

FINDING OF SUITABILITY FOR TRANSFER (FOST)

For

RIVERBANK ARMY AMMUNITION PLANT

RIVERBANK, CALIFORNIA

Parcel 2a

July 2013

**FINDING OF SUITABILITY TO TRANSFER
(FOST)
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1. PURPOSE

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of Parcel 2a at the Riverbank Army Ammunition Plant (RBAAP) for transfer consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy. In addition, the FOST includes the CERCLA Covenant, and 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

This FOST covers Parcel 2a, which hereinafter is referred to as the “Property”. The Property consists of a total of approximately 3.253 acres. There are no structures on the Property.

Figure 1 shows the site layout of RBAAP. Parcel 2a is open space that is used by a tenant for storage of recreational vehicles.

The Property is intended to be transferred by way of public sale for industrial/commercial reuse. Parcel 2a will be transferred via public sale. Any transferee(s) purchasing the property will be required under the deed to use the property for industrial/commercial use only and to comply with the land use restrictions. Parcel A will be transferred to the Riverbank Local Reuse Authority via an Economic Development Conveyance. These transfers are consistent with the conditions set forth in the Riverbank Local Redevelopment Authority’s Base Reuse Plan dated October 30, 2008. 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 U.S. Army BRAC 2005, *Environmental Condition of Property Phase I Report, Riverbank Army Ammunition Plant, Riverbank, CA, Final, 17 November 2006*, the *Final Site Investigation Report, Riverbank Army Ammunition Plant, March 2008*, and the *EDC Property & Sale Parcels 2 & 2a Soil Investigation Report, January 2013*. 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) category for the Property is as follows:

ECP Category 3: Parcel 2a

Although transfer parcel 2a has been assigned one overall ECP category, there are areas within the parcel where no known release or disposal of hazardous substances or petroleum products has occurred, including migration of these substances from adjacent areas (ECP Category 1). The ECP category for parcel 2a and the ECP category definitions is provided in Table 1 – Description of Property (Enclosure 3).

4.1. ENVIRONMENTAL INVESTIGATION SITES

There are no environmental investigation sites located on the Property. The parcel is included in groundwater study area 2010, West Open Storage, 5.93 acres. Remediation was not required at the site (See Figures 2 and 3).

All soil and groundwater investigations have been completed and no hazardous substances above regulatory limits have been identified. A summary of the site is provided in Table 1 – Description of Property (Enclosure 3). The deeds will include a land use and groundwater restriction on the Property (Figures 4 and 5 and Enclosure 5).

4.2. STORAGE, RELEASE, OR DISPOSAL OF HAZARDOUS SUBSTANCES

There is no evidence that hazardous substances were stored, released, or disposed of on the Property in excess of the 40 CFR Part 373 reportable quantities. The CERCLA 120(h)(3) Notice and Covenant at Enclosure 4 will be included in the Deed.

4.3. PETROLEUM AND PETROLEUM PRODUCTS

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

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

There is no evidence that non-UST/AST petroleum products in excess of 55 gallons were stored for one year or more on the Property.

4.4. POLYCHLORINATED BIPHENYLS (PCB)

There is no evidence that PCB-containing equipment is located or was previously located on the Property.

4.5. ASBESTOS

There are no structures on the property.

4.6. LEAD-BASED PAINT

There are no structures on the property.

4.7. RADIOLOGICAL MATERIALS

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

4.8. RADON

There are no buildings on the property. There were no radon surveys conducted on the Property.

4.9. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

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. Based on a review of existing records and available information, there is no evidence that MEC are present on the Property. In addition, the Closed, Transferring and Transferred Range/Site Inventory Report in 2003 did not identify any MEC on the Property.

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: waste disposal, storage of hazardous materials, and releases of hazardous materials. See Figure 3, Enclosure 1 for a map of the adjacent sites. The presence of these hazards on adjacent property does not present an unacceptable risk to human health and the environment because these areas have been remediated or isolated so that any contamination from them would not migrate onto to the Property.

- RBAAP-03, Groundwater Contamination. The USEPA added the RBAAP onto the National Priorities List (NPL) on February 21, 1990, primarily due to the presence of groundwater contamination (cyanide and chromium) detected on-post and off-post. The source of the groundwater contamination was the former redwood tanks in the Industrial Wastewater Treatment Plant (IWTP). Prior to the 1994 ROD, the Army installed an interim groundwater treatment system and provided alternative drinking water sources to all affected offsite residences. In 1992, the Army completed the extension of the Riverbank City water system, which connected services to all potentially affected residents. The final sitewide ROD signed

in March 1994 required expansion of the Interim Groundwater Treatment System (IGWTS) to fully capture groundwater contamination. The expanded system began operation in 1997 and is now capturing all contaminated groundwater and has resulted in decreasing contamination concentration levels. The groundwater plume has not yet reached the remediation goals of 50 µg/L for chromium and 200 µg/L for cyanide. The Second Five-Year Review determined that the groundwater remedial action is currently protective of human health and the environment (AHTNA, 2006). The plume is monitored through quarterly groundwater sampling. The results of the groundwater sampling from the third quarter of 2009 are shown on Plates 1, 2, and 3 (AHTNA, 2009). The Army is currently preparing an Explanation of Significant Differences (ESD) to conduct in-situ treatment to address chromium. Remedial actions at RBAAP-03 will continue until remedial goals have been reached. This plume does not extend under the Property to be transferred in this FOST.

The deeds will include a land use control for groundwater for the Property under this FOST (see Figure 5). The land use control will restrict groundwater use and the unauthorized alteration/disturbance of the active remediation system and the existing monitoring well network located within the boundaries of the RBAAP property. All monitoring and extraction wells are secured with locks and access to the installation is controlled by fencing and plant security personnel. No activities or actions that will damage the well heads, vaults, casing, or compromise the overall integrity of monitoring wells shall be allowed on the property.

In addition, the future property recipient(s) will be required to sign a State Land Use Covenant (SLUC) with DTSC and the Central Valley Regional Water Quality Control Board (Central Valley Water Board). The SLUC will be signed by the transferee(s) and recorded within 10 days of the Property's transfer by deed.

6. ENVIRONMENTAL REMEDIATION AGREEMENTS

The following environmental orders/agreements are applicable to RBAAP: the Federal Facility Agreement between the Army, the EPA, and the State of California signed in April 1990; the Record of Decision for RBAAP approved in March 1994; and a Corrective Action Consent Agreement signed by the Army and DTSC in June 2002. In addition, RBAAP holds a Resource Conservation and Recovery Act (RCRA) Part B Hazardous Waste Facility Permit (Permit No. CA7210020759). No remediation activities are required on the Parcel 2. The deed will include a provision reserving the Army's right to conduct remediation activities if necessary in the future (Enclosure 4).

