

EXHIBIT 2

**NOSSA/DDESB LETTER OF CONCURRENCE WITH FOST FOR
ORDNANCE-RELATED ISSUES**



DEPARTMENT OF THE NAVY
NAVAL ORDNANCE SAFETY & SECURITY ACTIVITY
FARRAGUT HALL BLDG D-323
23 STRAUSS AVENUE
INDIAN HEAD MD 20640-5555

8020
Ser N7112/3273
14 Apr 03

From: Commanding Officer, Naval Ordnance Safety and Security Activity
To: Commanding Officer, Engineering Field Activity Northwest, Naval Facilities Engineering Command (Code 05ER)
Subj: DRAFT AFTER-ACTION REPORT (FOR OPERABLE UNIT B-1 SITES) FOR 2002 FIELD SEASON, FORMER NAVAL AIR STATION, ADAK, ADAK ISLAND, ALASKA [N60462/M-115]
Ref: (a) ENGFLDACT NW ltr 5090/ADAK OUB1 14.3 Ser 05ER.2MM/1760 of 4 Feb 03
(b) DoD 6055.9-STD
(c) ENGFLDACT NW Declaration of Record of Decision, Former Adak Naval Complex, Operable Unit B-1, CERCLIS ID #AK4170024323

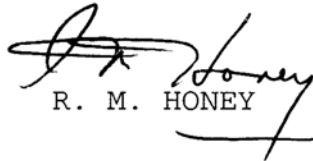
1. Reference (a) presented the results from the 2002 field investigation conducted at sites suspected of ordnance and explosives (OE) contamination in Operable Unit B-1 portions of the Outback Areas of the former Naval Air Facility (NAF) on Adak Island, Alaska. This investigation provided OE contamination data to support decisions for reuse of the property.

2. Enclosure (1) of reference (a) complies with the reporting requirements of reference (b), Department of Defense (DoD) Ammunition and Explosives Safety Standards, Chapter 12, and is consistent with DoD and Navy explosives remediation policies and procedures. Investigation and remediation of the subject sites, as reported to four feet below ground surface, is consistent with the requirements of reference (b) for unlimited use under the specific conditions of the Adak land transfer, as documented in reference (c). Unlimited use is predicated upon deed notification requirements, inclusion of an ordnance awareness education plan, and other institutional controls documented in reference (c) and previous Navy correspondence for this property.

3. Reference (a), and all other documents related to explosives decontamination and remediation of the former NAF Adak property, must be retained in the permanent Naval Facilities Engineering Command (NAVFACENGCOM) remediation files. Any comments from other stakeholders that might adversely impact compliance with DoD explosives safety or environmental requirements should be provided to this Command for further consideration.

Subj: DRAFT AFTER-ACTION REPORT (FOR OPERABLE UNIT B-1 SITES)
FOR 2002 FIELD SEASON, FORMER NAVAL AIR STATION, ADAK,
ADAK ISLAND, ALASKA [N60462/M-115]

4. Naval Ordnance Safety and Security Activity (NOSSA) point of contact for explosives safety issues is Mr. Edward Klinghoffer, P.E., (N7112), at DSN 354-4966, commercial (301) 744-4966, or e-mail: klinghofferem@navsea.navy.mil. NOSSA point of contact for ordnance environmental issues is Mr. John Dow, (N51), at DSN 354-4450/4906, commercial (301) 744-4450/4906, or e-mail: dowjp@ih.navy.mil.


R. M. HONEY

Copy to:
DDESB (DDESB-KO) (w/Executive Summary of ref (a), encl(1))
CNO (N411, N45)
COMNAVFACENGCOM (EN, ENC, BRAC)
NOSSA ESSOPAC (N7P)

EXHIBIT 3

**ENVIRONMENTAL CONDITION CLASS OF CHEMICAL,
PETROLEUM, AND ORDNANCE SITES, AND TEMPORARY
ACCUMULATION POINTS (TAPS)**

EXHIBIT 3
**Environmental Condition of Property Classifications of CERCLA, Petroleum-Release,
 and Other Environmental Sites on Adak by CERFA Parcel**

