

This instrument was prepared by  
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U.S. Army Corps of Engineers  
Mobile District  
P.O. Box 2288  
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**QUITCLAIM DEED  
FORT McCLELLAN  
CALHOUN COUNTY, ALABAMA  
EASTERN PORTION OF TRACT NO. 3**

**THIS QUITCLAIM DEED IS MADE AND ENTERED INTO BETWEEN, the UNITED STATES OF AMERICA** (hereinafter the "GRANTOR"), acting by and through the Deputy Assistant Secretary of the Army (Installations & Housing), pursuant to a delegation of authority from the SECRETARY OF THE ARMY (hereinafter the "ARMY"), under the authority of the provisions of the Federal Property and Administrative Services Act of 1949, approved June 30, 1949 (63 Stat. 377), 40 U.S.C. §101, et seq., as amended, the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 101-510, as amended, and pursuant to 23 U.S.C. § 317, appropriation for highway purposes of lands or interests in lands owned by the United States, and the **STATE OF ALABAMA DEPARTMENT OF TRANSPORTATION** (hereinafter the "GRANTEE").

**WITNESSETH THAT:**

**WHEREAS**, Fort McClellan, an Army installation approved for closure pursuant to Pub. L. No. 101-510, as amended, and located in Calhoun County, Alabama, closed on September 30, 1999, and

**WHEREAS**, the GRANTOR, the United States of America, has determined that it is willing to transfer and convey certain property at Fort McClellan, as described below, and also being referred to as Eastern Bypass-Eastern Portion of Tract No. 3 of said Fort McClellan, to the GRANTEE for its use in constructing an Eastern Bypass for a transportation route connecting Interstate 20 with Alabama Highways 431 and 21, and

**WHEREAS**, the GRANTEE, the State of Alabama Department of Transportation has made application to the U.S. Department of Transportation, Federal Highway Administration (FHWA), requesting the transfer of the above-named lands that are a part of the former Fort McClellan, and

**WHEREAS**, the FHWA approved the application under the authority contained at 23 U.S.C. § 317 and requested that the Army proceed with the transfer;

**NOW THEREFORE**, the GRANTOR, for and in consideration of \$10.00 (TEN DOLLARS), cash in hand paid, and other good and valuable consideration, including those benefits which shall accrue to the public by virtue of the use for public highway purposes of the property hereinafter described, the receipt and sufficiency of which is hereby acknowledged, does hereby **REMISE, RELEASE, AND FOREVER QUITCLAIM** unto the GRANTEE, its successors and assigns, all its right, title, and interest in the property situated, lying and being in the County of Calhoun, in the State of Alabama, including those improvements to said property, if any, located thereon, containing approximately 266.43 acres, more or less, more particularly described as follows (hereafter, the "Property"):

**PARCEL NO. 2 OF 2:** A part of the Southwest quarter of the Southeast quarter, and the Southeast quarter of the Southeast Quarter of Section 20;  
the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southeast Quarter, and the Southwest Quarter of the Southeast Quarter of Section 21;  
the Northeast Quarter of the Northwest Quarter, the Southeast Quarter of the Northwest Quarter, and the Northeast Quarter of the Southwest Quarter, the Southwest Quarter of the Southeast Quarter, the Southeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Northwest Quarter, and the Northwest Quarter of the Northwest Quarter of Section 28;  
the Northwest Quarter of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter, the Southeast Quarter of the Northwest Quarter, and the Northeast Quarter of the Northwest Quarter of Section 33;  
the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Northeast Quarter, the Southeast Quarter of the Northwest Quarter, and the Northeast Quarter of the Northwest Quarter of Section 29;  
all being in Township 15 South, Range 8 East, and as shown on the right-of-way map of Project No. HPP-0192(901)(902)(903) of record in the Alabama Department of Transportation a copy of which is also deposited in the Office of the Judge of Probate Calhoun County, Alabama as an aid to persons and entities interested therein:

Commencing at the Southwest corner of the Southwest quarter of the Southwest quarter of Section 20, Township 15 South, Range 8 East, Calhoun County, Alabama; being a found 2" iron pipe, lying 180.02 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 415+08.71;

Thence along the South boundary of said quarter-quarter, North 88°38'11" East a distance of 162.64 feet to a found 1/2" rebar, lying 297.35 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 413+96.08;

Thence continuing along said South boundary, North 89°30'20" East a distance of 222.75 feet to a found 1/2" iron pipe, lying 454.58 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 411+85.22;

Thence continuing along said South boundary, North  $89^{\circ}12'43''$  East a distance of 294.35 feet to a found  $\frac{1}{2}$ " pipe, lying 592.18 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 406+99.68;

Thence continuing along said South boundary, North  $89^{\circ}17'46''$  East a distance of 1429.52 feet to a found 1" steel pipe, lying 383.42 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 390+20.00;

Thence along the South boundary of the Southeast quarter of the Southwest quarter of Section 20, Township 15 South, Range 8 East, Calhoun County, Alabama, South  $89^{\circ}22'54''$  East a distance of 367.17 feet to a found fence corner, lying 316.18 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 386+59.03;

Thence leaving the South boundary of said quarter-quarter continuing along found fence line, North  $07^{\circ}54'12''$  East a distance of 340.95 feet to a point lying 640.75 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 385+54.60;

Thence continuing along said fence line, North  $05^{\circ}03'54''$  East a distance of 118.80 feet to a point lying 755.51 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 385+23.18;

Thence continuing along said fence line, North  $07^{\circ}56'47''$  West a distance of 48.47 feet to a point lying 803.94 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 385+22.18;

Thence leaving said fence line, South  $67^{\circ}54'43''$  East a distance of 262.05 feet to a point lying 665.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 383+00.00;

Thence South  $66^{\circ}34'27''$  East a distance of 718.35 feet to the POINT OF BEGINNING, said point lying 270.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 377+00.00;

Thence North  $53^{\circ}30'06''$  East a distance of 223.60 feet to a point lying 370.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 375+00.00;

Thence North  $82^{\circ}21'26''$  East a distance of 500.40 feet to a point lying 350.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 370+00.00;

Thence South  $82^{\circ}11'11''$  East a distance of 210.00 feet to a point lying 286.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 368+00.00;

Thence North  $71^{\circ}11'37''$  East a distance of 399.57 feet to a point lying 365.27 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 364+50.00;

Thence South  $60^{\circ}47'05''$  East a distance of 81.44 feet to a point lying 323.17 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 363+90.91;

Thence North  $85^{\circ}27'28''$  East a distance of 273.38 feet to a point lying 356.45 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 361+60.41;

Thence South  $56^{\circ}14'49''$  East a distance of 327.93 feet to a point lying 223.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 359+00.00;

Thence South  $76^{\circ}19'59''$  East a distance of 111.77 feet to a point lying 226.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 358+00.00;

Thence North  $77^{\circ}48'48''$  East a distance of 272.19 feet to a point lying 370.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 356+00.00;

Thence South  $56^{\circ}32'20''$  East a distance of 356.82 feet to a point lying 331.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 353+00.00;

Thence South  $76^{\circ}36'57''$  East a distance of 502.64 feet to a point lying 536.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 349+25.00;

Thence North  $80^{\circ}31'23''$  East a distance of 168.05 feet to a point lying 532.75 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 507+76.46;

Thence North  $44^{\circ}49'26''$  East a distance of 600.09 feet to a point lying 370.00 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 515+14.46;

Thence North  $26^{\circ}19'37''$  East a distance of 451.78 feet to a point lying 330.00 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 519+64.47;

Thence North  $30^{\circ}07'47''$  East a distance of 809.71 feet to a point lying 205.00 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 527+64.46;

Thence North  $22^{\circ}52'07''$  East a distance of 573.41 feet to a point lying 180.00 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 533+64.46;

Thence North  $05^{\circ}57'10''$  West a distance of 275.00 feet to a point on the South right-of-way of Summerall Gate Road, said point lying 224.54 feet Westerly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 536+95.90;

Thence continuing along said right-of-way, Easterly along a curve to the right 274.89 feet to a point lying 39.92 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 537+68.14; said curve having a radius of 1080.00 feet, a chord direction of North  $70^{\circ}40'24''$  East, a chord length of 274.15 feet and a delta angle of  $14^{\circ}35'00''$ ;