The deed will include a restriction that prohibits the use of groundwater on the Property and prohibits residential use (Enclosure 5). Additionally, the future property recipient(s) will be required to sign a SLUC. The SLUC will be prepared and signed by the DTSC, the Central Valley Water Board, and the transferees. The SLUC will be recorded within 10 days of the Property's transfer by deed. These restrictions will be in effect until the deed provisions are terminated, removed, or modified as specified in an appropriate CERCLA decision document and protectiveness of human health and the environment can be assured by the modified restrictions or additional restrictions, if necessary.

7. REGULATORY/PUBLIC COORDINATION

The U.S. EPA Region 9, the DTSC, the Central Valley Water Board, and the public were notified of the initiation of this FOST. The public comment period was held from March 25, 2013 to April 25, 2013. Regulatory and/or public comments received during the public comment period were reviewed and incorporated, as appropriate. A copy of the regulatory/public comments will be included at Enclosure 6 and the Army Response will be included at Enclosure 7.

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 the Final Environmental Assessment for BRAC 05 Disposal and Reuse of the Riverbank Army Ammunition Plant, Riverbank, CA, March 2009. There were no encumbrances or conditions identified in the NEPA analysis as necessary to protect human health or the environment on this Property.

9. FINDING OF SUITABILITY TO TRANSFER

Based on the above information, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken and the Property is transferable under CERCLA section 120(h)(3). In addition, all Department of Defense requirements to reach a Finding of Suitability to Transfer (FOST) 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 CERCLA 120(h)(3) Covenant, and Access Provisions and Other Deed Provisions.



Thomas E. Lederle
Chief, Base Realignment and Closure Division

Enclosures

Encl 1 – Figures

Encl 2 – Environmental Documentation

Encl 3 – Table 1 -- Description of Property

Encl 4 – CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions

Encl 5 – Environmental Protection Provisions

Encl 6 – Regulatory/Public Comments

Encl 7 – Army Response to Comments

ENCLOSURE 1

FIGURES

Figure 1: Parcel Map

Figure 2: ECP Study Sections

Figure 3: IRP Sites, SWMUs, and AOCs

Figure 4: RBAAP General Production and Operation Areas Subject to Land Use Restrictions

Figure 5: Area of On-Site Groundwater Use Restrictions RBAAP

Plate 1: RBAAP A Aquifer Zone Groundwater Elevation Contours with Fourth Quarter 2012 Chromium and Cyanide Concentrations

Plate 2: RBAAP A' Aquifer Zone Groundwater Elevation Contours with Fourth Quarter 2012 Chromium and Cyanide Concentrations

Plate 3: RBAAP B Aquifer Zone Groundwater Elevation Contours with Fourth Quarter 2012 Chromium and Cyanide Concentrations

Plate 4: RBAAP C Aquifer Zone Groundwater Elevation Contours with Fourth Quarter 2012 Chromium and Cyanide Concentrations

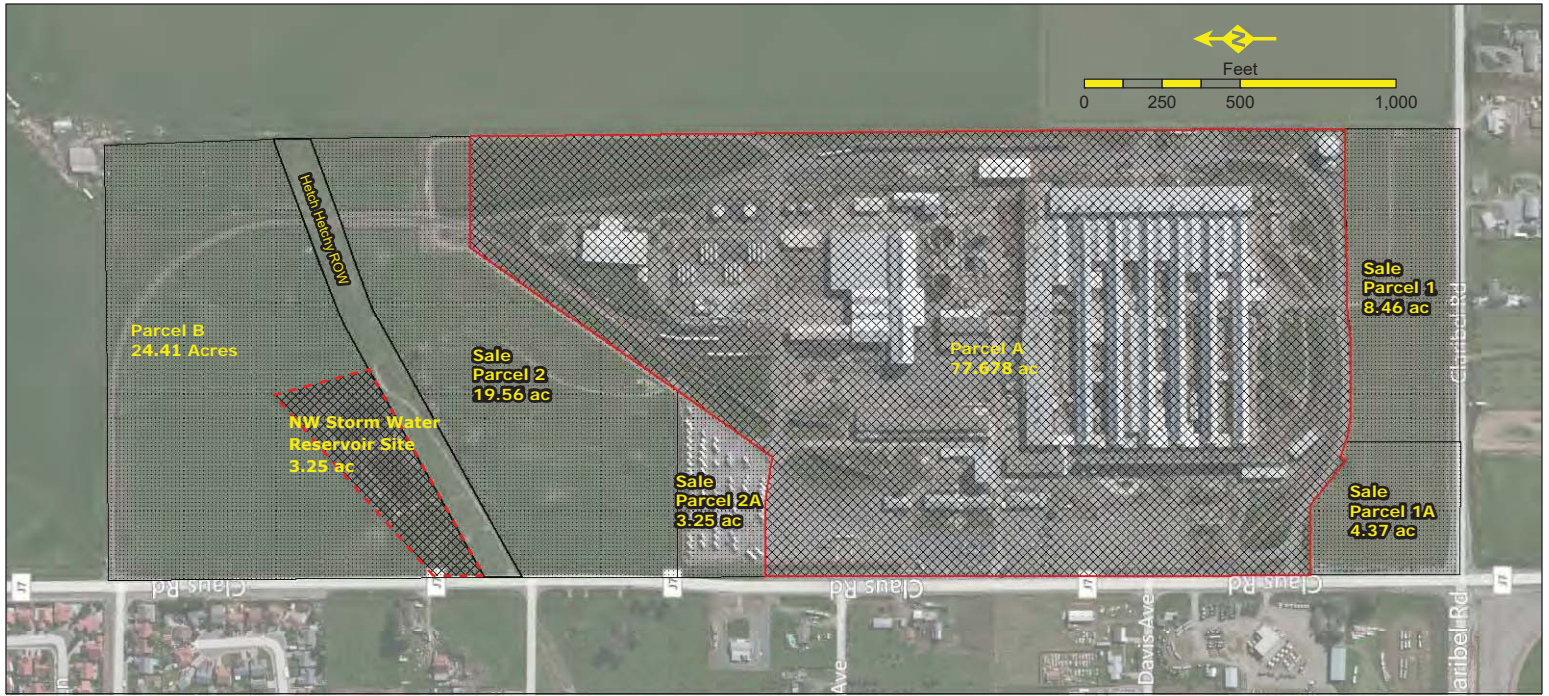


FIGURE 1.
RIVERBANK PARCEL MAP
Updated on December 3, 2012, Created on August 10, 2011.

