



THE MEMPHIS DEPOT TENNESSEE

ADMINISTRATIVE RECORD COVER SHEET

AR File Number 586



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

REPLY TO
ATTENTION OF

586 1

File: 212.700.000.17
C.H. 587

107 JUN 2000

AMCEN-R

MEMORANDUM THRU Commander, U.S. Army Engineers Division, South
Atlantic, ATTN: CESAD-RE, Room #313, 77 Forsyth
Street, SW., 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: Base Realignment and Closure (BRAC) Disposal Support
Package-1 (BDSP-1) and Finding of Suitability to Transfer (FOST-1)
for Transfer of Property at Defense Distribution Depot Memphis,
Tennessee (DDMT)

1. References:

a. Memorandum, DLSC-BP, 2 Feb 00, subject: Memphis BDSP,
FOST #1 and RONA.

b. Approved Memorandum of Agreement (MOA) among U.S. Army,
Tennessee State Historic Preservation Officer, and Advisory Council
on Historic Preservation, dated 12 Jun 98.

2. Enclosed for your action is a copy of the BDSP-1, FOST-1
and Record of Non-Applicability Concerning the General Conformity
Rule (RONA) for the transfer of approximately 2.38 acres that
includes seven (7) buildings at DDMT.

3. Request a deed be executed in accordance with the enclosed
approved documents.

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

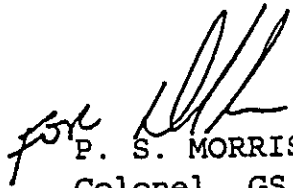
AMCEN-R

SUBJECT: Base Realignment and Closure (BRAC) Disposal Support
Package-1 (BDSP-1) and Finding of Suitability to Transfer (FOST-1)
for Transfer of Property at Defense Distribution Depot Memphis,
Tennessee (DDMT)

5. AMC -- Your Readiness Command . . . Serving Soldiers Proudly!

FOR THE COMMANDER:

3 Encls
as

for 
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-MD, 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 Distribution Mephis Depot, ATTN: DDSP-BTCO,
2163 Airways Boulevard, Memphis, TN 38114-5210
Director, Defense Logistics Agency Support Services (DSS), ATTN:
DLSC-BIP, 8725 John J. Kingman Road, Suite # 2533, Fort Belvoir,
VA 22060-6221



DEFENSE LOGISTICS AGENCY
DEFENSE LOGISTICS SUPPORT COMMAND
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FORT BELVOIR, VIRGINIA 22060-6221

TO DLSC-BP

February 2, 2000

MEMORANDUM FOR COMMANDER, U.S. ARMY MATERIEL COMMAND
ATTN: AMCEN-A (MR. PETE CUNANAN, ROOM 4W20)

SUBJECT: Memphis BDSP, FOST #1 and RONA

Attached for your approval and signature are the Disposal Support Package Checklist (BDSP), Finding of Suitability to Transfer (FOST #1), and Record of Non-Applicability Concerning the General Conformity Rule (RONA) for Family Housing for the former Defense Distribution Depot Memphis, Tennessee. Comments made by regulatory agencies have been considered and appropriate changes incorporated in this final version. Headquarters, Defense Logistics Agency Environmental, Legal and Real Estate have coordinated.

A handwritten signature in cursive script, reading "Leonard Yankosky", is written over the printed name.

LEONARD YANKOSKY

Chief, Business Management and Planning Team

3 Att



DISPOSAL SUPPORT PACKAGE CHECKLIST

(Installation: Defense Distribution Depot Memphis, Tennessee)

Terms used herein may be found in ER 405-1-12, The Real Estate Handbook, Chapter 11 (Disposal).

I. DEED ADMINISTRATION:

Transferee:
 Mr. Jim Covington
 Depot Redevelopment Corporation
 2163 Airways Blvd., Building 144
 Memphis, TN 38114-5210
 (901) 942-4939

Other involved parties:
 Memphis Inter Faith Association
 P.O. Box 3130
 Memphis, TN 38173

II. PROPERTY INFORMATION:

1. General property identification. Refer to the map(s) attached to the Finding of Suitability to Transfer (FOST) showing the nearest project or installation boundary.

Former Military Family Housing Units:
 Bounded on east by installation fenceline east of Zero Street.
 Bounded on south by housing unit area fenceline south of L Street.
 Bounded on west by housing unit area fenceline west of Half Street.
 Bounded on north by installation fenceline north of J Street.

2. Acreage:

2.38 acres

3. General character of the property (short description of the uses of the property; i.e., industrial, residential, warehouse, etc.):

Residential and automobile parking for residential units.

4. Are Government buildings and improvements included in the area?

☐ No

☒ Yes. If yes, identify and describe all buildings, facilities and improvements, e.g. Identification Nos., square footage of building, condition, existing or preceding building use:

Housing Unit Building 176 = 4,787 sq.ft. Good condition. Residential.
 Housing Unit Building 179 = 4,835 sq.ft. Good condition. Residential.
 Housing Unit Building 181 = 4,835 sq.ft. Good condition. Residential.
 Housing Unit Building 184 = 4,739 sq.ft. Good condition. Residential.
 Covered Garage Building S178 = 1,440 sq.ft. Good condition. Automobile parking.
 Covered Garage Building S183 = 1,440 sq.ft. Good condition. Automobile parking.

5. United States property interest, if multiple interests exist, identify various areas on map described in paragraph II.1.:

☒ Fee simple title

☐ Easement

☐ In-lease

- ☐ Reversionary interest
- ☐ Any restrictions or conditions on title. Explain:

6. Army interest:

- ☒ Direct control
- ☐ Permit from a Federal Agency
- ☐ Withdrawn from the public domain. (attach information required by Appendix E of Chapter 11, ER 404-1-12, Notice of Relinquishment)

7. Type of jurisdiction:

- ☐ Exclusive Federal Jurisdiction
- ☒ Concurrent Federal Jurisdiction
- ☐ Proprietary status

8. If Property is to be transferred to another Federal Agency and Federal jurisdiction is other than proprietary, is jurisdiction to be retroceded?

- ☐ Yes. Describe action. If a retrocession action is pending, identify the status of that effort:
- ☒ No.

9. Is there a post cemetery(s) located on the property?

- ☒ No.
- ☐ Yes. Attach summary of post cemetery record. Explain proposed disposition plan for cemetery(s).

10. Is it eligible for transfer to the Veterans Affairs?

- ☒ No.
- ☐ Yes. Describe.

11. Does the area contain a private cemetery or burial plot?

- ☒ No.
- ☐ Yes. Attach data on location and ownership, including specific information on outstanding rights. Describe any special restrictions or issues.

III. OPERATIONAL FACTORS:

1. Are utilities, e.g. electricity, natural gas/propane/heating oil, potable water, wastewater treatment, telephone, cable TV, etc., available from public or private utility companies?

- ☐ No
- ☒ Yes. If yes, identify the type, quantity, and provider of such services:
Memphis Light, Gas and Water provides electricity, natural gas and potable water. City of Memphis Public Works Division provides wastewater treatment. Bell South and many other companies provide telephone service.
Time Warner Cable provides cable tv.

2. Will the Army be providing utilities or services on a reimbursable basis?

- ☒ No
- ☐ Yes. If yes, identify the instrument used to establish the terms under which such services will be provided and the type, quantity, and consideration:

3. Is the utility distribution system being disposed of?

- ☒ No.
- ☐ Yes. Define what utilities are being disposed of and specify any permits to be transferred:

4. Are sewage treatment, power generating, or water treatment facilities being disposed of?

☒ No.

☐ Yes. Describe systems and their condition, including whether the facilities were built to Army standards or do they meet standards for public/private operation? Specify any permits to be transferred:

5. Will the transfer affect the operation of the remaining installation or the BRAC Implementation Plan?

☒ No

☐ Yes. Explain any operational issues including the proposed resolution:

6. The following site-specific recommendations are made as to limitations, restrictions, or conditions to be included in the deed to make the proposed use compatible with the property being retained by the Federal Government or with the disposal of remaining excess property:

NA

7. Non-Environmental Safety Issues and Concerns, if any:

NA

8. Airfields and Airspace.

- a. Does the airspace over or near the property or military installation need to be protected?

