



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND
5001 EISENHOWER AVENUE, ALEXANDRIA, VA 22333-0001

REPLY TO
ATTENTION OF

AMCEN-R

14 AUG 1998,

MEMORANDUM THRU Commander, U.S. Army Engineers Division, South
Atlantic, ATTN: CESAD-RE, Room 313, 77 Forsyth
Street, S.W., Atlanta, GA 30335-6801

FOR Commander, U.S. Army Corps of Engineer, Mobile District,
ATTN: CESAM-RE-MM, P.O. Box 2288, Mobile, AL 36628-0001

SUBJECT: Finding of Suitability to Lease (FOSL-5) for Defense
Distribution Depot Memphis, Tennessee (DDMT)

1. References:

a. Memorandum, AMCEN-R, 3 Apr 97, subject: Report of
Availability for a Master Lease with the Memphis Depot
Redevelopment Agency.

b. Memorandum, DLSC-BBB, 15 Jun 98, SAB (Encl 1).

2. Enclosed for your action is the approved FOSL-5 (Encl 2) with
supporting documentation for adding Buildings 229, 230, 329, 330
and the open land area surrounding these buildings at DDMT to the
master lease with Memphis Depot Redevelopment Agency.

3. The approved Report of Availability (ROA) for the entire
installation, including the property addressed in this FOSL, was
forwarded with reference 1a.

4. The Final Environmental Assessment for Master Lease, Defense
Distribution Depot Memphis, Tennessee, dated Sep 96, is the
National Environmental Policy Act Document for this action.

5. Request a modification to the master lease adding Buildings
229, 230, 329, 330 and the open land area surrounding these
buildings be executed in accordance with the ROA and FOSL-5.

AMCEN-R

SUBJECT: Finding of Suitability to Lease (FOSL-5) for Defense Distribution Depot Memphis, Tennessee (DDMT)

6. Points of contact for this action are Mr. John Farrar, AMCEN-R, DSN 767-0726; commercial (703) 617-0726 and Mr. Joe Goetz, AMCEN-R, DSN 767-8904; commercial (703) 617-8904.

7. AMC -- America's Arsenal for the Brave.

FOR THE COMMANDER:



2 Encls

P. S. MORRIS
Colonel, GS
Deputy Chief of Staff
for Engineering, Housing,
Environment, and Installation
Logistics

CF: (wo/encls)

Assistant Chief of Staff for Installation Management, ATTN:
DAIM-BO, 600 Army Pentagon, Washington, D.C. 20310-0600
Headquarters, U.S. Army Corps of Engineers, ATTN: CERE-C,
Pulaski Bldg #4133, 20 Massachusetts Avenue, Washington, D.C.
20314-1000

Director, Defense Logistics Agency, ATTN: DLSC-BBB, Suite 2533,
8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221

Commander, Defense Distribution Depot Memphis, ATTN: DDMT-D,
2163 Airways Boulevard, Memphis, TN 38114-5210

FINDING OF SUITABILITY TO LEASE

(FOSL)

Parcel 8.1, Parcel 8.2, Parcel 8.3
Parcel 8.4, Parcel 8.5

Defense Distribution Depot Memphis, Tennessee

(FOSL Number 5)

July 8, 1998

1. PURPOSE

The purpose of this Finding Of Suitability To Lease (FOSL) is to document the environmental suitability of Parcels 8.1, 8.2, 8.3, 8.4 and 8.5 at the Defense Distribution Depot Memphis, Tennessee (DDMT) for leasing to the Depot Redevelopment Corporation (DRC) for light industry, storage or general office use consistent with Department of Defense (DOD) and Army policy. This FOSL has been developed in accordance with the DRC's Reuse Plan. In addition, the FOSL identifies use restrictions as specified in the attached Environmental Protection Provisions (Enclosure 5) necessary to protect human health and the environment and to prevent interference with any existing or planned environmental restoration activities.

2. PROPERTY DESCRIPTION

The proposed property to be leased consists of 17.6 acres that includes five (5) parcels. Included in these parcels are four (4) buildings (Buildings 229, 230, 329 and 330) and the open land area surrounding these buildings. Site maps of the property proposed to be leased can be found at Enclosure 1.

3. ENVIRONMENTAL CONDITION OF THE PROPERTY

A determination of the environmental condition of the facilities has been made based on the Community Environmental Response Facilitation Act (CERFA) Letter Report dated December 5, 1996 and an Environmental Baseline Survey (EBS) dated November 6, 1996. The information provided is a result of a complete search of agency files during the development of these environmental surveys. The following documents also provided information on environmental conditions of the property: Draft Final BRAC Cleanup Plan Version 2 (DDSP-FE, November 1997), Asbestos Reinspection (DDC-WP, October 1996), Final Environmental Assessment for Master Interim Lease (Tetra Tech, September 1996), Ordnance and Explosive Waste/Chemical Warfare Materials Archives Search Report (U.S. Army Corps of Engineers, January 1995), Remedial Investigation Soil Sampling Letter Report (CH2M Hill, May 1997), OU - 2 and OU - 3 Field Sampling Plans (CH2M Hill, September 1995), Asbestos Identification Survey (Pickering, December 1993 and January 1994), RCRA Facilities Assessment (A.T. Kearney, Inc., January 1990), Final Remedial Investigation Report (Law Environmental, August 1990) and the Installation Assessment (USAEHA, March 1981).

3.1 Environmental Condition of Property Categories

The Department of Defense (DOD) Environmental Condition of Property (ECP) Categories for the property are as follows:

ECP Category 1:	Parcel 8.2 - Building 229 only
	Parcel 8.3 - Building 230 only
	Parcel 8.4 - Building 329 only
	Parcel 8.5 - Building 330 only

ECP Category 7: Parcel 8.1 - Open land areas surrounding the buildings in Parcel 8

A summary of the ECP Categories for specific buildings or parcels is provided in Table 1 – Description of Property (Enclosure 2).