Riverbank Army Ammunition Plant
Riverbank, California
Stanislaus County

Legend

- FOST
- FOSET
- Other
- NW StormWater Reservoir Site

Note: Parcel Boundaries are approximate.
California State Plane Coordinate System III, NAD83, Feet

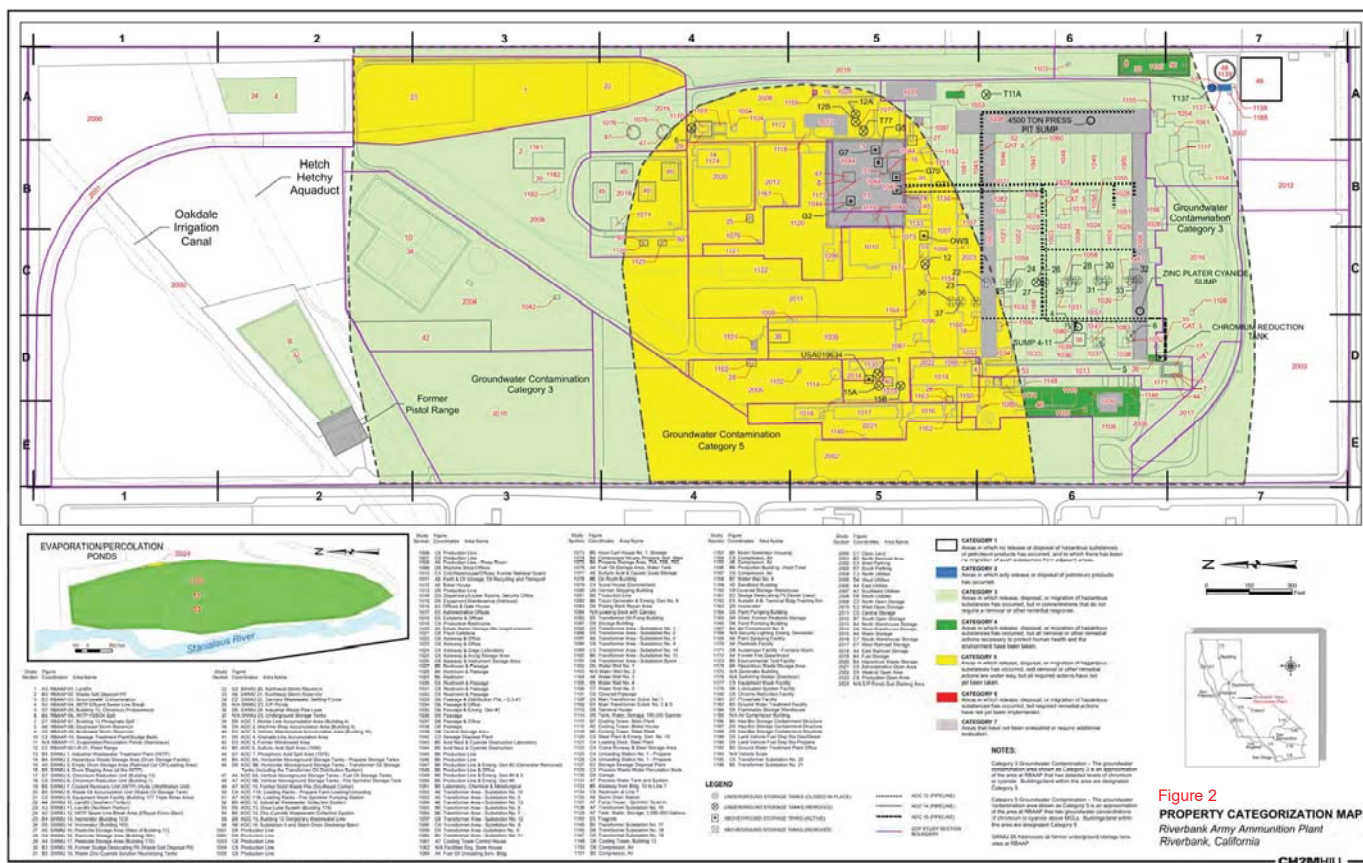
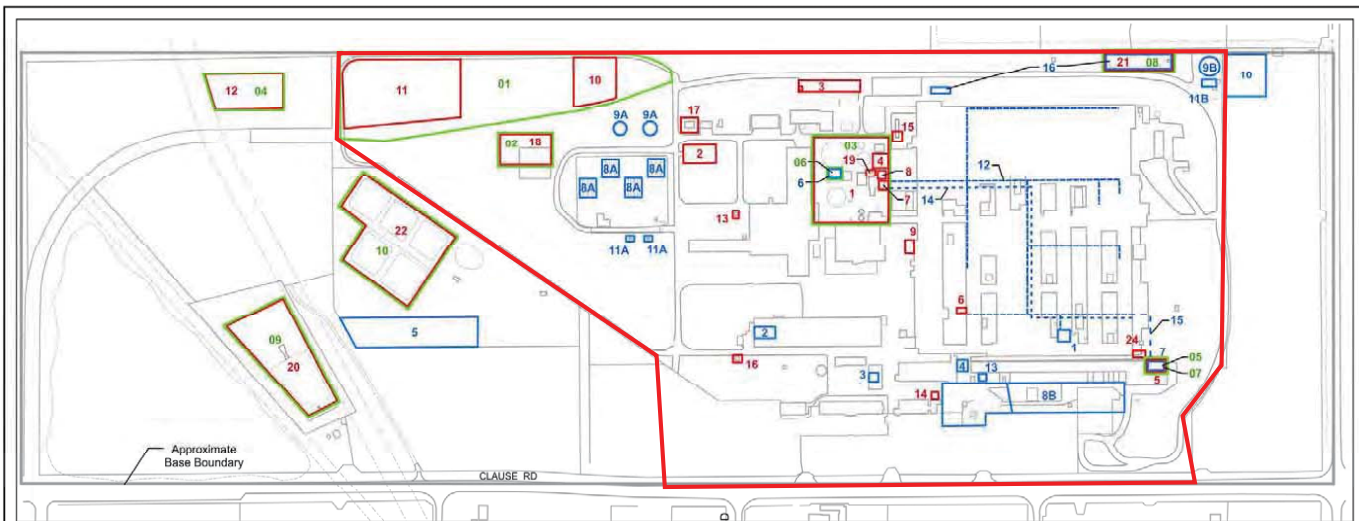


Figure 2
PROPERTY CATEGORIZATION MAP
 Riverbank Army Ammunition Plant
 Riverbank, California

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- Installation Restoration Program Sites (IRP)**
- RBAAP-01 - Landfill
 - RBAAP-02 - Waste Salt Disposal Pit
 - RBAAP-03 - Groundwater Contamination
 - RBAAP-04 - IWTP Effluent Sewer Line Break
 - RBAAP-05 - BLDG. 13, Chromium Treatment
 - RBAAP-06 - IWTP H2SO4 Spill
 - RBAAP-07 - BLDG. 13 Phosphate Spill
 - RBAAP-08 - OE Overfill Reservoir
 - RBAAP-09 - NW Storm Reservoir
 - RBAAP-10 - Sewage Treatment Plant/Sludge Beds
 - RBAAP-11 - Evaporation/Percolation Ponds (Stanislaus)

Solid Waste Management Units (SWMU)

