



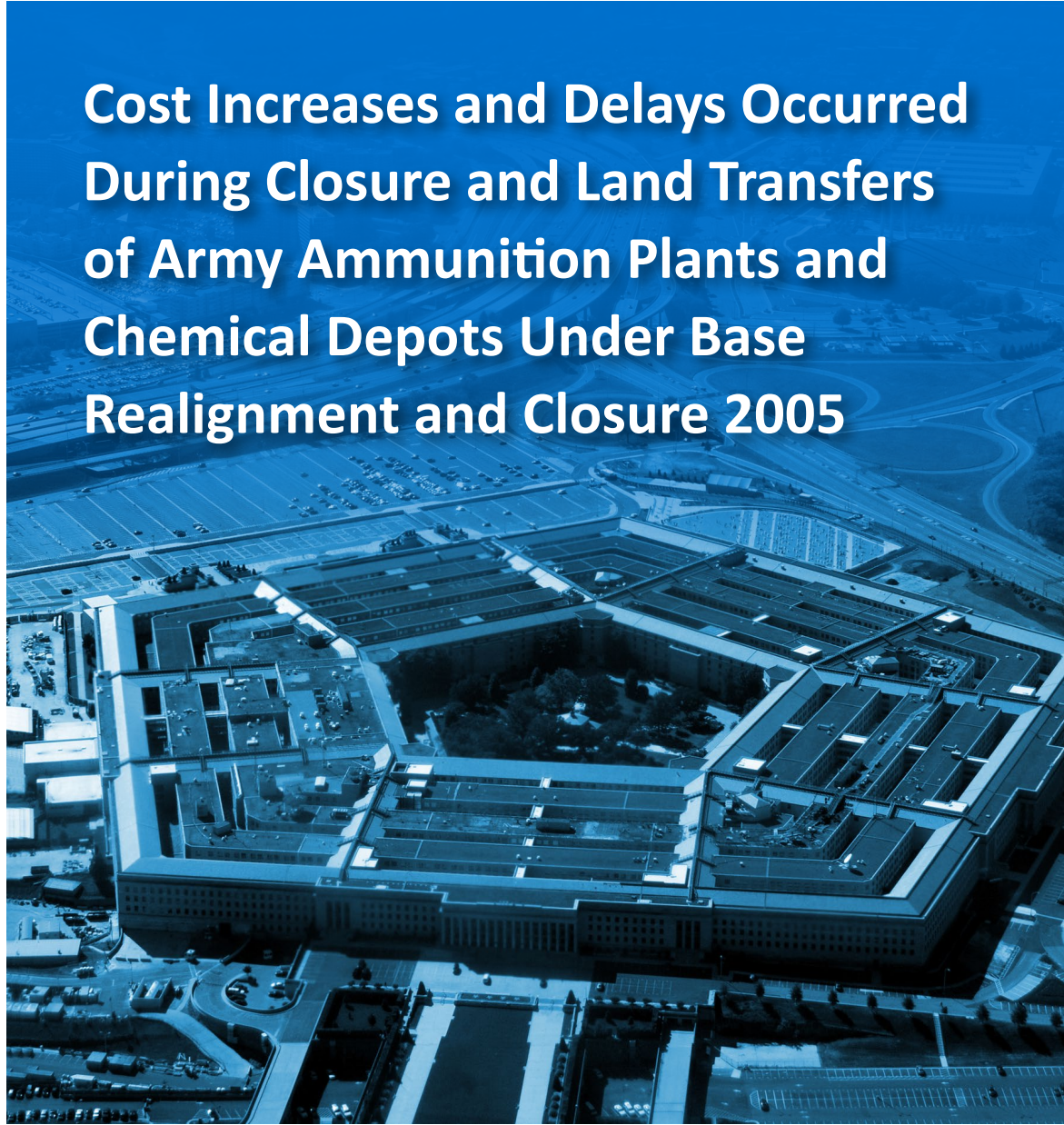
# INSPECTOR GENERAL

*Department of Defense*

AUGUST 6, 2013



## **Cost Increases and Delays Occurred During Closure and Land Transfers of Army Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005**



INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Cost Increases and Delays Occurred During Closure and Land Transfers of Army Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005*

August 6, 2013

### Objective

We reviewed the closure and land transfer at four Army ammunition plants and two chemical depots closed under Base Realignment and Closure (BRAC) 2005. We identified factors contributing to increased costs and delays in cleaning up and transferring the land. We also determined if changes in requirements or additional laws contributed to the increased costs and delays.

### Findings

Army BRAC officials experienced increased costs and delays at Riverbank Army Ammunition Plant (RBAAP), California; Kansas Army Ammunition Plant (KSAAP); Lone Star Army Ammunition Plant (LSAAP), Texas; Newport Chemical Depot (NECD), Indiana; and Umatilla Chemical Depot (UMCD), Oregon, closed under BRAC 2005. Specifically, Army officials experienced cost increases ranging from \$665,000 to an indeterminable dollar value and indeterminable amount of delay because:

- Army officials and contractor personnel identified additional contamination at RBAAP, KSAAP, LSAAP, NECD, and UMCD that was unknown at the time of the BRAC recommendation;
- Army, Environmental Protection Agency, state environmental, and local redevelopment authority officials disagreed on clean-up requirements at RBAAP, KSAAP, and LSAAP; and

### Findings Continued

- Army officials identified additional factors at KSAAP, NECD, and UMCD.

Army officials did not incur major cost increases or delays when completing the cleanup and land transfer at Mississippi Army Ammunition Plant because Army officials completed a permit termination. In addition, Environmental Protection Agency and state environmental agency officials did not identify any new environmental regulations or additional laws that increased the cost or delayed the transfer of land at the Army ammunition plants and chemical depots.

As a result, the Army still owns a portion of the closed properties for an indeterminable amount of time and retains financial responsibility for cleaning up the properties.

### Recommendations

We recommend that the Chief, BRAC Division, Army Assistant Chief of Staff for Installation Management, establish a dispute-resolution plan to resolve problems and disagreements between the Army, Environmental Protection Agency, state environmental officials, and local redevelopment authority officials, as they occur.

### Management Comments

The Army did not agree with the audit finding or recommendation. We did not consider the Army's comments responsive, and we made revisions for clarification purposes throughout the report. We request additional comments by September 5, 2013. Please see the Recommendations Table on the back of this page.

## ***Recommendations Table***

Management	Recommendation Requiring Comment	No Additional Comments Required
Chief, Base Realignment and Closure Division, Army Assistant Chief of Staff for Installation Management	Yes	

\*Please provide comments by September 5, 2013.





**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

August 6, 2013

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Cost Increases and Delays Occurred During Closure and Land Transfers of Army  
Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005  
(Report No. DODIG-2013-114)

We are providing this report for your review and comment. Army Base Realignment and Closure officials incurred cost increases ranging from \$665,000 to an indeterminable dollar value and indeterminable amount of delay, in the transfer of land at five of the six Army Ammunition Plants and Chemical Depots. Army officials completed a permit termination at one of the six sites without incurring major cost increases or delays.

DoD Directive 7650.3 requires that recommendations be resolved promptly. Comments from the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management were not responsive. Therefore, we request comments on our Recommendation by September 5, 2013.

If possible, send a Microsoft Word (.doc) file and portable document format (.pdf) file containing your comments to [audacm@dodig.mil](mailto:audacm@dodig.mil). Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9077 (DSN 664-9077).

*Jacqueline L. Wicecarver*  
Jacqueline L. Wicecarver  
Assistant Inspector General  
Acquisition, Parts and Inventory

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# Introduction

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## Objectives

The overall objective of the audit was to determine whether additional factors increased costs and delayed the land transfers at Army ammunition plants and chemical depots closed during Base Realignment and Closure (BRAC) 2005. We also determined whether changes in requirements or additional laws contributed to increased costs and delays in the cleanup and transfer at each of the six Army ammunition plants and chemical depots we reviewed. See Appendix A for the scope and methodology and prior coverage.

## Background

The audit was initiated in response to language contained in the report of the Committee on Appropriations accompanying H.R. 5854 (House Report 112-491), the Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill for FY 2013. The report required the DoD Office of Inspector General to review BRAC 2005 closures and land transfers:

[t]he Committee directs the Department of Defense's Inspector General to review BRAC 2005 closures and report to the congressional defense committees on additional issues that delayed land transfer and increased costs to the Department of Defense 180 days after enactment of this Act.

Congressional staffers asked the audit team to review the environmental cleanup and land transfer at the Army ammunition plants and chemical depots listed under the BRAC 2005 closures to determine whether changes in requirements or additional laws contributed to increased costs and delays in the cleanup and transfer. To identify factors contributing to increased costs and delays in cleaning up and transferring the property, we reviewed closures and land transfers at four Army ammunition plants and two chemical depots: Riverbank Army Ammunition Plant (RBAAP), California; Kansas Army Ammunition Plant (KSAAP); Mississippi Army Ammunition Plant (MSAAP); Lone Star Army Ammunition Plant (LSAAP), Texas; Newport Chemical Depot (NECD), Indiana; and Umatilla Chemical Depot (UMCD), Oregon. See Appendix B for the 2005 BRAC recommendations.

## Base Realignment and Closure

Congress authorized the BRAC process as a way for DoD to reorganize to efficiently and effectively support its force structure, increase operational readiness, and facilitate new

ways of doing business. Congress and DoD designed the BRAC process to be objective, open, and fair. Recommendations were evaluated against eight unique criteria subject to congressional review and public comment. DoD BRAC accounts provide funding for restoration, closure-related compliance, and planning activities at closing military installations. Unlike other appropriations, Congress provides BRAC funding according to BRAC rounds, and the funding remains available until spent.

In FY 2011, DoD invested \$2.1 billion at BRAC installations to clean up environmental contamination. DoD estimated it would spend \$4.3 billion for FY 2012 and requested about \$4 billion for FY 2013. By the end of FY 2011, DoD attested that a remedy was in place or a response complete at 62 percent of BRAC 2005 sites. By the end of FY 2013, DoD plans to have a remedy in place or a complete response at 89 percent of Installation Restoration Program sites at BRAC 2005 locations and expects to meet its goals.

## Environmental Cleanup Responsibility

Section 2701, title 10, United States Code, “Environmental restoration program” provides requirements for the Defense Environmental Restoration Program regarding the release of hazardous substances from DoD owned, leased, or possessed facilities. The Defense Environmental Restoration Program goals are:

- identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants;
- correction of environmental damage, such as detection and disposal of unexploded ordnance creating substantial endangerment to public health, welfare or the environment; and
- demolition and removal of unsafe buildings and structures.