3.2 Storage, Release or Disposal of Hazardous Substances

Hazardous substances were stored in Buildings 229, 230, 329 and 330. It is assumed this storage was in excess of the 40 CFR Part 373 reportable quantities. Hazardous substances were released in the open area surrounding the four (4) buildings in Parcel 8. It is assumed, unless otherwise noted, these releases were in excess of the 40 CFR Part 373 reportable quantities. The release of hazardous substances was either remediated at the time of the release or is currently under evaluation as part of the installation restoration program. There is no risk to human health and the environment so long as the tenant adheres to the Environmental Protection Provisions (Enclosure 5) with particular reference to Provision 14 regarding ground disturbing activities. These activities shall not be allowed without prior written approval from the Government. A summary of the buildings or areas in which hazardous substance activities occurred is provided in Table 2 – Notification of Hazardous Substance Storage, Release or Disposal (Enclosure 3).

3.3 Petroleum and Petroleum Products

3.3.1 Storage, Release, or Disposal of Petroleum Products

Petroleum products were stored in Buildings 229, 230, 329 and 330. It is assumed this storage was in excess of 55 gallons. There is no evidence that petroleum products were released in these buildings; therefore there is no risk to human health or the environment. A summary of the buildings or areas in which petroleum products were stored, released or disposed is provided in Table 3 – Notification of Petroleum Product Storage, Release or Disposal (Enclosure 4).

3.3.2 Underground and Above-Ground Storage Tanks (UST/AST)

There is no evidence that petroleum products were stored in underground or aboveground storage tanks on the property.

3.4 Polychlorinated Biphenyls (PCB) Equipment

There are no PCB containing transformers or other PCB containing equipment, except hermetically sealed fluorescent light bulb ballasts that may contain PCBs, located on the property listed in this FOSL. There is no evidence of unremediated PCB releases from these ballasts.

3.5 Asbestos

The EBS and the Asbestos Identification Survey (Pickering, December 1993 and January 1994) indicate Asbestos Containing Materials (ACM) are present in the following buildings:

Building 229:	Thermal System Pipe Insulation (to include joints) Cement Asbestos Wall Board Cement Asbestos Transite Pipe Raised Roof Panel Putty 12 x 12 Floor Tiles and Mastic
Building 230:	Cement Asbestos Wall Board 12 x 12 Floor Tile Raised Roof Panel Putty Roof Flashing
Building 329:	Cement Asbestos Wall Board Floor Tile Mastic Raised Roof Panel Putty Roof Flashing
Building 330:	Cement Asbestos Wall Board Floor Tile Mastic Raised Roof Panel Putty Roof Flashing

The ACM does not currently pose a threat to human health or the environment because all friable asbestos that posed an unacceptable risk to human health has been removed or encapsulated. The lease will include the asbestos warning and covenant included in the Environmental Protection Provisions (Enclosure 5).

3.6 Lead-Based Paint (LBP)

Based on the age of the buildings (constructed prior to 1978), the following buildings are presumed to contain lead-based paint: 229, 230, 329 and 330. The lease will include the lead-based paint warning and covenant provided in the Environmental Protection Provisions (Enclosure 5).

3.7 Radiological Materials

There is no evidence that the Department of Defense used or stored radioactive materials on the property addressed in this FOSL.

3.8 Radon

In keeping with DOD policy to not perform radon assessment and mitigation prior to transfer of BRAC property, there were no radon surveys conducted in the buildings in this FOSL.

3.9 Unexploded Ordnance

Based on a review of existing records and available information, none of the buildings or surrounding land proposed for lease are known to contain unexploded ordnance.

3.10 Other Hazardous Conditions

There are no other known hazardous conditions that present an unacceptable threat to human health or the environment on the property.

4. REMEDIATION

In October 1992, the U.S. Environmental Protection Agency (EPA) placed DDMT on the National Priorities List (NPL) for environmental restoration. DDMT has since entered into a Federal Facilities Agreement (FFA) with the Tennessee Department of Environment and Conservation (TDEC) and the EPA. Environmental contamination on the property described in this document does not present a hazard to leasing it. In addition, environmental conditions on adjacent property do not present a hazard to the leasing of the property. Table 2 - Notification of Hazardous Substance Storage, Release or Disposal (Enclosure 3) and Table 3 - Notification of Petroleum Product Storage, Release or Disposal (Enclosure 4) provide details regarding environmental conditions for each individual parcel or building contained within this FOSL. Regulators have concurred with DDMT that the open area surrounding buildings in Parcel 8 do not pose risks above levels deemed protective provided that the property is used for the proposed purpose and the lessee strictly adheres to the Environmental Protection Provisions (Enclosure 5).

5. REGULATORY/PUBLIC COORDINATION

The U.S. EPA Region 4, TDEC and the public were notified of the initiation of the FOSL. Regulators have reviewed this FOSL and provided comments. These comments have been incorporated as appropriate. Regulatory/public comments and responses are provided in Enclosure 6.

6. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE AND CONSISTENCY WITH LOCAL REUSE PLAN

The environmental impacts associated with proposed lease of the property have been 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 environmental effects of the activities anticipated under the proposed lease were determined not to be significant. In addition, the proposed use of the property is consistent with the intended reuse of the property set forth in the Depot Redevelopment Corporation Reuse Plan.

7. ENVIRONMENTAL PROTECTION PROVISIONS

On the basis of the above results from the site-specific EBS and other environmental studies and in consideration of the intended use of the property, certain terms and conditions are required for the proposed lease. These terms and conditions are set forth in the attached Environmental Protection Provisions (Enclosure 5) and will be included in the lease.

8. FINDING OF SUITABILITY TO LEASE

Based on the above information, I have concluded that all Department of Defense (DOD) requirements to reach a Finding of Suitability to Lease (FOSL) to the Depot Redevelopment Corporation for light industrial use have been fully met for the property subject to the terms and conditions in the attached Environmental Protection Provision (Enclosure 5). As required by CERCLA section 120(h)(3)(B), I have determined that the property is suitable for lease for the intended purpose, the uses contemplated for the lease are consistent with protection of human health and the environment, and there are adequate assurances that the United States will take any additional remedial action found to be necessary that has not been taken on the date of the lease.

As required under the DOD FOSL Guidance, notification of hazardous substance activities and petroleum product activities shall be provided in the lease documents. Refer to Table 2 - Notification of Hazardous Substance Storage, Release or Disposal (Enclosure 3) and Table 3 - Notification of Petroleum Product Storage, Release or Disposal (Enclosure 4).



