

Comprehensive Long-Term Environmental Action Navy (CLEAN) II
Contract No. N62742-94-D-0048
Contract Task Order No. 0072



Final

Federal Agency-to-Agency Property Transfer

**Environmental Summary Document For Certain
Property (Parcel 5a2)
Marine Corps Air Station, El Toro, California**

Prepared for:



Department of the Navy
Commander, Southwest Division
Naval Facilities Engineering Command
San Diego, California 92132-5190

Prepared by:



Earth Tech, Inc.
700 Bishop Street, Suite 900
Honolulu, Hawaii 96813

August 2001



DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5190

5090
Ser 06CC.DG/1085
October 12, 2001

Ms. Triss Chesney
California Environmental Protection Agency
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630-4700

Dear Ms. Chesney:

Subj: FINAL (1) SITE-SPECIFIC ENVIRONMENTAL BASELINE SURVEY (EBS), IRP SITE 1, EXPLOSIVE ORDNANCE DISPOSAL RANGE, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA; AND (2) FEDERAL AGENCY-TO-AGENCY PROPERTY TRANSFER ENVIRONMENTAL SUMMARY DOCUMENT FOR CERTAIN PROPERTY (PARCEL 5A2), MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

Enclosed is the Final version of the subject documents. These documents have been revised and finalized in accordance with comments received from the Environmental Protection Agency of July 24, 2001, and the Department of Toxic Substances Control of August 6, 2001. Please contact either Mr. Don Whittaker at (619) 532-0791 or me at (619) 532-0765 should you have any questions, or need additional information.

Sincerely,

DEAN GOULD
Base Realignment and Closure
Environmental Coordinator
By direction of the Commander

- Enclosures: (1) Site-Specific Environmental Baseline Survey (EBS), IRP Site 1, Explosive Ordnance Disposal Range, Marine Corps Air Station, El Toro, California
- (2) Federal Agency-To-Agency Property Transfer Environmental Summary Document For Certain Property (Parcel 5a2), Marine Corps Air Station, El Toro, California

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QUESTIONS MAY BE DIRECTED TO:

**DIANE C. SILVA
RECORDS MANAGEMENT SPECIALIST
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132**

TELEPHONE: (619) 532-3676

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Ser 06CC.DG/1085
October 12, 2001

Copy to:

Ms. Patricia Hannon
California Regional Water Quality Control Board
Santa Anna Region
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Ms. Nicole Moutoux
United States Environmental Protection Agency
Hazardous Waste Management Division
Region IX
75 Hawthorne Street, (SFD 8-2)
San Francisco, CA 94105-3901

Mr. Gregory F. Hurley Esq.
Restoration Advisory Board Co-Chair
Kutak Rock
620 Newport Center Drive, Suite 450
Newport Beach, CA 92660

Ms. Marcia Rudolph
Restoration Advisory Board Subcommittee Chair

Ms. Polin Modanlou
Environmental Remediation Manager
MCAS El Toro Local Redevelopment Authority
Building 83
P.O. Box 53010
Irvine, CA 92619-3010

Mr. Wayne D. Lee
Commander, Marine Corps Air Bases Western Area
AC/S Environment
Code 5AU
MCAS Miramar
P.O. Box 452013
San Diego, CA 92145-2013

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DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5100

5090
Ser 06CC.DG\1086
October 12, 2001

Ms. Nicole Moutoux
United States Environmental Protection Agency,
Hazardous Waste Management Division
Region IX
75 Hawthorne Street, (SFD 8-2)
San Francisco, CA 94105-3901

Dear Ms. Moutoux:

Subj: FINAL (1) SITE-SPECIFIC ENVIRONMENTAL BASELINE SURVEY (EBS), IRP SITE 1, EXPLOSIVE ORDNANCE DISPOSAL RANGE, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA; AND (2) FEDERAL AGENCY-TO-AGENCY PROPERTY TRANSFER ENVIRONMENTAL SUMMARY DOCUMENT FOR CERTAIN PROPERTY (PARCEL 5A2), MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

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Environmental Coordinator
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DEPARTMENT OF THE NAVY
SOUTHWEST DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5180

5090
Ser 06CC.DG/1087
October 12, 2001

Ms. Patricia Hannon
California Regional Water Quality Control Board
Santa Anna Region
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Dear Ms. Hannon:

Subj: FINAL (1) SITE-SPECIFIC ENVIRONMENTAL BASELINE SURVEY (EBS), IRP SITE 1, EXPLOSIVE ORDNANCE DISPOSAL RANGE, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA; AND (2) FEDERAL AGENCY-TO-AGENCY PROPERTY TRANSFER ENVIRONMENTAL SUMMARY DOCUMENT FOR CERTAIN PROPERTY (PARCEL 5A2), MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

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Base Realignment and Closure
Environmental Coordinator
By direction of the Commander

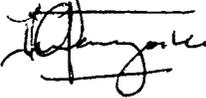
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- (2) Federal Agency-To-Agency Property Transfer Environmental Summary Document For Certain Property (Parcel 5a2), Marine Corps Air Station, El Toro, California

DOCUMENT TRANSMITTAL

Contract No. N62742-94-D-0048

To: Remedial Project Manager
 Naval Facilities Engineering Command
 Southwest Division
 Mr. Don Whittaker 06CC.DW
 1230 Columbia Street, Suite 870
 San Diego, CA 92101-8517

DATE: October 12, 2001
CTO #: 072
LOCATION: MCAS El Toro

FROM: Crispin G. Wanyoike 

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COPIES TO (Include Name, and No of Copies):

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Ms. Triss Chesney - DTSC - (1C)	
Ms. Patricia Hannon - RWQCB - (1C)	
Mr. Wayne Lee - Commander Miramar - (1C)	
Ms. Polin Modanlou - County of Orange - (1C)	
Mr. Gregory Hurley - RAB Co Chair - (1C)	
Ms. Marcia Rudolph -RAB (1C)	
Ms. Marge Flesch - MCAS El Toro - (1C)	
Ms Diane Silva - SWDIV (3C)	

