



DEPARTMENT OF THE NAVY
THE ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS AND ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

JUL 5 2006

MEMORANDUM FOR DEPUTY CHIEF OF NAVAL OPERATIONS (FLEET
READINESS AND LOGISTICS)
DEPUTY COMMANDANT OF THE MARINE CORPS
(INSTALLATIONS AND LOGISTICS)

SUBJECT: DON Environmental Policy Memorandum 06-06: Streamlined
Environmental Procedures Applicable to Non-BRAC Real Estate Actions

Ref: (a) ASN (I&E) Environmental Policy Memorandum, of 22 Dec 93, DON
Environmental Procedures Applicable to Non-BRAC Real Estate Actions

Encl: (1) Department of the Navy (DON) Policy for Streamlining the Assessment,
Documentation and Disclosure of the Environmental Condition of Property
(ECP) for Non-BRAC Real Estate Actions, May 2006

Reference (a) provided environmental guidance to Navy and Marine Corps activities regarding Non-BRAC real estate actions. Reference (a) is hereby superseded by this Environmental Policy Memorandum. The purpose of this revised guidance is to streamline the assessment, documentation, and disclosure of the Environmental Condition of Property (ECP) in support of Non-BRAC real estate actions, including a determination regarding the environmental suitability of the proposed action. It applies to agreements authorizing use of DON real property by others, and transfer or conveyance of DON real property to a non-DON party.

In the past, scope growth has caused the production and reproduction of stand-alone reports to document the environmental condition of property in support of real estate actions. In some cases, this has slowed schedules, reduced production, and increased cost with no discernable benefit or risk/liability reduction to DON. The previous DON requirements to prepare Environmental Baseline Surveys (EBS) and Findings of Suitability to Lease or Findings of Suitability to Transfer (FOSL/FOST) for non-BRAC actions are replaced with the ECP, as set forth in enclosure (1). Based on the type and level of risk of each action, three options are outlined in enclosure (1) to document the ECP, and it is a specific intent of this guidance to encourage the use of the least costly option that properly addresses the potential risks in any given situation. The NAVFAC team responsible for the action must ensure that the level of effort expended developing and documenting the ECP is commensurate with the potential risks/liabilities to DON for the proposed action. Any required notifications, restrictions or land use controls (LUCs) will be included in the ECP and appropriate real estate documents (i.e. leases, easements, use agreements, licenses, quitclaim deeds, etc.).

In the preparation of an ECP for a Non-BRAC real estate action, Federal, State, and local regulators shall be consulted as necessary and appropriate, i.e. EPA where parcel involved is part of an NPL site. Portions of the ECP may be used to support other statutory requirements and the pertinent portions may be sent to the appropriate regulatory agencies for review. For conveyance of property to a non-federal party, the ECP shall serve as the basis for documenting compliance with applicable provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 USC 9620(h)). However, it is DON policy that property transfers to other federal agencies or DoD components shall be made on an 'as is, where is' basis, with no retained DON environmental responsibility or liability, after full disclosure of known environmental conditions using the ECP. Any exception must have prior approval of the Deputy Assistant Secretary of the Navy (Installations and Facilities), in coordination with the Deputy Assistant Secretary of the Navy (Environment). The ECP may be made publicly available as appropriate. These streamlining measures are consistent with other streamlining efforts between DoD and EPA.

Please ensure the distribution of this policy to all subordinate commands. Our points of contact are Mr. Richard Mach Jr., (703) 614-5463, richard.mach@navy.mil for environmental matters and Mr. Robert Uhrich, (703) 614-5848, robert.uhrich@navy.mil for real estate matters.



BJ Penn

Copy to:
DASN (E)
DASN (IF)
AGC (I&E)
CNIC
COMNAVFACENGCOM

Department of the Navy (DON) Policy for Streamlining the Assessment, Documentation, and Disclosure of the Environmental Condition of Property (ECP) for Non-BRAC Real Estate Actions

Purpose

The process outlined below removes the requirement to produce EBS documents for non-BRAC real estate actions and replaces them with a consolidated and streamlined ECP with signatures from the environmental and real estate professionals and concurrence by the appropriate NAVFAC Commander/Commanding Officer, or his designee. The ECP may be used:

- To document inquiry into environmental conditions to support real estate decisions
- To protect DON from future liability
- To determine risk of exposure to grantees/government employees
- To inform grantees of environmental conditions, restrictions, and land use controls (LUCs) associated with the Class I and II real property

Applicability

This Policy applies to real estate actions on all active DON (non-BRAC) property. It applies to agreements authorizing use of DON property by others, and transfer or conveyance of DON property to a non-DON party. Existing guidance documents shall be amended to be consistent with this policy. Installations and field activities may implement further guidance and tailoring of the three ECP document options (discussed below), where the result will further streamline this process in a manner that does not conflict with the guidance herein.

