



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

July 25, 2017

The Honorable Mark Dayton
Governor of the State of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

RE: Covenant Deferral Request under Comprehensive Environmental Response
Compensation Liability Act for 30 Acres at former Twin Cities Army Ammunition Plant,
Arden Hills, Minnesota

Dear Governor Dayton,

It is my pleasure to provide for your review and concurrence the attached Comprehensive Environmental Response Compensation Liability Act ("CERCLA") Covenant Deferral Request to facilitate the early transfer of a portion of the excess land comprising the former Twin Cities Army Ammunition Plant ("TCAAP"), Arden Hills, Minnesota to Ramsey County, Minnesota for redevelopment.

The TCAAP is a 2,376-acre former munitions production facility that was used for the manufacturing and warehousing of military munitions from 1941 until 2005. The surplus that will be conveyed early to Ramsey County via a deed for negotiated sale with the General Services Administration ("GSA") consists of 22 parcels totaling 30 acres, and is referred to as "Ramsey County Parcel 2". Ramsey County intends to develop the property for mixed use, including, but not limited to, residential, recreational, and commercial/industrial uses. A site map showing the locations of the 22 parcels comprising the Ramsey County Parcel 2 is provided on Figure 1 of the enclosed Finding of Suitability for Early Transfer ("FOSET").

As background, the GSA conveyed a 397-acre portion of the TCAAP, within the area known as the "California-Shaped Area" to Ramsey County on April 12, 2013. Ramsey County acquired, by deed, fee title to those 397 acres, described as Ramsey County Parcel 1, and leased the remaining 30 acres located within the California-Shaped Area, described as Ramsey County Parcel 2, until certain terms and conditions of environmental remediation were fulfilled, at which time the GSA would convey, by deed, fee title of the remaining 30 acres to Ramsey County.

This property disposal action allows for community led redevelopment. The sale will directly contribute to job creation, as well as investment and growth in the tax base in the Ramsey County area. The Ramsey County Master Plan for these parcels calls for the creation of up to 4,000 jobs for Ramsey County and the State of Minnesota and up to 3,000 additional residents.

This letter is the Department of the Army's formal request for your approval of a covenant deferral and early transfer pursuant to CERCLA of Ramsey County Parcel 2.

Background and Basis for Request

The Army, as lead agency under CERCLA, has been conducting the cleanup of the TCAAP facility, which was placed on EPA's National Priorities List in 1982 due to volatile organic compound contamination in groundwater. In 1987, the Army, the EPA and the Minnesota Pollution Control Agency ("MPCA") entered into a Federal Facilities Agreement (FFA), which sets forth the interagency agreement on how cleanup of the site is to be conducted. With respect to the portion of the property transferred to Ramsey County in 2013, the Army completed its cleanup of soil on the 397 acres of Ramsey County Parcel 1 to industrial standards and received an operating properly and successfully ("OPS") determination as to treatment of trichloroethylene ("TCE") in the groundwater, allowing transfer of that parcel to Ramsey County.

Once Ramsey County Parcel 2 was leased to Ramsey County, the County enrolled the entire 427 acres it controlled (owned and leased land) in the ("MPCA") Voluntary Investigation and Cleanup ("VIC") Program on February 6, 2013. The site was designated as TCAAP Redevelopment #2 Site, 2020 Highway Avenue, Arden Hills, MPCA Project Number VP22891. The EPA and the MPCA entered into a memorandum of agreement whereby EPA agreed that the County's cleanup of the 427 acres to MPCA's satisfaction (in accordance with residential cleanup standards) would be deemed to have also received EPA approval. On July 12, 2016, the MPCA issued a Certificate of Completion to Ramsey County certifying, among other things, that Ramsey County completed the necessary soil response actions on Ramsey County Parcel 2. The enclosed FOSET documents the environmental remediation of contaminated soil completed on the Ramsey County Parcel 2.

Though soil has been remediated to levels that allow for unrestricted use, groundwater contamination remains in the deep aquifer under the property. The Army has fully delineated the TCE plume and began treating it in 1987 pursuant to a Record of Decision ("ROD") dated 1987 and subsequent ROD Amendments. Current treatment includes groundwater extraction to hydraulically contain the contaminated groundwater source area and maximize contaminant mass removal with groundwater treatment using air stripping. This technology has been effective in preventing further migration off-site and in reducing the size and extent of the TCE plume. Based on these results, as mentioned above, the EPA granted an OPS determination under CERCLA for the groundwater treatment system, supporting transfer of the 397 acres of Ramsey County Parcel 1 from the Army to Ramsey County in 2013.

In 2014, after the initial transfer, the Army discovered the presence of 1,4-Dioxane in the deep aquifer, co-occurring with the TCE. While the groundwater treatment system continues to effectively treat TCE, the Army is evaluating its remedial options with respect to the 1,4-Dioxane, which is a listed hazardous substance under CERCLA. The EPA has determined that because 1,4-Dioxane is present in the deep aquifer it cannot issue an OPS determination for the groundwater treatment system as it concerns the 30 acres of Ramsey County Parcel 2. Consequently, to facilitate conveyance of the Ramsey County Parcel 2, the Army requests a finding of suitability for early transfer and a covenant deferral under CERCLA § 120(h)(3)(C).