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ACRONYMS AND ABBREVIATIONS

BCT	BRAC Cleanup Team
BEC	BRAC Environmental Coordinator
BNI	Bechtel National, Inc.
BRAC	Base Realignment and Closure
Cal-EPA	California Environmental Protection Agency
CEQ	Council on Environmental Quality
COPC	chemicals of potential concern
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CSS	coastal sage scrub
DERP	Defense Environmental Restoration Program
DoD	Department of Defense
DoJ	Department of Justice
DoN	Department of the Navy
DTSC	Department of Toxic Substances Control
Earth Tech	Earth Tech, Inc.
EA	environmental assessment
EBS	environmental baseline survey
EIS	environmental impact statement
EOD	explosive ordnance disposal
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FBI	Federal Bureau of Investigation
FFA	Federal Facilities Agreement
FOSL	finding of suitability to lease
FOST	finding of suitability to transfer
FS smoke	sulfur trioxide chlorosulfonic acid
IR	Installation restoration
IRP	Installation Restoration Program
JATO	Jet-Assisted Take-Off
JEG	Jacobs Engineering Group
KEA	KEA Environmental
mm	millimeter
MCAS	Marine Corps Air Station
MOU	Memorandum of Understanding
MSL	mean sea level
NAVFAC	Naval Facilities Engineering Command
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NEPA	National Environmental Policy Act
NPL	National Priorities List
OE	ordnance and explosives
PRG	preliminary remediation goal
RCRA	Resource Conservation and Recovery Act
RWQCB	Regional Water Quality Control Board
SARA	Superfund Amendments and Reauthorization Act
U.S.	United States
USACOE	U.S. Army Corps of Engineers
U.S.C.	United States Code
UXO	unexploded ordnance

1. PURPOSE

This document summarizes the environmental condition of a parcel of property, designated Parcel 5a2 (the Parcel) at the Marine Corps Air Station (MCAS), El Toro, California, which is proposed to be transferred from the U.S. Department of the Navy (DoN) to the Department of Justice (DoJ), Federal Bureau of Investigation (FBI). MCAS El Toro has been closed in accordance with the recommendation of the 1993 Defense Base Closure and Realignment Commission, which was approved by the President and accepted by Congress. The environmental condition of the Parcel is such that the property potentially contains some level of contamination by hazardous substances or petroleum products.

This document is based on the *Site-Specific Environmental Baseline Survey (EBS) Report* for the Parcel and an analysis of information contained in documents listed in Section 11. The summary document was prepared in accordance with *DoN Environmental Policy Memorandum 95-01: Environmental Requirements for Federal Agency-to-Agency Property Transfer at BRAC Installations* (DoN 1995). The terms "installation" and "MCAS El Toro" are synonymous in this document.

2. PROPERTY DESCRIPTION

MCAS El Toro is located on the Tustin Plain, a broad alluvial valley in southern California near the center of Orange County. The installation was established in 1943 and consists of runways, aircraft maintenance and training facilities, housing, and other support facilities totaling about 4,738 acres. MCAS El Toro is located in a residential and industrial/manufacturing area about 40 miles south of downtown Los Angeles and about 100 miles north of the California/Mexico border. MCAS El Toro is bordered on the northwest, south, and west by the city of Irvine and on the east by the city of Lake Forest (see Figure 2-1, the Project Location Map and Figure 2-2, the Site Plan).

MCAS El Toro was operationally closed on 2 July 1999.

