

# ENVIRONMENTAL CONDITION OF PROPERTY

**Briefing for 2017 Natural Resources Management Workshop:**

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**19 April 2017**

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# ENVIRONMENTAL CONDITION OF PROPERTY

Summarizes historical, cultural & environmental conditions of the property subject to RE transaction; includes references to publicly available and related reports, studies, and permits.

*“...environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)(42 U.S.C. § 9601) and petroleum products.” (ASTM E1527-13)*

*“... qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability (hereinafter, the “landowner liability protections,” or “LLPs”): that is, the practice that constitutes all appropriate inquiries into the previous ownership and uses of the property...” (ASTM E1527-13)*

USACE will assess, determine & document the environmental condition of property in an ECP report. (ER 200-2-3, Chapter 14)



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# BACKGROUND

USACE policy is to comply with requirements of CERCLA and the landowner liability protections provided by CERCLA

Prior to the OCT 2010 update of ER 200-2-3, an Environmental Baseline Survey (EBS) or Preliminary Assessment Screening (PAS) was completed by the appropriate field office.

In compliance with ER 200-2-3 (Chapter 14, Section 5) USACE will assess, determine, and document environmental condition of property in an ECP report

- ECP report is an integral part of the Report of Availability or the Disposal Report
- ECP report is required for any acquisition of fee land in support of O&M activities at CW projects/facilities

ER 200-2-3, Ch. 14-10 – Outgrant Assessments and Procedures: “The District Chief of Real Estate is the sole responsible agent for all matters regarding real estate outgrants.”

- Notification, compliance, etc... closely coordinated with OPM, ECC, Ch-OD, OC.



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PRELIMINARY ASSESSMENT SCREENING (PAS)

STATEMENT OF FINDINGS

TRACTS 916, 937, 938, and 939

R.E. "Bob" Woodruff Lake, Alabama

1. Based on the following documentation, no apparent environmental contamination was present which would indicate that any hazardous substances has been stored, released, or disposed of on property as of 25 Aug 2005. No specific or unusual environmental concerns have been identified that would significantly affect this outgrant.

2. **REAL PROPERTY TRANSACTION:** outgranting of 62.38 acres of "Bob" Woodruff Lake project, 1-80-1131, to the City of Montgomery for public park purposes. The lease is for an additional 20 year period.

3. **COMPREHENSIVE RECORDS SEARCH:** conducted in Aug 2005 included

a. Real Property Historic

(1) Tract acquisition document  
acquisition date.

(2) Outgrant instrument

b. Project Master Plans.

c. Internal record search

4. **SITE INSPECTION:** There was no inspection specifically for this PAS; however, several times by Real Estate personnel. None of the inspected hazardous materials being present from the Project office found. No evidence of hazardous or toxic material was found on the lease. This site has been

ENVIRONMENTAL BASELINE SURVEY REPORT  
FOR THE  
PROPOSED DISPOSAL & CONVEYANCE OF  
POWDER MAGAZINE PARK  
R.E. "BOB" WOODRUFF LAKE, ALABAMA RIVER,  
MONTGOMERY COUNTY, ALABAMA



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BLACK WARRIOR & TOMBIGBEE/ALABAMA-COOSA  
PROJECT OFFICE and MOBILE DISTRICT OFFICE

May 2007

ENVIRONMENTAL CONDITION OF PROPERTY REPORT  
FOR THE PROPOSED DISPOSAL OF  
POWDER MAGAZINE PARK  
R.E. "BOB" WOODRUFF LAKE, ALABAMA RIVER,  
MONTGOMERY COUNTY, ALABAMA



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MARCH 2017



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# ECP PREPARATION AND COST

ECP must be prepared by an Environmental Professional as defined in 40 CFR Part 312

Standards and Practices, as defined in 40 CFR Part 312: ECP reports must comply with applicable standards for performing either a Phase I or Phase II Environmental Site Assessment as defined in ASTM E1527-05 (Phase I) or ASTM E1903 (Phase II) (available @WBDG).

Approval of ECP report by Project or District ECC or as designated by Chief of Operations

Responsibility to Provide Cost (200-2-3, 14-5(e):

- USACE – fee interest acquisition; disposal agent; declaring land excess for GSA disposal
- Non-USACE entity generally responsible for all cost for ECP report. Report will be provided to USACE. USACE may prepare at government expense if there demonstrable benefit to USACE.



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## NWP – KEN DUNCAN

District ECC reviews ROA-B for CERCLA, RCRA, USTs, and munitions and co-signs with PM-E on ROA-B document.

ECPs:

- ECCs do not develop ECPs (we failed!)
- In house - Environmental Engineer in Engineering
- Contract – new MATOC for ECPs (RE runs contract).
- District ECC determines ER 200-2-3 path forward on ECPs – generally leases, renewals, disposals, but also powerline easements, pipeline easements etc.
- 180 days!
- Cost \$3k to \$10k each

## SAJ – Sue Wilcox

- ECCs do not develop ECPs
- Done by Engineering, Environmental



# SAM – JANALIE GRAHAM

## ECPs:

- Project ECCs conduct Phase I ESA, prepare ECP report, and sign as EP. Exception: New ECC that may not meet definition of EP.
- Database review either all online and/or use EDR, Inc.
- Currently, RE determines path forward. District ECC not directly involved in process, but this may soon change.
- ECP report may be approved/signed by local RE Specialist, OPM, OC, PD-EI-Chief, and/or OPS-Chief.
- ECPs – generally acquisitions, disposals, new leases, lease renewals (if ESA was not originally done), transfers outside DA or DoD.
- Beyond 180 days – update ECP (Govt. records, interviews, site visit, EP declaration, environ. Cleanup lien search, EP declaration)
- Beyond 1 year – new ECP (Phase 1 ESA; still can reference older ECP)



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# MULTIPLE APPROACHES ACROSS USACE

- NWO – USACE conducts all ECP's at USACE expense
- MVK – lessee responsible for all ECP costs; lessee can pay District to conduct
- NWP – non-rec lessee's responsible for ECP costs; we conduct recreation ECPs
- NWO (William Harlon) uses checklist style template for ECPs and an updated ROA form.