Thence continuing along said right-of-way, North  $77^{\circ}57'54''$  East a distance of 102.09 feet to a point lying 141.02 feet Easterly and at right angles to the

centerline of construction of Summerall Gate Road Connector at Station 537+82.32;

Thence continuing along said right-of-way, North  $73^{\circ}11'12''$  East a distance of 46.97 feet to a point lying 186.83 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 537+92.70;

Thence leaving the South right-of-way of Summerall Gate Road, South  $15^{\circ}41'10''$  West a distance of 114.99 feet to a point lying 148.00 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 536+84.47;

Thence South  $01^{\circ}51'07''$  East a distance of 369.79 feet to a point lying 185.00 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 533+64.46;

Thence South  $19^{\circ}01'45''$  West a distance of 173.19 feet to a point lying 179.00 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 532+17.90;

Thence South  $13^{\circ}37'53''$  West a distance of 1365.47 feet to a point lying 360.00 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 518+64.47;

Thence South  $13^{\circ}46'22''$  West a distance of 1152.96 feet to a point lying 608.66 feet Easterly and at right angles to the centerline of construction of Summerall Gate Road Connector at Station 508+82.95;

Thence South  $09^{\circ}08'33''$  West a distance of 464.72 feet to a point lying 900.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 338+56.26;

Thence South  $15^{\circ}32'08''$  West a distance of 413.54 feet to a point lying 690.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 335+00.00;

Thence South  $27^{\circ}47'11''$  West a distance of 544.90 feet to a point lying 320.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 331+00.00;

Thence South  $14^{\circ}58'57''$  East a distance of 199.99 feet to a point lying 320.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 329+00.00;

Thence South  $75^{\circ}55'37''$  East a distance of 205.91 feet to a point lying 500.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 328+00.00;

Thence South  $16^{\circ}01'27''$  East a distance of 1100.19 feet to a point lying 520.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 317+00.00;

Thence South  $29^{\circ}01'07''$  East a distance of 412.31 feet to a point lying 620.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 313+00.00;

Thence South  $04^{\circ}42'31''$  East a distance of 813.03 feet to a point lying 475.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 305+00.00;

Thence South  $52^{\circ}38'59''$  West a distance of 262.78 feet to a point lying 232.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 304+00.00;

Thence South  $08^{\circ}42'27''$  East a distance of 201.20 feet to a point lying 210.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 302+00.00;

Thence South  $18^{\circ}47'34''$  East a distance of 150.33 feet to a point lying 220.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 300+50.00;

Thence South  $78^{\circ}55'41''$  East a distance of 250.46 feet to a point lying 445.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 299+40.00;

Thence South  $11^{\circ}20'49''$  West a distance of 435.14 feet to a point lying 252.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 295+50.00;

Thence South  $18^{\circ}37'23''$  East a distance of 551.11 feet to a point lying 287.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 290+00.00;

Thence South  $58^{\circ}12'38''$  East a distance of 274.49 feet to a point lying 475.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 288+00.00;

Thence South  $12^{\circ}09'11''$  West a distance of 449.47 feet to a point lying 270.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 284+00.00;

Thence South  $10^{\circ}56'42''$  East a distance of 852.12 feet to a point lying 210.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 275+50.00;

Thence South  $28^{\circ}58'53''$  East a distance of 124.00 feet to a point lying 240.00 feet Easterly and at right angles to the centerline of construction of Anniston East Bypass at Station 274+29.68;

Thence South  $75^{\circ}01'02''$  West a distance of 645.00 feet to a point lying 405.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 274+29.68;

Thence North  $08^{\circ}36'08''$  West a distance of 422.94 feet to a point lying 358.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 278+50.00;

Thence North  $26^{\circ}50'32''$  West a distance of 204.37 feet to a point lying 400.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 280+50.00;

Thence North  $08^{\circ}17'15''$  East a distance of 217.70 feet to a point lying 314.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 282+50.00;

Thence North 08°35'32" West a distance of 754.69 feet to a point lying 230.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 290+00.00;

Thence North 28°50'19" West a distance of 617.98 feet to a point lying 378.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 296+00.00;

Thence North 57°17'06" West a distance of 270.42 feet to a point lying 560.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 298+00.00;

Thence North 37°36'08" West a distance of 325.00 feet to a point lying 685.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 301+00.00;

Thence North 03°40'06" East a distance of 422.16 feet to a point lying 550.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 305+00.00;

Thence North 20°23'26" East a distance of 245.28 feet to a point lying 408.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 307+00.00;

Thence North 04°36'49" East a distance of 530.75 feet to a point lying 230.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 312+00.00;

Thence North 38°24'47" West a distance of 163.47 feet to a point lying 295.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 313+50.00;

Thence North 02°45'22" West a distance of 306.96 feet to a point lying 230.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 316+50.00;

Thence North 59°24'12" West a distance of 1050.12 feet to a point lying 965.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 324+00.00;

Thence North 55°20'49" West a distance of 656.22 feet to a point lying 1390.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 329+00.00;

Thence North 05°54'34" East a distance of 1023.55 feet to a point lying 1025.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 338+56.26;

Thence North 52°46'09" East a distance of 765.85 feet to a point lying 290.00 feet Westerly and at right angles to the centerline of construction of Anniston East Bypass at Station 342+00.00;

Thence North 33°03'46" West a distance of 778.87 feet to a point lying 210.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 351+00.00;

Thence North 68°13'38" West a distance of 968.47 feet to a point lying 200.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 362+00.00;

Thence South  $79^{\circ}28'16''$  West a distance of 432.11 feet to a point lying 260.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 366+87.93;

Thence South  $80^{\circ}04'01''$  West a distance of 112.07 feet to a point lying 260.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 368+00.00;

Thence South  $71^{\circ}32'11''$  West a distance of 202.24 feet to a point lying 290.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 370+00.00;

Thence South  $80^{\circ}04'04''$  West a distance of 250.00 feet to a point lying 290.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 372+50.00;

Thence North  $88^{\circ}37'31''$  West a distance of 152.97 feet to a point lying 260.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 374+00.00;

Thence South  $80^{\circ}04'01''$  West a distance of 400.02 feet to a point lying 260.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 378+00.00;

Thence South  $45^{\circ}51'04''$  West a distance of 1209.27 feet to a point lying 940.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 388+00.00;

Thence South  $82^{\circ}54'40''$  West a distance of 498.58 feet to a point lying 200.00 feet Easterly and at right angles to the centerline of construction of Alabama State Highway 21 at Station 24+92.37;

Thence South  $39^{\circ}52'31''$  West a distance of 146.21 feet to a point on the East right-of-way of Alabama State Highway 21, said point lying 1009.63 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 394+09.64;

Thence along the East right-of-way of Alabama State Highway 21, North  $03^{\circ}16'32''$  West a distance of 211.94 feet to a point lying 799.12 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 393+85.07;

Thence leaving the East right-of-way of Alabama State Highway 21, North  $44^{\circ}24'02''$  East a distance of 254.89 feet to a point lying 650.50 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 391+78.00;

Thence North  $73^{\circ}33'56''$  East a distance of 216.39 feet to a point lying 626.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 389+63.00;

Thence North  $65^{\circ}14'35''$  East a distance of 169.64 feet to a point lying 582.60 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 387+99.00;

Thence North  $64^{\circ}30'37''$  East a distance of 259.51 feet to a point lying 513.00 feet Southerly and at right angles to the centerline of construction of Anniston East Bypass at Station 385+49.00;



Thence North 58°58'52" East a distance of 2054.10 feet to a point lying 226.74 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 366+38.33;

Thence South 85°26'28" West a distance of 469.63 feet to a point lying 270.00 feet Northerly and at right angles to the centerline of construction of Anniston East Bypass at Station 371+00.00;

Thence South 80°04'03" West a distance of 600.00 feet to the POINT OF BEGINNING; containing 266.43 acres more or less.

The legal description for the property herein conveyed has been reviewed and concurred in by the GRANTEE, and the GRANTEE shall be responsible for the accuracy of the surveys and the descriptions of the Property.

**SUBJECT TO** all valid and existing restrictions, reservations, covenants, conditions, and easements, including, but not limited to, rights-of-way for railroads, highways, pipelines, and public utilities, if any, whether of public record or not, and to oil, gas, or any other mineral rights or interests.

