

**ENVIRONMENTAL
CONDITION OF PROPERTY**

PARCELS 6 AND 22

January 2003

**FORT WINGATE DEPOT ACTIVITY
GALLUP, NEW MEXICO**

PUBLIC NOTICE
Environmental Condition of Property
(ECOP)
Fort Wingate Depot Activity

Notice is hereby given that an Environmental Condition of Property has been developed to document the environmental condition of certain property know as Parcels 6 & 22 at Fort Wingate Depot Activity (FWDA), for relinquishment to the U.S. Department of Interior (DoI) for industrial use consistent with DOD, and Army Policy. This is a Federal-to-Federal transfer.

The property to be relinquished consists of approximately 1,500 acres of developed land, which includes building and structures used for munitions operations and storage.

Prior to Fort Wingate Depot Activity closure, buildings and structures on the Property were generally used to assemble, paint, repair, and test munitions. Many of the buildings were constructed between 1941 & 1943. Currently TPL INC., an independent contractor, leases buildings and structures on the Property for use in the disassembly of conventional military munitions, and reclamation of their contents for reuse as well as storage of munitions items prior to, and following disassembly.

The Army determined the Property's environmental condition through information obtained during the course of a series of environmental investigations that commenced at FWDA in 1990. This information is summarized in this ECOP.

The ECOP is available for public review, 30 days from publication of this Notice, at the U.S. Department of Interior, Bureau of Indian Affairs, Property Management Office, Gallup, NM Federal Building.

Questions concerning the ECOP should be directed to Mr. Larry Fisher, Environmental Office, Building 8, Tooele Army Depot, Tooele, UT 84074, (435) 833-3257 or e-mail at fisherl@emh2.tooele.army.mil.

**ENVIRONMENTAL CONDITION OF PROPERTY
FORT WINGATE DEPOT ACTIVITY
PARCELS 6 AND 22
GALLUP, NEW MEXICO
JANUARY 2003**

1.0 PURPOSE

The purpose of this Environmental Condition of Property is to document the environmental condition of certain property known as Parcels 6 and 22 at Fort Wingate Depot Activity (FWDA) (hereinafter referred to as "the Property") for relinquishment to the U.S. Department of Interior (DoI) for industrial use consistent with the reuse plan, dated May 1994. The ECOP identifies use restrictions as specified in the attached Environmental Protection Provisions (EPPs) necessary to protect human health or the environment and to prevent interference with any existing or planned environmental restoration activities. The determination of the suitability for this Federal-to-Federal transfer is based upon the results of the Environmental Baseline Survey (EBS), dated November 2002.

2.0 PROPERTY DESCRIPTION

The Property to be relinquished consists of approximately 1,500 acres of developed land, which includes buildings and structures used for munitions operations and storage. A site map of the Property is attached (Enclosure 1, Figures 1a & 1b). A list of the buildings and structures located on the Property is included in Enclosure 2, Table 2-1, and are shown in Enclosure 1, Figure 1c.

Prior to Fort Wingate Depot Activity (FWDA) closure, buildings and structures on the Property were generally used to assemble, disassemble, paint, repair, and test munitions. Many of the buildings were constructed between 1941 and 1943. Most are made of brick, concrete, or rock with few having finished interiors since they were used for utilitarian purposes.

Currently, TPL, Inc., an independent contractor, leases buildings and structures on the Property for use in the disassembly of conventional military munitions and reclamation of their contents for reuse as well as for the storage of munitions items prior to and following disassembly. The buildings and structures being used by TPL, Inc. are listed in Enclosure 2, Table 2-2.

3.0 ENVIRONMENTAL CONDITION OF THE PROPERTY

The Army has determined the Property's environmental condition through information obtained during the course of a series of environmental investigations that commenced at FWDA in 1990. These investigations included an Enhanced Preliminary Assessment; an installation-wide Remedial Investigation/Feasibility Study (RI/FS); a Community Environmental Response Facilitation Act (CERFA) clean parcel survey; and investigations and voluntary remediation conducted under the Resource Conservation and Recovery Act (RCRA) Corrective Action and Toxic Substances Control Act (TSCA) procedures. Much of this information is summarized in

the Environmental Baseline Survey Summary, dated November 2002. A current list of relevant documents in the Administrative Record is provided at Enclosure 3

3.1 ENVIRONMENTAL CONDITION OF PROPERTY CATEGORIES

The Department of Defense (DoD) Environmental Condition of Property (ECP) Categories for the Property are as follows:

ECP Category 1: Approximately 1487 acres. Includes undeveloped land, most buildings and Igloo Blocks B and D located in Parcels 6 & 22.

ECP Category 4: Approximately 2 acres. Includes Building 536 and the surrounding area.

ECP Category 6: Approximately 11 acres. Includes Buildings 528, 537, 539, 542, and surrounding areas.

A summary of the ECP Categories for specific buildings is provided in Enclosure 2, Table 2-3 and Enclosure 1, Figure 1d.

3.2 STORAGE, RELEASE, OR DISPOSAL OF HAZARDOUS SUBSTANCES

Hazardous substances were stored for one year or more in excess of the 40 CFR Part 373 reportable quantities in the following buildings or areas: Building 537, Igloo Block B, and Igloo Block D. Hazardous substances, in the form of Polychlorinated Biphenyls (PCB's) were released or disposed of in quantities assumed to be in excess of the 40 CFR Part 373 reportable quantities in the following buildings or areas: Building 536, and Building 537. The release or disposal of these hazardous substances at Building 536 and Building 537 are further discussed in Section 3.4 Polychlorinated Biphenyls, of this ECOP. A summary of the buildings or areas in which hazardous substances activities occurred is provided in Enclosure 2, Table 2-4.

3.3 PETROLEUM AND PETROLEUM PRODUCTS

3.3.1 STORAGE, RELEASE, OR DISPOSAL OF PETROLEUM PRODUCTS

Petroleum products were stored in excess of 55 gallons at the following location: an Underground Storage Tank (UST) near building 535. There is no evidence that petroleum or petroleum products were released or disposed on the Property.

3.3.2 UNDERGROUND AND ABOVEGROUND STORAGE TANKS (USTs/ASTs)

There was 1 underground and no aboveground storage tanks on the Property, used for storage of petroleum products. There is no evidence of petroleum product releases at the UST site. A summary of petroleum product activities is provided in Enclosure 2, Table 2-5.

3.4 POLYCHLORINATED BIPHENYLS (PCBs)

There are no transformers containing PCB's located on the Property. There is the potential for fluorescent light ballasts containing PCB's to be present on the property. No other PCB

containing equipment is located on the property. A survey to identify the location of light ballasts containing PCB's has not been conducted. Light ballasts present in the buildings on the property are considered to be in service and operational, and as such would meet labeling requirements of Federal regulations and would not be considered to be leaking. There is evidence that PCB contaminated fluids were released from PCB containing equipment at Buildings 536 and 537. Soils contaminated from the release of PCB contaminated fluids at these sites were remediated in 1998 as part of the installation restoration program. An additional PCB soil removal at Building 537 will be completed in 2003. The area that is the subject of this removal is not currently in use, and transfer of this property, subject to the use restrictions specified in Enclosure 4, Environmental Protection Provisions, will not interfere with necessary remediation at this site.

3.5 ASBESTOS

There is asbestos containing material (ACM) in the buildings on the Property listed in Enclosure 2, Table 2-6. The ACM includes exterior building shingles and roofing panels, interior ceiling and floor tile, and insulation. The ACM does not currently pose a threat to human health or the environment because all friable asbestos that posed an unacceptable risk to human health has been removed or encapsulated.

However, in consideration of current Army and Department of Defense policy, there are no plans to remove the remaining ACM on the Property. The asbestos notification and agreement found in paragraph 9.1.2 of Enclosure 4, Environmental Protection Provisions, shall be incorporated verbatim in the Letter of Relinquishment.

3.6 LEAD-BASED PAINT (LBP)

LBP testing has not been conducted on any buildings on the Property, as they do not qualify as target facilities under the Lead-Based Paint Poisoning Prevention Act, or the Residential Lead-Based Paint Hazard Reduction Act. It is presumed that all of the buildings on the Property constructed prior to 1978 contain LBP. The LBP notification and agreement found in paragraph 9.2.3 of Enclosure 4, Environmental Protection Provisions, shall be incorporated verbatim in the Letter of Relinquishment.

3.7 RADIOLOGICAL MATERIALS

Various igloos in Igloo Block B (probably B1007 or B1008, located in Parcel 6) were used to temporary bulk-store Light Antitank Weapons that had radio luminescent sights. There is no evidence that there was ever any release of radiological materials in the igloos.

The U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM) "Industrial and Environmental Radiation Historical Site Assessment" dated October 25, 1999 classified the entire installation a non-impacted area, further defined as: "Any area that has no potential for residual radiation contamination."

3.8 RADON

Radon surveys were conducted on FWDA (but not on the Property) in the following buildings: #28 (residential), # 1 (administrative), #5 (industrial), and #34 (fire station). Radon was not detected at above the EPA residential action level of 4 Pico curies per liter (pCi/L) in these buildings.

3.9 ORDNANCE AND EXPLOSIVE WASTE (OEW)

Based on a review of existing records, available information and visual site inspections, none of the Property (buildings or land) or immediately surrounding lands/buildings are known to contain OEW.