Site Designation	Site Name	Regulatory Process	Type of Contaminant Released	Current Status (as of Report Date)	Environ. Condition Class ^a
PARCEL 1B, ADAK EXCHANGE LANDS—2001 NON-TRANSFERABLE (Ordnance Sites)					
BI-01	Bay of Islands Impact Area – Firing Point	CERCLA	—	Site located within MM-04. RI/FS not complete.	1
BI-02 ^b	Bay of Islands Impact Area – Range Safety Fan	CERCLA	—	Historical range safety fan for 155mm gun. Area overlies LEPs 1A, 1B and 2. NOFA selected in OU B-1 ROD.	1
C1-02	Combat Range #1 – Time Fuze Site	CERCLA	ordnance	Site located within historical maneuver area. Mechanical Time Fuze found during site investigation. Remediation completed.	4
C1-03 ^b	Combat Range #1 – Remainder	CERCLA	ordnance	Historical Maneuver Area. Remediation completed.	4
C2-01A	Combat Range #2 – Fragment Area	CERCLA	ordnance	Site located within historical maneuver area. Fragment found during site investigation. Remediation completed.	4
C2-01B	Combat Range #2 – Fragment Area	CERCLA	ordnance	Site located within historical maneuver area. Fragment found during site investigation. Remediation completed.	4
C2-02	Combat Range #2 – Remainder	CERCLA	ordnance	Historical Maneuver Area. Remediation completed.	4
MM-01	Mt. Moffett Impact Area – Southern 155mm Impact Area	CERCLA	—	No OE/UXO found. RI complete. NOFA selected in OU B-1 ROD.	1
MM-02	Mt. Moffett Impact Area – Southwestern Sector	CERCLA	ordnance	Single piece of abandoned OE found and removed. RI complete. NOFA selected in OU B-1 ROD.	4
MM-03	Mt. Moffett Impact Area – Frag Area #1	CERCLA	—	No OE/UXO found. RI complete. NOFA selected in OU B-1 ROD.	1

Site Designation	Site Name	Regulatory Process	Type of Contaminant Released	Current Status (as of Report Date)	Environ. Condition Class ^a
MM-04 ^b	Mt. Moffett Impact Area – Southeastern Sector	CERCLA	—	No OE/UXO found. RI complete. NOFA selected in OU B-1 ROD.	1
MM-05	Mt. Moffett Impact Area – Frag Area #2	CERCLA	—	No OE/UXO found. RI complete. NOFA selected in OU B-1 ROD.	1
MM-06	Mt. Moffett Impact Area – Frag Area #3	CERCLA	—	RI complete; NOFA selected.	1
MM-07	Mt. Moffett Impact Area – M-46 Fuze Site	CERCLA	—	RI complete; NOFA selected.	1
MM-08	Mt. Moffett Impact Area – Frag Area #4	CERCLA	—	RI complete; NOFA selected.	1
MM-10C	Mt. Moffett Impact Area – Central Impact Area, 37mm Projectile Zone 2	CERCLA	ordnance	UXO found and removed. RI complete. NOFA selected in OU B-1 ROD.	4
MM-10E ^b	Mt. Moffett Impact Area – Central Impact Area, Remainder	CERCLA	ordnance	Remedial action complete outside Parcel 4. NOFA recommended.	4
MM-11 ^b	Mt. Moffett Impact Area – Northwestern Sector	CERCLA	ordnance	Remedial action complete outside Parcel 4. NOFA recommended.	4
MM-12 ^b	Mt. Moffett Impact Area – Range Safety Fan #1	CERCLA	—	Historical range safety fan for 155mm gun. Area overlies LEPs 1B and 4. NOFA selected.	1
MM-13 ^b	Mt. Moffett Impact Area – Range Safety Fan #2	CERCLA	—	Historical range safety fan for 90mm gun. Area overlies LEPs 1A, 1B, and 4. NOFA selected.	1
MM-15 ^b	Mt. Moffett Impact Area – Range Safety Fan #3	CERCLA	—	Historical range safety fan for 90mm gun. Area overlies LEPs 1A & B and 4. NOFA selected.	1
MM-16 ^b	Mt. Moffett Impact Area – Range Safety Fan #4	CERCLA	—	Historical range safety fan for 90mm gun. Area overlies LEPs 1A & B and 4. NOFA selected.	1
MM-18 ^b	Mt. Moffett Impact Area – Range Safety Fan #5	CERCLA	—	Historical range safety fan for 90mm gun. Area overlies LEPs 1A & B and 4. NOFA selected.	1
MM-19 ^b	Mt. Moffett Impact Area – Range Safety Fan #6	CERCLA	—	Historical range safety fan for 90mm gun. Area overlies LEPs 1A & B and 4. NOFA selected.	1

Site Designation	Site Name	Regulatory Process	Type of Contaminant Released	Current Status (as of Report Date)	Environ. Condition Class ^a
MM-21 ^b	Mt. Moffett Impact Area – Range Safety Fan #7	CERCLA	—	Historical range safety fan for 155mm gun. Area overlies LEPs 1A & B and 4. NOFA selected.	1
MM-22	Mt. Moffett Impact Area – 75mm Cartridge Casing Site	CERCLA	—	No OE/UXO found. RI complete. NOFA selected in OU B-1 ROD.	1
MM-23	Mt. Moffett Chemical Mortar Site	CERCLA	ordnance	Remediation completed; NOFA recommended.	4