**TO HAVE AND TO HOLD** the Property granted herein to the GRANTEE and its successors and assigns, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the GRANTOR, either in law or in equity.

**TOGETHER** with all the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

**PROVIDED, HOWEVER,** that if any portion of the premises shall be used for any purpose other than an Eastern Bypass for a transportation route connecting Interstate 20 with Alabama State Highways 431 and 21, the title and interest in and to the portion of the premises so used shall revert to and become the property of the United States, at its option, and it shall have the immediate right of entry.

**AND IT IS FURTHER AGREED AND UNDERSTOOD** by and between the parties hereto that the GRANTEE, by its acceptance of this Deed, agrees that, as part of the consideration for this Deed, the GRANTEE covenants and agrees for itself, its successors and assigns, forever, that this Deed is made and accepted upon each of the following covenants, which covenants shall be binding upon and enforceable against the GRANTEE, its successors and assigns, in perpetuity by the United States and other interested parties as allowed by federal, state or local law; that the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS set forth here are a binding servitude on the Property herein conveyed and shall be deemed to run with the land in perpetuity; and that the failure to include the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns:

## **1. HAZARDOUS SUBSTANCES**

Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9620(h)(3)(A)), the GRANTOR has made a complete search of its files and records, and no hazardous substances have been stored for one year or more, or known to have been released or disposed of, on the Property, but lead or other metals associated with small arms ammunition are, or have been present on the Property. The GRANTOR has excavated soil in areas that have lead that exceeded the U.S. Environmental Protection Agency industrial cleanup level.

## **2. RIGHT OF ACCESS**

**A.** The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the GRANTEE and its successors and assigns and shall run with the land.

**B.** In exercising such easement and right of access, the United States shall provide the GRANTEE or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the GRANTEE and the GRANTEE's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

**C.** In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the GRANTEE and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

### **3. "AS IS"**

**A.** The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. The GRANTEE understands and agrees that the Property and any part thereof is offered "AS IS" without any representation, warranty, or guaranty by the GRANTOR as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the GRANTEE, and no claim for allowance or deduction upon such grounds will be considered.

**B.** No warranties, either express or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. 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, lead-based paint, or other conditions on the Property. The failure of the GRANTEE to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.

**C.** Nothing in this "As Is" provision will be construed to modify or negate the GRANTOR's obligation under the CERCLA Covenant or any other statutory obligations.

### **4. HOLD HARMLESS**

**A.** To the extent authorized by law, the GRANTEE, its successors and assigns, covenant and agree to indemnify and hold harmless the GRANTOR, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the GRANTEE, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of conveyance.

**B.** The GRANTEE, its successors and assigns, covenant and agree that the GRANTOR shall not be responsible for any costs associated with modification or termination of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

**C.** Nothing in this Hold Harmless provision will be construed to modify or negate the GRANTOR's obligation under the CERCLA Covenant or any other statutory obligations.

## **5. POST-TRANSFER DISCOVERY OF CONTAMINATION**

**A.** If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of conveyance, GRANTEE, 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, use, or ownership of the Property. If the GRANTEE, its successors or assigns believe the discovered hazardous substance is due to GRANTOR's activities, use or ownership of the Property, GRANTEE will immediately secure the site and notify the GRANTOR of the existence of the hazardous substances, and GRANTEE will not further disturb such hazardous substances without the written permission of the GRANTOR.

**B.** GRANTEE, its successors and assigns, as consideration for the conveyance of the Property, 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 the delivery and acceptance 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 paragraph 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.

## **6. ENVIRONMENTAL PROTECTION PROVISIONS**

The Environmental Protection Provisions are at **Exhibit 1**, which is attached hereto and made a part hereof. The GRANTEE 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 the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

## **7. NON-DISCRIMINATION**

The GRANTEE covenants for itself, its successors, and assigns and every successor in interest to the Property hereby conveyed, or any part thereof, that the said GRANTEE and such heirs, successors, and assigns shall not discriminate upon the basis of race, color, religion, age, gender, or national origin in the use, occupancy, sale, or lease of the Property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to religion to premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

## **8. ANTI-DEFICIENCY ACT**

The GRANTOR's obligation to pay or reimburse any money under this Deed is subject to the availability of funds appropriated for this purpose to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the GRANTOR in violation of the Anti-Deficiency Act, 31 U.S.C. §1341.

## **9. NO WAIVER**

The failure of the Government to insist in any one or more instances upon complete performance of any of the said notices, covenants, conditions, restrictions, or reservations shall not be construed as a waiver or a relinquishment of the future performance of any such covenants, conditions, restrictions, or reservations; but the obligations of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect.

**This conveyance is not subject to Title 10, U.S. Code, Section 2662.**

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IN WITNESS WHEREOF, the GRANTOR has caused this Deed to be executed in its name by the Director of Real Estate, this 25th day of June 2009.

UNITED STATES OF AMERICA

BY: Scott L. Whiteford  
SCOTT L. WHITEFORD  
Director of Real Estate

NOTARIAL CERTIFICATE

DISTRICT OF COLUMBIA : SS

I, Barbara Davis, a Notary Public in and for the District of Columbia, do hereby certify that this 25th day of June, 2009, Scott L. Whiteford, Director of Real Estate, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Barbara Davis  
Notary Public



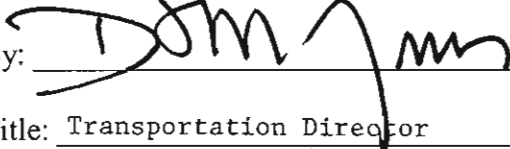
Notary Registration No. N.A.

My commission expires the 30th day of June, 2011.

## ACCEPTANCE BY GRANTEE

The terms and conditions of this Quitclaim Deed are hereby accepted this 28 day of May, 2009. I, Joe McInnes, hereby certify, that holding the position of Transportation Director with the Alabama Department of Transportation, has the authority to execute this instrument on its behalf, and that my signature, as it appears below, is authentic.

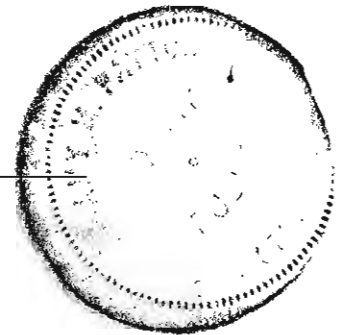
## ALABAMA DEPARTMENT OF TRANSPORTATION

By: Title: Transportation DirectorDate: 05 / 28 / 2009

STATE OF ALABAMA                    )  
   ) SS:  
 COUNTY OF MONTGOMERY        )

I, the undersigned, a Notary Public in and for the State of Alabama, County of Montgomery, do hereby certify that this day personally appeared before me D.J. McInnes, whose name is signed to the foregoing instrument and who acknowledged the same to be his free act and deed on the date shown, and acknowledged the same for and on behalf of the State of Alabama Department of Transportation..

  
 Notary Public



My Commission Expires: My Commission Expires October 11, 2011

## EXHIBITS

- 1 – Environmental Protection Provisions
- 2 – Land Use Control Implementation Plan (LUCIP),  
with Construction Debris Grids and Residential Use Restriction Areas

## EXHIBIT 1

### ENVIRONMENTAL PROTECTION PROVISIONS

The following notifications, conditions, and restrictions are hereby attached as **Exhibit 1** to the foregoing Deed and incorporated therein by reference in order to ensure protection of human health and the environment.

#### NOTICE OF THE POTENTIAL PRESENCE OF MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. The GRANTEE is hereby notified that due to former use of the Property as a military installation, the Property may contain MEC. The term MEC means specific categories of military munitions that may pose unique explosive safety risks and includes: (1) unexploded ordnance (UXO), as defined in U.S.C. 10 § 101(e)(5); (2) discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or (3) munitions constituents (e.g., trinitrotoluene and cyclotrimethylenetrinitramine [RDX]), as defined in 10 U.S.C. § 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

B. The Property was previously used for live-fire and other training that resulted in the presence of MEC. The munitions response sites (MRSs) on the Property consist of three distinct areas: (1) a part of OES 1, (2) a majority of OES 2, and (3) a part of M1 Parcel/M3 Miscellaneous Property.