P. S. MORRIS

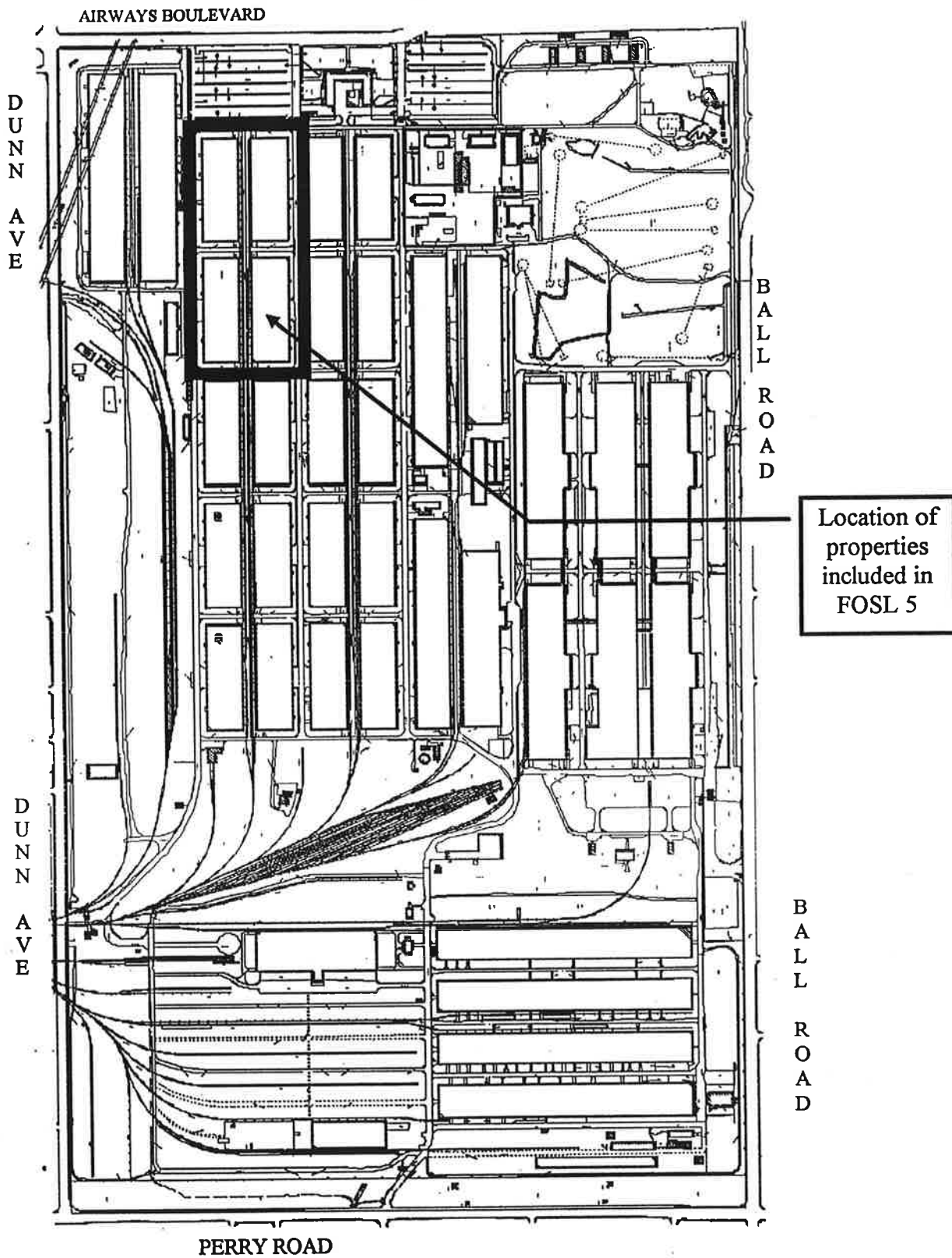
Colonel, GS

Deputy Chief of Staff for Engineering, Housing,
Environment and Installation Logistics

