
Draft Final

Finding of Suitability to Transfer Former Hamilton Army Airfield Levee Parcel

Prepared for
Department of the Army



December 2003

CH2MHILL
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Levee Parcel**

Submitted to
Department of the Army

December 2003

CH2MHILL

FINDING OF SUITABILITY TO TRANSFER

Former Hamilton Army Airfield Levee Parcel December 2003

1. PURPOSE

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of certain property (the "Property"), Levee Parcel, at the former Hamilton Army Airfield (HAAF) for transfer to the City of Novato (City), California for continued use as a levee footprint consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy.

2. PROPERTY DESCRIPTION

The property to be transferred (Levee Parcel) consists of 13.21 acres. One former building/structure, Building 93 (Table 1), was associated with this Property. The Property was primarily a transitional area between the hangars and the runway and now has a levee constructed on it. The levee is currently owned and maintained by the City. The City was granted an easement for the Property and in September 1996 constructed a levee on the parcel. The City will accept fee title to the land under the levee. A site map showing the boundary of the Property to be transferred is provided in Enclosure 1. A legal description of the Property to be transferred is provided in Enclosure 2.

TABLE 1
List of Past and Present Structures on the Levee Parcel

Building/ Structure	Year Built	Area (square feet)	Historical Use/Status
93	Circa 1945	78,125	<p>Aerial photographs indicate Building 93 was constructed circa 1945 and demolished circa 1973. The northwest third of the former building lay across the Property.</p> <p>Building 93 was a large building used as a terminal for assembling and transporting military personnel. A review of building plans showed it contained a cafeteria, restrooms, barbershop, showers, offices, and waiting/sitting areas.</p> <p>No aircraft maintenance activities are known or documented to have been conducted in this building.</p>

3. ENVIRONMENTAL CONDITION OF THE PROPERTY

A determination of the environmental condition of the Property has been made based on the following documents: (1) the Final Community Environmental Response Facilitation Act (CERFA) Report for the Hamilton Army Airfield, prepared by Earth Tech, dated April 1994; (2) the Environmental Baseline Survey (EBS) for the Main Airfield Parcel, prepared by CH2M HILL, dated June 2003; (3) the Baseline Human Health Risk Assessment, prepared by Engineering Science, Inc., dated July 1993; (4) the Environmental Assessment for the Closure and Realignment of Hamilton Army Airfield, prepared by Jones

and Stokes Associates, Inc., dated September 1991; (5) the Environmental Impact Statement for Hamilton Army Airfield Disposal and Reuse, prepared by the U.S. Army Corps of Engineers (USACE) with assistance from Jones and Stokes Associates, Inc., dated January 1995; (6) the Environmental Assessment, Remedial Work on BRAC Property, prepared by USACE, dated March 1995; (7) the Record of Decision/Remedial Action Plan (ROD/RAP) for the Main Airfield Parcel, prepared by CH2M HILL, dated August 2003; (8) the Comprehensive Remedial Investigation Report, prepared by IT Corporation, dated April 1999; (9) the GSA Phase I Sale Area (excluding Lot 7) Remedial Investigation, prepared by Woodward-Clyde Federal Services (WCFS), dated May 1995; (10) the Closure Report, GSA Phase I Sale Area, Lot 7 and Outparcels A-5 and A-6, HAAF, prepared by WCFS and IT Corporation, dated December 1995; (11) the Addendum to the Closure Report, GSA Phase I Sale Area, HAAF, prepared by WCFS and IT Corporation, dated May 1996; (12) the GSA Phase II Sale Area 800B and Ammo Hill Site Investigation Report, prepared by IT Corporation, dated March 1998; (13) the EBS for Outparcel A-4 prepared by CH2M HILL, dated November 2001; and (14) the EBS for Hospital Hill and POL Hill, prepared by CH2M HILL, dated November 2001.

The information provided is a result of a complete search of agency files during the development of these environmental studies.

3.1 Environmental Condition of Property Categories

The DOD Environmental Condition of Property (ECP) Category for the Property is as follows:

ECP Category 2: Levee Parcel

A summary of the ECP Category for the Property is provided in Enclosure 3: Description of Property - Identification of Property and Environmental Condition. The DOD ECP categories are defined in Enclosure 3.

