APPENDIX C

FINAL LAND USE CONTROL IMPLEMENTATION PLANS (LUCIPs)

GSA WAREHOUSE AREA, EBS CERFA PARCELS 151(4), 2(4), 3(4), 4(4), 67(4), 69(4), 91(4), 111(4), 128(4), 129(4), and 238(4) LAND USE CONTROL IMPLEMENTATION PLAN

1. Background

This Land Use Control Implementation Plan (LUCIP) and the land use controls (LUCs) at issue apply to the General Services Administration (GSA) Warehouse Area which is to be transferred with LUCs to the Anniston Calhoun County Fort McClellan Development Joint Powers Authority (JPA) for purposes of community redevelopment. The GSA Warehouse Area is comprised of Environmental Baseline Survey (EBS) Community Environmental Response Facilitation Act (CERFA) Parcels 151(4), 2(4), 3(4), 4(4), 67(4), 69(4), 91(4), 111(4), 128(4), 129(4), and 238(4). This LUCIP documents the LUCs established in the Army's decision based upon its investigation of this site. This LUCIP complies with requirements set forth in the Land Use Control Assurance Plan (December 2000) (LUCAP) 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 JPA.

2. Source and/or Decision Documents

The *Final Revision 3 Decision Document for the GSA Warehouse Area Parcels 151(4), 2(4), 3(4), 4(4), 67(4), 69(4), 91(4), 111(4), 128(4), 129(4), and 238(4)* (December 2002) was the basis for the determination of land use controls at this site.

3. Site Location and Description (see the two GSA Warehouse Parcel figures)

The GSA Warehouse Area, located in the central portion of the Fort McClellan Main Post, is comprised of eleven CERFA parcels as listed in Section 1.

Activities for the area date to World War I when it was used as a livery stable. Later, the area was used as a staging and maintenance area for government vehicles. The area ceased activity when Fort McClellan closed in September 1999 and was placed in an inactive facility status.

4. LUC Boundaries (see the two GSA Warehouse Parcel figures)

Reference the two attached figures titled *GSA Warehouse Parcel* for the boundaries of the LUC described in this LUCIP.

5. LUC Objectives

The Army's goal for the LUC described in this LUCIP is to prevent risk to human health and the environment and to promote human safety by minimizing the potential for exposure to any CERCLA substances that may be present. The objective is to implement site-specific LUC to protect against exposure to or consumption of contaminated groundwater.

6. LUC (see the two GSA Warehouse Parcel 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 following LUCs for the area described in this LUCIP serve to meet the objectives stated in section 5.

a. Land Use Restrictions

These restrictions and conditions are binding on the Grantee, its successors and assigns; and shall run with the land; and are forever enforceable. Such restrictions and conditions are enforceable by the Grantor, Grantee, its successors and assigns, and the Alabama Department of Environmental Management (ADEM).

1) Current environmental land use is Commercial/Industrial Use Only.
2) Consumptive use or direct contact with groundwater is not allowed due to low levels of pesticides.

b. Land Use Control Mechanisms

1) A deed notice will be placed on the property for commercial and industrial uses only. Before residential or other non-industrial development could be pursued, all remediation necessary to authorize residential use of the Property must first be accomplished, consistent with applicable laws and regulations. See Appendix A of this LUCIP for the Notice of Commercial/Industrial Use. The deed will contain the notice in Appendix A.
2) A deed restriction will be placed on the property restricting access or use of the groundwater underlying the property for any purpose. This includes prohibition on drilling wells for water. See Appendix B of this LUCIP for the Groundwater Restriction Notice. The deed will contain the notice in Appendix B
3) The JPA will conduct periodic inspections and reviews of these LUCs to verify that they continue to be protective of human health and the environment.

7. Right of Entry

The Department of the Army, ADEM, EPA, and JPA will reserve the right under the deed to enter the property, and after giving notice to the property owner, may inspect the adequacy of the LUCs at any time.

