

**FINDING OF SUITABILITY (FOSL)  
TO LEASE**

**DEFENSE DISTRIBUTION DEPOT MEMPHIS**

NOVEMBER 1996  
REVISED APRIL 1997

ENVIRONMENTAL PROTECTION AND SAFETY OFFICE  
DEFENSE DISTRIBUTION DEPOT MEMPHIS

**FINDING OF SUITABILITY TO LEASE  
(FOSL)  
DEFENSE DISTRIBUTION DEPOT MEMPHIS**

**APRIL 1997**

**1. INTRODUCTION**

In my capacity as Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health, I have determined that certain parcels consisting of 48 buildings at Defense Distribution Depot Memphis, Tennessee (DDMT) are suitable for lease to the Memphis Redevelopment Agency (MDRA). This property is suitable for lease for like use without posing a threat to human health and the environment. The purpose of this Finding Of Suitability To Lease (FOSL) is to document environmentally-related findings for the proposed lease property and present use restrictions as specified in the attached environmental protection provisions.

**2. PROPERTY DESCRIPTION**

A site map of the proposed lease buildings is at enclosure 1. Information regarding each building addressed in this FOSL is included in Table 1, enclosure 2..

**3. REGULATORY COORDINATION**

The Tennessee Department of Environment and Conservation (TDEC) and the U.S. Environmental Protection Agency (EPA) Region IV were notified of the initiation of the FOSL. Regulatory comments received during the FOSL development were reviewed and incorporated into the document at enclosure 3. All comments received from TDEC and the EPA during review were resolved and incorporated into the FOSL.

**4. EXISTING ORDERS/AGREEMENTS**

On October 14, 1992, the EPA placed DDMT on the National Priority List (NPL) for environmental restoration. DDMT has since entered into a Federal Facilities Agreement (FFA) with the TDEC and the EPA. The FFA established regulatory coordination procedures and a schedule for environmental investigation and restoration activities.

**5. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE**

The environmental impacts associated with leasing the subject facilities have been adequately analyzed in accordance with the National Environmental Policy Act (NEPA). The results of this analysis have been documented in the Final Environmental Assessment for Master Interim Lease, Defense Distribution Depot Memphis, Tennessee, dated September 1996.

The proposed use of this property is consistent with the Defense Distribution Depot Memphis Reuse Plan. The environmental effects of the reuse activities anticipated under the proposed lease were determined to not be significant. The proposed lease will not have an adverse effect on human health and the environment.

## 6. ENVIRONMENTAL BASELINE SURVEY FINDINGS

A determination of the environmental condition of the facilities has been made in the form of a Community Environmental Response Facilitation Act (CERFA) evaluation, and Environmental Baseline Survey (EBS), dated September 1996. The information provided is a result of a complete search of agency files during the development of the EBS. The EBS documents the environmental condition of the property being offered for lease with regard to the storage, release, or disposal of hazardous substances and petroleum products.

### 6.1 Environmental Condition of Property Categories

The property addressed by this FOSL, is classified as Department of Defense (DoD) Environmental Condition of Property (ECP) Categories 1, 2, 3, and 4. The facilities are listed according to the appropriate ECP Categories.

Category 1<sup>1</sup>: Areas where storage, release, or disposal of hazardous substances or petroleum has occurred (including no migration of these substances from adjacent areas).

Category 2<sup>1</sup>: Areas where only storage of petroleum products has occurred, but no release, disposal, or migration has occurred.

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

Category 4: Areas where release disposal and/or migration of hazardous substances has occurred; and all removal or remedial actions to protect human health and the environment have been taken.

The EBS determined that the following 38 facilities are considered to be ECP\_Category 1: 1, 2, 7, 8, 9, 15, 22, 23, 24, 25, 129, 139, 144, 145, 155, 176, 178, 179, 181, 183, 184, 193, 195, 196, 198, 252, 270, 271, 360, 459, 727, 754, 755, 756, 787, 795, T860, S995.

### 6.2 Hazardous Substances

The EBS determined that 11 of the buildings being offered for lease contain areas considered as ECP Categories 2, 3, and 4. There is evidence that hazardous substances or petroleum products were stored and released at 12 areas within or outside buildings: 210, 470, 489, 490, 560, 670, 685, 689, 690, 753, and 756. Releases were the result of spills inside the buildings, except building 756 which had a fuel tank outside. The releases were remediated in accordance with federal, state, and local regulations. Although hazardous substances were stored or released in the subject facilities, these facilities can be leased without risk to human health or the environment and without interference to the environmental restoration process. Notification of hazardous substance and petroleum product storage, release, or disposal on the property shall be provided in the lease documents as required by DoD FOSL Guidance, and is at Table 2, enclosure 4.

<sup>1</sup> Changes in the FY97 Appropriations Act have since changed the definitions of Categories 1 and 2 to allow the inclusion of former hazardous substance and petroleum product storage areas.

### 6.3 Asbestos

Asbestos surveys indicate asbestos containing materials are present in all of the buildings proposed for lease with the exception of Buildings 24, 25, 193, 360, and 560. The buildings meet all local, state, and federal regulations for asbestos and do not pose a threat to human health or the environment. The lease will include the asbestos warning and covenant included in the Environmental Protection Provisions of this FOSL.

### 6.4 Lead-Based Paint (LBP)

Based on their age (construction prior to 1978), all of the buildings proposed for lease are assumed to contain lead-based paint with the exception of Buildings 360 and 560. The lease will include the lead-based paint warning and covenant included in the Environmental Protection Provisions of this FOSL.

### 6.5 Unexploded Ordnance

None of the buildings or surrounding land proposed for lease are known to have unexploded ordnance present.