The performance of a bomb burial storage test at FWDA in the general area of Igloo Block B was identified in the FWDA Ordnance and Explosives Waste Archives Search Report, dated July 1995, and in records uncovered by a FWDA OEW contractor. Potential locations of the bomb burial storage test were subjected to a surface magnetometer survey in 1993 in an attempt to locate the reported burial area. Locations surveyed were based upon discussions with former FWDA personnel, the inspection of historical aerial photographs, and a visual helicopter flyover of the installation. Fifty-five revetment storage areas within Igloo Block B were surveyed. No evidence of buried ordnance was identified.

Further research of National Archives records produced information concerning this test. The test was conducted from 1947 to 1954 and involved the burial of 500 lb. bombs as a test for preservation of the bombs under earthen cover versus outside storage. An inspection report of the burial test, dated 26 March 1954, concluded, "all of the bombs covered by this report have been removed from the buried site and stored in open "Y" sites pending work necessary to place the bombs in suitable condition for issue."

3.10 SOLID WASTE MANAGEMENT UNITS (SWMUs)

There are four SWMUs located within the boundaries of the Property. The four SWMUs will be addressed as required under a RCRA Post Closure Care Permit (PCCP) to be issued by the New Mexico Environment Department (NMED) in the future. Enclosure 1, Figure 1d shows the general location of each SWMU.

Future actions at the four SWMUs will be addressed under the RCRA Facilities Investigation (RFI) and Corrective Measures Study (CMS) process to evaluate the implementation of site controls or active remediation. Enclosure 2, Table 2-7, provides a summary of activities conducted to date and planned future actions at each of the four SWMUs.

3.11 GROUND WATER CONTAMINATION

Field investigations conducted to determine the nature and extent of groundwater contamination resulting from the operation of the TNT Leaching Beds (located in Parcel 21) have confirmed that explosives have impacted groundwater underlying part of Parcel 6. Because of the distance

from the TNT Leaching Beds to the location of the Parcel 6 groundwater contamination (Monitoring Well TMW 11, Enclosure 1, Figure 1E) a source of explosives release other than the TNT Leaching Beds is being investigated.

SWMU 4 (Building 539 (600)) and SWMU 13F (Building 542) are the subjects of the investigation. Six monitoring wells were installed in CY 2000 in order to delineate the extent of explosives in ground water near monitoring well TMW11. Installation of additional monitoring wells may be necessary to determine ground water impacts in the Building 542 and 539 (600) areas of Parcel 6.

Ground water underlying part of Parcel 22 has been impacted by perchlorate and nitrate. Perchlorate was detected in monitoring well TMW05 (located in Parcel 22) in samples collected by NMED in July 2000. Army policy on perchlorates currently does not allow for the expenditure of environmental restoration funds for perchlorate remediation.

There are presently no receptors of the ground water contamination underlying parts of Parcels 6 & 22. There is little reason to anticipate future use of the ground water in Parcels 6 & 22, for the following reasons: there is an established, unimpacted water supply system at FWDA which services these parcels; the parcels have been identified for future industrial reuse; water supply capacity of the contaminated ground water is inadequate to support industrial reuse; and the quality of water is poor (high total dissolved solids content).

4.0 REMEDIATION

In July 2002, the Army submitted a RCRA PCCP application for the Current Open Burning/Open Detonation (OB/OD) Area at FWDA. The New Mexico Environment Department (NMED) is currently performing a technical review of that application. The various SWMU sites across the FWDA installation will be incorporated into the PCCP as sites proceeding under the RCRA Corrective Action Process. Future restoration of those sites will be accomplished in accordance with the requirements of the Corrective Action Module. Further investigations and risk assessments for the SWMU sites discussed in this ECOP have been deferred until completion of the PCCP Corrective Action Module.

Other investigations/remediation have been completed under TSCA. Required cleanups from these investigations have been completed or are in process.

5.0 REGULATORY/PUBLIC COORDINATION

The U.S. EPA Region 6, the NMED, and the public were notified of the initiation of the ECOP on 30 January 2003. Regulatory/public comments received during the ECOP development were reviewed and incorporated as appropriate. A copy of the regulatory/public comments is included in Enclosure 5.

6.0 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE AND CONSISTENCY WITH LOCAL REUSE PLAN

The environmental impacts associated with proposed relinquishment of the Property have been analyzed in accordance with NEPA. The results of this analysis have been documented in the Final Environmental Assessment, Disposal of a Portion of Fort Wingate Depot Activity, New Mexico, dated August 1995. The environmental effect of the activities anticipated under the proposed transfer was determined not to be significant. In addition, the proposed transfer is consistent with the intended reuse of the property as set forth in the Pueblo of Zuni Land Use Plan and the Navajo Nation Economic Reuse Master Plan, dated May 1994.

7.0 ENVIRONMENTAL PROTECTION PROVISIONS

The Property can be reused in its present condition, with restrictions, without unacceptable risk to human health and the environment, and without interference with the ongoing Army environmental restoration program. The relevant portions of this ECOP and referenced EBS will be referred to in the document of relinquishment prepared for the Property.

Property use restrictions, access easements, continuing Army environmental response action warrants, and hazardous substance notifications and covenants are provided in Enclosure 4, Environmental Protection Provisions.

8.0 FINDING OF SUITABILITY TO TRANSFER

Based on the above, the Property is determined to be suitable for immediate relinquishment to the DoI, subject to terms and conditions set forth in the attached Environmental Protection Provisions, for industrial use.

Raymond J. Fatz
Deputy Assistant Secretary of the Army
(Environmental, Safety and Occupational Health)
OASA(I&E)

Date: _____

Enclosures

Encl. 1-Figures

Encl. 2-Tables

Encl. 3-Administrative Record

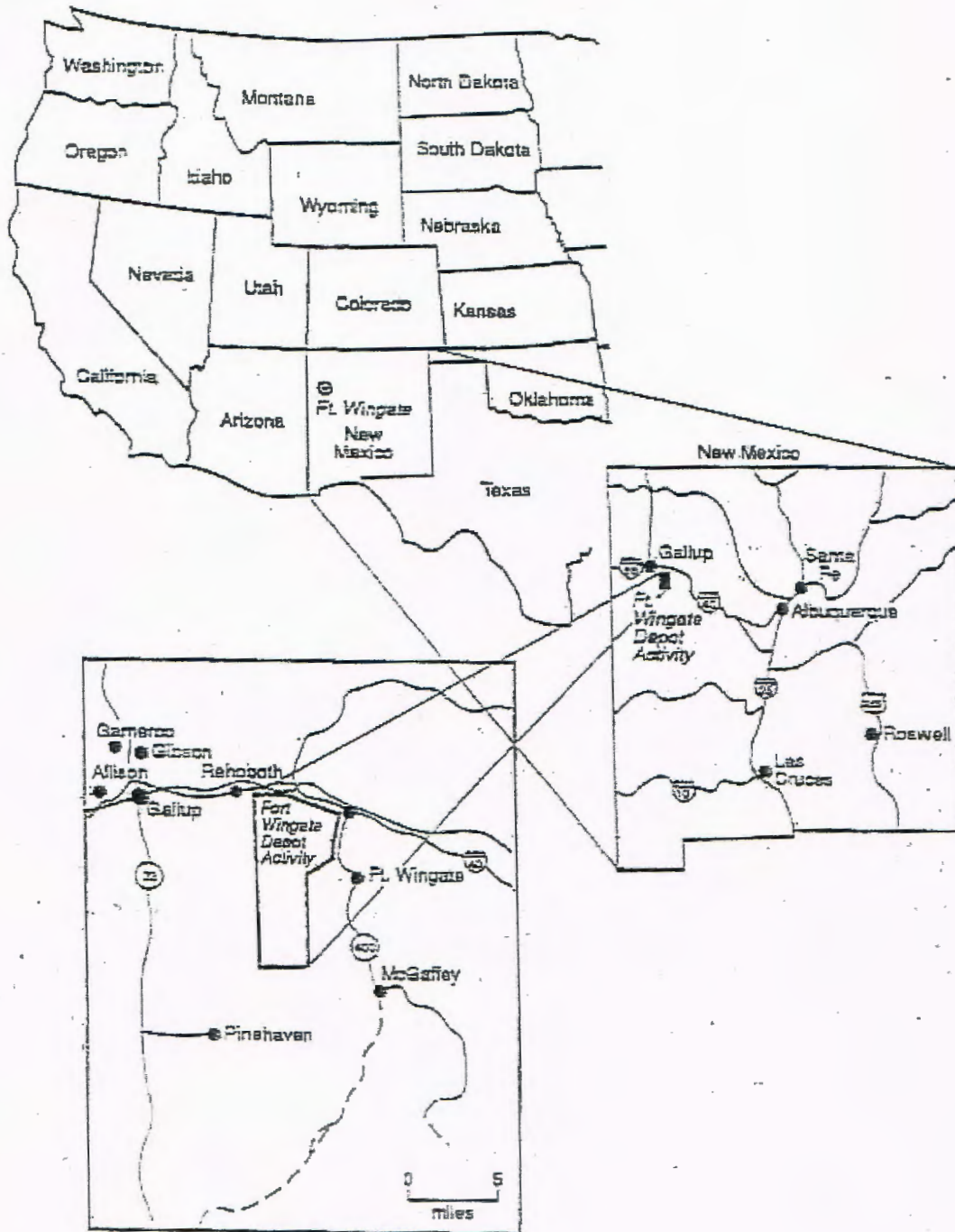
Encl. 4- Environmental Protection Provisions