- SWMU 1 - Industrial Wastewater Treatment Plant (IWTP)
- SWMU 2 - Hazardous Waste Storage Area (Drum Storage Facility)
- SWMU 3 - Empty Drum Storage Area (Railroad Car Off-Loading Area)
- SWMU 4 - Drum Staging Area (at the IWTP)
- SWMU 5 - Chromium Reduction Unit (Building 13)
- SWMU 6 - Chromium Reduction Unit (Building 1)
- SWMU 7 - Coolant Recovery Unit (at the IWTP) (Hyde Ultra Filtration Unit)
- SWMU 8 - Waste Oil Accumulation Unit (Waste Oil Storage Tank)
- SWMU 9 - Equipment Wash Facility (Triebe Rinse Area)
- SWMU 10 - Landfill (Southern Portion)
- SWMU 11 - Landfill (Northern Portion)
- SWMU 12 - IWTP Sewer Line Break Area (Effluent Force Main)
- SWMU 13 - Incinerator (Building 123)
- SWMU 14 - Incinerator (Building 163)
- SWMU 15 - Pesticide Storage Area (Building 111)
- SWMU 16 - Pesticide Storage Area (Building 165)
- SWMU 17 - Pesticide Storage Area (Building 170)
- SWMU 18 - Former Sludge Dewatering Pit (Waste Salt Disposal Pit)
- SWMU 19 - Waste Zinc-Cyanide Solution Neutralizing Tanks
- SWMU 20 - Northwest Storm Reservoir
- SWMU 21 - Southeast Storm Reservoir
- SWMU 22 - E/P Ponds
- SWMU 23 - E/P Ponds
- SWMU 24 - Industrial Waste Pipe Leak
- SWMU 25 - Underground Storage Tanks

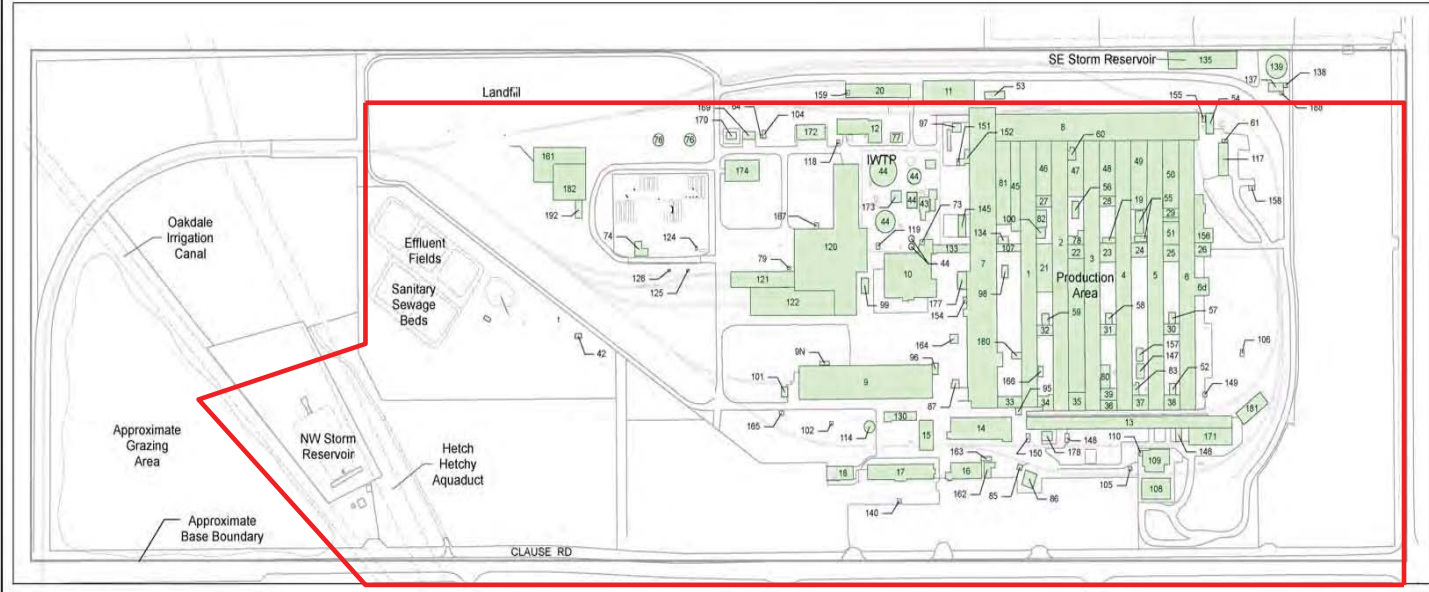
Areas of Concern (AOC)

- AOC 1 - Mortar Line Accumulation Area (Building 4)
- AOC 2 - Machine Shop Accumulation Area (Building 9)
- AOC 3 - Vehicle Maintenance Accumulation Area (Building 15)
- AOC 4 - Grenade Line Accumulation Area
- AOC 5 - Former Windrowed Area
- AOC 6 - Sulfuric Acid Spill Area (1956)
- AOC 7 - Phosphoric Acid Spill Area (1978)
- AOC 8 - Horizontal Aboveground Storage Tanks
- AOC 9 - Vertical Aboveground Storage Tanks
- AOC 10 - Former Solid Waste Pile (Southeast Corner)
- AOC 11 - Loading Racks
- AOC 12 - Industrial Wastewater Collection System
- AOC 13 - Draw Lube System (Building 170)
- AOC 14 - Zinc-Cyanide Wastewater Collection System
- AOC 15 - Building 13 Temporary Wastewater Line
- AOC 16 - Substation 5



FIGURE 3
 IRP SITES, SWMUs, AND AOCs
 Riverbank Army Ammunition Plant
 Riverbank, California

CH2MHILL



Legend:

- Approximate Boundary of the RBAAP General Production and Operation Areas Subject to Land Use Restrictions
- Buildings