Among its provisions, section 2701 requires DoD to carry out its cleanup of contamination consistent with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (codified in section 9601-9675, title 42, United States Code) relating to Federal facilities and in consultation with the Administrator of the Environmental Protection Agency (EPA). The land only needs to be cleaned up (remediated) to the standards for the planned reuse. For example, standards of cleanup for land intended for residential use are higher than those for land intended for industrial use. See Appendix C for specific criteria.



## Army Ammunition Plant and Army Chemical Depot Background and History

The 2005 BRAC Commission recommended the closure of seven Army ammunition plants and chemical depots: RBAAP; KSAAP; MSAAP; LSAAP; NECD; UMCD; and Deseret Chemical Depot, Utah.<sup>1</sup>

The process to transfer property under BRAC involves many parties, such as Army BRAC environmental coordinators, the local redevelopment authorities (LRAs), and the DoD Office of Economic Adjustment. An Army BRAC environmental coordinator helped manage the environmental remediation, and the base transition coordinator managed the closure and transfer process at each site. In addition, for five of the six sites, Army officials transferred or plan to transfer the land to the LRA. The DoD recognizes the LRA as the entity responsible for considering the goals and needs of the community as well as creating a redevelopment plan for the closed property before the property is transferred for redevelopment. (The LRAs at each site have different names and are listed in the scope and methodology.) The DoD Office of Economic Adjustment helps the LRAs redevelop and transfer the properties by providing planning and financial assistance. MSAAP did not have an LRA because Army officials completed a permit termination at MSAAP to return the property to the National Aeronautics and Space Administration (NASA).

### ***Riverbank Army Ammunition Plant, California***

RBAAP is a Government-owned, contractor-operated installation in Riverbank, California, in Stanislaus County. According to the October 2008 Riverbank Army Ammunition Plant Base Reuse Plan, the facility, built in the 1940s as an aluminum plant, occupies 173 acres and consists of two noncontiguous areas: the main plant area (146 acres) and the evaporation and percolation ponds (27 acres). According to the commander's representative, RBAAP produced grenades and other munitions. The contractor later produced shell casings and limited grenade casings until May 31, 2009. The facility use contract expired on March 31, 2010. The EPA placed RBAAP on the National Priorities List<sup>2</sup> in 1990 because of significant risk to human health and the environment—primarily because of groundwater contamination from chromium and cyanide detected on- and off-post. Contaminated sites at RBAAP include the site of an

<sup>1</sup> Deseret Chemical Depot, Utah, was originally included as a site to be closed in the 2005 Defense Base Closure and Realignment Commission Report but was not closed under BRAC Authority.

<sup>2</sup> According to the EPA's website, the National Priorities List is the list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories. The National Priorities List is intended primarily to guide the EPA in determining which sites warrant further investigation.

industrial wastewater treatment plant, an abandoned landfill, and storm-water ponds. DoD and EPA signed an interagency agreement in April 1990 to outline cleanup procedures. (Additional information about RBAAP is on pages 9, 15, and 33 of this report.) Figure 1 shows an industrial building at RBAAP.



Figure 1. RBAAP Industrial Building  
Source: OIG Photographer

### ***Kansas Army Ammunition Plant***

KSAAP is 2 miles east of Parsons, Kansas, in Labette County. According to the August 2007, Comprehensive Master Redevelopment Plan for KSAAP, construction began in August 1941, and the installation was completed in November 1942. KSAAP produced artillery shells and bombs and their components, such as fuses, boosters, detonators, relays and primers. KSAAP was placed on standby status from September 1945 to August 1950. During this time, operations at the site primarily involved the receipt, storage, and issuance of ammunition and explosives, as well as site maintenance and preservation. Available land was also leased out for agriculture. KSAAP was reactivated in 1950. Army officials placed KSAAP on standby status in 1957 after production diminished. Army officials reactivated KSAAP in 1967, during the Vietnam War. (Additional information about KSAAP is on pages 11, 16, 19, and 35 of this report.) Figure 2 shows an ammunition storage building at KSAAP.

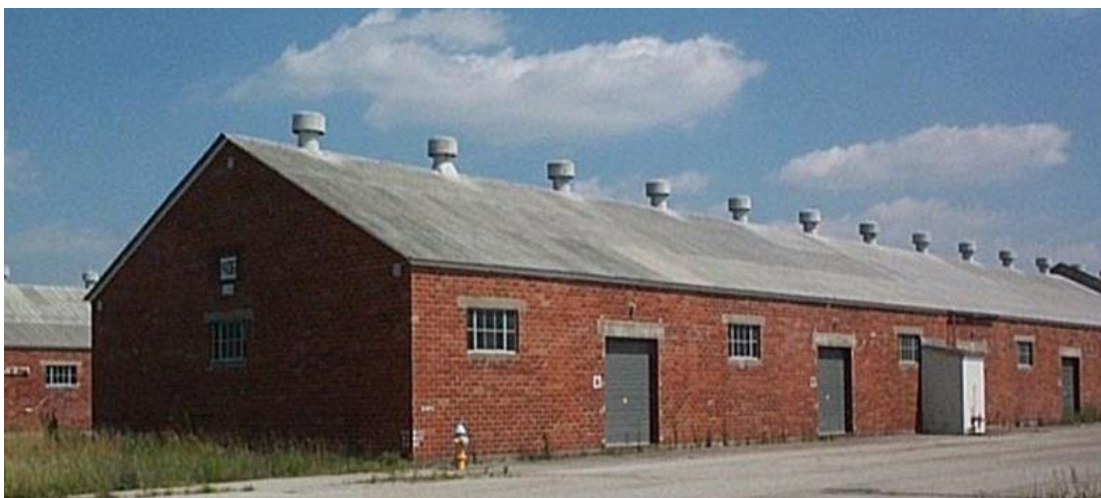


Figure 2. Ammunition Storage Building at KSAAP

Source: Contracting officer's representative at KSAAP

## ***Mississippi Army Ammunition Plant***

MSAAP is in the southwestern corner of Mississippi, in Hancock County. According to the Environmental Condition of Property Report for MSAAP, November 2006, on July 7, 1978, the Army obtained a 50-year irrevocable permit from NASA to use about 7,149 acres



Figure 3. Aerial View of MSAAP

Source: NASA

of the John C. Stennis Space Center property to build and operate MSAAP. Construction started in 1978, and the first testing of a completed projectile was in 1984. The primary mission of the facility was the testing, development, manufacture, and management, of the M483 155-mm artillery improved conventional munitions. In 1990, DoD placed MSAAP on inactive status and began the layaway process for the equipment and facilities. The Army ceased production in 1992 and amended the permit four times, returning about 2,935 acres of land and property to NASA. MSAAP covered 4,214 acres of land within the boundaries of the John C. Stennis Space Center until Army officials completed the return of the remaining land to NASA. (Additional information about MSAAP is on pages 23 and 36 of this report.) Figure 3 is an aerial view of MSAAP at the National Space Technology Laboratory.

## ***Lone Star Army Ammunition Plant, Texas***

LSAAP is in the northeastern corner of Texas, in Bowie County, and occupies about 15,500 acres. According to the Lone Star/Red River Reuse Master Plan, 2007, LSAAP is a Government-owned, contractor-operated shell-loading installation completed in 1942. The contractor operating the installation during World War II was responsible for its deactivation procedures in 1945. The installation's function was primarily demilitarization and renovation work and was administered by the Ammunition Division of Red River Arsenal. The Army transferred about 8,984 acres of land to the LRA and about 5,424 acres of land to the operating contractor under early transfer authority. The Army retained responsibility for the environmental cleanup of the High Explosive Burning Ground, High Explosive Demolition Ground, and XX Test Area while building decontamination is in progress. Army officials also retained the Area A Landfill and the Old Demolition Area. EPA listed the Old Demolition Area on the National Priorities List in 1987 because of metals and explosive contamination.



(Additional information about LSAAP is on pages 11, 17, and 37 of this report.) Figure 4 shows a retention pond containing elevated metal concentrations at the High Explosive Demolition Ground of LSAAP.

### ***Newport Chemical Depot, Indiana***

NECD is in Vermillion County in west-central Indiana and occupies about 7,130 acres of land. According to the NECD Reuse Plan, December 2009, the Army produced explosives, a chemical nerve agent, and heavy water at NECD from 1942 to 1975, which resulted in known and potential contamination of soil, groundwater, surface water, and structures. In addition, the Army stored the chemical nerve agent at NECD until its destruction at the Newport Chemical Demilitarization Facility from 2002 through 2008. On September 30, 2011, the Army transferred 6,652 acres to the LRA through the approved Economic Development Conveyance,<sup>3</sup> and on September 14, 2012, transferred an additional 480 acres to the LRA. Army officials will transfer the remaining five acres after completion of the environmental remediation. (Additional information about NECD is on pages 12, 19, and 39 of this report.) Figure 5 shows the concrete silos at NECD.



<sup>3</sup> An Economic Development Conveyance is a method of transfer that allows the LRA to obtain all or large portions of property with favorable terms and conditions. An Economic Development Conveyance may be for less than fair market value, under certain circumstances, to allow economic development such as job creation or retention.





### ***Umatilla Chemical Depot, Oregon***

UMCD is in northeastern Oregon, about 3 miles south of the Columbia River, in Umatilla and Morrow Counties. Army officials established UMCD as an ordnance depot in 1941. The site consists of about 19,729 acres. According to the UMCD Base Redevelopment Plan, August 2010, during the first 10 years of operations, UMCD's primary activities were receipt, storage, and redistribution of various caliber ammunition and other conventional munitions. Over the next 10 years, UMCD expanded activities to include open burning/open detonation of munitions components; testing, maintenance, and recycling of munitions; and storage and maintenance of missiles and missile fuel components. About 1962, UMCD also started storing and maintaining nerve agents and blister agents. In 1988, the BRAC Commission recommended realignment of UMCD to facilitate closure as soon as the demilitarization was completed. The 1988 BRAC Commission was unable to close UMCD because of the ongoing chemical demilitarization process, and UMCD was realigned in September 1994. Army officials completed the chemical demilitarization process and closed UMCD in August 2012. (Additional information about UMCD is on pages 13, 20, and 40 of this report.) Figure 6 shows the Umatilla Chemical Agent Disposal Facility.