Encl. 5-Public Review Comments

ENCLOSURE 1

SITE AND REUSE PARCEL MAPS

Installation Location Fort Wingate Depot Activity Gallup, New Mexico



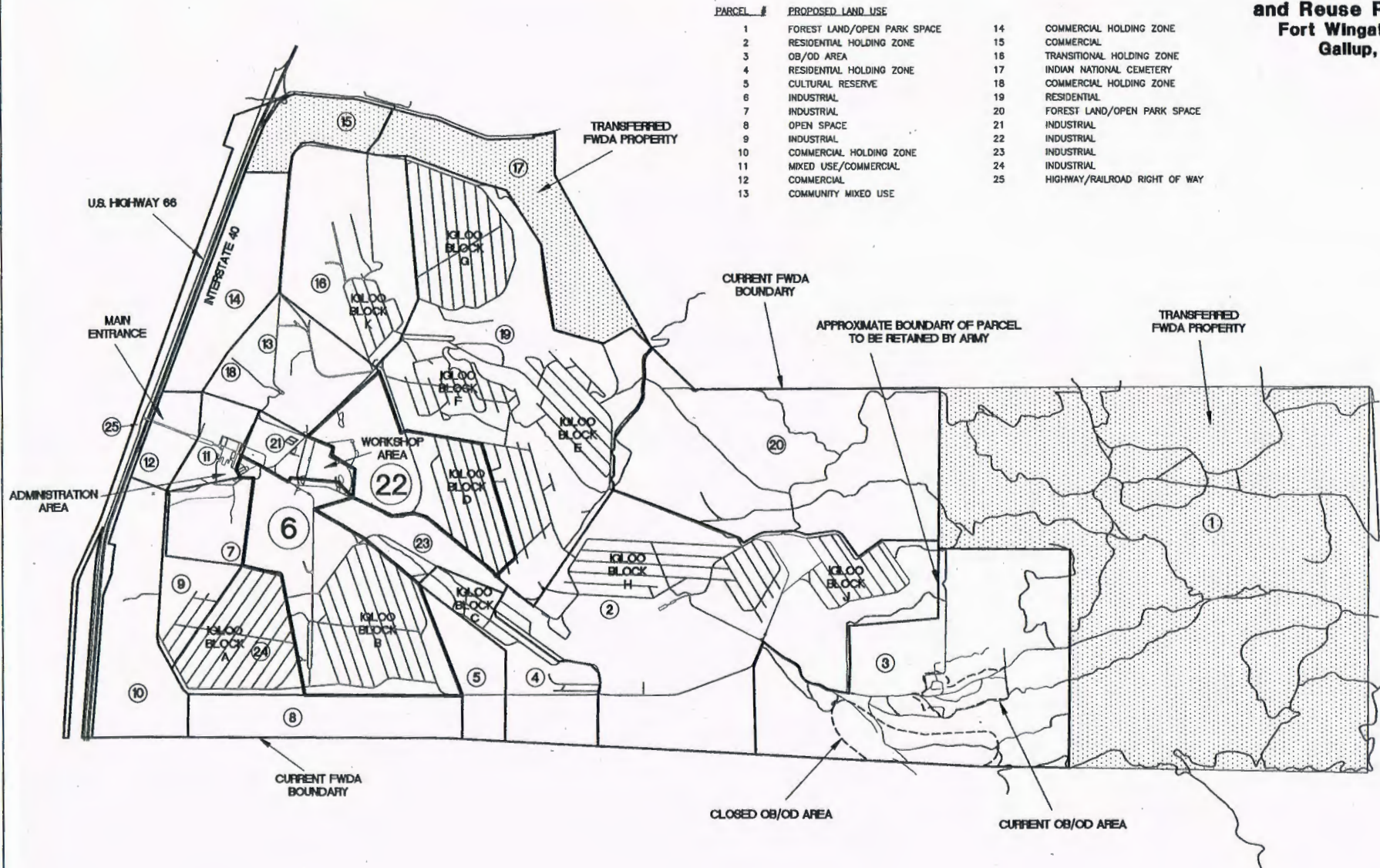
URCS "MASTER ENVIRONMENTAL PLAN: WINGATE DEPOT ACTIVITY, GALLUP, NEW MEXICO," DECEMBER 1990.



NOT TO SCALE

Figure 1a

Figure 1B
Historical Land Use
and Reuse Parcel Boundaries
Fort Wingate Depot Activity
Gallup, New Mexico



PARCEL #	PROPOSED LAND USE
1	FOREST LAND/OPEN PARK SPACE
2	RESIDENTIAL HOLDING ZONE
3	OB/OD AREA
4	RESIDENTIAL HOLDING ZONE
5	CULTURAL RESERVE
6	INDUSTRIAL
7	INDUSTRIAL
8	OPEN SPACE
9	INDUSTRIAL
10	COMMERCIAL HOLDING ZONE
11	MIXED USE/COMMERCIAL
12	COMMERCIAL
13	COMMUNITY MIXED USE
14	COMMERCIAL HOLDING ZONE
15	COMMERCIAL
16	TRANSITIONAL HOLDING ZONE
17	INDIAN NATIONAL CEMETERY
18	COMMERCIAL HOLDING ZONE
19	RESIDENTIAL
20	FOREST LAND/OPEN PARK SPACE
21	INDUSTRIAL
22	INDUSTRIAL
23	INDUSTRIAL
24	INDUSTRIAL
25	HIGHWAY/RAILROAD RIGHT OF WAY

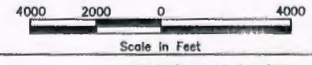


Figure 1C
Specific Buildings In
Parcels 6 and 22
Fort Wingate Depot Activity
Gallup, New Mexico

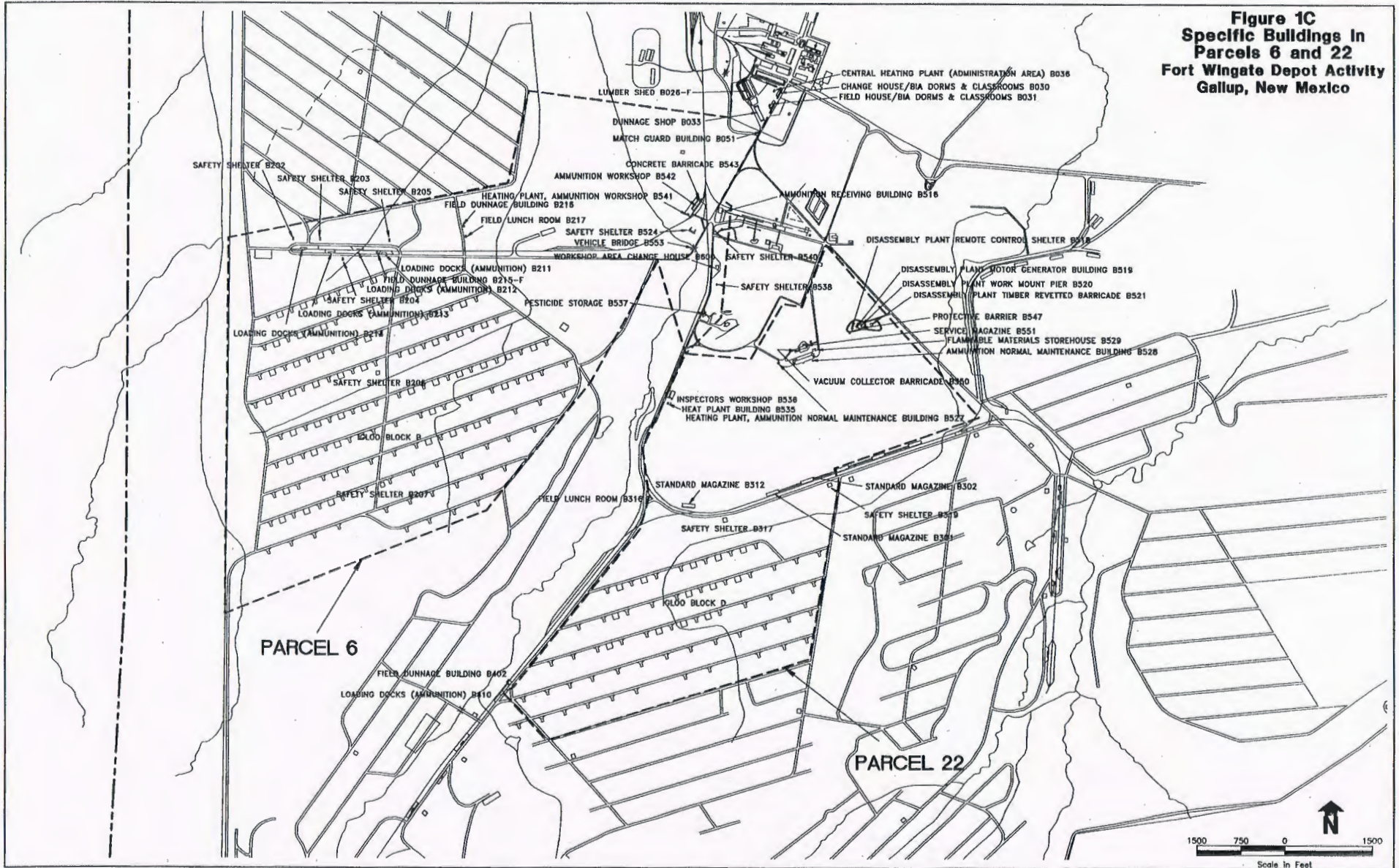


Figure 1D
ECP Categories/SWMUs
Parcels 6 and 22
Fort Wingate Depot Activity
Gallup, New Mexico