## 7. FINDING OF SUITABILITY TO LEASE

On the basis of the above results from the site-specific EBS and subsequent investigations, certain terms, conditions, reservations, restrictions, and notifications are required for the proposed lease. Environmental Protection Provisions are at enclosure 5 and will be included in all lease documents. The subject property may be used by the Lessee pursuant to the terms and conditions specified in the lease, including the use restrictions detailed in the enclosed Environmental Protection Provisions, without posing a threat to human health and the environment or interference with environmental remediation efforts. Notifications of hazardous substance storage, release, and disposal on the property shall be provided in the lease documents, as required under DoD FOSL Guidance.

Based on the information detailed in the EBS and references cited therein, I have concluded that all Department of Defense requirements to reach a Finding of Suitability to Lease have been fully met for the subject properties.



Raymond J. Fatz  
Deputy Assistant Secretary of the Army  
(Environment, Safety, and Occupational Health)  
OASA(I,L&E)

4 Enclosures

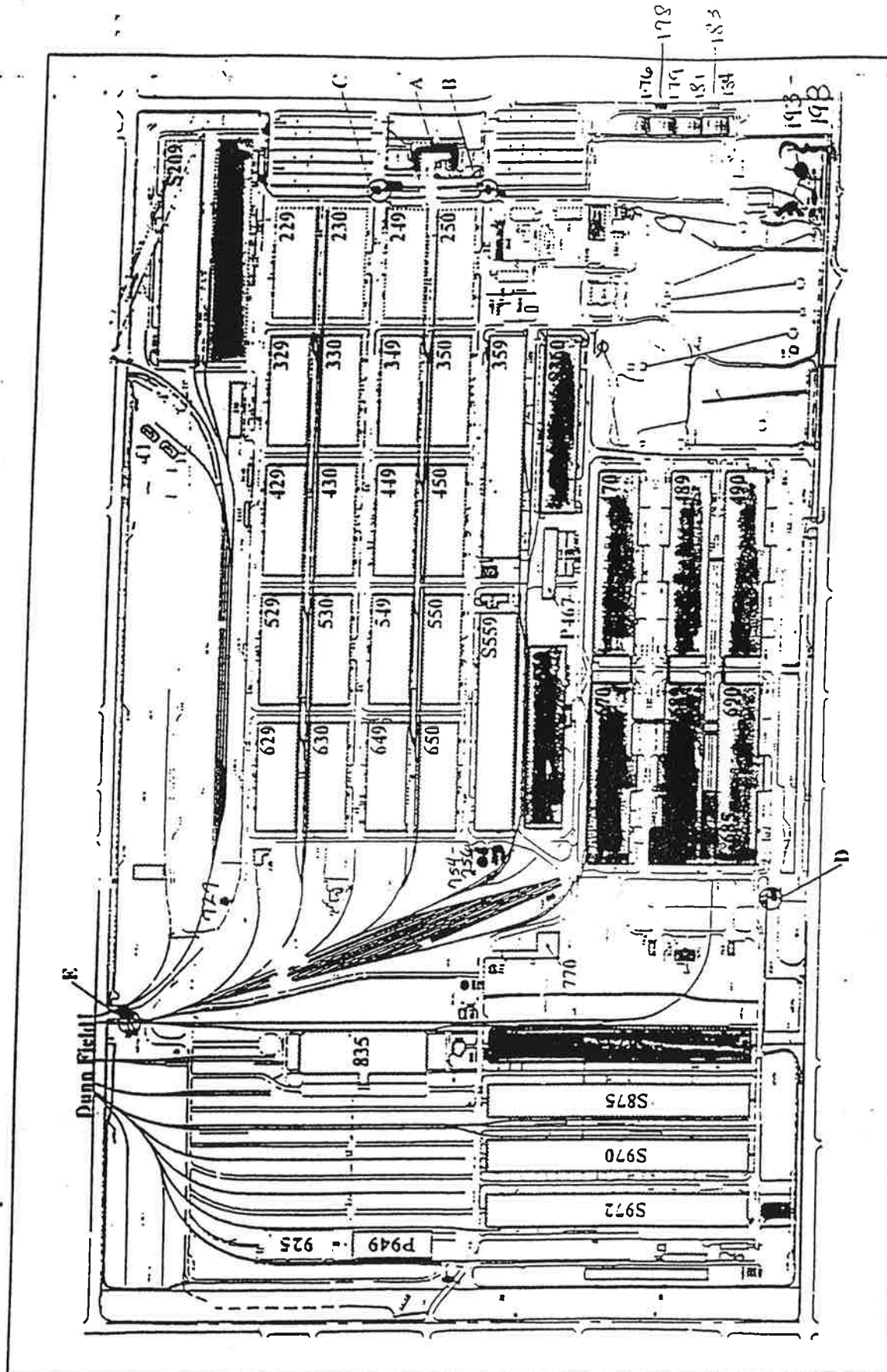


Figure 2-2

FOSL

TABLE 1

Gate 1	Sentry Station Gate #1	1	Sentry Post	Sentry Post	1959	280
Gate 2	Sentry Station Gate #2	1	Sentry Post	Sentry Post	1958	280
Gate 7	Sentry Station Gate #7	23	Sentry Post	Sentry Post	Unknown	67
Gate 8	Sentry Station Gate #8	23	Sentry Post	Sentry Post	1969	675
Gate 9	Sentry Station Gate #9	29	Sentry Post	Sentry Post	1946	420
Gate 15	Sentry Station Gate #15	15	Sentry Post	Sentry Post	1979	196
Gate 22	Sentry Station Gate #22	14	Sentry Post	Sentry Post	1942	67
Gate 23	Sentry Station Gate #23	13	Sentry Post	Sentry Post	1942	67
Gate 24	Sentry Station Gate #24	13	Sentry Post	Sentry Post	1961	100
Gate 25	Sentry Station Gate #25	13	Sentry Post	Sentry Post	1961	100
Building 129	Waiting Shelter	1	Shelter	Shelter	1980	75
Building 139	Waiting Shelter	1	Shelter	Shelter	1959	144
Building 144	Depot Headquarters Building	1	Administration	Administration	1942	13500
Building S145	Security Building	1	Pass and Identification	Security	1943	860
Building 155	Waiting Shelter	1	Shelter	Shelter	1960	144
Building 176	Military Family Housing (MFH)	2	Residential	Residential	1948	4787
Building S178	Detached Garage-Family Housing	2	Automobile parking, maintenance	Automobile parking, maintenance	1948	1440
Building 179	Military Family Housing (MFH)	2	Residential	Residential	1948	4835
Building 181	Military Family Housing (MFH)	2	Residential	Residential	1948	4835
Building S183	Detached Garage-Family Housing	2	Automobile parking, maintenance	Automobile parking, maintenance	1948	1440
Building 184	Military Family Housing (MFH)	2	Residential	Residential	1948	4739
Building 193	Outdoor Swimming Pool	3	Recreation	Recreation	1948	426
Building S195	Community Club	3	Recreation	Recreation	1949	4254
Building 196	MWR Office/Public Toilet	3	Recreation	Recreation	1952	896
Building S198	Equipment Shed	3	Dry goods	Dry goods	1959	323
Building 210	Admin/Computer Center - General Purpose Warehouse	13	Offices, equipment storage	Offices, storage, small photo lab	1942	240000
Building 252	Physical Fitness Center	4	Recreation	Unknown	1942	8455
Building 270	Facility Installation Services	4	Administration	Maintenance shop	1945	14400
Building S271	Engineer Admin. Building (USACE)	4	Administration	Former Golf Course Club House	1958	1436