8. Frequency of Monitoring and Reporting Requirements

a. The LUCAP requires an annual report reflecting the status of these LUCs and demonstrating whether the LUCs remain effective. If the LUCs are not or have not been effective, the report must define the steps taken to ensure the effectiveness of the LUCs. The JPA will compile the annual report and will provide the report in March of each year to the EPA Region 4, ADEM, and the Army (addresses at Appendix D in LUCAP).

b. The Army will conduct five-year reviews of the remedies described in this LUCIP and provide a copy of the five-year review report to the EPA, ADEM, and the JPA. The first five-year review will occur 5 years after the signing date of the decision document referenced in Section 2. This LUCIP will be updated as necessary to incorporate the results of the investigations.

9. Responsibility for Monitoring, Maintaining, and Enforcing LUCs
The JPA is primarily responsible for monitoring, maintaining, and enforcing these LUCs; however, as noted in Appendices A and B, the Grantor and ADEM will also have authority to enforce these LUCs, if necessary.

10. Enforcement Options Should a LUC Violation Occur
Should a third party violate the terms and intent of these LUCs the JPA will attempt to resolve the violation with the offender and if not corrected within 30 days, will consider taking or instituting appropriate legal action.

11. Reducing or Removing LUCs
In the event of property use for non-industrial or non-commercial purposes, reassessment and environmental remediation of this property at the JPA's expense may be necessary to ensure protection of human health and the environment and human safety.

The LUCs are intended to be protective of the public for existing site conditions and shall remain in effect until:
a. Changes to applicable Federal and state risk-based cleanup standards occur which indicate site contaminants no longer pose potential residential risk; or
b. Reduction in site contaminant concentrations to below Federal and State residential risk-based cleanup standards occurs.

12. Point of Contact
The point of contact for the JPA is Executive Director, JPA, P.O. Box 5327, Anniston, Alabama, 36205, telephone 256-236-2011. The point of contact for the Army is the Site Manager, U.S. Army Garrison Transition Force, 291 Jimmy Parks Boulevard, Fort McClellan, Alabama, 36205-5000, telephone 256-848-3847.

APPENDIX A

NOTICE OF COMMERCIAL/INDUSTRIAL USE COVENANT

Army has undertaken careful environmental study of the property and concluded, to which the Grantee agrees, that the highest and best current use of the property is limited by its environmental condition to commercial and industrial uses. In order to protect human health and the environment and further the common environmental objectives and land use plans, the covenants shall be included to assure the use of the property consistent with environmental condition of the Property. These following covenants benefit the lands retained by the Grantor and the public welfare generally and are consistent with state and federal environmental statutes.

A. Conditions

The Grantee covenants for itself, its successors, and assigns to use the Property, in its current remediate environmental conditions as commercial and industrial uses only. These conditions are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable. The Grantee, for itself, its successors or assigns covenants that it will not undertake nor allow any activity on or use of the property that would violate the covenant contained herein. Nothing contained herein shall preclude the Grantee from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such additional remediation required to allow residential use of the Property. Upon completion of such remediation to allow for residential use of the Property and upon the Grantee's obtaining the approval of the Alabama Department of Environmental Management and, if required, any other regulatory agency, the Grantor agrees, without cost to the United States, to release or, if appropriate, modify this covenant of an amendment hereto.

B. Enforcement

The covenant and conditions stated in Section A (above) benefit the public in general, and, therefore, are enforceable by the United States government and the Alabama Department of Environmental Management. The Grantee covenants for itself, its successors, and assigns that it shall include and otherwise make legally binding, the restrictions in Section B in all subsequent lease, transfer or conveyance document relating to the Property subject hereto.

APPENDIX B

NOTICE OF GROUNDWATER RESTRICTIONS DUE TO LOW LEVEL PESTICIDES:

1. Restrictions and Conditions

The Grantee covenants for itself, it successors, and assigns not to: (a) access or use groundwater underlying the Property for any purpose, the Property having been remediated only for commercial and industrial use. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of CERCLA. The Grantee, for itself, its successors or assigned covenant that it will not undertake nor allow any activity on or use of the property that would violate the restrictions contained herein. These restrictions and covenants are binding on the Grantee, its successors and assigns: shall run with the land: and are forever enforceable.