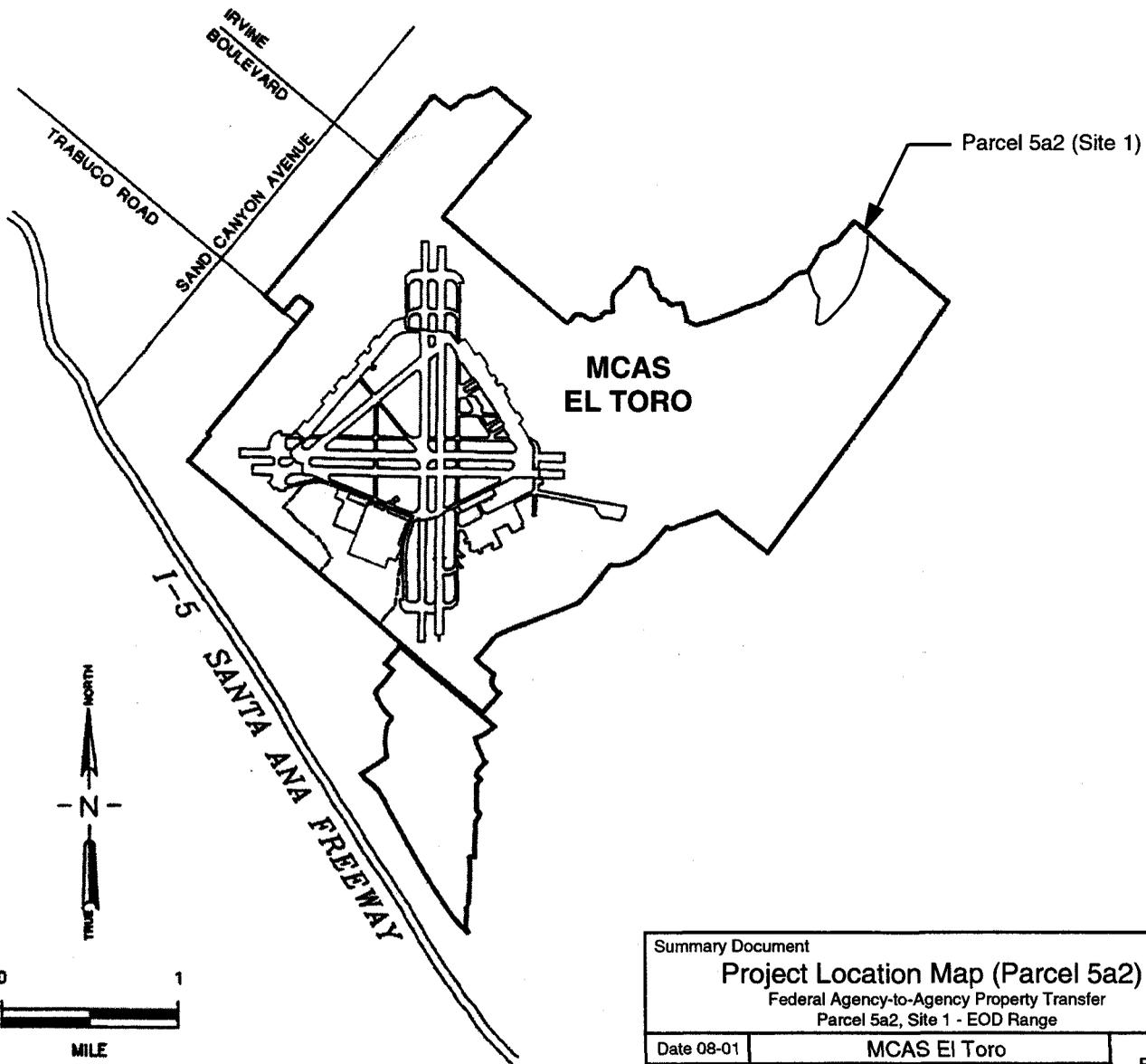
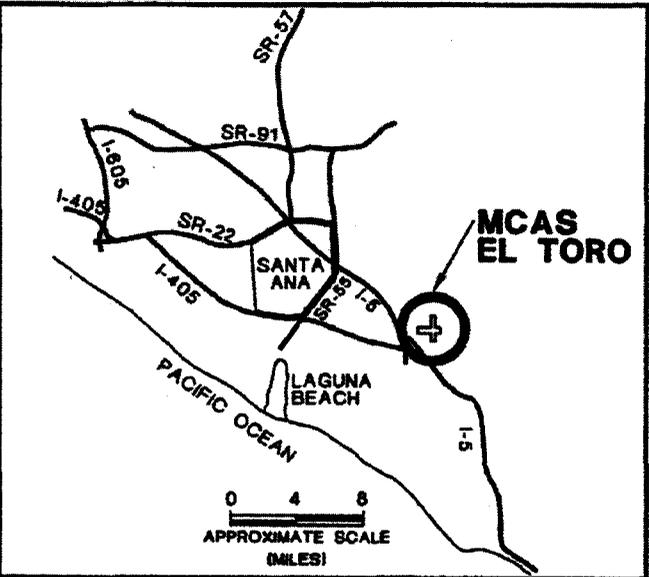
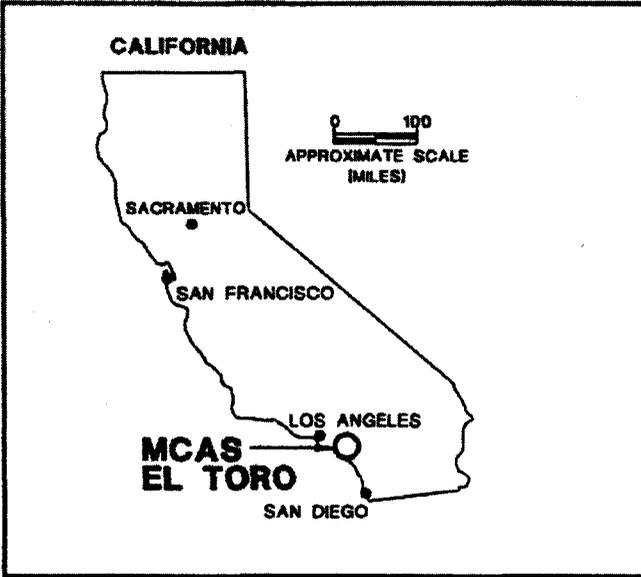
Specifically, the Parcel being transferred to the FBI is the Installation Restoration Program (IRP) Site 1, which includes the Explosive Ordnance Disposal (EOD) Range, and consists of about 73.7 acres (Robert Bein, William Frost and Associates 1999) of property in the northeast portion of the base. Except for an area to the north that is bordered by the MCAS El Toro property boundary and State Highway 241 beyond, the Parcel is completely surrounded by Parcel 5a1, which consists of about 901 acres. Parcel 5a1 is being transferred to the Federal Aviation Administration (FAA), to be used as a habitat preserve. Together, the two parcels constitute Parcel 5a in its entirety (about 974 acres).

The following structures located on the property will be transferred "as is":

- Block concrete building (Building 795, which served as the EOD Range building). The building was constructed in 1985 and was used primarily for administrative purposes. This 20-foot by 17-foot building is not located within the immediate access area.
- Concrete pad
- Demolition bunkers (constructed of earthen filled cartridge boxes)
- Emergency bunker (constructed of sand bags)
- Viewing stands (used for observation of detonation activities)

PAGE No. 2-2

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Summary Document		Final
Project Location Map (Parcel 5a2)		
Federal Agency-to-Agency Property Transfer Parcel 5a2, Site 1 - EOD Range		
Date 08-01	MCAS El Toro	
Project No. 36097	EARTH  TECH	Figure 2-1
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3. REGULATORY COORDINATION

MCAS El Toro was listed on the U.S. Environmental Protection Agency (EPA) National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in February 1990. In October 1990, U.S. EPA, California Environmental Protection Agency (Cal-EPA) Department of Toxic Substances Control (DTSC), the California Regional Water Quality Control Board (RWQCB), Santa Ana Region, and the DoN signed a Federal Facilities Agreement (FFA). The purpose of the FFA can be found on pages 3—4 of the document. The general purposes are to

1. Ensure that environmental impacts associated with past and present activities are thoroughly investigated and appropriate remedial action is taken as necessary to protect the public health, welfare, and the environment;
2. Establish a procedural framework and schedule for developing, implementing, and monitoring appropriate response actions in accordance with CERCLA/Superfund Amendments and Reauthorization Act (SARA), the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), the Resource Conservation and Recovery Act (RCRA), the RCRA guidance and policy, Superfund guidance and policy, and applicable state law;
3. Facilitate cooperation, exchange of information, and participation of the parties in such action; and
4. Ensure the adequate assessment of the potential injury to natural resources and the prompt notification to and cooperation and coordination with the Federal and state natural resource trustees to ensure the implementation of response actions to achieve appropriate cleanup levels.

The Defense Environmental Restoration Program (DERP), codified in 10 United States Code (U.S.C.) 2701–2709 and 2810, gave the Department of Defense (DoD) IRP a statutory basis. The DoN implements the DERP subject to, and in a manner consistent with CERCLA and its regulations.

The President, by Executive Order 12580, delegated most of his CERCLA authority to the EPA; however, in the case of hazardous substances releases on DoD Properties, the President delegated his authority to the DoD. Accordingly, the DoD has lead agency authority to respond to such releases at DoD installations. The DoD has re-delegated its lead agency authority to the individual Departments (e.g., DoN).

On installations slated for closure, such as MCAS El Toro, DoD guidance directs the formation of a Base Realignment and Closure (BRAC) Cleanup Team (BCT). At MCAS El Toro, the BCT consists of one representative from the DoN (the Marine Corps BRAC Environmental Coordinator [BEC]), two representatives from the state (DTSC and RWQCB), and one representative from the EPA. The BEC is the lead member of the BCT. The MCAS El Toro BCT functions to coordinate and oversee cleanup at the installation.