3.2 Storage, Release, or Disposal of Hazardous Substances

There is no evidence that hazardous substances were stored, released, or disposed at the Property in excess of the reportable quantities listed in 40 CFR Part 373. Accordingly, there is no need for notification of hazardous substance storage, release, treatment, or disposal.

3.3 Petroleum and Petroleum Products

Onshore Fuel Line

The Onshore Fuel Line (ONSFL) was used to transport aviation gasoline and JP-4 liquid fuels from the Offshore Fuel System to several locations around the airfield from 1945 to 1975. The fuel lines were removed in 1995. The ONSFL intersected the Property in three locations. These areas of intersection are defined in figures located in reference 8 as cited above. Two of the three fuel lines were located within storm drain lines that intersected the Property. The remaining fuel line that intersected the Property was referred to as Hangar Fuel Line B, and intersected the Property approximately 400 feet northeast of former Building 344. There were releases of petroleum products within the former location of the Hangar Fuel Line B intersection with the Property. The remaining two locations (fuel lines within storm drains) did not have releases of petroleum products.

Outparcel A-5

The limits of the soil excavation conducted in Outparcel A-5 extended partially into the Property. Excavation boundaries are defined in figures located within references 8, 10, and 11 as cited above. This portion of the Property was further evaluated as part of the Tarmac East of Outparcel A-5. The Focused Feasibility Study and Risk Assessment for the Main Airfield Parcel determined that no remedial action was required at this site to protect human health and the environment.

Outparcel A-6

The limits of the soil excavation conducted in Outparcel A-6 extended into the Property. Excavation boundaries are defined in figures located within references 8, 10, and 11 as cited above. This portion of the Property was further evaluated as part of the Aircraft Maintenance and Storage Facility site. Although the ROD/RAP for the Main Airfield Parcel determined that remedial action was required within specific portions of the Aircraft Maintenance and Storage Area, no remedial action is required within the portion that includes the Property.

A summary of the petroleum product activities on the Property is provided in Enclosure 4.

3.4 PCB Equipment

There is no equipment containing polychlorinated biphenyls (PCBs) located on the Property. Accordingly, there is no need for notification of PCB equipment use.

3.5 Asbestos

Former Building 93 is the only structure associated with the Property. The building was constructed circa 1945 and was used as a passenger terminal. It is not known if the structure contained asbestos-containing material (ACM). The building was surrounded by pavement and was demolished circa 1973. Visual observations of the building foundation in 1995 did not indicate the presence of ACM. There are no known risks to human health and the environment associated with ACM at the Property.

3.6 Lead-Based Paint

Based on the age of the building (constructed prior to 1978), lead-based paint (LBP) is presumed to have been used in the construction and maintenance of Building 93. The building was surrounded by pavement; therefore, no release of LBP to soil would be expected. No buildings remain on the Property. Since no future residential reuse is anticipated, no soil sampling was performed to identify the presence of LBP in the soil.

3.6.1 Notice of the Presence of Lead-Based Paint

(1) The Grantee is hereby informed and does acknowledge that the former building on the Property, which was constructed or rehabilitated prior to 1978, is presumed to have contained LBP (see Enclosure 5). Grantee, its successors, and assigns are hereby informed that lead from paint, paint chips, and dust can pose health hazards if not managed properly. (2) Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any

information on LBP hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known LBP hazards. "Residential Real Property" means dwelling units, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences, and play equipment affixed to the land, available for use by residents, and buildings visited regularly by the same child, six years of age or under, on at least two different days within any week, including day-care centers, preschools and kindergarten classrooms, but not including land used for agricultural, commercial, industrial, or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Available information concerning known LBP and/or LBP hazards, the location of LBP and/or LBP hazards, and the condition of painted surfaces is generally contained in the EBS which has been provided to the Grantee. Additionally, the federally-approved pamphlet on lead poisoning prevention has been provided to the Grantee. The Grantee hereby acknowledges receipt of all the information described in this section.

3.7 Radiological Materials

There is no evidence that radioactive material or sources were used or stored on the Property.