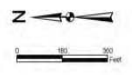
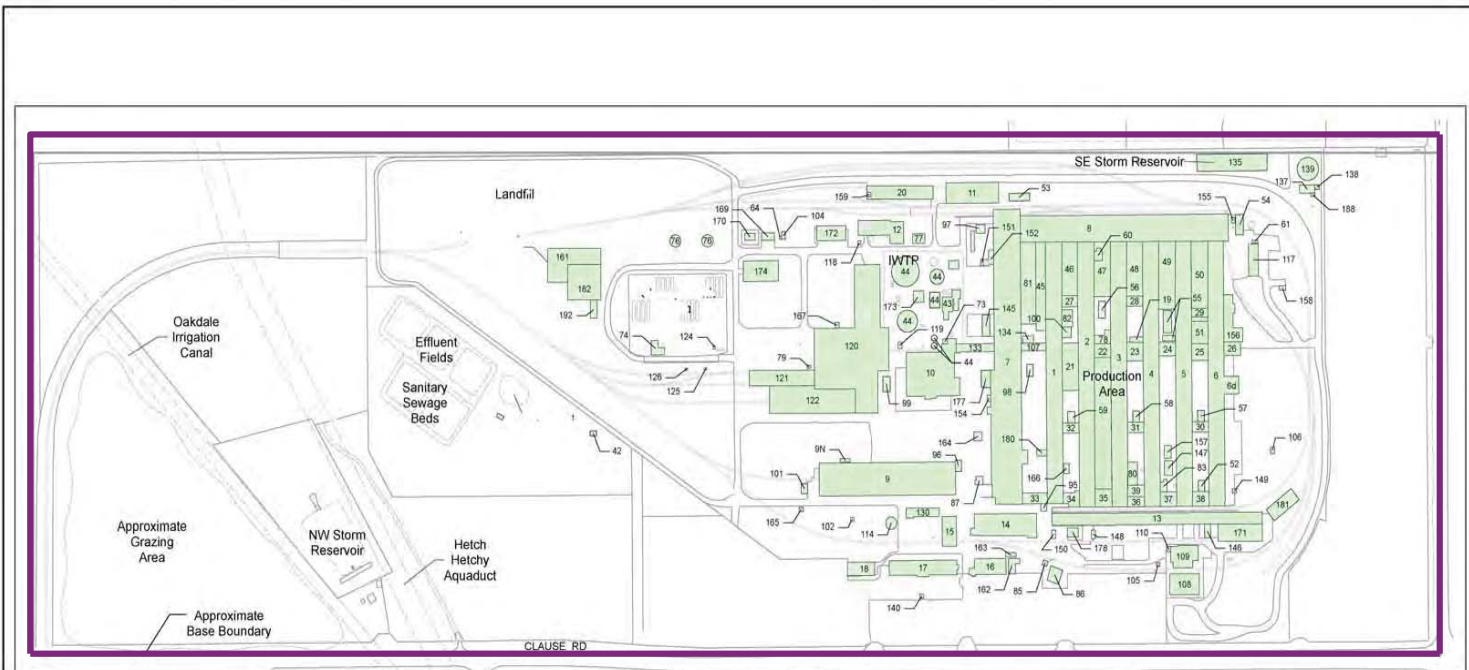


Figure 4
RBAAP General Production and Operation Areas Subject to Land Use Restrictions

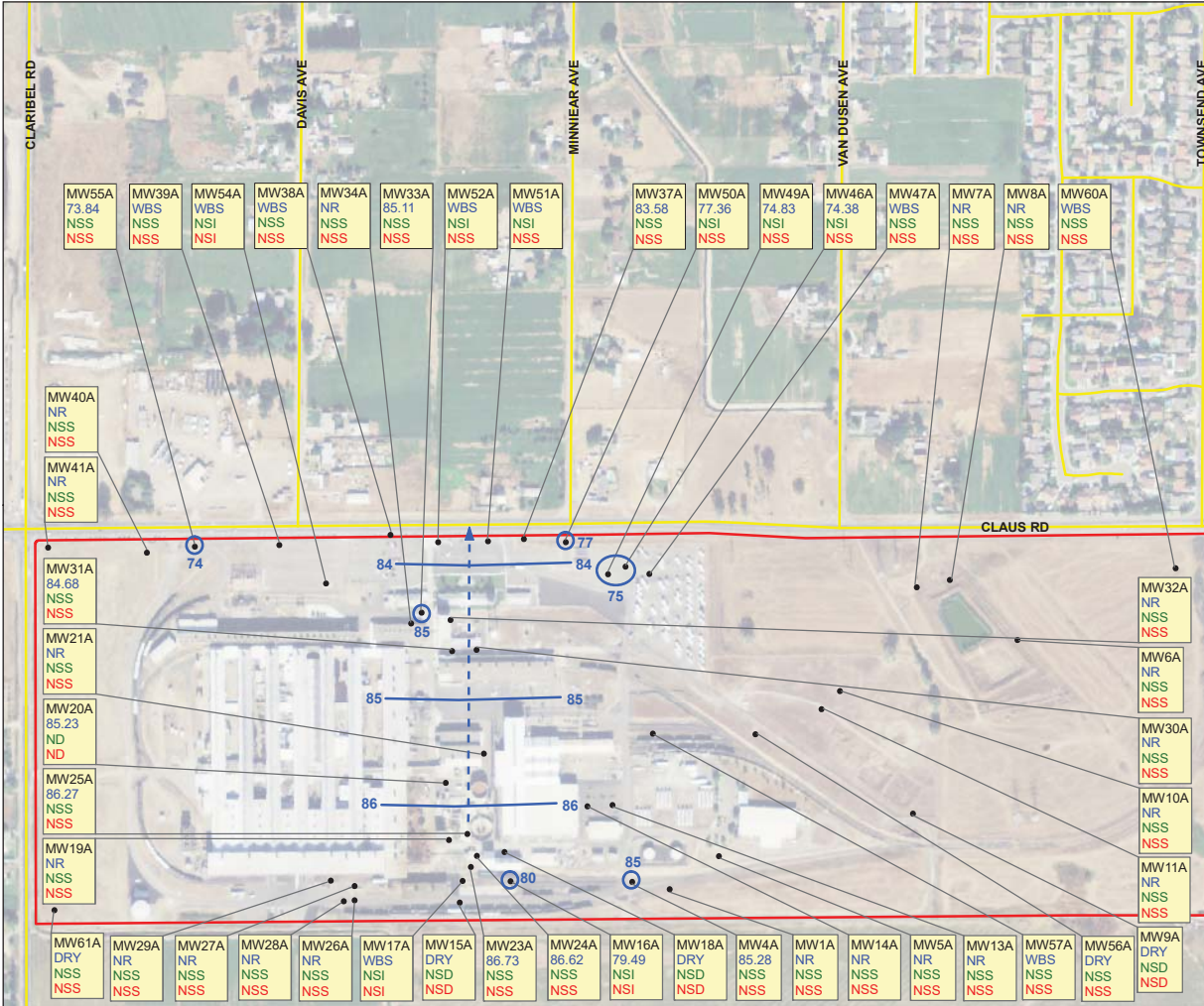


Legend:

- Approximate Facility Boundary defining Area of On-Site Groundwater Use Restriction.
- Building



Figure 5
Area of On-Site Groundwater Use Restrictions RBAAP



- Monitoring Well
- RBAAP Boundary
- Road

Groundwater

- Groundwater Elevation Contour
- 71 Groundwater Elevation (feet)
- NR Not Recorded
- WBS Water Level Below Screen
- Predominate Groundwater Gradient

Chromium

- ND Non-detect
- NS Not Sampled - Not Scheduled
- NSI Not Sampled - Insufficient Water Level
- NSD Not Sampled - Dry