4. PAST, CURRENT, AND FUTURE USE

The Parcel was used for EOD training. Training for detonation of munitions has been conducted at the Parcel since 1952 (BNI 1995). The EOD Range was placed on inactive status with the closure of MCAS El Toro on 2 July 1999.

Currently, the Parcel is secured and the EOD Range is in an inactive status.

Upon transfer, the FBI plans to use the property for purposes similar in nature to the past use for EOD training. To accommodate immediate use of a portion of the property, the DoN is planning to allow access and use of an approximately 3.3-acre area (the Subparcel) by the FBI prior to the completion of the CERCLA process for the entire Parcel. This "immediate use" area will be made available to the FBI immediately following transfer. However, access to the remaining portion of the property (about 70.4 additional acres) will be prohibited until the completion of the CERCLA process, which includes site characterization and establishment of baseline risk to human health and the environment, and evaluation and implementation of appropriate response actions. Subsequently, following written notice from DoN pursuant to the Memorandum of Understanding (MOU), the FBI will be allowed to use the entire Parcel, subject to those restrictions contained in the notice which DoN finds to be necessary to protect human health and the environment.

5. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) implement procedural provisions of the National Environmental Policy Act (NEPA). The CEQ regulations provide for the establishment of categorical exclusions for those actions that have been found not to have a significant effect on human health and the environment and for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required under normal circumstances. Transfer of real property from the DoN to another Federal agency is one such categorical exclusion as codified in 32 CFR 775.6 (f) (19); a copy of the determination of categorical exclusion is included in Appendix A.

6. ENVIRONMENTAL CONDITION OF PROPERTY

6.1 SITE DESCRIPTION AND BACKGROUND

The Parcel is located in the northeast portion of MCAS El Toro in the foothills of the Santa Ana Mountains. The Parcel is situated within a tributary canyon of Borrego Canyon Wash at elevations ranging from about 610 to 760 feet above mean sea level (MSL).

The Parcel consists of the EOD Range and surrounding areas. The EOD Range is demarcated into the Northern and Southern EOD Ranges. The area surrounding the EOD Range served as a buffer zone for the EOD training that took place beginning in 1952. Training consisted of the detonation of munitions until active use of the EOD Range was discontinued with the closure of MCAS El Toro on 2 July 1999 (BNI 1995).

Several demolition pits, a range building, and a former observation bunker constructed from metal ammunition cans were reported to be present at the Parcel (BNI 1995). Many of the metal cans used to construct the observation bunker were reported to be filled with the burned residue from munitions, such as cartridge-actuated devices and 20-millimeter (mm) ammunition (United States Army Corps of Engineers [USACOE] 1998).

Military munitions used at the site included hand grenades, land mines, cluster bombs, smoke bombs, and rocket warheads. Civilian and commercial explosives, such as dynamite, plastic, and gelatinous explosives were used at the EOD Range. Munitions were detonated in trenches and pits, which were continually filled with soil and then reexcavated. In 1982, about 2,000 gallons of sulfur trioxide chlorosulfonic acid (FS smoke) were reportedly burned in trenches located in the northern portion of the site. An estimated 300,000 gallons of petroleum fuels were used during EOD training from 1952 through 1993 (JEG 1993).

In addition, there are unconfirmed reports that low-level radioactive material may have been disposed at the site (Brown and Caldwell 1986). Perchlorate was identified as a potential contaminant of concern at the Parcel, due to its use in explosives and solid rocket propellants, such as Jet-Assisted Take-Off (JATO) bottles.

6.1.1 Northern EOD Range

The Northern EOD range encompasses an area of about 16.9 acres. The majority of EOD training took place within this area. Data generated from geophysical surveys conducted to date are consistent with this historical assessment (Earth Tech 2001). The largest geophysical anomalies were identified in this area (see Figure 2-2). Additionally, several linear alignments of anomalies indicative of former trenches were also identified.

6.1.2 Southern EOD Range

The Southern EOD range encompasses an area of about 16.6 acres. Historical information indicates that use of the Southern EOD Range has generally been limited to emergency detonation of explosives and explosives training by the Orange County Sheriff's Department and Federal agencies. Fewer geophysical anomalies were identified in the Southern EOD Range as compared to the Northern EOD Range. Recent geophysical surveys of the Southern EOD Range (September 2000) indicate that anomalies were generally not identified in this area except for the metallic items described as metal debris fragments most likely resulting from soil discing activities (Earth Tech 2001).

6.1.3 Buffer Zone

The area surrounding the Northern and Southern ranges has been characterized as the buffer zone for EOD training. This zone consists of areas where no significant environmental impacts are expected to have occurred due to past site operations. Recent geophysical surveys (September 2000) encompassed the southern portion of the buffer zone, including the immediate use area and the strip of land between the Southern EOD Range and the site boundary to the east (Earth Tech 2001). No geophysical anomalies were identified within the area surveyed. The remaining portion of the buffer zone will be evaluated as part of the ordnance and explosive range evaluation to assess the lateral extent of kick-outs associated with EOD training.

6.2 ECOLOGY

The preliminary results of a habitat assessment conducted at Site 1 on 20 December 2000 were used to characterize the habitat and identify potential species, including any considered sensitive.

The dominant vegetation types at Site 1 consist of non-native grassland, coastal sage scrub (CSS), and toyon-sumac chaparral. Disturbed wetland occurs in the bottom of the bermed retention pond. There are approximately 0.29 acres of disturbed wetland on Site 1.

Previous dry and wet sampling that was conducted during 1996 in the bermed retention pond revealed the presence of the Riverside fairy shrimp (*Streptocephalus woottoni*), which is a Federally threatened species (KEA 1998). The presence of this species confers a high degree of sensitivity on this pond and its watershed.

During December 2000, four coastal California gnatcatchers (*Polioptila californica californica*) which are a Federally threatened species were documented on site. They consisted of one pair and two separate individuals of unknown gender. Three individual Cactus wren (*Campylorhynchus brunneicapillus*) were identified in a cactus patch within CSS in the northwestern quadrant of the site. This bird is also a Federally regionally sensitive species. One non-vocalizing Grasshopper sparrow (*Ammodramus savannarum*) was identified in non-native grassland in the north-central portion of the site. Two Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*) were identified in CSS in the north-central portion of the site (Federally regionally sensitive). Evidence (scat or feces) of San Diego black-tailed jackrabbit (*Lepus californicus bennettii*) was found in non-native grassland in the western portion of site between two patches of CSS.