- OES 1. This MRS was used for military training with conventional munitions. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted. A part of this MRS is located on the Property. In the part of OES 1 that is on the Property, no MEC were discovered. Approximately 18 munitions debris items (munitions debris poses no explosives safety risks) were recovered and removed. The munitions debris included 60mm M69 practice mortars, used slap flares, 2.36" practice rockets, 37mm Armor Piercing Tracer rounds, and practice grenades.
- OES 2. Live-fire training and impact areas are located in OES 2. Three munitions responses were conducted in OES2. From September 1999 to March 2001, a munitions response for removal of MEC to a 1-foot depth was conducted as an interim action taken to allow tree harvesting. A total of 1,046 MEC (UXO) and 38,630 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. The MEC recovered and destroyed included: 2.36" HE rockets and rocket warheads, 60mm M49 HE mortars, live slap flares, M49 live trip flares, live rocket fuzes, live smoke grenade fuze, M23 rifle grenade flare, M2 hand grenade, rifle grenade, M18 smoke grenades, M8HC smoke grenade, 37mm projectile LE, M3 firing device, and a primer cartridge case. The munitions debris items removed included: 3" stokes mortars, 2.36" rockets, 60mm mortar illumination, M50 60mm mortar, M69



60mm mortar, used slap flare, expended smoke grenade fuze, practice hand grenade, smoke rifle grenade, smoke grenade, bounding mine, practice mine, 37 mm APT, 81 mm practice mortar, 105mm smoke canister, 3" stokes mortar booster, and 2.36" rocket fuzes. A second munitions response for removal of MEC to depth was conducted from April 2001 to April 2003, with the exception of 48 grids that contained large amounts of construction debris used as fill to construct a road in the 1950s. During this response, 668 MEC and 4,601 munitions debris items were recovered. MEC were detonated in place and munitions debris was removed. The MEC recovered and destroyed included: 2.36" rockets M6 HE and fuzes, motors, and warheads, 2.36" practice rockets M6 and M7, 37 mm projectile HE, 40mm grenade fuzes, 60 mm mortar M49 HE, 60 mm mortar M83 illumination, 81 mm mortar M43 HE, 3" Stokes mortars fuzed and unfuzed, MKII hand grenade, M18 Hand Grenade smoke, rifle grenade M9AIHE, and rifle grenade M17A1 and M19 illumination. This munitions response included a mechanical removal to depth in several areas that were heavily contaminated with MEC and metallic debris. This process recovered 486 MEC and 19,000 pounds of munitions debris. MEC were detonated in place and munitions debris was removed. The MEC included 2.36" M6 rockets, warheads, fuzes, motors, one 60 mm mortar HE, 3" stokes mortars fuzed and unfuzed, 105 mm smoke, hand grenades smoke. The third munitions response was performed after ALDOT finalized the design for the Eastern Bypass. From June to August 2005, the Army performed a removal to depth on the construction debris area that would not receive at least 4 feet of fill deposited above the existing construction debris during bypass construction. In this response, no MEC was discovered and nine munitions debris items were recovered and removed. There remain 30 full or partial grids (Construction Debris Grids) where removal of MEC was not performed. Prior to future excavation activities in these Construction Debris Grids, on-site construction support and removal of MEC to depth will be provided, as required. For the entire OES 2 area, the following conditions apply. Construction support as described in Paragraph C of this Deed Notice will be provided, as required. Reasonable and prudent precautions are to be taken when conducting excavation activities because of potential residual MEC that may pose an explosive hazard. Prior to excavation activities, workers and construction personnel shall be advised of the military's use of the Property for livefire and other training and of the potential for MEC to remain. Additionally, they will be provided munitions familiarization training prior to conducting excavation activities. This training shall include viewing the UXO Safety video titled "Fort McClellan Outreach Community Program, UXO Awareness." This training shall be documented.

- **M1.01 Parcel/M3 Miscellaneous Property.** This MRS was used for military training with conventional munitions. From February to July 2002, a munitions response for removal of MEC to a 1-foot depth was conducted. A small part of this MRS is located on the Property. In the part of this MRS that is on the Property, no MEC was discovered. Approximately 17 munitions debris items were recovered and removed. Munitions debris recovered included: 2.36" practice rockets, M17A1 illumination signals, M1A3 practice rifle grenades, M125 series illumination flare, 60mm practice mortar, M22/23 practice rifle grenade, and smoke bomblets. For the M1.01 Parcel/M3 Miscellaneous

Property, the following condition applies. Construction support as described in Paragraph C of this Deed Notice will be provided, as required by ADEM.

A summary of MEC, together with map(s), discovered on the Property is provided in the "Final Version of the Finding of Suitability to Transfer (FOST), dated October 2008, Eastern Bypass-Eastern Portion of Tract No. 3, Fort McClellan, Calhoun County, Alabama," a copy of which has been provided to the GRANTEE.

C. The GRANTOR represents that, to the best of its knowledge, the area was cleared of all MEC reasonably possible to detect with the exception of 30 full or partial Construction Debris Grids. The parties acknowledge there is a possibility that MEC may exist on the Property. The GRANTEE agrees to abide by the land use restrictions included in the Environmental Protection Provisions and further described in the Land Use Control Implementation Plan. If the GRANTEE, any subsequent owner, or any other person should find any MEC on the Property, they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the Local Police Department so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

#### D. Easement and Access Rights.

(1) The GRANTOR reserves a perpetual and assignable right of access on, over, and through the Property, to access and enter upon the Property in any case in which a munitions response action is found to be necessary or such access and entrance is necessary to carry out a munitions response action on adjoining property. Such easement and right of access includes, without limitation, the right to perform any additional investigation, sampling, testing, test-pitting, surface and subsurface clearance operations, or any other munitions response actions necessary for the United States to meet its responsibilities under applicable laws and as provided for in this Deed. This right of access shall be binding on the GRANTEE, its successors and assigns, and shall run with the land.

(2) In exercising this easement and right of access, the GRANTOR shall give the GRANTEE or the then record owner, reasonable notice of the intent to enter on the Property, except in emergency situations. GRANTOR shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the GRANTEE's and GRANTEE's successors' and assigns' quiet enjoyment of the Property. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

(3) In exercising this easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United

States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this Paragraph. In addition, the GRANTEE, its successors and assigns, shall not interfere with any munitions response action conducted by the GRANTOR on the Property.

E. The GRANTEE acknowledges receipt of the following documents:

- Final Report for the Ordnance and Explosives Surface Clearance For Construction Support Proposed Eastern Bypass, dated October 2001.
- Site Specific Final Report Eastern Bypass OE Removal, dated April 2006.
- Final Site Specific Final Report Addendum Construction Debris Removal Area of the Eastern Bypass, dated May 2006.
- Site Specific Final Report M1 .01 Parcel and M3 Miscellaneous Property, dated March 2003.
- Final Letter Report Site Characterization M1 .01 Parcel and M3 Miscellaneous Properties, dated November 2006.
- Statement of Clearance for OES 1, dated May 2002.
- Statement of Clearance for OES 2, dated December 2007.
- Statement of Clearance for M1.01 Parcel/M3 Miscellaneous Property, dated April 2003.
- Land Use Control Implementation Plan for OES 2 included as an attachment to the LUCAP in Enclosure 13 of the FOST.
- Final version of the Finding of Suitability to Transfer (FOST), dated October 2008.

## LAND USE RESTRICTIONS

A. The United States Department of the Army has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The GRANTEE, its successors or assigns, shall not undertake nor allow any activity on or use of the Property that would violate the land use restrictions contained herein. These land use restrictions are documented in a Land Use Control Implementation Plan (LUCIP) that was provided to the GRANTEE, attached as **Exhibit 2** to the foregoing Deed. A Land Use Control Assurance Plan (LUCAP) memorandum of agreement entered into by the Army, EPA Region 4, and the JPA on December 12, 2000, required LUCIPs at sites where land use controls were instituted.