^a Environmental condition classifications (DoD 1996):

- ECP 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).
- ECP 2: Areas where only release or disposal of petroleum products has occurred.
- ECP 3: Areas where release, disposal, and migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial action.
- ECP 4: Areas where release, disposal, and migration of hazardous substances has occurred, and all remedial actions to protect human health and the environment have been taken.
- ECP 5: Areas where release, disposal, and migration of hazardous substances has occurred and removal or remedial actions are under way, but all required actions not yet taken.
- ECP 6: Areas where release, disposal, and migration of hazardous substances has occurred, but required actions have not yet been implemented.
- ECP 7: Areas that are unevaluated or that require additional evaluation.

^b These areas are contained within two or more land exchange parcels.

NS = Not shown; range safety fan overlapping multiple parcels and/or AOCs or a small-caliber gun grouped with others at multiple locations.

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act of 1980

LEP – Land Exchange Parcel

NOFA – no further action (required)

OE – ordnance and explosives

UXO – unexploded ordnance

EXHIBIT 4
EPA CONCURRENCE WITH OPS DETERMINATION

Final (10 May 2002)



DEPARTMENT OF THE NAVY
ENGINEERING FIELD ACTIVITY, NORTHWEST
NAVAL FACILITIES ENGINEERING COMMAND
19917 7TH AVENUE N.E.
POULSBRO, WASHINGTON 98370-7870

5090-ADAK
Ser 05ER.2MM/0720
January 15, 2002

Mr. Kevin Oates
US Environmental Protection
222 West 7th Street
Mail Stop 19
Anchorage, AK 99513

Dear Mr. Oates:

**SUBJECT: CERCLA OPERATING PROPERLY AND SUCCESSFUL
DETERMINATION**

The purpose of this letter is to confirm our discussions regarding EPA (Interim) Guidance for Evaluation of Federal Agency Demonstrations that Remedial Actions are Operating Properly and Successfully (OPS) under CERCLA Section 120 (h)(3) August 1996, and the application of this guidance to completion of the Finding of Suitability to Transfer real estate on the military reservation at Adak Island, Alaska.

In summary, based on previous discussions, the Navy and EPA are in agreement that no OPS demonstration is required for OU-A and OU-B1 on Adak because the Navy is in a position to provide the CERCLA 120 (h)(3) covenant that all necessary remedial actions have been taken. Documentation that remedies in place have achieved remedial action objectives is provided by the recently approved Five Year Review for the CERCLA site at Adak Island.

The Navy will prepare the Finding of Suitability to Transfer for Parcel 1A to reflect the above application of EPA's guidance relevant to demonstration of OPS. Should you have any further questions regarding this matter please contact me at (360) 396-0070.

Sincerely,

A handwritten signature in black ink that reads "Mark S. Murphy".

MARK S. MURPHY
Remedial Project Manager
By direction of the
Commanding Officer

Copy to: Elim Yoon, Alaska Dept. of Environmental Conservation

FINAL FINDING OF SUITABILITY TO TRANSFER PARCEL 1B
Contract Number N44255-01-D-2000
Engineering Field Activity, Northwest

Exhibit 5
Date: 5/28/03

EXHIBIT 5
PUBLIC NOTICE OF DRAFT FOST

Public Notice

Draft Finding of Suitability to Transfer (FOST) for Parcel 1B and the sites described in the Addendum to the Final FOST for Parcel 1A Former NAF Adak

The U.S. Navy invites you to participate in a public comment period concerning the Intent to Sign the Finding of Suitability To Transfer (FOST) for Parcel 1B and the Addendum to the Final FOST for Parcel 1A within the former NAF Adak. This FOST and the addendum describe the proposed transfer of real property from the Navy to the Department of the Interior for conveyance to The Aleut Corporation (TAC).