☐ No

☒ Yes. If yes, describe deed restrictions: Height limitations on any new structures to ensure protection of primary take off and landing flight paths of Memphis International Airport.

- b. Will the deed for the property require the notification of the FAA?

☒ No

☐ Yes. Explain who will notify FAA and when:

9. Easements.

- a. Will the Army need to reserve any easement (Reserved Easement) over the property being conveyed for the benefit of the Army or any other party?

☒ No

☐ Yes. Generally describe each such easement:

- b. Will the Army need to grant any easement over property adjoining the property being conveyed that will be needed by the transferee (Appurtenant Easements) for its use of the property, such as a right of way to the property being conveyed?

☒ No

☐ Yes. Generally describe each such easement:

10. REMARKS. Include any legal, policy, or mission factors you are aware of which may affect the proposed use of the property or require special provisions in the transfer documents:

NA

IV. ENVIRONMENTAL CONSIDERATIONS:

1. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS: The requirements under NEPA for the proposed disposal action have been met as follows:

a. Environmental impact of action:

☒ The environmental impact of this action is considered to be minimal or insignificant. The Environmental Assessment (EA) with Finding of No Significant Impact (FONSI) is:

☒ on file at HQDA: Environmental Assessment for BRAC 95 Disposal and Reuse of Defense Distribution Depot Memphis, Tennessee, February 1998
☐ Attached (if not on file at HQDA in sufficient copies).

☐ The environmental impact of this action has been considered. An Environmental Impact Statement (EIS), or supplement thereto, along with the Record of Decision (ROD) is:

☐ On file at HQDA (Identify title and date)
☐ Attached (if not on file at HQDA in sufficient copies).

☐ This action is categorically excluded. Attach Record of Consideration:

b. Identify mitigation actions which are required, costs, and responsible party for the mitigation associated with this transaction (specifically identify any mitigation provisions that must be included in the deed):

NA

c. If the EIS or EA covers more than the proposed disposal action, explain how and where the disposal action is analyzed and considered in the NEPA documentation:

NA

2. COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) and the ENVIRONMENTAL BASELINE STUDY (EBS):

☐ An EBS has been conducted and no hazardous, toxic, radiological waste (HTRW) substances were identified as released, stored, or disposed on the property in the threshold quantities. Provide date of EBS on file at HQDA:

☒ An EBS has been conducted which indicates HTRW substances were released, stored, or disposed on the property in the threshold quantities. Hazardous storage, disposal, or release notification must be included in the deed (reference 40 CFR Part 373) and attached to the FOST/ECOP. A copy of the EBS containing the details is on file at HQDA. Choose one:

☒ All remedial actions have been completed so that the property is considered safe for unrestricted use. Describe any continuing operation and maintenance of installed remedial systems and necessary access rights: NA

☐ Remedial actions have been completed allowing for use of the property, subject to restrictions on use or institutional controls to be included in the deed. The substantive requirements for the required use restrictions are set forth in the FOST/ECOP. The nature of the required use restrictions, including any required monitoring or enforcement actions, is summarized below with specific reference to the applicable portion of the FOST/ECOP:

☐ Remedial actions have not been completed, but will be addressed in accordance with the attached FOSET:

3. REAL PROPERTY CONTAINING ORDNANCE AND EXPLOSIVES (OE).

a. Does the property contain OE?

☒ No. Submit basis for the answer. Findings of Ordnance and Explosive Waste/Chemical Warfare Materiel Archive Search Report prepared by the U.S. Army Corps of Engineers, St. Louis Division, January 1995.

☐ Yes. If yes, has a Plan to clean up the property been submitted through the Major Army Command and the U.S. Army Technical Center for Explosives Safety to the Department of Defense Explosives Safety Board (DDESB) for approval before cleanup and transfer?

☐ No

☐ Yes. If yes, has the OE been removed (to a degree compatible with the use of the property) prior to transfer?

☐ Yes.

☐ No. Provide date when property will be cleared:

b. Will access rights to implement any monitoring plan or use restrictions be required?

☒ No.

☐ Yes. Describe (Set out proposed language to be inserted in deed):

4. WASTE DISPOSAL (The Solid Waste Recovery Act, as amended; Resource Conservation and Recovery Act (RCRA)).

a. Waste treatment facilities, landfills, or other waste disposal sites:

☐ Are located on the site.

☒ Are not located on the site.

b. Identify sites. Are sites noted on the site map? Are the sites active? Do they have appropriate RCRA permits? Explain.

NA

5. UNDERGROUND/ABOVE GROUND STORAGE TANKS

a. Are there underground storage tanks (USTs) on the property?

☒ No. Never present.

☐ No. USTs have been removed and closure documents on file.

☐ Yes. There are USTs on the property. Are the tanks in compliance with current laws and regulations?

☐ Yes.

☐ No. List size, location on map at paragraph II.1., current status, product and last date used:

b. Are there above ground storage tanks (AGSTs) for fuel or other regulated substances.

☒ No. Never present.

☐ No. AGSTs have been removed.

☐ Yes. there are AGSTs for fuel or other regulated substances on the property. Are the tanks in compliance with current laws and regulations?

☐ Yes.

☐ No. List size, location on map at paragraph II.1., current status, product and last date used:

6. ENDANGERED SPECIES:

a. Coordination with the USFWS to determine the possible presence of any federally listed endangered, threatened, or candidate species in the action area has occurred (contained in the Environmental Assessment for BRAC 95 Disposal and Reuse of Defense Distribution Depot Memphis, Tennessee, February 1993). Provide date of last coordination and describe results of coordination:

Date of last coordination: August 5, 1996

Coordination results: No recorded threatened and/or endangered species within the project boundaries nor within a one mile radius of the proposed project.

b. This disposal action will affect:

- ☐ A federally listed endangered or threatened species; list:
- ☐ A federal candidate species; list:
- ☐ A state listed species; list:
- ☐ Designated critical habitat; describe:
- ☒ None of the proceeding.

c. This disposal action will affect a federally listed endangered, threatened, or candidate species and required consultation with the USFWS has been completed. Attach any biological assessment, opinion, and correspondence with the USFWS. Accordingly, the following restrictions must be incorporated in the deed to protect the affected species and its habitat:

NA

7. FISH AND WILDLIFE COORDINATION ACT (FWCA):

☒ This action will not jeopardize fish and wildlife species or habitat integral to Congressionally authorized mitigation or General Plans, or Army agreed to recommendations in Fish and Wildlife reports prepared under the provisions of the FWCA.

☐ This action will jeopardize fish and wildlife species or habitat integral to Congressionally authorized mitigation or General Plans, or Army agreed to recommendations in Fish and Wildlife reports prepared under the provisions of the FWCA. Impact description:
Recommended action prior to transfer, including appropriate deed restrictions or other agreements:

8. COASTAL ZONE MANAGEMENT (CZM) (if applicable):

☒ CZM is not applicable.

☐ CZM is applicable, and a CZM Act Consistency determination with the approved state CZM Plan has/will be obtained. State any restriction that may need to be in the disposal document. Describe any commitments or agreements made under a CZM Consistency determination.

9. FLOODPLAIN:

☒ This property is not located within the 100-year floodplain and does not fall under the purview of Executive Order 11988.

☐ This property is located within the 100-year flood plain and does fall under the purview of Executive Order 11988 and the disposal documents should contain the following restrictions on proposed occupancy or use:

- ☐ This property is located within the 100-year flood plain and (check the appropriate):
 - ☐ The proposed use of the property will not adversely impact the flood plain.
 - ☐ There is no other practicable alternative available for this intended use.

10. WETLANDS:

☒ This property does not contain any known, regulated wetlands and, therefore, does not fall under the purview of Executive Order 11990

☐ This property does contain regulated wetlands and does fall under the purview of Executive Order 11990, accordingly, an appropriate provision must be incorporated in the disposal document.

11. HISTORICAL, CULTURAL, AND ARCHEOLOGICAL RESOURCES:

☐ The real property has been surveyed for eligible historical and cultural resources and there have been none identified on this property, and this action is in compliance with the National Historic Preservation Act and other relevant laws; Executive Order 11593, Protection and Enhancement of the Cultural Environment; or any MOAs related thereto. Attach correspondence from State Historic Preservation Office agreeing that no historical and cultural resources have been identified on this property.