**Restrictions on Excavation Activities.** The GRANTEE, its successors and assigns, shall not conduct or permit others to conduct any excavation activities (i.e., digging, drilling, or any

other excavation or disturbance of the land surface or subsurface) in the Construction Debris Grids of the ordnance and explosives site (OES) 2 area where construction debris was not removed and removal of munitions and explosives of concern (MEC) was not performed. The GRANTOR will provide on-site construction support and removal of MEC to depth will be provided prior to construction activity in the Construction Debris Grids, as required. Additionally, the GRANTEE, its successors and assigns, shall ensure that prior to conducting any excavation activities throughout OES 2, workers and construction personnel will be advised of the military's use of the Property for live-fire and other training and of the potential for MEC to remain and will be provided appropriate munitions familiarization training. The GRANTEE, its successors and assigns will document having provided this training. This training shall include education of workers on the explosive hazards associated with MEC that may be present, particularly Unexploded Ordnance (UXO), and the actions they should take (Recognize, Retreat, Report) should they encounter MEC. Site access shall be granted only to those persons who have viewed the UXO safety video titled "Fort McClellan Community Outreach Program, UXO Awareness". Maps depicting the location of OES 2 and the Construction Debris Grids where MEC was not removed below the debris field are included in the LUCIP, which has been provided to the GRANTEE, which is attached as **Exhibit 2** to the foregoing Deed.

**Residential Use Restriction.** The GRANTEE, its successors and assigns, shall use the Property impacted by portions of the Iron Mountain Road Ranges (Parcels 69Q, 70Q, and 71Q) solely for commercial or industrial activities and not for residential purposes. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12. Maps depicting the location of the areas with a residential use restriction are included in the LUCIP, which is attached as **Exhibit 2** to the foregoing Deed.

**B. Modifying Restrictions.** Nothing contained herein shall preclude the GRANTEE, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the GRANTOR, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, GRANTEE shall consult with and obtain the approval of the GRANTOR, and, as appropriate, the State or Federal regulators, or the local authorities. Upon the GRANTEE's obtaining the approval of the GRANTOR and, as appropriate, State or Federal regulators, or local authorities, the GRANTOR agrees to record an amendment hereto. This recordation shall be the responsibility of the GRANTEE and at no additional cost to the GRANTOR.

**C. Submissions.** Any requests by the GRANTEE, its successors and assigns, to the GRANTOR, ADEM, and EPA for modifications of the above restrictions shall be in writing and shall be delivered by one of the following methods: overnight courier postage prepaid, registered or certified mail with return receipt requested, or hand delivery; to the addresses listed below.

- a. Grantor

U.S. Army Transition Force  
291 Jimmy Parks Blvd.  
Fort McClellan, AL 36205

b. State Regulators/EPA Region 4

Alabama Department of Environmental Management  
Hazardous Waste Branch, Land Division  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059

U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303-3 104

## **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 material "ACM" has been found on the Property. The Property may also contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain friable and non-friable asbestos or ACM. The Occupational Safety and Health Administration and the Environmental Protection Agency (EPA) have determined that unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

B. Buildings 3131 and 3139 on the Property have been determined to contain friable asbestos. The GRANTEE agrees to undertake any and all asbestos abatement or remediation in the aforementioned buildings that may be required under any law or regulation at no expense to the GRANTOR. The GRANTOR has agreed to transfer said buildings to the GRANTEE, prior to remediation or abatement of asbestos hazards, in reliance upon the GRANTEE's express representation and covenant to perform the required asbestos abatement or remediation of these buildings.

C. The GRANTEE covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The GRANTEE agrees to be responsible for any future remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

D. The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM 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 or ACM hazards or concerns.

## **NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) 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 (LBP). 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.

B. 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, as defined under 24 Code of Federal Regulations Part 35, 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 U.S. 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).

C. The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazard 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 lead-based paint hazards or concerns.

## **NOTICE OF THE PRESENCE OF ENDANGERED SPECIES AND COVENANT**

1. Gray bats (*Myotis grisescens*) are known to forage near Yahou Lake and are known to roost in caves and under bridges in the vicinity. Areas within the Property that are adjacent to Yahou Lake have been identified as suitable gray bat foraging habitat. Gray bats are listed as endangered by the U.S. Fish and Wildlife Service (FWS) and are afforded Federal protection under the Endangered Species Act (ESA) of 1973, as amended. Section 9 of the ESA prohibits private landowners from "taking" (harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) endangered species.

2. In order to limit the potential take of Gray bats on the Property, the GRANTEE, its successors and assigns, shall comply with the following measures. Failure to follow these measures could subject the violator to criminal sanctions of the ESA:

a) Gray bats are known to use man-made structures in the vicinity of the Property. Prior to removing or altering the structure of a bridge, abandoned buildings, or cistern, the structure should be checked for the presence of gray bats. The FWS will be contacted if bats are found to be present.

b) Trees along Yahou Lake with moderate quality foraging habitat on the Property provide protective cover and prey for foraging gray bats. Therefore, forest within 50 feet of this lake should not be removed. If removal of dead or live trees within 50 feet of this lake is necessary, the FWS should be consulted prior to cutting.

c) Gray bats primarily feed on insects with an aquatic life stage; therefore, water quality and the physical characteristics of the lake affect the amount and types of insects available for these bats. State and Federal regulations pertaining to water quality and erosion control should be followed. Additionally, modification of the lake banks and water flow should be avoided to maintain present water quality and physical structure.

d) Use of pesticides, particularly Malathion, should be managed according to recommendations contained in a FWS consultation letter dated June 11, 1998, which provide that the GRANTEE should avoid (or eliminate or minimize) fogging in the vicinity of all moderate quality foraging habitat. FWS requested that if Malathion is used it should be sprayed only during daylight hours no earlier than one hour after sunrise and no later than one hour prior to sunset between March 15<sup>th</sup> and October 31<sup>st</sup>. Atmospheric conditions are to be used to determine appropriate timing for fogging on lands directly adjacent to foraging areas.

**Land Use Control Implementation Plan  
Ordnance and Explosives Site 2 of the Eastern Bypass  
Fort McClellan, Alabama**

**1. Background**

This Land Use Control Implementation Plan (LUCIP) documents land use controls (LUCs) placed upon the property described herein. The property is encumbered by LUCs as a component of the response actions for munitions and explosives of concern (MEC) and for lead in soils on the property.

This LUCIP complies with requirements of the Land Use Control Assurance Plan (LUCAP) (December 2000) signed by the U.S. Environmental Protection Agency (EPA), Alabama Department of Environmental Management (ADEM), U.S. Department of the Army for Fort McClellan, and the Anniston-Calhoun County Fort McClellan Development Joint Powers Authority (JPA).

**2. Source and Decision Documents**

- a. Department of the Army, 2001, Action Memorandum, Eastern Bypass, Fort McClellan, Alabama, August.
- b. US Army Corps of Engineers, 2007, Explanation of Significant Differences, Withdrawal of Requirement to Post Warning Signs along the Eastern Bypass Ordnance and Explosives Site 2, Fort McClellan, Alabama, October.
- c. Foster Wheeler Environmental Corporation, 2006, Final Site Specific Final Report, Eastern Bypass OE Removal, Fort McClellan, Alabama, April.
- d. Tetra Tech EC, Inc., 2006, Final Site Specific Final Report Addendum, Construction Debris Removal Area of the Eastern Bypass, Fort McClellan, Alabama, May.
- e. U.S. Army Corps of Engineers, Engineering and Support Center, Huntsville, 2006, Statement of Clearance Ordnance and Explosives Site 2 of the Proposed Eastern Bypass at Fort McClellan, Alabama, June.
- f. Shaw Environmental, Inc., 2008, Finding of Suitability to Transfer (FOST), Eastern Bypass-Eastern Portion of Tract No. 3, Fort McClellan, Calhoun County, Alabama, August.
- g. Shaw Environmental, Inc., 2006, Decision Document, Portions of Iron Mountain Road Ranges on ALDOT Eastern Bypass Corridor Property, June.

**3. Site Location and Description (see attached Figure 1)**

- a. The Alabama Department of Transportation (ALDOT) is constructing an Eastern Bypass route connecting Interstate 20 located south of Anniston, Alabama, with U.S. Highway 431 and Alabama Highway 21 north of Fort McClellan. The Bypass, of which approximately 5 ½ miles passes through former Fort McClellan property, will enter the former Fort at the southwestern corner and exit at the Summerall Gate area. ALDOT divided the road construction area on Fort McClellan into three sections designated Tracts 1, 2, and 3. Tract 1 is the southern portion of the Eastern Bypass on Fort McClellan. Tract 2 is the Summerall Gate Road relocation area. Tract 3



connects Tract 1 with U.S. Highway 431. The ALDOT intends to use the property to construct a limited access road.