Public Comment Period

Wednesday, March 14, 2003, through Friday, April 14, 2003

AVAILABILITY TO THE PUBLIC

This FOST and addendum and other significant documents concerning the closure and transfer of real property within the former military base on Adak Island are available to the public at the following locations:

**The Library Reserve Room
University of Alaska, Anchorage
3211 Providence Drive
Anchorage, Alaska 99508
Contact: Librarian, Reserve Room
Phone: 907-786-1871**

**Engineering Field Activity NW
Naval Facilities Engineering Command
19917 - 7th Avenue NE
Poulsbo, WA 98370-7570
Contact: Mark Murphy
Phone: 360-396-0070**

The deadline for submitting comments concerning the FOST is April 14, 2003. Send comments to: **Mark Murphy, PE, Engineering Field Activity Northwest, 19917 – 7th Avenue NE, Poulsbo, Washington 98370-7570, Fax: 360-396-0857.** Electronic comments can be delivered to: murphym@efanw.navfac.navy.mil

Public input will be considered prior to the signing of the FOST. The BRAC Cleanup Team (BCT), comprising the Navy, the U.S. Environmental Protection Agency, and the Alaska Department of Environmental Conservation, will review and address all comments received within the 30-day comment period.

EXHIBIT 6
LIST OF COMMENTERS ON DRAFT FOST

List of Commenters on Draft FOST

1. The Aleut Corporation
2. Aleutian Pribilof Island Association
3. Alaska Department of Environmental Conservation
4. U.S. Environmental Protection Agency, Region 10

EXHIBIT 7
RESPONSIVENESS SUMMARY

CTO: 0070 Adak Document Title: Final FOST for Parcel 1B			
Date: May 20, 2003		Review Organization: EPA	Reviewer: Kevin Oates
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
1	Page 2-1, fifth bullet.	The text states that Parcel 4 is approximately 4,515 acres, while the latest EBS document states parcel four is 5,260 acres (see page 1-2 of the EBS). Also, Figure 2-1 of this document indicates Parcel 4 contains 5,260 acres. Recommend reviewing the documents for consistency.	Parcel size will be checked. It has changed several times due to transfer of area between parcels and efforts to reconcile the boundaries with those of USFWS. It should be noted that based on the legal description for Parcel 4, the total area of Parcel 4 is 5,624 acres.
2	Page 5-1 first paragraph.	The text states that OUB-2 contains 31 sites. The OUB2 RI/FS contains 23 sites. Please review for consistency and revise as needed.	Sites sent to NOFA in the first round of analysis are included in the total count of OUB-2 sites, while they are not included in the RI/FS.
3	Page 5-3 Last paragraph.	The text indicates that Exhibit 2 contains a NOSSA/DDESB approval for the Parcel 1B FOST. However, Exhibit 2 contains a concurrence letter from DDESB for the transfer of Parcels 1A, 2, and 3 with respect to ordnance remediation requirements. That letter also contains requirements for completion of work in 3 sites in Parcel 1A and one in Parcel 3. This document should indicate how those requirements have been addressed. In addition, it appears that the Navy require a similar letter of concurrence from DDESB for Parcel 1 B that should be included in the next version of the FOST for Parcel 1B.	The addendum to the 1A FOST describes remedial actions for the 3 Parcel 1A sites mentioned in the comment as well as other sites that are now within the redrawn boundaries of Parcel 1A. A letter from NOSSA documenting approval of the Parcel 1B FOST has been included in the final version of the FOST.
4	Section 5.3 Risk Analysis.	The text states that..."All CERCLA sites within Parcel 1B have acceptable levels of risk under the current and future reuse scenarios." Earlier on page 5-1, the text states that Parcel 1B contains no hazardous substance or petroleum sites. Those are the type of sites where "risk analyses" are typically discussed. In Parcel 1B, there are several ordnance sites where the selected remedies have been implemented. However, the Adak Project Team has consistently avoided using terms like "acceptable levels of risk" when referring to ordnance sites, especially in the context of explosive safety hazards. Given the intensity of the national debate on this and related topics, EPA strongly recommends using alternative language in this section to indicate	Comment noted. Revisions as suggested will be incorporated in the final FOST.