3.8 Radon

A radon survey has not been conducted on HAAF BRAC property. Interviews with HAAF personnel, a review of applicable environmental documents, and adjacent property radon survey results indicate that radon is not a concern at HAAF. Test data and survey results for the adjacent Navy property (housing) indicated radon below U.S. Environmental Protection Agency (USEPA) recommended action levels of 4 picocuries per liter (pCi/L). Information provided by U.S. Geologic Survey representatives indicate that radon is not found in the region as a result of the geology of the area. Therefore, radon is not considered to be an environmental concern at HAAF.

3.9 Unexploded Ordnance

Based on a review of existing records and available information, the land proposed for transfer is not known to contain unexploded ordnance (UXO).

3.10 Other Hazardous Conditions

There are no other hazardous conditions that require remediation or a response action for the Property to be suitable for transfer for the intended use.

3.11 Adjacent Hazardous Conditions

A review of the documents listed in Section 3.0 indicates adjacent properties with existing or previous hazardous conditions include Building 86 and the Historic Revetment near Building 86 within the Main Airfield Parcel; POL Hill; and Outparcels A-4, A-5, and A-6.

Cleanup actions have been completed at Outparcels A-4, A-5, and A-6 in accordance with site specific remediation plans and under regulatory oversight. Outparcel A-4 was transferred to the New Hamilton Partners for commercial use. Outparcel A-5 was transferred to New Hamilton Partners for residential use. Outparcel A-6 was transferred to New Hamilton Partners for residential use.

The Main Airfield Parcel has been transferred to the State of California for open space for the Hamilton Wetland Restoration Project. Building 86 and the historic revetment near Building 86 will be remediated in accordance with the ROD/RAP for the Main Airfield Parcel.

POL Hill will be transferred to the City of Novato for recreation/open space. Closure and Corrective Action Plans to address petroleum contamination at POL Hill are currently being reviewed by appropriate regulatory agencies. Petroleum contaminated soil has been remediated at this site. Groundwater conditions at POL Hill are shown to be stable and do not impact the Property.

Stormwater runoff from the adjacent sites is handled, collected, and transported across the Main Airfield Parcel and does not cross the Property. Currently available data indicate none of the adjacent sites adversely impact the Property.

4. REMEDIATION

The ONSFL was investigated and/or remediated between the years of 1993 and 1997. In 1995, Allied Technology Group removed the ONSFL system. During the onshore investigations, soil samples were collected at target locations along the fuel line. Results from the sampling indicated that most of the contamination was within 20 feet of the former fuel line trench.

A portion of the former Hangar Fuel Line B within the Property was remediated due to the presence of soil impacted with fuel components at concentrations above the GSA Phase I residential cleanup goals (RCGs). The RCGs are protective of human health because they are risk-based concentrations. The compounds that were detected above the RCGs were considered chemicals of concern (COCs). The COCs identified along the former Hangar Fuel Line B included unknown purgeable hydrocarbons (UPH), benzene, toluene, ethylbenzene, and xylene (BTEX). Following the detections of COCs, an excavation of the impacted area within the Property area was performed. Approximately 700 cubic yards of soil along former Hangar Fuel Line B within the Property was excavated. Confirmation samples resulted in concentrations of UHP and BTEX remaining in the former Hangar Fuel Line B within the Property that were below the RCGs.

The Army and the Regional Water Quality Control Board (RWQCB) have agreed that no further actions are necessary to address residual petroleum hydrocarbons in soil at the former Hangar Fuel Line B within the Property.

5. REGULATORY/PUBLIC COORDINATION

USEPA Region 9, California Department of Toxic Substances Control (DTSC), California RWQCB, San Francisco Bay Region, and the public have been notified of the intent to sign the FOST. The FOST will complete a 30-day public review for which a public notice has been published in the *Marin Independent Journal* and the *Novato Advance*. A public meeting will be held on January 6, 2004. The FOST is available for public review at the following locations:

Hamilton Administrative Record Library
Hamilton Army Airfield
1 Burma Road
Novato, CA 94949
415-883-6386

The Main Branch of the Novato Public Library
1720 Novato Blvd.
Novato, CA 94947
415-898-4623

Regulatory/public comments received during the FOST development will be reviewed and incorporated as appropriate in the Final FOST. A copy of the regulatory/public comments will be provided (Enclosure 6).