Policy

1. **General** – Most real estate actions begin with a request by the Navy Region/Marine Corps Installation Commander. The Navy Region/Commander Navy Installations Command (CNIC)/Commandant Marine Corps (CMC) forwards the real estate action request to the appropriate NAVFAC real estate office to determine the appropriateness and requirements to complete the action. The NAVFAC real estate, environmental, and legal personnel determine the level of effort to:

- Compile and evaluate available site documentation
- Perform site visit and/or collect additional information
- Document the ECP
- Complete the real estate documentation

Attachment 1 is a general flow diagram of this process.

The level of documentation for the ECP is dependent on the type of real estate action proposed; the past, current, and future uses of the property; the amount of information available for the site; and the potential risks and liabilities to DON and the potential grantee. Determination of potential risks and liabilities will be a subjective decision agreed to by the environmental, real estate, and legal professionals. The level of effort to collect the information to document the ECP may be similar for new actions, but subsequent (repeat) actions should require less research of historical records. Take maximum possible advantage of previous documentation already collected for prior real estate actions or other purposes, to minimize the need for new research.

2. Elements of the Environmental Condition of Property (ECP) – The environmental elements required to document the ECP may vary based on the proposed real estate action. The following are the primary purposes and outcomes of the process:

- Assess any environmental risks associated with the surveyed property, and determine what actions may be necessary to protect human health and the environment prior to effecting any proposed real property transaction.
- Support decisions for developing and documenting any necessary use restrictions and/or Land Use Controls (LUCs) to be placed in the real estate agreement, including a determination regarding the environmental suitability of the real estate action.
- Identify data gaps concerning environmental contamination. The environmental, real estate, and legal professionals may make management decisions to disclose these gaps to the grantee or perform additional investigation to fill the data gaps and reduce potential risk, liability, property use restrictions, or LUCs.

This process employs a variety of methods to obtain the necessary information to document the environmental condition of the property. These include a search of facility records and applicable federal, state, and local records as well as a visual walk-through site inspection. Some or all of the following steps may need to be taken, based on the level of risk involved with the real estate action:

- Review of all available surveys or inspection reports regarding asbestos, polychlorinated biphenyls (PCBs), lead (including lead-based paint), radon, underground storage tanks and piping systems, solid waste management units, air pollution emission inventories, Environmental Compliance Evaluation Program (ECE) reports, environmental engineering work place surveys, bio-environmental engineering and annual industrial hygiene surveys.
- Review of all Installation Restoration Program (IRP) and Munitions Response Program (MRP) studies or other documentation produced in accordance with procedures being carried out at the installation under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and/or the Resource Conservation and Recovery Act (RCRA).

- Review of any applicable federal, state, or local regulatory agency reports, notices of violation or noncompliance, corrective action agreements, compliance orders, RCRA Facility Assessments, or similar records.
- Review of current and/or discontinued permits pertaining to an environmentally regulated activity e.g., air quality permits, National Pollutant Discharge Elimination System (NPDES) permits, RCRA Part B Permits, etc.
- Review of all environmental issues addressed under the appropriate National Environmental Policy Act (NEPA) and environmental compliance documents.
- Review of all recorded chain of title, deed, environmental cleanup liens, other real property records, utility systems, or other available documents to ascertain prior uses of the real property which may have involved hazardous substances or petroleum, otherwise contaminated the property, or created environmental risks.
- Site inspections of subject property. The purpose of the site inspection is to detect or confirm the presence of environmentally hazardous conditions or concerns (unusual odors, stained soils, stressed vegetation, leachate seeps, or other indications of potential contamination). Furthermore, the site inspection will assess any visible risk conditions from a safety standpoint (note, this does not include a thorough safety analysis and is provided for informational purposes only). Wherever practical, any such indications of concern that were discovered should be resolved within the scope of the effort involved.
- Review of reasonably obtainable records of state and local governmental agencies that reflect the prior uses of both installation and adjacent real property.
- Identification of all hazardous substances/petroleum products stored for one year or more, released, or disposed on the subject property. The information should include the actual or approximate types and quantities, and the time(s) of storage, release, or disposal, of hazardous substances/petroleum products, to the extent that such information is reasonably available.
- Conduct a physical inspection of adjacent property (may be on or adjacent to the installation), as needed. Off installation inspections will be subject to the extent permitted by the owners/operators. "Adjacent properties" are normally defined as properties contiguous to the boundaries of the property being surveyed as well as other nearby properties, typically within a quarter-mile radius. Specifically, the survey should address those properties relatively near the subject property that could pose significant environmental concern and/or have a significant impact on the results of the ECP (i.e. up gradient properties).
- Review of all reasonably obtainable federal, state, and local government records of each adjacent property to ascertain if there has been a release of any hazardous substance or petroleum product or its derivatives (including aviation fuel and motor oil), which may migrate to the site of the proposed real estate action.
- Interviews with current and/or former employees involved in operations concerning the property.
- Review aerial photographs.