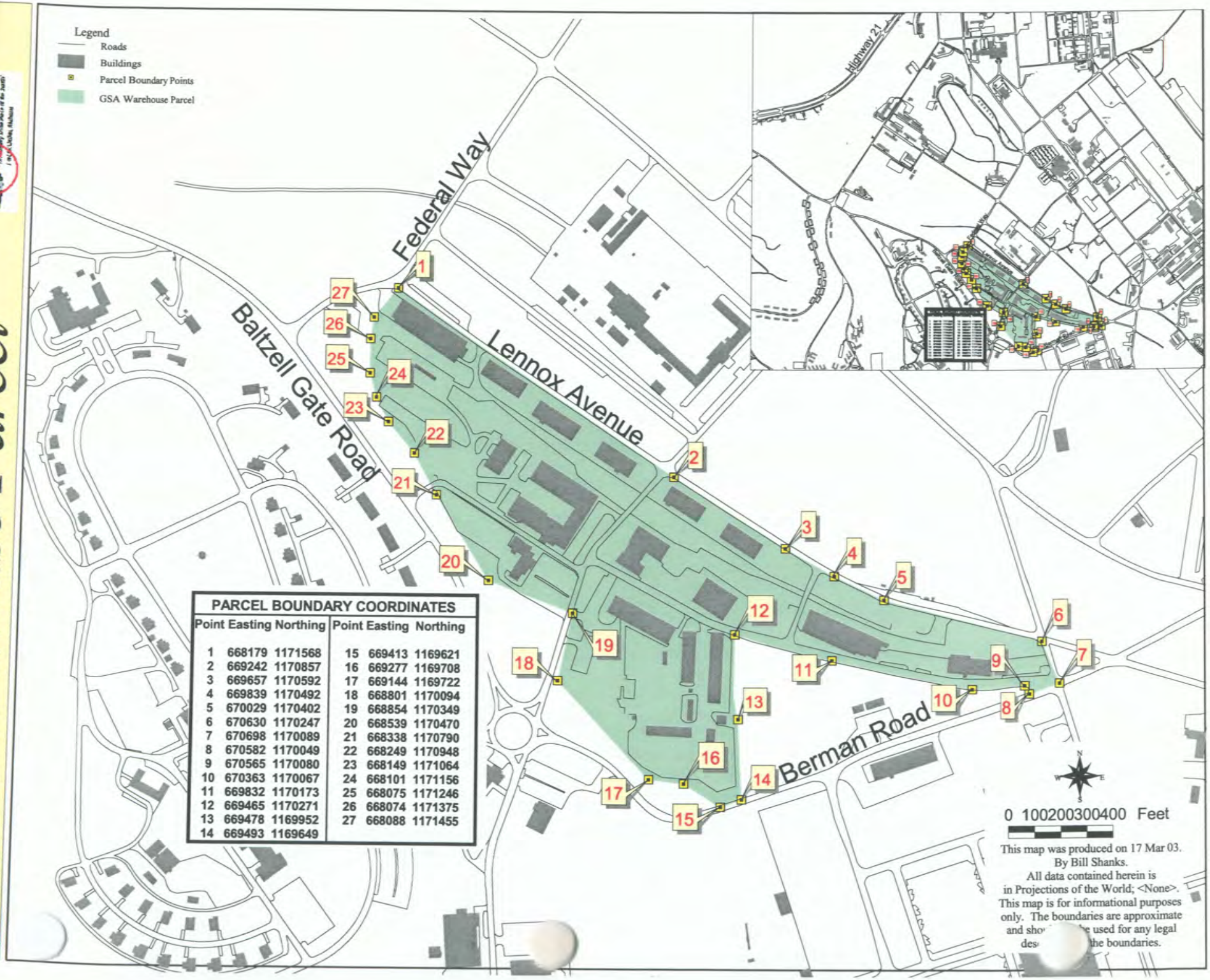
2. Enforcement

The restrictions and conditions stated in Section 1 (above) benefit the public in general, and, therefore, are enforceable by the United States government and the Alabama Department of Environmental Management. The Grantee covenants for itself, its successors, and assigns that it shall include and otherwise make legally binding, the restrictions in Section B in all subsequent lease, transfer or conveyance documents relating to the Property subject hereto.