Future Army Remedial Obligations

The Army will complete all necessary remediation of the property in accordance with CERCLA, including remediation of contaminated groundwater, operation and maintenance of the groundwater and monitoring well systems located on Ramsey County Parcels 1 and 2, and groundwater monitoring. Operation of the groundwater treatment system or other approved alternative approach will continue until the remedial goals described in the Operable Unit 2 (“OU2”) Record of Decision (ROD; U.S. Army, et al., 1997) or subsequent amendments are attained. The Army will also continue to evaluate optimization actions for the groundwater response actions.

Because this is an early transfer under CERCLA, all necessary groundwater remediation of the Ramsey County Parcel 2 will not be taken at the time of transfer. The groundwater beneath the Property is not currently suitable for unrestricted use; however, land use controls preventing access to and use of groundwater that are currently in place and will remain in place after transfer mitigate risk to human health at the site while the Army continues to evaluate the impact of 1,4-Dioxane at the site, assess risk and determine what response measures are needed to ensure long-term protection of human health and the environment. The intended use of the Property is not expected to result in exposure to CERCLA hazardous substances because the groundwater on the Property will not be accessed or used by Ramsey County for any purpose until response action requirements have been met. Those land use controls are certain to remain in place and protective during this interim period because they were selected as part of a remedy in a ROD and require Army, EPA and MPCA approval prior to modification or termination. Such restrictions ensure the protection of human health and the environment.

Further, the Amended State Environmental Covenant and the Environmental Protection Provisions in the deed will be recorded in Ramsey County provide notice of those land use controls to all users of the site. As an additional control on groundwater use at the Property, Minnesota Department of Health has established a Special Well Construction Area governing the installation and use of wells on the Property. The Special Well Construction Area designation informs the public of potential health risks in areas of groundwater contamination, provides for the construction of safe water supplies and prevents the spread of contamination due to the improper drilling of wells or borings.

Support for the Covenant Deferral Request

Your approval of this request will defer the requirement under CERCLA to include a covenant in the conveyance deeds to Ramsey County warranting that all required remedial actions have been taken prior to the date of transfer. For federal property on EPA’s NPL, like the TCAAP’s Ramsey County Parcel 2, Section 120(h)(3)(C) of CERCLA allows, with the concurrence of the Governor of the State of Minnesota and the approval of the Administrator of the EPA, for the deferral of the deed covenant requirement of Section 120(h)(3)(A)(ii)(I) of CERCLA¹, prior to completion of all the necessary environmental remediation actions required under CERCLA. The proposed covenant deferral would not diminish the Army’s rights or obligations under CERCLA or state law with respect to the Ramsey County Parcel 2 to be transferred to Ramsey County.

¹ 42 U.S.C. § 620(h)(3)(A)(ii)(I)

Under Section 120(h)(3)(C) of CERCLA, you must determine that the property is suitable for transfer by making the findings set out in the section. These provisions require you to determine that:

- a. The property is suitable for transfer for the use intended by the transferee and that the intended use is consistent with the protection of human health and the environment.
- b. The final deed or other agreement governing the transfer between the United States and the transferee will contain the response action assurances required by clause(ii) of Section 120(h)(3)(C);
- c. The Army has provided public notice and a 30-day public comment period; and
- d. The transfer of the property will not substantially delay necessary environmental response actions on the property.

The enclosed FOSET contains the environmental protection provisions that will be included in the deed transferring Parcel 2 to Ramsey County. As reflected in the attached FOSET, the final transfer deed, together with the Amended State Environmental Covenant and the FFA, shall provide the required response action assurances: that use of the groundwater will be restricted to both protect human health and the environment and future response actions and oversight activities will not be disrupted; that all necessary response actions will be taken pursuant to an identified work completion schedule, as approved by the appropriate regulatory agency, subject to the Army obtaining all necessary Congressional authorizations and appropriations; and the Army will submit annual budget requests to the federal Office of Management and Budget to obtain adequate funding for completion of those activities.

To assist in making your determination, the enclosed FOSET sets out the Army's finding that the property is suitable for intended reuse and may be safely transferred with appropriate restrictions for groundwater. As discussed above, soil on the Property has been cleaned up to residential use standards and is available for unrestricted use. The Army developed the FOSET, which conforms to the EPA Guidance on Transfer of Federal Property by Deed Before All Necessary Remedial Action Has Been Taken Pursuant to CERCLA Section 120(h)(3), in coordination with EPA and MPCA staff. The Army made the FOSET available to the public during the required 30-day public comment period, which began on 19 April 2017 and ended on 19 May 2017. The Army received no comments from the general public during the public comment period, and responded to comments received from the EPA and the MPCA. The FOSET was subsequently finalized and signed by the Army.

On the Army's behalf, I request your concurrence of the deed covenant deferral for Ramsey County Parcel 2. I have enclosed a draft covenant deferral concurrence letter for your consideration. Thank you in advance for your attention to this matter. If I or my staff may be of any further assistance in this matter, please let me know.

Your staff may contact Mr. James Briggs, Army BRAC Office, at (703) 545-2513, or me at (703) 697-2014. I look forward to concluding this transfer and achieving yet another successful reuse of Army property.

Sincerely,



Eugene Collins
Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational Health)

Enclosures:

1. Finding of Suitability for Early Transfer
2. Draft Concurrence Letter

CF

John Stine, Commissioner, MPCA

Stephanie Zawistowski, Senior Policy Advisor, Office of Governor Mark Dayton