closure and Realignment Act of 1990, Public Law 101-510 as amended (PL 101-510) (BRAC). The Army is disposing of excess and surplus property at FMC resulting from implementing the BRAC 1995 decision to close FMC. The Army is required under applicable law, regulation, and policy to dispose of excess and surplus property where feasible.

FMC consists of two main areas of government-owned land, the Main Post (approximately 18,929 acres, including 12,000 acres of undeveloped mountains) and Pelham Range (approximately 22,245 acres). Pelham Range and

approximately 324 acres of Main Post will remain Army property for use by reserve components. The FMC disposal area comprises approximately 18,605 acres (18,929 total Main Post acres less 324 acres to be retained for the reserve enclave). This includes areas that will be transferred to other federal agencies for their use. In addition, FMC leased approximately 4,500 acres of land, known as the Choccolocco Corridor, from the State of Alabama for training; and although the land has been returned to the State there are unresolved issues with regard to this property that will be examined further by the Army and ADEM.

A consequence of the Army's disposal action is an opportunity for the community to obtain property for reuse at the former installation. The Army is neither responsible for nor does it control reuse of the property, although as a matter of policy the Army will attempt to dispose of the surplus property consistent with the reuse plan. Reuse planning was the responsibility of the Fort McClellan Development Commission; and the Anniston-Calhoun County Fort McClellan Development Joint Powers Authority (JPA), a successor organization, has adopted and is executing the final reuse plan.

The Army will maintain and provide security for FMC excess property while it remains in caretaker status prior to disposal. In addition, the Army is committed to the environmental cleanup of FMC as required under applicable laws and regulations. The Army may grant renewable leases, permits, and licenses, where appropriate, to permit interim use of real property at FMC prior to disposal. The Parties agree that the documentation, in a LUCAP, of land use controls (LUCs) developed to support these efforts will facilitate communication and is integral to the effectiveness of LUCs needed to protect human health and the environment.

Environmental restoration activities at FMC will focus on mitigating identified hazardous contamination caused by past training and waste disposal practices. Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements, additional environmental site investigations and remediation are ongoing. Site remedy determinations take land use into

account in order to facilitate the use of risk-based cleanup criteria and/or to prevent unacceptable risk in the case of long-term remediation. When complete, the remedial investigations/feasibility studies (RI/FSs) and/or engineering evaluation/cost analyses (EE/CAs) conducted under CERCLA may result in the use of LUCs as part of the selected remedy. However, some LUCs may be established prior to or during the investigation process (e.g., site access controls, restrictions on contaminated media) that are deemed to be necessary to ensure protection of human health and the environment prior to remedy selection. All LUCs will be documented in accordance with the terms of this LUCAP.

The Army may transfer or convey property in an encumbered status to ensure protection of human health and the environment, to protect the interests of the United States, and to facilitate community reuse of the surplus property. Appropriate encumbrances will be determined on a site-specific basis and may be imposed prior to the selection of a CERCLA remedy. Army policy, in accordance with basic principles of real estate law, is to transfer properties with as few encumbrances as possible. Moreover, if feasible and consistent with applicable law, regulation, and policy, the Army intends to dispose of the surplus property consistent with the community's reuse plan developed by the local reuse authority. Transfer or conveyance will occur in phases as property is determined to be environmentally suitable for transfer.

Prior to any real property transfer involving potential unexploded ordnance (UXO) or chemical warfare materiel (CWM), an explosive safety submission must be reviewed by the Department of Defense Explosive Safety Board (DDESB) as required by Department of Defense (DOD) 6055.9 Standard (DOD Ammunition and Explosive Safety Standards), Army Regulation (AR) 385-64 (U.S. Army Explosives Safety Program), Army Pamphlet (DA Pam) 385-64 (Ammunition and Explosives Safety Standards), and Headquarters Department of the Army (HQDA) Letter 385-98-1 (Subject: Explosives Safety Policy for Real Property Containing Conventional Ordnance and Explosives). DDESB approval of explosive safety submissions is required for all UXO or CWM response actions specifically undertaken to prepare a property for

transfer. DDESB does not review the completed project, but an after action report must be filed with DDESB. Due to the phased approach of property disposal, specific UXO investigations and removal actions will be accomplished over a period of several years based on relevant factors including - but not limited to - public safety, planned community priorities, complexity of proposed removal actions, removal technology, funding availability/costs, and environmental impacts. Transfer documents will include UXO notice and restrictions as determined appropriate. In addition, LUCs established to restrict site access and otherwise enhance public safety will be documented in Appendices to this Agreement.

II. PURPOSE

The Purpose of this LUCAP is to:

- a. Implement procedures to ensure the long-term effectiveness and viability of LUCs to protect human health and the environment.
- b. Raise the visibility of LUCs for Parties, property owners and operators, local authorities, and the public in order to minimize the possibility of inadvertent violations of LUCs and to provide a process for information exchange.
- c. Ensure that risk assumptions and land use assumptions upon which LUCs are based remain valid as long as the LUCs are relied upon to protect human health and the environment.
- d. Develop a system of redundant or layered LUCs.

III. SCOPE

Environmental investigative activities being undertaken on sites at Fort McClellan have revealed and may in the future reveal contamination. These sites include, without limitation, those where CERCLA hazardous substances and

pollutants or contaminants, and/or Resource Conservation and Recovery Act (RCRA) hazardous wastes or hazardous constituents, and/or petroleum products or derivatives were or may have been released into the environment as a result of activities conducted over the history of the Installation. The Parties intend to follow the National Contingency Plan (NCP) and other applicable laws in addressing these sites.

Some of these sites are suspected or known to contain ordnance and explosives (OE) [unexploded ordnance (UXO) is a subset of OE], and/or biological simulants/chemical warfare materiel (CWM)/radiological materials. At these OE sites, the Parties intend to follow a process consistent with CERCLA, including the use of removal actions, remedial actions, or a combination of the two, per the NCP. Site-specific data is necessary to determine the actual depth of clearance. In the absence of site-specific data, the DDESB table of assessment depths (DoD 6055.9-STD, Chapter 12) will be used for interim planning purposes until the required site-specific information is developed. It is expected that this site-specific information will be acquired and incorporated into the response process as it becomes available.

As a general rule, the Parties agree that sites not meeting residential reuse requirements will employ appropriate LUCs to protect human health and the environment. A map depicting real property included within the scope of this agreement is attached as Enclosure 1 to this LUCAP. Sites may generally be categorized as follows:

- a. Those that have been fully investigated and for which site-specific remedy(ies) have been previously implemented;
 - b. Those that have been fully investigated and for which site-specific remedy(ies) have been selected but have not yet been implemented or completed;
 - c. Those that have been fully investigated but for which final remedy selection decisions have not yet been made;
- and

d. Those that are in need of initial or further site investigative activities before the appropriate final remedy(ies) can be selected and implemented.

IV. DEFINITIONS

a. As used herein, the term "land use control" or "LUC" includes any restriction or control arising from the need to protect human health and the environment that limits the use of and/or exposure to, environmentally contaminated media (e.g., soils, surface water, groundwater, air) or areas containing OE at any site at Fort McClellan. The term includes controls on access [e.g., both engineered and non-engineered mechanisms (such as fences and security guards, respectively)], and non-engineered mechanisms for ensuring compliance with necessary land use limitations (e.g., public advisories, legal restrictions on land or water usage). Additionally, the term encompasses both affirmative measures to achieve the desired control (e.g., night lighting of an area) and prohibitive directives (e.g., no drilling of drinking water wells). "Institutional controls" (ICs) and "engineering controls" (ECs) are subsets of LUCs and are further discussed in subparagraph d) below.

b. As used herein, the term "Land Use Control Assurance Plan" or "LUCAP" means the plan through which the effectiveness of LUCs at FMC are assured. The LUCAP establishes a process for maintaining, inspecting, and/or enforcing LUCs at FMC.

c. As used herein, the term "Land Use Control Implementation Plan" or "LUCIP" means the plan through which LUCs for a specific FMC site are implemented. The LUCIP will identify and describe each LUC placed on the site and include specific methods for ensuring that the effectiveness of each LUC is maintained. The plan for implementing ECs and ICs will be documented in the decision document, as appropriate, and will also be included in a LUCIP for the site. In some instances, Interim LUCIPs may be established before the remedy selection process is complete.

d. As used herein and as discussed in the Preamble to the NCP, "engineering controls" (ECs) are controls such as containment that prevent exposure to hazardous substances and pollutants or contaminants. As used herein, "institutional controls" (ICs), are controls that limit human activities at or near facilities. Both ECs and ICs may be used to protect human health and environment thus assuring continued effectiveness of a response action and may be identified as a remedy, or part of a remedy, selected at the conclusion of a CERCLA investigation and documented in a Record of Decision (ROD) or other decision document.

e. As used herein, the term "decision document" includes, but is not limited to: CERCLA Records of Decision (RODs), Action Memoranda (AMs), RCRA Statements of Basis/Notices of Decision. These decision documents will be used as the basis for final LUCs.

f. As used herein, a "source document" is a document which describes the environmental condition of the property, and which may be used to make interim LUC decisions and/or reduce risk. Source documents include, but are not limited to: Environmental Baseline Survey (EBS), Archive Search Report (ASR), Preliminary Assessment (PA), Site Investigation Report (SI), Remedial Investigation (RI), Engineering Evaluation/Cost Assessment (EE/CA), Finding of Suitability to Transfer (FOST), Finding of Suitability to Lease (FOSL), Finding of Suitability for Early Transfer (FOSET), and Environmental Conditions of Property (ECOP).