Building 360	General Purpose Warehouse	34	Unused	None (new building)	1996	174665
Building P459	Training Facility	17	Classrooms	Parking lot	1990	4,000
Building 470	General Purpose Warehouse	20	Equipment/ clothing storage	Equipment/clothing storage	1954	218000
Building 489	General Purpose Warehouse	20	Equipment/ clothing storage	Equipment/clothing storage	1954	218000
Building 490	General Purpose Warehouse	21	Central receiving facility	Microfiche developing, historic dipping of machine parts as preservation	1954	218000
Building 560	General Purpose Warehouse	18	Medical and general supplies	Unknown	1990	174665
Building 670	General Purpose Warehouse	20	Equipment/ clothing storage	Equipment/clothing storage	1953	218000
Building 685	General Purpose Warehouse	21	Vehicle maintenance supplies	Unknown	1985	32000
Building 689	General Purpose Warehouse	21	Material handling equipment and materials awaiting shipment	Hazardous waste, Safety Kleen, unknown wastes	1953	228000
Building 690	General Purpose Warehouse	21	Material handling equipment and materials awaiting shipment	Unknown wastes, vehicle maintenance supplies	1953	218000
Building 727	Sentry Station	33	Vacant	None	1994	280
Building 753	Pump Station	33	Fire extinguisher	Pump station	1956	513

			refilling			
Building 754	Water Storage Tank	33	Water tank	Water tank	Unknown	1963
Building 755	Sewage Pump	33	Sewage pump house	Sewage pump house	1953	237
Building 756	Water Pump	33	Water distribution	Water distribution	Unknown	2400
Building 787	General Purpose Warehouse	23	Recycling warehouse	Steel processing	1988	5038
Building 795	Waiting Shelter	23	Shelter	Shelter	1974	240
Building T860	Admin. General Purpose	33	Administration	Administration	1944	800
Building S995	Transportation - Steel Building	23	Steel storage and handling	Unknown	Unknown	8000



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30223-3104

November 12, 1996

4WD-FFB

Certified Mail  
Return Receipt Requested

Colonel Michael J. Kennedy, Commander  
Defense Distribution Depot Memphis  
2163 Airways Boulevard  
Memphis, Tennessee 38114-5210


SUBJ: Comments on Finding of Suitability for Lease (FOSL)  
Defense Distribution Depot Memphis, Tennessee

Dear Col. Kennedy:

The U.S. Environmental Protection Agency (EPA) Region IV has reviewed the above referenced document (see attached comments).

If you have any questions please contact me at 404.562.8552.

Sincerely,

  
Dann Spariosu, Ph.D.  
Remedial Project Manager

cc: Jordan English, Tennessee Department of Environment & Conservation



## ATTACHMENT

## I. INTRODUCTION

As per the FOSL provided, DDMT intends to lease buildings numbered 1, 2, 7-9, 15, 22-25, 129, 139, 144, 145, 155, 176, 179, 181, 184, 193, 195, 196, 198, 252, 270, 271, 360, 459, 727, 754-756, 187, 795, T860, 995, 210, 690, 753, 470, 489, 490, 560, 670, 685, 689, S873, 210/2, 690/2, 753/2, 470/2, 489/4, 490/4, 560/4, 670/4, 685/4, 689/4 and 873/4 at Defense Distribution Depot Memphis, Memphis, Tennessee to the Memphis Depot Redevelopment Authority. As required, lease terms are provided together with attendant lease restrictions. This information is decidedly pertinent to EPA's comments, required under CERCLA as amended by CERFA, as well as, DoD guidance.<sup>1</sup> I remain confident, based on the standard language contained herein, that the Defense Logistics Agency will comply with this provision via notification of the EPA upon the execution of a lease.