Cyanide

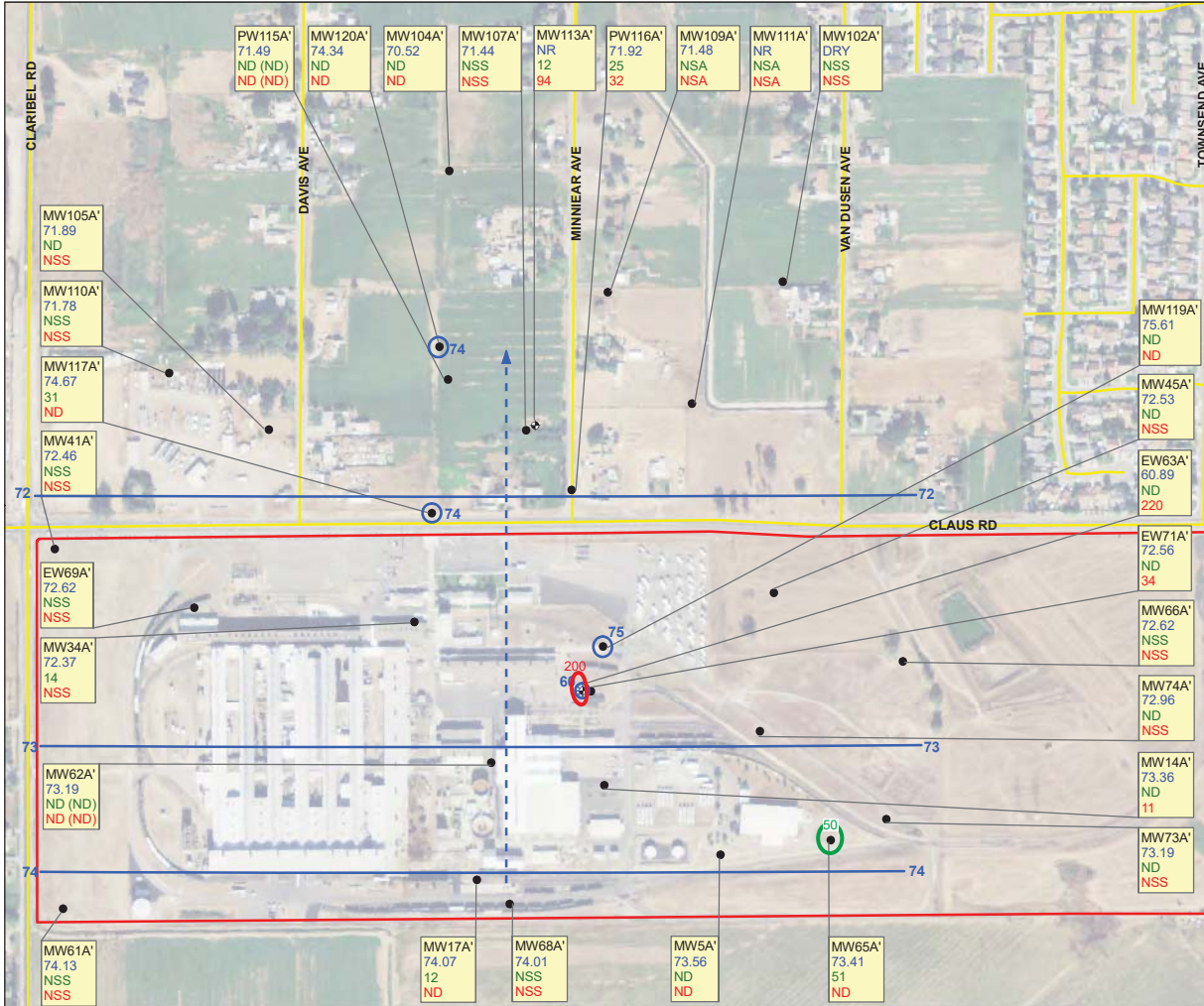
- ND Non-detect
- NSS Not Sampled - Not Scheduled
- NSI Not Sampled - Insufficient Water Level
- NSD Not Sampled - Dry

0 140 280 560 840 1,120 Feet

Source: Color Air Photo NAIP 2006, 1 Meter

A-Zone Groundwater Elevation and Isoconcentration Contours Plate 1

2012 Fourth Quarter (Semiannual) Groundwater Monitoring & Landfill Post-Closure Report
Riverbank Army Ammunition Plant
Riverbank, California



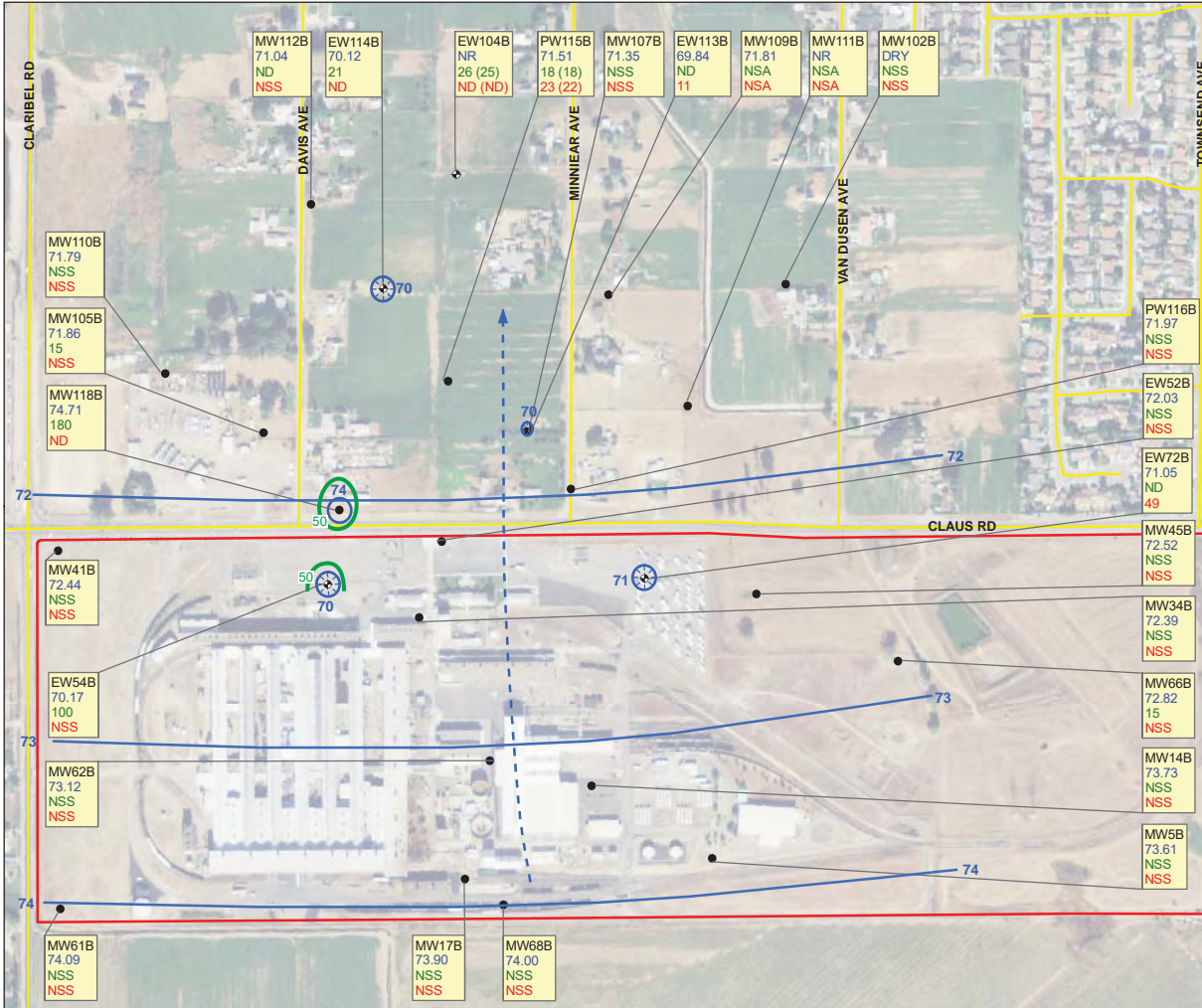
	Active Extraction Well
	Monitoring Well
	RBAAP Boundary
	Road
Groundwater	
	Groundwater Elevation Contour
71	Groundwater Elevation (feet)
NR	No Measurement Recorded
	Predominate Groundwater Gradient
Chromium	
	Chromium Isoconcentration Contour (µg/L)
72.25	Chromium Concentration (µg/L)
NSA	Not Sampled - Access Denied
NSS	Not Sampled - Not Scheduled
ND	Non-detect
()	Duplicate Sample
Cyanide	
	Cyanide Isoconcentration Contour (µg/L)
72.25	Cyanide Concentration (µg/L)
NSA	Not Sampled - Access Denied
NSS	Not Sampled - Not Scheduled
ND	Non-detect
()	Duplicate Sample

