



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

## *Cleaning up and revitalizing land*

# EPA Oversight Provided Reasonable Controls to Deter and Minimize Trespassing at the Fort Ord Superfund Site

Report No. 20-E-0169

May 14, 2020



**Report Contributors:**

Tina Lovingood  
Patrick Milligan  
Bakari Baker

**Abbreviations**

EPA            U.S. Environmental Protection Agency  
FORA         Fort Ord Reuse Authority  
MRS          Munitions Response Site  
OIG            Office of Inspector General

**Cover Photo:**    Locked gate of entry to Fort Ord with signage indicating danger in the area and no trespassing allowed. (OIG photo)

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# At a Glance

## Why We Did This Project

We conducted this evaluation to determine whether the U.S. Environmental Protection Agency's Superfund institutional controls achieved their stated goal of preventing human exposure at Superfund sites. This report focuses on our evaluation of Fort Ord, a 28,000-acre Superfund site in California that was a former Army base. Future reports will describe our evaluations of institutional controls at other Superfund sites.

We selected Fort Ord because of the human health risk of potential exposure to unexploded munitions. Also, the 2017 Five-Year Review of Fort Ord stated that trespassing was an ongoing issue at the site.

We reviewed a sample of the institutional controls in place at Fort Ord—fencing and signage—to deter trespassing and protect human health from explosive constituents and other contaminants.

## This report addresses the following:

- *Cleaning up and revitalizing land.*

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List of [OIG reports](#).

## ***EPA Oversight Provided Reasonable Controls to Deter and Minimize Trespassing at the Fort Ord Superfund Site***

### What We Found

During our site visit, we found that the EPA, the U.S. Army, and other organizations use fencing and signage as institutional controls at Fort Ord to deter and minimize illegal trespassing and to be protective of human health. The Army and the EPA have not deemed Fort Ord protective of human health and the environment due to the projected amount of munitions cleanup and the estimated time it could take to complete that cleanup.

After Fort Ord was closed in 1994, use of off-road transit in the property was restricted to authorized personnel unless otherwise posted. Despite the site's restricted access, trespassing continues. The Presidio of Monterey Police have documented trespassing incidents since 1997.

During our site visit, we verified that the fencing and gates were clearly marked with signs indicating the danger in the area and that entry was not allowed. In addition, although trespassing is a recurring problem at the site, we verified that the integrity of the fencing and gates was not compromised and that secured areas were not breached. For the institutional controls we sampled at the time of our site visit, the steps taken by the Army with EPA oversight, combined with planned follow-up actions moving forward, represent a reasonable effort to deter and minimize trespassing and prevent people from being exposed to unexploded munitions and chemical soil contamination.

We make no recommendations in this report.

**The steps taken by the Army with EPA oversight, combined with planned follow-up actions moving forward, represent a reasonable effort to deter and minimize trespassing.**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

May 14, 2020

**MEMORANDUM**

**SUBJECT:** EPA Oversight Provided Reasonable Controls to Deter and Minimize Trespassing at the Fort Ord Superfund Site  
Report No. 20-E-0169

**FROM:** Sean W. O'Donnell *Sean W O'Donnell*

**TO:** Peter Wright, Assistant Administrator  
Office of Land and Emergency Management

This is our report on the subject evaluation conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. The project number for this evaluation was OA&E-FY19-0090. This report contains findings that the OIG has identified. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Because this report contains no recommendations, you are not required to respond to this report. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at [www.epa.gov/oig](http://www.epa.gov/oig).

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## Purpose

The purpose of this evaluation was to determine whether the U.S. Environmental Protection Agency's Superfund institutional controls achieved their stated goal of preventing human exposure at Superfund sites. This report focuses on our evaluation of Fort Ord, a 28,000-acre Superfund site in California that was a former Army base. Future reports will describe our evaluations of institutional controls at other Superfund sites.