## II. COMMENTS

The FOSL and EPC provided are DRAFT only, therefore, these comments are draft in nature. Further, the FOSL states in substance that "[h]azardous substances were stored on the property for more than one year in Buildings 210/2, 690/2, 753/2, 470/2, 489/4, 490/4, 560/4, 670/4, 685/4, 689/4, 873/4. Further, the FOSL states in substance that the property can be used, pursuant to the proposed lease, and "...will not be adverse to human health and the environment." The required language pursuant to the MOU should say that the property may be used pursuant to the proposed lease without risk to human health or the environment and without interference with the environmental restoration process.

EPA should agree with the statement, once added, since the installation has complied with all the CERFA, CERCLA 120(h)(1) and DoD guidance requirements in arriving at its EBS

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<sup>1</sup> CERFA requires that "[i]n the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor fuel) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the Department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the state in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of the person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property."

determination,<sup>2</sup> with respect to buildings numbered 1, 2, 7-9, 15, 22-25, 129, 139, 144, 145, 155, 176, 179, 181, 184, 193, 195, 196, 198, 252, 270, 271, 360, 459, 727, 754-756, 187, 795, T860, 995, 210, 690, 753, 470, 489, 490, 560, 670, 685, 689, S873, since all aforementioned are CERFA category 1, clean parcels. However, with respect to the remaining 11 buildings, EPA should reservedly agree with the statement, since the FOSL does not indicate whether the reuse will be residential, although the installation itself has listed the risks and specific lease restrictions associated with the identified areas of concern.<sup>3</sup> Further, the facility has through standard language contained herein, committed itself to provide prospective tenants, as well as the EPA, notice of the results of ongoing investigations, if any.

1. The FOSL should contain a statement as to the review of appropriate local community reuse plans, if such a review has taken place. DoD policy requires that the DoD component Official, review "any appropriate local community reuse plans" prior to signing a FOSL.<sup>4</sup> Similarly, 32 CFR Parts 90 and 91 yokes the facility with a similar responsibility.

In the instant case, the facility has fully complied with this requirement by the statement: "{t}he property lease proposed by this FOSL is consistent with the Defense Distribution Depot Memphis Reuse Plan."

2. The FOSL, as required, gives notice as to the type of hazardous times of release, but is silent as to quantity. However the facility does indicate via a footnote to table 2, that "{q}uantities stored are not documented."

\_\_\_\_Complete notice of all hazardous substances, as identified

<sup>2</sup> DoD FOSL Guidance requires in § III B. (2a-2i), the following steps in arriving at an EBS:

- a. search of DoD Records (i.e. RFA, RFI).
- b. Review of Federal, state and local government records.
- c. Analysis of aerial photographs.
- d. interviews with current and former employees.
- e. visual inspection of property, noting inter alia, environmental impacts.
- f. Identification of sources of contamination on property and adjoining property.
- g. Ongoing response actions or actions which have been taken at or adjacent to the parcel in question.
- h. Physical inspection of adjacent property.
- i. Sampling.

<sup>3</sup> Id. § III C(3) states in pertinent part: "The specific lease restrictions on the use of the parcel to protect human health and the environment and the environmental restoration process will be listed in the FOSL."

<sup>4</sup> Id. at § III C.

in the FOSL and EBS, must be given in the lease/contract. This may be accomplished simply by referring to 40 CFR 373 and then including the facilities Hazardous Material Inventory.

3. Under DoD policy, the FOSL must contain notice of the existence of a Federal Facility Agreement (FFA), Interagency Agreement (IAG), or other regulatory agreement or order for environmental restoration. In the instant case the facility has not identified its NPL listing as an existing order.

4. The 'Environmental Restoration, Defense,' provision in the Department of Defense Appropriations Act of 1993 (H.R. 5504, 102d Cong.) provides that if DoD transfers or leases real property to a state or the political subdivision of a state, the U.S. shall hold harmless, defend and indemnify the State or political subdivision from all claims, demands, losses, damages, liens, liabilities, injuries deaths, penalties, fines, lawsuits and other proceedings, judgements awards and costs and expenses arising out of, or in any manner of any hazardous substance, pollutant or contaminant resulting from DoD activities, including the activities of any lessee, licensee or other person on the property during any time that the property was under DoD control. The FOSL does not indicate the existence of such a provision, but it is a statutory imperative, that the lease agreement include such a provision.

### III. CONCLUSION

The FOSL is acceptable as drafted save for its draft status and the fact that they must meet the below delineated criteria in order to comport with DoD guidance and applicable Laws.

—Prior to final submission of comments on the FOSL, final documents must be provided, as well as a copy of the attendant, proposed lease.

—The final lease must provide notice of duration and quantity of hazardous substance released, disposed or stored.

—Listing of the Risks and other specific lease restrictions.

—If the military chooses not to respond to our comments afore-delineated, then EPA should consider characterizing our comments as "...unresolved regulatory comments..." pursuant to DoD policy on FOSLs, and have said comments placed as an attachment to the lease agreement.

—EPA requests executed leases by the lessee to ensure the inclusion of any unresolved regulatory comments and in order to properly augment our records.

-- Finally, DoD should be placed on notice that their failure to comply with the above-delineated CERCLA requirements, may subject the Facility to citizen suits under CERCLA § 310 for "...failure to perform specified, non-discretionary duties.

This is one of the best attempts at a well drafted FOSL, to date.



**DEFENSE LOGISTICS AGENCY**  
DEFENSE DISTRIBUTION DEPOT MEMPHIS  
2163 AIRWAYS BOULEVARD  
MEMPHIS, TENNESSEE 38114-5210



IN REPLY  
REFER TO

DDMT-DE

NOV 14 1996

Mr. Dann Spariosu  
BRAC Unit  
Environmental Protection Agency  
100 Alabama Street, S.W.  
Atlanta, GA 30303-3104

Dear Mr. Spariosu:

The Defense Distribution Depot Memphis (DDMT) received your comments on the Finding of Suitability to Lease (FOSL). We appreciate your input. Please find attached responses to your comments. Your comments will be included in the ROA package, which includes the FOSL.