☒ A survey has identified eligible historical and/or cultural resources on this property. This action has been coordinated with the State Historic Preservation Officer and the Advisory Council on Historic Preservation in accordance with 36 CFR 800. The U.S. Army Materiel Command has on file a Memorandum of Agreement signed by AMC and the Tennessee State Historical Preservation Office regarding eligible historical resources on the property and providing appropriate deed restrictions. The U.S. Army Materiel Command also has on file a document titled, "Archeological Survey of Two Parcels at Defense Depot Memphis, Tennessee" documenting no archeological resources on the property. Find attached a letter from the Tennessee Historical Commission concurring with the finding of no archeological resources. The Family Housing Area included in the attached Finding of Suitability to Transfer contains no eligible historical, cultural or archeological resources.

☐ Native American graves have been identified on this property (Refer to requirements of the American Indian Religious Freedom Act and Native American's Graves Protection and Repatriation Act). Consultation on the disposition of Native American graves and objects has been completed with interested Native American organizations; correspondence attached.

☐ Archaeological sites or resources have been identified on this property. Refer to the Antiquities Act; Archaeological and Historical Preservation Act; and Archaeological Resources Protection Act. The plan for curation and disposition of these resources is attached.

12. LEAD-BASED PAINT:

a. Are there improvements constructed prior to 1960 that are considered to contain lead-based paint or which have been determined to contain lead-based paint?

☐ No.

☒ Yes. The improvements include residential structures. Provide appropriate restrictions and notifications in the FOST/ECOP and deed.

☐ Yes. The improvements are not residential in nature.

b. Are there improvements constructed between 1960 and 1978 that are considered to contain lead-based paint or which have been determined to contain lead-based paint?

☒ No.

☐ Yes. The improvements include residential structures. Provide appropriate restrictions and notifications in the FOST/ECOP and deed.

☐ Yes. The improvements are not residential in nature.

13. ASBESTOS-CONTAINING MATERIAL: Is there any Asbestos Containing Material on the property?

☐ No.

☒ Yes. All known asbestos hazards on the property have been abated. Provide appropriate notice and covenants in the FOST/ECOP and deed.

☐ Yes. The following buildings and structures contain asbestos that may pose an unacceptable risk to human health or the environment. The condition of the buildings and structures is described in the...

FOST/ECOP and require abatement action prior to use or occupancy by the transferee. Provide appropriate restrictions and notifications in the FOST/ECOP and deed. List the buildings and structures:

14. WILD AND SCENIC RIVERS: Will the proposed transfer impact an area designated under the Wild and Scenic Rivers Act?

☒ No.

☐ Yes. If yes, the following conditions need to be included in the deed:

15. RADON: Is radon present in excess of EPA residential standards in any building or structure intended for residential use?

☒ No

☐ Yes. Provide appropriate restrictions and notifications in the FOST and deed.

List buildings or structures:

☐ Not applicable. No property included in this transfer is intended for residential use.

16. PCBs:

a. Are polychlorinated biphenyls (PCBs) present (not including PCB-containing transformers) on the property?

☒ No.

☐ Yes. Provide appropriate restrictions and notifications in the FOST and deed.

b. Does the property have PCB-containing transformers in service?

☐ Yes. See C. below.

☒ No.

c. If the Property does have PCB containing transformers in service, are they maintained in accordance with applicable laws and regulations?

☐ Yes.

☐ No. Explain

17. CLEAN AIR ACT: Will the proposed transfer activity require a Clean Air Act Conformity Determination?

☐ Yes. Explain.

☒ No. Attach Record of Non-Applicability.

☐ Are there economic incentives "credits" associated with the transfer?

18. ADDITIONAL COMMENTS:


List Attachments:

1. Finding of Suitability to Transfer Family Housing Area
2. Record of Non-Applicability
3. Tennessee Historical Commission letter dated September 10, 1997

V. LEGAL SUFFICIENCY: STAN CITRON has reviewed
the above information and based upon this information has found it to be legally sufficient.

VI. CERTIFICATION: I certify the above information.

6-7-00
Date

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

FINDING OF SUITABILITY TO TRANSFER
(FOST)

#1

*(Parcel 2.1, Parcel 2.2, Parcel 2.3, Parcel 2.4,
Parcel 2.5, Parcel 2.6, Parcel 2.7)*

at the former Defense Distribution Depot Memphis, Tennessee

January 2000

1. PURPOSE

The purpose of this Finding Of Suitability To Transfer (FOST) is to document the environmental suitability of Parcels 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 at the former Defense Distribution Depot Memphis, Tennessee (Depot) for transfer for residential use consistent with Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 120(h), Department of Defense (DOD) and Army policy. This FOST has been developed in accordance with the Depot Redevelopment Corporation's (DRC) Reuse Plan. In addition, this FOST identifies use restrictions as specified in the attached Environmental Protection Provisions necessary to protect human health or the environment after such transfer.

2. PROPERTY DESCRIPTION

The proposed property to be transferred consists of 2.38 acres that includes seven (7) parcels. Included in these parcels are six buildings and the open land area surrounding these buildings. Site maps of the property proposed to be transferred 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 Post Removal Report Family Housing Memphis Depot Tennessee, the Comprehensive Environmental Response Facilitation Act (CERFA) letter to EPA dated December 5, 1997 and the 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: Revised BRAC Parcel Summary Reports (CH2M Hill, October 1998), Final BRAC Cleanup Plan Version 2 (DDSP-FE, October 1998), Asbestos Reinspection (DDRE-WP, October 1996), Final Environmental Assessment for BRAC 95 Disposal and Reuse (Tetra Tech, February 1998), Lead-Based Paint Risk Assessment for the Defense Distribution Depot Memphis, Tennessee (Barge, Waggoner, Sumner and Cannon, April 1996), Lead-Based Paint Survey Letter Report (Memphis/Shelby County Health Department, August 2, 1997), Asbestos Identification Survey (Pickering, December 1993 and January 1994).

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 2.1 - Family housing unit Building 176
	Parcel 2.2 - Detached garage Building S178
	Parcel 2.3 - Family housing unit Building 179
	Parcel 2.4 - Family housing unit Building 181
	Parcel 2.5 - Detached garage Building S183
	Parcel 2.6 - Family housing unit Building 184

ECP Category 4:	Parcel 2.7 - Open land area surrounding these buildings.....
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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 released or disposed of in excess of the 40 CFR Part 373 reportable quantities in the following area: Parcel 2.7 - open land area surrounding the family housing units. The release or disposal of these hazardous substances was remediated as part of the installation restoration program. All necessary response actions have been taken at this site. A summary of the area 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

There is no evidence that any petroleum or petroleum products in excess of 55 gallons at one time were stored, released or disposed of on the property. Accordingly, there is no need for any notification of petroleum product storage, release or disposal.

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

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

3.4 Polychlorinated Biphenyls (PCB) Equipment

There are no PCB containing transformers or other PCB containing equipment located on the property and no evidence of unremediated releases from PCB equipment.

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 176 - Rolled flooring in kitchen areas - non-friable
 Thermal pipe insulation and pipe joint insulation
 in basement - non-friable/encapsulated
 Pipe insulation between basement ceiling and upstairs
 bathroom (Encased in exterior wall) - non-friable

Building 178 - Cement siding shingles - non-friable

Building 179 - Rolled flooring in kitchen areas - non-friable
 Thermal pipe insulation and pipe joint insulation
 in basement - non-friable/encapsulated
 Pipe insulation between basement ceiling and upstairs
 bathroom (Encased in exterior wall) - non-friable

Building 181 - Rolled flooring in kitchen areas - non-friable
 Thermal pipe insulation and pipe joint insulation
 in basement - non-friable/encapsulated
 Pipe insulation between basement ceiling and upstairs
 bathroom (Encased in exterior wall) - non-friable

Building 183 - Cement siding shingles - non-friable

Building 184 - Thermal pipe insulation and pipe joint insulation
 in basement - non-friable/encapsulated
 Pipe insulation between basement ceiling and upstairs
 bathroom (Encased in exterior wall) - non-friable

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 either removed or encapsulated. The deed will include the asbestos warning and covenant included in the Environmental Protection Provisions (Enclosure 5).