## **Review of Internal Controls**

DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. The Army Assistant Chief of Staff for Installation Management's internal controls over its processes for closing and transferring property at the Army ammunition plants and chemical depots we reviewed during BRAC 2005 were effective as they applied to the audit objective.

## Finding

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### Cost Increases and Delays Were Experienced During Land Transfers

Army BRAC officials for five of the six Army ammunition plants and Army chemical depots experienced increased costs ranging from \$665,000 to an indeterminable dollar value and indeterminable amount of delay for the land transfers.<sup>4</sup> Specifically, the increased costs and delays occurred because:

- Army officials and contractors identified additional areas requiring environmental remediation that were unknown at the time of the BRAC recommendations at five of the six sites (RBAAP, KSAAP, LSAAP, NECD, and UMCD);
- Army, EPA, state environmental agency, and LRA officials disagreed on cleanup requirements at three of the six sites (RBAAP, KSAAP, and LSAAP); and
- Additional factors delayed the land transfers at three of the six sites (KSAAP, NECD, and UMCD).

Army BRAC officials did not incur major cost increases or delays when completing the environmental cleanup and permit termination of MSAAP. In addition, EPA and state environmental agency officials did not identify any new environmental regulations or additional laws that increased the cost or delayed the transfer of land at the Army ammunition plants and chemical depots.

As a result, the Army still owns a portion of the closed properties for an indeterminable amount of time and retains the financial responsibility for cleaning up the properties.

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<sup>4</sup> Army BRAC officials were unable to identify the extent of delays or quantify the increased costs at the installations because the Army BRAC officials are still identifying the extent of environmental cleanup needed.

## Additional Cleanup

Army BRAC officials incurred additional indeterminable cleanup costs and experienced delays in the transfer of land at five of the six sites because Army officials and contractor personnel identified additional contamination after the BRAC 2005 recommendations were finalized.

- Army officials at RBAAP were (as of January 2013) conducting additional investigations to determine the extent of polychlorinated biphenyl (PCB) contamination released from weathered Galbestos<sup>5</sup> siding used on site buildings and identify the appropriate response action.
- At KSAAP, Army officials (as of February 2013) needed to remediate munitions and explosives of concern.<sup>6</sup>
- Army officials at LSAAP were, as of December 2012, still assessing the extent of the contamination because the environmental cleanup was greater than anticipated.
- At NECD, Army officials have an ongoing PCB remediation contract on 5 acres of the land, as a result of contamination found after initial assessments.

Additionally, Army officials at UMCD may have to complete additional cleanup of buildings constructed with asbestos-containing materials. As a result, the Army will incur costs for cleaning up the properties as well as maintaining portions of the closed properties for an indeterminable period.

## ***Additional Assessments Required Because of Discovery of Galbestos***

Army program managers and the commander's representative for RBAAP may incur additional cleanup costs and delays in transfer of land to the LRA because Army officials need to determine the extent of PCB contamination resulting from the Galbestos siding discovered on the buildings and identify the appropriate response. According to the California EPA, Central Valley Regional Water Quality Control Board (Central Valley Water Board) officials, Army officials were ready to transfer RBAAP in 2009, but a

<sup>5</sup> The U.S. Army Corps of Engineers prepared a Galbestos Investigation Report, which explained Galbestos is a corrugated sheet metal product with a layer of asbestos felt on one side that is dipped in an asphaltic coating containing PCBs.

<sup>6</sup> Any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and non-explosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions present in high enough concentration to pose an explosive hazard.



Figure 7. Aluminum Presses at RBAAP Source: OIG Photographer

consultant company brought in by the LRA identified the Galbestos siding on a number of industrial-use buildings. The U.S. Army Corps of Engineers also stated in the Galbestos Investigation Report that over the years, the Galbestos siding weathered and released non-liquid PCBs into the interior and exterior of the buildings. Figure 7 shows aluminum presses used to manufacture shell casings inside the industrial buildings at RBAAP.

According to the commander's representative, the Army's initial baseline study to identify the extent of the PCB contamination began in 2010 and, as of January 2013, was not completed. Army program managers and the commander's representative for RBAAP have not completed the assessment of how far the PCB contamination spread into the soil, which according to the California EPA's Department of Toxic Substance Control, is necessary to determine the method and cost of cleanup. Figure 8 shows an industrial building with Galbestos siding that weathered and released PCBs. Although



Figure 8. Industrial Building With Galbestos Siding

Source: OIG Photographer



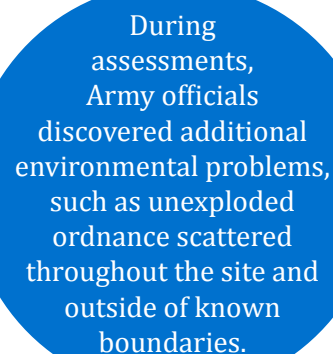
Army officials identified additional contamination resulting in cost increases and delays at RBAAP, EPA officials identified changes, unrelated to the additional contamination, in the public health goals for hexavalent chromium. According to EPA officials, the new public health goal is stricter; however, the public health goal is not enforceable until the contaminant reaches the maximum contaminant level.<sup>7</sup> Therefore, this new goal did not result in cost increases or delays.

### ***Contamination at KSAAP Requires Remediation***

Army BRAC officials involved with the closure and transfer of KSAAP will incur additional cleanup costs and encounter delays in the transfer of land to the LRA because of additional remediation of munitions and explosives of concern. Army officials closed KSAAP in March 2009; however, as of February 2013, the former operating contractor continues to operate several areas with facility use contracts for both DoD and non-DoD munitions items. Army officials projected completing the negotiated sale of the remaining 4,112 acres to the operating contractor as of November 30, 2012. However, as of February 2013, Army officials retained several parcels of land on which the Army had not completed remediation of munitions and explosives of concern. Army officials began the remedial investigation of these parcels. In addition, Kansas Department of Health and Environment officials stated that no new requirements or additional laws resulted in cost increases or delays.

### ***Environmental Contamination at LSAAP Was Greater Than Anticipated***

The extent of environmental contamination was greater than anticipated at LSAAP; therefore, Army BRAC officials may incur additional cleanup costs and delays in the transfer of land. As of December 2012, Army officials were still assessing the extent of contamination in buildings onsite containing explosives residue. According to the BRAC environmental coordinator, LSAAP contains many unknown contaminants dating back to 1941. During assessments, Army officials discovered additional environmental problems, such as unexploded ordnance scattered throughout the site and outside of known boundaries. In addition, Army officials cannot estimate the additional cleanup costs until they determine the extent of contamination throughout the property and identify the needed remedial actions.



During assessments, Army officials discovered additional environmental problems, such as unexploded ordnance scattered throughout the site and outside of known boundaries.

<sup>7</sup> The maximum contaminant level is the maximum permissible level of a contaminant in water that is delivered to any user of a public water system.



Figure 9. XX Test Area at LSAAP

Source: OIG Photographer

According to LRA officials at LSAAP, the XX Test Area is dangerous because of the presence of munitions and explosives, and strong evidence exists that munitions and explosives are present outside the fenced area. LRA officials expect the Army to follow a Memorandum of Agreement that directs the Army to remove any munitions and explosives when found. LRA officials expect the area to be left as property ready for industrial-use. Army officials acknowledged their obligation pursuant to DoD policy and law to remove explosive hazards or dispose of munitions and explosives on the property and are responding to and addressing the problem. According to Texas Commission on Environmental Quality officials, no additional laws or regulations resulted in delays or cost increases. Figure 9 shows the XX Test Area, where LSAAP personnel formerly tested munitions; contractor personnel are conducting ongoing environmental remediation at the site.

### ***Recently Found Contamination at NECD Requires Additional Remediation***

Army program managers and the BRAC environmental coordinator for NECD have an ongoing PCB remediation contract to address additional contamination found on about 5 acres of land. This additional contamination may result in additional cleanup costs and delays in the transfer of land to the LRA. According to Army officials, EPA required additional remediation of the



Figure 10. Train Loading Dock at NECD

Source: OIG Photographer

PCB-contaminated soils under the Toxic Substances Control Act. Army officials did not identify the PCB-contaminated soil during initial environmental assessments. Figure 10 shows an old train loading dock used to load and unload raw explosives.



Figure 11. Storage igloos at NECD Source: OIG Photographer

As of October 2012, Army officials had a contract in place to clean up the PCB contamination; the remaining cost to complete the NECD cleanup is for the PCB cleanup. The final 5 acres will not be transferred until the soil remediation is completed. EPA requires additional work, including excavation and installation of a cap, along with collection of surface and subsurface soil samples. EPA officials also require the removal and disposal of soil containing asbestos, in addition to the installation of an additional fence in accordance with the remediation agreements. Although Army officials identified additional contamination needing remediation at NECD, no new requirements or additional laws resulted in cost increases or delays. Figure 11 shows storage igloos at NECD.

### ***Buildings With Asbestos-Containing Materials May Require Additional Cleanup***

Army BRAC officials involved in the closure and transfer of UMCD may be required to remove asbestos-containing materials and lead-based paint from buildings which may result in Army officials incurring additional cleanup costs and land transfer delays. A portion of the land (about 1,794 acres) that Army officials are considering transferring to the LRA includes multiple buildings constructed with asbestos-containing materials and lead-based paint. According to EPA officials, these buildings are not a problem

unless the buildings are demolished and the contaminants have migrated into the soil. According to EPA officials, the buildings have not received maintenance for over 20 years and, therefore, are no longer usable. Officials from the Oregon Department of Environmental Quality want the Army to abate the asbestos-containing materials and lead-based paint before the Army transfers the property to the LRA. The LRA does not have the funding to clean-up the property and make it available for reuse. DoD officials believe Oregon Department of Environmental Quality officials are applying a new interpretation to a longstanding regulation.

Army officials are required only to remediate the property if there are releases to the environment at unacceptable levels based on the planned reuse. If the LRA does not want to accept the property, including the buildings with asbestos-containing materials and lead-based paint, Army officials may transfer this portion of the property to the Oregon National Guard. If the Oregon National Guard accepts the land, Army officials would still have to perform any necessary cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act. Army officials identified a new maximum contaminant level for arsenic in drinking water and as of April 2013 were developing a sampling plan. However, the Army officials have not spent additional funds. Figure 12 shows buildings constructed with asbestos-containing materials at UMCD.



