

ATTACHMENT 1

RW9793976701-0

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
US ENVIRONMENTAL PROTECTION AGENCY
AND THE
US DEPARTMENT OF DEFENSE**

Subject: Support for Department of Defense (DoD) Base Realignment and Closure (BRAC) Cleanup Implementation

1. Purpose: The purpose of this Memorandum of Understanding (MOU) is to establish responsibilities and funding for the US Environmental Protection Agency's (EPA's) assistance and support in accelerating environmental restoration and cleanup decisions in support of reuse at selected DoD BRAC installations. Funds provided through this MOU shall not be used to support EPA enforcement actions at a BRAC installation. The EPA and DoD enter into this MOU pursuant to Section 204(a)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 and Section 2905(a)(1)(E) of the Defense Base Closure and Realignment Act of 1990, which state that DoD may reimburse other Federal agencies for assistance in the base closure process, and Section 2906 of the National Defense Authorization Act for Fiscal Year 1994 that requires a process for DoD consultation with EPA on environmental suitability for leasing BRAC property.

2. Scope: As the lead agency for environmental restoration at DoD installations, DoD requires full-time equivalent (FTE) assistance beyond what EPA funds to expedite reaching the first of either the appropriate remedy in place¹ (RIP) or response complete² (RC) milestones in support of reuse by the end of Fiscal Year (FY) 2005 at BRAC installations. The DoD Components conduct environmental restoration to protect human health and the environment at BRAC installations in concert with efforts supporting economic revitalization of surrounding communities. The DoD will annually make funds available to EPA for BRAC cleanup assistance at selected 1988, 1991, 1993, and 1995 BRAC installations. This MOU also satisfies the requirement in Section 2906 of the National Defense Authorization Act for Fiscal Year 1994 for DoD consultation with EPA on environmental suitability for leasing property made available by the 1988, 1991, 1993, and 1995 BRAC rounds. The scope of this MOU includes environmental restoration activities in support of reuse at BRAC installations under statutes, regulations, and other authorities including, but not limited to, the following:

- Base Realignment and Closure Acts (1988 and 1990).
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- Resource Conservation and Recovery Act (RCRA).
- Community Environmental Response Facilitation Act (CERFA).

¹ Remedy in Place: construction of the remedial action has been completed and the remedy is operational and functioning properly and performing as designed. An example of remedy in place is a pump-and-treat system that is installed, is operating as designed, and will continue to operate until cleanup levels have been attained. This milestone occurs after remedy construction and at the "operational & functional"/"operating properly and successfully" milestone.

² Response Complete: remedial action has achieved the remediation objective identified in the decision document.

3. EPA Responsibilities: In support of the DoD and its BRAC environmental restoration efforts, EPA will provide necessary resources to accelerate environmental restoration activities at selected BRAC installations. The EPA will make resources readily available for actions such as, but not limited to, streamlining decision-making, providing for concurrent document review, participating in face-to-face meetings with other BRAC Cleanup Team (BCT) members, and providing technical assistance to DoD by making the greatest use of environmental restoration tools and authorities using the CERCLA framework and Superfund Reform initiatives. Such actions will typically be conducted by the EPA Remedial Project Manager (RPM) assigned to the installation. The EPA RPM will be supported by EPA technical experts such as community relations coordinators, hydrologists, risk assessors, and toxicologists. The EPA RPM will represent EPA on the BCT, as well as coordinate the EPA team that will work across installations to support BRAC environmental restoration activities, depending on the needs at the installation at a given time. Through close coordination and discussion at the earliest stages of a project, the DoD/EPA/State team will be able to streamline the review and decision-making process. Areas in which the EPA RPM and support team will work closely with DoD include, but are not limited to:

- Supporting up-front planning and scoping.
- Accelerating studies and cleanup.
- Reviewing documents related to environmental restoration or that support the lease or transfer of property within the timeframe agreed by the BCT to support DoD real property leasing or transfer actions. Examples of such documents are Finding of Suitability to Transfer (FOST), Finding of Suitability to Lease (FOSL), and Finding of Suitability for Early Transfer (FOSET), environmental restoration decision documents, and Operating Properly and Successfully (OPS) determinations.
- Assisting with updating existing BRAC Cleanup Plans (BCP), participating in the development of the annual BCP abstract, and assisting with the development of the final, close out BCP.
- Promoting stakeholder input in restoration decision making.
- Participating in the identification of clean parcels under the CERFA, if DoD deems any additional CERFA identification to be beneficial to property transfer and reuse.