V. DEVELOPMENT OF LUCIPs

a. Basic Guidance:

1. A LUCIP, either Interim or Final, will be prepared for those sites where LUCs are necessary to be protective of human health and the environment. LUCIPs will be prepared consistent with source or decision documents for any site at which LUCs will be employed. Final LUCIPs must

effectively implement LUCs specified in a Final ROD or other decision document for the selected remedy.

2. LUCIPs will be prepared by the Army, in consultation with the JPA and other third parties, as appropriate. The Army will work with the future transferee in preparing a LUCIP for a particular site.

3. Regulatory agencies who are Parties to this LUCAP will be afforded an opportunity to review and comment on each proposed LUCIP. Regulatory agencies may or may not concur in the LUCIP developed to implement LUCs at specific sites.

b. The following principles will be used to guide the development of LUCIPs:

1. The NCP states the guiding principle that, consistent with CERCLA, active treatment remains the preferred method of attaining protectiveness, to the degree possible. In addition, the NCP establishes that the lead agency remains responsible for its remedies.

2. Understanding that reuse decisions are often time sensitive, all Parties must be sensitive to the need for expeditious processing. All Parties also recognize that for the initial group of pre-transfer interim LUCIPs the processing goals established in Section VI, Implementation, will be more difficult to achieve; but all Parties are committed to meeting these goals for LUCIPs associated with actual property transfers.

3. Development of the LUCIP will facilitate the application of Federal and/or State risk-based cleanup criteria to site cleanups, and/or prevent unacceptable exposure in the case of long-term remediation, where appropriate, through consideration of reasonably anticipated future land use at those sites where LUCs will be necessary.

4. Controls will be no more burdensome than necessary.

5. The JPA and local community will be involved in an open and public process, to include sharing LUCIPs with the Restoration Advisory Board (RAB).

6. The LUCIP will seek to maximize the use of authorities of State and local governments for enforcement. The Army is willing to grant specific real property interests to the State or other local governmental entities to facilitate their ability to enforce certain LUCs.

7. Preparers of the LUCIP will employ layering mechanisms for maintenance and inspection realizing that redundancy should strengthen the viability, visibility, and overall effectiveness of LUCs.

8. For federal-to-federal transfers, the gaining federal agency will be responsible for LUCs unless otherwise negotiated by the Army with the gaining federal agency. This applies only to property that will be used by the federal agency and is not applicable to property that is assigned to a federal agency for further transfer outside the federal government, e.g., public benefit transfers.

c. The following elements will be addressed in LUCIPs:

1. The LUCIP will clearly define the boundaries for the LUC(s) at the site.

2. The LUCIP will identify each LUC objective for the site and will contain a cross-reference to applicable decision or source documents.

3. The LUCIP will specify those actions or particular LUCs required to achieve each identified objective. Each LUCIP shall specify the procedures to implement and maintain the specific LUCs.

4. The Army will retain authority regarding right of entry to ensure that LUCs are being maintained as required under CERCLA and applicable law.

5. The frequency of monitoring and the reporting requirements will be specified in the LUCIP. Where practical, the LUCIP will use future owner/occupant self-policing/reporting. Reports should include:

A. An evaluation of whether the LUC remains effective.

B. In the event of a failure of a LUC, an evaluation of whether the failure will pose an unacceptable risk to human health and the environment or otherwise negatively impact the effectiveness of the remedy.

C. An evaluation of the need for any additional remedial action necessary due to a compromise or violation of the LUC(s).

D. A proposal for any necessary changes to the selected remedial action and identification of procedural requirements (e.g., ROD amendment) for the proposed changes.

E. Any proposed or completed enforcement action.

6. The LUCIP will specify who is responsible for monitoring, maintaining, and enforcing LUCs with the understanding that the Army remains ultimately responsible for its remedies.

7. The LUCIP will identify the enforcement options available in the event that a LUC is violated.

8. The LUCIP will address a means for reducing or removing LUCs.

9. This list of elements is not meant to be exhaustive, and additional information may be included in a LUCIP as deemed necessary on a site-by-site basis.

VI. IMPLEMENTATION AND APPENDICES

a. Each of the Parties will maintain a copy of this Agreement, and the Army is responsible for providing updates as specified herein.

1. A copy of the Agreement and associated comments will be included in the Administrative Record maintained in accordance with the Installation's Community Relations Plan.

2. When a LUCIP establishes a requirement for a non-Party entity to be involved in the layering process employed to maintain the effectiveness of the LUC, the first time that entity receives a LUCIP they will also receive a copy of the LUCAP without appendices A-C.

3. To the extent there is a need for the recipient to be made aware of relevant points of contact, the Army will provide a copy of Appendix D and will update it as appropriate. The Army will not be required to update other sections of the LUCAP for such entities.

b. This Agreement contains four appendices.

1. Appendix A, Land Use Control Site Listing, is a list of all sites covered under the terms of this Agreement. The list will include, for each site, the site name, site description and site location as specified in the decision or source document, and the name and date of such document.

2. Appendix B, Interim Land Use Control Implementation Plans, is a set of copies of all individual pre-transfer or pre-remedy LUCIPs covered under this Agreement. These LUCIPs are living documents subject to refinement as new data becomes available.

3. Appendix C, Final Land Use Control Implementation Plans, is a set of copies of all individual final remedy LUCIPs covered under this Agreement.

4. Appendix D, Agency Points of Contact, is a list of the points of contact (name, address, telephone, FAX, e-mail) for the Army, U.S. EPA, and ADEM.

c. Land Use Control Site Listing - Appendix A

1. Within 30 days after execution of this Agreement, Fort McClellan will deliver a draft Appendix A to U.S. EPA, ADEM, and JPA for review and comment. The draft will be comprised of the information described in paragraph VI.b.1.

2. The regulators and the JPA will have 30 days to provide comments to the draft Appendix A, and the Army should

respond to comments within 14 days before finalizing an initial Appendix A. The regulator comments and the Army's response to those comments will be included in the Administrative Record.

3. Within 14 days after issuance of a ROD or other decision or source document containing LUCs the Army will update Appendix A accordingly to reflect any additions or deletions of sites as may hereafter be determined by the site investigation and remedy selection process. The Army will distribute copies of all updates to all Parties within 14 days after each update.

d. LUCIPs - Appendices B and C

1. Within 90 days after execution of this Agreement, Fort McClellan will begin to deliver Draft Interim LUCIPs on sites listed in the initial Appendix A to U.S. EPA and ADEM for review and comment and/or concurrence consistent with applicable law and regulations. The Parties expect that all of the initial Appendix A Interim LUCIPs will be completed within 270 days after execution of this agreement. Prior to submission to regulatory agencies JPA will have an opportunity to review, comment, and concur (or not concur) with draft LUCIPs affecting property to be transferred to the JPA. The JPA will be afforded 14 days for such reviews, and the Army will submit a response to any comments received and that response should be submitted within 14 days, but will be submitted not later than 30 days. Within 60 days after new sites are added to Appendix A as a result of issuance of a ROD or other source or decision document for that site, the Army will prepare and deliver to those Agencies either a Draft Interim LUCIP or a Draft Final LUCIP (depending on status of remedy selection) for the site(s).

2. Regulatory agencies will be afforded a 30-day review period for LUCIPs, and the Army will respond to comments, and the Army's response should be submitted within 14 days, but will be submitted not later than 30 days. Prior to submission to regulatory agencies, JPA will be afforded an opportunity to review, comment, and concur (or not concur) on LUCIPs affecting property to be transferred to the JPA. The JPA will be afforded 14 days for such reviews, and the Army will submit a response to any comments received and that response should be submitted within 14 days, but will be submitted not later than 30 days.

3. LUCIPs will be added to or deleted from either Appendix B or C as appropriate. LUCIPs, whether Interim or Final, will be updated by the Army to reflect any additions to or deletions of or modifications to LUCs. As a result of the remedy selection process an Interim LUCIP may be updated to a Final LUCIP in which case it would be deleted from Appendix B and moved into Appendix C, or if the remedy selection process concludes that no LUCs are necessary, the site may be annotated in Appendix A as a site where LUCs have been removed. The Army will distribute copies of all updates to all Parties within 14 days after each update.

e. Agency Points of Contact -Appendix D

1. EPA, ADEM, JPA and Army points of contact will be attached to this Agreement within 30 days after execution of this Agreement.

2. Contacts will be verified on an annual basis and updated by the Army when the annual LUC status report is distributed as specified in subparagraph VII.c. Updates will be distributed to the Parties and to any non-Parties requiring an updated copy.

VII. SITE INSPECTION / REVIEW / MONITORING

a. LUCIPs will specify the requirements for monitoring and maintenance of LUCs to include frequency of inspections. The Installation's BRAC Environmental Coordinator (BEC), unless otherwise specified in the LUCIP, will be responsible for ensuring that all required inspections and reviews are performed. The Army will notify U.S. EPA and ADEM in a timely manner after deficiencies are noted. The corrective measures taken or planned will be reported consistent with requirements specified in the LUCIP.

b. The Parties agree that in furtherance of the ICs and/or ECs selected in RODs or other CERCLA decision documents, a minimum five year review must be conducted to determine whether those ICs and ECs remain properly implemented and effective for as long as the ICs and ECs are being relied

upon to protect human health and the environment or manage risk.

c. In addition, the Army agrees to compile an annual report reflecting the status of all LUCs. In March of each year the Army will provide copies of its annual report to U.S. EPA, ADEM, and the JPA. Initially the annual report will be signed by the Army official responsible for LUCAP oversight, either the Installation Commander, Site Manager, or equivalent next higher Command Level Official, as designated in Appendix D. The Army may delegate the responsibility to prepare and submit this report to a third party, recognizing that the Army remains ultimately responsible for providing a status report that accurately demonstrates whether the remedies remain effective.