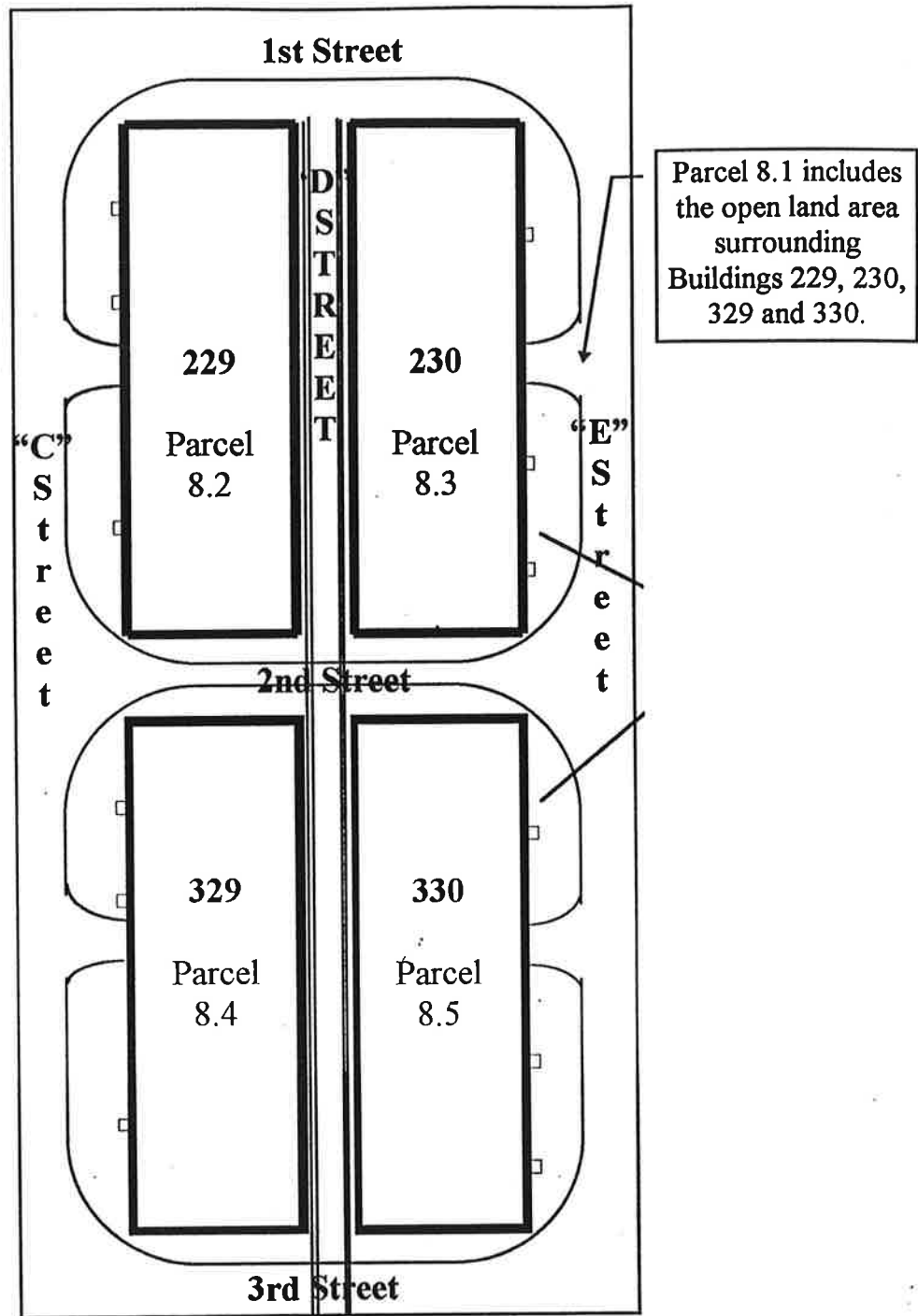
7 Enclosures

- Encl 1 Site Maps of Property
- Encl 2 Table 1 - Description of Property
- Encl 3 Table 2 - Notification of Hazardous Substance Storage, Release or Disposal
- Encl 4 Table 3 - Notification of Petroleum Product Storage, Release or Disposal
- Encl 5 Environmental Protection Provisions
- Encl 6 Regulatory/Public Comments and Responses
- Encl 7 Reference Materials

Enclosure 1
Site Map of FOSL 5 Property



Enclosure 1
Site Map of FOSL 5 Property



Enclosure 2
Table 1 - Description of Property

Building Number and Property Description	EBS Parcel Designation	Condition Category	Remedial Actions
Parcel 8.2 includes Building 229, a 120,000 square foot building erected in 1942 that was used during World War II as a storage warehouse for the Chemical Warfare Service until March 31, 1961. In subsequent years, it was used as a general purpose warehouse (food/textile storage).	8.2(1)	1	Building 229 was used by the U.S. Army Chemical Warfare Service for storage of a variety of materials including gas masks, respirators, nitro-starch and primacord bursters, blasting caps, tear gas solution and flame thrower fuel. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹
Parcel 8.3 includes Building 230, a 120,000 square foot building erected in 1942 that was used during World War II as a storage warehouse for the Chemical Warfare Service until March 31, 1961. In subsequent years, it was used as a general purpose warehouse (food/textile storage).	8.3(1)	1	Building 230 was used by the U.S. Army Chemical Warfare Service for storage of a variety of materials including gas masks, respirators, nitro-starch and primacord bursters, blasting caps, tear gas solution and flame thrower fuel. The U.S. Army Corps of Engineer-St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

Enclosure 2
Table 1 - Description of Property

Building Number and Property Description	EBS Parcel Designation	Condition Category	Remedial Actions
Parcel 8.4 includes Building 329, a 120,000 square foot building erected in 1942 that was used during World War II as a storage warehouse for the Chemical Warfare Service until March 31, 1961. In subsequent years, it was used as a general purpose warehouse (food/textile storage).	8.4(1)	1	Building 329 was used by the U.S. Army Chemical Warfare Service for storage of a variety of materials including gas masks, respirators, nitro-starch and primacord bursters, blasting caps, tear gas solution and flame thrower fuel. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹
Parcel 8.5 includes Building 330, a 120,000 square foot building erected in 1942 that was used during World War II as a storage warehouse for the Chemical Warfare Service until March 31, 1961. In subsequent years, it was used as a general purpose warehouse (food/textile storage).	8.5(1)	1	Building 330 was used by the U.S. Army Chemical Warfare Service for storage of a variety of materials including gas masks, respirators, nitro-starch and primacord bursters, blasting caps, tear gas solution and flame thrower fuel. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

Enclosure 2
Table 1 - Description of Property

Building Number and Property Description	EBS Parcel Designation	Condition Category	Remedial Actions
Parcel 8.1 includes the open land area of Parcel 8 surrounding Buildings 229, 230, 329 and 330.	8.1(7)	7	This parcel contains railroad tracks that were historically sprayed with pesticides, herbicides and waste oil containing PCP and grassy areas that were historically sprayed with herbicides and pesticides. Sampling of the railroad tracks and grassy areas was conducted as part of Screening Sites 70/71 (facility-wide tracks). This parcel was sampled and found to contain dieldrin at levels that exceeded screening criteria. Due to the presence of pesticides, this parcel is currently under evaluation by the BCT as part of the installation restoration program. Appropriate health and safety measures will be implemented during all remediation activities to ensure the protection of human health and the environment. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

¹ Provided the lessee strictly adheres to the Environmental Protection Provisions (Enclosure 5), including but not limited to Provision 14 - No subsurface disturbance, excavation, drilling or digging without prior written approval from the Government.

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

Category 2: Areas where only release or disposal of petroleum products has occurred.

Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but 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.

Category 5: Areas where release, disposal, and/or migration of hazardous substances has occurred, and removal or remedial actions are underway, but all required remedial actions have not yet been taken.

Category 6: Areas where release, disposal, and/or migration of hazardous substances has occurred, but required actions have not yet been implemented.

Category 7: Areas that are not evaluated or require additional evaluation.