## Background

Fort Ord served primarily as a training and staging facility for infantry troops from 1917 until its deactivation in 1994. Activities conducted throughout the base, including industrial activities and military munitions training, have resulted in chemicals impacting its soil and groundwater. Risks to the public's safety from explosives exist because unexploded munitions have been found in former munitions training areas.

Cleaning up Superfund sites is a complex, multiphase process. First, there is a site assessment to determine whether the site poses a threat to people and the environment, as well as whether hazards need to be addressed immediately. Next is the Remedial Investigation/Feasibility Study, which involves evaluating the nature and the extent of contamination at a site, assessing any threats to human health and the environment, and identifying and evaluating potential cleanup alternatives. The resulting Record of Decision explains the cleanup alternatives considered and the EPA's selected remedy. Detailed cleanup plans are developed and implemented during the remedial design and remedial action stages. Every five years, the EPA reviews whether the selected remedy as described in the Record of Decision remains protective of human health and the environment. The site is considered "construction complete" after physical cleanup activities are completed.

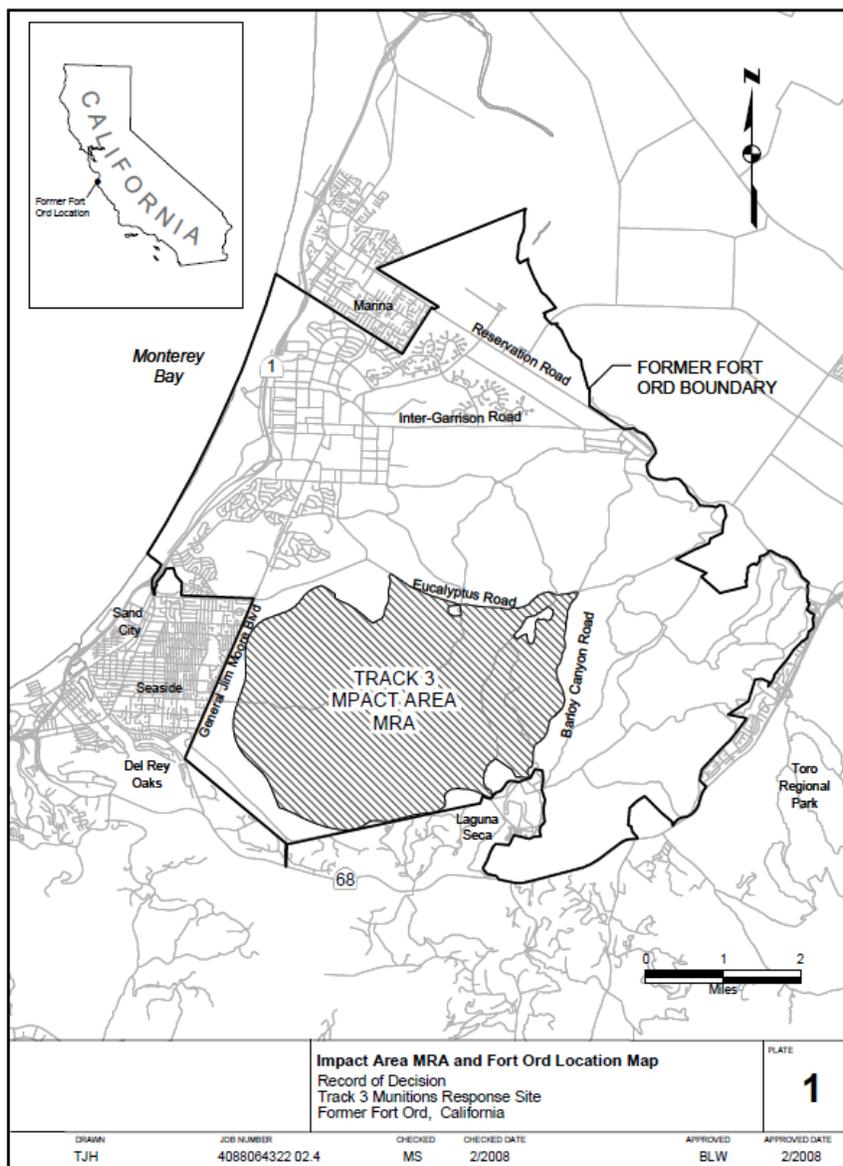
Cleanup actions were performed on parts of Fort Ord while other parts are, or will be, undergoing cleanup. There are over 350 institutional controls at Fort Ord, according to several Records of Decision. These institutional controls are administrative or legal controls that minimize the potential for human exposure to contamination by limiting land or resource use, and they can be used during all stages of the cleanup process. They are a subset of Land Use Controls, which are physical, legal, or administrative mechanisms that restrict the use of, or limit access to, real property to manage risks to human health and the environment. Physical mechanisms to contain or reduce contamination include physical barriers like fences and signs that can limit access to real property.