Existing data on contaminants in the following media are considered in the evaluation, as appropriate, for the proposed real estate action: air, soil, ground and surface water, soil gas and vapor, buildings/facilities, leachate, sludge, and sediment. Common

sources of contaminants in these media are: hazardous material/waste, lead (including lead-based paint), solid waste, PCBs, leakage from above and underground storage tanks, asbestos, petroleum spills, wastewater treatment and discharge, pesticides, radon, explosive ordnance disposal waste, biomedical waste, stationary air sources, radioactive waste, photochemical waste, oil, paints, solvents, and lubricants.

3. Documenting the ECP – The majority of information needed to document the ECP of a site or parcel is most often contained in existing files, records, reports, and aerial photographs. When files are not readily available, a contract may be required to develop an Environmental Data Report (EDR) listing all available documents for the property. The goal of the ECP document is to summarize this information, reference all pertinent existing documentation, and outline the required real property restrictions and/or LUCs needed to complete the real estate action.

In years past, scope growth has caused the production and reproduction of stand-alone reports to document the ECP in support of real estate actions. This has slowed schedules, reduced production, and increased cost with no benefit or risk/liability reduction to DON.

Following are the three options for documenting the ECP of a site or parcel. For disposals of real property under the custody and control of DON within the United States, option 1 must be used. For outgrants of real property, options 1 or 2 may be used. Option 3 may only be used for issuing or renewing outgrants that have already had one of the first two documents completed and where there are no changes to the condition of the property or the terms of the outgrants and for actions where temporary access is being granted (i.e. parades, races, etc.). Use the least costly option that properly addresses the potential risks in a given situation. For disposal of real property under the custody or control of DON outside the United States, DoD Instruction 4165.69, "Realignment of DoD Sites Overseas," April 6, 2005, shall be followed.

Option 1 – When property is to be disposed of outside the DON or there are significant environmental conditions on the property that require disclosure and implementation of land use controls or other restrictions to ensure the protection of human health and the environment, an ECP document shall be produced. Following are the key elements to include in the document:

- **Executive Summary** – briefly summarize the overall environmental condition of the property, the intended property use, and any LUCs needed to ensure the suitability of the intended real estate action.
- **Site/Parcel Location** – provide a map showing the location of the proposed action.
- **Introduction** – describe the background, boundaries, and description of the site and document organization.
- **Assessment Methodology** – discuss the approach taken to research available records, perform an inspection of the property, interviews conducted, and any other efforts to assess the ECP.

- **Property Uses** – summarize the past, current, and potential future uses of the property.
- **Environmental Setting** – describe the applicable aspects of the site setting related to the ECP (i.e. geology, hydrogeology, etc.).
- **Environmental Conditions** – describe the environmental condition for each of the various environmental categories applicable to the particular real estate action. This should be the bulk of the document, and as discussed above, these environmental conditions should be summarized in this section. For each category, there could be three sub-sections. For example:
 - **Section 1 – Hazardous Substance/Waste Management**
 - Sub-section 1.1 – Summary of all material and waste stored and released on the site and all actions taken to remove/remediate the material/waste.
 - Sub-section 1.2 – Listing of all references used to generate the summary in Sub-section 1.1 including the reference title, date, and location, interviews, and site inspections.
 - Sub-section 1.3 – Detailed description of the LUCs required to be included in the real estate documents in order for the action to be suitable.
- **Adjacent Property** – summarize efforts to investigate adjacent properties and identify any concerns regarding contaminant migration from said properties.
- **Conclusions** – summarize the environmental conditions and LUCs needed to support this real estate action.
- **Signature** – this should contain a statement to the effect, “Based on records reviews, site inspections, and interviews, the environmental professionals concur that the environmental conditions of the property are as stated in this document to the best of their knowledge and belief, and this property is suitable for the proposed real estate action. The real estate professionals acknowledge these restrictions and/or LUCs identified above and will ensure they are made a part of the resulting real estate document.” A cover memo or letter of concurrence shall be signed by the appropriate NAVFAC Commander/Commanding Officer, or his designee.