0 140 280 560 840 1,120 Feet

Source: Color Air Photo NAIP 2006, 1 Meter

A'-Zone Groundwater Elevation and Isoconcentration Contours Plate 2

2012 Fourth Quarter (Semiannual)
Groundwater Monitoring &
Landfill Post-Closure Report
Riverbank Army Ammunition Plant
Riverbank, California



* Active Extraction Well
 • Monitoring Well
 □ RBAAP Boundary
 — Road

Groundwater

- Groundwater Elevation Contour
- 71 Groundwater Elevation (feet)
- NR No Measurement Recorded
- - - Predominate Groundwater Gradient

Chromium

- Chromium Isoconcentration Contour (µg/L)
- 72.25 Chromium Concentration (µg/L)
- NSA Not Sampled - Access Denied
- NSS Not Sampled - Not Scheduled
- ND Non-detect
- () Duplicate Sample

Cyanide

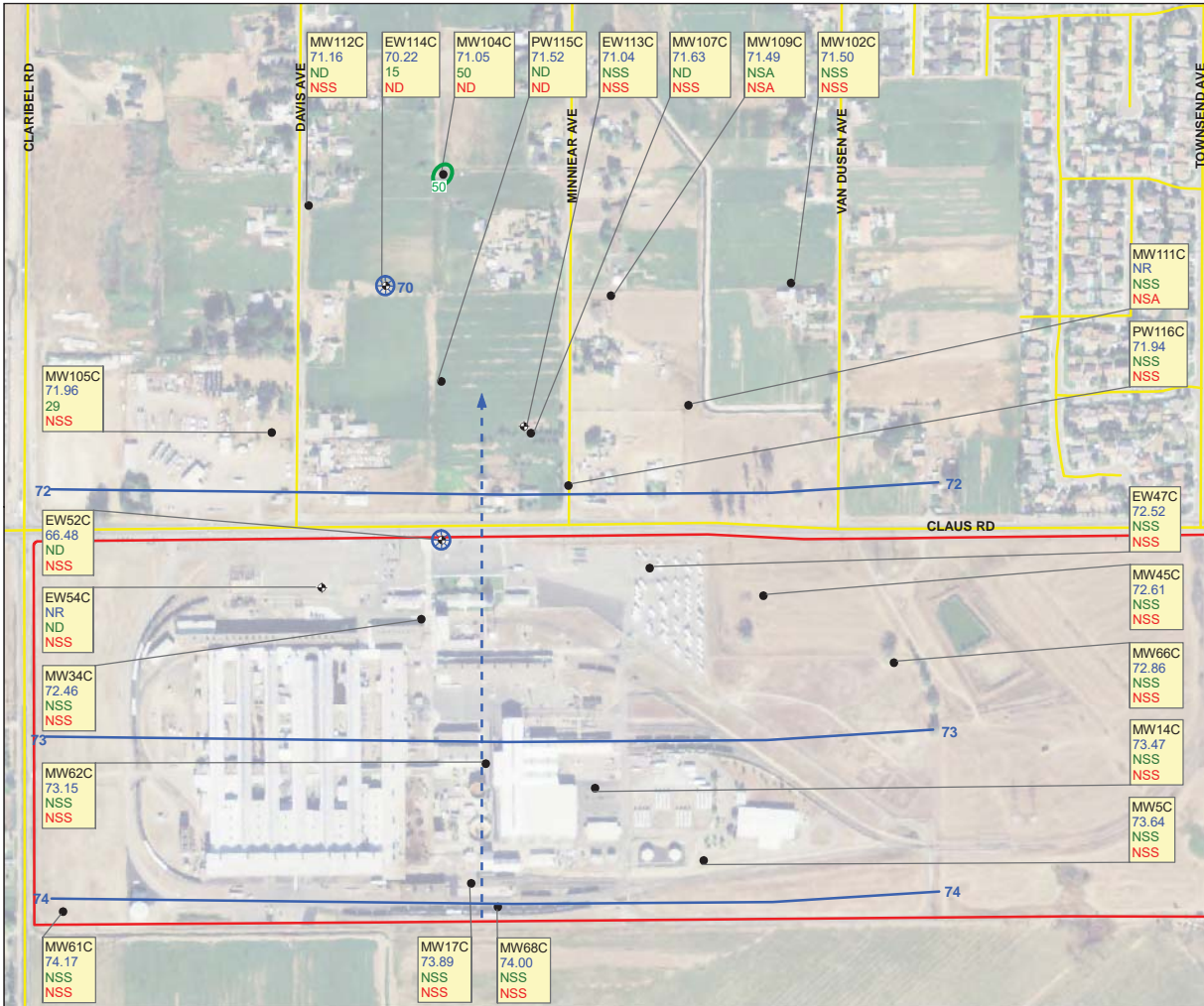
- Cyanide Isoconcentration Contour (µg/L)
- 72.25 Cyanide Concentration (µg/L)
- NSA Not Sampled - Access Denied
- NSS Not Sampled - Not Scheduled
- ND Non-detect
- () Duplicate Sample

0 140 280 560 840 1,120 Feet

Source: Color Air Photo NAIP 2006, 1 Meter

B-Zone Groundwater Elevation and Isoconcentration Contours Plate 3

2012 Fourth Quarter (Semiannual)
 Groundwater Monitoring &
 Landfill Post-Closure Report
 Riverbank Army Ammunition Plant
 Riverbank, California



