

**FINDING OF SUITABILITY TO TRANSFER
(FOST)**

Marshall United States Army Reserve Center (TX053)

Marshall, Texas

May 2012

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1. PURPOSE

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of certain parcels or property at the Marshall United States Army Reserve (USAR) Center, located in Marshall, Texas, for transfer to the City of Marshall consistent with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy. In addition, the FOST includes the Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

2. PROPERTY DESCRIPTION

The property consists of 3.78 acres, which includes two buildings: administration building (Building 100), and Organizational Maintenance Shop (OMS) (Building 102). The property was previously used for administration, classroom training, assembly hall, storage, as a former indoor firing range, and for vehicle maintenance. The property is intended to be transferred to the City of Marshall to be used as a museum and memorial for military personnel and is consistent with the intended reuse of the property as set forth in the City of Marshall Reuse Plan. A site map of the property is attached (Enclosure 1).

3. ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the property was made based upon the Environmental Condition of Property (ECP) Report, dated February 2007 and ECP Recertification Memorandum dated April 2012. The information provided is a result of a complete search of agency files during the development of these environmental surveys.

A complete list of documents providing information on environmental conditions of the property is attached (Enclosure 2).

4. ENVIRONMENTAL CONDITION OF PROPERTY

The DOD Environmental Condition of Property (ECP) categories for the property are as follows:

ECP Category 2: Entire property

A summary of the ECP categories for specific buildings, parcels, or operable units and the ECP category definitions is provided in Table 1 – Description of Property (Enclosure 3).

4.1. Environmental Remediation Sites

There are no investigation/remediation sites and no evidence of groundwater contamination on the property.

4.2. Storage, Release, or Disposal of Hazardous Substances

There is no evidence that hazardous substances were stored in excess of the 40 CFR Part 373 reportable quantities. There is no evidence that hazardous substances were released or disposed of on the property in excess of the 40 CFR Part 373 reportable quantities.

4.3. Petroleum and Petroleum Products

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

- **Current UST/AST Sites** - There are no underground or above-ground petroleum storage tanks (UST/AST) on the property.
- **Former UST/AST Sites** - There is no evidence that petroleum products were stored in underground or above-ground storage tanks on the property.

4.3.2. Non-UST/AST Storage, Release, or Disposal of Petroleum Products

According to USAR personnel, offsite disposal of hazardous waste was contracted through various qualified disposal companies that were awarded contracts through a bid system. A Spill Notification Form obtained at the Site indicated that a spill of approximately 15 gallons of diesel fuel and hydraulic fluid occurred in the MEP area on December 1, 2005. The spill occurred when a crane rolled over during loading/unloading activities. The spill occurred on the north side of the driveway connecting the OMS to the VWR. In response to the spill, fluids were drained from the overturned crane to stop the leak and stained soil was manually excavated. USAR personnel stated that the spill did not leave the Site property boundary. No other releases of hazardous substances or petroleum products were identified. A summary of the non-UST/AST petroleum activities is provided in Table 3 – Notification of Petroleum Products Storage, Release, or Disposal (Enclosure 4).

4.4. Polychlorinated Biphenyls (PCB)

A polychlorinated biphenyl (PCB) assessment report for the Site was prepared by the U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM) in 1997. The report states that three pole-mounted transformers (PMTs) marked #12602, #12603, and #12604 were located on the west side of the Training Building. The assessment stated that the PMTs were manufactured by Central Malone in 1958, they had not been tested for PCB content, and the transformers' condition was "fair: some rust."

4.5. Asbestos

An asbestos inspection of the Site was performed on July 20, 1999 (U.S. Army 90th Regional Support Command [RSC], 1999). During the inspection, samples of suspect asbestos-containing material (ACM) were collected from the Training Building, including 12-inch vinyl floor tile and mastic, replacement floor tile and mastic, drywall, duct sealant, vibration collars, mudded joints, corrugated pipe wrap, ceiling tile, and pipe sealant. Findings were as follows:

- Asbestos was detected in both the corrugated pipe insulation and mudded elbows of the domestic cold water lines in the Training Building. The friable thermal system insulation (TSI) was classified in damaged condition with a low potential for disturbance.
- Pipe sealant on the hot water supply lines (nonfriable) and duct sealant on the heating, ventilating, and air conditioning (HVAC) duct (nonfriable) in the Training Building was found to contain asbestos. Both were classified in good condition with a low probability for disturbance.
- Presumed ACM vibration collars (flexible duct connectors) were found in the men's locker room in the Training Building and in the OMS. Both sets of collars were considered friable, in damaged condition, and have a low probability of disturbance.