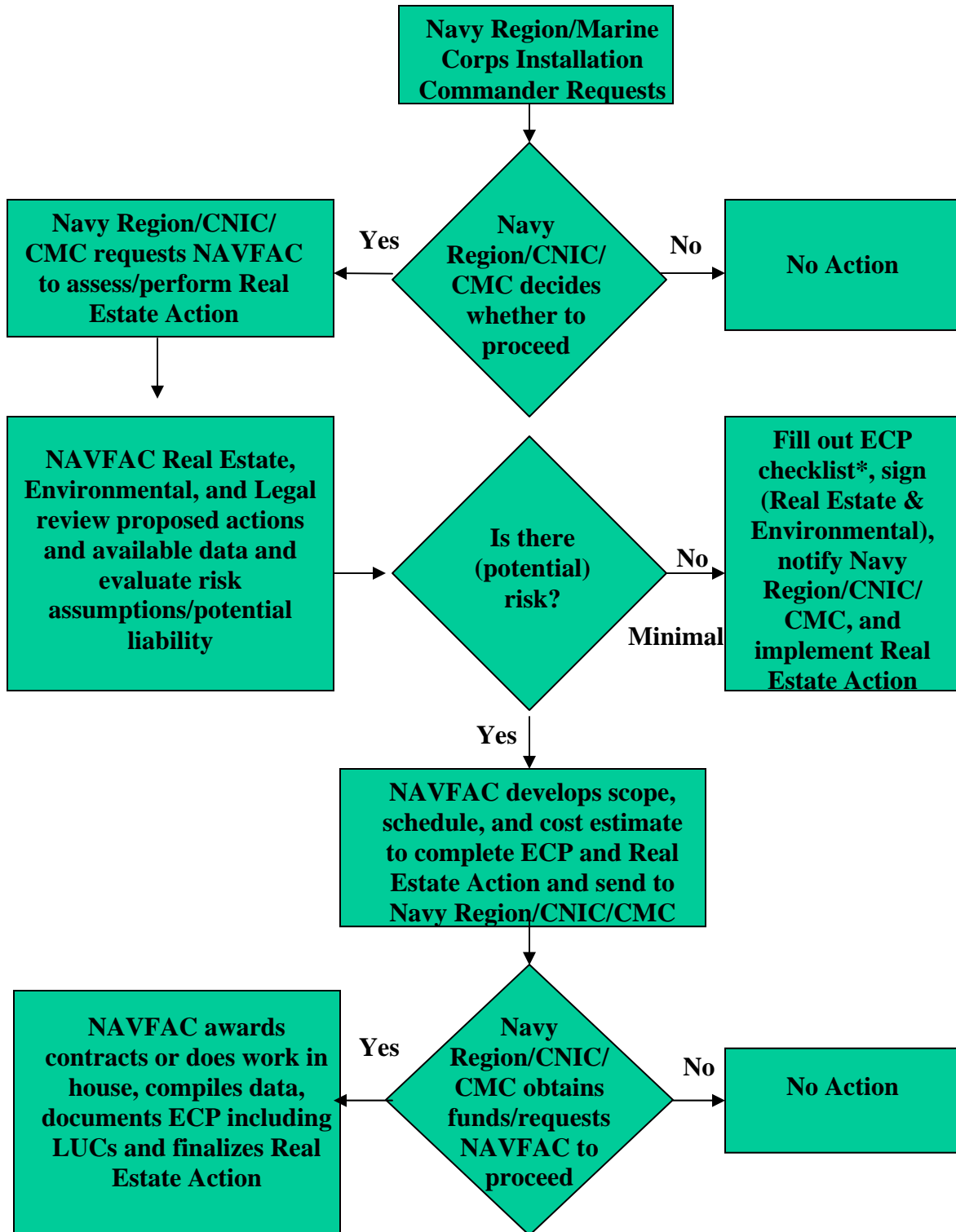
An example of a potential table of contents for an ECP document is included in Attachment 2. This sample table of contents may be modified to further streamline the documentation process or add additional conditions not listed here. Chapter 8 and Appendix 2 of the Base Redevelopment and Realignment Manual (BRRM), DoD 4165.66-M of March 1, 2006, may be used as additional guidance when preparing an ECP in connection with a real property disposal within the United States.