Figure 12. Building With Asbestos-Containing Material at UMCD

Source: OIG Photographer



## Disagreements on Cleanup Requirements

Army, EPA, state environmental agency, and LRA officials involved with the closures and land transfer at the RBAAP, KSAAP, and LSAAP sites disagreed when coordinating environmental cleanup procedures which caused increased costs and delayed the transfer of land, at each site. Specifically:

- Army, EPA, and state environmental agency officials at RBAAP disagreed on the remediation of Galbestos;
- Army officials, EPA officials, and Kansas Department of Health and Environment personnel at KSAAP disagreed on the cleanup of applied pesticides; and
- Army officials and LRA personnel at LSAAP disagreed on cleanup responsibilities negotiated in the Economic Development Conveyance Memorandum of Agreement.

## ***Disagreements Regarding Galbestos Remediation Resulted in Potential Cost Increases and Delays***

Army program managers and the commander's representative for RBAAP experienced potential cost increases and delays because of disagreements regarding the remediation of Galbestos. Army and LRA officials disagreed on the development of a work plan to remediate the areas of land causing additional delays at the RBAAP. According to the California Department of Toxic Substances Control officials, Army officials and the LRA cannot issue a Finding of Suitability for Early Transfer<sup>8</sup> until the contamination is assessed and a work plan to remediate the contaminated areas is negotiated. The

commander's representative indicated that multiple projects to determine the extent of environmental contamination started and stopped because the projects were not in the LRA's best interest. EPA officials stated that they worked with the Army and the redevelopment authority to find the best strategy and options to remediate and transfer the property. However, the Army and LRA officials' inability to develop a work plan caused additional delays at RBAAP.

Army and LRA officials' inability to develop a work plan caused additional delays at RBAAP.

<sup>8</sup> A Finding of Suitability for Early Transfer is a method of early disposal allowable under the provisions of Section 120(h)(3)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act. This finding defers the requirement to complete all necessary environmental cleanup prior to the transfer of the property.

Specifically, according to Central Valley Water Board officials, Army and Army Corps of Engineers officials were untimely in their responses to comments provided by Central Valley Water Board officials regarding PCB contamination at RBAAP. Central Valley Water Board officials stated they provided the Army with comments that were reviewed by the Army Corps of Engineers. According to Central Valley Water Board officials they submitted comments in September 2011 but received only partial responses in February 2012. The Army responses stated that some of the Central Valley Water Board comments were not applicable. As a result, the Army program managers and the commander's representative incurred additional delays in remediating the contaminated areas at RBAAP.

### ***Disagreements on Whether Applied Pesticides Require Cleanup Resulted in Potential Cost Increases and Delays***

Army program managers and the BRAC environmental coordinator at KSAAP incurred potential cost increases and delays because of disagreements among EPA Region 7, Kansas Department of Health and Environment officials, and themselves regarding the remediation of applied pesticides. Army and EPA officials discussed the cleanup of applied pesticides at KSAAP in letters spanning January 2011 to April 2012. It became apparent that their interpretations differed on the cleanup of applied pesticides. According to EPA officials, applied pesticides in the soil around buildings are considered "solid waste" under the Resource Conservation and Recovery Act (RCRA) if the buildings are demolished, and are thus potentially subject to the corrective action terms of a RCRA permit. Army and DoD officials considered the applied pesticides to be products used as intended, not solid waste as discarded material, and therefore outside the scope of RCRA.<sup>9</sup> According to the Army officials, it is an unexpected and extraordinary expansion of the obligations of RCRA to apply solid-waste-management requirements to soil where pesticides have been applied but "no longer serve their intended purpose." Army officials discussed efforts to remediate the property with Kansas Department of Health and Environment officials, reaching the conclusion that the Army's actions are in compliance with the environmental legal standards. According to Kansas Department of Health and Environment officials, Army and EPA officials were unable to reach an agreement. Army, EPA, and state environmental agency officials' inability to reach an agreement sooner caused at least a 16-month delay in transferring the property and increased costs. According to the April 30, 2012, letter from the EPA, Army and EPA officials agreed to establish a joint work group to

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<sup>9</sup> The parties also disagreed on whether EPA's position with respect to applied pesticides was a new interpretation of existing laws and regulations, which had not been raised on non-DoD properties, or was consistent with the EPA's longstanding policy.

discuss and resolve site-specific issues to provide more consistency in addressing pesticides. As of June 2013, however, the Army reports that Army and EPA officials remain unable to reach an agreement.

EPA officials have RCRA permit authority and would not allow the closure of the RCRA permit from the phase 2 Economic Development Conveyance parcel of property (6,116 acres), because the Army and the EPA disagreed in their interpretation of the cleanup requirements for these materials. The Kansas Department of Health and Environment and the LRA resolved the RCRA permit disagreement through the Environmental Consent Order, which instituted an Environmental Use Control Program.<sup>10</sup> The U.S. Army Corps of Engineers prepared and signed the deed for the LRA's portion of the property in August 2012 and officially transferred 6,116 acres to the LRA.

### ***Disagreements Regarding the Cleanup Negotiated in the Economic Development Conveyance Memorandum of Agreement Resulted in Potential Cost Increases and Delays***

Army program managers and the BRAC environmental coordinator for LSAAP incurred delays and potential cost increases because they disagreed about how to adhere to the Economic Development Conveyance Memorandum of Agreement negotiated with the LRA. Army officials negotiated the Memorandum of Agreement with the LRA on September 1, 2010. Both parties agreed that:

- the LRA does not have an affirmative obligation to the Army to conduct or fund explosive decontamination or removal of munitions and explosives removal at the property, unless otherwise agreed by the Army and the LRA; and
- the Army acknowledges its obligation pursuant to DoD policy and applicable law to abate explosive hazards or dispose of munitions and explosives of concern, as appropriate, on the property.

According to LRA officials, the XX Test Area contains munitions and explosives of concern, and evidence of munitions and explosives of concern outside the fenced area leaves the public on the transferred property potentially exposed to explosive hazards. LRA officials expected the area to be abated and transferred as negotiated in the Memorandum of Agreement. However, Army officials are 2 years behind schedule and

<sup>10</sup> The Environmental Use Control Program is an institutional or administrative control on a specific property, to ensure future protection of public health and the environment when environmental contamination exceeds department standards for unrestricted use.



Figure 13. Environmental Remediation of XX Test Area at LSAAP

Source: OIG Photographer

have not provided a resolution to clear and remove munitions and explosives of concern from the area. Army officials may incur increased costs and delays in the transfer of property because Army officials have not yet determined the extent of the hazards and a resolution for removing the munitions and explosives of concern from the XX Test Area. Figure 13 shows ongoing environmental remediation at the XX Test Area at LSAAP.

In addition, LRA officials stated that Army officials did not adhere to the Memorandum of Agreement requirement to negotiate and develop an Environmental Services Cooperative Agreement. According to the Memorandum of Agreement, both parties agreed to make good-faith efforts to enter into a phased Environmental Services Cooperative Agreement within 90 days of settlement on the property transfer to the redevelopment authority. The Environmental Services Cooperative Agreement is designed to provide environmental services to implement and maintain land use controls and provide long-term maintenance responsibilities for the remediation of hazardous substances. However, Army officials did not draft an Environmental Services Cooperative Agreement with LRA officials and according to LRA officials, did not make good-faith efforts to fulfill the provisions within 90 days as required. The Chief, BRAC Division for the Assistant Chief of Staff for Installation Management should establish a dispute resolution plan through which the Army, EPA, state environmental agency, and the LRA officials involved can resolve disagreements as to cleanup requirements and problems as they occur.



## Additional Factors

Army BRAC officials involved in the closure and transfer of KSAAP, NECD, and UMCD identified additional factors that caused increased costs and land transfer delays. Specifically, Army program managers and the base transition coordinator for KSAAP were involved as defendants in a lawsuit, and Army BRAC officials for NECD needed to prepare a revised biological assessment of the land closure and reuse effects on an endangered species. In addition, Army officials involved in the closure and land transfer of UMCD needed to complete the land transfer for a portion of the property to the Oregon National Guard, as well as find a new prospective land owner for one parcel of the property. Furthermore, the 2005 BRAC Commission's conditional recommendation to close UMCD resulted in UMCD being removed from the BRAC 2005 closure list. However, the National Defense Authorization Act later re-added UMCD to the BRAC 2005 list, delaying transfer of the site.

### ***Lawsuit Involvement Resulted in Cost Increases and Land Transfer Delays***

Army program managers and the base transition coordinator for KSAAP were involved in a lawsuit filed against the contractor responsible for the KSAAP caretaker contracts and the LRA, which caused Army officials to experience potential cost increases and indeterminable delays. A railcar operator at KSAAP filed the lawsuit over a contractual issue, which put the title in a state of *lis pendens* ("suit pending"), imposing restrictions on the transfer of the property, except for 1,000 acres the Army was selling to the Kansas Department of Wildlife and Parks under the Army Compatible Use Buffer Authority. All parties to the lawsuit eventually agreed to a mediation process, and the lawsuit was settled. The LRA agreed that the railcar operator would continue exclusive rail operations for 1 year. According to Army program managers, the railcar lawsuit was filed after the resolution of environmental problems, and the Army's involvement did not hold up the land transfer. However, the LRA stated the lawsuit created a delay in its ability to operate the rail system, reducing the expected revenue stream post transfer. In addition to the delay, the LRA incurred extra costs of about \$450,000 in attorney fees.