For more information contact me at (901) 775-4508.

Sincerely,

DENISE K. COOPER  
Environmental Protection Specialist

Attachment

**Response to Comments  
from EPA Region IV  
on Finding of Suitability for Lease (FOSL)  
Defense Distribution Depot Memphis, Tennessee (DDMT)**

**Response to Comment No. I: EPA will be notified of a lease.**

**Response to Comment No. II: The required language has been added to Section 6.2.**

**Response to Comment No. II.1: Comment noted.**

**Response to Comment No. II.2: A list of hazardous substances stored will be provided in the lease.**

**Response to Comment No. II.3: Reference to the DDMT's NPL listing and the Federal Facility Agreement has been added as Section 4, Existing Orders/Agreements.**

**Response to Comment No. II.4: The required language has been added as Section 7, Indemnification Clause.**

**Response to Comment No. III: Final documents will be provided, as well as a copy of the proposed lease. The notice of duration and quantity of hazardous substances, released, disposed, or stored which is contained in the FOSL will be provided with the final lease.**

Response  
Attachment



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
MEMPHIS ENVIRONMENTAL FIELD OFFICE  
SUITE E-645, PERIMETER PARK  
2510 MT. MORIAH  
MEMPHIS, TENNESSEE 38115-1520

Received  
NOV 07 1996  
DDMT-DE

October 31, 1996

Commander  
Defense Distribution Depot Memphis  
ATTN: DDMT-DE (Mike Dobbs)  
2163 Airways Blvd.  
Memphis, Tennessee 38114-5210

RE: Finding of Suitability to Lease, Record of Availability  
October 1996, TDEC/DSF #79-736, cc 82

Dear Mr. Dobbs:

The Tennessee Division of Superfund (TDSF) Memphis Field Office (MFO), on behalf of the Tennessee Department of Environment and Conservation, has completed review of the above-referenced documents received in this office by fax at 11:16 on October 25, 1996.

Pursuant to the DSMOA and FFA, TDSF is providing the attached comments. TDSF understands that there may be a revised version of this document that would need our review as well. Should you have any questions or concerns regarding this review please call me at (901) 368-7953.

Sincerely,

Jordan English, Manager  
Memphis Field Office  
Tennessee Department of Environment & Conservation

c: DSF, NCO - file  
DSF, MFO - file  
Dann Spariosu  
United States Environmental Protection Agency  
Waste Management Division  
100 Alabama Street, SW  
Atlanta, GA 30303

**FINDING OF SUITABILITY TO LEASE  
RECORD OF AVAILABILITY  
COMMENTS  
TDEC/DSF  
#79-736**

**General Comments**

This draft FOSL includes many references to the EA which is in need of revisions. Carry-over edits references from the EA should be made where appropriate.

Page numbers are not included on the FOSL. This makes referencing specific parts of the document more difficult. Please include.

**Specific Comments: FINDING OF SUITABILITY TO LEASE**

1. Table 1-- Building S873, Open Shed Warehouse, is described in the EA as having "brittle and unpredictable trusses". Is this a building DoD is willing to transfer?
2. 4., NEPA Compliance--The "Final" EA is far from final. See general comment above.
3. Table 2, Bldg. # 470--How can a release occur from where material was not stored. Batteries stored battery acid, estimate quantity.

**Specific Comments: RECORD OF AVAILABILITY**

1. Page 5, #7-- Are the answers in this section consistent with the EA?
2. Page 8, #3-- Doesn't the old pistol range located on the golf course presumably contain ammunition?
3. Page 9, #5-- The way this first line reads it suggests that the applicant may dispose of DoD toxic or hazardous substances. Clarify.
4. Page 10, #7-- This section has no check mark.





**DEFENSE LOGISTICS AGENCY**  
DEFENSE DISTRIBUTION DEPOT MEMPHIS  
2163 AIRWAYS BOULEVARD  
MEMPHIS, TENNESSEE 38114-5210



IN REPLY  
REFER TO

NOV 14 1996

DDMT-DE

Mr. Jordan English, Manager  
Memphis Field Office  
Tennessee Department of Environment and Conservation  
Division of Superfund  
Suite E-645, Perimeter Park  
2510 Mt. Moriah  
Memphis, TN 38115-1520

Dear Mr. English:

The Defense Distribution Depot Memphis (DDMT) received your comments on the Finding of Suitability to Lease (FOSL) and the Record of Availability (ROA). We appreciate your input. Please find attached responses to your comments. Your comments will be included in the ROA package, which includes the FOSL.

For more information contact me at (901) 775-4508.

Sincerely,

DENISE K. COOPER  
Environmental Protection Specialist

Attachment

**Response to Comments**  
**Finding of Suitability to Lease and Record of Availability**

**TDEC General Comments:**

This draft FOSL includes many references to the EA which is in need of revisions. Carry-over edits references from the EA should be made where appropriate.

Page numbers are not included on the FOSL. This makes referencing specific pages of the document more difficult. Please include.

**DDMT Response.**

Comments noted and FOSL edited where appropriate and page numbers added.

**Specific Comments on the Finding of Suitability to Lease**

**TDEC Specific Comment 1:**

Table 1 -- Building S873, Open Shed Warehouse, is described in the EA as having brittle and unpredictable trusses." Is this a building DoD is willing to transfer?

**DDMT Response:**

The EA and this FOSL are for leasing and do not cover property disposal/transfer actions. DoD will be transferring the DDMT property, for the most part, as is. The Memphis Depot Redevelopment Agency has also indicated that building S873 may be demolished as part of MDRA redevelopment plans.