3.6 Lead-Based Paint (LBP)

Based on the following LBP surveys, Lead-Based Paint Risk Assessment for the Defense Distribution Depot Memphis Tennessee, revised April 1996, and Memphis/Shelby County Health Department LBP Survey letter report dated August 2, 1997, the following buildings were determined to contain lead-based paint on the exterior and bathroom surfaces only: 176, 179, 181 and 183. Subsequent to these surveys, the exterior LBP was abated by removal of all painted trim pieces. The Lead-Based Paint Risk Assessment for the Defense Distribution Depot Memphis Tennessee, revised April 1996 indicated that the LBP present in the bathrooms was in good condition and posed no risk while in good condition. Subsequent to the exterior LBP abatement, an October 1999 inspection of the interior bathrooms found the painted surfaces remained in good condition. Only encapsulated LBP is on the garages, Building S178 and S183. The deed 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 radiological material or sources were used or stored on the property included in this FOST.

3.8 Radon

Radon surveys were conducted in the following buildings: 176, 179, 181 and 184. Radon was not detected at above the EPA residential action level of 4 picocuries per liter (pCi/L) in these buildings.

3.9 Unexploded Ordnance

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

3.10 Other Hazardous Conditions

There are no other known hazardous conditions which required remediation or a response action for the property to be suitable for transfer for the intended use.

4. REMEDIATION

In October 1992, the U.S. Environmental Protection Agency (EPA) placed DDMT on the National Priorities List (NPL) for environmental restoration. The following environmental orders/agreements are applicable to the property: Federal Facilities Agreement (FFA) among the Defense Logistics Agency, the Tennessee Department of Environment and Conservation (TDEC) and the Environmental Protection Agency, Region IV. All necessary remediation activities on the property by such agreement or order are completed. A removal action to remove soil impacted by the pesticide dieldrin was completed in the winter of 1998. The Post Removal Reports for Family Housing Units are available at the Depot's Information Repositories. In addition, environmental conditions on adjacent government property do not present a hazard to the transfer 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 FOST.

5. REGULATORY/PUBLIC COORDINATION

TDEC has provided comments and has generally concurred with this FOST. TDEC comments have been resolved and incorporated. EPA has provided comments. These comments have generally been resolved and incorporated. A portion of EPA comment #3 is no longer applicable. The public comment period began on December 9, 1999 and closed on January 17, 2000. All public comments are included and addressed in Enclosure 6.

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

The environmental impacts associated with proposed transfer 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 BRAC 95 Disposal and Reuse, Defense Distribution Depot Memphis, Tennessee, dated February 1998. Any encumbrances or conditions identified in such analysis as necessary to protect human health and

the environment have been incorporated into the FOST. Conditions are provided in Enclosures 3, 4, and 5 while encumbrances are detailed in Enclosure 5. In addition, the proposed transfer 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 transfer. These terms and conditions are set forth in the attached Environmental Protection Provisions (Enclosure 5) and will be included in the deed.


8. FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I have concluded that all Department of Defense (DOD) requirements to reach a Finding of Suitability to Transfer (FOST) to the Depot Redevelopment Corporation for residential use have been fully met for the property subject to the terms and conditions in the attached Environmental Protection Provision (Enclosure 5). All removal or remedial actions necessary to protect human health and the environment have been taken and the property is transferable under CERCLA Section 120(h)(3).

In addition to the Environmental Protection Provisions, the deed for this transaction will contain:

- The covenant under CERCLA 120(h)(3)(A)(ii)(I) warranting that all remedial actions under CERCLA necessary to protect human health and the environment with respect to hazardous substances remaining on the property have been taken before the date of transfer.
- The covenant under CERCLA 120(h)(3)(A)(ii)(II) warranting that any remedial action under CERCLA found to be necessary after the date of transfer with respect to such hazardous substances remaining on the property shall be conducted by the United States.
- The clause as required by CERCLA 120(h)(3)(A)(iii) granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of transfer.

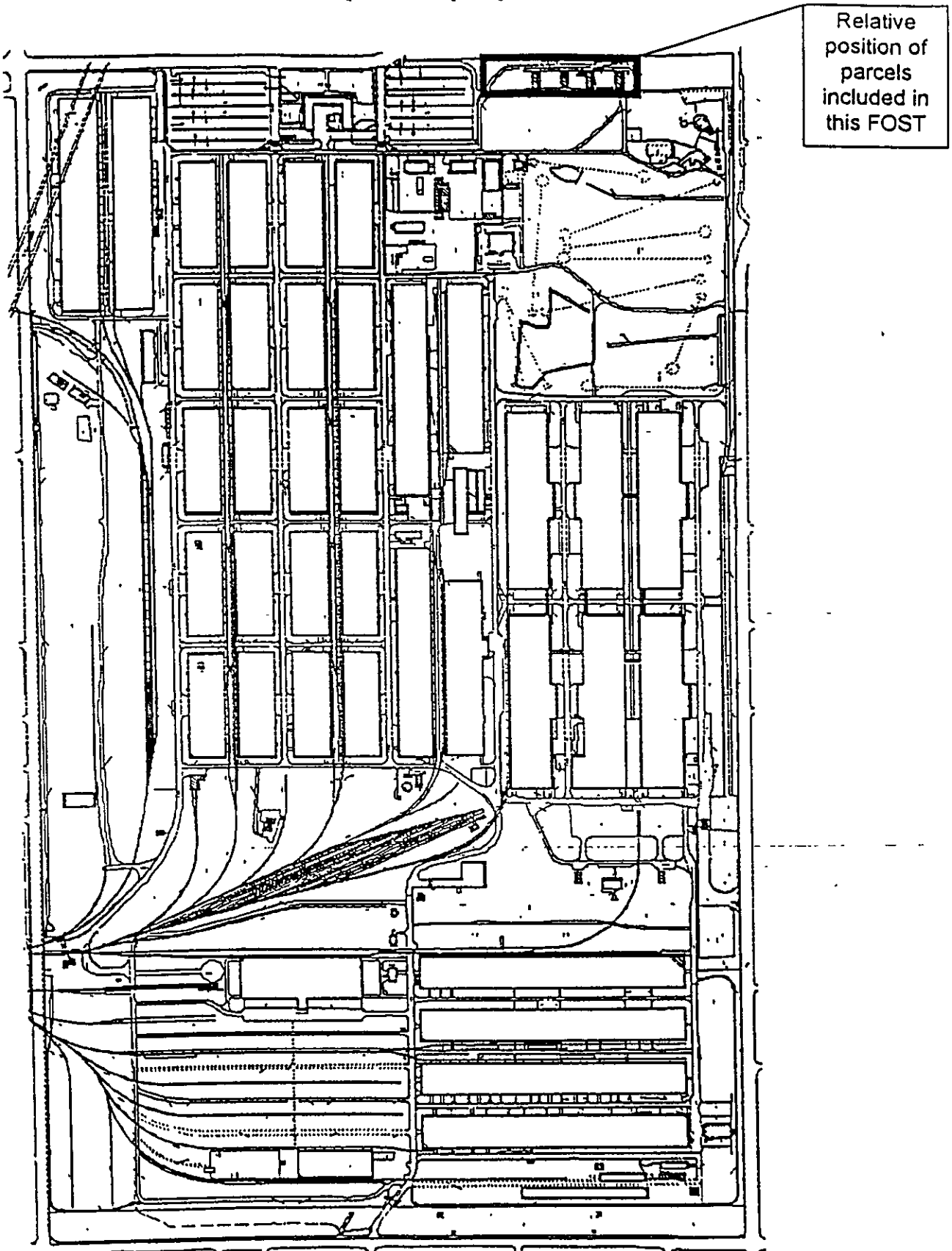
As required under the CERCLA Section 120(h) and DOD FOST Guidance, notification of hazardous substance activities and petroleum product activities shall be provided in the deed. Refer to Table 2 – Notification of Hazardous Substance Storage, Release or Disposal (Enclosure 3) and Table 3 – Notification 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