3. Army Access

The Army and its representatives shall, for all time, have access to the property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and /or physical testing of wells to evaluate water quality and/or aquifer characteristics. The property owner shall allow ingress and egress of all equipment necessary to accomplish the same.

GSA Warehouse Parcel

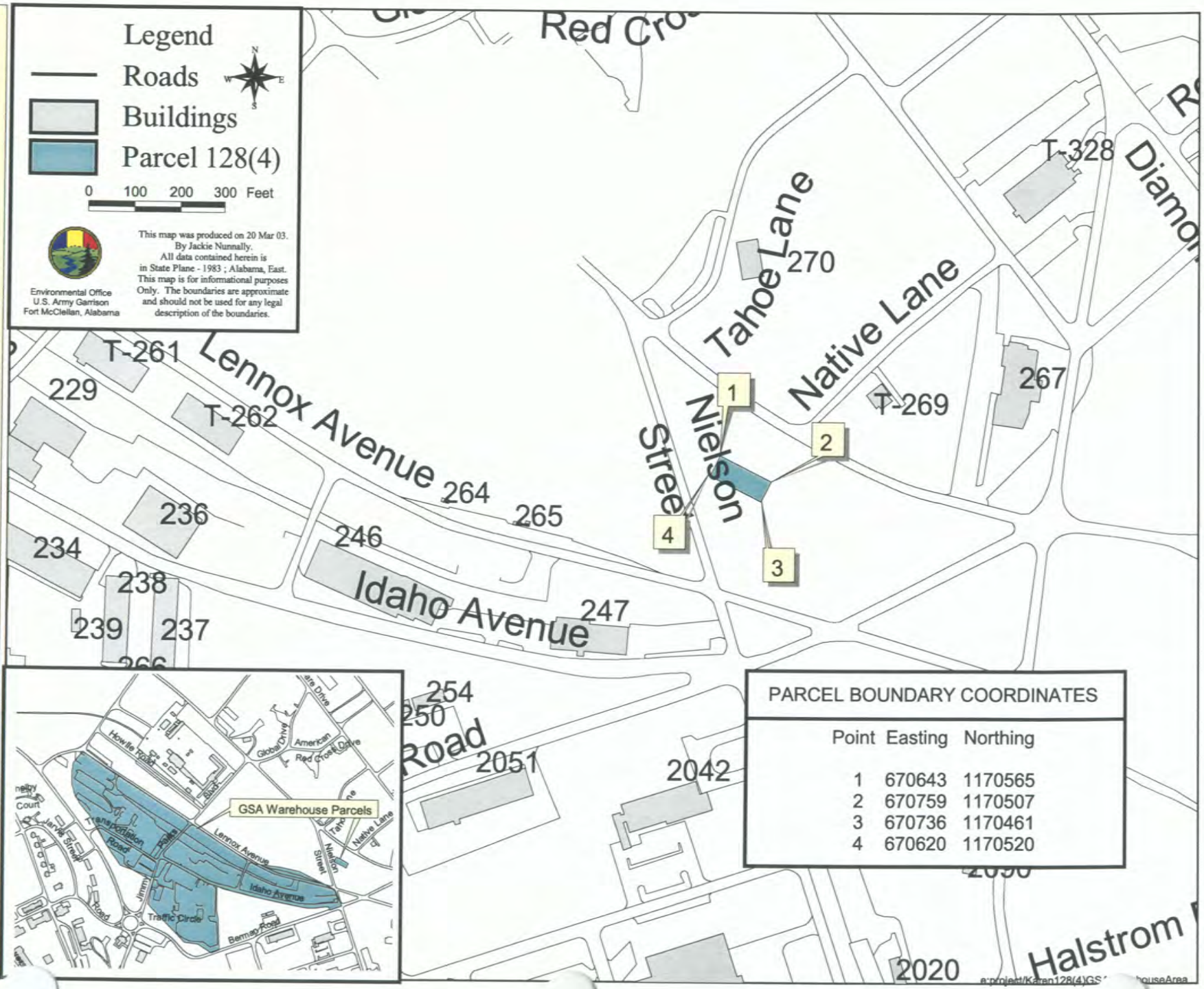


This map was produced on 17 Mar 03.
By Bill Shanks.
All data contained herein is in Projections of the World; <None>.
This map is for informational purposes only. The boundaries are approximate and sho[illegible]e used for any legal des[illegible] the boundaries.

PARCEL BOUNDARY COORDINATES

Point	Easting	Northing	Point	Easting	Northing
1	668179	1171568	15	669413	1169621
2	669242	1170857	16	669277	1169708
3	669657	1170592	17	669144	1169722
4	669839	1170492	18	668801	1170094
5	670029	1170402	19	668854	1170349
6	670630	1170247	20	668539	1170470
7	670698	1170089	21	668338	1170790
8	670582	1170049	22	668249	1170948
9	670565	1170080	23	668149	1171064
10	670363	1170067	24	668101	1171156
11	669832	1170173	25	668075	1171246
12	669465	1170271	26	668074	1171375
13	669478	1169952	27	668088	1171455
14	669493	1169649			

GSA Warehouse Parcel



PARCEL BOUNDARY COORDINATES

Point	Easting	Northing
1	670643	1170565
2	670759	1170507
3	670736	1170461
4	670620	1170520

RESPONSE TO COMMENTS
BY U.S ENVIRONMENTAL PROTECTION AGENCY REGION IV
DRAFT FINDING OF SUITABILITY TO TRANSFER
GSA WAREHOUSE AND REILLY LAKE AREAS
FORT MCCLELLAN, ALABAMA

Comment 1: **Two separate geographic areas are included in the subject draft document. EPA is aware of the environmental investigation and condition of property for the area specifically identified as the GSA Warehouse area, which includes several parcels. EPA concurs with the proposed Finding of Suitability to Transfer (FOST) for this area.**