### ***Completion of a Revised Biological Assessment Resulted in Increased Costs and Delays in the Land Transfer at NECD***

Army program managers and the BRAC environmental coordinator for NECD identified about a \$665,000 cost increase and a 7-month delay as a result of completing a revised

biological assessment on land closure and reuse affecting the Indiana bat (*M. sodalis*), an endangered species. Section 1536 of the “Endangered Species Act,” title 16, United States Code, requires agencies to conduct biological assessments to identify any endangered species or threatened species likely to be affected by a proposed agency action. Originally, Army officials conducted and submitted a biological assessment, dated October 2010, to the U.S. Fish and Wildlife Service. However,

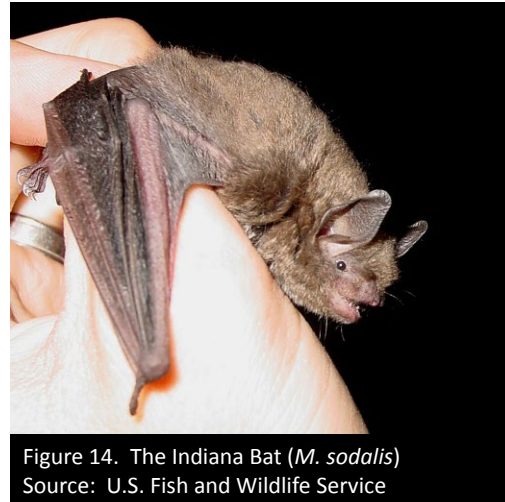


Figure 14. The Indiana Bat (*M. sodalis*)  
Source: U.S. Fish and Wildlife Service

Army officials needed to prepare a revised biological assessment to incorporate changes in response to comments received, and as a result of consultations held between the Army and the U.S. Fish and Wildlife Service starting in December 2010. A letter dated August 2011 shows Army officials submitting the revised biological assessment to the U.S. Fish and Wildlife Service for concurrence. Army officials determined through the biological assessment process that the disposal and reuse of NECD may affect the Indiana bat. The U.S. Fish and Wildlife Service conditionally concurred in September 2012. Figure 14 is a photograph of the Indiana bat. Army BRAC officials incurred about a 7-month delay because of revisions to the biological assessment to reflect changes required by the U.S. Fish and Wildlife Service. In addition, according to Army program managers, the Army incurred about \$600,000 in increased costs for the caretaker services contract at NECD while Army officials prepared the revised biological assessment. Army officials paid for the biological assessment, which cost about \$65,000.

### ***Three Additional Factors at Umatilla Chemical Depot Created Potential Cost Increases and Land Transfer Delays***

Army BRAC officials identified three factors causing potential increased costs and delays in the land transfer of the 19,729 acres at UMCD:

- completion of a land transfer;
- identification of a new prospective land owner for a portion of property; and
- the 2005 BRAC Commission’s conditional recommendation to close UMCD resulted in UMCD being removed from the BRAC 2005 closure list because Army officials did not meet the deadline. The National Defense Authorization Act subsequently returned UMCD to the BRAC 2005 list.

Army officials at UMCD are scheduled to transfer a large portion of the land to the Oregon National Guard through the National Guard Bureau. The Oregon National Guard had used a portion of UMCD since the 1980's. According to the base transition coordinator at UMCD, the Oregon National Guard was deployed when the BRAC recommendation was approved. According to the BRAC environmental coordinator at UMCD, as of January 2013, Army officials were still trying to identify a way to complete the property transfer to the National Guard Bureau in order to maintain Federal status for the property. Army BRAC officials stated they planned to transfer the property to a U.S. property and fiscal officer. Army officials plan to complete the transfer by July 2013.

Army officials experienced additional delays because the Army needed to find a new property owner for a portion of the land at UMCD that is to remain as a wildlife refuge. According to the U.S. Army Umatilla Chemical Depot Base Redevelopment Plan, prepared by the LRA and an Army news article, the habitat in the 5,613-acre UMCD wildlife refuge represents some of the last large contiguous tracts of shrub-steppe<sup>11</sup> terrain home to species including the burrowing owl (*A. cunicularia*) and the pronghorn antelope (*A. americana*). Figure 15 shows a herd of the pronghorn antelope.



Figure 15. The Pronghorn Antelope (*A. americana*)  
Source: OIG Photographer



Figure 16. The Burrowing Owl (*A. cunicularia*) and an 'owl burrow'  
Source: U.S. Army Environmental Command

The Army news article also explained that the burrowing owl is listed as a national "bird of conservation concern" in the U.S. Fish and Wildlife Service Pacific Region. The Army partnered with the U.S. Fish and Wildlife to develop a new burrowing owl habitat called owl burrows. The Army and U.S. Fish and Wildlife, along with volunteers from the community, built six clusters of three burrows, for a total of 18 burrows across UMCD. Figure 16 shows a burrowing owl next to an owl burrow built at UMCD.

<sup>11</sup> Shrub-steppe habitats are open grass-dominated communities usually found on wind-deposited soils.

Army officials stated they were originally going to transfer the portion of land to the U.S. Fish and Wildlife Service as a wildlife refuge that would preserve the shrub-steppe and grassland habitats for existing and future wildlife species. However, according to the base transition coordinator, the U.S. Fish and Wildlife Service officials decided not to take the land because of budget constraints that would prevent them from maintaining the property. According to the base transition coordinator, the Confederated Tribes of the Umatilla Indian Reservation, Oregon, wants to maintain the Federal status of the property and is assisting in identifying a Federal agency to take over the wildlife refuge.

Army officials experienced about a 1-year delay in transferring the property to new property owners because the 2005 BRAC Commission recommended the closure of UMCD through a conditional recommendation, but Army officials did not close UMCD by the September 15, 2011, deadline, which removed UMCD from the BRAC 2005 closure list. However, the FY 2012 National Defense Authorization Act returned UMCD to the BRAC 2005 closure list. According to OUSD (AT&L) officials, the chemical depot recommendations include a condition that, if not met, voids the recommendation. Specifically, the UMCD recommendation states, “On completion of the chemical demilitarization mission in accordance with Treaty obligations, close Umatilla Chemical Depot, OR.” OUSD (AT&L) officials stated that this meant if Army officials did not complete the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction treaty obligation within the 6-year period, the recommendation fails. In December 2011, Congress passed legislation in the National Defense Authorization Act for FY 2012, granting authority to complete the closure of UMCD as recommended in the 2005 BRAC report:

- without regard to any condition contained in the recommendation, and
- not later than 1 year after the completion of the chemical demilitarization mission in accordance with the Chemical Weapons Convention Treaty.

Army officials closed UMCD in August 2012, incurring about a 1-year delay because the property did not transfer during this time. The base transition coordinator at UMCD stated the Army maintains a caretaker contract on UMCD costing about \$2 million annually; however, Army officials have a memorandum of understanding with the U.S. Chemical Materials Agency, for closure of the two RCRA permits and the U.S. Chemical Materials Agency pays for about half of the caretaker contract.



## Mississippi Plant Did Not Have Major Cost Increases or Delays in the Land Transfer

Army BRAC officials did not incur major cost increases or delays when completing the environmental cleanup and permit termination for MSAAP. Army officials obtained a 50-year permit from NASA to use a portion of property at the John C. Stennis Space Center, Mississippi, to build and operate MSAAP. Over the years, Army officials returned some of the property to NASA by amending the permit. On November 8, 2010, NASA and the Army terminated the permit agreement, and NASA agreed to accept the return of MSAAP property before Army officials completed all required environmental remediation. NASA officials agreed to accept the property on the condition that any future response actions required as a result of the Army's activities would remain the responsibility of the Army. Mississippi Department of Environmental Quality officials stated MSAAP did not require extensive environmental remediation. According to NASA officials, the Army officials were conducting studies regarding certain parcels of land. As of February 2013, Army officials were still conducting their Remedial Investigation/Feasibility Study on ground water monitoring and the Military Munitions Response. NASA officials stated they did not have any environmental concerns with MSAAP and the permit termination completed smoothly without additional costs incurred.

## Conclusion

Additional contamination and factors out of the Army's control, such as lawsuits and the identification of new land owners, contributed to delays and increased costs for continued caretaker responsibilities and cleanup. In addition, resolution of disagreements with the Environmental Protection Agency, state environmental agency officials, and the local redevelopment authorities could have potentially reduced costs and minimized delays for the land transfer of installations closed under BRAC. Army officials incurred additional costs ranging from \$665,000 to an indeterminable dollar value and indeterminable amount of delay for the land transfers because of the additional contamination discovered and cleanup required. No new regulations or requirements were enacted that increased the cost or delayed the land transfer; however, in some instances, Army officials believe officials used new interpretations of long standing regulations.

## Management Comments on the Finding and Our Response

Based on comments received from the Deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) and the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management as well as discussions with DoD Office of General Counsel, we revised the report to clarify our intent.

### ***Assistant Secretary of the Army Comments***

The acting deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) commented for the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management that the Army is concerned about inaccurate statements in the report regarding applied pesticides at Kansas Army Ammunition Plant. The acting deputy stated that including the EPA's view in the audit report is inappropriate. Therefore, he did not agree with the finding of the audit. In addition, he stated the DoD IG staff did not conduct discussions with Army and DoD counsel and program officials actively involved with the pesticide issue. Further, he stated that he concurred with the comments provided by the Chief, Base Realignment and Closure Division for the Army Chief of Staff for Installation Management.

### ***Our Response***

We disagree with the acting deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) comments. Congressional staffers requested that the DoD IG audit team review the closure and land transfer of Army Ammunition Plants and Chemical Depots closed under Base Realignment and Closure 2005 to determine the causes of increased costs and delays. The disagreement between the Army and the EPA on applied pesticides at Kansas Army Ammunition Plant is only one small part of why the Army Base Realignment and Closure officials experienced cost increases and delays during the closure and transfer of the installations reviewed. In conducting this audit, the audit team did not only meet with Army and DoD officials involved, but also with EPA officials, state environmental agency officials, and the local redevelopment authorities to obtain information from all parties involved as an objective reviewer and the report reflects each of these views. The DoD IG audit team does not endorse the views expressed by any of the parties involved in the disagreement regarding applied pesticides but simply presented all sides of the situation. In addition, the acting deputy indicated that the DoD IG staff did not conduct discussions with Army and DoD counsel and program officials actively involved. However, this statement is inaccurate

as we met with the Army Base Realignment and Closure program managers for each site reviewed as well as DoD officials from the Office of the Deputy Under Secretary of Defense Installations and Environment, the DoD Office of General Counsel, and the Office of Economic Adjustment. During our meeting with the Kansas Army Ammunition Plant Base Realignment and Closure Environmental Coordinator an official from the U.S. Army Legal Services Agency provided information about Kansas Army Ammunition Plant and the applied pesticide matter.

### ***Army Assistant Chief of Staff for Installation Management Comments***

The Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management commented that the Army has concerns about the general tone and statements in the report. He stated that the DoD IG did not incorporate any of the Base Realignment and Closure Division's clarifications and that the report read as if the DoD IG does not understand the processes in place to guide the Base Realignment and Closure process and to resolve environmental issues. Therefore, he disagreed with our audit finding. In addition, he provided examples from the report that he believe show the DoD IG is misinformed. Specifically:

1. The Chief stated footnote number 2 on page 3, defining the National Priorities List is incorrect and misrepresents remediation at Riverbank Army Ammunition Plant.
2. The Chief stated that the consideration of properly applied pesticides as solid waste is not Army policy and the pesticide issue was elevated to facilitate a resolution but is still not resolved. He added that an impasse does not equal ineffective communication and Army Base Realignment and Closure officials and regulators met several times, exchanged e-mails, and held conference calls in an attempt to resolve the issue.