VIII. FUTURE COMMUNICATIONS

Within 30 days of execution of this Agreement, each Party shall notify the other Parties of the name(s), address(es), telephone number(s), electronic mail address(es), and facsimile number(s) of its representative(s) who shall receive all correspondence and communications on behalf of that Party pertaining to all matters falling under the terms of this Agreement. A listing of such representatives shall be attached hereto as Appendix D and updated by the Parties as appropriate.

IX. ANTI-DEFICIENCY ACT AND FUNDING

a. Nothing in this Agreement shall be construed as obligating the Army or U.S. EPA, their officers, employees, or agents to expend any funds in excess of appropriations authorized for such purposes in violation of the federal Anti-Deficiency Act (31 U.S.C. Section 1341).

b. The Army agrees to use its best efforts to obtain all necessary funding through the appropriate authorities or source(s) to assure the continued maintenance of all LUCs covered under this Agreement and, where necessary, the

timely re-implementation of any LUCs and/or completion of site restoration activities necessitated by any violation of or unauthorized change to an implemented LUC. It is not intended by the Parties that this Section be construed in any way to limit the rights reserved under Section XIV of this Agreement.

X. PROPERTY TRANSFERS AND OTHER OUTGRANTS

a. Prior to Army transfer of property outside of the Federal government, the Army will complete a finding of suitability to transfer (FOST) to demonstrate that the requirements of CERCLA 120(h) and other environmental requirements have been met. LUCs implemented to protect human health and the environment, as established in decision documents, will be discussed in the FOST. To further enhance awareness of future property owners, the LUCIPs in place at that time will be attached to the FOST. If Final LUCIPs are not already in place, the proposed LUCIP will be concurrently processed with the FOST.

b. Prior to Army leasing property outside of the Federal government, the Army will complete a finding of suitability to lease (FOSL) to demonstrate that the requirements of CERCLA 120(h) and other environmental requirements have been met. LUCs implemented to protect human health and the environment, as established in decision documents or Interim LUCIPs, will be discussed in the FOSL. To further enhance awareness of future property owners, the LUCIPs in place at that time will be attached to the FOSL and if modified during the term of the lease an updated LUCIP will be provided to the Lessee.

c. Prior to Army early transfer of property outside of the Federal government, the Army will complete a finding of suitability for early transfer (FOSET) to demonstrate that the proposed use of the property is protective of human health and the environment as defined in CERCLA 120(h)(3)(C). The FOSET will address other environmental requirements as appropriate. LUCs implemented to protect human health and the environment, as established in decision documents or Interim LUCIPs, will be discussed in

the FOSET. To further enhance awareness of future property owners, the LUCIPs in place at that time will be attached to the FOSET. If the LUCIP is modified before the deferred CERCLA 120(h) covenant is granted, an updated LUCIP will be provided to the property owner.

d. Prior to Army transfer of property accountability within the Federal government, the Army will complete an environmental condition of property report (ECOP). LUCs implemented by the Army to protect human health and the environment, as established in decision documents or Interim LUCIPs, will be discussed in the ECOP. A Letter of Transfer between the agencies will address future LUC responsibilities. To further enhance awareness of the gaining Federal agency, the LUCIPs in place at the time of transfer of property accountability will be provided to the gaining Federal agency.

XI. CHANGE IN APPLICABLE STANDARDS

Nothing herein should be construed to preclude the Army from proposing at any time or the Parties from agreeing to the deletion of any site from coverage under this Agreement based on either: (1) a change to applicable Federal or State risk-based cleanup standards, or (2) a change in contaminant concentration levels allowing for unrestricted use, e.g., as a result of the effects of man-induced or naturally-occurring bioremediation/attenuation.

XII. SITE ACCESS

a. So long as the Army owns the land, the Army herein agrees to provide U.S. EPA and ADEM representatives, their contractors or consultants access to all sites covered by this LUCAP at all reasonable times consistent with military mission, national security, leases granted by the Army, and health/safety requirements upon presentation of proper credentials. The Installation's BRAC Environmental Coordinator or his/her designee will coordinate access and escort to restricted or controlled-access areas, arrange

for passes, and coordinate any other access requests that arise. U.S. EPA and ADEM representatives shall have the authority to enter and move freely around any site at all reasonable times for purposes including, but not limited to, reviewing the efforts performed by Fort McClellan consistent with the terms of this Agreement, conducting such tests as these agencies may deem necessary, and verifying any information/ data submitted by Fort McClellan personnel. Nothing in this Agreement is intended or shall be construed to limit in any way the right of entry or inspection that either U.S. EPA or ADEM may otherwise have.

b. Following transfer, site access will be coordinated with the new owner/occupant/operator to the extent practicable. To the extent that U.S. EPA and ADEM have independent access authority, nothing in this agreement limits that authority.

XIII. DISPUTES

All Parties agree to use Partnering principles in a good faith effort to resolve any and all disputes that may hereafter arise with regards to the Installation's substantial good faith compliance with the terms of this Agreement or other matters relating to the sites addressed hereunder.

XIV. RESERVATION OF RIGHTS

It is agreed and understood that U.S. EPA and ADEM reserve all rights and authorities each agency may currently have or hereafter acquire to require that the Army comply with federal and state laws and regulations applicable to the investigation, cleanup, and long-term maintenance of sites covered by this Agreement. It is also understood that the Army reserves those rights and authorities granted to the Department of Defense (DoD) by federal law, regulation, or executive order, including any right to put all property under its authority to those uses deemed necessary in its discretion for mission accomplishment or otherwise deemed

necessary by appropriate military authority to meet the needs of the DoD.

XV. DISCLAIMER

This LUCAP does not create legal rights or obligations in any person or entity not a Party hereto.

XVI. AMENDMENT

Any amendments to this Agreement shall be in writing and will be executed by the undersigned signatories or their duly authorized designees or successors and shall be attached to this original Agreement.

XVII. TERMINATION

This Agreement shall terminate at such time as the undersigned representatives of the Parties or their successors mutually concur that the objectives of the Parties have been fulfilled. Alternatively, any Party may withdraw from this Agreement upon sixty (60) days written notice to the other Parties but only after reasonable efforts have first been made by all Parties to resolve the dispute(s) leading to the taking of such action. If any Party decides to withdraw, the Parties shall nonetheless affirmatively seek to resolve any issues that may exist between them.

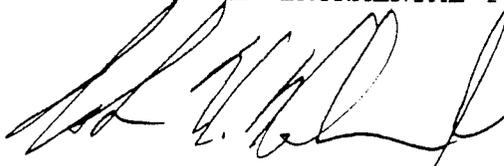
XVIII. REPRESENTATIVE AUTHORITY

Each undersigned representative of the Parties to this Agreement certifies that she or he is fully authorized to bind the Party he or she represents.

XIX. EXECUTION

This Agreement shall become effective on the date the last Party signs.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV



By: JOHN H. HANKINSON JR.
Date: 12/08/00
Title: Regional Administrator

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

FOR THE DEPARTMENT OF THE ARMY

By: RAYMOND J. FATZ
Date:
Title: Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health)

FOR THE ANNISTON-CALHOUN COUNTY FORT MCCLELLAN DEVELOPMENT
JOINT POWERS AUTHORITY

By: ROY HANNER
Date:
Title: President, Board of Directors

XIX. EXECUTION

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FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV

By: JOHN H. HANKINSON JR.
Date:
Title: Regional Administrator

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


By: JAMES W. WARR
Date: 12 Dec 2000
Title: Director

FOR THE DEPARTMENT OF THE ARMY

By: RAYMOND J. FATZ
Date:
Title: Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health)

FOR THE ANNISTON-CALHOUN COUNTY FORT MCCLELLAN DEVELOPMENT
JOINT POWERS AUTHORITY

By: ROY HANNER
Date:
Title: President, Board of Directors

XIX. EXECUTION

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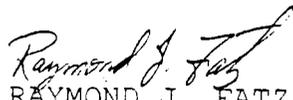
FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV

By: JOHN H. HANKINSON JR.
Date:
Title: Regional Administrator

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

FOR THE DEPARTMENT OF THE ARMY


By: RAYMOND J. FATZ
Date: Feb 2, 2001
Title: Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health)

FOR THE ANNISTON-CALHOUN COUNTY FORT MCCLELLAN DEVELOPMENT
JOINT POWERS AUTHORITY

XIX. EXECUTION

This Agreement shall become effective on the date the last Party signs.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV