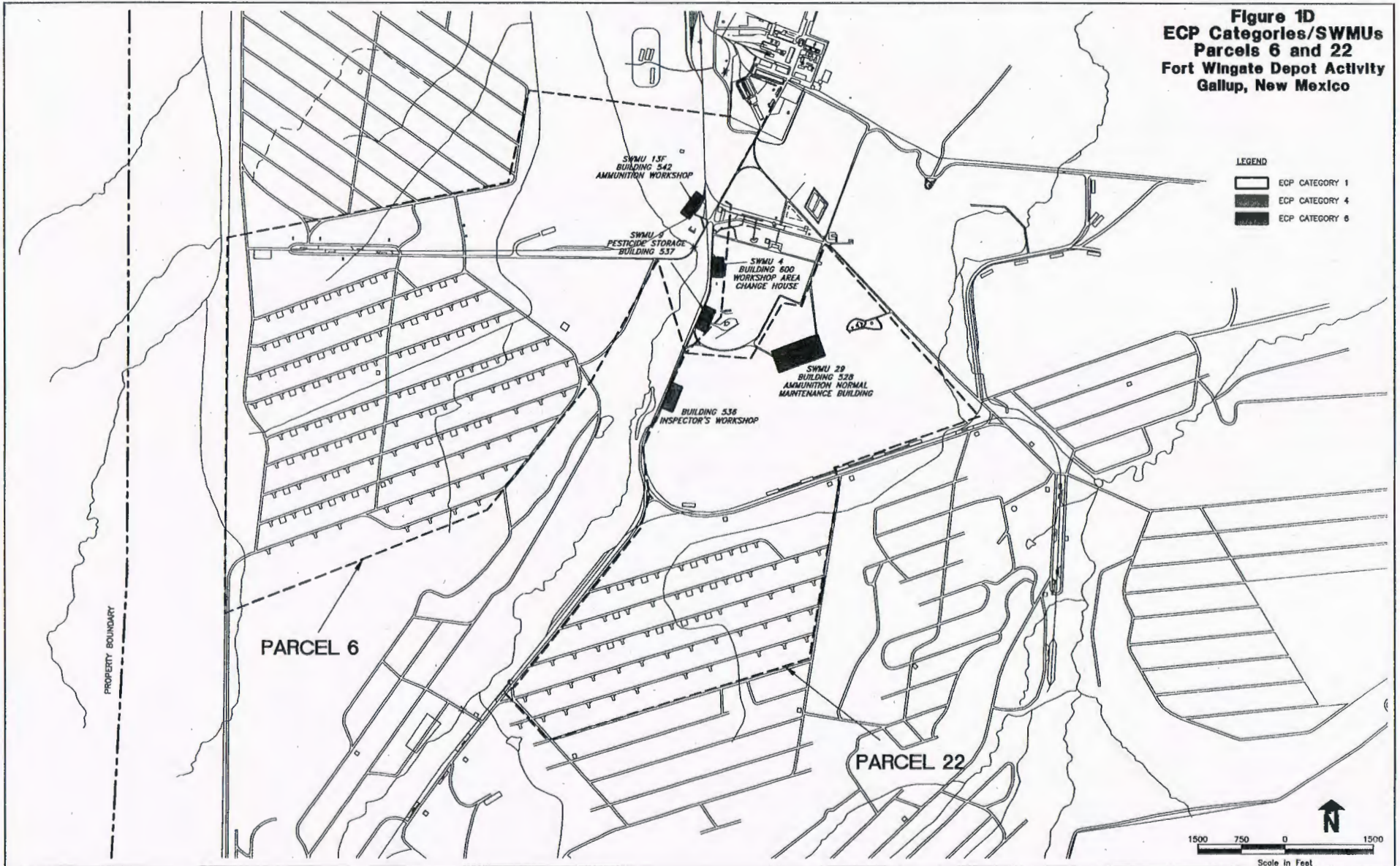
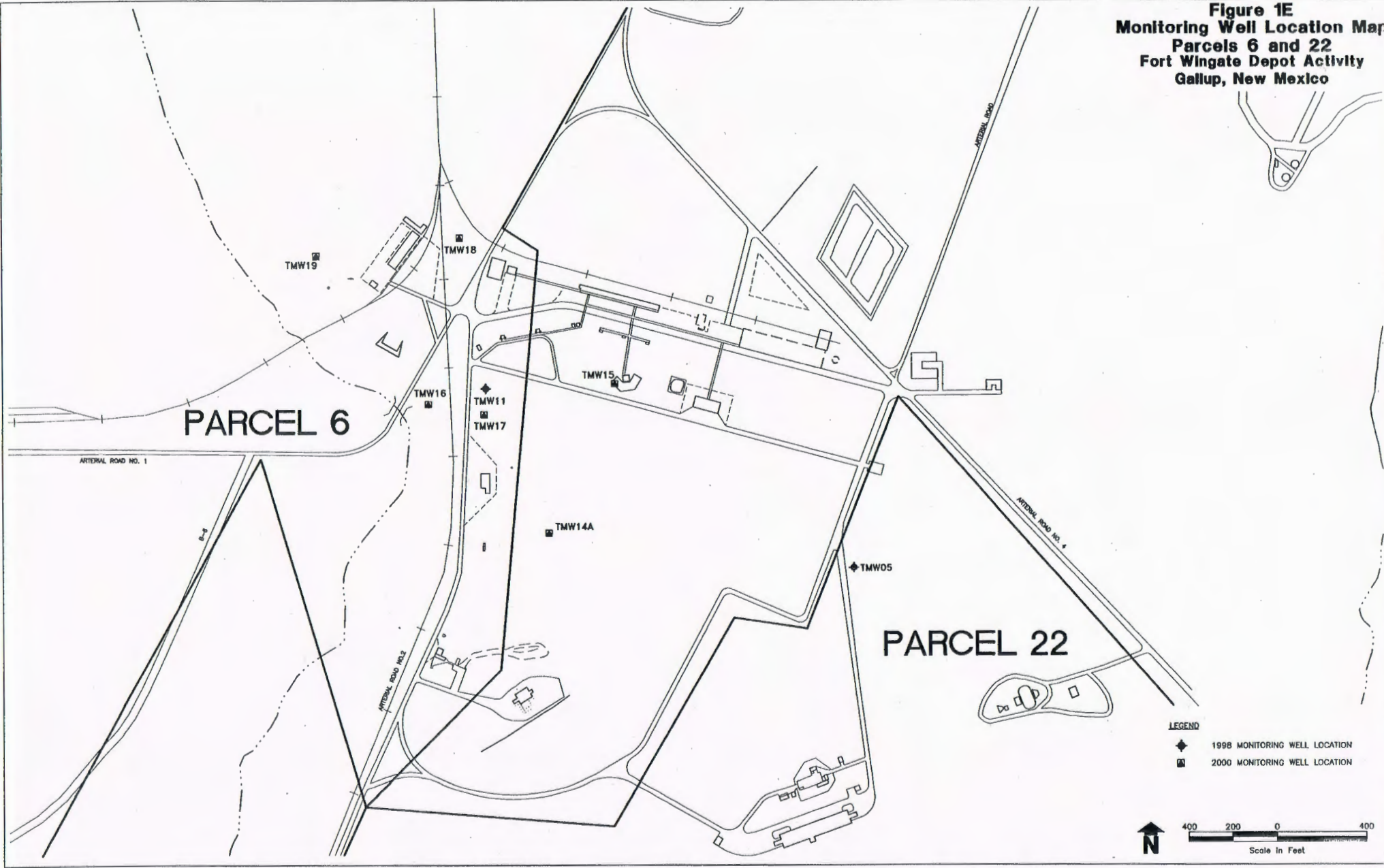
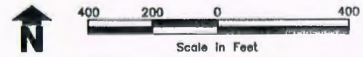


Figure 1E
Monitoring Well Location Map
Parcels 6 and 22
Fort Wingate Depot Activity
Gallup, New Mexico



LEGEND
 ◆ 1998 MONITORING WELL LOCATION
 □ 2000 MONITORING WELL LOCATION



ENCLOSURE 2

BUILDINGS & STRUCTURES

TABLE 2-1
Buildings/Structures
Parcel 6

BLDG. / FACILITY	BUILDING/FACILITY DESCRIPTION	YEAR CONSTRUCTED	AREA (SQ. FEET)
26	LUMBER SHED	1950	5,340
30	CHANGE HOUSE	1942	8,151
31	FIELD HOUSE	1942	5,925
33	DUNNAGE SHOP	1942	15,619
36	HEATING PLANT	1942	864
51	WATCH GUARD BLDG	1953	300
202 - 207	SAFETY SHELTERS	1942	272 EACH
211 - 214	LOADING DOCKS	1941	0
215	FIELD DUNNAGE BLDG	1943	864
216	FIELD DUNNAGE BLDG	1943	864
217	FIELD LUNCH ROOM	1954	2,560
516	AMMUNITION RECEIVING BUILDING	1948	400
524	SAFETY SHELTER	1953	372
537	PESTICIDE STORAGE BUILDING	1941	1,917
538	SAFETY SHELTER	1942	272
540	SAFETY SHELTER	1942	272
541	HEATING PLANT	1942	600
542	AMMUNITION WORKSHOP	1942	11,121
543	CONCRETE BARRICADE	1942	0
553	VEHICLE BRIDGE	1943	210
539 (600)	WORKSHOP AREA CHANGE HOUSE	1944	3,040
B1001-1100	IGLOOS LOCATED IN BLOCK B (AMMUNITION STORAGE)	1941	1927 EACH