- b. The Corps of Engineers Engineering and Support Center, Huntsville, divided the road construction area that traverses Fort McClellan into three Ordnance and Explosives Sites (OESs) for purposes of characterizing MEC. The term MEC distinguishes specific categories of military munitions that may pose unique explosives safety risks and includes unexploded ordnance (UXO), discarded military munitions (DMM), and munitions constituents present in high enough concentrations to pose an explosive hazard. The Army issued an Action Memorandum to document the Army's recommended alternatives for each OES. LUCs were included as one of the recommended risk-reduction alternatives for OES 2 but not for OES 1 and 3. OES 2 includes a large part of ALDOT Tract 3. The recommended risk-reduction alternatives for OES 2 documented in the Action Memorandum were clearance of MEC for intended land use, construction worker education, signage, and construction support. The requirement for signage was removed with an Explanation of Significant Differences. Interim LUCs were placed on OES 2 in 2002 to reduce human health risks from potential exposure to UXO and other MEC and to support the Army's recommended alternatives.
- c. OES 2 included a known impact area containing significant quantities of MEC. Historical records indicate this area was used as a 60 millimeter mortar range, a 2.36-inch rocket launcher range, and a tank range. The Army completed a removal to depth of MEC reasonably possible to detect, with the exception of 48 grids where construction debris was located, and issued a Statement of Clearance in April 2004.
- d. The 48 grids, known as the Construction Debris Grids, contained many tons of concrete rubble and construction debris used to construct Iron Mountain Road in the 1950s. The removal of MEC in the right-of-way could not be completed until the debris was removed. Discussion among ALDOT, the Army, and ADEM resulted in ALDOT providing a final roadway design for this portion of the Eastern Bypass. The Army then performed a MEC removal for 18 grids where 4 feet or less of fill would be deposited above existing construction debris, for areas where drainage structures would be placed, and for a 10-foot buffer around areas meeting these criteria. MEC was not cleared in 30 full or partial grids shown in Figures 1 and 2 because the roadway design required placing more than 4 feet of fill over these grids. In June 2006, the Army revised the Statement of Clearance based on the additional clearance.
- e. Portions of three of the Iron Mountain Road Ranges are located on this property and are contaminated with lead as a result of military activity. The parts of those ranges impacting OES 2 are noted on Figures 1, 3, 4, and 5. The ranges were used mainly for small-caliber weapons training and shotgun firing and were active until 1998. Lead levels are below the industrial cleanup level of 880 mg/kg in the portions of these ranges located in the Eastern Bypass right-of-way making this area suitable for construction purposes; however, the lead levels are above EPA levels allowed for residential use.

#### 4. LUC Boundaries (see attached figures)

The boundaries for the LUCs on OES 2 are defined in the legal description included in the deed with the exception of the boundary for the northwestern section. Global Positioning System (GPS) coordinates are used to define that boundary as shown on Figure 1. The boundaries for the Construction Debris Grids where MEC was not removed are defined by GPS coordinates on Figure 2. GPS coordinates on Figures 3, 4, and 5 mark boundaries for the areas where lead levels exceed levels allowed for residential use.

#### 5. LUC Objectives

The LUCs described in Section 6 below are intended to minimize risk to human health and the environment and to promote human safety. The objectives of the LUCs are to:

- a. ensure there are no excavation activities in the Construction Debris Grids until a munitions clearance is conducted
- b. prior to excavation activities throughout OES 2, ensure that site workers and construction personnel are made aware of the site's history and of the potential for MEC hazards and that all such personnel receive munitions familiarization training
- c. ensure there is no residential use or residential development on the part of the property where military training on the Iron Mountain Road Ranges has resulted in lead levels in excess of residential use levels

#### 6. LUCs (see attached figures)

Land Use Controls include any type of physical, legal, or administrative mechanism that restricts the use of, or limits access to, real property to prevent or reduce risks to human health and the environment. The LUCs described in this LUCIP are designed and intended to meet the objectives stated in Section 5 above.

- a. Excavation activities (i.e., digging, drilling, or any other excavation or disturbance of the land surface or subsurface) are prohibited in the Construction Debris Grids because MEC was not removed. In the 30 full or partial grids where MEC was not removed, future on-site construction support and removal of MEC to depth will be provided prior to excavation activities in these grids. The Construction Debris Grids are shown on Figures 1 and 2.
- b. Excavation activities throughout the entire OES 2 (Figure 1) shall be managed as provided below to ensure public and site worker safety because residual MEC may pose a potential explosive hazard.
  - 1) Prior to excavation activities in any area of OES 2, ALDOT will be responsible for ensuring that reasonable and prudent precautions be taken when conducting excavation activities (Figure 1). Such precautions are prudent because potential residual MEC may pose an explosive hazard. At a minimum, the ALDOT will take the following precautions for all workers and/or persons involved in excavation activities in OES 2:
    - i. Site workers shall be notified of the military's use of the Property for live-fire and other training and of the potential for MEC to remain.
    - ii. Munitions familiarization training shall be provided to persons involved in any excavation activities at the site. This training shall

include explosive hazards associated with MEC that may be present, particularly UXO, and the actions that should be taken (Recognize, Retreat, Report) if a UXO or suspected UXO item is encountered. Site access shall be granted only to those persons who have viewed the UXO safety video titled "Fort McClellan Community Outreach Program, Unexploded Ordnance (UXO) Awareness".

- iii. The ALDOT shall maintain the training records which shall include a list of persons who receive the training and the dates of training.
- c. The property impacted by the Iron Mountain Road Ranges (Figures 1, 3, 4, and 5) may be used solely for commercial or industrial activities but not for residential purposes because lead levels exceed the EPA levels allowed for residential use. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

#### **7. Right of Entry**

The Army reserves the right to enter the transferred property to inspect the adequacy of the LUC enforcement. Additionally, this area is within the police jurisdiction of the Anniston Police Department.

#### **8. Frequency of Monitoring and Reporting Requirements**

- a. The LUCAP requires an annual report reflecting the status and effectiveness of these LUCs be provided to the EPA Region 4 and ADEM in March of each year. The ALDOT shall prepare and provide this report to the regulatory agencies and to the Army at the addresses provided in Appendix D of the LUCAP which is included as an enclosure to the FOST.
- b. The Army shall complete at least one recurring review of this site. This recurring review began in 2006. Future reviews may be scheduled pending the outcome of the initial review.

#### **9. Responsibility for Monitoring, Maintaining, and Enforcing LUCs**

The ALDOT is responsible for monitoring, maintaining, and enforcing the LUCs for the area shown on the attached figures. The ALDOT will be responsible for ensuring the land use controls and restrictions are not violated. Violations will be addressed and managed according to Section 10 below.

#### **10. Enforcement Options Should a LUC Violation Occur**

- a. Should a third party violate the terms and intent of this LUCIP, the ALDOT will address the violation with the party. If the party does not take actions to correct the violation within 60 days, ALDOT will consider use of all options (e.g., civil action, criminal prosecution) available to correct the violation.
- b. Should ALDOT violate the terms and intent of this LUCIP, the Army will address the violation with ALDOT. If ALDOT does not take action to correct the violation within 60 days, the Army will consider use of all options (e.g., civil action, criminal prosecution) available to correct the violation.

**11. Reducing or Removing LUCs**

- a. This LUCIP replaces a previous LUCIP for OES 2 titled "Interim Land Use Control Implementation Plan, Eastern Bypass Ordnance and Explosive Site 2, Fort McClellan, Alabama", March 2002.
- b. Revisions to this LUCIP and the LUCs must be approved by the Army, and submitted to ADEM and the EPA for review.
- c. If a future MEC clearance action is performed in the remaining construction debris grids, this LUCIP may be revised; but the LUCs required for the entire OES 2 will remain in effect for the cleared area.
- d. The LUCs for the Iron Mountain Road Range property are required because the lead levels are above those allowed for residential use. The restriction on residential use for this property shall remain in effect until:
  - 1) changes to applicable Federal and State risk-based cleanup standards occur which indicate site contaminants would no longer pose potential residential risk; or
  - 2) reduction in site contaminant concentrations to below Federal and State residential risk-based cleanup standards occurs.