By: JOHN H. HANKINSON JR.
Date:
Title: Regional Administrator

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

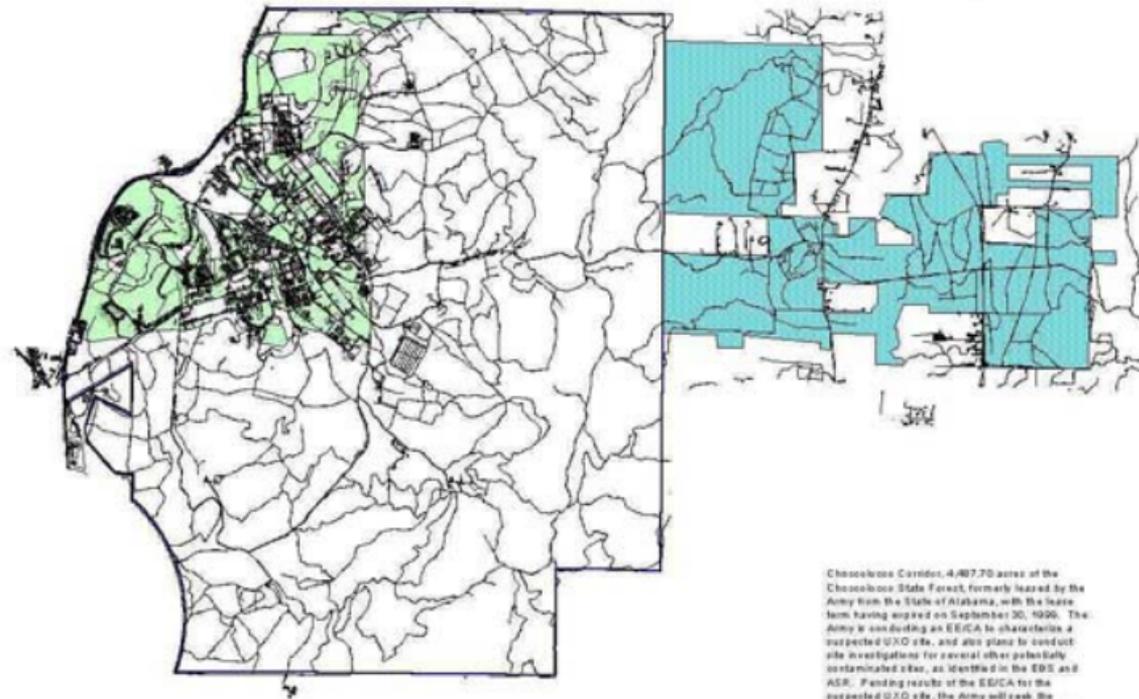
FOR THE DEPARTMENT OF THE ARMY

By: RAYMOND J. FATZ
Date:
Title: Deputy Assistant Secretary of the Army (Environment, Safety,
and Occupational Health)

FOR THE ANNISTON-CALHOUN COUNTY FORT MCCLELLAN DEVELOPMENT JOINT POWERS
AUTHORITY


By: ROY HANNER
Date: 01-9-01
Title: President, Board of Directors

Fort McClellan LUCAP Scope



LEGEND

-  Buildings
-  FMC Boundary
-  Choccolocco Corridor Area
-  CERFA Category 1 property where ECs and ICs are not anticipated.



0 2000 4000 6000 Feet



U.S. Army Garrison
Environmental Office

Choccolocco Corridor, 4,407.70 acres of the Choccolocco State Forest, formerly leased by the Army from the State of Alabama, with the lease term having expired on September 30, 1996. The Army is conducting an EIS/EA to characterize a suspected UXO site, and also plans to conduct site investigations for several other potentially contaminated sites, as identified in the EIS and AER. Pending results of the EIS/EA for the suspected UXO site, the Army will seek the State's permission to impose land use controls (LUCs) (e.g., post signs). Consistent with the terms of this LUCAP agreement, the Army will let the "suspected UXO site" in Appendix A, and will develop an Interim LUCIP to prescribe how LUCs will be managed and monitored until a final decision is reached. The Army will work with regulators to fully characterize all sites within the Choccolocco Corridor, but any further decisions concerning LUCs and who will be responsible for any necessary LUCIPs are reserved for further negotiation between the Army and the State of Alabama.

**Land Use Control Implementation Plan
Ordnance and Explosives Site 2 of the Eastern Bypass
Fort McClellan, Alabama**

1. Background

This Land Use Control Implementation Plan (LUCIP) documents land use controls (LUCs) placed upon the property described herein. The property is encumbered by LUCs as a component of the response actions for munitions and explosives of concern (MEC) and for lead in soils on the property.

This LUCIP complies with requirements of the Land Use Control Assurance Plan (LUCAP) (December 2000) signed by the U.S. Environmental Protection Agency (EPA), Alabama Department of Environmental Management (ADEM), U.S. Department of the Army for Fort McClellan, and the Anniston-Calhoun County Fort McClellan Development Joint Powers Authority (JPA).

2. Source and Decision Documents

- a. Department of the Army, 2001, Action Memorandum, Eastern Bypass, Fort McClellan, Alabama, August.
- b. US Army Corps of Engineers, 2007, Explanation of Significant Differences, Withdrawal of Requirement to Post Warning Signs along the Eastern Bypass Ordnance and Explosives Site 2, Fort McClellan, Alabama, October.
- c. Foster Wheeler Environmental Corporation, 2006, Final Site Specific Final Report, Eastern Bypass OE Removal, Fort McClellan, Alabama, April.
- d. Tetra Tech EC, Inc., 2006, Final Site Specific Final Report Addendum, Construction Debris Removal Area of the Eastern Bypass, Fort McClellan, Alabama, May.
- e. U.S. Army Corps of Engineers, Engineering and Support Center, Huntsville, 2006, Statement of Clearance Ordnance and Explosives Site 2 of the Proposed Eastern Bypass at Fort McClellan, Alabama, June.
- f. Shaw Environmental, Inc., 2008, Finding of Suitability to Transfer (FOST), Eastern Bypass-Eastern Portion of Tract No. 3, Fort McClellan, Calhoun County, Alabama, August.
- g. Shaw Environmental, Inc., 2006, Decision Document, Portions of Iron Mountain Road Ranges on ALDOT Eastern Bypass Corridor Property, June.

3. Site Location and Description (see attached Figure 1)

- a. The Alabama Department of Transportation (ALDOT) is constructing an Eastern Bypass route connecting Interstate 20 located south of Anniston, Alabama, with U.S. Highway 431 and Alabama Highway 21 north of Fort McClellan. The Bypass, of which approximately 5 ½ miles passes through former Fort McClellan property, will enter the former Fort at the southwestern corner and exit at the Summerall Gate area. ALDOT divided the road construction area on Fort McClellan into three sections designated Tracts 1, 2, and 3. Tract 1 is the southern portion of the Eastern Bypass on Fort McClellan. Tract 2 is the Summerall Gate Road relocation area. Tract 3

connects Tract 1 with U.S. Highway 431. The ALDOT intends to use the property to construct a limited access road.

- b. The Corps of Engineers Engineering and Support Center, Huntsville, divided the road construction area that traverses Fort McClellan into three Ordnance and Explosives Sites (OESs) for purposes of characterizing MEC. The term MEC distinguishes specific categories of military munitions that may pose unique explosives safety risks and includes unexploded ordnance (UXO), discarded military munitions (DMM), and munitions constituents present in high enough concentrations to pose an explosive hazard. The Army issued an Action Memorandum to document the Army's recommended alternatives for each OES. LUCs were included as one of the recommended risk-reduction alternatives for OES 2 but not for OES 1 and 3. OES 2 includes a large part of ALDOT Tract 3. The recommended risk-reduction alternatives for OES 2 documented in the Action Memorandum were clearance of MEC for intended land use, construction worker education, signage, and construction support. The requirement for signage was removed with an Explanation of Significant Differences. Interim LUCs were placed on OES 2 in 2002 to reduce human health risks from potential exposure to UXO and other MEC and to support the Army's recommended alternatives.
- c. OES 2 included a known impact area containing significant quantities of MEC. Historical records indicate this area was used as a 60 millimeter mortar range, a 2.36-inch rocket launcher range, and a tank range. The Army completed a removal to depth of MEC reasonably possible to detect, with the exception of 48 grids where construction debris was located, and issued a Statement of Clearance in April 2004.
- d. The 48 grids, known as the Construction Debris Grids, contained many tons of concrete rubble and construction debris used to construct Iron Mountain Road in the 1950s. The removal of MEC in the right-of-way could not be completed until the debris was removed. Discussion among ALDOT, the Army, and ADEM resulted in ALDOT providing a final roadway design for this portion of the Eastern Bypass. The Army then performed a MEC removal for 18 grids where 4 feet or less of fill would be deposited above existing construction debris, for areas where drainage structures would be placed, and for a 10-foot buffer around areas meeting these criteria. MEC was not cleared in 30 full or partial grids shown in Figures 1 and 2 because the roadway design required placing more than 4 feet of fill over these grids. In June 2006, the Army revised the Statement of Clearance based on the additional clearance.
- e. Portions of three of the Iron Mountain Road Ranges are located on this property and are contaminated with lead as a result of military activity. The parts of those ranges impacting OES 2 are noted on Figures 1, 3, 4, and 5. The ranges were used mainly for small-caliber weapons training and shotgun firing and were active until 1998. Lead levels are below the industrial cleanup level of 880 mg/kg in the portions of these ranges located in the Eastern Bypass right-of-way making this area suitable for construction purposes; however, the lead levels are above EPA levels allowed for residential use.

4. LUC Boundaries (see attached figures)

The boundaries for the LUCs on OES 2 are defined in the legal description included in the deed with the exception of the boundary for the northwestern section. Global Positioning System (GPS) coordinates are used to define that boundary as shown on Figure 1. The boundaries for the Construction Debris Grids where MEC was not removed are defined by GPS coordinates on Figure 2. GPS coordinates on Figures 3, 4, and 5 mark boundaries for the areas where lead levels exceed levels allowed for residential use.

5. LUC Objectives

The LUCs described in Section 6 below are intended to minimize risk to human health and the environment and to promote human safety. The objectives of the LUCs are to:

- a. ensure there are no excavation activities in the Construction Debris Grids until a munitions clearance is conducted
- b. prior to excavation activities throughout OES 2, ensure that site workers and construction personnel are made aware of the site's history and of the potential for MEC hazards and that all such personnel receive munitions familiarization training
- c. ensure there is no residential use or residential development on the part of the property where military training on the Iron Mountain Road Ranges has resulted in lead levels in excess of residential use levels

6. LUCs (see attached figures)

Land Use Controls include any type of physical, legal, or administrative mechanism that restricts the use of, or limits access to, real property to prevent or reduce risks to human health and the environment. The LUCs described in this LUCIP are designed and intended to meet the objectives stated in Section 5 above.