6.3 SUMMARY AND CONCLUSIONS OF SITE-SPECIFIC EBS

The *Site-Specific Environmental Baseline Survey (EBS) Report, IRP Site 1, Explosive Ordnance Disposal Range* (Earth Tech 2001) presents information pertaining to the environmental condition of the Parcel.

6.3.1 Summary

- A wide range of munitions were used in training exercises; the constituents that would have been released would be typical of ingredients used in military munitions.
- Investigations were conducted to assess the presence or likely presence of a release or threatened release of any hazardous substance or petroleum product. Additional investigations are currently underway as part of the installation restoration (IR) process. The 3.3-acre area (the Subparcel) in the southern portion of Site 1 (the Parcel) was comprehensively investigated to document environmental conditions and to allow for immediate use by another Federal agency.

- Groundwater analytical data at Site 1 (the Parcel) indicate the presence of perchlorate above EPA Region IX and Cal-EPA provisional action levels. Although the contaminant plume appears to be localized to an isolated area, further investigation is planned to confirm the extent of contamination.
- Limited soil sampling (0–5 feet bgs) analytical data in and around geophysical anomalies did not indicate the presence of a release of any hazardous substance.
- Comprehensive soil sampling (0–5 feet bgs) analytical data for the immediate use area (approximately 3.3 acres) (the Subparcel) indicated that no chemicals of potential concern (COPCs) were present above industrial preliminary remediation goals (PRGs) (with the exception of arsenic, which was attributed to background).
- A Federal agency-to-agency transfer is planned for Site 1 (the Parcel) for use similar in nature to EOD training.

6.3.2 Conclusions

- There is a potential for the presence of buried ordnance and explosives (OE) items, including unexploded ordnance (UXO) at Site 1 (the Parcel).
- There is a potential for the presence of a release of hazardous substances and/or petroleum products.
- Groundwater at Site 1 (the Parcel) is impacted with perchlorate at concentrations exceeding both state and Federal provisional action levels.
- The environmental condition of the 3.3-acre area (the Subparcel) has been evaluated and it was found to be an area where release of hazardous substances has occurred, but at concentrations that do not require a removal or remedial action. Consequently, immediate use may begin upon completion of the transfer process for Site 1 (the Parcel).
- Site 1 can be transferred to another Federal agency for like use after completion of the requisite documentation in accordance with DoN protocol.
- Use of Site 1 (the Parcel), in its entirety, for activities similar in nature to EOD training may begin following written notice from DoN, subject to those restrictions contained in the notice which DoN finds to be necessary to protect human health and the environment, as determined by the DoN's IR process for MCAS El Toro.

6.4 CLASSIFICATION OF PARCEL 5A2 (SITE 1)

The *Base Realignment and Closure Business Plan* for MCAS El Toro (DoN 2000) provides the BCT direction as to the classification of base property into one of seven area types in order to facilitate and support either a finding of suitability to transfer (FOST) or finding of suitability to lease (FOSL). The areas are ranked in order of their suitability to transfer:

- Area Type 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas);
- Area Type 2: Areas where only release or disposal of petroleum products has occurred;
- Area Type 3: Areas where release of hazardous substances has occurred, but at concentrations that do not require a removal or remedial action;
- Area Type 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all remedial actions necessary to protect human health and the environment have been taken;

- Area Type 5: Areas where release, disposal, and/or migration of hazardous substances has occurred, and removal or remedial actions are under way, but all required remedial actions have not yet been taken;
- Area Type 6: Areas where release, disposal, and/or migration of hazardous substances has occurred, but required response actions have not yet been implemented;
- Area Type 7: Areas that have not been evaluated or require additional evaluation.

Based on a review of the *Site-Specific EBS* (Earth Tech 2001) and the *Base Realignment and Closure Business Plan* for MCAS El Toro, dated March 2000 (DoN 2000), the designation of the Parcel as Area Type 6 is still applicable, with the exception of the Subparcel. Due to low concentrations of dioxins and furans, as well as explosive constituents, the Subparcel meets the requirements for designation as Area Type 3.

7. NOTIFICATIONS AND RESTRICTIONS

7.1 NOTIFICATIONS

The environmental documents listed in Section 11 were evaluated to identify environmental factors that may warrant constraints in order to assure that the intended use of the Parcel is consistent with the protection of human health and the environment. The following require notifications:

- Presence of California gnatcatcher and Riverside fairy shrimp (Federally threatened species) within the Parcel;
- Bunker constructed of ammunition boxes filled with soil that may contain detonation residue;
- Possible asbestos-containing materials (located within a block concrete building that served as the range operation building, primarily used for administrative purposes);
- Perchlorate in groundwater;
- Ordnance and explosives (OE) (including UXO) buried in the subsurface and associated chemical contamination.

7.2 RESTRICTIONS

An MOU has been made by and between the DoN, acting by and through the Commander, Marine Corps Air Bases, Western Area and the Commander, Southwest Division, Naval Facilities Engineering Command (NAVFAC), and the DoJ, acting by and through the Director in Charge, FBI, Los Angeles. The obligations required by and restrictions placed on the FBI for the transfer of the Parcel from the DoN is stated in Section C of the agreement contained in the MOU. A copy of the draft MOU is included in Appendix B. Access from the Subparcel to the remainder of Site 1 will be restricted by the installation of a new fence and security gate, located directly north of the Subparcel.

8. ENFORCEMENT AGREEMENTS

The current FFA in place for MCAS El Toro covers the Parcel. The purpose of the FFA is summarized in Section 3 of this document.

9. RESPONSIBILITY FOR EXISTING OR FUTURE ENVIRONMENTAL RESTORATION

An MOU has been made by and between the DoN, acting by and through the Commander, Marine Corps Air Bases, Western Area and the Commander, NAVFAC, and the DoJ, acting by and through the Director in Charge, FBI, Los Angeles. The responsibility for existing or future environmental restoration will be in accordance with Sections B and C of the MOU. A copy of the Draft MOU is included in Appendix B.

10. STATEMENT OF FINDING OF ENVIRONMENTAL SUITABILITY

Based on a review of existing environmental documents, the Parcel is currently considered as DoD Environmental Condition Category Area Type 6, with the Subparcel considered to be Area Type 3. Although the property potentially contains some level of contamination, the Parcel can be transferred for the proposed use, with the specified use restrictions, with acceptable risk to human health and the environment, and without interference with the environmental restoration process.