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

The environmental impacts associated with the proposed transfer of the Property have been analyzed in accordance with the National Environmental Policy Act (NEPA). The results of this analysis have been documented in the Environmental Assessment, Remedial Work on BRAC Property, dated March 1995 and the Final Environmental Impact Statement, Hamilton Army Airfield Disposal and Reuse, dated December 1996. Any encumbrances or conditions identified in such analysis as necessary to protect human health or the environment have been incorporated into the FOST. In addition, the proposed transfer is consistent with the intended reuse of the Property, which is for continued use as a levee footprint.

7. ENVIRONMENTAL PROTECTION PROVISIONS

On the basis of the above results from the Hospital Hill and POL Hill EBS and other environmental studies and in consideration of the intended use of the Property, certain terms and conditions are required for the proposed transfer (CH2M HILL, 2001). These terms and conditions are set forth in the attached Environmental Protection Provisions (Enclosure 5) and will be included in the deed.

8. FINDINGS OF SUITABILITY TO TRANSFER

Based on the above information, I conclude that all DOD requirements to reach a FINDING OF SUITABILITY TO TRANSFER the property to the City for continued use as a levee footprint have been met, subject to the terms and conditions set forth in this document. All removal or remedial actions necessary to protect human health and the environment have been taken and the property is transferable under CERCLA section 120(h)(3). In addition, the deed for this transaction will also contain:

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

As required under the CERCLA Section 120(h) and DOD FOST Guidance, notification of hazardous substance activities and petroleum product activities shall be provided in the deed (see Enclosure 4 — Notice of Petroleum Storage, Release, or Disposal).

UNITED STATES OF AMERICA

By: _____

Glynn Ryan
Chief, Atlanta Field Office
Headquarters Department of the Army
Base Realignment and Closure
Fort McPherson, GA

6 Enclosures:

- Encl 1 Figure 1 – Site Map of Property - Levee Parcel
- Encl 2 Legal Description of the Property
- Encl 3 Description of Property (Identification of Property and Environmental Condition)
- Encl 4 Notice of Petroleum Product Storage, Release, or Disposal
- Encl 5 Environmental Protection Provisions
- Encl 6 Regulatory/Public Comments and Installation Position on Unresolved Comments

ENCLOSURE 1

Figure 1, Location Map Property - Levee Parcel

ENCLOSURE 2
LEGAL DESCRIPTION OF PROPERTY

HAMILTON ARMY AIR FIELD – LEVEE PARCEL

Being a portion of the lands of the United States Army lying within the former Hamilton Army Air Field, City of Novato, State of California, Section 34, Township 3 North, Range 6 West, Mount Diablo Base and Meridian, more particularly described as follows;

Commencing, for reference, at a found three-inch brass cap monument stamped LS 3552, at the terminus of the courses shown as N 59°55'00" E, 447.00 feet and N 30°05'00" W, 134.54 feet, on the "Record of Survey Of A Portion of Hamilton Air Force Base Military Reservation" filed January 24th, 1983, in Book 18 of Surveys at page 21, Marin County Records; thence N 24°18'05" W 3,547.18 feet to a point on the Northeasterly line of the Parcel described in the Quitclaim deed to City of Novato as Exhibit "A", "North Hamilton Parcel", recorded December 29, 1999 under Document No. 1999-0090267, Marin County Records; thence following said Northeasterly line South 43°38'33" East 49.94 feet to a point, being the TRUE POINT OF BEGINNING;

thence leaving said Northeasterly line of said "North Hamilton Parcel" along a curve to the right whose center bears South 35°02'03" East, having a radius of 82.47 feet through a central angle of 69°58'39", an arc distance of 100.72 feet;