- a. Excavation activities (i.e., digging, drilling, or any other excavation or disturbance of the land surface or subsurface) are prohibited in the Construction Debris Grids because MEC was not removed. In the 30 full or partial grids where MEC was not removed, future on-site construction support and removal of MEC to depth will be provided prior to excavation activities in these grids. The Construction Debris Grids are shown on Figures 1 and 2.
- b. Excavation activities throughout the entire OES 2 (Figure 1) shall be managed as provided below to ensure public and site worker safety because residual MEC may pose a potential explosive hazard.
 - 1) Prior to excavation activities in any area of OES 2, ALDOT will be responsible for ensuring that reasonable and prudent precautions be taken when conducting excavation activities (Figure 1). Such precautions are prudent because potential residual MEC may pose an explosive hazard. At a minimum, the ALDOT will take the following precautions for all workers and/or persons involved in excavation activities in OES 2:
 - i. Site workers shall be notified of the military's use of the Property for live-fire and other training and of the potential for MEC to remain.
 - ii. Munitions familiarization training shall be provided to persons involved in any excavation activities at the site. This training shall

include explosive hazards associated with MEC that may be present, particularly UXO, and the actions that should be taken (Recognize, Retreat, Report) if a UXO or suspected UXO item is encountered. Site access shall be granted only to those persons who have viewed the UXO safety video titled "Fort McClellan Community Outreach Program, Unexploded Ordnance (UXO) Awareness".

- iii. The ALDOT shall maintain the training records which shall include a list of persons who receive the training and the dates of training.
- c. The property impacted by the Iron Mountain Road Ranges (Figures 1, 3, 4, and 5) may be used solely for commercial or industrial activities but not for residential purposes because lead levels exceed the EPA levels allowed for residential use. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

7. Right of Entry

The Army reserves the right to enter the transferred property to inspect the adequacy of the LUC enforcement. Additionally, this area is within the police jurisdiction of the Anniston Police Department.

8. Frequency of Monitoring and Reporting Requirements

- a. The LUCAP requires an annual report reflecting the status and effectiveness of these LUCs be provided to the EPA Region 4 and ADEM in March of each year. The ALDOT shall prepare and provide this report to the regulatory agencies and to the Army at the addresses provided in Appendix D of the LUCAP which is included as an enclosure to the FOST.
- b. The Army shall complete at least one recurring review of this site. This recurring review began in 2006. Future reviews may be scheduled pending the outcome of the initial review.

9. Responsibility for Monitoring, Maintaining, and Enforcing LUCs

The ALDOT is responsible for monitoring, maintaining, and enforcing the LUCs for the area shown on the attached figures. The ALDOT will be responsible for ensuring the land use controls and restrictions are not violated. Violations will be addressed and managed according to Section 10 below.

10. Enforcement Options Should a LUC Violation Occur

- a. Should a third party violate the terms and intent of this LUCIP, the ALDOT will address the violation with the party. If the party does not take actions to correct the violation within 60 days, ALDOT will consider use of all options (e.g., civil action, criminal prosecution) available to correct the violation.
- b. Should ALDOT violate the terms and intent of this LUCIP, the Army will address the violation with ALDOT. If ALDOT does not take action to correct the violation within 60 days, the Army will consider use of all options (e.g., civil action, criminal prosecution) available to correct the violation.

11. Reducing or Removing LUCs

- a. This LUCIP replaces a previous LUCIP for OES 2 titled “Interim Land Use Control Implementation Plan, Eastern Bypass Ordnance and Explosive Site 2, Fort McClellan, Alabama”, March 2002.
- b. Revisions to this LUCIP and the LUCs must be approved by the Army, and submitted to ADEM and the EPA for review.
- c. If a future MEC clearance action is performed in the remaining construction debris grids, this LUCIP may be revised; but the LUCs required for the entire OES 2 will remain in effect for the cleared area.
- d. The LUCs for the Iron Mountain Road Range property are required because the lead levels are above those allowed for residential use. The restriction on residential use for this property shall remain in effect until:
 - 1) changes to applicable Federal and State risk-based cleanup standards occur which indicate site contaminants would no longer pose potential residential risk; or
 - 2) reduction in site contaminant concentrations to below Federal and State residential risk-based cleanup standards occurs.

12. Points of Contact

- a. ALDOT – Division Engineer, Alabama Department of Transportation, 1545 U.S. Highway 431 N., Anniston, Alabama, telephone 256-820-3131.
- b. Army – Site Manager, U.S. Army Garrison/Transition Force, 291 Jimmy Parks Blvd., Fort McClellan, Alabama 36205-5000, telephone 256-848-3847.
- c. Anniston Police Department – 256-238-1800

13. Emergency Contacts

The deed will include a notice of the potential presence of MEC that provides information on notification requirements in the event a MEC item is encountered. If MEC is discovered on the property, the Anniston Police Department should be contacted immediately at 256-238-1800.

APPENDIX D
AGENCY POINTS OF CONTACT UPDATED 2008

U.S. Department of the Army

Mr. Scott J. Bolton
U.S. Army Transition Force
291 Jimmy Parks Boulevard, Building 215
Fort McClellan, AL 36205
Mailing address: PO Box 5022, Anniston, AL 36205
Telephone: 256-848-3847
FAX: 256-848-5517
E-mail: scott.j.bolton@us.army.mil

U.S. Environmental Protection Agency

Mr. Doyle T. Brittain
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-3104
Telephone: 404-562-8549
FAX: 404-562-8518
E-mail: brittain.doyle@epamail.epa.gov

ADEM

Mr. Stephen A. Cobb
Alabama Department of Environmental Management
Hazardous Waste Branch, Land Division
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
Mailing address: PO Box 301463, Montgomery, AL 36130-1463
Telephone: 334-271-7739
FAX: 334-279-3050
E-mail: SAC@adem.state.al.us

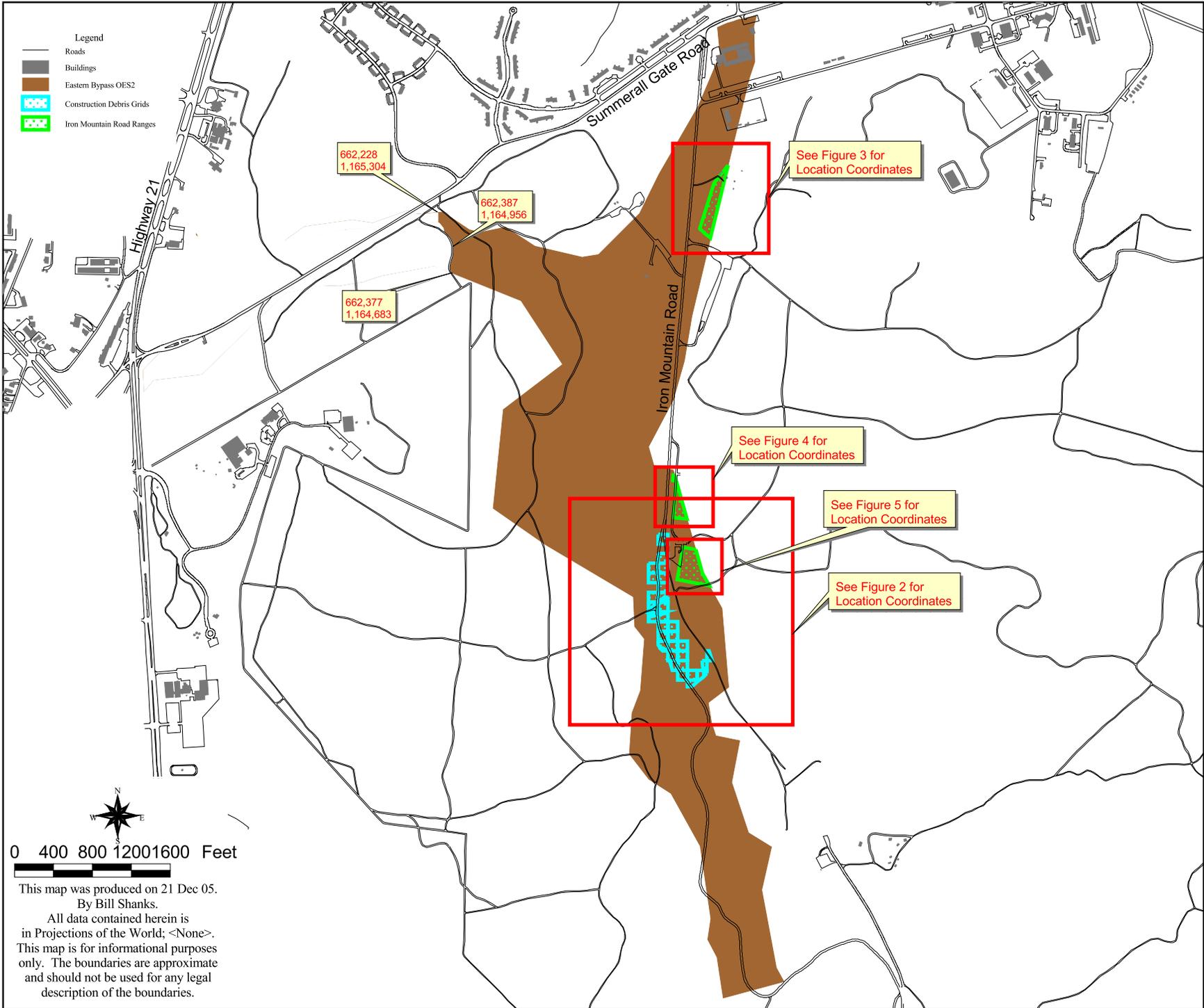
JPA

Ms. Miki Schneider
Anniston-Calhoun County Fort McClellan Development Joint Powers Authority
180 Headquarters Drive, Building 61
Anniston, AL 36205
Mailing address: PO Box 5327, Anniston, AL 36205
Fort McClellan, AL 36205
Telephone: 256-236-2011
FAX: 256-236-2020
E-mail: mikischneider@mccllellan-jpa.org