**TDEC Specific Comment 2:**

NEPA Compliance Section -- The "Final EA" is far from final. See general comment above.

**DDMT Response:**

We are working with the Corps of Engineers, Mobile District to incorporate your comments regarding the EA.

Response  
Attachment

**TDEC Specific Comment 3:**

Table 2, Bldg. #470 -- How can a release occur from where material was not stored. Batteries store battery acid, estimate quantity.

**DDMT Response:**

Batteries are not considered storage locations. The CERFA category 2 associated with Building 470 resulted from the release of battery acid at the recharge station.

**Specific Comments on the Record of Availability**

**TDEC Specific Comment 1:**

Page 5, #7 -- Are the answers in this section consistent with the EA?

**DDMT Response:**

Answer changed to NO in order to be consistent with EA.

**TDEC Specific Comment 2:**

Page 8, #3 -- Doesn't the old pistol range located on the golf course presumably contain ammunition?

**DDMT Response:**

No. The old pistol range has been classified as an unexploded ordnance site.

**TDEC Specific Comment 3:**

Page 9, #5 -- The way this first line reads it suggests that the applica . may dispose of DoD toxic or hazardous substances. Clarify.

**DDMT Response:**

Contractors working for DoD that may generate DoD waste may dispose of it. Lessees will not be allowed to bring hazardous materials onto the facility, therefore generating no hazardous waste.

**TDEC Specific Comment 4:**

Page 10, #7 -- This section has no check mark.

**DDMT Response:**

Comment noted and section corrected.

TABLE 2

ENVIRONMENTAL CONDITION CATEGORY NUMBER	FACILITY(S)*	PARCEL NUMBER AND LABEL*	APPROXIMATE SIZE (ACRES)*	HAZARDOUS SUBSTANCE AND PETROLEUM PRODUCT STORAGE, RELEASE, OR DISPOSAL NOTIFICATION *	REMEDICATION/MITIGATION
2	Building 210	13.4(2)HS	5.5	Satellite drum accumulation, Building 210. Old photographic developing lab in bay 7 of Building 210.	Proposed NFA Site 41. No remediation is necessary.
2	Building 690	21.1(2)HS	5.0	Building 690 has been used to store hazardous materials before shipment.	No remediation is necessary.
2	Building 753	33.10(2)	0.01	This parcel is associated with Building 753. There has been no documented storage of hazardous substances or petroleum products; nor has there been release or migration from an adjacent property of hazardous substances or petroleum products.	No remediation is necessary.
2	Building 756	33.11(2)	0.25	This parcel is associated with an area outside Building 756. The original tank supplying the emergency generator was removed in June 1994. Soil was sampled for TPH and found to be less than 20 ppm.	No remediation is necessary.
3	Building 489	20.1(3)PR	0.46	A 1-gallon oil spill was reported on November 3, 1995 at the north dock of Building 489, Section 4. The precise location of the spill is unknown.	Absorbent was applied to the spill. No further remediation necessary.
4	Building 470	20.3(4)HS/HR	5.0	Building 470 has corrosion on the floor (acid leak) near the battery charging station. All remedial actions (neutralize acid leaks) have occurred. No CERCLA requirement to further investigate area; however, BCT agreed on July 18, 1996 that Lessee must be made aware that lead contamination may exist in concrete.	No remediation is necessary
4	Building 489	20.4(4)HS/HR	5.0	Building 489 has corrosion on the floor (acid leak) near the battery charging station. All remedial actions (neutralize acid leaks) have occurred. No CERCLA requirement to further investigate area; however, BCT agreed on July 18, 1996 that Lessee must be made aware that lead contamination may exist in concrete.	No remediation is necessary
4	Building 490	21.2(4)PS/HS/HR	5.0	A 1-gallon spill of sulfuric acid/battery acid was reported on December 15, 1995 inside Building 490, Section 5. Petroleum products, microfiche developing chemicals, and Safety Kleen are stored in Building 490.	Spill was neutralized and containerized for disposal. Proposed NFA Site 40 (Safety Kleen Unit only).
4	Building 560	18.1(4)HS/HR	4.0	Building 560 has two drop inlets inside the building that lead to the storm drainage system. In addition, two spills (5 gallons and 15 gallons) of aqueous film forming foam were reported on October 17, 1995 and November 14, 1995 inside Building 560, Section 3.	The damaged containers were not returned to the recoupment facility and absorbent was applied to the spill.
4	Building 670	20.2(4)HS/HR	5.0	Significant corrosion on floor observed during visual inspection due to acid leaks at charging station. In addition, a 1-gallon spill of hydraulic fluid was reported on August 30, 1995 inside Building 670, Section 1. In addition, a 10-gallon spill of battery electrolyte was reported on May 4, 1990 outside of Building 670. The precise location of the outside spill is unknown.	Absorbent was applied to the spills.
4	Building 685	21.4(4)HS/HR	0.73	Potential contamination due to acid leaks from batteries in the fork lift area at Building 685. Staining observed. All remedial actions (neutralize acid leaks) have occurred. No CERCLA requirement to further investigate area; however, BCT agreed on July 18, 1996 that Lessee must be made aware that lead contamination may exist in concrete.	No remediation is necessary.