27 SEPT 01

Date



G.A. Engle
Captain, CEC, U.S. Navy
Commander, Southwest Division
Naval Facilities Engineering Command

11. REFERENCES

- Bechtel National, Inc. (BNI). 1995. *Final Work Plan Phase II Remedial Investigation/Feasibility Study*. San Diego, CA.
- Brown and Caldwell. 1986. *Initial Assessment Study of Marine Corps Air Station, El Toro, California*. San Diego, CA. May.
- Department of the Navy (DoN). 1995. *DoN Environmental Policy Memorandum 95-01. Environmental Requirements for Federal Agency-to-Agency Property Transfer at BRAC Installations*. Washington, D.C.
- _____. 2000. *Base Realignment and Closure Business Plan*. Marine Corps Air Station, El Toro, California. San Diego, CA. March.
- Earth Tech. 2001. *Site-Specific Environmental Baseline Survey Report, IRP Site 1, Explosive Ordnance Disposal Range, Marine Corps Air Station, El Toro, California*. Preliminary Draft. Honolulu. April.
- Jacobs Engineering Group, Inc. (JEG). 1993. *Draft Phase I Remedial Investigation Technical Memorandum*. Irvine, CA.
- KEA Environmental (KEA). 1998. Letter Report to Robert Montana regarding Biological Resources Report, MCAS El Toro Habitat Preserve. Prepared by Christina M. Schaefer. Attached field notes by C. Schaefer. May.
- Robert Bein, William Frost and Associates. 1999. Record of Survey, No. 99-1059. September.
- United States Corps of Engineers (USACOE). 1998. *Range Identification and Preliminary Range Assessment*. Draft. MCAS El Toro. St. Louis, MO. March.

Appendix A
National Environmental Policy Act (NEPA) Compliance
Determination of Categorical Exclusion



UNITED STATES MARINE CORPS
MARINE CORPS AIR BASES WESTERN AREA MIRAMAR
P.O. BOX 452001
SAN DIEGO CA 92145-2001

DECISION MEMORANDUM

**Subj: TRANSFER OF REAL PROPERTY TO A FEDERAL AGENCY-
FEDERAL BUREAU OF INVESTIGATION FOR AN EXPLOSIVE
ORDINANCE DISPOSAL RANGE**

Ref: (a) MCO P5090.2

**End: (1) Checklist for Determination of Categorical Exclusion
(2) Site Map**

1. As required by the reference the subject proposed action has been evaluated in accordance with Title 32 Code of Federal Regulations (32 CFR) Part 775 and has been found to meet all requirements for a categorical exclusion from further documentation requirements under NEPA, as evidenced by enclosure (1).

2. **Description:** Transfer of Real Property to the Federal Bureau of Investigation for use as an Explosive Ordinance Disposal Range on former MCAS El Toro.

3. **Applicable Categorical Exclusion, 32 CFR Part 775.6(f) (17):**
"Renewals and/or initial real estate ingrats and outgrants involving existing facilities and land wherein the use does not change significantly. This includes, but is not limited to, existing federally-owned or privately-owned housing, office, storage, warehouse, and laboratory and other special purpose space."

4. **Recommendation:** The proposed action will not have a significant effect on the human environment and an Environmental Assessment or Environmental Impact Statement is not required.

APPROVED BY:

A handwritten signature in black ink that reads "Wayne D. Lee".

WAYNE D. LEE

**Chairman, Environmental Impact Review Board
By direction of the Commander**

10 July 2001
Date

CHECKLIST FOR DETERMINATION OF CATEGORICAL EXCLUSION

Would the Proposed Action:	Yes	No	Notes
1. Have an adverse affect on health or safety?		x	
2. Adversely affect a site that includes wetlands?		x	
3. Adversely affect a site that includes endangered or threatened species?		x	
4. Adversely affect a site that includes historic, cultural or archeological resources?		x	
5. Adversely affect a site that involves hazardous waste?		x	
6. Have effects on the human environment that are highly uncertain, unique or unknown risks, or that are scientifically controversial?		x	
7. Establish precedents or make decisions in principle for future actions with significant effects?		x	
8. Threaten a violation of Federal, State, or Local Laws or requirements imposed for the protection of the environment?		x*	
9. Is the proposed action one that would normally require an EA per Section 5303, MCO P5090.2?		x	
10. Is the proposed action one that would normally require an EIS per Section 5307, MCO P5090.2?		x	
11. Does the proposed action meet the requirements for categorical exclusion from further documentation requirements under NEPA?			x

