

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

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

I. BACKGROUND

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

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

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

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

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

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

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

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

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

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

II. PURPOSE

The Purpose of this LUCAP is to:

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

III. SCOPE

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

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

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

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

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

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

IV. DEFINITIONS

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

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

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

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

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

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

V. DEVELOPMENT OF LUCIPs

a. Basic Guidance:

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

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

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

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

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

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

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

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

4. Controls will be no more burdensome than necessary.

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

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

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

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

c. The following elements will be addressed in LUCIPs:

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

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

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

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

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

A. An evaluation of whether the LUC remains effective.

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

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

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

E. Any proposed or completed enforcement action.

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

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

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

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

VI. IMPLEMENTATION AND APPENDICES

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

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

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

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

b. This Agreement contains four appendices.

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

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

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

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

c. Land Use Control Site Listing - Appendix A

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

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

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

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

d. LUCIPs - Appendices B and C

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

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

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

e. Agency Points of Contact -Appendix D

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

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

VII. SITE INSPECTION / REVIEW / MONITORING

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

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

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

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

VIII. FUTURE COMMUNICATIONS

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

IX. ANTI-DEFICIENCY ACT AND FUNDING

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

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

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

X. PROPERTY TRANSFERS AND OTHER OUTGRANTS

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

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

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

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

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

XI. CHANGE IN APPLICABLE STANDARDS

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

XII. SITE ACCESS

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

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

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

XIII. DISPUTES

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

XIV. RESERVATION OF RIGHTS

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

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

XV. DISCLAIMER

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

XVI. AMENDMENT

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

XVII. TERMINATION

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

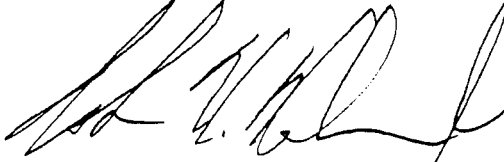
XVIII. REPRESENTATIVE AUTHORITY

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

XIX. EXECUTION

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

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



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

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

FOR THE DEPARTMENT OF THE ARMY

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

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

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

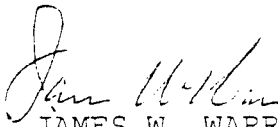
XIX. EXECUTION

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

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

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

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


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

FOR THE DEPARTMENT OF THE ARMY

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

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

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

XIX. EXECUTION

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

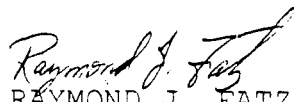
FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV

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

FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

FOR THE DEPARTMENT OF THE ARMY


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

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

XIX. EXECUTION

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

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

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


FOR THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: JAMES W. WARR
Date:
Title: Director

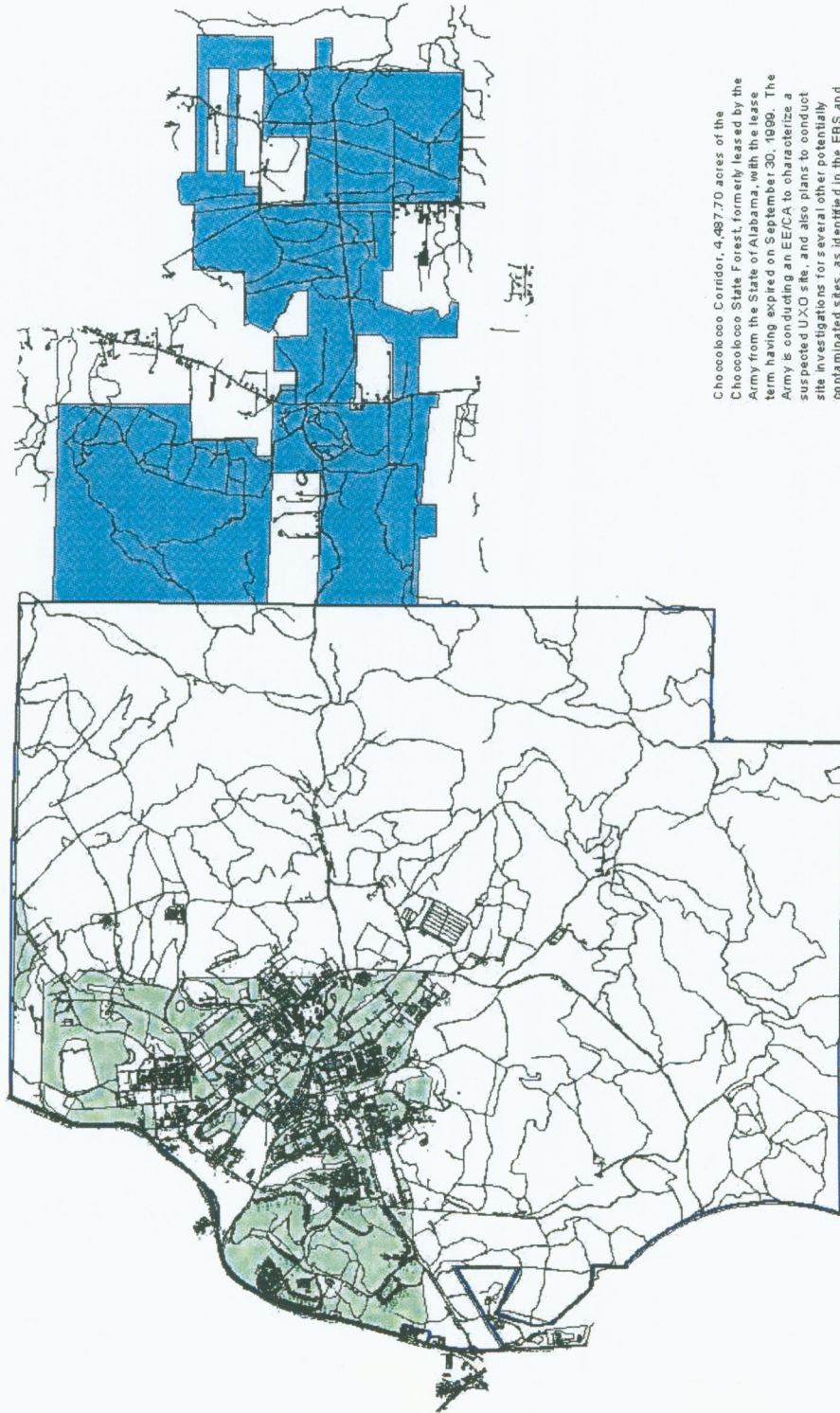
FOR THE DEPARTMENT OF THE ARMY

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





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

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

Fort McClellan LUCAP Scope



LEGEND

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



0 2000 4000 6000 Feet



U.S. Army Garrison
Environmental Office

Enclosure 1

Choccolocco Corridor, 4,487.70 acres of the Choccolocco State Forest, formerly leased by the Army from the State of Alabama, with the lease term having expired on September 30, 1999. The Army is conducting an EE/CA to characterize a suspected UXO site, and also plans to conduct site investigations for several other potentially contaminated sites, as identified in the EBS and ASR. Pending results of the EE/CA for the suspected UXO site, the Army will seek the State's permission to impose land use controls (LUCs) (e.g., postsigns). Consistent with the terms of this LUCAP agreement, the Army will list the "suspected UXO site" in Appendix A, and will develop an Interim LUCIP to prescribe how LUCs will be managed and monitored until a final decision is reached. The Army will work with regulators to fully characterize all sites within the Choccolocco Corridor, but any further decisions concerning LUCs and who will be responsible for any necessary LUCIPs are reserved for further negotiation between the Army and the State of Alabama.