◆ Active Extraction Well
 ● Monitoring Well
 □ RBAAP Boundary
 — Road

Groundwater
 — C-zone Groundwater Elevation Contour
 71 Groundwater Elevation (feet)
 NR No Measurement Recorded
 - - - Predominate Groundwater Gradient

Chromium
 — Chromium Isoconcentration Contour (µg/L)
 72.25 Chromium Concentration (µg/L)
 NSA Not Sampled - Access Denied
 NSS Not Sampled - Not Scheduled
 ND Non-detect
 () Duplicate Sample

Cyanide
 72.25 Cyanide Concentration (µg/L)
 NSA Not Sampled - Access Denied
 NSS Not Sampled - Not Scheduled
 ND Non-detect
 () Duplicate Sample

0 140 280 560 840 1,120 Feet
 Source: Color Air Photo NAIP 2006, 1 Meter

C-Zone Groundwater Elevation and Isoconcentration Contours Plate 4

2012 Fourth Quarter (Semiannual)
 Groundwater Monitoring &
 Landfill Post-Closure Report
 Riverbank Army Ammunition Plant
 Riverbank, California

ENCLOSURE 2
ENVIRONMENTAL DOCUMENTATION

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ENCLOSURE 3

TABLE 1 – DESCRIPTION OF PROPERTY

Transfer Parcel(s)^{1,2}	Area Name	ECP Study Section	ECP Category	Remedial Actions
2a	Open Space	NA	3	None. Category 3 based on groundwater contamination currently present but below MCLs for chromium and cyanide.

ECP Categories:

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.

Category 5: Areas where release, disposal, and/or migration of hazardous substances has occurred, and removal or remedial actions are underway, but all required remedial actions that have not yet been taken.

Category 6: Areas where release, disposal, and/or migration of hazardous substances has occurred, but where required actions have not yet been implemented.

Category 7: Areas that are not evaluated or that require additional evaluation.

ENCLOSURE 4

CERCLA NOTICE, COVENANT, AND ACCESS PROVISIONS AND OTHER DEED PROVISIONS

The following CERCLA Notice, Covenant, and Access Provisions, along with the 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 NOTICE

Property Covered by Access Rights and Covenants Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)):

For the property, the Grantor provides the following notice, description, and covenants and retains the following access rights:

A. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), notice is hereby provided that chromium and cyanide were released on the property.

B. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III))

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), no remedial action has been taken on the property.

C. Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)):

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(ii) and (B)), the United States warrants that -

A. All remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the property has been taken before the date of this deed, and

B. Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

This warranty shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such property.

D. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):

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 a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action 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, testpitting, 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 or employee 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 it is determined that the substance was not 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 5, 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 5

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. FEDERAL FACILITIES AGREEMENT

The Grantor acknowledges that the Riverbank Army Ammunition Plant has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The Grantee acknowledges that the Grantor has provided it with a copy of the Riverbank Army Ammunition Plant Federal Facility Agreement (FFA) dated April 5, 1990. For so long as the Property remains subject to the FFA, the Grantee, its successors and assigns, agree that they will not interfere with United States Department of the Army activities required by the FFA. In addition, should any conflict arise between the FFA and any amendment thereto and the deed provisions, the FFA provisions will take precedence. The Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property. Pursuant to and as provided in Section 25 of the FFA, the Grantee shall provide access to the EPA, the State, and their authorized representatives for purposes consistent with the FFA.

2. PESTICIDE NOTIFICATION AND COVENANT.

The Grantee is hereby notified and acknowledges that registered pesticides have been applied to the property conveyed herein and may continue to be present thereon. The Grantee further acknowledges that where a pesticide was applied by the Grantor or at the Grantor's direction, the pesticide was applied in accordance with its intended purpose and consistently with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 U.S.C. § 136, et. seq.) and other applicable laws and regulations.

The Grantee covenants and agrees that if the Grantee takes any action with regard to the property, including demolition of structures or any disturbance or removal of soil that may expose, or cause a release of, a threatened release of, or an exposure to, any such pesticide, Grantee assumes all responsibility and liability therefor.

3. LAND USE RESTRICTIONS

A. The United States Department of the Army has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of the property that would violate the land use restrictions contained herein.

(1) Residential Use Restriction. The Grantee, its successors and assigns, shall use the Property solely for commercial or industrial activities and not for residential purposes. For purposes of this provision, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

(2) Groundwater Restriction. Grantee is hereby informed and acknowledges that the groundwater under the Property has low level detections of chromium and cyanide that are below Maximum Contaminant Levels. The Grantee, its successors and assigns, shall not to access or use ground water underlying the Property for any purpose without the prior written approval of United States Department of the Army, the U.S. Environmental Protection Agency, Region 9, the Department of Toxic Substances Control, and the Regional Water Quality Control Board, Central Valley Region. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(3) Notice of Groundwater Monitoring Wells. The Grantee is hereby informed and does acknowledge the presence of groundwater monitoring wells on the Property. The Grantee, its successors and assigns shall not disturb or permit others to disturb the monitoring wells located on the Property without prior written approval from the Grantor, the U.S. Environmental Protection Agency, Region 9, the Department of Toxic Substances Control, and the Regional Water Quality Control Board, Central Valley Region. Upon the Grantor's determination that a well is no longer necessary, the Grantor will close such well at the Grantor's sole cost and expense in accordance with applicable laws, regulations, and ordinances.

B. Modifying Restrictions. Nothing contained herein shall preclude the Grantee, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, Grantee shall consult with and obtain the approval of the Grantor, and, as appropriate, the State or Federal regulators, or the local authorities. Upon the Grantee's obtaining the approval of the Grantor and, as appropriate, state or federal regulators, or local authorities, the Grantor agrees to record an amendment hereto. This recordation shall be the responsibility of the Grantee and at no additional cost to the Grantor.

C. Submissions. The Grantee, its successors and assigns, shall submit any requests to modifications to the above restrictions to Grantor and USEPA, DTSC, and the Regional Water Board, by first class mail, postage prepaid, addressed as follows:

- a. Grantor: Sacramento District, U.S. Army Corps of Engineers
Riverbank Army Ammunition Plant
P.O. Box 670
Riverbank, CA 95367-0670
- b. USEPA: Chief, Federal Facility and Site Cleanup Branch
Superfund Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street, Mail Code: SFD-8-3

San Francisco, CA 94105

c. DTSC: Chief of Northern California Operations
Office of Military Facilities
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826-3200

d. Regional Water Board:
Executive Officer
State of California
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite #200
Rancho Cordova, CA 95670-6114

ENCLOSURE 6
REGULATORY/PUBLIC COMMENTS

There were no comments during the public comment period.

ENCLOSURE 7
ARMY RESPONSE TO COMMENTS

There were no comments during the public comment period.