ENVIRONMENTAL CONDITION CATEGORY NUMBER	FACILITY(5)	PARCEL NUMBER AND LABEL <sup>a</sup>	APPROXIMATE SIZE (ACRES) <sup>c</sup>	HAZARDOUS SUBSTANCE AND PETROLEUM PRODUCT STORAGE, RELEASE, OR DISPOSAL NOTIFICATION <sup>d</sup>	REMEDIATION/ MITIGATION
4	Building 689	21.3(4)HS/HR	5.2	Eleven spills are documented from May 8, 1990 through November 16, 1995 inside and outside of Building 689. The materials spilled include nitric acid, corrosion removing compound, hydraulic fluid, oil, and sulfuric acid. Building 689 historically stored alcohol, acetone, toluene, and hydrofluoric acid before transport. Site 78 is located in the northern portion of this building. No previous sampling for the site. Site 75 is situated between Buildings 689 and 670. The area was not bermed and is adjacent to a storm sewer inlet. No previous sampling for the site.	Absorbent was applied to all spills. Screening Sites 75 and 78 - Surface and subsurface soil sampling proposed to evaluate the presence of a contaminant release.

**Notes:**

- <sup>a</sup> There are 11 buildings in ECP s 2, 3, and 4 being offered for lease; however, 12 areas are included in hazardous substance notification
- <sup>b</sup> Parcel label definitions are as follows:
  - PS = petroleum storage
  - PR = petroleum release or disposal
  - HS = hazardous substance storage
  - HR = hazardous substance release or disposal
- <sup>c</sup> Acreage figures are approximate; they have been calculated using AutoCad Release 12.
- <sup>d</sup> Hazardous substance storage quantities were not available nor was it practicable to estimate due to the varied nature of storage activities over the life of the facilities. Where available, quantities of spills was provided.

## ENVIRONMENTAL PROTECTION PROVISIONS

### INTERIM LEASE

#### DEFENSE DISTRIBUTION DEPOT MEMPHIS, TENNESSEE (DDMT)

1. The sole purpose for which the leased premises and any improvements thereon may be used, in the absence of prior written approval of the Government for any other use, is for uses similar or comparable to past or current activities of the Depot. These include light industry, storage, sorting operations, receiving, packaging and shipping, support activities, mechanical shop to support material handling equipment, recreation, welfare activities, residential, training, education and general office.
2. The Lessee shall neither transfer nor assign this Lease or any interest therein or any property on the leased premises, nor sublet the leased premises or any part thereof or any property thereon, nor grant any interest, privilege, or license whatsoever in connection with this Lease without the prior written consent of the Government. Such consent shall not be unreasonably withheld or delayed. Every sublease shall contain the Environmental Protection provisions herein.
3. The Lessee and any sublessee shall comply with the applicable Federal, state, and local laws, regulations, and standards that are or may become applicable to Lessee's activities on the Leased Premises.
4. The Lessee and any sublessee shall be solely responsible for obtaining at its cost and expense any environmental permits required for its operations under the Lease, independent of any existing permits.
5. The Government's rights under this Lease specifically include the right for Government officials to inspect upon reasonable notice the Leased Premises for compliance with environmental, safety, and occupational health laws and regulations, whether or not the Government is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. The Government normally will give the Lessee or sublessee twenty-four (24) hours prior notice of its intention to enter the Leased Premises unless it determines the entry is required for safety, environmental, operations, or security purposes. The Lessee shall have no claim on account of any entries against the United States or any officer, agent, employee, or contractor thereof.
6. The Government acknowledges that Defense Distribution Depot Memphis (DDMT) has been identified as a National Priority List (NPL) Site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The Lessee acknowledges that the Government has provided it with a copy of the DDMT Federal Facility Agreement (FFA) entered into by the United States Environmental Protection Agency (EPA) Region IV, the State of Tennessee, and the Department of the Army and effective on March 6, 1995, and will provide the Lessee with a copy of any amendments thereto. The Lessee agrees that should any conflict arise between the terms of such agreement as it presently exists or may be amended ("FFA," "Interagency Agreement" or "IAG") and the provisions of this Lease, the terms of the FFA [or IAG] will take precedence. The Lessee further agrees that notwithstanding any other provisions of the Lease, the Government assumes no liability to the Lessee or its sublessees or licensees should implementation of the FFA interfere with the Lessee's or any sublessee's or licensee's use of the

**Leased Premises.** The Lessee shall have no claim on account of any such interference against the United States or any officer, agent, employee or contractor thereof, other than for abatement of rent.

7. The Government, EPA, and the Tennessee Department of Environment and Conservation and their officers, agents, employees, contractors, subcontractors, have the right, upon reasonable notice to the Lessee and any sublessee, to enter upon the Leased Premises for the purposes enumerated in these subparagraph and for such other purposes consistent with any provision of the FFA:

(a) to conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, testing soil borings and other activities related to the DDMT Installation Restoration Program (IRP), FFA or IAG;

(b) to inspect field activities of the Government and its contractors and subcontractors in implementing the DDMT IRP, FFA or IAG;

(c) to conduct any test or survey required by the EPA or the Tennessee Department of Environment and Conservation relating to the implementation of the FFA or environmental conditions at the Leased Premises or to verify any data submitted to the EPA or the Tennessee Department of Environment and Conservation by the Government relating to such conditions;

(d) to construct, operate, maintain or undertake any other response or remedial action, as required or necessary under the DDMT IRP or the FFA or IAG, including, but not limited to monitoring wells, pumping wells, and treatment facilities;

(e) to conduct Environmental Compliance Assessment System Surveys (ECAS).

8. The Lessee and any sublessee shall comply with the provisions of any health and safety plan in effect under the IRP or the FFA during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representative designated by the Lessee and any sublessee. The Lessee and any sublessee shall have no claim on account of such entries against the United States or any office, agent, employee, contractor, or subcontractor thereof. In addition, the Lessee and any sublessee shall comply with all applicable Federal, state, and local occupational safety and health regulations.

9. The Lessee further agrees that in the event of any assignment or sublease of the Leased Premises, it shall provide to the EPA and Tennessee Department of Environment and Conservation by certified mail a copy of the agreement or sublease of the Leased Premises within fourteen (14) days after the effective date of such transaction. The Lessee may delete the financial terms and any other proprietary information from the copy of any agreement of assignment or sublease furnished pursuant to this condition.