U.S. Department of Interior - Fish and Wildlife Service (not a co-signing agency for the LUCAP)

Mr. Steve Miller
U.S. Fish and Wildlife Service
664 Powers Avenue, Suite 200
Anniston, AL 36205
Mailing address: PO Box 5087, Anniston, AL 36205
Telephone: 256-848-7085
FAX: 256-847-9089
E-mail: Stephen_A_Miller@fws.gov

Eastern Bypass OES2 LUCIP Information Figure 1

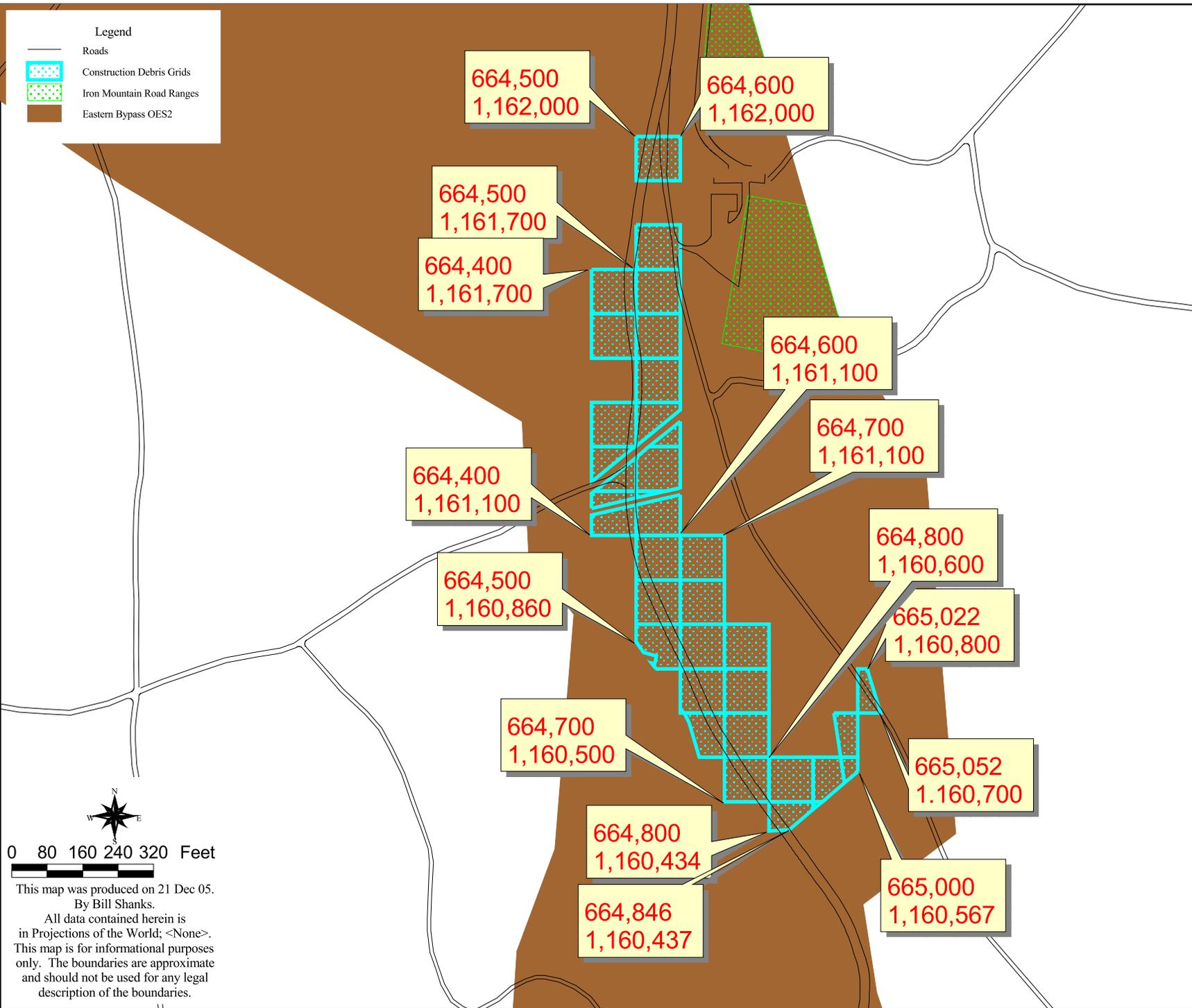


*Eastern Bypass OES2
LUCIP Information Figure 2*



Legend

- Roads
- Construction Debris Grids
- Iron Mountain Road Ranges
- Eastern Bypass OES2

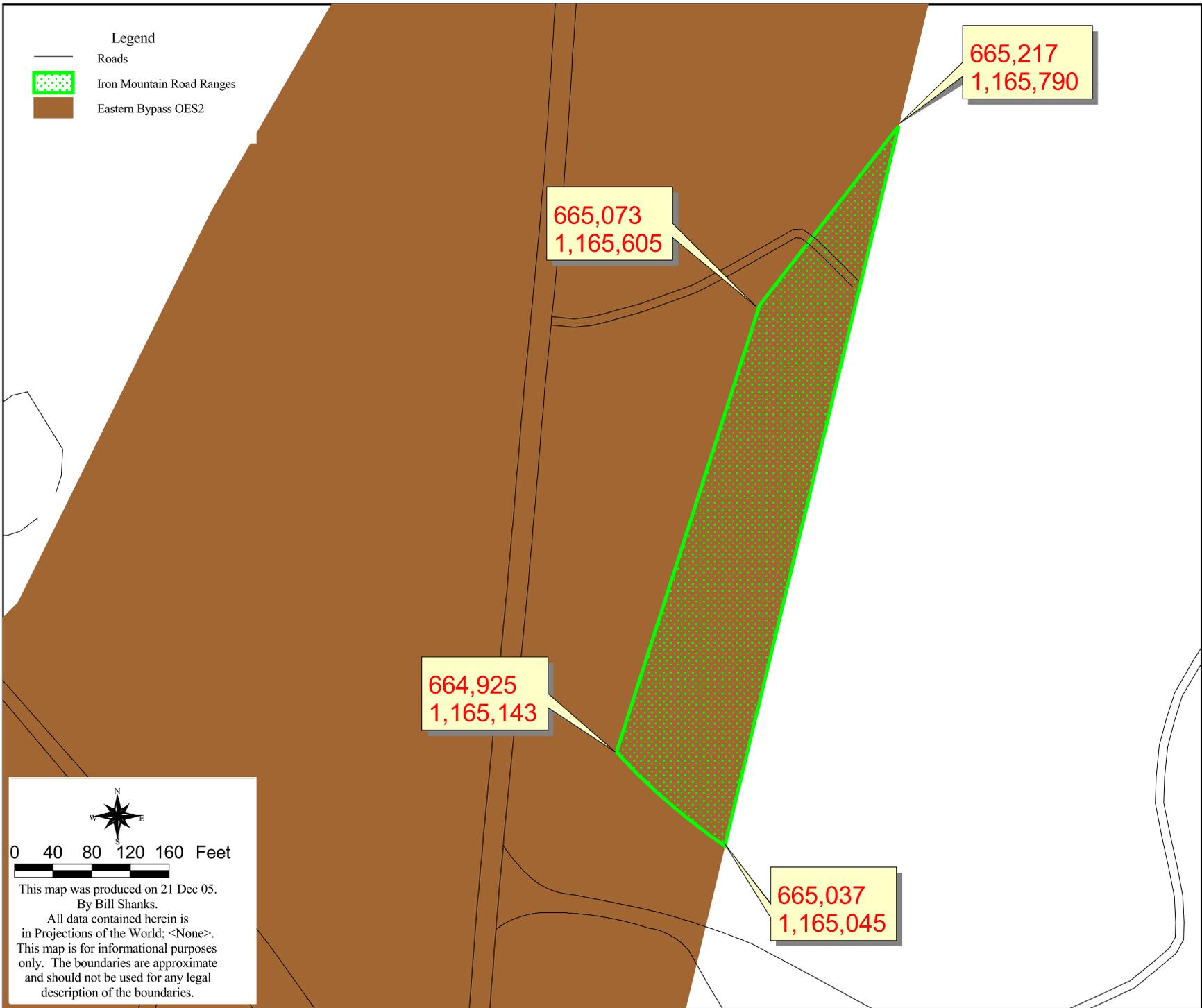


This map was produced on 21 Dec 05.
By Bill Shanks.
All data contained herein is
in Projections of the World; <None>.
This map is for informational purposes
only. The boundaries are approximate
and should not be used for any legal
description of the boundaries.