We focused on the institutional controls related to access management, including fencing and signage, that are described in the site's multiple Records of Decision.

Access management also includes regular security patrols of the fenced areas of the site.

Cleanup is still ongoing on the portion of the site called the “Impact Area Munitions Response Area, Track 3 Munitions Response Site.” The Impact Area is fenced, warning signs are posted, and access is controlled by the Army. Figure 1 is a map of the site. As part of our review of the fence surrounding the entire site, we also observed portions of the Track 3 Impact Area Munitions Response Area boundary fence, depicted in Figure 1.

**Figure 1: Map of Fort Ord highlighting the Track 3 Impact Area Munitions Response Area**



Source: The EPA.

Until the Track 3 Munitions Response Area remedy is fully implemented, ongoing remedial activities and access controls are designed to protect exposure pathways that could cause unacceptable risks. Specific controls include security patrols; munitions recognition and safety training for authorized personnel; fencing, gate, and signage upkeep; and annual security monitoring and reporting.

The EPA oversees the Army's maintenance of fences and signs. The Records of Decision require that fences and signage be installed as part of site access management measures based on reuse and risks. The existing fencing (a four-strand barbed wire fence with concertina wire in some portions) surrounding the Impact Area and signage is maintained, with vegetation mowed along the fence line.



Source: EPA Office of Inspector General.

Note: The image shows the "U.S. PROPERTY NO TRESPASSING" sign (enlarged) on the fence line of the Fort Ord property. Barbed wire is also placed at ground level.

According to the Army's 2016 Fort Ord MRS Security Program report, trespassing has always been an issue at the site. In the 2017 report of the same name, the Army categorizes trespassing incidents as major or minor. The Army defines a major trespassing incident as when an unauthorized person is discovered accessing a restricted MRS or other restricted area, disregarding appropriate postings, or when there is evidence of trespassing that is significant enough to warrant a police report, such as cases of equipment damage or theft. A minor trespassing incident is when there is evidence that a person or persons went

beyond an appropriately posted boundary, but no one is caught and there is no damage or theft.

The report's analysis of major and minor trespassing incident reports from 2007 to 2017 indicates that the most common trespasser is an area resident, visitor, or student who forced or maneuvered his or her way into a restricted MRS fence line or gate.

As a result of the 2017 report, the Army committed to completing several follow-up actions including:

- Continuing to issue citations against trespassers who enter the restricted MRS.
- Adjusting patrols, fences, signs, and gates around restricted the MRS as appropriate and as associated property transfers occur.
- Continuing to improve communication and cooperation between the Army and law enforcement agencies.

The number of recorded incidents of trespassing has decreased in the last few years. According to the Army's 2017 Fort Ord MRS Security Program Report, four major and 11 minor trespassing incidents occurred in 2017. There were ten trespassing incidents in 2018. Nine of the incidents were minor, and one incident was categorized as major.