### ***Our Response***

We disagree with the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management comments. Although he indicated that the DoD IG did not incorporate any of the Base Realignment and Closure Division's clarifications into the report, we included over two dozen of the requested changes, including an updated recommendation. We subsequently revised the recommendation as well as portions of the report, in response to management comments, to clarify our intent. We obtained the definition in example 1 (above) from the EPA website and

included it in the audit report simply as a definition of the National Priorities List. We included this footnote in the Riverbank Army Ammunition Plant section because it is the first instance the term National Priorities List is used.

The second example provided by the Chief, Base Realignment and Closure, implies the audit team stated that consideration of pesticides as solid waste is Army policy; however, we do not state that this is Army policy. We acknowledge in the report that the Army disagrees with the EPA on the applied-pesticide matter. We attribute the statement about applied-pesticides being considered solid waste to EPA officials. In addition, we acknowledge there was communication regarding the disagreement of applied pesticides; however, letters and discussions did not resolve the disagreement, which caused cost increases and delays. We requested alternate verbiage suggestions numerous times from the Army Base Realignment and Closure Division officials; however, we did not receive suggestions, only generalizations stating they did not agree with the tone of the report.

## **Recommendation, Management Comments, and Our Response**

### ***Revised Recommendation***

As a result of comments from the Deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) and the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management as well as discussions with the DoD Office of General Counsel we revised the recommendation.

**We recommend that the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management, establish a dispute resolution plan through which the Army and the Environmental Protection Agency, working in concert with state environmental agency officials, and the local redevelopment authorities involved, can resolve disagreements as to cleanup requirements and problems as they occur.**

### ***Assistant Secretary of the Army Comments***

The acting deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) provided comments for the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management. The acting deputy did not agree with the recommendation and commented that the Army disagrees with the



conclusion that ineffective communication was a primary cause of increased costs and transfer delays. He also stated that disagreements occur routinely between agencies over regulatory or policy matters but that this was not a failure to communicate effectively on the part of the Army. Further, he stated that he concurred with the comments provided by the Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management.

### ***Our Response***

The acting deputy's comments were not responsive, as they do not specifically address the recommendation. However, we revised the recommendation and made numerous revisions throughout the report in response to management comments to clarify our intent. We indicated that untimely communication and disagreements between the Army and the EPA about the cleanup of applied pesticides was one of the causes of increased costs and transfer delays. We also recognized that discovery of additional contamination and other factors outside the Army's control contributed to the cost increases and delays. Although we acknowledge that the Army communicated with EPA, state environmental agency, and local redevelopment authority officials, the letters and discussions did not resolve the disagreement. The Army and EPA officials engaged in discussions and correspondence over a period of at least 16 months. According to the April 30, 2012 letter from the EPA, Army and EPA officials agreed in March 2012 to establish a joint work group to discuss and resolve site-specific issues to provide more consistency in addressing pesticides. More than a year later, the acting deputy's June 2013 comments indicate the disagreement remains unresolved, which indicates the communications to date have been unproductive in reaching a resolution in a timely manner.

### ***Army Assistant Chief of Staff for Installation Management Comments***

The Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management provided comments. The Chief, Base Realignment and Closure Division disagreed and stated the report does not acknowledge or address processes in place to work with the communities and regulators.

### ***Our Response***

The Chief, Base Realignment and Closure Division's comments on the recommendation were not responsive. We acknowledge that Army Base Realignment and Closure officials communicated with the EPA, state environmental agency, and local redevelopment

authority officials in an effort to resolve the disagreement. However, during the audit, Army Base Realignment and Closure officials did not provide any details on specific processes in place to address the disagreement, other than discussions, letters, e-mails, and conference calls. Therefore, we recommended that the Chief, Base Realignment and Closure Division for the Army Chief of Staff for Installation Management establish a dispute resolution plan through which disagreements on cleanup requirements and problems can be resolved as they occur. We request additional comments on the recommendation in response to this final report by September 5, 2013.

## Appendix A

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### Scope and Methodology

We conducted this performance audit from August 2012 through May 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This audit was initiated in response to language contained in the report of the Committee on Appropriations accompanying H.R. 5854 (House Report 112-491), the Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill for FY 2013. The report required the DoD Office of Inspector General to review Base Realignment and Closure (BRAC) 2005 closures and land transfers.

Specifically, congressional staffers requested the audit team review the environmental cleanup and land transfer at the Army ammunition plants and chemical depots listed under the BRAC 2005 closures to determine whether changes in requirements or additional laws imposed contributed to increased costs and delays in the cleanup and transfer at each of the six Army ammunition plants and chemical depots.

We held meetings with personnel from the Office of the Deputy Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD (AT&L)), DoD Office of General Counsel, the Office of Economic Adjustment, the Army Office of Assistant Chief of Staff for Installation Management, and the Environmental Protection Agency (EPA) Headquarters. We also held telephone conference meetings with the Army Materiel Command, Army Chemical Materials Agency, Army Joint Munitions Command, Army Corps of Engineers, and Army Audit Agency.

We visited five of the six Army ammunition plants and chemical depots scheduled for closure under BRAC 2005. During the site visits we conducted meetings with Army, state environmental agency, EPA, and Local Redevelopment Authority (LRA) officials involved with the closure and transfer of each site to discuss their involvement with the closure, transfer of land, and environmental cleanup. During our visit to Riverbank Army Ammunition Plant (RBAAP), we met with the:

- California Environmental Protection Agency, Department of Toxic Substance Control;

- California EPA Central Valley Regional Water Quality Control Board, Region (Central Valley Water Board);
- Riverbank Army Ammunition commander's representative at the RBAAP;
- Riverbank Local Reuse Authority, the local redevelopment authority; and
- U.S. Environmental Protection Agency, Region 9.

During our visit to Kansas Army Ammunition Plant (KSAAP), we met with the:

- Kansas Department of Health and Environment;
- BRAC environmental coordinator at KSAAP;
- Great Plains Development Authority, the local redevelopment authority; and
- U.S. Environmental Protection Agency, Region 7.

During our visit to Lone Star Army Ammunition Plant (LSAAP), we met with the:

- BRAC environmental coordinator at the LSAAP;
- TexAmericas Center Executive Director, the local redevelopment authority; and
- Texas Commission on Environmental Quality.

During our visit to Newport Chemical Depot (NECD), we met with the:

- Newport Chemical Depot Reuse Authority, the local redevelopment authority;
- Indiana Department of Environmental Management; and
- BRAC environmental coordinator at NECD.

During our visit to Umatilla Chemical Depot (UMCD), we met with the:

- Environmental Protection Agency;
- Oregon Department of Environmental Quality;
- BRAC environmental coordinator at UMCD; and
- Umatilla Army Depot Reuse Authority, the local redevelopment authority.

For the Mississippi Army Ammunition Plant (MSAAP) we conducted telephone conference meetings with Mississippi Department of Environmental Quality and the National Aeronautics and Space Administration to discuss its involvement with the land transfer and closure of the MSAAP.



In addition, we reviewed documents related to the transfer and closure of each site. We reviewed the Finding of Suitability for Transfer, Environmental Condition of Property and Reuse Plan for each site. We reviewed the Defense Environmental Programs Annual Report to Congress provided by the OUSD (AT&L) to determine the funding amount and estimated cost to complete for each site as of November 2012. We also reviewed the Defense Economic Adjustment Program factsheet for each site provided by the Office of Economic Adjustment.

### ***Use of Computer-Processed Data***

We did not use computer-processed data to perform this audit.

### ***Prior Coverage***

During the last 5 years, the Government Accountability Office (GAO) and the Army Audit Agency (AAA) have issued 10 reports discussing environmental cleanup related to BRAC 2005. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted Army reports can be accessed from .mil and gao.gov domains over the Internet at <https://www.aaa.army.mil/>.

### ***GAO***

GAO Report No. GAO-13-149, "Military Bases: Opportunities Exist to Improve Future Base Realignment and Closure Rounds," March 7, 2013

GAO Report No. GAO-12-513T, "Military Base Realignments and Closures: Key Factors Contributed to BRAC 2005 Results," March 8, 2012

GAO Report No. GAO-10-725R, "Military Base Realignments and Closures: DoD Is Taking Steps to Mitigate Challenges but Is Not Fully Reporting Some Additional Costs," July 21, 2010

GAO Report No. GAO-10-547T, "Environmental Contamination: Information on the Funding and Cleanup Status of Defense Sites," March 17, 2010

GAO Report No. GAO-09-703, "Military Base Realignments and Closures: DoD Needs to Update Savings Estimates and Continue to Address Challenges in Consolidating Supply Related Functions at Depot Maintenance Locations," July 9, 2009

GAO Report No. GAO-09-217, "Military Base Realignments and Closures: DoD Faces Challenges in Implementing Recommendations on Time and Is Not Consistently Updating Savings Estimates," January 30, 2009

GAO Report No. GAO-07-304, "Military Base Closures: Projected Savings from Fleet Readiness Centers Likely Overstated and Actions Needed to Track Actual Savings and Overcome Certain Challenges," June 29, 2007

GAO Report No. GAO-07-166, "Military Base Closures: Opportunities Exist to Improve Environmental Cleanup Cost Reporting and to Expedite Transfer of Unneeded Property," January 30, 2007

### *Army*

AAA Report No. A-2012-0094-IEE, "Audit of Environmental Remediation of Chemical Demilitarization Base Realignment and Closure Sites," May 1, 2012

AAA Report No. A-2011-0177-IEE, "Planning for Disposal of Chemical Demilitarization and Storage Facilities, U.S. Army Chemical Materials Agency," August 19, 2011

## Appendix B

### Base Realignment and Closure Recommendations

A copy of the Base Realignment and Closure (BRAC) recommendations for each of the six locations is provided below. The recommendations are taken directly from the 2005 Defense Base Closure and Realignment Commission Report.

#### RIVERBANK ARMY AMMUNITION PLANT, CA

RECOMMENDATION # 151 (IND 5)

ONE-TIME COST:	\$25.2M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$6.5M)
20-YEAR NET PRESENT VALUE:	(\$53.3M)
PAYBACK PERIOD:	3 YEARS

#### SECRETARY OF DEFENSE RECOMMENDATION

Close Riverbank Army Ammunition Plant, CA. Relocate the artillery cartridge case metal parts functions to Rock Island Arsenal, IL.