Enclosure 3

Table 2 - Notification of Hazardous Substance Storage, Release or Disposal

Building Number	Name of Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
Parcel 8.2 - Building 229	Chloracetophenone tear gas; Sulfur Trioxide/ Chlorsulfonic acid mixture; Titanium Tetrachloride smoke; XXCC3 Impregnite (includes small amounts of chlorine and chloroform); Pesticides (fumigants)	Chemical Warfare Service use for material storage from April 30, 1942 until March 31, 1961 Pesticide fumigation probably began in April 1961 and continued until September 1997	No remedial action required. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹
Parcel 8.3 - Building 230	Chloracetophenone tear gas; Sulfur Trioxide/ Chlorsulfonic acid mixture; Titanium Tetrachloride smoke; XXCC3 Impregnite (includes small amounts of chlorine and chloroform); Pesticides (fumigants)	Chemical Warfare Service use for material storage from April 30, 1942 until March 31, 1961 Pesticide fumigation probably began in April 1961 and continued until September 1997	No remedial action required. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

Enclosure 3

Table 2 - Notification of Hazardous Substance Storage, Release or Disposal

Building Number	Name of Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
Parcel 8.4 - Building 329	Chloracetophenone tear gas; Sulfur Trioxide/ Chlorsulfonic acid mixture; Titanium Tetrachloride smoke; XXCC3 Impregnite (includes small amounts of chlorine and chloroform); Pesticides (fumigants)	Chemical Warfare Service use for material storage from April 30, 1942 until March 31, 1961 Pesticide fumigation probably began in April 1961 and continued until September 1997	No remedial action required. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹
Parcel 8.5 - Building 330	Chloracetophenone tear gas; Sulfur Trioxide/ Chlorsulfonic acid mixture; Titanium Tetrachloride smoke; XXCC3 Impregnite (includes small amounts of chlorine and chloroform); Pesticides (fumigants)	Chemical Warfare Service use for material storage from April 30, 1942 until March 31, 1961 Pesticide fumigation probably began in April 1961 and continued until September 1997	No remedial action required. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at this building of chemical warfare material during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." The building may also have been fumigated in the past. Air sampling for fumigants in other buildings similarly fumigated was performed in the winter of 1997. The BCT reviewed the air sample results and determined that no further action was required. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

Enclosure 3

Table 2 - Notification of Hazardous Substance Storage, Release or Disposal

Building Number	Name of Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
Parcel 8.1 - Open land area in Parcel 8	Pesticides Herbicides	Exact start date unknown assume 1942 (date of activation) - September 1997	This parcel contains railroad tracks that were historically sprayed with pesticides, herbicides and waste oil containing PCP and grassy areas that were historically sprayed with herbicides and pesticides. Sampling of the railroad tracks and grassy areas was conducted as part of Screening Sites 70/71 (facility-wide tracks). This parcel was sampled and found to contain dieldrin at levels that exceeded screening criteria. Due to the presence of pesticides, this parcel is currently under evaluation by the BCT as part of the installation restoration program. Appropriate health and safety measures will be implemented during all remediation activities to ensure the protection of human health and the environment. Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

¹ Provided the lessee strictly adheres to the Environmental Protection Provisions (Enclosure 5), including but not limited to Provision 14 - No subsurface disturbance, excavation, drilling or digging without prior written approval from the Government.

Enclosure 4

Table 3 - Notification of Petroleum Product Storage, Release or Disposal

Building Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
Parcel 8.2 - Building 230, Parcel 8.3 - Building 230, Parcel 8.4 - Building 329, Parcel 8.5 - Building 330	Flame Thrower Fuel (gel diesel)	April 1, 1942 until March 31, 1961	These buildings were used by the U.S. Army Chemical Warfare Service for storage of flame thrower fuel. The U.S. Army Corps of Engineer - St. Louis District found no evidence of release or disposal at these buildings during research for preparation of the "Ordnance and Explosive Waste/Chemical Warfare Materials Archive Search Report for Memphis Defense Depot." Therefore, the performance of industrial and/or commercial operations at this site in accordance with the Lease Restrictions will not pose an unacceptable risk to human health or the environment. ¹

¹ Provided the lessee strictly adheres to the Environmental Protection Provisions (Enclosure 5), including but not limited to Provision 14 - No subsurface disturbance, excavation, drilling or digging without prior written approval from the Government.

Enclosure 5

Environmental Protection Provisions

The following conditions will be placed in the lease to ensure there will be no unacceptable risk to human health or the environment and no interference to the ongoing Memphis Depot Caretaker installation restoration program (IRP) and to ensure regulatory requirements for the IRP and other compliance programs administered by the Army are met.

1. The sole purpose(s) 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, 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 or sublessee'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, Tennessee has been identified as a National Priorities 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 Defense Distribution Depot Memphis, Tennessee Federal Facilities Agreement (FFA) entered into by the United States Environmental Protection Agency (EPA) Region 4, the State of Tennessee, and the Defense Logistics Agency effective March 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 and the provisions of this Lease, the terms of the FFA will take precedence. The Lessee further agrees that notwithstanding any other

Enclosure 5

Environmental Protection Provisions

provisions of the Lease, the Government assumes no liability to the Lessee or its sublessee's or licenses 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 TDEC and their officers, agents, employees, contractors, and 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 subparagraphs, 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 Defense Distribution Depot Memphis, Tennessee installation restoration program (IRP) or FFA;

(b) to inspect field activities of the Government and its contractors and subcontractors in implementing the Defense Distribution Depot Memphis, Tennessee IRP or FFA;

(c) to conduct any test or survey required by the EPA or TDEC relating to the implementation of the FFA or environmental conditions at the Leased Premises or to verify any data submitted to the EPA or TDEC 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 Defense Distribution Depot Memphis, Tennessee IRP or FFA, 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 a 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 TDEC by certified mail a copy of the agreement or sublease of the Leased Premises (as the case may be) 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.

Enclosure 5

Environmental Protection Provisions

10. The Lessee shall strictly comply with the hazardous waste requirements under the Resource Conservation and Recovery Act (RCRA) or its Tennessee 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. Defense Distribution Depot Memphis, Tennessee 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 Department of the Army.

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 Memphis Depot Caretaker plan 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 any Government 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 sublessee's 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 Memphis Depot Caretaker environmental program, environmental cleanup, human health, or the environment, 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 Priorities 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 sublessee's 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 that 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.

Enclosure 5

Environmental Protection Provisions

16. LEAD-BASED PAINT WARNING AND COVENANT:

(a) The Leased Premises do not contain residential dwellings and are not being leased for residential or child care purposes. The Lessee is notified that the Leased Premises contain buildings built prior to 1978 that contain lead-based paint.