TABLE 2-1
Buildings/Structures
Parcel 22

BLDG. / FACILITY	BUILDING / FACILITY DESCRIPTION	YEAR CONSTRUCTED	AREA (SQ. FEET)
301	STANDARD MAGAZINE	1941	11,279
302	STANDARD MAGAZINE	1941	11,279
312	STANDARD MAGAZINE	1942	11,279
316	FIELD LUNCH ROOM	1945	2,560
317	SAFETY SHELTER	1942	272
319	SAFETY SHELTER	1942	272
518	REMOTE CONTROL SHELTER	1947	356
519	PLANT MOTOR GENERATOR BLDG	1947	120
520	PLANT WORK MOUNT PIER	1947	0
521	BARRICADE	1949	0
527	HEATING PLANT	--	933
528	AMMUNITION NORMAL MAINTENANCE BLDG	1955	21,644
528A	TEMPORARY STORAGE IGLOO	1984	--
528B	TEMPORARY STORAGE IGLOO	1984	..
529	FLAMMABLE MATERIALS STOREHOUSE	1955	400
535	HEATING PLANT	1943	720
536	INSPECTORS WORKSHOP	1942	6,754
547	PROTECTIVE BARRIER	1949	0
550	VACUUM COLLECTOR BARRICADE	1968	533
551	SERVICE MAGAZINE	1968	513
D1134-1187	IGLOOS LOCATED IN BLOCK D (AMMUNITION STORAGE)	1941	1927 EACH

TABLE 2-2
Buildings/Structures Occupied by TPL

BUILDING	DESCRIPTION	CURRENT USE
31	Field House	TPL Offices
33	Dunnage Shop	TPL Light Maintenance
51	Watch Guard Bldg	TPL Security Building
202-207	Safety Shelters	Not in use
211	Loading Dock	Unload Trucks/Rail Cars
213-214	Loading Docks	Unload Vehicles
215	Field Dunnage Bldg	Inert Storage
301-302	Standard Magazines	Inert Storage
312	Standard Magazine	Inert Storage
317	Safety Shelter	Not in use
516	Ammunition Receiving Building	Remote Operations
518	Remote Control Shelter	Shield
519	Plant Motor Generator Bldg	Substation
520	Plant Work Mount Pier	Load/Unload
521	Barricade	Protective Barrier
527	Heating Plant	In use
528	Ammunition Normal Maintenance Bldg	Recycle Munitions
528 A&B	Temporary Storage Igloo	Ammo Storage
529	Flammable Materials Storehouse	Storage
535	Heating Plant	In use
536	Inspectors Workshop	In use
537	Pesticide Storage Bldg	Melt Bulk Propellant
538	Safety Shelter	In use
540	Safety Shelter	In use
541	Heating Plant	In use
542	Ammunition Workshop	HMX/RDX Recovery
543	Concrete Barricade	In use
547	Protective Barrier	In use
550	Vacuum Collector Barricade	Inert Storage
551	Service Magazine	In use
B1001-1100	Block B Igloos	Munitions Storage
D1135-1187	Block D Igloos	Munitions Storage

**TABLE 2-3
DESCRIPTION OF PROPERTY**

Description	Parcel	ECP Category	Remedial Actions
Undeveloped land, buildings shown in Table 2-1 (excluding those noted below), Igloos B 1001-1100, Igloos D 1134-1187	6 & 22	1	None
Building 536 - Inspectors Workshop	6	4	Soils contaminated with PCB's exceeding the most conservative Toxic Substances Control Act (TSCA) remediation goal of 1 part per million (ppm) was excavated in 1998 and disposed off-site at a TSCA permitted landfill.
Building 539 (600) - Workshop Area Change House	6	6	See Table 2-7 - Solid Waste Management Unit Descriptions and Status
Building 537 - Pesticide Storage Building	6	6	See Table 2-7 - Solid Waste Management Unit Descriptions and Status
Building 542 - Ammunition Workshop	6	6	See Table 2-7 - Solid Waste Management Unit Descriptions and Status
Building 528 - Ammunition Normal Maintenance Building	22	6	See Table 2-7 - Solid Waste Management Unit Descriptions and Status

ECP 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).

ECP 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.

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

**TABLE 2-4
NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE, RELEASE, AND
DISPOSAL**

Building	Hazardous Substance	Date of Storage, Release, or Disposal	Remedial Actions
536	PCB's	PCB contaminated oil leaked from a transformer located near Bldg 536. Date of the leak is unknown.	PCB contaminated soils were removed in 1998 and disposed off-site.
537	Pesticides/Herbicides	Pesticides and herbicides were reportedly stored in Bldg 537 in leak-proof containers on a concrete floor. Quantities, types, and specific dates of storage are not available.	Chlordane impacted surface soils will be removed from an area south of the building in 2003.
	PCB's	PCB contaminated oil leaked from a transformer located near Bldg 537. Date of the leak is unknown.	PCB contaminated soils were removed in 1996 and 1998 and disposed off-site. An additional soil removal will be completed in 2003.
Igloo's B1001-1100 (Igloo Block B) and D1134-1187 (Igloo Block D)	Explosives	These igloos have been used for conventional ammunition storage by the Army from 1941-1993, and by TPL, Inc. from 1994 to the present.	None.

**TABLE 2-5
NOTIFICATION OF PETROLEUM PRODUCT STORAGE, RELEASE, AND
DISPOSAL**

Building	Petroleum Product	Date of Storage, Release, or Disposal	Remedial Actions
535	Diesel	2000-gallon underground storage tank operated between 1943 and 1993.	The tank was removed from the ground in 1993. Sampling of soils beneath the tank confirmed that there had not been a petroleum product release from the tank.

**TABLE 2-6
Asbestos Survey Data**

BLDG. #	BLDG. NAME	ASBESTOS LOCATION	ASBESTOS CONTENT	ACM/USE	SURVEY DATE	COMMENTS
30	Change House	Corridor	1% Chrysotile	2' x 4' Ceiling Tile CAB shingles Exterior Building	Mar-02	TPL Bldg. - O&M
31	Field House	Corridor	1% Chrysotile	2' x 4' Ceiling Tile CAB shingles Exterior Building	Mar-02	TPL Bldg. - O&M
33	Dunnage Shop	Exterior Bldg., Restrooms	1% Chrysotile	CAB Shingles & Aircell Pipe Runs	Mar-02	TPL Light Maintenance - O&M
51	Watch Guard Bldg	Floor Tile	3% Chrysotile	Floor Tile	Mar-02	Building used by TPL Security - O&M
301	Standard Magazine	Roof Exterior, Interior Ceiling	None	Corrugated Roof Panel, Ceiling Interior	COE 1990	Non-Friable
302	Standard Magazine	Roof Exterior, Interior Ceiling	None	Corrugated Roof Panel, Ceiling Interior	COE 1990	Non-Friable
312	Standard Magazine	Roof Exterior, Interior Ceiling	None	Corrugated Roof Panel, Ceiling Interior	COE 1990	Non-Friable
527	Heating Plant	Boiler Room	50% Chrysotile	Block TSI, Pipe Joint	COE 2001	TPL Bldg. - O&M
528	Ammunition Normal Maintenance Bldg	Boiler Room and Shop Area	20% Chrysotile	Aircell Pipe Runs, Tank Insulation	1990	TPL Bldg. - O&M
542	Ammunition Workshop	Office Area	25% Chrysotile	9" x 9" Floor Tile	COE 2001	TPL Bldg. - O&M

TABLE 2-7

**Solid Waste Management Units (SWMU's)
Descriptions and Status**

SWMU	SWMU NAME	PLANNED FUTURE ACTIONS
4	Building 539 (600)	Additional RFI Investigation. Restrict building and surrounding area use until response action is complete.
9	Building 537	TSCA soil removal. Investigate surrounding area soils. Investigate septic tank and close if warranted. Restrict use of the surrounding area until response action is complete.
13F	Building 542	Additional RFI Investigation to evaluate the extent of explosives in soils. Restrict use of the surrounding area until response action is complete.
39	Building 528	Defer any further action until use of the building is discontinued. Restrict use of the surrounding area.

SWMU 4 BUILDING 539 (600): SWMU 4 includes Building 600 (formerly Building 539) and associated cesspool. Building 539 (600), the former Ammunition Work Shop (AWS) Change House, housed showers and laundry facilities for the workers who were involved in performing explosives washout and handling of munitions. According to installation drawings, the AWS Change House had, at various times during its operation, a discharge to a cesspool, an outfall to the arroyo, and a connection to the sanitary sewerage system. The building is not currently in use.

Investigation of this site was conducted as a RCRA Facility Investigation (RFI). The final report from the investigation has not been submitted for regulatory approval.

Results of the investigation determined that the interior of Building 539 (600) contained a restroom/washroom, floor drains, sump, and laundry facilities. The discharge for the laundry facilities could not be determined, however historical drawings show a 6 inch diameter drain line to ground surface off the southeast corner of the building. The cesspool had been filled prior to the investigation; the date of abandonment is unknown. No explosives were detected from soil borings taken at the cesspool. Low levels of one VOC and one SVOC were detected, as were a variety of metals.

One surface soil sample was collected at the arroyo outfall. No explosives or SVOCs were detected. Low levels of one VOC and a variety of metals were detected.

Additional investigation of SWMU 4 is likely following submittal and regulatory review of the initial RFI investigation report. SWMU 4 is located on a parcel identified for industrial reuse. As the Army is anticipating that additional environmental investigation of this site will be necessary to determine associated environmental impacts, and the building is not currently in use, this site has been found suitable for transfer. Use of Building 539 (600), however, should be restricted until completion of additional investigation work.