The scope of the 1999 inspection was confined to rooms and areas accessible on the days of the survey. Some rooms and areas were reportedly not made available for inspection, or were inaccessible for reasons of security or unavailability of keys, and were not included in the inspection. In addition, the report stated inaccessible suspect materials could also be located between walls, in voids, or in other concealed areas. Therefore, additional ACM could exist in inaccessible areas on the Site. The deed will include an asbestos warning and covenant (Enclosure 6).

4.6. Lead-Based Paint (LBP) And Lead-Contaminated Dust (Lead Dust) Hazards

The Site is known to contain lead-based paint (LBP). A LBP survey was performed on the Site and a report issued in July 2003 (U.S. Army 90th RSC). LBP was detected on a metal outside door at the OMS. No immediate actions were recommended. The report advised following proper working and environmental protection procedures if lead-positive areas were to be disturbed. Also, the report concluded that, if untested paint was "uncovered", additional testing would be necessary. The property was not used for residential purposes and the transferee does not intend to use the property for residential purposes in the future. The deed will include a lead-based paint warning and covenant (Enclosure 6).

4.7. Radiological Materials

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

4.8. Radon

Radon surveys were conducted in all three buildings on the property. Radon was not detected at above the EPA residential action level of 4 picocuries per liter (pCi/L) in these buildings.

4.9. Munitions and Explosives of Concern (MEC)

Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) are present on the property. In addition, the property was used for administrative purposes and vehicle maintenance. The term "MEC" means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

4.10. Other Property Conditions

There are no other hazardous conditions on the property that present an unacceptable risk to human health and the environment.

5. ADJACENT PROPERTY CONDITIONS

The following other potentially hazardous conditions exist on adjacent property: groundwater contamination from the City of Marshall Wastewater Treatment Plant about a half mile north and at a higher elevation than the USAR Center had petroleum leak in 1993. A 550 gallon UST was removed shortly thereafter. The presence of these hazards on adjacent property does not currently present an unacceptable risk to human health and the environment soil contamination was determined to be minor by TCEQ. The TCEQ has indicated that no further remedial action is required and that residual petroleum contamination does not pose a concern for human health and the environment.

6. ENVIRONMENTAL REMEDIATION AGREEMENTS

There are no environmental remediation orders or agreements applicable to the property being transferred. The deed will include a provision reserving the Army's right to conduct remediation activities if necessary in the future (Enclosure 5).

7. REGULATORY/PUBLIC COORDINATION

The U.S. EPA Region 6, the Texas Commission on Environmental Quality, and the public were notified of the initiation of this FOST. No regulatory or public comments were received during the public comment period.

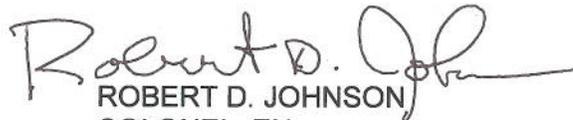
8. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

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 are documented in Draft Record of Environmental Consideration dated April 2012. There were no encumbrances or condition identified in the NEPA analysis as necessary to protect human health or the environmental.

9. FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I conclude that the Property is suitable for transfer subject to the Deed Provisions and Environmental Protection Provisions to protect human health and the environment. In addition, all Department of Defense requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions set forth in the attached Environmental Protection Provisions that shall be included in the deed for the property. The deed will also include the Access Provisions and Other Deed Provisions.

