



FORT ORD REUSE AUTHORITY

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March 6, 2008

Mike Weaver
Secretary
Fort Ord Citizens Advisory Group
52 Corral de Tierra Road
Salinas, CA 93908

RE: Fort Ord Community Advisory Group (FOCAG) Position Paper

Dear Mr. Weaver:

Thank you for your letter dated January 31, 2008 presenting a position paper regarding the Fort Ord Reuse Authority's (FORA) role as the lead agency in the property transfer and remediation of Environmental Services Cooperative Agreement (ESCA) parcels. The purpose of this letter is to (1) explain FORA's role; (2) to explain various components of the ESCA; and, (3) describe ESCA community involvement activities.

First, I would like to clarify FORA's role in this process. FORA has represented that it is a *bona fide* prospective purchaser as defined by Section 101(40) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9601, which means that it does not become liable under CERCLA as an owner merely by acquiring the property. However, under the terms of the Administrative Order on Consent (AOC), FORA has agreed to undertake the cleanup responsibilities specified by the AOC, pursuant to an enforceable schedule and with oversight from the Environmental Protection Agency (EPA) and California Department of Toxic Substances Control (DTSC). The AOC provides for EPA to approve, with DTSC's review and comment, a range of documents starting with a work plan and including a Remedial Investigation and Feasibility Study. The U.S. Army (Army) and EPA will jointly select the cleanup remedy with community input. Following the selection of the remedy, FORA will implement the selected remedy with EPA and DTSC oversight.

Ultimately the Army and the Department of Defense (DoD) retain the responsibility to ensure that remediation occurs to the standards agreed upon by federal and state regulators. The ESCA allows all parties, including the public, to benefit from cost efficiencies realized from the upfront funding of remedial activities.

You listed specific concerns and this letter responds:

Accountability

As stated above, FORA is bound by the specific terms of the AOC and all regulatory requirements as applicable under CERCLA.

Cost of Cleanup

During our negotiations with the Army, extensive analysis was performed to determine the scope and subsequent cost to remediate the ESCA parcels. Once completed, this analysis was evaluated by the DoD, Army, EPA, DTSC, and FORA, and the cost agreed upon by DoD, Army and FORA. A cost-cap environmental insurance policy was purchased to further ensure that cleanup would be completed.

Cleanup Contractors

FORA's contractor was selected through a competitive bid process. LFR Inc., a California based company was chosen as the prime contractor. In turn LFR engaged two subcontractors, Weston Solutions, Inc., experts in the remediation of munitions and explosives of concern (MEC) and Westcliffe Engineers, Inc., experts in regulatory oversight and community involvement issues surrounding MEC contaminated sites. These contractors have hired from within the local community and will continue to do so where possible.

Federal Facilities Agreement

The Army, EPA and DTSC have amended the Federal Facilities Agreement in recognition that the remedial work will be performed pursuant to the ESCA and AOC. This amendment does not affect the remedial work to be performed by FORA, but rather recognizes that procedurally, so long as FORA complies with the AOC, the AOC will control the process of regulatory oversight. In the event that FORA violates the AOC, the Federal Facilities Agreement becomes the controlling document. With respect to remedial work that is not the responsibility of FORA pursuant to the AOC and the ESCA, the Agreement is not changed. In addition, the amendment recognizes that the Army is ultimately responsible for the cleanup.

Community Involvement

FORA is committed to an extensive and inclusive public participation program. Additionally, per the terms of the AOC and ESCA, FORA must follow and comply with all public participation requirements as specified within CERCLA. Further information regarding FORA's community involvement program is contained in the Draft Community Involvement and Outreach Program Plan - a copy of which was mailed to you on February 7, 2008.

Lastly, you also inquired about State law application requirements regarding California Environmental Quality Act (CEQA) assessment. FORA is not a decision-making agency in the performance of the Army's statutory obligations. Rather, FORA is the Army's contractor, performing the Army's remedial work as required by the CERCLA. FORA's contractual obligations include the requirement that it perform under the direction, guidance and oversight of EPA, as described in the AOC. In these circumstances, FORA's undertaking is not within the purview of CEQA.

We recognize FOCAG's work in reviewing Fort Ord cleanup activity and look forward to working with you in that regard. If you have any questions or comments, please do not hesitate to contact me at (831) 883-3672 or email me at stan@fora.org.

Sincerely,



Stan Cook
ESCA Remediation Program Manager

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