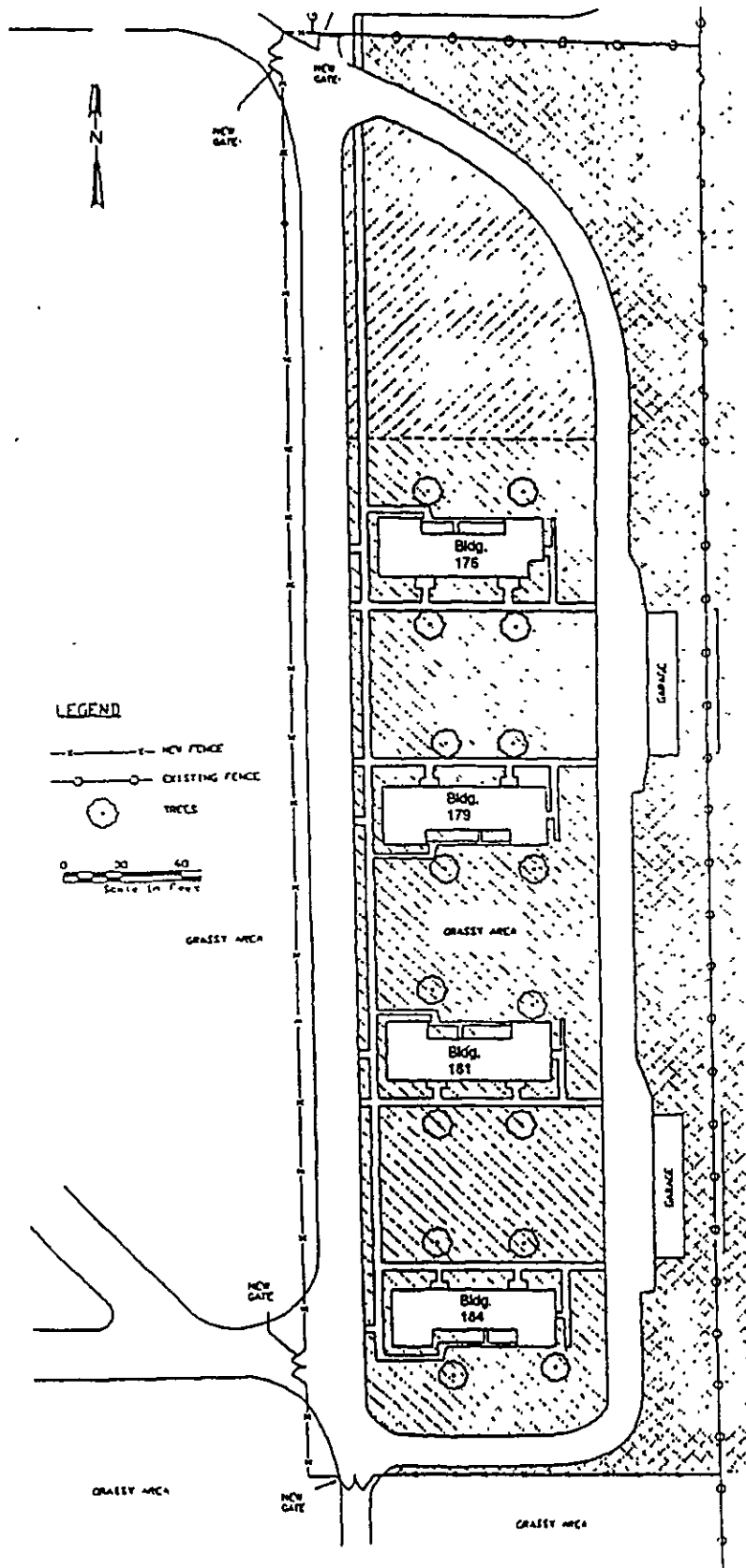
- Encl 1 Site Maps of Property
- Encl 2 Table 1 - Description of Property.
- Encl 3 Table 2 - Notification of Hazardous Substance Storage, Release or Disposal
- Encl 4 Table 3 - Notification of Petroleum Product Storage, Release or Disposal
- Encl 5 Environmental Protection Provisions
- Encl 6 Regulatory/Public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

Enclosure 1
Site Maps of Property



**BEST AVAILABLE
COPY**

Enclosure 1 Site Maps of Property



Parcel 2.1 is family housing unit Building 176

Parcel 2.2 is detached garage Building S178

Parcel 2.3 is family housing unit Building 179

Parcel 2.4 is family housing unit Building 181

Parcel 2.5 is detached garage Building S183

Parcel 2.6 is family housing unit Building 184

Parcel 2.7 is the open land surrounding these buildings

Enclosure 2
Table 1 Description of Property

Building Number and Property Description	EBS Parcel Designation	Condition Category	Remedial Actions
Building 176 - Family Housing Unit	2.1(1)	1	This parcel is associated with Building 176. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Building S178 - Detached Garage	2.2(1)	1	This parcel is associated with Building S178. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Building 179 - Family Housing Unit	2.3(1)	1	This parcel is associated with Building 179. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Building 181 - Family Housing Unit	2.4(1)	1	This parcel is associated with Building 181. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Building S183 - Detached Garage	2.5(1)	1	This parcel is associated with Building S183. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Building 184 - Family Housing Unit	2.6(1)	1	This parcel is associated with Building 184. There has been no documented release or disposal of hazardous substances or petroleum products; nor has there been migration from an adjacent property of hazardous substances or petroleum products. Per letter dated March 17, 1997, the EPA concurred with the Category 1 designation for this parcel.
Open land area surrounding these buildings	2.7(4)	4	This parcel is associated with the open land area surrounding the Family Housing Units and detached garages in Parcel 2. Four BRAC soil samples were collected (CH2M Hill, 1997). Samples indicated levels of dieldrin above BCT screening criteria. A soil removal action occurred in 1998 that removed up to 12 inches of soil or until confirmatory samples indicated dieldrin levels had reached the EPA Region III Residential Risk Based Concentration for dieldrin. In May 1999, the BCT concurred that the removal action was completed and that this parcel change from an ECP Category 6 to an ECP Category 4 based on the successful completion of the removal action.

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 2.7 - Open land area surrounding the family housing units and detached garages	<p>Dieldrin</p> <p>CASRN 60571</p> <p>2,7:3,6-dimethanonaphth[2,3-b]oxirene</p> <p>3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpham2beta,2aalp ha,3beta,6beta,6aalp ha,7 beta,7aalp ha)</p>	Exact start date unknown assumed facility activation in 1942 until use of the pesticides was banned by the EPA in the 1970s.	A removal action occurred in 1998. The removal action successfully removed up to 12 inches of soil in areas where dieldrin levels were above the EPA Region III Residential Risk Based Concentration for dieldrin. Clean top soil, as confirmed by analysis, replaced the removed soil. The regulators received the Post Removal Report on March 15, 1999. In May 1999, the BCT concurred that the removal action was completed and that this parcel change from an ECP Category 6 to an ECP Category 4 based on the successful completion of the removal action. The BCT concurs that this parcel is suitable for residential use.

Enclosure 4

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

Building Numbers	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
176, S178, 179, 181, S183, 184 and the open land area surrounding the buildings in Parcel 2.			No evidence of petroleum or petroleum product storage, release or disposal at any of the parcels included in this Finding of Suitability to Transfer.

ENCLOSURE 5

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions will be placed in the deed to ensure protection of human health or the environment and to preclude any interference with ongoing or completed remediation activities at the Defense Distribution Depot Memphis, Tennessee.

1. CERCLA COVENANTS AND NOTICE

Pursuant to Section 120 (h) (3) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Section 9601 et seq. ("CERCLA"):

A. Notification and Covenants

1 The Grantor hereby notifies the Grantee of the storage, release and disposal of hazardous substances on the Property. For the purpose of this Deed, "hazardous substances" shall have the meaning attributed to such term under section 101(14) of CERCLA, 42 U.S.C. 9601(14). Available information regarding the type, quantity, and location of such hazardous substances and action taken to address such hazardous substances is described at Exhibit _____ [FOST TABLE 2] herein.

2. The Grantor hereby covenants that

a. All remedial action necessary to protect human health and the environment with respect to any such hazardous substances remaining on the Property has been taken before the date of conveyance hereunder; and

b. Any additional remedial action found to be necessary with regard to such hazardous substances remaining on the Property after the date of this Deed that resulted from past activities of the Grantor shall be conducted by the Grantor. This covenant shall not apply to the extent such remedial actions are caused by activities of the Grantee, its successors or assigns.