Option 2 –For real estate outgrant actions that present minimal risk/liability to DON, the ECP process can be further streamlined. For these actions, the same environmental conditions need to be addressed, but the suitability findings can be made based on simpler responses. For these cases, an ECP checklist shall be used. This checklist is a shorter version of an ECP document and requires the same signatures and

concurrence, as discussed above in Option 1. Attachment 3 is a template ECP checklist. The electronic version of this checklist is developed as a Microsoft Word Forms, which will allow additional text and expansion to support required documentation. As with the sample table of contents in Option 1, this checklist may also be further streamlined or tailored to a specific outgrant action.

Option 3 – For outgrant renewals where an ECP document or checklist has already been completed for the site, the site conditions have not changed (should be verified with a site inspection), and the terms of the outgrant are not changed, a memorandum to the file stating these findings is suitable to renew the outgrant. For renewal of outgrants for a long-term occupant who built, owns and continues to occupy an administrative facility situated on government land, such as a bank, credit union or school, where a modern day ECP document or checklist may not have been prepared for the site at the time of the original outgrant, the site conditions have not changed (should be verified with a site inspection) and the terms of the outgrant are not substantially changed, a memorandum to the file stating these findings and that the risk to the government for the continuation of such activities is minimal is suitable to renew the outgrant. This memo should be signed by the appropriate environmental and real estate professionals. Sample memos are provided as Attachment 4. Option 3 may also be used for real estate actions where temporary access is being granted.

Process for Non-BRAC Real Estate Action



*** Note – For recurring Outgrant agreements with no changes from previous ECP checklist, a memo to file may substitute for performing another ECP**

ECP TABLE OF CONTENTS

Example

EXECUTIVE SUMMARY

GENERAL LOCATION

TABLE OF CONTENTS

1	INTRODUCTION
1.1	Introduction and Background
1.2	Organization of ECP
1.3	Parcel Identification and Boundaries
1.4	Legal Description
2	SURVEY METHODOLOGY
2.1	Approach and Rationale
2.2	Property Classification Guidelines
2.3	Related Reports
2.4	Real Estate Document Review
3	PAST AND CURRENT USE
3.1	Subject Property
3.2	Adjacent property
4	ENVIRONMENTAL SETTING
4.1	Location
4.2	Climatology
4.3	Geology
4.4	Hydrogeology
4.5	Topography
5	ENVIRONMENTAL CONDITIONS
5.1	Hazardous Substance / Waste Management
5.2	Petroleum Contamination
5.3	Environmental Restoration/Installation Restoration
5.4	Solid / Bio-hazardous Waste
5.5	PCBs
5.6	Asbestos Containing Material
5.7	Lead-Based Paint
5.8	Pesticides and Herbicides
5.9	Munitions and Explosives of Concern
5.10	Tanks (USTs and ASTs)
5.11	Radon/Radiological Material
5.12	Threatened or Endangered Species
5.13	Natural or Cultural Resources
5.14	Notices of Violation
5.15	Adjacent Property
5.16	Other Environmental Concerns
6	CONCLUSIONS
7	SIGNATURES

ENVIRONMENTAL CONDITION OF PROPERTY (ECP) CHECKLIST

Installation:

Parcel/Site Location and Description:

Proposed Real Estate Action Description:

SITE SUMMARY INFORMATION

1. Information regarding site uses and any hazardous materials, contamination, or conditions. All available and pertinent files, records, reports and aerial photographs were reviewed and, where necessary, a site inspection and/or personal interviews were conducted to document the environmental conditions of the property to support the proposed real estate action. A summary of the conditions, sources of information (including location), and any required use restrictions are provided for each environmental condition.