4. Program Funding: The DoD shall make resources available annually to EPA to help expedite environmental restoration at selected BRAC installations. The FTE and funding ceilings will be agreed to by DoD and EPA on or about July 31, prior to the start of the FY. Nothing in this MOU shall be interpreted to require obligation or payment in violation of the provisions of the Anti-Deficiency Act (31 USC 1341) or Purpose Statute (31 USC 1301(a)). In the absence of reimbursable funds from DoD, EPA remains obligated to meet its statutory and regulatory responsibilities.

- a. To determine the appropriate number of DoD funded FTEs, EPA will provide DoD, on or about each February 15, EPA's annual FTE/funding estimates for the upcoming two FYs following the current FY for each supported BRAC installation. The annual EPA request shall include the makeup (e.g., payroll, travel) and basis (e.g., GS-13-09 grade level) of the per FTE cost for the upcoming two FYs. FTE estimates are to be based on

anticipated workload at a given installation. Prior to providing DoD with these estimates, EPA will develop its estimates through its Regions coordinating anticipated FTE needs with the supported installation. Any differences or unresolved FTE issues will be highlighted in EPA's annual request to DoD. The DoD will evaluate the EPA funding request and provide a written FTE and funding ceiling for the upcoming FY and a planning estimate for the subsequent FY (i.e., current FY + 2) on or about July 31 of each year. In DoD's review and evaluation of EPA's request, DoD Components will consult with EPA Regions on changes to EPA's request which may have an impact on future EPA FTE requirements. Major issues regarding projected FTE levels will be highlighted at the "mid-year" (on or about July 15 of each year) DoD-EPA In-Progress Review (IPR).

- b. EPA will provide DoD on or about July 1 of each year, EPA's projection of unexpended balance, expenditure rate, and carryover of funds into the upcoming FY. DoD will use this information to determine the DoD funding to be transferred via a Military Interdepartmental Purchase Requisition (MIPR) to EPA during the upcoming FY. DoD will inform EPA on or about July 31 of the resource level EPA can expect to receive during the upcoming FY.
- c. If during the term of this MOU it is determined that DoD is not legally able to pay for some or all of the costs DoD currently pays for, then such payment shall be discontinued. DoD will make its best effort to provide EPA with a 45 day written notification of this action. If this should occur, EPA is under no obligation to conduct the actions described in this MOU that will no longer be funded by DoD. Once related internal EPA billings have cleared, the remaining BRAC funds will be returned to DoD.
- d. The annual funding, as approved by the Assistant Deputy Under Secretary of Defense (Environment) based on the EPA's request, shall be provided to EPA in semi-annual segments through the issuance of MIPRs by the US Army. The US Army is the DoD Executive Agent for transferring and managing funding pursuant to this MOU. The US Army will make its best effort to transfer the first half of the BRAC resources to EPA within 30 days of receipt of funds and obligation authority by the US Army. The US Army will make its best effort to transfer the final distribution of BRAC resources to EPA on or about April 15 of each year. Funds will be used only for salaried EPA employees and costs related to their activities.
- e. If during the course of a fiscal year all funds provided by DoD for an installation are expended, EPA is under no obligation to conduct the actions described in this MOU for that installation. To accelerate environmental restoration in support of reuse at supported BRAC installations, EPA can, in coordination with the appropriate DoD Component and the US Army (as the DoD manager of funds), in the year of execution realign EPA Regional resources based on installation workload adjustments. This is to provide DoD Components and EPA Regions the flexibility of using available resources from one installation to satisfy emerging requirements at another BRAC installation.

5. **Consultation for Environmental Suitability for Leasing Property:** The May 18, 1996, DoD policy memorandum, subject: Fast Track Cleanup at Closing Installations, contains the procedures and responsibilities for determining the environmental suitability for leasing property made available as a result of the 1988, 1991, 1993, and 1995 BRAC rounds. DoD and EPA agree the guidance in the May 18, 1996, policy memorandum adequately describes the procedures for consultation with EPA on determining the environmental suitability for leasing of BRAC properties by DoD Components as required by Section 2906 of the National Defense Authorization Act for Fiscal Year 1994.