CTO: 0070 Adak		Document Title: Final FOST for Parcel 1B	
Date: May 20, 2003		Review Organization: EPA	Reviewer: Kevin Oates
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
		that the required remedial actions for OUB1 sites in Parcel 1B have been completed in accordance with ROD requirements to support the current and expected future land uses.	
5	Page 5-7.	EPA generally agrees with the statements concerning completion of remedial actions for OUB1 sites in Parcel 1B. Comment resolution meetings and follow on discussions have been very positive and productive. Therefore, EPA expects that the Final Adak 2002 Field Season After Action Report will adequately address all Agency comments. It should be noted that the final was not available at the time of this review.	Comment noted. The final AAR will reflect the conclusions reached during discussions and document the adequacy of remedial actions taken for Parcel 1A and 1B sites.
6	Section 6.1.	Description of the Sites. There are two sites in this section which require further review for consistency in the text in this document and in the EBS. These are C8-05B and LJ-05. The EBS in Section 6.1.2 indicates that Parcel 4 area of these sites are not eligible for transfer. The text in the FOST indicates that these sites were transferred from Parcel 4 back to Parcel 1A after the 2002 field season. See FOST text on pages 6-5 and 6-6. This needs to be reviewed for consistency and accuracy.	Text will be clarified. The portions of each site that had all remedial actions completed in 2002 were transferred back into Parcel 1A after the field season.
7	Section 6.4, last sentence.	See previous comment on NOSSA/DDESB approvals. Will there be a formal written approval for the Parcel 1A sites addressed in this section of the report?	See previous response.
8	Section 6.4.2 Risk Analysis.	See previous comment on the use of the term "acceptable levels of risk" when describing ordnance sites. Please revise the text at both locations as recommended.	Text will be modified by substituting the word hazard and discussing approved investigation and remediation approaches.
9	Exhibit 1 Equitable Servitude.	The Adak Institutional Controls Management Plan indicates that the final Equitable Servitude (ES) will be contained in the final FOST. The current version contains the draft ES from April 2002. As noted in comments on previous version of the FOST, EPA will need to review the <u>final</u> ES language to ensure the enforceable provisions of CERCLA requirements for institutional controls will be met.	The State of Alaska has provided an opinion regarding the enforceability of the ESRE (Memo dated April 22, 2003). This memo states, "the ES/E/RE language is sufficient to create a valid and enforceable interest in the event that the affected parcels are described adequately." No substantive changes to the ESRE as submitted with the Draft Parcel 1B FOST are anticipated.

CTO: 0070 Adak Document Title: Final FOST for Parcel 1B			
Date: May 20, 2003		Review Organization: EPA	Reviewer: Lori Cora
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
1	General	<p>The Navy has chosen to produce piecemeal FOSTs that document the cleanup and environmental condition of properties addressed in each CERCLA Operable Unit. A Final FOST was issued in April 2002 for some but not all of the property contained in Parcel 1A. The draft FOST currently under review covers properties addressed by the Record of Decision for Operable Unit B1, which includes properties within Parcel 1A, requiring an Addendum to the "Final" Fost issued in April, 2002. The effect of this approach creates, at best, confusion and, at worst, ambiguity concerning the findings being made about each site and the information being disclosed as to each site.</p> <p>i. The "Addendum to the FOST for A1" as Section 6 of the document is confusing and unnecessarily complicated. Page 1-2 states the addendum is provided as Chapter 6. Does none of Sections 1 - 5, 7 - 11, relate to the Parcel 1A sites? Does the remainder of the FOST only concern Parcel B1 sites?</p> <p>ii. It would be more easily understood for future owners/operators and the public if the Addendum to the FOST for Parcel A1 was attached to the FOST for Parcel A1, rather than intermixing the Addendum with information and findings in the FOST for Parcel B1.</p>	<p>For ease of future use, the Navy will bundle the Parcel 1B FOST (and the Parcel 1A addendum) along with the Parcel 1A FOST in a single notebook with tabs.</p>
2	Page 1-3, next to last paragraph	<p>Per General Comment above, the Addendum to FOST for Parcel 1A should be attached and cross referenced to relevant information contained in the FOST, not intermixed with the FOST for Parcel IB. Separating the findings and conclusions for the twelve sites in Parcel 1A requires the public to jump from one document to another to find information concerning Parcel 1A. By intermixing the sites, it is confusing for the reader and potentially misleading as to what information in either the FOST for Parcel 1A or Fost for Parcel for BI is relevant to the sites addressed by the Addendum.</p>	<p>See response to General Comment 1. Due to history of conditional approvals of the Final 1A (i.e. contingent upon completion of remedial actions at FB-01, C3-01A, and C3-01E), and the acknowledgement of the need for an addendum to the Final Parcel 1A FOST, the Navy will proceed as outlined in the response to specific comment 1.</p>