(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 that has been provided to the Lessee. Additionally, the following report pertaining to lead-based paint and/or lead-based paint hazards has been provided to the Lessee: Lead Based Paint Risk Assessment for DDMT (Barge, Waggoner, Sumner, and Cannon, December 1995, revised April 1996). Additionally, the Lessee has been provided with a copy of 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 use of any buildings or structures on the Leased Premises for residential habitation without first obtaining the written consent of the Government. As a condition of its consent, the Government may require the Lessee to: (i) inspect for the presence of lead-based paint and/or lead-based paint hazards in and around buildings and structures on the Leased Premises; (ii) abate and eliminate lead-based paint hazards in accordance with all applicable laws and regulations; and (iii) comply with the notice and disclosure requirements under applicable federal, state, and local laws or regulations. The Lessee agrees to be responsible for any future remediation of lead-based paint found to be necessary on the Leased Premises.

(e) The Government assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Lessee, its successors or assigns, sublessee's 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 Government, 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.

Enclosure 5

Environmental Protection Provisions

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 was either 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 Government 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's, 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. 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.

19. 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 conditions or restrictions to the Lessee.

20. The leased premises contain buildings (Buildings 229, 230, 329, and 330) that are eligible for listing in the National Register of Historic Places. Such properties 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 rehabilitation and structural or landscape alterations to these buildings or properties prior to undertaking said rehabilitation or alteration. Any approved rehabilitation or structural or landscape alteration to these buildings or properties 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.

Enclosure 6

Regulatory/Public Comments and Responses

Please find the Environmental Protection Agency (EPA), U. S. Department of Army (various offices), Army Materiel Command (AMC), Defense Logistics Agency (DLA) comments and Memphis Depot Caretaker (MDC) responses for FOSL #5.

EPA Comments to FOSL #5

1. As required by CERCLA Section 120(h)(5), DoD shall notify the state prior to entering into any lease that will encumber the property beyond the date of termination of DoD's operations. The notification shall include the length of lease, the name of lessee, and a description of the uses that will be allowed under the lease of the property. At National Priority List sites, DoD shall provide this notification to the United States Environmental Protection Agency as well.

COMMENT NOTED. The MDC will provide EPA and TDEC workable drafts of FOSLs as soon as they are available.

2. Section 1. Purpose. The section should identify the leased properties as Parcel 8.

COMMENT INCORPORATED.

3. Section 2. Property Description. Please insert -- and the open land area surrounding the buildings -- after "*four (4) buildings*". There are two maps labeled as Enclosure 1, please refer to the second map as Enclosure 1a.

COMMENT INCORPORATED. The paragraph shall read, "The proposed property to be leased consists of 17.6 acres that includes five (5) parcels. Included in these parcels are four (4) buildings (Buildings 229, 230, 329 and 330) and the open land area surrounding these buildings. Site maps of the property proposed to be leased can be found at Enclosure 1."

4. Section 3.1. Environmental Condition of Property Categories. The section should identify the parcel number associated with each property. Parcel 8.1 is missing in the list.

COMMENT INCORPORATED.

5. Section 3.2. Storage, Release or Disposal of Hazardous Substances. Please delete "*Products*" after "*Substance*" (on line 6).

COMMENT INCORPORATED.

6. Section 3.4. Polychlorinated Biphenyls (PCB) Equipment. Please change "*unremediated*" to -- PCB -- and "*PCB equipment*" to -- the light ballasts --.

COMMENT INCORPORATED. The second sentence will be changed to read, "There is no evidence of unremediated PCB releases from these ballasts."

Enclosure 6

Regulatory/Public Comments and Responses

7. Section 3.5. Asbestos. Please change "*asbestos containing material*" to --Asbestos Containing Material (ACM) --.

COMMENT INCORPORATED.

8. Section 4. Remediation. Please insert -- described in this document -- after "*property*" and change "*the property*" (after "*leasing*") to -- it -- (on line 4). The statement on lines 7-8 is inaccurate for properties categorized as 7. Please provide clarification.

COMMENT INCORPORATED. The sentence will be changed as follows, "Regulators have concurred with DDMT that the open area surrounding buildings in Parcel 8 do not pose risks above levels deemed protective provided that the property is used for the proposed purpose and the lessee strictly adheres to the Environmental Protection Provisions (Enclosure 5)."

9. Section 5. Regulatory Coordination. Please add the following sentence at the end of the paragraph:

"Regulatory/public comments and responses are provided in Enclosure 5 and 6 respectively."

COMMENT INCORPORATED. Regulatory/public comments and responses will be provided in Enclosure 6.

10. Section 6. National Environmental Policy Act (NEPA) Compliance and Consistency with Local Reuse Plan. Please change "*Local Reuse Authority*" to -- Depot Redevelopment Corporation -- (on line 7).

COMMENT INCORPORATED.

11. Section 7. Environmental Protection Provisions. Please insert -- (Enclosure 4) -- after "*Provisions*" (on line 4) and delete "*(Enclosure 4)*" (on line 5).

COMMENT INCORPORATED.

12. Section 8. Finding of Suitability to Lease. Please insert -- (DoD) -- after "*Defense*"; also please change "*finding of suitability to lease*" to -- Finding of Suitability to Lease (FOSL) --. Correct reference to Enclosure 5 as Enclosure 4. In the second paragraph, line 2, please change "*See*" to -- Refer to --.

COMMENT INCORPORATED.

13. Enclosure 1. Please identify each parcel on both maps. There are two different maps labeled Enclosure 1, please re-label the second map as Enclosure 1a.

COMMENT NOTED. The large site map provides the relative position of the parcels within the entire facility. The text shall be changed to reflect that site maps are included at Enclosure 1.

Enclosure 6
Regulatory/Public Comments and Responses

14. Enclosure 2. Page 10, row 1, column 4, on lines 7-8, delete "*due to past fumigation*"; on line 12, insert -- and the environment --.

COMMENT INCORPORATED.

15. Enclosure 2. Page 10, row 2, column 4, on lines 7-8, delete "*due to past fumigation*"; on line 12, insert -- and the environment --.

COMMENT INCORPORATED.

16. Enclosure 2. Page 10, row 3, column 4, on lines 7-8, delete "*due to past fumigation*"; on line 12, insert -- and the environment --.

COMMENT INCORPORATED.

17. Enclosure 2. Page 10, row 4, column 4, on lines 7-8, delete "*due to past fumigation*"; on line 12, insert -- and the environment --.