6. **Metrics:** The DoD and EPA will use the following common metrics to provide focus for expediting environmental restoration activities and streamlining environmental restoration decisions to achieve BRAC program goals of reaching RIP or RC milestones by end of FY 2005. A joint memorandum from both the EPA Federal Facility Restoration and Reuse Office and the DoD Office of the Assistant Deputy Under Secretary of Defense (Environment) will be sent on a semi-annual basis ("mid-year" and "end-of-year") to the BCTs requesting that they collectively update the information in the metrics (Attachment A). Upon completion, the BCTs will transmit through appropriate channels the metrics to both EPA and DoD headquarters offices, as well as ensure their respective information systems reflect the updated information. The following terms will serve as the basis for the metrics as defined in the Restoration Management Information System (RMIS) data dictionary and the Superfund Implementation Manual (SPIM):

- Sites completing investigation phase:
Number remaining for completion/planned in FY/completed in FY
Definition Source: RMIS
Attachment A
- Sites reaching RIP:
Number remaining for completion/planned in FY/completed in FY
Definition Source: RMIS
Attachment A
- Sites reaching RC:
Number remaining for completion/planned in FY/completed in FY
Definition Source: RMIS
Attachment A
- Number and reasons for re-opened sites in investigation or cleanup:
Definition Source: RMIS
Attachment A
- Installation last RIP:
Definition Source: RMIS
Attachment A
- Operating Properly and Successfully Determinations
Number completed in FY. Updated in FY, as needed.
Definition Source: SPIM
Attachment C, Part II

- Number FOST completed in FY:
Updated in FY, as needed,
Definition Source: SPIM
Attachment C, Part II
- Number FOSL completed in FY:
Updated in FY, as needed.
Definition Source: SPIM
Attachment C, Part II
- Number FOSET completed in FY:
Updated in FY, as needed.
Definition Source: SPIM
Attachment C, Part II

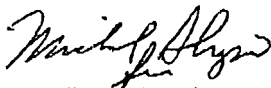
DoD and EPA recognize that metrics may need to be refined based on further review and evaluation. Adjustments to the common BRAC metrics will be made with mutual agreement by DoD and EPA.

7. Reporting:

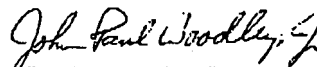
- a. The EPA will provide, at a minimum, quarterly billing statements by installation and funds received, expended, and remaining by funding document. The financial reports must comply with the financial management requirements provided to EPA by the US Army in order to maintain accountability of funds. In the event that the reports are not deemed sufficient, EPA and the US Army will work together to meet the requirements. The EPA will send these reports to the US Army (specific office will be designated by the US Army in funding documents) with copy to the Office of the Assistant Deputy Under Secretary of Defense (Environment).
- b. The EPA will provide quarterly program progress and review reports to DoD. These reports will be provided no later than 45 days after end of each quarter. These reports will include regional summaries and installation specific reports (Attachment C). An EPA headquarters mid-year and end-of-year summary report will also be provided (Attachment B). DoD expects that EPA's quarterly reports will include, at a minimum, the following: program progress/achievements; reports from internal program reviews; list of anticipated work/documents to review during the next quarter; and significant issues, to include a discussion about schedule delays, if any, the reasons for each delay, and the amount of time elapsed since the delay first occurred. Expenditure report will be provided to the US Army under separate cover. EPA will provide to each Component reports tailored to the Component, and a complete copy of the report to the Office of the Assistant Deputy Under Secretary of Defense (Environment).
- c. Semi-annual mid-year and end-of-year IPRs will be conducted each FY to review progress and support provided under this MOU. The end-of-year IPR (on or about January 15 of each year) will focus on accomplishments at end of the last FY and actions planned for the current FY. The annual baseline for metrics will be finalized at this IPR.

The mid-year IPR (on or about July 15 of each year) will focus on mid-FY assessment of status, variance from projected environmental restoration accomplishments, plans for meeting the projected FY environmental restoration accomplishments, and major FTE issues for the upcoming FY. The IPRs will also be used to present the value added by EPA through DoD funded FTEs to DoD's BRAC environmental restoration efforts. The metrics, as defined in Section 6, will be used to provide structure to the IPRs.