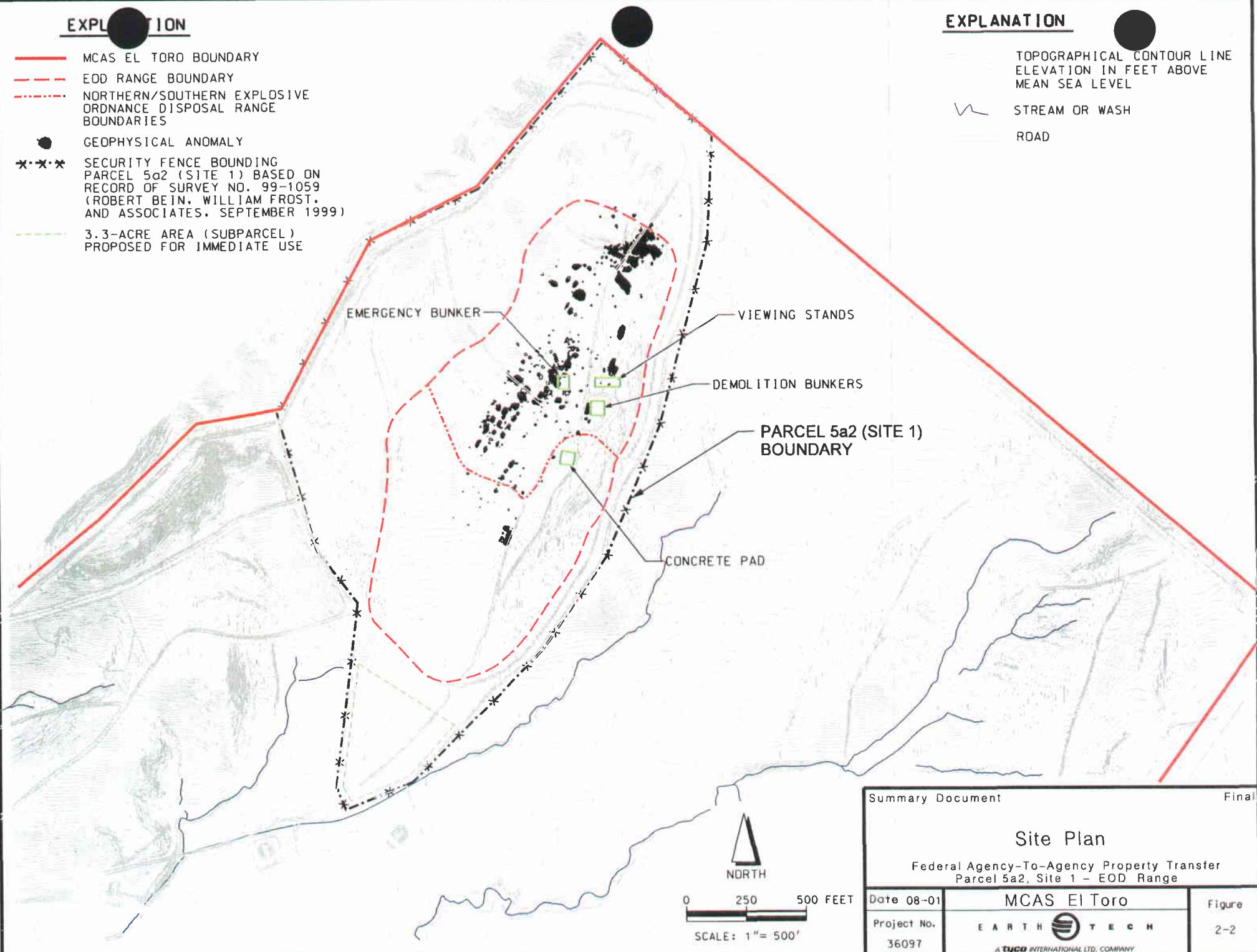
* Licensee will be required to comply with all applicable environmental regulations in conjunction with maintenance and repair activities as a condition of their facility use license.

EXPLANATION

- MCAS EL TORO BOUNDARY
- - - EOD RANGE BOUNDARY
- · - · - NORTHERN/SOUTHERN EXPLOSIVE ORDNANCE DISPOSAL RANGE BOUNDARIES
- GEOPHYSICAL ANOMALY
- *** SECURITY FENCE BOUNDING PARCEL 5a2 (SITE 1) BASED ON RECORD OF SURVEY NO. 99-1059 (ROBERT BEIN, WILLIAM FROST, AND ASSOCIATES, SEPTEMBER 1999)
- - - 3.3-ACRE AREA (SUBPARCEL) PROPOSED FOR IMMEDIATE USE

EXPLANATION

- TOPOGRAPHICAL CONTOUR LINE
ELEVATION IN FEET ABOVE MEAN SEA LEVEL
- ~ STREAM OR WASH
- ROAD



2-5

Summary Document		Final
Site Plan		
Federal Agency-To-Agency Property Transfer Parcel 5a2, Site 1 - EOD Range		
Date 08-01	MCAS El Toro	Figure
Project No. 36097	 EARTH TECH A tyco INTERNATIONAL LTD. COMPANY	2-2

Appendix B
Memorandum of Understanding

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MEMORANDUM OF UNDERSTANDING

This is a Memorandum of Understanding (MOU), made the ___ day of ____, 2001, by and between the Department of Navy (DoN), acting by and through the Commander, Marine Corps Air Bases, Western Area, hereinafter referred to as "COMCABWEST" and the Commander, Southwest Division, Naval Facilities Engineering Command (NAVFAC), and the Department of Justice, acting by and through the Director in Charge, Federal Bureau of Investigation, Los Angeles, hereinafter referred to as "FBI".

RECITALS

Whereas, COMCABWEST is accountable for the real property at Marine Corps Air Station (MCAS) El Toro and is responsible for its care, custody control and management; and

Whereas, NAVFAC acts to implement real estate decisions made by COMCABWEST at Marine Corps installations under his command; and

Whereas, MCAS El Toro was closed in July 1999, pursuant to the Defense Base Closure and Realignment Act of 1990, and assigned units relocated to MCAS Miramar and MCAS Camp Pendleton; and

Whereas, MCAS El Toro contains a parcel of land consisting of approximately 74 acres improved with several minor structures, which was used by DoN as an explosive ordnance disposal (EOD) range ("the Parcel"). The Parcel is depicted on the map labeled Exhibit A, which is attached hereto. Within the Parcel is a triangular subparcel consisting of approximately three acres of land ("the Subparcel"). The Subparcel is also shown on Exhibit A; and

Whereas, the FBI wishes to acquire the Parcel as the El Toro EOD Facility and has submitted an appropriate request for transfer pursuant to Department of Defense (DoD) regulations implementing the Defense Base Closure and Realignment Act of 1990. A copy of the GSA Form 1334 related to the request for transfer is attached hereto as Exhibit B; and

Whereas, a federal agency-to-agency property transfer environmental summary document has been prepared by DoN in connection with the proposed transfer pursuant to *DoN Environmental Policy Memorandum 95-01: Environmental Requirements for Federal Agency-to-Agency Property Transfer at BRAC Installations* (DoN 1995), the contents of which have been concurred in by the FBI, U.S. Environmental Protection Agency (EPA), Cal-EPA Department of Toxic

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Substances Control (DTSC), and the California Regional Water Quality Control Board (RWQCB) Santa Ana Region; and

Whereas, the environmental summary document discloses that, with the exception of the Subparcel, a release and/or migration of hazardous material has occurred on the Parcel, but all required response actions have not yet been taken with respect thereto; and

Whereas, DoN has provided the FBI with the Environmental Baseline Survey dated April 1995, and the Base Realignment and Closure Cleanup Plan (BCP), dated March 1999, together with those additional documents referenced in the environmental summary document, all of which provide information on the environmental condition of the Parcel.

In the context of the foregoing recitals, which form a part of the agreement, the Parties have entered into the following

AGREEMENT

A. The Parties agree that:

1. They shall provide support to one another in obtaining necessary federal authorizations or approvals to effect the transfer of the Parcel from DoN to FBI.
2. All actions required to effect the transfer of the Parcel are expressly conditioned on the availability of appropriations.