#### SECRETARY OF DEFENSE JUSTIFICATION

There are 4 sites within the Industrial Base producing Metal Parts. To remove excess from the Industrial Base, the closure allows DoD to generate efficiencies and nurture partnership with multiple sources in the private sector.

#### COMMUNITY CONCERNS

The community believes the recommendation to close the Riverbank Army Ammunition Plant (RBAAP) defied logic and common sense. They pointed out that NI Industries, Inc. has successfully operated the installation since 1951. They noted RBAAP hosts thirteen tenants with more than 200 employees. The community and NI Industries Inc. asserted that RBAAP is the only plant producing the deep-drawn steel cartridge cases needed for the Navy's next generation fleet and the Army's Future Combat System. The City of Riverbank challenged the rationale for, and pointed out risks associated with, closing this high-military-value production plant and asserted that production interruptions could hinder current and future military missions. The City adamantly opposed the closure, saying the closure recommendation was based on invalid criteria and faulty information, and questioned DoD's estimated costs for dismantling, moving, and reassembling the plant's complex

# Appendix B

## Base Realignment and Closure Recommendations (Cont'd)

equipment. They contended an unsuccessful relocation of equipment and a lack of highly skilled (artisan level) transferees would have significant repercussions on military access to needed ordnance. The community concluded that the RBAAP should remain a vital entity in the military arsenal.

### COMMISSION FINDINGS

The Commission found no reason to disagree with the recommendation of the Secretary of Defense. The commission acknowledges the community’s concerns with the challenges of moving the deep-drawn steel cartridge case production line. However, the commission does not find that the uniqueness of this production line reaches the level of substantial deviation from the final selection criteria. The low utilization of this ammunition plant, coupled with the significant excess capacity for munitions manufacturing in the US industrial base, created a very compelling case to rationalize manufacturing capacity.

### COMMISSION RECOMMENDATIONS

The Commission found the Secretary’s recommendation consistent with the final selection criteria and the Force Structure Plan. Therefore, the Commission approves the recommendation of the Secretary.



## Appendix B

### Base Realignment and Closure Recommendations (Cont'd)

#### KANSAS ARMY AMMUNITION PLANT, KS

RECOMMENDATION # 155 (IND 9)

ONE-TIME COST:	\$25.2M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$10.3M)
20-YEAR NET PRESENT VALUE:	(\$101.4M)
PAYBACK PERIOD:	2 YEARS

#### SECRETARY OF DEFENSE RECOMMENDATION

Close Kansas Army Ammunition Plant (AAP), KS. Relocate Sensor Fuzed Weapon/Cluster Bomb function and Missile warhead production to McAlester AAP, OK; 155MM ICM Artillery and 60MM, 81MM, and 120MM Mortar functions to Milan AAP, TN; 105MM HE, 155MM HE, and Missile Warhead functions to Iowa AAP, IA; and Detonators/relays/delays to Crane Army Ammunition Activity, IN.

#### SECRETARY OF DEFENSE JUSTIFICATION

Capacity and capability for Artillery, Mortars, Missiles, and Pyro/Demo exists at numerous munitions sites. There are 8 sites producing Artillery, 5 producing Mortars, 9 producing Pyro/Demo, and 13 performing Demilitarization. To reduce redundancy and remove excess from the Industrial Base, the closure allows DoD to create centers of excellence, avoid single point failure, and generate efficiencies.

#### COMMUNITY CONCERNS

Labette County and the city of Parsons supported the closure of the Kansas Army Ammunition Plant (KSAAP) but had concerns about their ability to redevelop the site's facilities and property. They explained that the plant is located in a rural area with limited transportation access and that the loss of 267 jobs would exacerbate the county's economic hardships. The Community wanted to accelerate the development of uncontaminated portions of the site through the use of leases prior to conveyance of the property. During the transition phase, the community proposed a \$1 per annum lease between the US Government and the Local Reuse Authority (LRA). At the conclusion of the clean-up and transition phase, the community proposed the Government transfer all equipment, facilities and, property to the LRA at no cost. The Community expressed an interest in keeping the existing operating contractor in place as a tenant to compete for future DoD work, thereby retaining jobs in the community. The operating contractor noted potential issues with proprietary processes and recommended privatization in place for the KSAAP.

#### COMMISSION FINDINGS

The Commission found no reason to disagree with the recommendation of the Secretary of Defense. The Commission examined the community's proposals regarding conveyance, and decided to refer them to the Department for consideration during implementation of the recommendation. The Commission carefully considered the operating contractor's recommendation of privatization-in-place, but rejected it due to the low utilization of the plant and the need to rationalize munitions production capacity in the US industrial base.

#### COMMISSION RECOMMENDATIONS

The Commission found the Secretary's recommendation consistent with the final selection criteria and the Force Structure Plan. Therefore, the Commission approves the recommendation of the Secretary.

# Appendix B

## Base Realignment and Closure Recommendations (Cont'd)

### MISSISSIPPI ARMY AMMUNITION PLANT, MS

RECOMMENDATION # 157 (IND 11)

ONE-TIME COST:	\$32.4M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$5.1M)
20-YEAR NET PRESENT VALUE:	(\$38.6M)
PAYBACK PERIOD:	7 YEARS

### SECRETARY OF DEFENSE RECOMMENDATION

Close Mississippi Army Ammunition Plant, MS. Relocate the 155MM ICM artillery metal parts functions to Rock Island Arsenal, IL.

### SECRETARY OF DEFENSE JUSTIFICATION

There are 4 sites within the Industrial Base producing Metal Parts. To remove excess from the Industrial Base, the closure allows DoD to generate efficiencies and nurture partnership with multiple sources in the private sector.

### COMMUNITY CONCERNS

The state of Mississippi supported the closure of the Army Ammunition Plant at Stennis Space Center, but also requested review and comment on the projected costs for mitigation of the existing environmental and safety concerns. The state contended that these facilities can be more effectively utilized through more aggressive and responsive local control, and that closure would ameliorate the need for the Army to continue to spend millions of dollars annually to hold on to an abandoned facility in growing disrepair.

### COMMISSION FINDINGS

The Commission found no reason to disagree with the recommendation of the Secretary of Defense. The low utilization of this ammunition plant, coupled with significant excess capacity for munitions manufacturing in the US industrial base created a compelling argument for rationalizing munitions manufacturing capacity.

### COMMISSION RECOMMENDATIONS

The Commission found the Secretary's recommendation consistent with the final selection criteria and the Force Structure Plan. Therefore, the Commission approves the recommendation of the Secretary.

# Appendix B

## Base Realignment and Closure Recommendations (Cont'd)

### LONE STAR ARMY AMMUNITION PLANT, TX

RECOMMENDATION # 162 (IND 16)

ONE-TIME COST:	\$29.0M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$17.3M)
20-YEAR NET PRESENT VALUE:	(\$164.2M)
PAYBACK PERIOD:	1 YEAR

### SECRETARY OF DEFENSE RECOMMENDATION

Close Lone Star Army Ammunition Plant (AAP), TX. Relocate the Storage and Demilitarization functions to McAlester AAP, OK. Relocate the 105MM and 155MM ICM Artillery, MLRS Artillery, Hand Grenades, 60MM and 81MM Mortars functions to Milan AAP, TN. Relocate Mines and Detonators/Relays/Delays functions to Iowa AAP, IA. Relocate Demolition Charges functions to Crane Army Ammunition Activity (AAA), IN.

### SECRETARY OF DEFENSE JUSTIFICATION

Capacity and capability for Artillery, Mortars, Missiles, Pyro/Demo, and Storage exists at numerous munitions sites. There are 8 sites producing Artillery, 5 producing Mortars, 9 producing Pyro-Demo, 15 performing storage, and 13 performing Demilitarization. To reduce redundancy and remove excess from the Industrial Base, the closure allows DoD to create centers of excellence, avoid single point failure, and generate efficiencies. Goal is to establish multi-functional sites performing Demilitarization, Production, Maintenance, and Storage. Lone Star primarily performs only one of the 4 functions.

### COMMUNITY CONCERNS

The community noted that DoD gave the Lone Star Army Ammunition Plant (LSAAP) credit for only one of the functional areas making up a center of excellence and countered that the plant is a multifunctional site performing the full scope of functions—demilitarization, production, maintenance and, storage. The community asserted that DoD understated the number of personnel by 242, misreported current and maximum capacity as equal, and improperly excluded one-time relocation costs of \$14 million from savings calculations. In addition, the community noted that some production lines were not accounted for in the data call, and that no credit was given for the complexity of producing ammunition. LSAAP also performs open burn and open detonation demilitarization and has 1.23M square feet of storage. The community asserted that directing LSAAP work to other Army ammunition activities would be contrary to DoD’s strategy to increase competitive contracting for ammunition production. They suggested that, if LSAAP is closed, its work could migrate to non-US producers. The operating contractor noted potential issues with proprietary processes and recommended privatization in place for the LSAAP.

The Texarkana community proposed a public-private partnership as an alternative reuse of the installation and proposed the transfer of workload, equipment and, facilities to the private sector or local jurisdiction as appropriate since the private sector can accommodate the workload onsite.

# Appendix B

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## Base Realignment and Closure Recommendations (Cont'd)

COMMISSION FINDINGS

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The Commission found no reason to disagree with the recommendation of the Secretary of Defense. The Commission examined the community’s proposals regarding conveyance and decided to refer them to the Department for consideration during implementation of the recommendation. The Commission carefully considered the operating contractor’s recommendation of privatization-in-place but rejected it due to the low utilization of the plant and the need to rationalize munitions production capacity in the US industrial base.

COMMISSION RECOMMENDATIONS

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The Commission found the Secretary’s recommendation consistent with the final selection criteria and the Force Structure Plan. Therefore, the Commission approves the recommendation of the Secretary.

## Appendix B

### Base Realignment and Closure Recommendations (Cont'd)

#### NEWPORT CHEMICAL DEPOT, IN

RECOMMENDATION # 154 (IND 8)

ONE-TIME COST:	\$2.3M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$10.9M)
20-YEAR NET PRESENT VALUE:	(\$132.6M)
PAYBACK PERIOD:	IMMEDIATE

#### SECRETARY OF DEFENSE RECOMMENDATION

Close Newport Chemical Depot, IN.