thence South 36°39'17" East, 136.49 feet;
thence South 41°43'38" East, 72.43 feet;
thence South 44°50'54" East, 90.33 feet;
thence South 08°14'55" West, 35.32 feet;
thence South 42°25'42" East, 27.25 feet;
thence North 69°24'23" East, 35.21 feet;
thence South 43°50'10" East, 131.10 feet;
thence South 44°21'20" East, 90.79 feet;
thence South 47°24'03" East, 38.82 feet;
thence South 63°53'29" East, 45.32 feet;
thence South 58°18'59" East, 88.05 feet;
thence South 43° 38' 33" East 659.80 feet;
thence South 09° 24' 21" East 429.62 feet;
thence South 29° 56' 04" East 1,665.14 feet;
thence South 29° 56' 00" East 505.89 feet;
thence South 29° 55' 44" East 433.70 feet;
thence South 43° 42' 20" East 385.00 feet;
thence South 43° 39' 16" East 422.92 feet;

thence South 43° 40' 36" East 465.22 feet;

thence South 46 °17 '38" West 558.21 feet;

thence South 66° 16' 26" West 438.08 feet to a point on the Easterly line of the property transferred to the Department of the Navy from the Department of the Air Force by memorandums for the Secretary of the Navy, dated January 25, 1975, and May 5, 1976;

thence following said Easterly line, North 43° 40' 12" West 110.56 feet; to a point on the Southeasterly line of Parcel One of the Quitclaim deed to the New Hamilton Partnership, L.P., recorded August 26, 1996 under Document No. 1996-0045553, Marin County Records;

thence leaving said line of the property transferred to the Department of the Navy, and following the said Southeasterly line of Parcel One, North 82° 27' 41" East 49.96 feet;

thence leaving said Southeasterly line of Parcel One and following the Southeasterly line of Parcel A6 described in the Quitclaim deed to the New Hamilton Partnership, L.P., recorded August 26, 1996 under Document No. 1996-0045554, Marin County Records, North 66° 16' 26" East 411.96 feet;

thence leaving the line of said Parcel A6 and following the Southeasterly and Northeasterly lines of said Parcel One, North 46° 17' 38" East 452.40 feet;

thence North 43° 40' 36" West 375.28 feet;

thence leaving said Northeasterly line of Parcel One and following the Northeasterly line of Parcel A5 described in said Document No. 1996-0045554, North 43° 39' 16" West 422.90 feet;

thence leaving the line of said Parcel A5 and following the Northeasterly line of said Parcel One, North 43° 42' 20" West 395.83 feet;

thence leaving said Northeasterly line of Parcel One, North 29° 55' 55" West 444.45 feet to the Easterly corner of the parcel conveyed to the U.S. Coast Guard July 10, 1984;

thence following the Northeasterly line of said U.S.C.G. parcel, North 30° 05' 00" West 506.00 feet to a point on an Easterly line of Tract 1 of the Quitclaim deed to the New Hamilton Partnership, L.P., recorded June 26, 1995 under Document No. 1995-0029154, Marin County Records;

thence following the Easterly lines of said Tract 1, North 59° 55' 00" East 01.324 feet;

thence North 29° 56' 04" West 1,681.44 feet;

thence North 09° 24 ' 21" West 418.20 feet;

thence North 43° 38' 33" West 1,408.19 feet to a point on the Northeasterly line of said "North Hamilton Parcel";

thence leaving said Easterly lines of Tract 1 and following said Northeasterly line of "North Hamilton Parcel", North 43° 38' 33" West 40.06 feet to the POINT OF BEGINNING.

Containing 13.21 acres more or less.

ENCLOSURE 3 DESCRIPTION OF PROPERTY

TABLE E3-1
Identification of Property and Environmental Condition

Facility Identification and Description of Relevant Activities	Environmental Condition of Property Category	Environmental Condition of Property and Former, Ongoing, or Planned Remedial Actions
Levee Parcel	Category 2	Soil contamination – Soil contaminated with unknown purgeable hydrocarbons, benzene, toluene, ethylbenzene, and xylene was identified during pipeline removals. All contaminated soil above RCGs has been removed.