CTO: 0070 Adak Document Title: Final FOST for Parcel 1B			
Date: May 20, 2003		Review Organization: EPA	Reviewer: Lori Cora
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
3	Page 2-1, Section 2, Description of Parcel 1B, first paragraph	This paragraph illustrates the problem with the piecemeal approach being taken with numerous FOSTs. A comparison of the descriptions of Parcels 1A, 1B, 2 through 4 between the Draft Parcel 1A FOST and Draft Parcel 1B FOST results in different descriptions due to the additional sites being put into Parcel 1A subsequent to the "finalization" of the FOST for Parcel 1A. The Navy should update the FOST for Parcel 1A according to current configuration and present all relevant information about all of the sites currently comprising Parcel 1A in one FOST. It should not be left to the public to sort out the intricacies of the evolution of the Parcels and multiple FOSTs.	See response to General Comment 1. Due to history of conditional approvals of the Final 1A (i.e., contingent upon completion of remedial actions at FB-01, C3-01A, and C3-01E), and the acknowledgement of the need for an addendum to the Final Parcel 1A FOST, the Navy will proceed as outlined in the response to specific comment 1.
4	Page 2-1, second paragraph	The statement that "Parcel 4 . . . will be addressed . . .when remediation necessary to support transfer has been completed" gives me concerns that EPA and the Navy interpret this sentence differently because of the recent RI/FS for Parcel 4. Have we worked out an appropriate investigation and cleanup schedule with the Navy on Parcel 4? If the Navy's interpretation of this sentence is it need not do cleanup until someone wants the property, then it needs to be changed because that is not the standard under CERCLA to reduce risks posed by releases or threats of releases of hazardous substances, pollutants or contaminants.	The Parcel 1B FOST accurately represents the current status of Parcel 4 (i.e., not yet suitable for transfer; continued management as an access restricted area by Navy). Finalization of the OU B-2 RI/FS, Proposed Plan, and ROD have not yet occurred. Upon completion of the ROD for OU B-2, the schedule for execution of the remediation of OU B-2 sites within Parcel 4 will be developed according to the framework provided by the Adak Federal Facilities Agreement.
5	Page 5-1, second paragraph	This paragraph is confusing because it talks about OU B-1 and Parcel 1B and some sites are in OU B-1 but located in Parcel 4, etc. How much of that is relevant to this FOST? Not much in my view. All that is necessary is to say that Parcel 1B contains 27 OE/UXO areas of concern addressed as part of OU B-1.	Some sites straddle the boundary between Parcel 1B and Parcel 4 with the majority of the area lying within Parcel 1B (MM-04, MM-10 and MM-11 for example). In some cases, remedial actions have been completed only for those portions of these sites that are within Parcel 1B. The Parcel 4 portion of these sites has not yet been remediated; therefore it cannot be stated that all remediation for the 27 OU B-1 sites has been completed. Appropriate clarifications will be made to the final FOST for Parcel 1B.

CTO: 0070 Adak Document Title: Final FOST for Parcel 1B			
Date: May 20, 2003		Review Organization: EPA	Reviewer: Lori Cora
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
6	Page 5-1, third paragraph	Likewise, why not end that paragraph with the affirmative statement that "remedial actions, if any, required by the OU B-1 ROD for the 27 OU B-1 sites located in Parcel 1B, were completed in 2002."	See response to comment 4.
7	Page 5-7, Section 5.4, second paragraph	Delete first sentence as it is not accurate. UXO/OE and their constituents are hazardous substances under CERCLA. I suggest moving the first sentence of the third paragraph up to begin the second paragraph.	Comment noted. Without responding to the assertion that OE/UXO are specifically identified as HS under CERCLA, the suggested revision will be incorporated.
8	Page 7-1, Section 7.1.1, and Exhibit 1	Per my comment last year, EPA has not received confirmation from the Alaska Attorney General's office or a licensed Alaska attorney that the equitable servitude language conforms with state law and will be enforceable in state court. Additionally, it is my understanding that other stakeholders may have requested revisions to the equitable servitude language. If the equitable servitude language in the draft FOST is changed, EPA requests and anticipates that it will be provided the opportunity to review and, if appropriate, comment on any changes to the equitable servitude.	Comments from State of Alaska Attorney General on the enforceability have been submitted to the Navy with copies to EPA. To the extent that changes (other than minor editorial changes) are made to the ESRE, EPA will be provided an opportunity to review and comment.
9	Page 7-2, Section 7.1.3, Inspections and Reporting	Does this section reflect the agreement reached in the dispute resolution on C3-01A, re: inspections of the excavated area? The Addendum to Parcel 1A should discuss the inspection and reporting requirements, if any, for the twelve sites addressed in OU B1.	The Navy's agreement was to provide inspection of OU B-1 sites to verify that the future land use assumptions that were the basis of the remedy selection were accurate as well as documenting the continued effectiveness of the ordnance education and awareness program. Appropriate revisions to this section will be incorporated to reflect this agreement.

