

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 9  
AND THE  
STATE OF CALIFORNIA  
AND THE  
UNITED STATES ARMY

UNANIMOUS RESOLUTION OF THE DISPUTE REGARDING THE  
DRAFT FINAL FORT ORD RECORD OF DECISION  
FOR GROUP 3 MUNITIONS RESPONSE AREAS

On March 14, 2014, the U.S. Environmental Protection Agency, Region 9 ("EPA") initiated formal dispute resolution regarding the proposed Draft Final Record of Decision ("ROD") for the former Fort Ord Group 3 Munitions Response Areas (Del Rey Oaks/Monterey, Laguna Seca Parking, and Military Operations in Urban Terrain Site Munitions Response Areas) ("the property"). The dispute centered around whether (a) certain Munitions and Explosives of Concern ("MEC") that were recovered on the property (that the Army determined posed a potential explosive hazard, and subsequently treated by open detonation); and (b) MEC that may remain present on property that is covered by the ROD, constitute a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). The dispute resolution process was initiated pursuant to Section 12 of the Federal Facility Agreement ("FFA") for the former Fort Ord entered into between EPA, the Department of the Army ("the Army") and the State of California Department of Toxic Substances Control ("DTSC").

The first level of dispute resolution under the FFA was at the Dispute Resolution Committee ("DRC"). For the current dispute, the DRC members consisted of Enrique Manzanilla for EPA, Thomas Lederle for the Army, and Ray Leclerc for DTSC. The DRC met via conference call on April 22, 2014, and the parties presented their respective positions. The DRC was unable to resolve the dispute and agreed to elevate the dispute to the Senior Executive Committee ("SEC"), which consists of: Jared Blumenfeld, EPA Regional Administrator; Hershell E. Wolfe, Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health; and Miriam Ingenito, DTSC Acting Director.

The SEC met via video teleconference on July 25, 2014. After presentation of the parties' respective positions and some discussion, the SEC reached a unanimous agreement resolving the dispute. The SEC agreed that the following language will be inserted in Section 1.3 (Site Assessment) of the ROD in lieu of the existing language in that section:

*"This ROD addresses hazardous substances and pollutants or contaminants which may pose a threat to human health and welfare or the environment.*

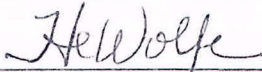
*The Army has provided the CERCLA covenant in the deeds for the property. Some MEC items found and detonated on the property in the past were a RCRA reactive waste and thus a CERCLA hazardous substance. Therefore, MEC items discovered on the property in the future will likewise be addressed as such pursuant to the CERCLA covenant unless the Army*

*determines that an item is not a hazardous substance by making a waste specific determination based on testing or knowledge consistent with RCRA."*

The resolution of this dispute is based on the site-specific facts and circumstances present at the former Fort Ord, which is a closed, transferred base on the National Priorities List. The resolution of this dispute does not address operational ranges.

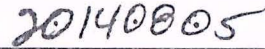
Each undersigned representative of a party certifies that he or she is fully authorized to enter into this unanimous resolution of the dispute and to legally bind such party to this unanimous resolution.

UNITED STATES DEPARTMENT OF THE ARMY



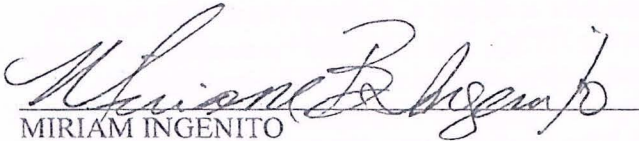
HERSHELL E. WOLFE

Deputy Assistant Secretary of the Army for Environment,  
Safety and Occupational Health



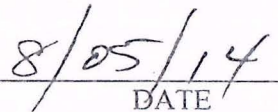
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STATE OF CALIFORNIA  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL



MIRIAM INGENITO

Acting Director



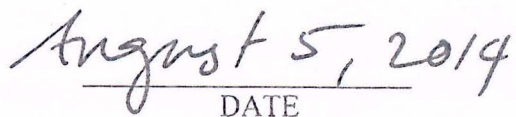
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



JARED BLUMENFELD

Regional Administrator



DATE