However, there is a separate area that includes Reilly Lake and associated wetlands. Contamination has been found in Reilly Lake and one wetland exceeding ecological screening values. Due to the limited amount of investigation, the nature and extent of contamination has not been determined. The source, transport, and fate of this contamination have not been determined. The risk posed to human health and the environment has not been determined. Pending completion of an investigation to make these determinations, EPA considers the property to be Category 7 requiring additional evaluation.

The Reilly Lake area is proposed for, at least in part, recreational reuse. These wetlands are hydraulically connected surfically (at least during wet seasons) and probably subsurficially year-round. Beavers have dammed up the water entering and exiting Reilly Lake, thereby forming two additional lakes. Wetlands surround these areas. Underbrush makes this a choice grey bat foraging habitat. Most likely, it is an excellent foraging and nesting area for a variety of birds. Except for the questions about environmental contamination and risk to human health and the environment, Reilly Lake would otherwise be an excellent place for recreational boating, swimming, and fishing. Likewise, the flooded wetlands would otherwise be excellent locations for fishing. As such, EPA considers a comprehensive environmental investigation and related human health and ecological risk assessment of this area to be necessary.

The subject document needs to be revised accordingly.

Response: The Reilly Lake area will be removed from the GSA Warehouse FOST and will be addressed in the next version of the Finding of Suitability for Early Transfer (FOSET).