## **Responsible Offices**

The Office of Land and Emergency Management is responsible for the EPA's Superfund cleanup program, including oversight of the EPA Regional Superfund programs. The Army is responsible for overseeing the cleanup activities and ensuring the protectiveness of the institutional controls at Fort Ord, and the EPA, specifically Region 9, is the lead regulatory Agency. According to the Fort Ord Reuse Authority Land Use Controls Implementation Plan/Operations and Maintenance Plan, the roles and responsibilities of the other federal, state, and local government agencies, and other entities involved in the cleanup efforts and reuse of the cleaned-up portions of the site, are:

- California Department of Toxic Substances Control: Conducts regulatory concurrence with the EPA and enforces land use restrictions for all of Fort Ord.
- Fort Ord Reuse Authority:<sup>1</sup> Responsible for completing the response actions under the Comprehensive Environmental Response,

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<sup>1</sup> FORA is a local agency that oversees the planning, financing, and implementing reuse of the Fort Ord property. The agency comprises representatives from cities, the county, special districts, public educational institutions, the military, and state and federal legislators. FORA assumed some of the Army's cleanup obligations funded under an Army Environmental Cooperative Agreement Grant in Monterey County, California.

Compensation, and Liability Act that are deemed necessary to protect human health and the environment for future uses of the site, except for the responsibilities retained by the Army. FORA is responsible for implementing and enforcing the institutional controls remedies, including ensuring that jurisdictions and property owners follow requirements; compiling the annual institutional control monitoring reports; and submitting them to the Army, the EPA, and the State of California.

- Monterey County, California: Enforces the digging and excavation ordinance and restrictions prohibiting inconsistent uses and access management measures, maintain deed restrictions, and monitor institutional controls annually and report them to FORA.
- Other entities such as the California State University Monterey Bay; University of California Santa Cruz; Monterey Peninsula College; and the cities of Monterey, Seaside, Marina, and Del Ray Oaks: Implement long-term management measures, comply with Land Use Controls and deed restrictions, and conduct annual monitoring and reporting and five-year review reporting.
- Property owners: Comply with institutional controls, deed restrictions, and land use restrictions.

Region 9 officials regularly visit the site to conduct oversight, including at least seven times in 2019. The EPA also participates in the monthly Base Realignment and Closure Cleanup Team meetings, where topics include site security and trespassing incidents. The EPA regularly receives site security updates regarding trespassing incidents and reviews the site security annual reports. The EPA also participates in the Annual Site Security Meetings along with other regulatory agencies, stakeholders, and other entities.

## Scope and Methodology

We conducted our evaluation from October 2019 to March 2020 in accordance with the *Quality Standards for Inspection and Evaluation* published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our review objective. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our review.

We reviewed information from the Superfund Enterprise Management System to help us determine which sites would answer our objective. We selected Fort Ord as one of the sites for our broad-based review because of the human health risk of potential exposure to unexploded munitions. The 2017 Five-Year Review of Fort

Ord stated that trespassing was an ongoing issue, and this evaluation focused on institutional controls related to trespassing. We also selected the site to help ensure adequate audit coverage of federal facilities.

To address our evaluation objective, we reviewed documents and interviewed Region 9 Superfund management and headquarters staff, as well as officials from the Department of the Army and FORA. We reviewed key documents, including Five-Year Reviews, Records of Decision, annual site security reports, institutional control-related information, and security and trespassing guidance. We reviewed various criteria, including those found in the EPA's Comprehensive Five-Year Review Guidance, dated June 2001. In November 2019, members of the Army and FORA gave us an overview of the site, including maps highlighting parts of the site that were cleaned up and designated for reuse, and a part of the site that contained fencing and signage protecting the public from exposure to munitions and explosives of concern. The overview was followed by a safety presentation regarding unexploded munitions and explosives that remained on the site. Members of the Army and FORA gave us a tour of Fort Ord.