A. Parcel/Site Uses:

Prior Uses:

Current Uses:

Future Uses:

B. Contaminants: Yes No Unknown

If yes, identify contaminant and media: _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

C. Hazardous Materials Use: Yes No Unknown

Hazardous Materials Storage: Yes No Unknown

Type of HM: _____

Type of Use and/or Storage: _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

D. Treatment, Storage, Disposal of Hazardous Waste: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

E. Underground Storage Tanks: Yes No Unknown

UST No. _____ Gals. _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

ENVIRONMENTAL CONDITION OF PROPERTY (ECP) CHECKLIST

F. Above-Ground Storage Tanks: Yes No

AST No. _____ Gals. _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

G. Presence of Polychlorinated Biphenyl's (PCB's): Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

H. Asbestos: Yes No Unknown

If yes: Friable Non-friable Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

I. Lead Paint: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

J. Radon: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

K. Radiological Materials: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

L. Solid/Bio-Hazardous Waste: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

M. Munitions and Explosives of Concern: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

N. Threatened or Endangered Species: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

ENVIRONMENTAL CONDITION OF PROPERTY (ECP) CHECKLIST

O. Natural or Cultural Resources: Yes No Unknown

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

P. Use of Adjacent Property:

Current Use: _____

Past Use: _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

Q. Has the site had any Notices of Violation? Yes No.

If yes, please explain: _____

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

R. Additional information or comments regarding questions shown above (attach sheet(s) if additional room is needed):

Source of information: _____

Restrictions or Land Use Controls: Yes No

If yes, please identify and explain in detail in Section 2 below.

2. List of Land Use Controls required for Real Estate Action:

3. Signature:

Based on records reviews, site inspections, and interviews, the environmental professional(s) certify that the environmental conditions of the property are as stated in this document and this property is suitable for outgrant.

Environmental Professional:

Signature

Title

Print Name

Date

The real estate professional(s) acknowledge these restrictions and/or LUCs identified above and will ensure they are made a part of the outgrant document.

Real Estate Professional:

Signature

Title

Print Name

Date

Property Owner (Activity or Region) acknowledges and accepts the foregoing statement of environmental conditions and the land use controls (if any) that will be required for this real estate outgrant:

Signature

Title

Print Name

Date

MEMORANDUM FOR THE RECORD

Subj: SUCCEEDING OUTGRANT TO NAVY FEDERAL CREDIT UNION FOR A
FULL SERVICE BANKING FACILITY AT MARINE CORPS BASE CAMP
PENDLETON, CALIFORNIA

Ref: (a) ASN(I&E) Memorandum, DON Environmental Policy
Memorandum 02-06: Streamlined Environmental Procedures
Applicable to Non-BRAC Real Estate Actions of XXXX

Encl: (1) License XXXX to NFCU
(2) EBS Checklist of 15 Aug 01
(3) FOSSL of 20 Sep 01

1. Enclosure (1) provides Navy Federal Credit Union (NFCU) with the use of approximately 1,200 square feet of space in Building 100 at Marine Corps Base (MCB) Camp Pendleton, California, for the operation of a full service banking facility. The license will expire on 30 September 2006. A succeeding five-year license will be issued to NFCU to provide for its continued use of the space.

2. Prior to execution of the existing license, enclosures (2) and (3) were completed. A site inspection has verified that site conditions have not changed. The succeeding license will provide for the same terms and conditions as the existing license.

3. Based upon these findings and in accordance with reference (a), it has been determined that no further action must be taken to document the environmental condition of the property nor its suitability for NFCU's continued use for operation of a banking facility under a proposed succeeding five-year license.

XXXXXXXXXX
Title

MEMORANDUM FOR THE RECORD

Subj: SUCCEEDING OUTGRANT TO NAVY FEDERAL CREDIT UNION FOR A
LEASE OF LAND AT MARINE CORPS BASE CAMP PENDLETON,
CALIFORNIA, FOR A FULL SERVICE BANKING FACILITY

Ref: (a) ASN(I&E) Memorandum, DON Environmental Policy
Memorandum 02-06: Streamlined Environmental Procedures
Applicable to Non-BRAC Real Estate Actions of XXXX

Encl: (1) Lease XXXX to NFCU

1. By enclosure (1), Navy Federal Credit Union (NFCU) leases approximately 1.2 acres of land at Marine Corps Base (MCB) Camp Pendleton, California, for the construction and operation of a full service banking facility. The lease will expire on 30 September 2006. A succeeding five-year lease will be issued to NFCU to provide for its continued use of the 1.2 acres of land.

2. The original use of the property by this lessee began prior to the requirement to document environmental conditions, and no specific documentation of the environmental condition of the leased property exists. A site inspection and general knowledge of current and past use of the site provides no reason to suspect any environmental condition that is inconsistent with granting a succeeding lease under the same terms and conditions as the existing lease.

3. Based upon these findings and in accordance with reference (a), it has been determined that no further action must be taken to document the environmental condition of the property nor its suitability for NFCU's continued use for operation of a banking facility under a proposed succeeding five-year lease. The risk to the Government for the continuation of such activities is minimal.

XXXXXXXXXX

Title