*Eastern Bypass OES2
LUCIP Information Figure 3*



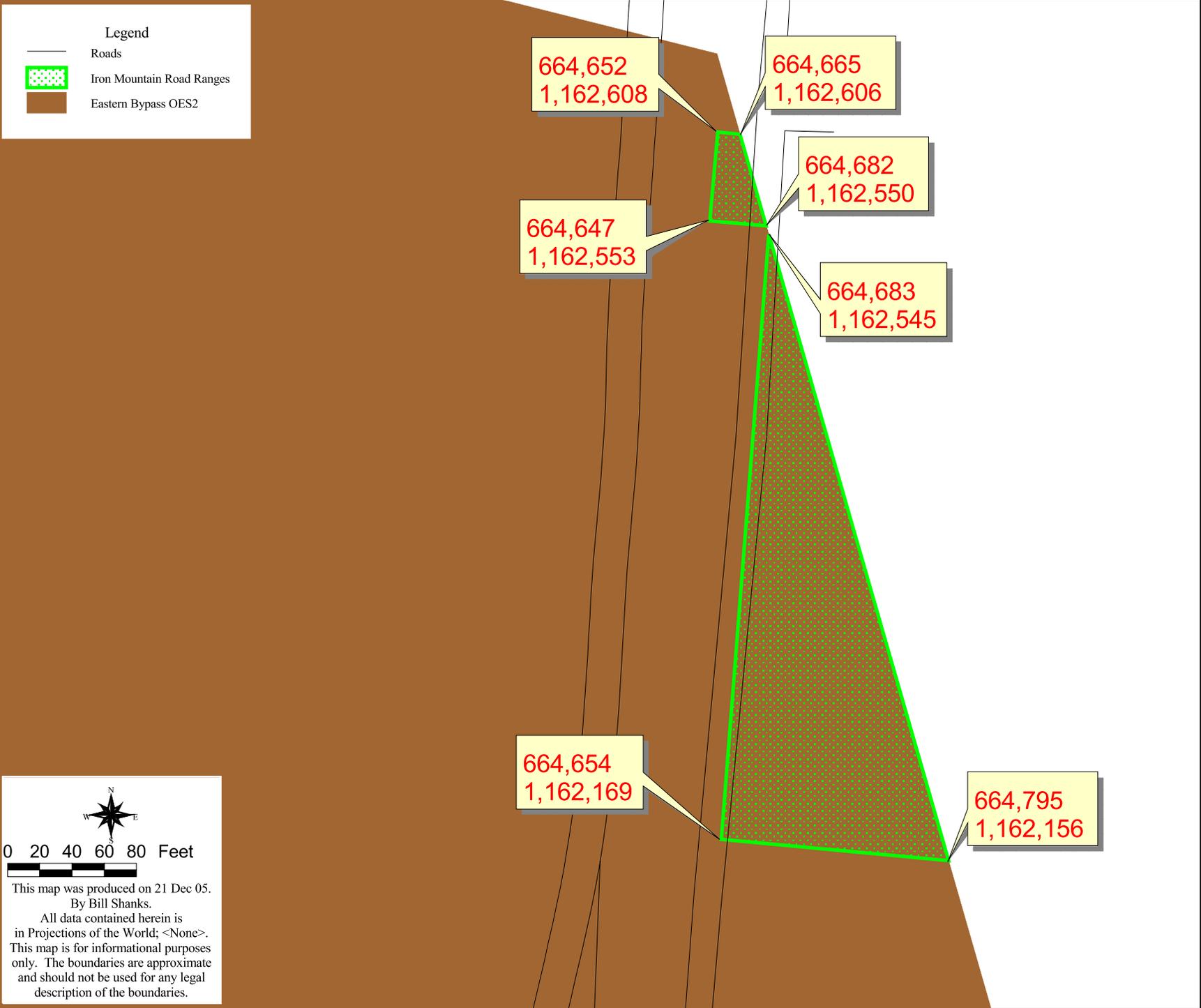
- Legend
- Roads
 - Iron Mountain Road Ranges
 - Eastern Bypass OES2



0 40 80 120 160 Feet

This map was produced on 21 Dec 05.
By Bill Shanks.
All data contained herein is
in Projections of the World; <None>.
This map is for informational purposes
only. The boundaries are approximate
and should not be used for any legal
description of the boundaries.

*Eastern Bypass OES2
LUCIP Information Figure 4*



*Eastern Bypass OES2
LUCIP Information Figure 5*



Legend

- Roads
- Construction Debris Grids
- Iron Mountain Road Ranges
- Eastern Bypass OES2

This map was produced on 21 Dec 05.
By Bill Shanks.
All data contained herein is
in Projections of the World; <None>.
This map is for informational purposes
only. The boundaries are approximate
and should not be used for any legal
description of the boundaries.

664,752
1,161,867

664,885
1,161,843

664,955
1,161,599

664,694
1,161,532

665,026
1,161,471

ENCLOSURE 14



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

May 8, 2007

EMAIL & US MAIL

4WD-FFB

Lisa Holstein
BRAC Environmental Coordinator
U.S. Army Transition Force, Fort McClellan
P.O. Box 5022
Anniston, AL 36205-5000

SUBJ: FOST, Eastern Bypass (266.40 acres); Fort McClellan, Alabama

Dear Ms. Holstein:

The Environmental Protection Agency (EPA) has reviewed the subject document and agrees with it as written. Therefore, EPA approves the subject document. If you have any questions, please call me at (404) 562-8549.

Sincerely,

A handwritten signature in black ink that reads "Doyle T. Brittain". The signature is written in a cursive style with a large, sweeping initial "D".

Doyle T. Brittain
Senior Remedial Project Manager

cc: Michael Kelly, US Army AEC
Brandi Little, ADEM
Lee Coker, USA/COE
Steve Moran, Shaw Environmental
Daniel Copeland, CEHNC-OE-DC
Bernie Case, ALANG
Miki Schneider, JPA
Wayne Sartwell, ALANG
Pete Tuttle, USF&WS



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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ONIS "TREY" GLENN, III, P.E.

DIRECTOR

BOB RILEY

GOVERNOR

June 7, 2007

Ms. Lisa Holstein
US Army Transition Force
P.O. Box 5022
Fort McClellan, Alabama 36205

Facsimiles: (334)

Administration: 271-7950
General Counsel: 394-4332
Communication: 394-4383
Air: 279-3044
Land: 279-3050
Water: 279-3051
Groundwater: 270-5631
Field Operations: 272-8131
Laboratory: 277-6718
Mining: 394-4326

RE: ADEM Review and Concurrence: Draft Finding of Suitability to Transfer (FOST) for Eastern Bypass - Eastern Portion of Tract No. 3, dated April 23, 2007
Fort McClellan, Calhoun County, Alabama
Facility I.D. No. AL4 210 020 562

Dear Ms. Holstein:

The Alabama Department of Environmental Management (ADEM or the Department) has reviewed the subject *Draft FOST for the Eastern Bypass - Eastern Portion of Tract No. 3*. This documents the transfer of approximately 266 acres of property to the Alabama Department of Transportation (ALDOT). The property will be used for construction of a bypass for a transportation route connecting Interstate 20 and Highways 431 and 21.

Attached are Fort McClellan's responses to ADEM's informal comments. The Department considers all comments to be resolved. The Department requests that the Army submit a Final FOST to incorporate the issues addressed in the attached comments.

If you have any questions or concerns regarding this matter please contact Mrs. Brandi Little of the Remediation Engineering Section at 334-274-4226 or via email at blittle@adem.state.al.us.

Sincerely,

Stephen A. Cobb, Chief
Governmental Hazardous Waste Branch
Land Division

SAC/TPS/BCL/mal

cc: Mr. Doyle Brittain/EPA Region 4
Mr. Lee Coker/USA COE, Mobile District
Mrs. Tracy P. Strickland/ADEM
Ms. Miki Schneider/JPA
Mr. DeJarvis Leonard/ALDOT

ROD JUN12 2007 PM 2:52



ATTACHMENT
ADEM Review Comments
*Draft Finding of Suitability to Transfer (FOST) for Eastern Bypass - Eastern
Portion of Tract No. 3*
Fort McClellan, Alabama

1. **Page 5 and Enclosure 4, Page 7:** The document states that ADEM concurred on May 25, 2005 that no further action (NFA) was necessary for the Ranges West of Iron Mountain Road. The Department concurred with the no further action designation and unrestricted reuse for Hazardous, Toxic and Radioactive Waste (HTRW) – related issues only, but not issues related to munitions and explosives of concern (MEC) which would be addressed separately. Please clarify.

Response: The FOST addresses HTRW and MEC separately. The portions of Ranges West of Iron Mountain Road that fall within the Eastern Bypass property are located within OES1 and OES2. ADEM concurred with the Action Memorandum that recommended NFA for OES1 in a letter dated 22Jun01.

ADEM also concurred with the removal reports for OES2 that recommended land use controls (LUCs) for OES2. The LUCs for OES2 are in the FOST at Enclosure 9 - Environmental Protection Provisions A.(1) and Enclosure 13 – Land Use Control Implementation Plan Section 6.a. and 6.b. Comment resolved.

2. **Page 8, Section 5.0:** The text states that the M1.01 Parcel and M3 Miscellaneous Property have been cleared of MEC and “released for unrestricted reuse.” The Department concurred with the Final Letter Report Site Characterization for M1.01 and M3 on January 19, 2007 which stated “for any subsequent construction activities in the M1.01 Parcel and the M3 Miscellaneous Property the Army is providing construction support throughout the M1.01 Parcel and M3 Miscellaneous Property as required by ADEM and as negotiated with the JPA.” The construction support requirement applies to all of M1.01 and M3 and should be stated in the document.

Response: Page 8 needs to be revised to include a statement that a LUC has been placed on M1.01/M3 requiring construction support prior to excavation activities on the property. Comment resolved.

3. **Enclosure 4, Page 6:** No documentation is presented in Table 1 for Parcel 125Q-X, Former Main Post Impact Area. Please provide the name of the document associated with this parcel or documentation of concurrence from ADEM and include this information in the table for clarification.

Response: ADEM concurred with the Site Specific Final Report Eastern Bypass OE Removal, dated April 2006, and the Site Specific Final Report Addendum Construction Debris Removal Area of the Eastern Bypass, dated May 2006, in an ADEM letter dated 25May06. Comment resolved.