## **Results of Evaluation**

For the institutional controls that we sampled at the Fort Ord site and observed during our site visit, the EPA and the other organizations are taking reasonable steps to deter and minimize exposure to contaminants and explosives to protect human health and the environment. The Army and the EPA have not deemed the site as protective of human health and the environment due to the projected amount of munitions cleanup and the estimated time it could take to conduct that cleanup.

During our site visit, members of the Army and FORA drove us around the eight-mile long fence enclosing the 6,560-acre portion of the site where munitions and explosives of concern are present. We inspected the fence and reviewed all signage and gates around the fenced-in area. We observed that the fencing and gates were clearly marked with signs indicating the danger in the area and that no trespassing was allowed. In addition, although trespassing is a recurring problem, we found that the integrity of the gates and fencing was not compromised, and secured areas were not breached.

The Army is responsible for providing public safety and preventing injurious contact with munitions and explosives of concern at Fort Ord. During our site visit, we observed that the use or transit of Army property is restricted to authorized personnel unless otherwise posted. A restricted MRS is protected by barriers such as fencing, barbed wire, and gates, as well as by security patrols between the explosive hazard and the community.

At the time of our site visit, portions of the Impact Area where the Army removal actions are in progress or pending initiation remained restricted and were fenced and posted with danger signs.

According to site documents, including the 2017 Five-Year Review, trespassing incidents at Fort Ord have been documented by the Presidio of Monterey Police since 1997. The Army recognizes and notes in its reports that no fence or combination of fences is 100 percent effective at preventing trespassing into restricted areas such as the Impact Area. Fencing effectively prevents individuals from unwittingly or casually entering the Impact Area. However, individuals determined to access restricted or other areas could still breach the fencing or other secured areas.

## **Conclusions**

Trespassing is a historical and ongoing issue at Fort Ord, and the EPA and the Army recognize that no fence or combination of fences is 100 percent effective at preventing trespassing into restricted areas such as the Impact Area. For the institutional controls we sampled at the time of our site visit, the steps taken by the Army with EPA oversight, combined with planned follow-up actions moving forward, represent a reasonable effort to deter and minimize trespassing and prevent people from being exposed to unexploded munitions and chemical contamination in soil. As a result, we have no recommendations for this site.

## **Agency Response and OIG Assessment**

The Office of Land and Emergency Management agreed with the conclusion of the evaluation and offered technical comments. We revised the report as appropriate based on those comments. Appendix A contains the Agency's response to the draft report.

## Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

March 27, 2020

OFFICE OF  
LAND AND EMERGENCY  
MANAGEMENT

### MEMORANDUM

**SUBJECT:** Response to Office of Inspector General Draft Report OA&E-FY19-0090 "EPA, the Army, and Other Agencies are Taking Reasonable Steps to Prevent Trespassing at the Fort Ord Superfund Site" dated March 12, 2020

**FROM:** Peter C. Wright  
Assistant Administrator

**PETER  
WRIGHT**

Digitally signed by PETER  
WRIGHT  
Date: 2020.03.30  
10:57:13 -04'00'

**TO:** Christina Lovingood, Director  
Land Cleanup and Waste Management Directorate  
Office of Audit and Evaluation  
Office of Inspector General

Thank you for the opportunity to review and respond to the results of the subject report. The Office of Land and Emergency Management agrees with the conclusion from the evaluation. At the Ford Ord site, EPA, the Army, the state, local governments and the community work together to address contaminated areas. For your consideration, we included a Technical Comments Attachment that clarifies general and specific statements in the draft report. OLEM coordinated the comments with the Office of Enforcement and Compliance Assurance and Region 9.

If you have any questions regarding this response, please contact Gregory Gervais, Acting Director, Federal Facilities Restoration and Reuse Office at 202-564-4409 or [Gervais.Gregory@epa.gov](mailto:Gervais.Gregory@epa.gov).

Attachment

cc: Susan Bodine, OECA  
Barry Breen, OLEM  
John Busterud, Region 9  
Steven Cook, OLEM  
Gregory Gervais, OLEM

## ***Distribution***

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