CTO: 0070 Adak Document Title: Final FOST for Parcel 1B			
Date: May 20, 2003		Review Organization: ADEC	Reviewer: Sami Goldman
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
1	General	<p>As the state, the Navy, and TAC have discussed over the last year, the state has been uncomfortable with the Navy being the exclusive holder of an equitable servitude (ES) to oversee the institutional controls, and the state has suggested that an ES regarding at least selected aspects of the agreed controls be executed in favor of the state. Such an ES would have to be granted by TAC rather than the United States, but could be made part of the exchange transaction. The parties have not been able to resolve their differences on this issue.</p> <p>Recently, the EPA made a constructive suggestion that may provide a way forward, pointing out that the Navy could delegate some or all powers to administer the ES to the state (retaining the right to withdraw the delegation). The parties should explore this option. The ES should be modified in two ways to accommodate potential delegation:</p> <ol style="list-style-type: none"> 1. Under "Prohibited Activities," wherever the phrase "authorized in writing by the Department of the Navy" appears, add "or its delegee". 2. In the first line of the "Right of Entry" section, after "United States" insert "or its delegee". 	<p>The federal government does not have the authority to grant an Equitable Servitude to the State. The Navy has not posed any objection to TAC granting the State an Equitable Servitude as a matter between the parties.</p> <p>At the present time the Navy is unwilling to make the suggested revisions. As an initial matter, the Navy has concerns that a delegation would, ultimately, not allow the Navy to successfully seek judicial enforcement of the Equitable Servitude. The Navy is willing to consider the legal and policy implications of delegation. To facilitate this discussion, the Navy requests the State to provide a detailed proposal listing the specific administrative duties they are requesting the Navy delegate to them under the ES. The proposal should also describe the manner in which the State intends to carry out these duties and the responsibility the State will assume for ensuring the efficacy of remedies, including institutional controls.</p> <p>Should the parties agree that delegation is appropriate, revisions to the Equitable Servitude will be made at a later date.</p>
2	Section 1.1, page 1-2	<p>This section mentions the certification of remedial actions at sites C3-01 and FB-03 through the addendum as given in Chapter 6. However, in Section 1.4 Document Outline, Section 6, and in Section 6, 10 sites are listed other than C3-01 and FB-03. Please clarify.</p>	<p>The additional sites are within the revised boundaries for parcel 1A. As of the date of the final FOST for parcel 1A (April 2002) these sites were within parcel 4 and remedial actions had not been completed. However,</p>

CTO: 0070 Adak		Document Title: Final FOST for Parcel 1B	
Date: May 20, 2003		Review Organization: ADEC	Reviewer: Sami Goldman
Comment No.	Section or Page	Reviewer's Comment	Response to Comment
			remedial actions were completed at these sites in 2002 (and documented in the 2002 AAR) and the sites have since been incorporated within the boundary of parcel 1A.
3	Section 2.	Description of Parcel 1B: An explanation of how the Parcels were divided is needed in the introductory paragraph. In the descriptions, the total acreage investigated is given for Parcel 1A; please include the total also investigated acreage for Parcel 1B.	The primary basis for the delineation of parcel 1A was to include all areas where remedial actions were expected to be completed as of the end of the 2001 field season. As suggested in the comment, the total acreage included in parcel 1B investigations will be included in the revised text.
4	Figure 2-1:	The acreages given in this figure do not match the description given on page 2-1. Please revise.	The acreage will be checked for consistency and revised as necessary.
5	Figure 2-2:	This figure does not stand-alone. Please indicate that the numbers refer to Point IDs as given in Table 2-1 and represent boundary corners.	Concur.
6	Exhibit 1, Right of Entry:	Recommend including the <i>Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak, Alaska, dated September 20, 2000</i> as an exhibit to this appendix	Reference to the Conveyance Agreement is not integral to the ESRE and will be removed.
7	Exhibit 2:	Recommend the addition of a letter from the Commanding Officer that follows the 2001 summer field work and approves all the sites under Parcels 1A, 2, and 3. This gap is obvious.	Navy intends to provide updated approval signatures from NOSSA and EFA NW concerning the suitability for transfer of all real estate in parcel 1A and 1B. A letter from the commanding officer of NOSSA has been included in the final FOST as Exhibit 2.
8	Exhibit 3:	The footnotes address more information than is demonstrated in the chart such as the inclusion of ECP 5-7, OE/UXO chemicals, and references to SAERA. Suggest revising footnotes to address the site information specified by this document for simplification and reader ease.	Concur.
9	List of Commenters:	Suggest change in title to "List of Agency Commenters on Draft FOST" unless other commenters are included.	TAC and APIA are not agencies and they are currently on the list of commenters.