SWMU 9, BUILDING 537: Building 537 has reportedly been used to store and mix pesticides. The building was also reportedly used as a Field Battery Shop, with recharging equipment and rectifiers for servicing of forklift and portable light batteries. In addition, the Building 537 site was one of the locations where a transformer leaked onto the ground. This building is currently being utilized by TPL, Inc. for munitions component recovery and recycling purposes.

Investigation of this site was initially conducted as a part of an installation-wide Remedial Investigation/Feasibility Study (RI/FS). Initial investigation results identified pesticides, PCBs, and metals in areas outside of the building. PCB impacted soils identified in the RI/FS were removed as a performance-based disposal action under TSCA in 1996 and 1998.

Future investigation work will be conducted as an RFI. An investigative/remedial effort will begin in 2003 which is intended to accomplish the following:

- Remove PCB impacted soils from the east side of the building as a performance-based disposal under TSCA.
- Remove chlordane impacted surface soil from a drainage ditch south of the building.
- Evaluate the septic tank formerly connected to the building. If there is no evidence of a release to the exterior of the tank, abandon the tank in accordance with New Mexico Administrative Code requirements.
- Evaluate historical drawings to further identify the historical operations in the building.

The contaminants described above are located outside of Building 537 and are remote from areas currently utilized by TPL, Inc. Building 537 is located in a parcel designated for industrial reuse and is currently being used for industrial purposes. This site has been found suitable for transfer, subject to use restrictions for the area surrounding Bldg 537.

SWMU 13F, Building 542: SWMU 13F includes Building 542, the associated septic system, and cesspool. Building 542 is a former ammunition packing, shipping, and receiving building. Records indicate that a variety of ammunition maintenance, modification, and demilitarization operations were performed at Building 542. As such, Building 542 was identified as a potential source of explosives detected in ground water samples collected from monitoring well TMW11. Building 542 had, at various times during its operation, a discharge to a cesspool, a septic tank and drain field, and a connection to the sanitary sewerage system. The building is currently being utilized by TPL, Inc. for ammunition component recovery and recycling purposes.

Investigation of this site was conducted as an RFI. The final report from the investigation has not been submitted to regulatory agencies for approval.

The investigation of the east and west loading docks of the building and the adjacent soil areas identified low concentrations of explosives on the loading docks and in subsurface soils. Metals, polycyclic aromatic hydrocarbons (PAHs), and one VOC were also detected in the subsurface soils.

No explosives were detected in the samples taken at the cesspool, the cesspool outfall, the septic tank, or the septic tank drain field. Both the cesspool and the septic tank were abandoned in accordance with New Mexico Administrative Code requirements as part of the investigation.

SWMU 13F is located on a parcel identified for industrial reuse and is currently being used for industrial purposes. As such, this site has been found suitable for transfer, subject to use restrictions of the area surrounding Building 542.

SWMU 29, Building 528: This SWMU was formerly used by the Army for ammunition maintenance, milling and tapping, spray painting and stenciling. Materials used in these operations that are considered possible contaminants associated include propellants, explosives, and metals. The building is presently operated by TPL, Inc. using similar ammunition disassembly processes to those used by the Army, for the purpose of recovery and recycling of ammunition components.

The investigation of this SWMU has been conducted under the installation-wide RI/FS. Five surface soil samples and six subsurface samples were collected around the perimeter of the building. The samples were analyzed for VOCs SVOCs, explosives, PCBs, metals, nitrate/nitrite and total phosphorous. One VOC, one explosive, metals and SVOCs were detected in the surface soil samples. One explosive and metals were detected in the subsurface samples.

Sampling performed by NMED in July and September 2000 identified perchlorate in surface soils around several smaller buildings associated with Building 528. NMED perchlorate sampling results showed levels of perchlorate in soils well below U.S. EPA Region 6 residential soil MSC of 7,800 ppm. Currently NMED does not have a human health screening level for perchlorate concentrations in soil.

The Army sampled soils in the Building 528 area for perchlorate in September 2002; results are not yet available.

SWMU 29 is located on a parcel identified for industrial reuse and is currently being used for industrial purposes similar to former Army use. As such, this site has been found suitable for transfer, subject to use restrictions of the area surrounding Building 528.

Any further action necessary under RCRA Corrective Action procedures will be deferred until use of the building is discontinued.

**ENCLOSURE 3
ADMINISTRATIVE RECORD**

Document	Date of Report	Log Number
FWDA Facilities Data	May-61	FW 61-1
Installation Assessment of Fort Wingate Report No. 136	Jan-80	FW 80-1
FWDA Environmental Survey	Sep-81	FW 81-1
FWDA Environmental Installation Assessment	Dec-82	FW 82-2
Interim Final Report Groundwater Contamination Survey No. 38-26-03017-89, Evaluation of SWMUs FWDA	Jul-88	FW 88-2
FWDA Investigation and Evaluation of Underground Storage Tanks	Sep-89	FW 89-1
Enhanced Preliminary Assessment Report	Mar-00	FW 90-1
Final Asbestos Survey Report for FWDA	Nov-90	FW 90-2
RCRA Facility Assessment Report		FW 90-6
Final Environmental Impact Statement	Aug-91	FW 91-1
Asbestos Mgmt Plan for the Fort Wingate	Nov-92	FW 92-3
FWDA PCB Transportation & Disposal Records	Apr-93	FW 93-3
CERFA Report FWDA	Apr-94	FW 94-1
BRAC Cleanup Plan FWDA Versions I & II	Mar-94	FW 94-2
Ordnance and Explosive Waste Chemical Warfare Materials, Archives Search Report	Jul-95	FW 95-5

**ENCLOSURE 3
ADMINISTRATIVE RECORD**

Document	Date of Report	Log Number
Final Environmental Assessment, Disposal of a Portion of FWDA	Aug-95	FW 95-7
FWDA Lead-Based Paint Sampling Work Plans	Sep-95	FW 95-13
BRAC1 Remediation Projects (Phase 1) 0093022 PCB Remediation Soil Removal Bldgs 536-537 FWDA	Nov-96	FW 96-13
A Cultural Resources Inventory of FWDA	Jun-05	FW 97-2
FWDA Storm Water Pollution Prevention Plan (S.W.P.P.P.)	Jun-97	FW 97-4
FWDA, Final Remedial Investigation/ Feasibility Report and RCRA Corrective Action Program Document	Nov-97	FW 97-8
Summary of Sampling & Analysis Event to Delineate PCB Contamination, Bldgs. 536 & 537, FWDA	Aug-97	FW 97-15
Summary of Sampling & Analysis Event to Delineate PCB Contamination, Bldgs. 536 & 537, FWDA - Final Report	Aug-97	FW 97-16
Removal & Disposal of PCBs & Pesticide Soils, Buildings 5, 536, 537, Closure Report	Jul-98	FW 98-21
Industrial & Environmental Radiation Historical Site Assessment FWDA	Jul 98-Jan 99	FW 99-4
Asbestos Assessment Survey Report FWDA	Aug-99	FW 99-5
Asbestos Assessment Survey Repot FWDA	Aug-99	FW 99-9

**ENCLOSURE 3
ADMINISTRATIVE RECORD**

Document	Date of Report	Log Number
FWDA - Final Work Plan Environmental Characterization Buildings 542 and 539 (600)	Nov-00	FW 00-4
FWDA - Soil Background Investigation Report	May-00	FW 00-5
New Mexico Analytical Results (Perchlorate) FWDA	Dec-00	FW 00-10
FWDA Ground Water Data	Aug-01	FW-01-01
FWDA Final Work Plan Ground Water Characterization Admin and TNT Leaching Beds Area	May-02	FW-02-04
Environmental Baseline Survey Summary Parcels 6 & 22	Nov-02	

ENCLOSURE 4

ENVIRONMENTAL PROTECTION PROVISIONS FORT WINGATE DEPOT ACTIVITY (FWDA) PARCELS 6 & 22

The following conditions will be placed in the letter of transfer to ensure protection of human health and the environment at FWDA Parcels 6 & 22.

1.0 BACKGROUND AND PURPOSE

- 1.1. The Army operated a military depot on FWDA Parcels 6 & 22 (hereafter referred to as the "Property") that is the subject of this document from 1941 to the present. There are historical records and other information indicating that, during this time, releases and disposal of waste by the Army occurred on the Property at areas now known as Solid Waste Management Units (SWMUs). The Army has investigated and continues to investigate these SWMUs to characterize them, to determine whether they pose any threat to human health or the environment, and to determine whether they must be remediated or addressed in some other manner.
- 1.2. In the course of its investigations, the Army has also discovered ground water contaminated by munitions demilitarization (washout) processes. The Army is currently investigating this ground water contamination.
- 1.3. The purpose of this document is to protect human health and the environment by restricting the use of the Property where there are SWMUs and contaminated ground water and by notifying the Transferee of the obligation to exercise due care with respect to contaminated or potentially contaminated property.
- 1.4. These property use restrictions may be terminated as investigations and Response Actions are completed.
- 1.5. In the document transferring ownership of the Property from the Army to the Department of Interior (DoI), the Army reserves an easement for access and enforcement.