B. Access Rights and Easement

The Grantor reserves a right and easement for access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of this Deed. In exercising these rights of access, except in case of imminent endangerment to human health or the environment, the Grantor shall give the Grantee, or the then record owner, at least thirty (30) days prior written notice of actions to be taken in remediation of the Property, and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the use of the Property by the Grantee, its successors and assigns. Furthermore, any such actions undertaken by the Grantor pursuant to this Section _____ will, to the maximum extent practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees that, notwithstanding any other provisions of the Deed, that the Grantor assumes no liability to the Grantee, its successors and assigns, or any other person, should remediation of the Property interfere with the use of the Property by the Grantee, its successors and assigns.

C Transfer Documents

The Grantee and its successors and assigns covenant and agree that all leases, transfers or conveyances of the Property occurring subsequent to the date of this Deed shall be made subject to, and shall have the benefit of, the provisions contained in this Section ____.

2. FEDERAL FACILITIES AGREEMENT

The GRANTOR acknowledges that the former Defense Distribution Depot Memphis Tennessee 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 GRANTEE acknowledges that the GRANTOR has provided it with a copy of the Defense Distribution Depot Memphis Federal Facility Agreement (FFA) dated March 13, 1995 and will provide the GRANTEE with a copy of any amendments thereto. The GRANTEE, its successors and assigns, agrees that should any conflict arise between the terms of the FFA as they presently exist or may be amended, and the provisions of this property transfer, the terms of the FFA will take precedence. The Grantee, its successors and assigns, further agree that notwithstanding any other provisions of this Deed, the Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with the their use of the Property. The Grantee, its successors and assigns, shall have no claim on account of any such interference against the Grantor or any officer, agent, employee or contractor thereof. The Grantor shall, however, comply with the provisions of Section _____ [SECTION 1.B.] in the exercise of its rights under the FFA

3. ENVIRONMENTAL BASELINE SURVEY ("EBS") AND FINDING OF SUITABILITY TO TRANSFER ("FOST")

A. The Grantee has received the technical environmental reports, including the Environmental Baseline Survey for the Property dated November 1996 (the "EBS") and the FOST for the property dated June 2000, prepared by the Grantor, and agrees, to the best of the Grantee's knowledge, that they accurately describe the environmental condition of the Property. The Grantee has inspected the Property and accepts the physical condition and current level of environmental hazards on the Property and deems the Property to be safe for the Grantee's intended use.

B. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of the conveyance, whether or not such substance was set forth in the technical environmental reports, including the EBS, Grantee or its successors or assigns shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor's activities, ownership, use, or occupation of the Property. Grantee, its successors and assigns, as consideration for the conveyance, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This Section ____ shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

4. NOTICE OF THE PRESENCE OF LEAD BASED PAINT AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSES.

A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. "Residential Real Property" 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.

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 and (for residential properties) the lead-based paint risk assessment, which have been provided to the Grantee. All purchasers must receive the federally-approved pamphlet on lead poisoning prevention. The Grantee hereby acknowledges receipt of all of the information described in this subparagraph. Additionally, the following reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to the Grantee. Lead-Based Paint Risk Assessment for the Defense Distribution Depot Memphis Revised April 1996. Memphis/Shelby County Health Department LBP Survey Letter Report dated August 2, 1997

C. The Grantee acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this document.

D. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X).

The Grantee shall, after consideration of the guidelines and regulations established pursuant to Title X: (1) Comply with the joint HUD and EPA Disclosure Rule (24 CFR 35, Subpart H, 40 CFR 745, Subpart F), when applicable, by disclosing to prospective purchasers the known presence of lead-based paint and/or lead-based paint hazards as determined by previous risk assessments; (2) Abate lead-based paint hazards in pre-1978 buildings and structures in paint, dust

and bare soil in accordance with the HUD Guidelines, with the addition of abatement of bare soil with lead levels higher than 2000 ppm; and (3) Comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L). In cases where a transfer MOA has already been executed as of [insert the date of the Army Guidance], the Grantee is responsible for conducting lead-based paint activities in accordance with the negotiated MOA transfer documents

In complying with these requirements, the Grantee covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes. The Grantee covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.

E. The Grantee 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 attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for residential purposes.

F. The covenants, restrictions, and requirements of this Section _____ shall be binding upon the Grantee, its successors and assigns and all future owners and shall be deemed to run with the land. The Grantee on behalf of itself, its successors and assigns covenants that it will include and make legally binding, this Section _____ in all subsequent transfers, leases, or conveyance documents."

5. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials ("ACM") has been found in buildings and structures on the Property, as described in the EBS. The ACM in buildings and structures on the Property does not currently pose a threat to human health or the environment, and all friable asbestos that posed a risk to human health has either been removed or encapsulated.

B. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Grantor assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, 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 Property, whether the Grantee, its successors or assigns, have properly warned or failed to properly warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos in buildings and structures found to be necessary on the Property.

C. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and EPA regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA

have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

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

E. The Grantor assumes no liability for any damages to person or property, and gives no warranties, either express or implied, with regard to the presence or absence of asbestos or ACM in buildings and structures, or whether the Property is or is not suitable for a particular purpose. The Grantee further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees from and against all suits, claims, demands or actions, liabilities, judgments, penalties, costs and attorneys' fees arising out of, or in any manner predicated upon, future asbestos abatement or remediation from within buildings and structures on the Property; disposal of ACM or asbestos after conveyance to the Grantee; personal injury, death or property damages resulting from, related to, caused by or arising out of exposure to asbestos within buildings or structures on the Property after the conveyance of such portion of the Property to the Grantee. The Grantee's obligation hereunder shall apply whatever the United States incurs costs or liabilities for actions giving rise to liability under this Section. The Grantee shall not be responsible for indemnifying or holding the Grantor harmless from any loss, claims, liabilities, judgments, penalties, costs, or damages arising out of exposure to asbestos that occurred prior to the date of this Deed.

6. STATUTORY INDEMNIFICATION

The Grantor recognizes its obligation to hold harmless, defend, and indemnify the Grantee and any successor, assignee, transferee, lender, or lessee of the Grantee or its successors and assigns, as required and limited by Section 330 of the Department of Defense Authorization Act of 1993, as amended, and to other wise meet its obligations under law

7. INCLUSION OF PROVISIONS

The GRANTEE, its successors and assigns, shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all further deeds, transfers, leases, or grants of any interest, privilege, or license.

Enclosure 6**Regulatory/Public Comments and Responses for FOST Family Housing Units**

Comments on this FOST were received from three private citizens, the Tennessee Department of Environment and Conservation (TDEC) Division of Superfund, and the United States Environmental Protection Agency, Region IV. Comments have been reproduced verbatim from the originally supplied comment. These comments were received in letter and electronic email format.

Citizen Comments (in the order of receipt)

Mr. John Garrison

December 20, 1999

Subject: Finding of Suitability to Transfer #1 at the Former Defense Distribution Depot
Memphis, Tennessee

Dear Mr Phillips:

Considering the Finding of Suitability to transfer 2.38 acres of family housing property at the former Defense Distribution Depot Memphis, Tennessee, is consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120 (h), Department of Defense and Army policy.

Remedial actions necessary to protect human health and the environment have been completed with the removal of Dieldrin from the soil and lead based paint from the housing units and this is in accordance with the Depot Redevelopment Corporation's Reuse plan.

For the record, I fully concur with the language of the covenants stated with this (FOST).

I trust that citizens of the Memphis Depot Community will accept this transfer as a positive step forward for economic redevelopment within this area. I am,

Sincerely,

John Garrison, Jr.

Response: No response required.

Ms. Doris Bradshaw

Comment #1 (e-mail)

Subject: From Doris Bradshaw DDMTCCC

Date: 1/12/00 9:01 am

Enclosure 6

Regulatory/Public Comments and Responses for FOST Family Housing Units

We need a 45 day extension on the FOST that issuer in Nov. 99 for land transfer to MIFA. Because the RAB was out at the time the document was put out. There are some parts of the document that needs to be discussed.

