

MEMO

TO: LeVonne Stone
FROM: Environmental Stewardship Concepts
RE: FORA Transfer Agreement
DATE: 1/10/07

LeVonne,

After an initial review of the proposed agreement between the Army, EPA, DTSC and FORA regarding the transfer of property from the Army to FORA, we've noted the following points:

- The agreement proposes the early transfer of nearly 3,500 acres of property at Fort Ord from the Army to FORA.
- The agreement states that FORA does not assume any of the Army's "obligations" outside the physical cleanup of the site
- FORA is not responsible for cleanup costs
- FORA will implement remedies selected by DTSC, EPA, and the Army
- The Army will continue munitions responses in Parker Flats and the monitoring and remediation of groundwater. The community relations section is vague. It is not clear if FORA must develop its own community relations plan or follow what the Army already has in place or has stated for FORA. Currently, FORA is required to do little to nothing under the current Army community relations plan
- FORA itself will conduct any investigations at the site, and not the Army or EPA.
- FORA will be required to generate an RI for their properties and with consultation of EPA and DTSC determine if any Time Critical Removal Actions are necessary.
- FORA may "elect to complete any unfinished response actions selected and described in any Army Memorandum issued by the Army prior to the [agreement]." This implies some of those response actions may be revisited, and possibly never completed.
- The requirement of a public comment period for required types of documents is the only community involvement measure FORA is obligated to engage in. There is no stipulation that FORA make documents publicly available beyond its requirements under CERCLA. It is unlikely that any documents FORA makes available would be required to be placed in the same location as other Fort Ord documents
- All current land use restrictions regarding groundwater etc will remain in place
- If a dispute occurs between FORA and the agencies regarding the cleanup of the site, local citizens have no legal means for input
- EPA and DTSC promise not to sue FORA as long as it complies with this agreement, but reserve the right to take action for any damages to the environment caused by FORA

MEMO

- FORA can limit information released by asserting “business confidentiality” or attorney client privilege, but all data collected must be released

A more detailed evaluation is to follow in the coming week. Let us know through email and phone if you have any questions.