From: Cox, Buddy
Sent: Friday, May 25, 2007 10:18 AM
To: Leonard, Dejarvis
Cc: Ippolito, Jim R. Jr.; Bunn, Leslie A.
Subject: Anniston Eastern Bypass- FOSTTract 3

DeJarvis,

I'm sorry for the delay in responding to the request to review the document. The following comments are submitted for your consideration.

1. Page 2-My presumption is that ECP category 1 and 3 refers to the environmental category and not the MEC category. Is that correct?

Response: Yes that is correct. Environmental Condition of Property categories are used to describe the environmental condition of parcels where CERCLA hazardous substances and/or petroleum were used, stored, released, or disposed and does not refer to MEC. Property in this FOST is either Category 1 or Category 3: Category 1 is areas where no release or disposal of hazardous substance or petroleum products has occurred (including no migration of these substances from adjacent areas) and Category 3 is areas where release, disposal, and or migration of hazardous substance has occurred, but at concentrations that do not require a removal or remedial response.

2. Page 3-OES-1states "that all MEC reasonably possible to detect had been removed." How is "reasonably possible to detect" defined? The same verbiage is used in reference to OES-2. However, for OES-2 the document states that "a second munitions response for removal of MEC to depth was conducted." Does removal to depth extend 1 foot below our deepest cut? If not please define removal to depth.

Response: Most MEC items are reasonably possible to detect to a depth of eleven times their diameter. Consistent detection is expected to this depth based on field experience, data from other ordnance projects and national test site data. If an item is deeper than eleven times the diameter, the detection capability is reduced. Almost all MEC is found within the eleven times depths due to the limits of ground penetration of the MEC.

Removal to depth refers to the process of removing all MEC items within the reliable detection depth of the munition. While technology limits the depths to which MEC items can be detected, the normal eleven times the diameter "rule" is generally the depth at which MEC items can be detected in their worst spatial orientation. In more favorable

orientations, MEC items can be detected deeper than eleven times the diameter. Removal to depth entails a geophysical survey of an area to detect MEC items. After the geophysical survey has been completed, the data is analyzed and all possible ordnance items are selected and marked for removal (digging). Once the locations of these items are marked, a UXO dig team digs at each location to remove the ordnance item or to locate the source of the geophysical anomaly. Following item removal, the dig team must then "clear the hole". This involves checking the excavation for any additional signal, and removal (digging) of any additional items until there is no geophysical signal. Clearing the hole ensures there are no ordnance items left below another ordnance item or metallic item that has been removed.

3. Page 4-I am concerned with the wording that will be required in the deed transfer regarding munitions of concern. What will ALDOT's liability be should someone be injured by MEC? NOTE: Enclosure 10, section 5, contains a hold harmless clause which releases the grantor from any liability and states that the grantee assumes all such liability. The state cannot sign any hold harmless clause.

Response: Comment noted. The Army and the State can address this issue when negotiating the deed.

As for the pure liability question, that is something that would be determined on a fact specific basis. Say a person came onto the land and was driving a 4 wheeler, yet signs are posted saying "no 4 wheelers - MEC may be present." The person is digging up dirt doing wheelies, etc., and encounters a MEC which explodes and gets injured. Person sues. I think case law would say this person was contributorily negligent, and doesn't get any money from the landowner (the state) or DoD - signs were posted, this person ignored. So, when ALDOT is asking about liability, the correct answer is: "That will be fact specific and would probably be decided by a Judge."

4. Page 4-Why was M1.01 and M3 cleared to one foot and not to the limits of our construction depth?

Response: The depth of clearance was based on the types of items identified in the Engineering Evaluation/Cost Analysis (EE/CA) for this area. The MEC items identified in the EE/CA were not expected to penetrate below one foot. The items recovered during the clearance action as well as a post-clearance digital geophysical mapping of the confirmation grids supported this depth of clearance.

5. Page 5-Soils were cleaned to EPA lead levels of 880 ppm which exceed OSHA H&S levels for worker exposure of 400ppm. Do we have construction in this area? If so we will need to mitigate to ensure compliance with OSHA standards.

Response: OSHA does not accept exposure value determinations to lead for PPM in soil. Exposure for construction is based on personal air monitoring for time weighted average exposures compared to the airborne lead permissible exposure limit (PEL) of 50 ug/m3. It should be noted however, although the PEL is 50 ug/m3, the action level to begin lead compliance monitoring is 30 ug/M3.

6. Page 6-Is the 10,000 gallon tank that has not been closed within the area we are acquiring? The tank will have to be closed or brought back into service per ADEM regulations

Response: Yes, one 10,000 gallon diesel UST (Facility 3139D) is located on the property. The Army will transfer the tank to ALDOT using ADEM Underground and Aboveground Tank Transfer of Ownership Form once the deed is signed.

7. Page 6- Please provide copies of NFA for closed UST sites. Same comment for AST site referenced on this page.

Response: Copies of NFA documents for closed USTs and ASTs will be provided.

8. Page 9-What, if any LUCs apply to the property being transferred to ALDOT?

Response: The Land Use Control Implementation Plan at Enclosure 13 of the FOST describes the LUCs that apply to the property (reference paragraphs a. and b. below). The LUC requiring signage for OES 2 was removed.

a. Excavation activities throughout the entire OES 2 (Figure 1) shall be managed as provided below to ensure public and site worker safety because residual MEC may pose a potential explosive hazard.

1) Prior to excavation activities in any area of OES 2, ALDOT will be responsible for ensuring that reasonable and prudent precautions be taken when conducting excavation activities (Figure 1). Such precautions are prudent because potential residual MEC may pose an explosive hazard. At a minimum, the ALDOT will take the following precautions for all workers and/or persons involved in excavation activities in OES 2:

i. Site workers shall be notified of the military's use of the Property for live-fire and other training and of the potential for MEC to remain.

ii. Munitions familiarization training shall be provided to persons involved in any excavation activities at the site. This training shall include explosive hazards associated with MEC that may be present, particularly UXO, and the actions that should be taken (Recognize, Retreat, Report)

if a UXO or suspected UXO item is encountered. Site access shall be granted only to those persons who have viewed the UXO safety video titled "Fort McClellan Community Outreach Program, Unexploded Ordnance (UXO) Awareness".

iii. The ALDOT shall maintain the training records which shall include a list of persons who receive the training and the dates of training.

b. The property impacted by the Iron Mountain Road Ranges (Figures 1, 3, 4, and 5) may be used solely for commercial or industrial activities but not for residential purposes because lead levels exceed the EPA levels allowed for residential use. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

9. Table 1-Please locate Parcel 125Q-x and Parcels 73Q-X,91Q-X,116Q-X,117Q-X,200Q,201Q,228Q,229Q-X,231Q, and 232Q-X on a map that shows all ROW being transferred to ALDOT.

Response: A map showing the above listed parcels (Ranges West of Iron Mountain Road) and the ROW (Property to be transferred) is included in the FOST as Figure 3-2 at Enclosure 5.

10. Enclosure 7-Letter dated 20 June 06 and signed by John Rivenburgh states that "Any residual risk remainign as a result of this removal action will be managed through land use controls and a deed notice". The statement of clearance for OES 2 dated 21 June 06 provides wording alerting all parties that there is no guarantees relative to 100% removal of UXO/MEC. Who will provide the training required by statement 4 and who is responsible for signs in item 3? How will ALDOT enforce these requirements? Statement number 2 states that OES construction support will be provided in the remainder of OES 2 as described in the deed notice. Where is the deed notice?

Response: ALDOT will be responsible for the training as described in the LUCIP and in the response to comment number eight above. The requirement for the signs has been removed from the Statement of Clearance and the revised Statement of Clearance will be attached to the final version of the FOST. The notice to be placed in the deed is at Enclosure 9, Environmental Protection Provisions, Notice of the Potential Presence of Munitions and Explosives of Concern (MEC). Construction Support will be provided as described in Paragraph C of the deed notice.

11. Enclosure 8-Table 2 -OES 2- Where are the 30 grids that have not been cleared? In reading page 4, I presumed that these 30 grids were

part of the construction debris area cleared by the Army in summer of 05. Table 2 states that "There remain 30 full or partial grids(Construction Debris Grids) where removal of MEC was not performed. Prior to future excavation activities in these Construction Debris Grids, on-site construction support and removal of MEC to depth will be provided". Why weren't these sites cleared prior to the transfer? Enclosure implies that these 30 grids were not cleared since these will be fill areas per ALDOT. Does this mean that no removal of overburden will be required or reduced amounts of overburden will be required? Dejarvis this appears to be something that we need to clear within ALDOT.

Response: The 30 grids are shown in Enclosure 6 (Figure 4). In October 2004 personnel from the Army, ADEM and ALDOT met and agreed that the Army would remove construction debris in grids where there would be 4 feet or less of fill, and where a drainage structure is to be placed in the new construction, and conduct clearance.

12. Enclosure 9-A(1)-"The grantee...shall not conduct or permit others to conduct any excavation activities...in the Construction Debris Grids". Same comments as for 11 above.

Response: See response to Comment 11 above.

13. Enclosure 10-CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions section 5 is the hold harmless clause noted in comment 3 above.

Response: See response to Comment 3 above.

14. The issue of who is responsible for future remedial action cost and any liability associated with this base and thus this document needs to be reviewed in light of the recent Federal Court decision in the case of *Richard American Homes of Colorado, Inc. v. United States*, Fed CI. No. 05-280C, 2/22/07. The case deals with Government responsibility for remedial action cost at a BRAC facility. We may want to modify the agreement to reflect the decision that was rendered in this case. This could possibly protect ALDOT and the state from future liability. If we sign this agreement, we might lose that right. Jim, this and the hold harmless issue are your call.

Response: See response to Comment 3 above.

It is my recommendation that we do not sign this agreement until we get these issues resolved.

Call if you have questions.

Buddy