FOR THE COMMANDER


ROBERT D. JOHNSON
COLONEL, EN
Regional Engineer

Six Enclosures

- Encl 1 -- Site Map of Property
- Encl 2 -- Environmental Documentation
- Encl 3 -- Table 1 -- Description of Property
- Encl 4 -- Table 3 -- Notification of Petroleum Product Storage, Release, or Disposal
- Encl 5 -- CERCLA Access Provisions and Other Deed Provisions
- Encl 6 -- Environmental Protection Provisions

Figure 3.3 - Site Vicinity Map



Source: 2007 ECP

ENCLOSURE 2

ENVIRONMENTAL DOCUMENTATION

Document	Source
Environmental Condition of Property Report for Marshall United States Army Reserve Center (TX053). Prepared for U.S. Army Corps of Engineers - Louisville District. March 2007.	63d RSC
Environmental Condition of Property Recertification Memorandum for Marshall United States Army Reserve Center (TX053). Prepared by 63d Regional Support Command. April 2012.	63d RSC
Draft Record of Environmental Consideration for Disposal of the Marshall United States Army Reserve Center (TX053). Prepared by 63d Regional Support Command. April 2012.	63d RSC

ENCLOSURE 3

TABLE 1 – DESCRIPTION OF PROPERTY

Building Number and Property Description	Condition Category	Remedial Actions
Entire Property	2	<p>A Spill Notification Form obtained at the Site indicated that a spill of approximately 15 gallons of diesel fuel and hydraulic fluid occurred in the MEP area on December 1, 2005. The spill occurred when a crane rolled over during loading/unloading activities. The spill occurred on the north side of the driveway connecting the OMS to the VWR. In response to the spill, fluids were drained from the overturned crane to stop the leak and stained soil was manually excavated. USAR personnel stated that the spill did not leave the Site property boundary.</p> <p>The following other potentially hazardous conditions exist on adjacent property: groundwater contamination from the City of Marshall Wastewater Treatment Plant about a half mile north and at a higher elevation than the USAR Center had petroleum leak in 1993. A 550 gallon UST was removed shortly thereafter. The presence of these hazards on adjacent property does not currently present an unacceptable risk to human health and the environment soil contamination was determined to be minor by TCEQ. The TCEQ has indicated that no further remedial action is required and that residual petroleum contamination does not pose a concern for human health and the environment.</p>

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.

ENCLOSURE 4

TABLE 3 – NOTIFICATION OF PETROLEUM PRODUCT STORAGE, RELEASE, OR DISPOSAL

Building Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
MEP near VWR and OWS	Diesel/Hydraulic fluid	December 2005	The spill occurred when a crane rolled over during loading/unloading activities. The spill occurred on the north side of the driveway connecting the OMS to the VWR. In response to the spill, fluids were drained from the overturned crane to stop the leak and stained soil was manually excavated.
North of property 0.5 miles	Gasoline	1993	A 550 gallon UST was removed shortly thereafter. The presence of these hazards on adjacent property does not currently present an unacceptable risk to human health and the environment soil contamination was determined to be minor by TCEQ. The TCEQ has indicated that no further remedial action is required and that residual petroleum contamination does not pose a concern for human health and the environment.

ENCLOSURE 5

CERCLA ACCESS PROVISIONS AND OTHER DEED PROVISIONS

The following CERCLA Access Provisions and Other Deed Provisions will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

1. CERCLA RIGHT OF ACCESS

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 an environmental response or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response 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.

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's 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.

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, 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 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.

2. "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.

3. 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.

4. 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.

5. ENVIRONMENTAL PROTECTION PROVISIONS

The Environmental Protection Provisions are at Enclosure 6, 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.

ENCLOSURE 6

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be attached, in a substantially similar form, as an exhibit to the deed and be incorporated therein by reference in order to ensure protection of human health and the environment.

1. 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 (OSHA) and the Environmental Protection Agency 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. The following building(s) on the Property has (have) been determined to contain friable asbestos: Administration building and Organization Maintenance Shop. The Grantee agrees to undertake any and all asbestos abatement or remediation in the aforementioned buildings that may be required under applicable 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.

2. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that there is a risk of 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 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 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 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 lead-based paint hazards or concerns.