**12. Points of Contact**

- a. ALDOT – Division Engineer, Alabama Department of Transportation, 1545 U.S. Highway 431 N., Anniston, Alabama, telephone 256-820-3131.
- b. Army – Site Manager, U.S. Army Garrison/Transition Force, 291 Jimmy Parks Blvd., Fort McClellan, Alabama 36205-5000, telephone 256-848-3847.
- c. Anniston Police Department – 256-238-1800

**13. Emergency Contacts**

The deed will include a notice of the potential presence of MEC that provides information on notification requirements in the event a MEC item is encountered. If MEC is discovered on the property, the Anniston Police Department should be contacted immediately at 256-238-1800.

**APPENDIX D**  
**AGENCY POINTS OF CONTACT UPDATED 2008**

**U.S. Department of the Army**

Mr. Scott J. Bolton  
 U.S. Army Transition Force  
 291 Jimmy Parks Boulevard, Building 215  
 Fort McClellan, AL 36205  
 Mailing address: PO Box 5022, Anniston, AL 36205  
 Telephone: 256-848-3847  
 FAX: 256-848-5517  
 E-mail: [scott.j.bolton@us.army.mil](mailto:scott.j.bolton@us.army.mil)

**U.S. Environmental Protection Agency**

Mr. Doyle T. Brittain  
 U.S. Environmental Protection Agency, Region 4  
 61 Forsyth Street, SW  
 Atlanta, GA 30303-3104  
 Telephone: 404-562-8549  
 FAX: 404-562-8518  
 E-mail: [brittain.doyle@epamail.epa.gov](mailto:brittain.doyle@epamail.epa.gov)

**ADEM**

Mr. Stephen A. Cobb  
 Alabama Department of Environmental Management  
 Hazardous Waste Branch, Land Division  
 1400 Coliseum Boulevard  
 Montgomery, AL 36110-2059  
 Mailing address: PO Box 301463, Montgomery, AL 36130-1463  
 Telephone: 334-271-7739  
 FAX: 334-279-3050  
 E-mail: [SAC@adem.state.al.us](mailto:SAC@adem.state.al.us)

**JPA**

Ms. Miki Schneider  
 Anniston-Calhoun County Fort McClellan Development Joint Powers Authority  
 180 Headquarters Drive, Building 61  
 Anniston, AL 36205  
 Mailing address: PO Box 5327, Anniston, AL 36205  
 Fort McClellan, AL 36205  
 Telephone: 256-236-2011  
 FAX: 256-236-2020  
 E-mail: [mikischneider@mcclellan-jpa.org](mailto:mikischneider@mcclellan-jpa.org)

**U.S. Department of Interior - Fish and Wildlife Service (not a co-signing agency for the LUCAP)**

Mr. Steve Miller  
 U.S. Fish and Wildlife Service  
 664 Powers Avenue, Suite 200  
 Anniston, AL 36205  
 Mailing address: PO Box 5087, Anniston, AL 36205  
 Telephone: 256-848-7085  
 FAX: 256-847-9089  
 E-mail: [Stephen\\_A\\_Miller@fws.gov](mailto:Stephen_A_Miller@fws.gov)

# Eastern Bypass OES2 LUCIP Information Figure 1



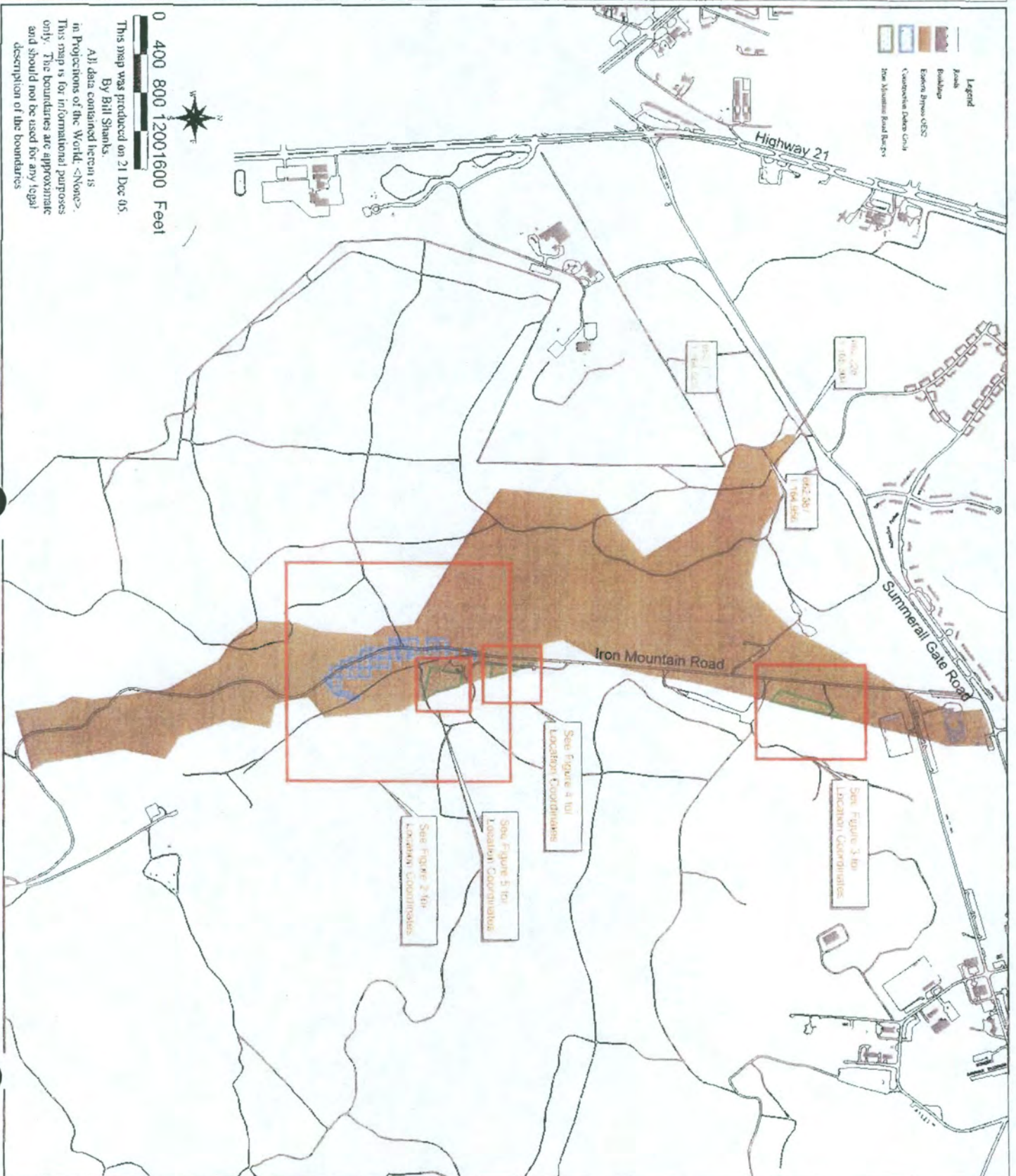
- Legend**
- Acres
  - Building
  - Eastern Bypass OES2
  - Coastal Range Unit
  - San Antonio Road Right-Of-Way

0 400 800 1200 1600 Feet

This map was produced on 21 Dec 05.

By Bill Shanks.

All data contained herein is in Projections of the World, <None>. This map is for informational purposes only. The boundaries are approximate and should not be used for any legal description of the boundaries.