RESPONSE TO COMMENTS
BY ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DRAFT FINDING OF SUITABILITY TO TRANSFER
GSA WAREHOUSE AND REILLY LAKE AREAS
FORT MCCLELLAN, ALABAMA

General Comments

Comment 1: **The Department understands that a CERCLA Remedial Investigation is presently underway at Reilly Lake. As a result, the Reilly Lake Area should not be considered for this FOST. Please remove Reilly Lake from this FOST.**

Response: The Reilly Lake area will be removed from the GSA Warehouse FOST and will be addressed in the next version of the FOSET.

Comment 2: **The Department understands that the GSA Warehouse area will be used for industrial-reuse and as a result, ADEM concurs with the proposed Finding of Suitability to Transfer (FOST) for this area; however, please respond to the Specific Comments noted below for clarity.**

Response: Comment noted.

Comment 3: **The Department recently visited the Reilly Lake area during a site visit on April 23, 2003. During the visit, ADEM personnel toured Reilly Lake and wetlands to the east and west of Reilly Lake. The existing trees in the wetlands are dying due to being flooded and submerged in water as a result of beaver dams and/or runoff control and lake development projects. Wetlands and waterways in this area are known to be a well defined habitat for the endangered gray bat. Because the wetlands appear to be significantly expanding, it appears that the foraging habitat of the gray bat has likewise been expanded. Figure 6 of the FOST depicts moderate quality areas of gray bat foraging habitat present around Reilly Lake. As depicted, the wetland areas are not designated as "moderate quality" foraging areas for this endangered species. The Army should consult with the U. S. Fish and Wildlife Service to determine if the expanded wetland areas should be included as moderated quality gray bat foraging habitat. If so, Figure 6 should be modified accordingly.**

Response: The Reilly Lake area will be removed from the GSA Warehouse FOST and will be addressed in the next version of the FOSET. In the meantime, consideration will be given to this comment.

Specific Comments

Comment 1: Page 3, Section 3.3.2, The number of tanks noted in Section 3.3.2 does not match the number of tanks noted in Table 5. Please clarify.

Response: Section 3.3.2 will be revised to address this comment. Nine tanks currently remain on the property. Various tank removals have been conducted; Table 5 and Section 3.3.2 will be revised accordingly.

Comment 2: Page 4, Section 3.3.2, Facilities 236D and G, Parcel 4(4): Apparently there are 12-tanks that are missing or that are not discussed in this section. Please identify the tanks that are missing from this section.

Response: The section will be revised to clarify the number of tanks that had been used to store petroleum products at Facilities 263D and G. Eight empty, temporarily closed fiberglass reinforced plastic tanks currently are located at the facilities.

Comment 3: Table 1, Please explain/define the terms "HS, (P), HR, PS, and PR".

Response: Table 2 presents CERFA Categories and Codes used in the FOST document and summarizes the definitions of the above mentioned terms.

Comment 4: Table 5, Page 3 of 3, Under the heading of "Date of Storage, Release, or Disposal", please identify how many tanks are still in the ground and the present "status" of the tanks. Clarify if the tanks were temporarily closed and describe how long the tanks have been in a temporary closed status.

Response: Eight empty inactive tanks are still in the ground at Facilities 263G and D. Six tanks were temporarily closed in February 2000. Two tanks remained in operation until September 2002, at which time they were also temporarily closed. This information will be added to Table 5.

Comment 5: Table 6-1, Page 2 of 2: Under the heading of "Description & Location of ACM" for Building Number 260, please change "4 x 10" to "4 x 10-inch.".

Response: The text will be revised to reflect the comment.

Comment 6: Figure 6, Please refer to General Comment No. 3.

Response: Reference the response to General Comment No. 3

Comment 7: Figures, There are two figures attached at the end of the FOST report. The figures are not numbered. The first figure titled "GSA Warehouse Parcel" is incomplete. The figure is not referenced in the

report. The figure does not have a north arrow or a scale and the figure is incomplete to the east and the south. Please clarify.

The Second un-numbered figure titled "GSE Warehouse Parcel" has text in the Legend that is not readable. Please clarify.

Response: The figures will be revised to reflect the comment. The figures are referenced in section 4 of the LUCIP. The LUCIP will be revised to more clearly reference the figures.