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Date: May 20, 2003		Review Organization: A/PIA and TAC	Reviewer: Catherine Villa and Vince Tutiakoff, Sr.
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A/PIA	General	A/PIA has submitted a letter concurring with the FOST for purposes of transfer.	Comments noted.
TAC – 1 (V. Tutiakoff)	General	There should be a written agreement that outlines who will be responsible for repairing monitoring wells or recovery wells if they are damaged. In the case where they have been placed too close to existing underground utilities and they get damaged during needed repairs that burden should not be with whomever is attempting the repair.	The ESRE prohibits activities that could potentially damage monitoring or recovery wells. As a practical matter, monitoring wells and other remediation/recovery system appurtenances have been placed so as not to interfere with existing utilities.
TAC – 2 (V. Tutiakoff)	General	There should be a written special authorization for emergency repairs to utilities so that there will be no delays in handling emergency repairs.	There is nothing in the FOST or ESRE that creates an impediment to emergency utility repairs. Section 4.2 of the Final Institutional Control Management Plan states, "In the event of an emergency excavation for utility repairs, the requester shall notify the Navy after the emergency has been completed." No further written authorization to address emergency repairs is necessary.
TAC – 3 (V. Tutiakoff)	General	<p>Generally the permission to dig that will be granted by the Navy cannot be efficiently administered from a far distant site. TAC fears that Navy administration of the excavation restrictions on the Equitable Servitude and the accompanying dig permit system will result in unacceptable delays.</p> <p>In this regard, the Navy in the past was required to approve landing permits for aircraft on Adak. While the Navy has always been reasonable in granting permission for aircraft to land, the distant administration of the landing permit system has resulted in at least one instance where a permit was granted, but took so long to be granted that a commercial opportunity was lost, because the shipper decided to go elsewhere in the interim.</p> <p>TAC is concerned that the same type of problems could arise with administration of the excavation requirements in the</p>	The dig permit system is applicable only to landfill sites listed in paragraph 3 of the prohibited activities section of the ESRE. For other locations listed in paragraph 2 of the ESRE, the Final ICMP requires the responsible party to notify the Navy a minimum of three days prior to initiating excavation and does not prohibit excavation provided the purpose of the excavation is not inconsistent with the residential land use prohibition at these sites. The Navy will provide a written response within this three day time period. If necessary, this will be clarified in the upcoming revision of the ICMP.

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		equitable servitude and the dig permit system. Accordingly, TAC advocates that administration of the excavation restrictions in the Equitable Servitude and the dig permit system be subcontracted to an entity such as the State of Alaska, which will be much more accessible to people in Adak, and will be able to respond more quickly.	
TAC – 4 (V. Tutiakoff)	General	TAC is also concerned that there is as yet no established protocol for how contaminated soils and/or water will be handled in the event that excavation is necessary and does unearth contaminated materials. There needs to be a written agreement that spells out how these contaminated materials will be handled if they are encountered during excavation. This agreement should specifically address the requirements governing the placement of contaminated materials back into the ground from which they came.	Section 7 of the “Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak, Alaska” addresses the issues described in the comment. It is the responsibility of TAC to establish the basis for determining a site is contaminated and the need for remedial actions based upon current cleanup levels. If it is established that contamination attributable to past Department of Defense activities exists at a site and remedial action is needed, the “come back” policy referenced in the Land Transfer Agreement is applicable.

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TAC (R. DuBrock)	Section 1(c) Draft Final Equitable Servitude and Easement Language, Page 2 of Exhibit 1 to the Draft FOST.	<p>In telephone conversations with federal officials, TAC has been assured that this section of the equitable servitude was only intended to protect the physical integrity of the recovery systems and monitoring wells. If so, this is a restriction that TAC can live with.</p> <p>We were told that the equitable servitude would be re-drafted to address TAC's concerns, and that section 1(c) would be worded so as to limit the restriction to protection of the physical integrity of the recovery systems and monitoring wells. The exhibit which is attached to the draft FOST, however, does not appear to have been re-drafted.</p> <p>Accordingly, TAC proposes that section 1 (c) be re-drafted to read as follows:</p> <p style="padding-left: 40px;">(c) Any action or use of the Downtown Area, including, without limitation, subsurface utility repairs, construction or excavation activities, that results in physical damage to, or is reasonably likely to interfere with the physical integrity of, Groundwater monitoring wells or recovery systems or devices constructed at the Property for cleanup.</p> <p>As we have previously informed the Navy, TAC cannot agree to an equitable servitude that could be construed to prevent it from excavating merely because subsurface drainage patterns might be altered and consequently the monitoring wells or recovery systems might be affected. TAC has been assured that such is not a concern for the Navy, and that the Navy is concerned only with protection of the physical integrity of the wells or the recovery systems.</p>	The Navy will make this clarification.