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# DISCUSSION...



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# BACK UP INFO



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14-14. Summary. The following table summarizes the documentation requirements by transaction type as discussed in the paragraphs above. However, as determined by the District ECC or District Engineer and coordinated with the Chief of Real Estate, an ECP Report or additional environmental assessment may be performed for any real estate transaction.

Action	Interest/ Party	Documentation	
Acquisition	Fee	ECP Report	Section 14-5(e), 14-6
	Easement	No ECP Report unless warranted	Section 14-7
	Lease, License/ROE	No ECP Report unless warranted	Section 14-7
Outgrant	Lease	ECP Report and ROA	Section 14-5(e), 14-8(a)
	Easement License	ROA	Section 14-9(a)
	License to NGB/SGB	ECP Report and ROA	Section 14-4(a)
Lease Renewal		ECP Report unless prior site assessment and no change in environmental conditions	Section 14-8(b)(1) & (2)
Lease Termination		ECP Report	Section 14-8(c) *Critical Action*
Deed divesting title from the US	Fee	ECP Report No FOST	Section 14-12(a) & (b)
Release or termination with no deed	Easement or other less than fee	NO ECP Report unless warranted	
Excess property – GSA as disposal agent	GSA	ECP Report (level of detail coordinated with GSA)	Section 14-13(a)(1)
Excess property - USACE as disposal agent	Fee (usually by deed)	ECP Report No FOST	Section 14-13(a)(2)
	Easement or other less than fee (usually release or termination with no deed)	NO ECP Report unless warranted	
Transfer	Federal Agency other than GSA	ECP Report	Section 14-13(b)
Reassignment	Within Army or DoD	ECP Report is optional	Section 14-13(c)

**\*Critical Action\* = ECP report requirement at lease termination is critical to establishing and maintaining the Corps landowner liability protections provided by CERCLA!**



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## ENVIRONMENTAL CONDITION OF PROPERTY

Helpful instructions for ECP are located at:

<https://w3.nwo.usace.army.mil/intranet/od-tm/polycypage/policies/RE/ECO%20Instructions.pdf>

This form covers Purpose, Site Location, Current Use of Property and adjacent property, Historical Use of Property and Adjacent Property, User provided Information, Site Reconnaissance, and Records Search and Interviews. Specific Records Search and Interview information will be provided in sections 4.0 and 5.0. Pictures, Maps, Record and Interview information are appendices.

<b>Project Name:</b>	<b>DACW#:</b>	<b>Address/location:</b>
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## 1.0 Purpose

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## 2.0 Site Description

## 2.1 Property Legal Description and Site Address:

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## 2.2 Site and Vicinity General Characteristics:

[illegible]

### 3.0 General Site Setting

Yes answers must be documented. Records and interviews must be documented.

**a. Current and Past use of Property:**

(1)(a) Is the property used for industrial use?

Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(1)(b) Is any adjoining property used for an industrial use? For the purposes of this inquiry, adjoining			



# ENVIRONMENTAL CONDITION OF PROPERTY, CON'T

property is considered to be property located within a quarter mile of the subject property and individual properties located within a mile of the subject property that exhibit a potential for environmental concern.			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(2)(a) Did you observe evidence or do you have any prior knowledge that the property has been used for an industrial use in the past?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(2)(b) Did you observe evidence or do you have any prior knowledge that any adjoining property has been used for an industrial use in the past?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(3)(a) Is the property used as a gasoline station, motor repair facility, dry cleaners, photo developing laboratory, junkyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(3)(b) Is any adjoining property used as a gasoline station, motor repair facility, dry cleaners, photo developing laboratory, junkyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(4)(a) Did you observe evidence or do you have any prior knowledge that the property has been used as a gasoline station, motor repair facility, dry cleaners, photo developing laboratory, junkyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(4)(b) Did you observe evidence or do you have any prior knowledge that any adjoining property has been used as a gasoline station, motor repair facility, dry cleaners, photo developing laboratory, junkyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>b. Specific Property Conditions/Exterior Observations</b>			
(5)(a) Are there currently any damaged or discarded automotive or industrial batteries, pesticides, paints, or other chemicals, hazardous substances or petroleum products in individual containers of >5 gal (19 L) in volume or 50 gal (190 L) in the aggregate, stored on or used at the property or at the facility?			
Record Search and/or Interview:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
Observed during site visit:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
(5)(b) Did you observe evidence or do you have any prior knowledge that there have been previously any damaged or discarded automotive or industrial batteries, pesticides, paints, or other chemicals, hazardous substances or petroleum products in individual containers of >5 gal (19 L) in volume or 50 gal (190 L) in the aggregate, stored on or used at the property or at the facility?			





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