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Governor



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October 2, 2006

Mr. Addison D. Davis, IV
Deputy Assistant Secretary of the Army
Department of the Army
Office of the Assistant Secretary
Environment, Safety, and Occupational Health (OASA(I&E))
110 Army Pentagon
Washington, DC 20310-0110

**RE: Finding of Suitability for Early Transfer Determination and Agreement to
Covenant Deferral: Camp Bonneville to Clark County, Washington**

Dear Mr. Davis:

You have requested that the State of Washington defer the federal government's covenant requirements under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9620(h)(3)(A) (CERCLA) until completion of the remediation of hazardous substances at Camp Bonneville, Washington. This process is commonly referred to as "early transfer" and is provided for at 42 U.S.C. § 9620(h)(3)(C).

Under CERCLA, when the federal government transfers parcels of federally owned property to non-federal entities, the deed must contain a covenant warranting that all hazardous substance remedial actions necessary to protect human health and the environment have been taken prior to the date of transfer. 42 U.S.C. § 9620(h)(3)(A)(ii)(I). CERCLA also provides a process allowing a deferral of this covenant prior to transfer. At a facility not listed on the National Priorities List, the Governor of the state in which the facility is located may decide to defer the CERCLA covenant if certain findings are made. Camp Bonneville is such a facility.

The United States Army (Army) proposes to transfer approximately 3,020 acres of Camp Bonneville to Clark County, Washington via the early transfer mechanism in CERCLA. Camp Bonneville is a former Army facility used for training purposes, including the firing of military munitions. Clark County is the Local Reuse Authority for Camp Bonneville pursuant to the Base Realignment and Closure process. The County has identified the reuse for Camp Bonneville as a regional park and conservation area. In addition, the County has agreed to seriously consider any proposal brought to them for a veteran's cemetery at the Camp Bonneville site. By letter



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dated August 23, 2006, the Clark County Commissioners unanimously requested that I favorably review the transfer, which has factored into my decision.

In order to ensure that appropriate cleanup is conducted at Camp Bonneville in the context of early transfer, the State's Department of Ecology, Clark County, and the County's cleanup contractors will enter into a Prospective Purchaser Consent Decree (PPCD) pursuant to the State's Model Toxics Control Act, RCW 70.105D. This decree requires the parties to conduct additional investigations, cleanup, and long term obligations necessary to ensure human health and the environment are protected at Camp Bonneville. The Department of Ecology has concluded that the actions in the PPCD will remediate the site and will protect human health and the environment. Ecology has recommended that I concur Camp Bonneville is suitable for early transfer.

The Army has also entered into an Environmental Services Cooperative Agreement with Clark County. This document ensures that the Army provides funds to remediate the facility according to the terms and conditions of the PPCD. Additionally, the Army has provided the State with a Finding of Suitability for Early Transfer. This document contains an extensive description of the environmental conditions at Camp Bonneville and identifies use restrictions necessary to protect human health and the environment.

Finally, early transfer and cleanup of Camp Bonneville has undergone environmental review pursuant to the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA). The Army has conducted a NEPA environmental assessment. Clark County has issued a SEPA Determination of Non-Significance for the transfer, and the Department of Ecology has issued a SEPA Determination of Non-Significance for the initial cleanup under the PPCD. Further environmental and public review will be conducted as additional cleanup decisions are made pursuant to the PPCD.

Based on these documents, the recommendation of the Department of Ecology and Clark County's request, with this letter, I concur that the property known as Camp Bonneville, Clark County, Washington, is suitable for early transfer to Clark County and I concur with the Army's decision to complete a "Deferred Covenant" transfer of the 3,020 acres to Clark County, Washington. This determination and agreement is based upon the above information and the following findings:

1. The Property is suitable for transfer to Clark County for the use intended by Clark County and the intended use, in conjunction with the planned cleanup, is consistent with the protection of human health and the environment.

2. The deed and/or other agreements proposed to govern the transfer between the United States and Clark County contain adequate assurances that:
 - a. Provide for any necessary restrictions on the use necessary to ensure the protection of human health and the environment.
 - b. Provide that there will be restrictions on the use necessary to ensure that required remedial investigations, response actions and oversight activities will not be disrupted.
 - c. Provide that all necessary response actions will be taken and identify the schedules for investigation and completion of all necessary response actions as approved by the appropriate regulatory agency (Washington State Department of Ecology).
 - d. Provide that the Army will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules for investigations and completion of all necessary response actions, subject to congressional authorizations and appropriations.
3. This proposal has been the subject of significant public involvement. The Army provided notice, by publication in a newspaper of general circulation in the vicinity of the property, the Columbian, of the proposed transfer and of the opportunity for the public to submit, within a period of not less than 30 days after the date of the notice, written comments on the suitability of the property for early transfer. The PPCD was the subject of a public hearing and 45-day comment period. Both the Clark County and Department of Ecology SEPA determinations were the subject of 14-day comment periods. The Clark County Commissioners held a work session regarding Camp Bonneville that was open to the public. In addition, the Army has provided for a Restoration Advisory Board that has met for many years and has advised the Army regarding the remediation of the site.
4. The deferral and transfer of the property will not substantially delay any necessary response action at the property.
5. The Army shall remain responsible for remediation of hazardous substances that were on the property as of the date of conveyance, whether known or unknown, notwithstanding any agreements the Army may have had with third parties.
6. When all response action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of transfer has been taken, the United States shall execute and deliver to Clark County an appropriate

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document containing a warranty that all such response action has been taken, and the making of the warranty shall be considered to satisfy the requirement of providing the CERCLA covenant.

Based on these findings, I approve the deferral of the covenant required by CERCLA § 9620(h)(3)(A)(ii). The State of Washington is committed to ensuring that Camp Bonneville is cleaned up by the responsible parties and to providing rigorous regulatory oversight and management of the cleanup pursuant to the underlying legal agreements and applicable law. I know that Clark County is committed to cleaning up the site pursuant to the terms of the PPCD.

The State of Washington's deferral approval shall not be interpreted or be deemed to be a waiver of any right the State of Washington may have to require any response or remedial action by any appropriate party at this facility. The State of Washington reserves these rights with respect to any and all appropriate parties regardless of congressional or legislative authorizations and appropriations. Furthermore, these determinations and deferral approval shall not be deemed or interpreted as any form of estoppel against the State of Washington. The State of Washington's findings and/or deferral approval do not constitute nor shall be interpreted to be, any settlement of liability as to the Army under either CERCLA or Model Toxics Control Act. Finally, the State's deferral approval shall not be interpreted or be deemed to be any commitment to fund any portion of the cleanup with State funds. Should you have any questions concerning this matter, please contact Barry Rogowski, Project Manager for Camp Bonneville, at (360) 407-7236.

Sincerely,



Christine O. Gregoire
Governor

cc: Commissioner Marc Boldt
Commissioner Steve Stuart
Commissioner Betty Sue Morris