10. The Lessee shall strictly comply with the hazardous waste permit requirements under Resource Conservation and Recovery Act (RCRA), or its DDMT equivalent. Except as specifically authorized by the Government in writing, the Lessee must provide at its own expense hazardous waste management facilities, complying with all laws and regulations. Government hazardous waste management facilities will not be available to the Lessee. Any violation of the requirements of this condition shall be deemed a material breach of this Lease.

11. Department of Defense (DoD) Component accumulation points for hazardous and other wastes will not be used by the Lessee or any sublessee. Neither will the Lessee or sublessee permit its hazardous wastes to be commingled with hazardous waste of the DoD Component.
12. The Lessee shall prepare and maintain a Government-approved plan for responding to hazardous waste, fuel, and other chemical spills prior to commencement of operations on the leased premises. Such a plan shall be independent of the DDMT and, except for initial fire response and/or spill containment, shall not rely on installation personnel or equipment. Should the Government provide any personnel or equipment, whether for initial fire response and/or spill containment, or otherwise on request of the said officer conducting timely cleanup actions, the Lessee agrees to reimburse the Government for its costs.
13. The Lessee shall not construct or make or permit its sublessees or assigns to construct or make any alterations, additions, or improvements to, or installations upon or otherwise modify or alter the leased premises in any way which may adversely affect the environmental program, environmental cleanup, human health, the environment, cultural and historic resources, and endangered or threatened species without the prior written consent of the Government. Such consent may include a requirement to provide the Government with a performance and payment bond satisfactory to it in all respects and other requirements deemed necessary to protect the interests of the Government. For construction or alterations, additions, modifications, improvements or installations (collectively "work") in the proximity of operable units that are a part of a National Priority List (NPL) site, such consent may include a requirement for written approval by the Government's Remedial Project Manager. Except as such written approval shall expressly provide otherwise, all such approved alterations, additions, modifications, improvements, and installations shall become Government property when annexed to the Leased Premises.
14. The Lessee shall not conduct or permit its sublessees to conduct any subsurface excavation, digging, drilling or other disturbance of the surface without the prior written approval of the Government.
15. The Lessee shall strictly comply with the hazardous waste permit requirements under the Resource Conservation and Recovery Act (RCRA), or its state equivalent and any other applicable laws, rules or regulations. The Lessee must provide at its own expense such hazardous waste storage facilities which comply with all laws and regulations as it may need for such storage. Any violation of the requirements of this provision shall be deemed a material breach of this Lease.

16. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT AND COVENANT:

a. The Lessee is hereby informed and does acknowledge that all buildings on the Leased Premises, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 residential housing, lessors must disclose to lessees and sublessees the presence of lead-based paint and/or lead-based paint hazards therein. "Residential Housing" means any housing constructed prior to 1978, except housing for the elderly (households reserved for and composed of one or more persons 62 years of age or more at the time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. A risk assessment or inspection for possible lead-based paint hazards by the Lessee is recommended prior to lease.



b. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey, which has been provided to the Lessee. All lessees and sublessees must also receive the federally-approved pamphlet on lead poisoning prevention. The Lessee hereby acknowledges receipt of all of the information described in this subparagraph.

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

d. The Lessee shall not permit the occupancy or use of any buildings or structures as residential housing 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 residential housing, if required by law or regulation, the Lessee, at its sole expense, will abate and eliminate lead-based paint hazards by treating any defective lead-based paint surface in accordance with all applicable laws and regulations.

e. The Army assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Lessee, its successors or assigns, sublessees or to any other person, including members of the general public, arising from or incident to possession and/or use of any portion of the Leased Premises containing lead-based paint as residential housing. The Lessee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of any portion of the Leased Premises containing lead-based paint as residential housing. This section and the obligations of the Lessee hereunder shall survive the expiration or termination of this Lease and any conveyance of the Leased Premises to the Lessee. The Lessee's obligation hereunder shall apply whenever the United States of America incurs costs or liabilities for actions giving rise to liability under this section.

#### 17. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT:

a. The Lessee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials ("ACM") has been found on the Leased Premises, as described in the final base-wide EBS. The ACM on the Leased Premises does not currently pose a threat to human health or the environment. All friable asbestos that posed a risk to human health has either been removed or encapsulated.

b. The Lessee covenants and agrees that its use and occupancy of the Leased Premises will be in compliance with all applicable laws relating to asbestos; and that the Lessor assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death, to the Lessee, its successors or assigns, sublessee or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Leased Premises described in this Lease, whether the lessee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The Lessee agrees to be responsible for any future remediation of asbestos found to be necessary on the Leased Premises.

18. Subject property is eligible for listing in the National Register of Historic Places. The buildings will be maintained by the Lessee in accordance with the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service 1992) (Secretary's Standards). The Lessee will notify the Department of the Army and the State Historic Preservation Officer (SHPO) of any proposed rehabilitations and structural or landscape alterations to these buildings prior to undertaking said rehabilitation or alteration. Any approved rehabilitation or structural or landscape alteration to this building must adhere to the Secretary's Standards. If the Lessee does not receive a written objection from the Department of the Army or the SHPO within 30 days, the Lessee may proceed with the proposed rehabilitation or alterations.
19. The Lessee shall not use the Leased Premises for the storage or disposal of non-Department of Defense owned hazardous or toxic materials, as defined in 10 U.S.C. 2692, unless authorized under 10 U.S.C. 2692 and properly approved by the Government.
20. The Army may impose any additional environmental protection conditions and restrictions during the terms of this lease that it deems necessary by providing written notice of such restrictions to the Lessee.