2.0 DECLARATION

- 2.1. The Army hereby declares that it will complete all environmental Response Actions on the Property required pursuant to applicable law. The Army's obligation under this Declaration is subject to the availability of appropriated funds to the Army, and nothing in this Declaration shall be interpreted to require obligations or payments by the United States in violation of the Anti-deficiency Act, 31 U.S.C. Section 1341.
- 2.2. The Army declares that the Property and each Parcel thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to

the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of conveyance of title to the Property from the Army to the DoI and subsequent conveyances of interests in the Property, in fee or otherwise. The Covenants, Conditions and Restrictions set forth herein shall run with the land and each estate therein and each interest or estate shall be binding upon all persons having or acquiring any right, title, or interest in the Property or any Parcel thereof, shall inure to the benefit of every Parcel included within the Property and any interest therein, and the same shall inure to the benefit of other adjacent property, the title to which is retained by the Army; and shall inure to the benefit of and be binding upon the Army and its successors in interest; and may be enforced by the United States of America, or by the DoI, or any other Transferee, or by designated government agencies, as hereafter provided.

- 2.3. A Table of Allowed Uses and Restrictions summarizing the allowed uses and the restrictions applicable to each of the Parcels, and the SWMUs within each Parcel, is attached hereto as Table 4-1 and incorporated herein by reference.
- 2.4. All purchasers, lessees, or possessors of any portion of the Property or any interest therein shall be deemed by their purchase, leasing, or possession of such Property, or the acquisition of any interest in the Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assigns, and their agents, employees, and lessees of such owners, heirs and successors and assigns, that the covenants, conditions and restrictions herein established must be adhered to for the benefit of all future owners and occupants by protecting human health and the environment, and that their interest in the Property shall be subject to the covenants, conditions and restrictions contained herein.
- 2.5. The Army declares that the Covenants, Conditions and Restrictions set forth herein shall be incorporated by reference in each and all deeds, leases and other instruments of conveyance of any portion of the Property and of any interest in the Property.

3.0 LONG-TERM RESTRICTIONS

- 3.1. RESIDENTIAL RESTRICTION. Residential Use shall not be allowed on the Property in perpetuity.
- 3.2. GROUND WATER TREATMENT AND MONITORING SYSTEM RESTRICTION. The Transferee shall not tamper with, disrupt, inflict damage, obstruct, or impede any ground water treatment or monitoring system, well or wellhead vault, nor inject any materials into wells on the Property or activities related thereto. The Transferee shall not discharge water onto the ground in quantities that would negatively impact ground water quality or remediation of ground water.
- 3.3. GROUND WATER WITHDRAWAL RESTRICTION.

- 3.3.1. The Transferee shall not access or extract ground water, nor inject any materials into wells located on these defined parcels.

4.0 TEMPORARY RESTRICTIONS

4.1. TEMPORARY RESTRICTIONS PERTAINING TO REMEDIATION OF SPECIFIC PARCELS. The temporary restrictions set forth in Sections 4.1.1 and 4.1.2 below apply within the boundaries of the SWMUs.

- 4.1.1. The Transferee shall not disrupt, inflict damage, obstruct, or impede any environmental remediation systems, fencing or activities within the SWMUs. Further, the Transferee shall not conduct or permit its agents to conduct or permit any subsurface excavation, digging, drilling or other disturbance of the surface or subsurface within the SWMUs, except as provided in Section 5.4 herein.
- 4.1.2. The Transferee shall not construct, make or permit any alterations, additions, or Improvements to the SWMUs, except as provided in Section 5.4 below.
- 4.1.3. When all necessary Response Actions have been completed for a specific SWMU, the procedure for removing the restrictions set forth in Section 4.1.1 and 4.1.2, as applicable, is set forth in Section 5.1 below.

5.0 TERMINATION, REMOVAL, AND MODIFICATION

5.1. TEMPORARY RESTRICTIONS – SWMU. The procedure for termination and removal of the temporary restrictions under Section 4.1 shall be as follows:

- 5.1.1. The Army will complete remediation under the PCCP or otherwise determine that no remediation is necessary.
 - 5.1.2. The Army will submit a closeout report and applicable decision document to NMED.
 - 5.1.3. Upon receipt of a letter or other documentation from NMED accepting the Army's certification regarding the remediation for such Parcel or applicable portion thereof, the Army will issue a SWMU Certificate of Termination and Removal. A copy of such letters or other documentation shall be attached as an exhibit to the SWMU Certificate.
- 5.2. MODIFICATION OF USE/RESTRICTIONS. In the event the Transferee desires to change the use or restriction of a Parcel of Property that may require a higher standard of remediation or additional risk assessment than that to be performed by the Army under applicable law, then the following procedure shall apply.

- 5.2.1. Table 6-1 sets forth the categories of uses for each Parcel within the Property. If the Transferee wishes to change the land use of a Parcel from the land use identified in Table 6-1, and if such new land use will require additional remediation, sampling and analysis, or evaluation for that Parcel, then all costs (including oversight costs) associated with the change in land use will be borne by the Transferee seeking to change the land use. This Section 5.2 sets forth the procedure by which such change of use may be accomplished.
- 5.2.2. If appropriate, the Transferee will submit a work plan for additional remediation to the Army and NMED. Upon approval of the work plan by the Army and NMED, the Transferee will complete such remediation as may be required in accordance with applicable law or regulation, or the PCCP, as applicable. The Army may, as a condition to such approval, require that the Transferee post a completion bond or other assurances reasonably acceptable to the Army that the Transferee will complete such additional remediation work. Upon satisfactory completion of such remediation work, the completion bond or other assurances, as applicable, will be released.
- 5.2.3. The Transferee may, at any time, submit to the Army and NMED a risk assessment, conducted using rules and guidance then applicable, that demonstrates that a restriction is no longer necessary, or will no longer be necessary after proposed remediation is completed.
- 5.2.4. If the Army's and NMED's acceptance of a proposed change in land use is conditioned upon the Transferee's completion of proposed remediation, the Transferee, upon completion of remediation, will submit a close-out report and certification of completion of such work to the Army and NMED.
- 5.2.5. Upon receipt of a letter or other documentation from the Army and NMED accepting the Transferee's certification of completion of required remediation for such Parcel, if any, and/or approval for modification of a change in use pursuant to Section 5.2 hereof, the Transferee will issue a Certificate of Modification of Use/Restrictions (The "Use Certificate"). A copy of such letters shall be attached as an exhibit to the Use Certificate.
- 5.3. RESERVATION OF RIGHT TO MODIFY RESTRICTIONS. With respect to Long-term Restrictions and Temporary Restrictions Pertaining to Remediation of Specific Parcels, under Sections 3.1, 3.2, 3.3 and 4.1 above, as applicable, the Army, notwithstanding such sections, reserves the right, in order to protect human health and the environment, to only partially remove and terminate restrictions that apply without removing all restrictions that apply to said Parcel, SWMU, or depicted area. In such event, the SWMU Certificate, and Land Use Certificate, as applicable, may be issued reflecting the partial removal of, the addition of, or continuation of restrictions on the same SWMU, or depicted area, or the termination of restrictions, as appropriate to protect human health and the environment.

5.4. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES.

5.4.1. If the Transferee wishes to conduct a restricted activity (including excavation on a SWMU) on a Parcel on which any restriction as set forth in Sections 3 and 4 hereunder applies within such Parcel, the Transferee shall prepare a written description of its proposal and submit it to the Army who shall notify NMED, in writing, of the request. Approval shall be received prior to the commencement of any such activity. Notwithstanding the foregoing, any person holding a leasehold interest in any portion of such Parcel, as a condition to receiving such approval, shall first be required to obtain the written consent of the owner of the Parcel that they occupy. In the event of a health or safety emergency, the Transferee shall be allowed to conduct such excavation or other such activity on such Parcel, but only to the extent necessary to ameliorate such emergency.

5.4.2. The Army will render a decision on the proposal within a reasonable period after the submittal of the proposal and approval will not be unreasonably withheld.

6.0 **SUBSEQUENT DISCOVERY OF CONTAMINATION**

6.1.1. The Army reserves the right to amend this document without the consent of the Transferee by adding additional SWMUs to those identified in Table 6-1 as set forth in Section 4.1 herein, for the purpose of applying all applicable provisions of this document including specifically the provisions of Sections 3 and 4 hereof, to any such SWMU within the Property. In the event the Army exercises its right to amend this document as provided in this Section, it will provide notice to the record owner of the affected Parcel of the Property, prior to amendment.

7.0 **ENFORCEMENT OF ENVIRONMENTAL PROTECTION PROVISIONS**

7.1. ON SITE INVESTIGATIONS. The Army bears the responsibility to supervise the ongoing work of Response Actions necessitated by releases of hazardous substances into the environment from past activities on the Property.

7.2. VIOLATION OF RESTRICTIVE COVENANTS/AUTHORIZATIONS.

7.2.1. If the Transferee takes any action in violation of this document within a Parcel without obtaining prior review and approval from the Army as required by this document, the action shall be halted until the prescribed review process is completed. If the action is approved by the Army after review, the action may proceed to completion, but if the action is not approved, the Transferee will take all necessary and reasonable steps to restore the Parcel to its former condition or to another condition reasonably acceptable to the Transferee, the Army and NMED. If the Army determines such restoration is necessary to prevent material damage to human health or the environment, the Transferee will be liable for any additional costs incurred by the Army to conduct any investigation and Response Action that is

made necessary by the action of the Transferee. The Army may allow the Transferee to conduct any such investigation and Response Action.

7.2.2. Failures of the Transferee to comply with any of the requirements, as set forth in this document may be grounds to require the Transferee to modify or remove any Improvements constructed in violation of this Declaration or take other appropriate action.