# Eastern Bypass OES2 LUCIP Information Figure 2



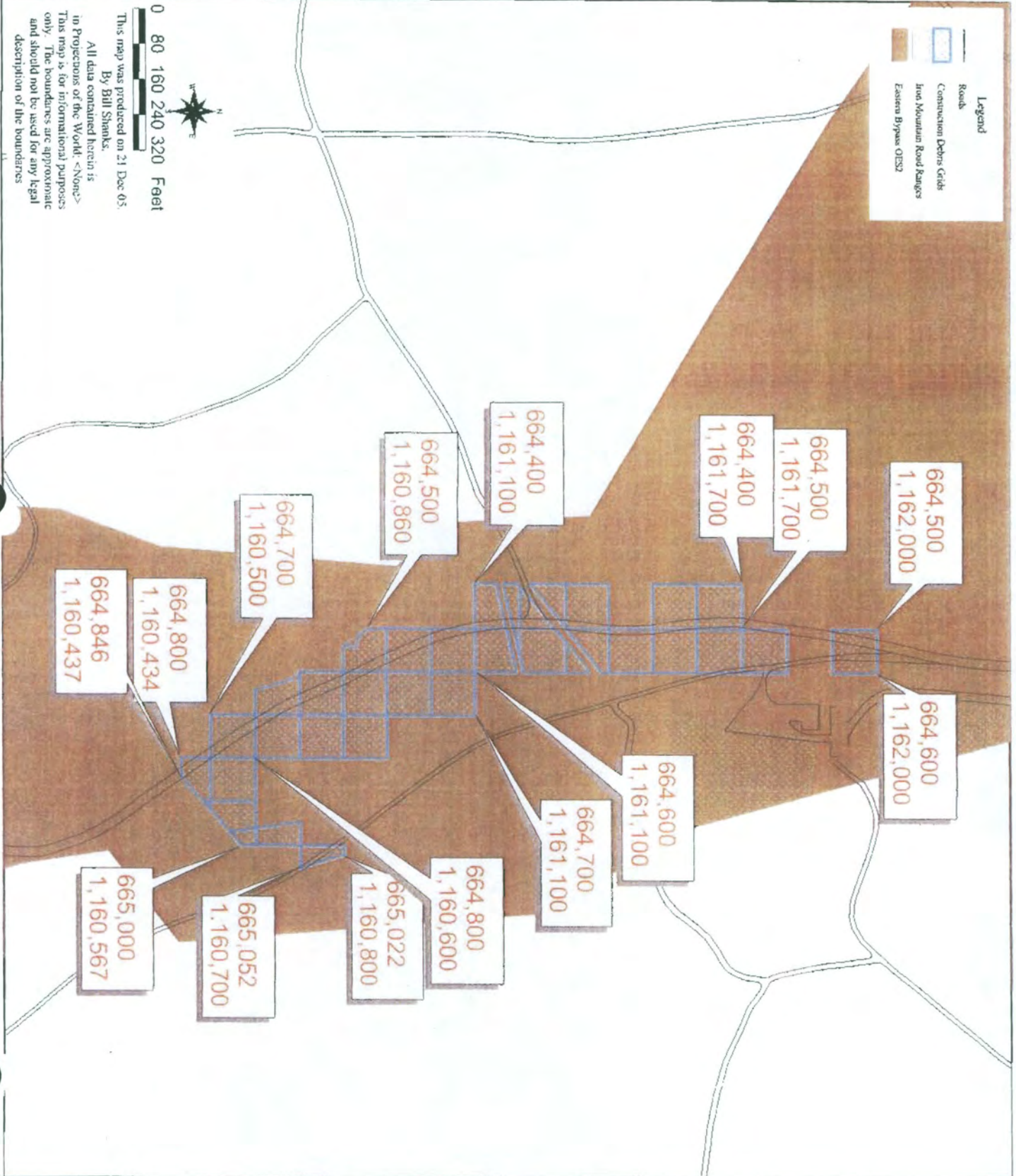
- Legend**
- Roads
  - Construction Debris Grids
  - Iron Mountain Road Ranges
  - Eastern Bypass OES2

0 80 160 240 320 Feet



This map was produced on 21 Dec 05.  
By Bill Shanks.

All data contained herein is  
in Projections of the World. <None>  
This map is for informational purposes  
only. The boundaries are approximate  
and should not be used for any legal  
description of the boundaries





# Eastern Bypass OES2 LUCIP Information Figure 3



- Legend
- Roads
  - Iron Mountain Road Ranges
  - Eastern Bypass OES2

0 40 80 120 160 Feet



This map was produced on 21 Dec 05  
By Bill Shanks.

All data contained herein is  
in Projections of the World: <None>  
This map is for informational purposes  
only. The boundaries are approximate  
and should not be used for any legal  
description of the boundaries.

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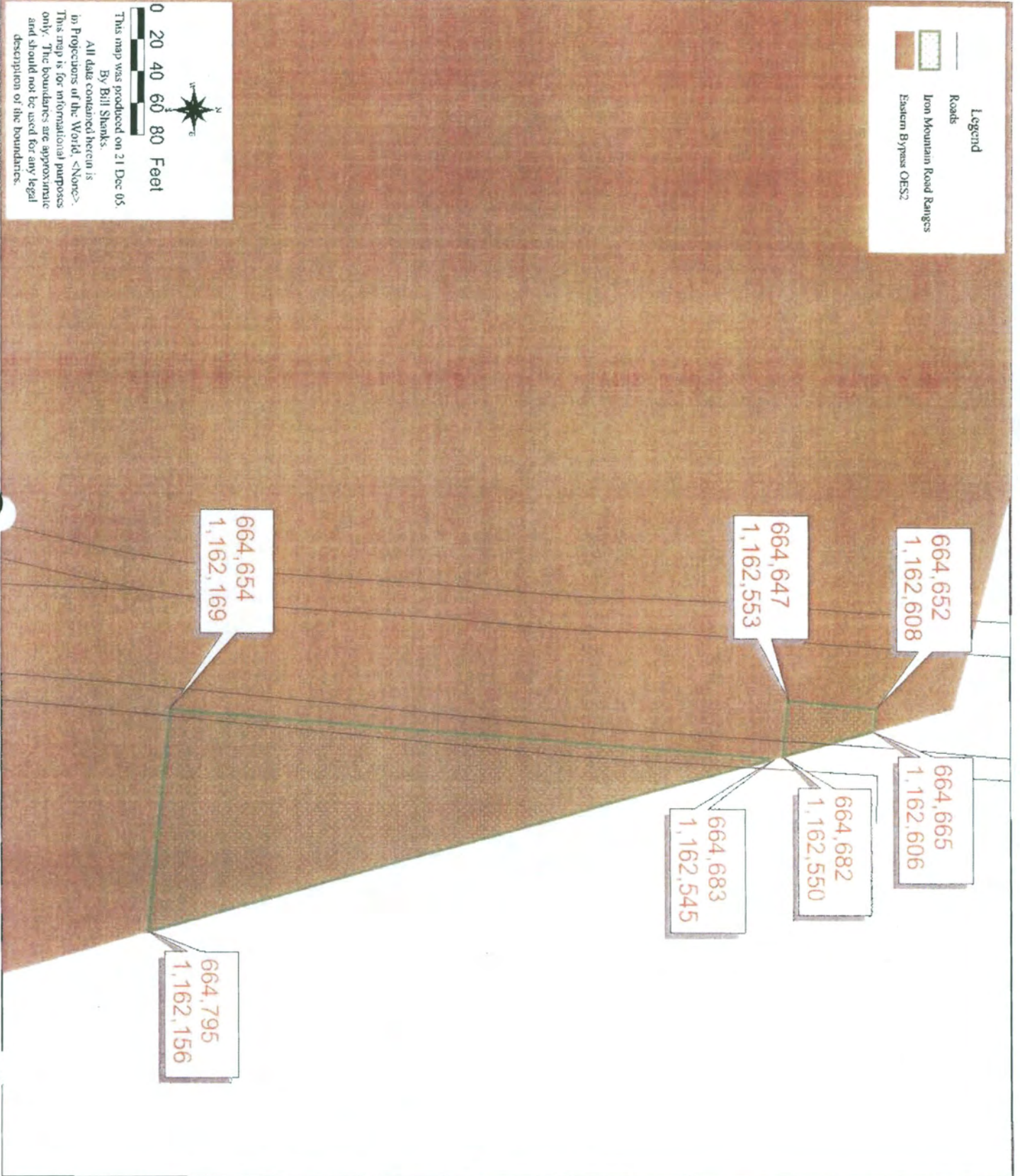
# Eastern Bypass OES2 LUCIP Information Figure 4



- Legend**
- Roads
  - Iron Mountain Road Ranges
  - Eastern Bypass OES2



This map was produced on 21 Dec 05.  
By Bill Shanks.  
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in Projections of the World, <None>  
This map is for informational purposes  
only. The boundaries are approximate  
and should not be used for any legal  
description of the boundaries.





# Eastern Bypass OES2 LUCIP Information Figure 5



- Legend**
- Roads
  - Construction Debris Grids
  - Iron Mountain Road Ranges
  - Eastern Bypass OES2



This map was produced on 21 Dec 05.  
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All data contained herein is  
in Projections of the World. <None>.  
This map is for informational purposes  
only. The boundaries are approximate  
and should not be used for any legal  
description of the boundaries.

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