Thank you,
Doris Bradshaw

Response #1

This request for an extension to the comment period was denied. The explanation for the denial was included in the following correspondence delivered to the commentator on January 14, 2000:

DDSP-F

January 12, 2000

Ms. Doris Bradshaw
1458 East Mallory
Memphis, TN 38106

Dear Ms. Bradshaw:

Your request (enclosure 1) for an extension of the comment period on the Finding of Suitability to Transfer (FOST) for Parcel 2 (Housing Area) has been denied.

The comment period has been open since December 9, 1999, and will remain open until January 17, 2000, for a total of 39 days. In accordance with Department of Defense policy (enclosure 2), the Memphis Depot Caretaker made this FOST available to the public and provided a 30-day comment period for regulators and the public. The Memphis Depot Caretaker must evaluate and attempt to resolve any comments received during the comment period before the FOST may be signed and the property transferred. Any unresolved comments must be included as an appendix in the final FOST, which will be made available to the public.

To date, you have neither provided the Memphis Depot Caretaker with comments regarding the FOST, nor sufficient reason for extending this comment period. Your statement that the RAB has not had the opportunity to discuss the FOST during the comment period is not an appropriate reason to grant an extension. The RAB has discussed the cleanup of the Housing Area and the FOST during previous meetings. The September/October 1999 EnviroNews included information regarding the FOST. The Depot provided each RAB member a copy of the FOST and the public notice when the public comment period began on December 9, 1999, providing sufficient opportunity to review and provide comments. In fact, another RAB member has provided written comments.

The Memphis Depot Caretaker also considered the following regarding your request to extend the public comment period:

Enclosure 6

Regulatory/Public Comments and Responses for FOST Family Housing Units

- *The Memphis Depot Caretaker has not received a formal request for extension. The Environmental Protection Agency (EPA) received your request and forwarded to the Memphis Depot Caretaker. Directions provided at RAB meetings, in the EnviroNews, in the FOST information package sent to RAB members and in the public notice that ran in three local newspapers specified where to send comments. Although you did not send the extension request to the appropriate agency, I am providing you this response.*
- *The public comment has not expired, and you still have the opportunity to comment by Monday, January 17, 2000.*
- *The Memphis Depot Caretaker honored your previous requests for extension of public comment periods, specifically for the Engineering Evaluation/Cost Analysis for the Old Paint Shop and Maintenance Areas, Parcels 28 and 35, and the Engineering Evaluation/Cost Analysis for the removal of Chemical Warfare Materiel, with the expectation that you would provide comments. You provided no additional comments. Therefore, the Memphis Depot Caretaker does not expect comments to be received during an extension of this comment period.*

If you can provide sufficient reason for extending this comment period, the Memphis Depot Caretaker will reconsider your request. I encourage you to provide any comments you may have by the close of the comment period. I appreciate your interest in the base closure process at the former Defense Distribution Depot Memphis, Tennessee and encourage you to continue your involvement.

Please contact me at (901) 544-0611 if you have any additional concerns.

Best regards,

SHAWN PHILLIPS
BRAC Environmental Coordinator
Memphis Depot Caretaker

Comment #2 (e-mail)

Subject: From Doris Bradshaw DDMTCCC
Date: 1/15/00 12:06 pm

We, DDMTCCC ask Defense Logistic Agency for an extension on these issues and to give the community a chance to be more informed about this FOST. We request a 30 to 45 day extension on this issue.

Enclosure 6

Regulatory/Public Comments and Responses for FOST Family Housing Units

1. That you are scheduled to meet with Congressman Harold Ford's staff concerning the site with you technical assistance consultants on January 22, 2000.
2. That you are scheduled to meet with technical assistants concerning the design of a workplan with ATSDR for off-site sampling on February 9, 2000.
3. There are some questions yet unanswered concerning the levels of contamination and the remediation plan, such as:
 - (a) In previous sites where chemical warfare bombs and wastes have been disposed, how close has the nearest residents been located?
 - (b) What measures were done to protect the local community during remediation?
 - (c) Are additional measures being considered at this site concerning health disparities of the adjacent community residents? (excess cancers, asthma, etc.)
 - (d) What are the similarities between the Memphis Depot site and previously remediated chemical warfare emissions sites?
 - (e) Are any previously remediated chemical warfare site in use or being considered for use by local governments and communities for residential housing?
 - (f) Children maybe located to proposed housing on the site, we request that EPA conduct a full risk assessment on the site for children.

Thank you
Doris Bradshaw
DDMTCCC

Response #2

This subsequent request for an extension to the comment period was denied for the reasons captured in the following correspondence that was hand delivered to the commentator at the January 20, 2000 Restoration Advisory Board:

DDSP-F

January 19, 2000.

*Ms. Doris Bradshaw
1458 East Mallory
Memphis, TN 38106*

Dear Ms. Bradshaw:

Your request via email for an extension to the public comment period for the Finding of Suitability to Transfer, Housing Parcel (FOST) is denied. This second request on your part does provide three items that you put forth as reasons for the extension request, but none of these reasons justifies an extension.

Enclosure 6

Regulatory/Public Comments and Responses for FOST Family Housing Units

The first reason is a meeting that you state you are having with Congressman Harold Ford Jr. and an unspecified technical assistance consultant on Saturday January 22, 2000. You do not elaborate on the purpose behind your meeting with the Congressman and you do not explain why this meeting requires this period to be extended. You have most likely reviewed the FOST and have had over a month to provide comments to the Defense Logistics Agency. A meeting with an elected official for an unspecified purpose is not justification for the extension.

The second reason is that you are to meet with some unspecified technical assistants on February 9, 2000 to discuss the proposed ATSDR offsite community sampling. Since the Parcel that this FOST addresses is located within the boundary of the former Defense Depot and will not be sampled as part of this offsite effort, there will be no impact on the finding that this parcel is suitable to transfer. The ATSDR effort doesn't effect this FOST.

The third reason you give for the request is that there are many unanswered questions concerning the level of contamination and remediation plan. You then list 6 concerns you have. What you have provided in this list are comments, not reasons to provide an extension. In fact, the last comment listed by you is an insightful comment in regards to this FOST. Regardless of whether each of these six comments are directly relevant to the FOST or not, all will be responded to in the Final FOST that is signed by the U. S. Army. These will be treated as your comments on this FOST.

In the opening of your request, you say the public comment period must be extended to allow the public a chance to be more informed about this FOST. We have provided the public above and beyond what is required by policy for public involvement. We have taken several extra steps in an attempt to involve the public such as providing all the members of the Restoration Advisory Board (RAB), including yourself, actual copies of the FOST. This provision included specific instruction concerning when the comment period would close and how to submit comments. This is in addition to public notices in three local newspapers, an announcement in our newsletter (with over a 4700 distribution list), and we previously discussed this FOST at the RAB meetings. We are certain that we have not only exceeded the requirement, but that we have also met the spirit of public involvement that caused this to be a requirement.

In closing, I want to tell you how much your comments are appreciated. They will be treated with much care and consideration. I advise you that there will be many additional FOSTs over the next several years. You must provide your comments to the address or to the telephone number provided in the public notices. Your comments were not received as the public notice specified and it is very fortunate that they were forwarded by other environmental professionals who were aware that the Defense Logistics Agency, and, in particular, the BRAC Environmental Coordinator, needed the comments.

If you have any questions, please do not hesitate to call me at (901) 544-0611.