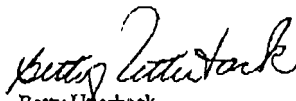
8. **Program duration and termination:** This agreement expires September 30, 2005, but may be extended upon the agreement of the signatories to this MOU. Either DoD or EPA may make modifications to this MOU upon the mutual agreement of the signatories; however, modifications shall be made in writing. The MOU will remain unchanged absent a concurring response. Conflicts arising between the signatories on the requirements or interpretation of this MOU shall be resolved administratively between the agencies. Absent agreement, dispute resolution shall be in accordance with procedures resolving disputes between Federal agencies.



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Attachment A - Installation Metrics

Installation Name: _____
 Installation Last RIP: _____
 Total Number of Sites: _____

Metrics with Baseline

Metric	Planned FY Projection (at Beginning-of-Year)	Revised FY Projection*	Accomplished to Date	Sites Remaining	Projected FY + 1	Projected FY + 2
Sites Completing Investigation	BCT	BCT	BCT	BCT	BCT	BCT
Sites Reaching RIP	BCT	BCT	BCT	BCT	BCT	BCT
Sites Reaching RC	BCT	BCT	BCT	BCT	BCT	BCT
Re-opened Sites	BCT	BCT	BCT	BCT	BCT	BCT

* Please explain if there is a difference from the Planned FY Projection (Beginning-of-Year) column.

BCT (BRAC Cleanup Team) = serves as the source for this information

Attachment B – BRAC National Summary

BRAC Summary

EPA Term	DoD Term	Planned Current FY	Accomplished Current FY	Total Planned		Total Accomplished		Actions Planned for # Sites in FY + 1*
				FY 2003 Data	Current Data	FY 2003 Data	Current Data	
Decision Documents	Decision Documents	#	#	#	#	#	#	# for # sites
RA/CMI Starts	Remedial Action-Construction (RA-C)	#	#	#	#	#	#	# for # sites
RA/CMI Completions	Response Complete (RC)	#	#	#	#	#	#	# for # sites
Site Construction Completion**	Last RIP	#	#	#	#	#	#	# for # sites
FOST/FOSL/CDR-FOSET (Parcels & Acres)	FOST/FOSL/CDR-FOSET (Parcels & Acres)	N/A	#	N/A	N/A	#	#	N/A
OPS Determination	OPS Determination	N/A	#	N/A	N/A	#	#	N/A
Active RAB	Active RAB	N/A	#	N/A	N/A	#	#	N/A

Data Source: CERCLIS (pull date)

* The first number is the number of actions planned to occur. The second number is the number of sites covered by those actions. For example, 19/6 means there are 19 actions covering a total of 6 sites.

** If there is a number, please list the names of the sites here:

Attachment C – Regional and Installation Specific Reports

**Part I
REGIONAL SUMMARY**

1. Hot Issues:
 - Issues for HQs EPA and/or HQs DoD's attention.
 - Include Congressional or high profile items.
2. Other Regional Issues:
 - Successes/achievements.
 - Region-wide issues.
3. Points of Contact:
 - EPA point(s) of contact (HQs and Region).

Attachment C -- Regional and Installation Specific Reports

**Part II
INSTALLATION SUMMARY**

Installation Name and Contact Information:

- DoD/EPA/State BCT member contact information.

2. Significant Issues:*

- a. Congressional.
- b. High profile items.
- c. Delays in Environmental Restoration Actions:**

3. Issues Impacting Reuse/Transfer:***

	FOST	FOSL	FOSET-CDR	OPS
Completed to Date in FY	# (Source: CERCLIS)	# (Source: CERCLIS)	# (Source: CERCLIS)	# (Source: CERCLIS)

4. BCT Achievements or Issues:

- a. Technology Optimization, Partnering, Property Transfer:
 - 1) Achievements.
 - 2) Issues.
- b. Community Activities (e.g., RAB and statutory community involvement activities):
 - 1) Achievements.
 - 2) Issues.
- c. Any relevant installation issue not covered elsewhere.

5. Staffing/Funding Issues:

- Staffing and funding issues at the installation affecting EPA, State, and Component.

* Note if item is for information or for headquarters/management attention.

** Include if any site will not meet projections and any re-opened site, reasons, and fixes to get back on track.

*** Summarize the status of planned/upcoming FOST/FOSL/FOSET/OPS.