COMMENT INCORPORATED.

18. Enclosure 2. Page 11, row 1, column 4 should read as follows:
"This parcel contains railroad tracks that were historically sprayed with pesticides, herbicides, and waste oil containing PCP. Sampling was conducted as part of Screening Site 70/71 (Facility-wide railroad tracks). The parcel was sampled and found to contain dieldrin at levels that exceeded screening criteria. This parcel is under evaluation by the BCT as part of the installation restoration program. If remediation is necessary, appropriate measures will be implemented to ensure the protection of human health and the environment."

COMMENT INCORPORATED. Language varied slightly from that provided.

19. Enclosure 3. The title should be -- Notification of Hazardous Substance Storage, Release or Disposal --.

COMMENT INCORPORATED.

20. Enclosure 3. Page 12, row 5, column 4, line 4, delete "*safety and health*"; on line 6, insert -- and the environment -- after "*human health*"; on lines 6-10, delete "*The performance ... human health*".

COMMENT NOTED. Incorporated "and the environment." The sentence beginning, "The performance . . ." shall be changed to read, "Therefore, the performance . . ." A footnote shall be added to this sentence that will read, "Provided the lessee adheres to the Environmental Protection Provisions (Enclosure 5), including but not limited to provision 14 (no subsurface disturbance, excavation, drilling, or digging without prior written approval from the Government)." This footnote will be added to the end of Tables 1 and 2. No deletions have been

Enclosure 6

Regulatory/Public Comments and Responses

made as the language fulfills Army requirements and provides perspective tenants the information that remediation will be conducted in a safe and protective manner.

21. Enclosure 3. Page 14, row 3, column 4 on lines 6-7, delete "*health and safety*"; on line 9, insert -- and the environment -- after "*human health*"; on lines 9-12, delete "*The performance ... human health*".

COMMENT NOTED. See response to Comment 20.

22. Please note that category 7 does not provide enough information about the risk associated with a particular site (implies no risk assessment conducted), so it is improper to say that the performance of industrial and/or commercial operations at the property (even with the provisions) will not pose an unacceptable risk to human health or the environment.

COMMENT NOTED. See response to Comment 20.

23. Enclosure 5. Please note that in Provision #17(b) "Grantor" should be -- *the Department of Defense* --.

COMMENT INCORPORATED. Changed to "the Government."

24. Enclosure 5. Please note that "GRANTEE" in Provision #18(b) should be -- Lessee.

COMMENT INCORPORATED.

25. Enclosure 5. Provision #19 implies that there are DoD hazardous or toxic materials stored at the Depot.

COMMENT NOTED. It is an important covenant in that it tells the Lessee that hazardous substances shall not be brought onto the property unless specifically allowed by the Government.

U.S. Department of Army Comments on FOSL #5

Army OGC (Craig Teller)

No legal objection.

Army TJAG (MAJ Allison Polchek)

No legal objection.

Enclosure 6
Regulatory/Public Comments and Responses

Army BRACO (MS. Robin Mills)

1. HQDA/BTT should not be in a position of reviewing FOSLs that have not been staffed with the regulators first. I can see that there will be exceptions, but HQDA/BTT needs to know (for political reasons if nothing else) whether or not the regulators concur/non-concur with the FOSL.

COMMENT NOTED.

2. Page 3. Please clarify whether or not the regulators have signed off on the Cat 1 property (CERFA Clean??).

COMMENT NOTED. During BRAC Cleanup Team meetings, regulators have approved the category 1 properties following discussions of sampling data.

3. Page 5. Please clarify/state that the sites that caused the NPL listing are/or are not part of this lease (or does contaminated groundwater underlie the buildings????).

COMMENT NOTED. Sites that caused the NPL listing are not included in this lease. However, sites recognized by the regulators as CERCLA sites, which are included in the CERCLA remedial investigation and considered part of the NPL site, are in this lease (i.e. all grassy areas and all rail road tracks).

4. Page 11, the "Open Area of Parcel". It is unclear from the FOSL on whether or not this parcel is "suitable for lease for the intended use". An explanation as to WHY it is suitable needs to be given based on the on-going status of cleanup on the parcel. It may also be wise to point out in the protection provisions any restrictions/access that will be needed based on the on-going work. A statement concerning the "suitableness" of this parcel needs to be in the body of the FOSL as well as in the protection provisions.

COMMENT NOTED. A footnote shall be added to this sentence that will read, "Provided the lessee adheres to the Environmental Protection Provisions (Enclosure 5), including but not limited to provision 14 (no subsurface disturbance, excavation, drilling, or digging without prior written approval from the Government)." This footnote will be added to the end of Tables 1, 2 and 3.

5. Page 19 says that there are buildings eligible for the national register. WHERE ARE THE PA COVENANTS?? If the PA is not complete, we need to at least state that we are negotiating a PA with the SHPO and that we reserve the right to further restrict the use of these buildings based on the outcome of those negotiations. In the past we have required a letter from the SHPO office approving our lease action. Has there been a change here?

COMMENT NOTED. The Historical Properties provision will be added to the Environmental Protection Provisions. We have received written approval from the Tennessee State Historic Preservation Officer for leasing actions under the Master Interim Lease.

Enclosure 6
Regulatory/Public Comments and Responses

Defense Logistics Agency Comments on FOSL #5

HQ-DLA Legal

1. I have read the Army Materiel Command Guidance for FOST/FOSL. The above-noted Finding of Suitability to Lease (FOSL) were reviewed in light of that guidance. Inasmuch as the provisions to be included in the leases for Environmental Protection during the lease term are basically boilerplate, I will defer to the Army on the inclusion of those provisions. The language is repeated in the three documents and notes that the property is listed on the National Priorities List. Covenants for asbestos contamination, PCBs, lead-based paints, etc. are contained in the documents. Although we acknowledge the existence of the contaminants we ask the lessees to hold us harmless. Whether or not we would be sustained in these indemnifications and hold harmless provisions may be a legal issue not resolved now. The documents also outline contaminants stored on the property or utilized on the property. We do not know whether DLA is or was a contributory party to the use of the hazardous substances but it is noted that in certain instances remediation has taken place or a process for remediation has commenced. As a note in review, one wonders whether a policy of spraying dieldrin for pesticide purposes was considered a necessary property maintenance activity whether it was warranted or not. Was there any evidence of pest infestation to merit such use?