7.3. REMEDIES – EXISTING RIGHTS AND REMEDIES UNDER LAW. Nothing set forth herein shall be construed to waive any rights and remedies, which the Army, the United States, the State of New Mexico, or the Transferee may have under existing statutory law.

8.0 MISCELLANEOUS

8.1. NOTICE OF VIOLATION. The Transferee shall be required to notify the Army and NMED in the event it becomes aware of a violation of any restriction or damage to any remedial system, any release of a Hazardous Substance, and any other remediation failure, and shall otherwise exercise due care with respect to environmental matters in its actions regarding the Property.

8.2. POST CLOSURE CARE PERMIT (PCCP). The Army acknowledges that FWDA will be operating under the conditions of a PCCP issued by NMED. The Army will provide notice to the DoI and publish notices once a week for three consecutive weeks in the local newspaper, of all subsequent modifications to the PCCP. The Army will also provide the record owner of the Parcel with a copy of all material modifications to the PCCP issued by the NMED for those sections of the PCCP that apply to the Transferee's Parcel. Should any matter addressed in the PCCP, or any orders, approvals, or records of decision issued under the RCRA, or the New Mexico Administrative Code as they presently exist or as they may be amended (collectively the "PCCP"), conflict with any such matter which is addressed herein or with respect to which this document is silent, the PCCP will control. The foregoing sentence is not intended, and neither shall it, cause a forfeiture of the DoI's title to the Property subsequent to conveyance of the Property to the DoI; nor shall the foregoing sentence supersede any of the requirements and provisions of Section 6 hereof. The Army assumes no liability to the Transferee should implementation of the PCCP interfere with the use of the Property. The Transferee shall have no claim on account of any such interference against the Army or NMED or any officer, agent, employee or contractor thereof; except as provided by applicable federal law.

8.3. AMENDMENT. The Army retains the right to amend this document pursuant to Section 6 herein.

8.4. NON-WAIVER. The failure of the Army or the Transferee in any one or more instances to insist upon the strict performance of any of the Environmental Protection Provisions of this document or to exercise any right or option contained herein, or to serve any

notice or to institute any action, shall not be construed as a waiver or relinquishment of such environmental protection provision, and the same shall remain in full force and effect.

- 8.5. ACCEPTANCE. The Transferee, and each owner, purchaser, lender, lessee, sublessee, or assignee of all or a portion of the Property, or interest therein, under any contract, mortgage, assignment, deed, lease, sublease, or other agreement, accepts the same subject to all of the environmental protection provisions set forth in this document and shall be bound by the same.

9.0 NOTIFICATIONS AND COVENANTS

9.1. ASBESTOS.

9.1.1. In 1990, a survey was conducted to identify Asbestos Containing Materials (ACM) at FWDA. ACM at FWDA has been managed through annual inspections to determine the condition of ACM and if it requires maintenance, repair, or abatement. Several abatement actions have been completed since the survey date. Table 4-4 of Enclosure 4 identifies the buildings within Parcels 6 & 22 in which ACM has been found, provides an inventory of these materials, and provides the status of ACM discovered during the 1990 survey and subsequent annual inspections. ACM that has been left in place has been determined to be either in good condition, requiring no maintenance or repair, or is non-friable.

9.1.2. The following asbestos notification and agreement shall be incorporated in the Letter of Relinquishment:

A. The Department of Interior (DOI) is hereby informed and does acknowledge that non-friable asbestos or asbestos-containing materials (collectively "ACM") has been found on the Property, as described in the Environmental Condition of Property (ECOP) prepared by the Army to accompany the transfer of the Property (Parcels 6 and 22, Fort Wingate Army Depot Activity) to the DOI. The ACM on the Property does not currently pose a threat to human health or the environment. All friable asbestos that posed a risk to human health has either been removed or encapsulated.

B. The DOI agrees that its future use of the Property after the date of this Relinquishment will be in compliance with all applicable laws relating to asbestos, that the Army will have no liability for future remediation of asbestos, and that the Army will have no liability for damages for personal injury, illness, disability, or death, to the Transferee, its employees, officers, or agents, or any successors or assigns, lessees, licensees, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the DOI, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The DOI agrees to be responsible for any further

remediation of ACM found to be necessary on the Property, after the property has been transferred.

9.2. LEAD BASED PAINT.

9.2.1. A visual survey conducted on 147 FWDA buildings determined that suspect LBP was observed in 93 of the buildings and/or structures, roughly 63%. Sampling was conducted on ten buildings in 1996, none of which are located on Parcels 6 & 22. LBP was confirmed in all ten buildings sampled.

9.2.2. No LBP testing has been conducted in buildings located in Parcels 6 & 22, as they do not qualify as target facilities under the Lead-Based Paint Poisoning Prevention Act, or the Residential Lead-Based Paint Hazard Reduction Act. However, it is presumed that all of the buildings on Parcels 6 & 22 that were constructed prior to 1978 contain LBP.

9.2.3. The following LBP notification and agreement shall be included verbatim in the Letter of Relinquishment:

A. The Department of Interior is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. "Residential Real Property" means dwelling units, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, available for use by residents but not including land used for agricultural, commercial, industrial, or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways and buildings visited regularly by the same child, 6 years of age or under, on at least two different days within any week, including day-care centers, preschools and kindergarten classrooms.

B. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey (or other survey that contains this information.). All purchasers must receive the federally approved pamphlet on lead poisoning prevention. The Grantee hereby acknowledges receipt of all of the information described in this subparagraph. (Additionally, the following reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to the Grantee.

- C. The DOI acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this Letter of Relinquishment.
- D. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property, as defined in paragraph A, above, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential lead-Based Paint Hazard Reduction act of 1992)(hereinafter Title X). The Grantee shall, after consideration of the guidelines and regulations established pursuant to Title X: (1) Perform a reevaluation of the Risk Assessment if more than 12 months have elapsed since the date of the last Risk Assessment; (2) comply with the joint HUD and EPA Disclosure Rule (24 CFR 35, Subpart H, 40 CFR 745, Subpart F), when applicable, by disclosing to prospective purchasers the known presence of lead-based paint and/or lead-based paint hazards as determined by previous risk assessments; (3) Abate lead dust and lead-based paint hazards in pre-1960 residential real property, as defined in paragraph A, above, in accordance with the procedures in 24 CFR 35; (4) Abate soil-lead hazards in pre-1978 residential real property, as defined in paragraph A, above, in accordance with the procedures in 24 CFR 35; (5) Abate lead-soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property; (6) Comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L); (7) Perform the activities described in this paragraph within 12 months of the date of the lead-based paint risk assessment and prior to occupancy or use of the residential real property; and (8) Send a copy of the clearance documentation to the Grantor. In complying with these requirements, the Grantee covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes. The Grantee covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.
- E. The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents, and employees, from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for residential purposes.
- F. The covenants, restrictions, and requirements of this Section shall be binding upon the Grantee, its successors and assigns and all future owners and shall be deemed to run with the land. The Grantee on behalf of itself, its successors and assignees covenants that it

will include and make legally binding, this Section in all subsequent transfers, leases, or conveyance documents.

9.3. ORDNANCE.

9.3.1. The Army has completed a comprehensive record search and, based upon that search, has undertaken and completed statistical and physical testing of areas on the Property where the presence of unexploded ordnance (UXO) was considered possible. Based upon said search and testing, the Army represents that, to the best of its knowledge, no UXO is currently present on the Property. Notwithstanding the records search and testing conducted by the Army, the parties acknowledge that, due to the former use of the Property as an active military installation, there is a possibility that UXO may exist on the Property. Upon due notice, the Army agrees to remove any remaining UXO discovered on the Property, as required under applicable law and regulations, as expeditiously as is reasonable and practicable, subject to the availability of funds.

9.3.2. If the Transferee, any subsequent owner, or any other person should find any UXO on the property, they should not move or disturb the item and shall immediately call the local police or local fire authorities.

9.4. SECURITY.

9.4.1. Personnel access to the Property and large areas of FWDA remaining under Army control following transfer of the Property, is controlled through security measures (fences and gates) located on the property, and access procedures implemented by TPL, Inc., the present Property tenant.

9.4.2. Following Transfer of the Property, the Transferee shall maintain the existing Security measures located on the Property, and access procedures in effect at the time of transfer, in order to control unauthorized and unknowing access to environmental sites located on the Property and other areas at FWDA remaining under Army control.

**TABLE 4-1
Table of Allowed Uses and Restrictions**

This table reflects allowed uses and restrictions applicable as of January 1, 2003. These restrictions may be terminated, removed or modified in the future as contemplated by Section 5.0 of the Environmental Protection Provisions to which this Table 4-1 is attached.

Parcel ³	Long-term Anticipated Use ¹	Long-term Restrictions ²			Temporary Restrictions ²
	Usage	Sec 3.1: Residential Restriction	Sec 3.2: Ground Water System Restriction	Sec 3.3: Ground Water Withdrawal Restriction	Sec 4.1.1 & Sec 4.1.2: SWMU Restrictions
6	I	X	X	X	
SWMU 4 - Bldg 539 (600)	I	X	X	X	X
SWMU 9 - Bldg 537	I	X	X	X	X
SWMU 13F - Bldg 542	I	X	X	X	X
22	I	X	X	X	
SWMU 39 - Bldg 528	I	X	X	X	X

1. I = Industrial

2. Restriction applies in areas where block is marked with an "X". Section numbers refer to sections of the Environmental Protection Provisions.

3. See Environmental Condition of Property, Enclosure 2, Table 2-7 for SWMU descriptions.

ENCLOSURE 5

PUBLIC REVIEW COMMENTS