Best regards,

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*SHAWN PHILLIPS
BRAC Environmental Coordinator
Memphis Depot Caretaker*

In response to the particular comments provided (items 3 (a), (b), (c), (d) (e) and (f)), the following responses are provided:

- (a) This comment is not pertinent to the property included in the FOST. There is not, nor have there ever been any chemical warfare materiel directly in nor adjacent to the property covered by this FOST.
- (b) The measures taken to protect the community during an past cleanup that is referenced in the FOST is not applicable to the finding that the subject property is suitable to transfer. That is a restoration concern that is most appropriately voiced through the Restoration Advisory Board. Regardless, the requested information is provided in the Post Removal Report, Contaminated Soil Remediation, Family Housing Area, dated March 1999 (OHM Corp.). This document has been available in the four restoration program information repositories since April of 1999.
- (c) There is no need for consideration for additional measures at the housing site. All contamination was remediated at this site in 1998 and 1999. The Agency for Toxic Substances and Disease Registry is the appropriate agency to voice this concern with since the concern was based on community health issues.
- (d) This comment is not pertinent to the property included in the FOST. There is not, nor have there ever been any chemical warfare materiel directly in nor adjacent to the property covered by this FOST.
- (e) This comment is not pertinent to the property included in the FOST. There is not, nor have there ever been any chemical warfare materiel directly in nor adjacent to the property covered by this FOST.
- (f) The agency responsible for conducting a risk assessment for this site is the Defense Logistics Agency. Within the actual area covered by this FOST, there is no need for a risk assessment since all soil contamination was removed and the site restored with clean soil. In the adjacent recreational parcel, including the golf course, playground, and softball field, a risk assessment was conducted with oversight provided by the EPA and the Tennessee Department of Environment and Conservation. This risk was evaluated in the Final Streamlined Risk Assessment for Parcel 3 dated January 1999 (CH2M Hill). This risk assessment found the playground, golf course, and softball field was acceptable for reuse as a playground, golf course, and softball field, respectively. Additionally, the final Main Installation Remedial Investigation has found that the reuse of all the area adjacent to property covered by this FOST is suitable for the proposed

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recreational reuse of these adjacent areas. The Streamlined Risk Assessment for Parcel 3 has been in the information repositories since 1999 and the Main Installation Remedial Investigation will be placed in the Repositories in February 2000.

Mr. Eugene Brayon

January 14, 2000

Mr. Phillips,

I am concerned about the timing of the FOSL and FOST completions. The RAB was on Xmas break and no warning of the above action was given the RAB. I do not believe adequate public notice was given. I am also concerned about the cleanup and future use of the released properties. The community needs assurances from the long list of responsible people and organizations provided by BRAC that the future use of the released properties will in fact not harm the environment.

Respectfully,
Eugene H. Brayon

Response:

The public notice provided for the comment period for this document significantly exceeded the required notice provisions. The RAB was informed several times of the intent of the government to issue this document. The actual notice that the FOST was available for review was also very generous as each RAB was provided an actual copy of the FOST with a cover letter stipulating the dates of the comment period. The 30 day comment period requirement was exceeded by nine days for the FOST. Both the Tennessee Department of Environment and Conservation and the Environmental Protection Agency thoroughly reviewed and participated in the development of this FOST.

While the RAB was afforded additional opportunity to review this FOST, there is no requirement for the RAB to discuss this document as a group. While we do not feel it is the Governments place to prevent discussion amongst RAB members concerning any projects or documents, the FOST simply is not a restoration document warranting discussion during a RAB meeting. This is best explained by providing an explanation concerning the purpose of a FOST. The purpose of the FOST is twofold. A FOST must document to a subsequent property owner the environmental condition of the property. This FOST does just that. The FOST must also provide for any controls or restrictions that must be placed on the property for any future reuse. This FOST accomplishes that as well. This FOST is not intended to be, nor is it a remediation

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plan or restoration document. It is a real estate document designed to report environmental data in a relevant way to future property owners.

Environmental Protection Agency
(Turpin Ballard)

1. Section 6 states: "any encumbrances or conditions necessary to protect human health and the environment have been incorporated into the FOST." Please clarify the "encumbrances" or "conditions" referenced by this statement. This may be required boilerplate language, but if there are no encumbrances, that should be stated here as well.

COMMENT INCORPORATED. A reference to where encumbrances and conditions can be located within the document was provided.

2. Enclosure 1 should clearly indicate where the parcels are located. It merely shows the entire main installation.

COMMENT INCORPORATED. The second figure in Enclosure 1 has been improved.

3. The Notice of Lead-Based Paint (Enclosure 5, Environmental Protection Provisions, Paragraph 4(d) appears to be at odds with Section 3.6, Lead-Based Paint (LBP) of the FOST. The FOST, which anticipates use of the property to be residential, states that lead-based paint was found on only the exterior surfaces of building 176 (Parcel 2.1), 179 (Parcel 2.3), 181 (Parcel 2.4) and 183 (Parcel 2.5) and that this exterior LBP was abated. The Notice states the following:

"The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property without complying with this section and all applicable federal, state and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X).

Because Section 3.6 indicates the LBP was abated, please clarify the status or nature of LBP that would necessitate the inclusion of such a notice in the deed.

The Notice also includes a statement that, "In cases where a transfer MOA has already been executed, the Grantee is responsible for conducting lead-based paint activities in accordance with the negotiated MOA transfer documents." Paragraph (e) also references "the MOA." Please provide the MOA inasmuch as it appears to contain language which

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may apportion the responsibility for abating lead-based paint and/or lead-based paint hazards and is relevant in EPA's determination of the suitability of this transfer for residential purposes.

- **** Please note, the paragraph referred to by the EPA as Enclosure 5, paragraph 4 has been changed in the FOST to Enclosure 5, paragraph 5. This is due to the addition of paragraph 3, which discusses liability for contamination to the property that is caused or is the responsibility of another party after the transfer of the property.

COMMENT INCORPORATED. The Preliminary Draft FOST omitted a portion of Section 3.6 that identified the presence of LBP within the bathrooms of the four housing units. This is corrected. The second portion of this comment that questions a Memorandum of Agreement (MOA) is not applicable to this FOST because the MOA is pending with the Army. The transferee that was previously anticipated, which was a public benefit conveyance recipient, is no longer the anticipated transferee. At this time, a transferee has not been established, so there is no applicable MOA as cited in an earlier version of Enclosure 5, Paragraph 5(d). Regardless, copies of any subsequent MOA's that apply to the parcels listed in this FOST will be provide to EPA with the copies of transfer documents.

- 4 Enclosure 5, paragraph 4(d) appears to be moot since the lead abatement was performed by DLA. Why is it needed here?

COMMENT NOTED. Please see response to the correction noted in the response to EPA comment 3.

5. Enclosure 5, Environmental Protection Provisions, Paragraph 4(f), references "Section 5." Please clarify the reference to Section 5. It may have been intended that 4(f) be numbered "5", since it is clear that the language anticipates making all the Environmental Protection Provisions binding on future transferees, not merely the lead-based paint provisions.

COMMENT INCORPORATED. The former Enclosure 5, paragraph 5(f) is now Enclosure 5, paragraph 6.

6. 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, judgement awards and costs and expenses arising out of, or in any manner predicated upon, the presence, release or threatened release 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

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under DoD control. The FOST does not indicate the existence of such a provision, but it is statutory imperative that the deed include such a provision.

CONCUR. The language provided in this comment is already included in the Master Interim Lease with the Local Reuse Authority, the Depot Redevelopment Corporation. This language will also be included in every deed document generated through the transfer of all Department of Defense property formerly call the Defense Distribution Depot Memphis, Tennessee.

Tennessee Department of Environment and Conservation Division of Superfund (Jordan English)

1. General comment. Having been involved with all phases of the removal action, TDEC DSF is generally in agreement with this FOST.

COMMENT NOTED.

2. Section 3.5. With regard to Asbestos abatement, is it appropriate to describe specific abatement activities (e.g., removed friable insulation, or sealed undamaged insulation)?

COMMENT INCORPORATED. Clarification of asbestos condition/abatement has been included in this section.

3. Section 3.5. With regard to Re-inspection, no reference to the result of the re-inspection is given. A general outcome of the re-inspection should be indicated with reference to any re-inspection documentation.

COMMENT INCORPORATED. Clarification of asbestos condition/abatement has been included in this section.

4. Within Enclosure 3 Revise the Remedial Actions section to reflect actual dates of the category change approvals.

COMMENT INCORPORATED.

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

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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 –
emissary.acq.osd.mil/bctoweb/bctohome.nsf

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

DOD Base Closure and Community Reinvestment
www.acq.osd.mil/iai/bccr.htm

DOD Office of Economic Adjustment
www.acq.osd.mil/oea/index.html

2. Environmental Protection Agency

EPA OSWER Federal Facilities Base Realignment and Closure
www.epa.gov/swerfffir/brac.htm

3. Department of the Army

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

4. Department of the Air Force

Air Force Base Conversion Agency
www.afbca.hq.af.mil

5. Department of the Navy

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

- Navy Facilities Engineering Command - information on Navy BRAC sites

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References

www.ncts.navy.mil/homepages/navfac_es/bcp.htm

Navy Environmental BRAC News

www.navy.mil/homepages/navfac/env/newslet.html

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