B. DoN obligations:

1. DoN, subject to authorization from the Secretary of the Navy, agrees to facilitate the transfer of the Parcel as follows:
 - a. Transfer the Parcel to the FBI as soon as possible, with an expected transfer date of September 1, 2001.
 - b. Provide FBI with all real estate acquisition documentation and outlease information related to the Parcel prior to transfer.
 - c. Provide continued security for the Parcel until transfer of the Parcel.
2. Except as provided in paragraph C below:

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a. DoN shall be solely responsible for, and shall conduct any necessary remediation to protect human health and the environment under and in accordance with applicable law and DoD and DoN policies (including the requirement to obtain any necessary permits or approvals) of all contamination, whether known at the time of transfer or subsequently discovered, attributable to the use, management, storage, release, or disposal of hazardous materials, substances, wastes, or petroleum products during the DoN occupancy and use of the Parcel. The term "hazardous material" as used in this MOU means any material that is identified as a hazardous, toxic or solid substance, waste, pollutant or contaminant under federal or state law, including but not limited to hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9601, *et seq.*, as well as ordnance and explosives, and petroleum and petroleum derivatives.

b. DoN shall assume responsibility for, and will defend against, any claims, administrative orders, penalties, and liability of any kind, including claims for environmental response costs, ordnance and explosive removal, personal injury and property damage solely arising from and relating to:

1) The use, management, storage, release, or disposal of hazardous materials, substances, wastes, or petroleum products on the Parcel during DoN's ownership and control of the Parcel and which remain on the Parcel after the date of transfer (except when the acts of omissions of FBI or any other person aggravates or exacerbates such releases, or interferes with the implementation of ongoing investigations or the selected response.

2) Any acts or omissions of the DoN, its employees, agents, or contractors on or relating to the Parcel occurring after the date of transfer;

3) Any hazardous materials, substances, wastes, or petroleum products that may come to be located on the Parcel after the date of transfer solely as a result of the acts or omissions of DoN, its employees, agents, or contractors.

3. In accordance with the provisions of 28 CFR 14.2, DoN shall manage claims asserted under the Federal Tort Claims Act that arise from any failure of DoN to carry out responsibilities set forth in this MOU.

C. FBI obligations and restrictions:

1. FBI shall restrict its use of the Parcel to the area of the Subparcel until such time as DoN gives it written notice that some or all of the remainder of the Parcel is suitable for its use. Said written notice may contain restrictions which

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DoN finds to be necessary to protect human health and the environment. The FBI shall comply with such restrictions.

2. FBI shall not use the Parcel for any purpose other than as an EOD range and facility, in a manner consistent with its prior use by DoN. It is understood by the parties that response actions, if any, to be conducted by DoN will be based on the contemplation of such limited use and that should FBI choose to use the Parcel for any other use at some time in the future, any additional remediation and environmental analysis required as a result of such use shall be the sole responsibility of FBI, notwithstanding any other provision of this MOU to the contrary.

3. FBI shall be solely responsible for the management and operation of the EOD range and facility, including applying for, obtaining and complying with any regulatory permits that may be required for such operation, conducting Section 7 consultation with U.S. Fish and Wildlife Service, as required, and for compliance with all applicable federal and state environmental, public health, cultural and natural resource protection laws and regulations at the Parcel.

4. FBI shall permit access to the Parcel by DoN or its employees, agents or contractors and Federal Facilities Agreement (FFA) Signatories (USEPA, DTSC and the Santa Ana RWQCB). Access shall be permitted to allow DoN and FFA Signatories to conduct any necessary site investigation or response actions, which may be required under applicable law. Use of the Parcel by FBI shall not interfere with such investigation and actions.

5. FBI shall be responsible for responding to the following releases as the federal landowner and lead federal agency:

a. Future releases of any hazardous materials, substances, wastes, or petroleum products at or from the Parcel, which occur after the transfer other than, those caused by DoN or its employees, agents or contractors.

b. Existing releases of any hazardous materials, substances, wastes, or petroleum products at or from the Parcel that are aggravated or exacerbated after the date of transfer by the act or omission of FBI or any person other than DoN or its employees, agents or contractors.

c. With regard to releases of hazardous materials, substances, wastes, or petroleum products existing at the time of transfer, DoN will provide FBI with a list, describing the nature and location of such materials which, to the best of its knowledge, currently exist at the site. FBI will carefully review the documents described in the final paragraph of the Recitals in an effort to ensure

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that any actions or omissions of its employees will not serve to aggravate or exacerbate the conditions following transfer.

6. FBI shall manage claims asserted under the Federal Tort Claims Act in accordance with the provisions of 28 CFR 14.2, except as provided in Section B.3.

D. Miscellaneous provisions:

1. This MOU represents the entire agreement of the parties and may be modified only by written agreement of the parties.

2. In entering into this MOU, DoN, COMCABWEST and FBI recognize that it is impracticable to make provisions for every contingency that may arise during the term of this MOU. DoN, COMCABWEST and FBI concur in the principle that their relationship within the framework of the MOU shall be characterized by fairness and shall be managed without detriment to the interest of any party. If, during the term of this MOU, any party has reason to believe this principle has been or will be compromised, the parties shall consult each other in a good faith endeavor to agree upon such action(s) as may be necessary to eliminate the cause(s) for the compromise.

E. The Project Manager for each party is as follows:

1. The Project Manger for COMCABWEST is:

COMCABWEST, MCAS EL TORO
Lt Col Tim Bruton
P.O. Box 51718
Irvine, CA 90024

2. The Project Manager for FBI is:

John H. Schiman
Acting Assistant Director in Charge
Federal Bureau of Investigation
11000 Wilshire Blvd. Suite 1700
Los Angeles, CA 90024

3. The Project Manager for DoN is:

BRAC Operations Officer (06CC)
Southwest Division
Naval Facilities Engineering Command
1220 Pacific Highway
San Diego, CA 92132-5190

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F. This MOU is intended only to govern the allocation of responsibility between the Department of the Navy and the FBI and to improve the internal management of the Executive Branch and is not intended to, nor does it, create any right or benefit, substantive or procedural, enforceable at law or equity by any party against the United States, its agencies, or its officers.

G. This Memorandum of Understanding is executed by:

W.G. BOWDEN
Commander
Marine Corps Air Bases Western Area

Date

John H. Schiman
Acting Assistant Director in Charge
Federal Bureau of Investigation
Los Angeles, CA

Date

G.A. Engle
Captain, CEC, U.S. Navy
Commander, Southwest Division
Naval Facilities Engineering Command

Date