Environmental Condition of Property Categories:

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

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

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

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

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

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

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

ENCLOSURE 4

TABLE E4-1
Notice of Petroleum Product Storage, Release, or Disposal

Building Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
Levee Parcel			
Outparcel A-5	Total petroleum hydrocarbons	Outparcel A-5 is located adjacent to the Levee Parcel north of Building 95. The Outparcel was primarily paved with asphalt and was used as an aircraft wash rack.	<p>Numerous investigations and remedial actions were taken at this Outparcel under the GSA Phase I Program. These actions document petroleum contaminated soil and groundwater associated with this Outparcel was remediated in accordance with regulatory oversight and the Remedial Action Plan prepared by Woodward-Clyde in 1995.</p> <p>The limits of the soil excavation conducted in Outparcel A-5 extended partially into the Levee Parcel. This portion of the Levee Parcel was further evaluated as part of the Tarmac East of Outparcel A-5. The Focused Feasibility Study and Risk Assessment for the Main Airfield Parcel determined that no remedial action was required at this site to protect human health and the environment.</p>
Outparcel A-6	Total petroleum hydrocarbons	Outparcel A-6 is located adjacent to the Levee parcel northwest of Building 86. This Outparcel was primarily paved and was used as an aircraft maintenance and storage area.	<p>Numerous investigations and remedial actions document contaminated soil and groundwater associated with this Outparcel, which was remediated in accordance with regulatory oversight and the Remedial Action Plan prepared by Woodward-Clyde in 1995.</p> <p>The limits of the soil excavation conducted in Outparcel A-6 extended into the Levee Parcel. This portion of the Levee Parcel was further evaluated as part of the Aircraft Maintenance and Storage Facility site. Although the ROD/RAP for the Main Airfield Parcel determined that remedial action was required within specific portions of the Aircraft Maintenance and Storage Area, no remedial action is required within the portion that includes the Levee Parcel.</p>

TABLE E4-1

Notice of Petroleum Product Storage, Release, or Disposal

Building Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
Onshore Fuel Line (ONSFL)	Aviation Gas JP-4	<p>From 1945 to 1975, the ONSFL was used to transport aviation gasoline and later JP-4 liquid fuels from the Offshore Fuel System to several locations around the airfield. The fuel lines were removed in 1995. The ONSFL intersected the Property in three locations. Two of the three fuel lines were located within storm drain lines that intersected the Property. The remaining fuel line that intersected the Property was referred to as Hangar Fuel Line B, and intersected the Property approximately 400 feet northeast of former Building 344. There were releases of petroleum products within the former location of the Hangar Fuel Line B intersection with the Property that have been remediated. Soil at the former location of Hangar Fuel Line B was impacted with fuel components (UHP and BTEX) at concentrations above the GSA Phase I RCGs. The remaining two locations (storm drain lines/fuel lines) did not have releases of petroleum product.</p>	<p>In 1996, after the fuel line was removed from the Hangar Fuel Line B within the Property, approximately 700 cubic yards of soil was removed, and confirmation samples showed concentrations of unknown purgeable hydrocarbons (UHP) and benzene, toluene, ethylbenzene, and xylene (BTEX) remaining in soil that were below the residential cleanup goals (RCGs).</p>

ENCLOSURE 5

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be placed in the deed to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at Hamilton Army Airfield (HAAF).

1. INCLUSION OF PROVISIONS

The Grantee to whom the property is transferred shall neither transfer the property; lease the property; nor grant any possessory interest, privilege, or license whatsoever in connection with the property without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all further deeds, transfers, leases, or grant of any interest, privilege, or license.

2. CERCLA ACCESS CLAUSE

The Government, the U.S. Environmental Protection Agency (USEPA), California Department of Toxic Substances Control (DTSC), the Regional Water Quality Control Board (RWQCB) and their officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to the Grantee, to enter upon the Property in any case in which a response action or corrective action is found to be necessary, after the date of transfer of the property, or such access is necessary to carry out a response action or corrective action on adjoining property, including, without limitation, the following purposes:

- To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, test soil borings, and other activities
- To inspect field activities of the Government and its contractors and subcontractors
- To conduct any test or survey related to the environmental conditions at the Property or to verify any data submitted to USEPA, DTSC, or the RWQCB by the Government relating to such conditions
- To construct, operate, maintain, or undertake any other response or remedial actions as required or necessary including, but not limited to, monitoring wells, pumping wells, and treatment facilities

3. NO LIABILITY FOR NON-ARMY CONTAMINATION

The Army shall not incur liability for additional response action or corrective action found to be necessary after the date of transfer in any case in which the person or entity to whom the property is transferred, or other non-Army entities, is identified as the party responsible for contamination of the property.

4. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT

A. The Grantee is hereby informed and does acknowledge that all former buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to have contained lead-based paint (LBP). Grantee, its successors and assigns, are hereby informed that lead from paint, paint chips, and dust can pose health hazards if not managed properly.

B. Available information concerning known LBP and/or LBP hazards, the location of LBP and/or LBP hazards, and the condition of painted surfaces, contained in the Environmental

Baseline Survey (EBS), have been provided to the Grantee. All purchasers must receive the federally-approved pamphlet on lead poisoning prevention. The Grantee hereby acknowledges receipt of all of the information described in this subparagraph.

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

D. The Grantee and its successors and assigns covenant and agree that they shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property without complying with this NOTICE OF THE PRESENCE OF LEAD-BASED PAINT and all applicable federal, state, and local laws and regulations pertaining to LBP and/or LBP hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, Grantee, its successors, and assigns specifically agree to perform, at its sole expense, the Grantor's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X).

The Grantee, its successors, and assigns shall, after consideration of the guidelines and regulations established pursuant to Title X:

1. Perform a Risk Assessment if more than 12 months have elapsed since the date of the last Risk Assessment;
2. Comply with the joint HUD and EPA Disclosures Rule (24 CFR 35, Subpart H, 40 CFR 745, Subpart F), when applicable, by disclosing to prospective purchasers the known presence of LBP and/or LBP hazards as determined by previous risk assessments;
3. Abate lead dust and LBP hazards in pre-1960 residential real property as defined in paragraph above, in accordance with the procedures in 24 CFR 35;
4. Abate soil-lead hazards in pre-1978 residential real property, as defined above, in accordance with the procedures in 24 CFR 35;
5. Abate lead-soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property;
6. Comply with the EPA LBP work standards when conducting LBP activities (40 CFR 745, Subpart L);
7. Perform the activities described in this paragraph within 12 months of the date of the LBP risk assessment and prior to occupancy or use of the residential real property; and
8. Send a copy of the clearance documentation to the Grantor.

In complying with these requirements, the Grantee, its successors, and assigns covenant and agree to be responsible for any abatement or remediation of LBP or LBP hazards on the Property found to be necessary as a result of the subsequent use of the Property for residential purposes. The Grantee, its successors, and assigns covenant and agree to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of LBP abatement activities.

E. The Grantor assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, sublessees, or to any other person, including members of the general public, arising from or incidental to possession and/or use of any portion of the Property containing LBP. The Grantee, its successors, or assigns further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death, or property damage resulting from, related to, caused by, or arising out of the possession and/or use of any portion of the Property containing lead-based paint. The obligation of the Grantee, its successors, and assigns shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

5. NOTICE OF POTENTIAL UNEXPLODED ORDNANCE

Based upon a review of existing records and available information, none of the former buildings and/or land proposed for transfer is known to contain unexploded ordnance (UXO). Notwithstanding the records search conducted by the GRANTOR, the parties acknowledge that, because this is a former military installation with a history of Ordnance and Explosives use, there is a potential for UXO to be present on the Property. In the event that the Grantee, its successors, and assigns should discover any ordnance on the Property, it shall not attempt to remove or destroy it, but shall immediately notify the local Police Department; the Army and competent Grantor, or Grantor-designated explosive ordnance personnel, will then be dispatched promptly to dispose of such ordnance at no expense to the Grantee.

**ENCLOSURE 6
REGULATORY/PUBLIC COMMENTS AND INSTALLATION POSITION ON UNRESOLVED
COMMENTS**

Responses to Public Comments on the
Draft Final Finding of Suitability to Transfer for Hamilton Army Airfield
Levee Parcel (Date XXXX)

N	Comments	Responses
Written Comments and Responses from Public Meeting held for Levee Parcel FOST, XXXXX, 2003 (Source: Public Meeting Transcripts)		
1		
2		
3		
4		

N	Comments	Responses
Oral Comments and Responses from Public Meeting held for Levee Parcel FOST, XXXXX, 2003 (Source: Public Meeting Transcripts)		
1		
2		
3		
4		