To be consistent with the FOSL guidance models, we need to make express statements that the proposed leases are consistent with the redevelopment plans proposed by the Memphis LRA.

Secondly I note in review that our documents are still in review by local environmental authorities and EPA. The Section 5 analysis is therefore incomplete because of the concurrent review. Otherwise I find no legal insufficiency in the documents meriting redrafting or significant change in format.

COMMENT NOTED. No records are available regarding Army's pest management program during the 1940s - 1960s. No records have been located regarding the Depot's pest management program during the 1960s until the 1970s when dieldrin was prohibited by the EPA for use. Paragraph 1. PURPOSE will include this sentence, "This FOSL has been developed in accordance with the Depot Redevelopment Corporation's Reuse Plan."

HQ-DLA (Karen Moran)

1. Page 4, para 3.7. Reword to read "...that the Army or DLA used.."

COMMENT NOTED. Changed to read Department of Defense.

2. Page 9, encl 1. The map does not show the (3rd St) boundary of the 17.6 acres to be leased.

COMMENT INCORPORATED.

Enclosure 6

Regulatory/Public Comments and Responses

3. Page 11, encl 2, Open area, Remedial Action column. Modify 3rd sentence to read "...Sampling results at the railroad tracks indicated.." or similar, to clarify. Modify 6th sentence to read "the grassy area sub-parcel was sampled..." or similar, to clarify.

COMMENT INCORPORATED.

4. Page 3, para 3.7. Replace "the property" with "the parcels addressed in this FOSL" so readers do not assume this is an installation-wide statement.

COMMENT INCORPORATED.

5. Enclosure 1, page 2. Again, consider including parcel designations on the site map of the FOSL property.

COMMENT INCORPORATED.

6. Enclosure 2, page 1. Sections on Bldgs. 229 and 230, in the fifth sentence, replace "air sample results" with "air monitoring results" to be consistent with wording used in FOSL #4 to describe the same process.

COMMENT NOTED. The language in FOSL #4 was changed to correspond to FOSL #5 as this language is more appropriate.

7. Enclosure 6, page 4, comment 22. The response does not seem to answer the question raised or even relate to it.

COMMENT INCORPORATED. The response now refers the reader to comment 20.

Enclosure 7 References

I. The statutory and regulatory requirements relating to FOST/FOSLs are as follows:

CERCLA §120(h), 42 U.S.C. §9620(h) - Property Transferred by Federal Agencies

10 U.S.C. § 2667(f) as amended by section 2906 of the FY 94 Defense Authorization Act requiring DOD and EPA to consult on FOSL procedures

40 CFR PART 373 - Reporting Hazardous Substance Activity when Selling or Transferring Federal Real Property.

II. The DOD Guidance relating to FOST/FOSLs is as follows:

DOD Guidance on the Environmental Review Process to Reach a Finding of Suitability to Transfer (FOST) for Property Where Release or Disposal has Occurred,
dated 1 June 1994.

DOD Guidance on the Environmental Review Process to Reach a Finding of Suitability to Transfer (FOST) for Property Where No Release or Disposal has Occurred,
dated 1 June 1994.

DOD Policy on the Environmental Review Process to Reach a Finding of Suitability to Lease (FOSL), dated 18 May 1996.

DOD Fast Track to FOST - A Guide to Determining if Property is Environmentally Suitable to Transfer , July 1997

DOD Fact Sheet - A Field Guide to FOSL, Fall 1996

DOD Memorandum, Subject: Clarification of "Uncontaminated" Environmental Condition of Property at Base Realignment and Closure (BRAC) Installations,
dated 21 October 1996

DOD Memorandum, Subject: Asbestos, Lead paint and Radon Policies at BRAC Properties, dated 31 October 1994

III. U.S. Environmental Protection Agency (EPA) Guidance

Guidance for Evaluation of Federal Agency Demonstrations that Remedial Actions are Operating Properly and Successfully Under CERCLA Section 120(h)(3), (Interim)
dated August 1996

EPA Memorandum, Subject: Military Base Closures: Guidance on EPA concurrence in the Identification of Uncontaminated Parcels under CERCLA Section 120(h)(4), re-issued March 27, 1997

Enclosure 7

References

IV. Department of the Army Guidance

AR 200-1, Environmental Protection and Enhancement, dated 21 February 1997

DAIM-BO Memorandum, Subject: Clarification of Meaning of Uncontaminated Property for Purposes of Transfer by the United States, dated 9 December 1996

V. WWW BRAC Sites

1. DOD Sites –

DOD Base Closure and Transition Office –
<http://emissary.acq.osd.mil/bctoweb/bctohome.nsf>

DOD Environmental Base Realignment and Base Closure (BRAC)
Program
<http://www.dtic.mil/envirodod/envbrac.html>

DOD Base Closure and Community Reinvestment
<http://www.acq.osd.mil/iai/bccr.htm>

DOD Office of Economic Adjustment
<http://www.acq.osd.mil/oea/index.html>

2. Environmental Protection Agency

EPA OSWER Federal Facilities Base Realignment and Closure
<http://www.epa.gov/swerffrr/brac.htm>

3. Department of the Army

Army Base Realignment and Closure Office
<http://www.hqda.army.mil/acsimweb/brac/brac3.htm>

CERL BRAC/NEPA "How To" Manual
<http://www.cecer.army.mil/facts/sheets/PL19.html>

Corps of Engineers Base Realignment and Closure (Camp Bonneville)
- Good Slide Presentation of Process.
<http://www.nps.usace.army.mil/geotech/bnvl/brac95/index.htm>

Presidio of San Francisco BRAC Environmental Restoration Program
- General information as well as facts on Presidio Cleanup and Conversion

Enclosure 7 References

<http://www.presidiosanfran.com>

4. Department of the Air Force

Air Force Base Conversion Agency
<http://www.afbca.hq.af.mil>

5. Department of the Navy

Navy NAVFAC Base Closure Site
<http://164.224.238.53:81/csohome.nsf>

Navy Facilities Engineering Command - information on Navy BRAC sites
http://www.ncts.navy.mil/homepages/navfac_es/bcp.htm

Navy Environmental BRAC News
<http://www.navy.mil/homepages/navfac/env/newslet.html>