#### SECRETARY OF DEFENSE JUSTIFICATION

There is no additional chemical demilitarization workload slated to go to Newport Chemical Depot. The projected date for completion of existing workload is 2nd quarter of 2008. There is no further use for Newport Chemical Depot.

#### COMMUNITY CONCERNS

There were no formal expressions from the community.

#### COMMISSION FINDINGS

The Commission found that the International Chemical Weapons Convention Treaty requires completion of the chemical demilitarization mission prior to closure of this depot. An examination of status information for this depot's mission completion and subsequent closure revealed that dates may slip beyond the six-year statutory period for completion of BRAC actions. Furthermore, mission completion and closure dates beyond 2011 exceed the BRAC implementation period.

#### COMMISSION RECOMMENDATIONS

The Commission found that the Secretary of Defense deviated substantially from final selection criteria 1 and 4, as well as from the Force Structure Plan. Therefore, the Commission recommends the following:

On completion of the chemical demilitarization mission in accordance with Treaty obligations, close Newport Chemical Depot, IN.

The Commission found that this change and the recommendation as amended are consistent with the final selection criteria and the Force Structure Plan. The full text of this and all Commission recommendations can be found in Appendix Q.



# Appendix B

## Base Realignment and Closure Recommendations (Cont'd)

### UMATILLA CHEMICAL DEPOT, OR

RECOMMENDATION # 160 (IND 14)

ONE-TIME COST:	\$13.6M
ANNUAL RECURRING COSTS/(SAVINGS):	(\$34.7M)
20-YEAR NET PRESENT VALUE:	(\$347.9M)
PAYBACK PERIOD:	IMMEDIATE

### SECRETARY OF DEFENSE RECOMMENDATION

Close Umatilla Chemical Depot, OR.

### SECRETARY OF DEFENSE JUSTIFICATION

No additional chemical demilitarization workload is slated to go to Umatilla Chemical Depot. The projected date for completion of its existing workload is 2nd quarter of 2011. There is no further use for Umatilla Chemical Depot.

### COMMUNITY CONCERNS

The Umatilla Chemical Depot had been planning for closure since the initial 1988 BRAC realignment of the site. The installation wanted to be closed through the BRAC process to obtain funds to assist site personnel and the community with the post closure transition of the depot. The disposal of some existing facilities and land generated by the 1988 BRAC realignment stopped after the 9/11 attacks in response to increased security requirements for chemical weapons storage and disposal. Facilities and land that could have been disposed of became part of the protective buffer around the storage and chemical disposal facilities. The community wanted a final decision and determination on the future of the Umatilla Chemical Depot.

### COMMISSION FINDINGS

The Commission found that the International Chemical Weapons Convention Treaty requires completion of the chemical demilitarization mission prior to closure of this depot. An examination of status information for this depot's mission completion and subsequent closure revealed that dates may slip beyond the six-year statutory period for completion of BRAC actions. Furthermore, mission completion and closure dates beyond 2011 exceed the BRAC implementation period.

### COMMISSION RECOMMENDATIONS

The Commission found that the Secretary of Defense deviated substantially from final selection criteria 1 and 4, as well as from the Force Structure Plan. Therefore, the Commission recommends the following:

On completion of the chemical demilitarization mission in accordance with Treaty obligations, close Umatilla Chemical Depot, OR.

## Appendix C

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### Criteria

We reviewed the following criteria specifically related to Base Realignment and Closure as well as criteria for environmental regulations and cleanup standards.

#### ***“Defense Base Closure and Realignment Act of 1990”***

“Public Law 101-510, “The Defense Base Closure and Realignment Act of 1990,” as amended through the National Defense Authorization Act of Fiscal Year 2003, mandates that the Secretary close or realign all military installations recommended for closure or realignment by the Commission through each report transmitted to the Congress by the President. According to Public Law 101-510, the Secretary shall initiate all closures and realignments no later than 2 years after the date the President transmits the report containing the recommendations to Congress. Then completion of all closures and realignments should occur no later than the end of the 6-year period beginning on the date the President transmits the report.

#### ***“Military Base Reuse Studies and Community Planning Assistance”***

Section 2391, title 10, United States Code , “Military Base Reuse Studies and Community Planning Assistance,” permits the Secretary of Defense to conduct studies, including preparation of an environmental impact statement, to provide information to make sound decisions regarding possible site reuse for closed military installations. In addition, the Secretary of Defense may make grants, cooperative agreements, and supplement funds available under Federal programs administered by Federal agencies other than the DoD to assist state and local governments in planning community adjustments.

#### ***“Defense Environmental Restoration Program”***

Section 2701, title 10, United States Code, “Environmental Restoration Program”, states the Secretary of Defense must carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. Program goals are:

- identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants;
- correction of any environmental damage that creates an imminent and substantial danger to the public health or the environment; and

- demolition and removal of unsafe buildings and structures, including buildings and structures of the DoD at sites formerly used by or under the jurisdiction of the Secretary.

### ***“National Environmental Policy Act of 1969”***

The National Environmental Policy Act, codified in sections 4321 and 4331-4335 and 4341-4347, title 42, United States Code, establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment. It also provides a process for implementing these goals within Federal agencies.

### ***“The Solid Waste Disposal Act,” (“Resource Conservation and Recovery Act”)***

The Resource Conservation and Recovery Act (RCRA), codified in section 6901-6992, title 42, United States Code, provides requirements to promote the protection of human health and the environment. It provides requirements on the generation of, transportation of, storage of, and disposal of solid and hazardous wastes. Congress declares the RCRA to be the national policy of the United States and where feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible.

### ***“Comprehensive Environmental Response, Compensation, and Liability Act of 1980,”***

The Comprehensive Environmental Response, Compensation, and Liability Act, codified in section 9601-9675, title 42, United States Code, is the environmental program established to address uncontrolled releases of hazardous substances to the environment. The law was enacted during the discovery of toxic waste dumps in the 1970s. The act allows the Environmental Protection Agency (EPA) and other Federal agencies under their jurisdiction to cleanup such sites and to compel responsible parties to perform cleanup or reimburse the Government for Federal agency-led cleanups. The cleanup process begins with site discovery or notification to EPA of possible releases of hazardous substances. EPA then evaluates the potential for a release of hazardous substances from the site through steps used in the cleanup process.

### ***“Federal Water Pollution Control Act”***

The Federal Water Pollution Control Act, codified in section 1251, title 33, United States Code, objective is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters. In regards to programs and water pollution control, the Administrator shall prepare or develop comprehensive programs for

preventing, reducing, or eliminating pollution of the navigable waters and ground waters as well as improving the sanitary condition of surface and underground waters. The Administrator is authorized to make joint investigations of discharges of any sewage, industrial wastes, or substance which may adversely affect the waters.

### ***“Clean Air Act”***

The Clean Air Act, codified in chapter 85, title 42, United States Code, protects and enhances the quality of the Nation’s air resources to promote the public health and welfare and the productive capacity of its population; to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution. It provides technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs. It encourages and assists the development and operation of regional air pollution prevention and control programs.

### ***“The Endangered Species Act”***

The Endangered Species Act, codified in section 1531-1544, title 16, United States Code mandates that each Federal agency insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species, unless the agency has been granted an exemption for the action.

### ***“National Historic Preservation Act”***

The National Historic Preservation Act, codified in section 470, title 16, United States Code, declared that the spirit and direction of the Nation are founded upon and reflected in its historic heritage. The historical and cultural foundation of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people. The preservation of irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans.

## Management Comments

### Assistant Secretary of the Army Comments

Final Report  
Reference



DEPARTMENT OF THE ARMY  
OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF THE ARMY  
INSTALLATIONS, HOUSING, AND PARTNERSHIPS  
ROOM 3E475, ARMY PENTAGON  
WASHINGTON DC 20310-0110

21 JUN 2013

Memorandum for: Department of Defense, Inspector General, Attn: [REDACTED]  
[REDACTED] Program Director, 4800 Mark Center Dr, Alexandria, VA 22350

SUBJECT: Army Comments on draft report D2012-D000CG-0206.000, "Cost Increases and Delays Occurred During Closure and Land Transfers of Army Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005."

1. The Army non-concurs with the findings and recommendation of the subject Draft Report dated May 22, 2013. The report reflects a lack of understanding of the myriad requirements related to the BRAC 2005 closure and property disposal of the reviewed installations, and inaccurately describes several significant events relating to environmental issues concerning these transfers. The Army Office of the General Counsel has expressed concern over the potential legal consequences of erroneous or misrepresentative assertions contained in the report related to key environmental issues of imminent concern to the Army and DoD.

2. The Army strongly disagrees with the conclusion that ineffective communication was a primary cause of increased costs and transfer delays. The Army has a robust communication process which includes the Environmental Protection Agency, state regulatory bodies, the Local Reuse Authorities, and the local communities throughout the environmental restoration and property disposal processes. Disagreements occur routinely between agencies over regulatory and policy matters, but this is not evidence of a failure to communicate effectively on the part of the Army.

3. The Army is especially concerned about the inaccurate statements in the report regarding the issue of applied pesticides at KSAAP. Army and DoD policy and legal officials are currently engaged with EPA in an effort to address this issue at installations both BRAC and active, and it is inappropriate for this report to support EPA's view that the Army is not being subjected to new remediation requirements regarding such pesticides. To our knowledge, there was no discussion by the IG staff with the Army and DoD counsel and program officials who are actively involved with this issue.

4. On behalf of the Army, I request additional time to prepare detailed comments on the report, and request that DoD IG staff and attorneys meet with Army policy and legal staff to discuss this report after the Army has submitted its detailed comments. It is noted that the section in House Report 112-491 that requests the review of issues that have delayed land transfer and increased costs to DoD related to BRAC 2005 facilities, also requests the submission of a report within 180 days of the date of enactment of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act for Fiscal Year 2013. The law was enacted as Public Law 113-6 on March 26, 2013, so the report would be timely submitted if it was transmitted to the House on or about

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Recommendation

Revised  
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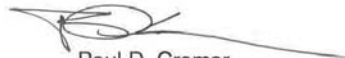
## Management Comments

### Assistant Secretary of the Army Comments (cont'd)

September 23, 2013. There is ample time for the IG staff to gather the necessary facts and gain a better understanding of the issues to prepare a more accurate report. In light of the substantial changes that we believe are needed, the Army also requests an opportunity to review and comment on a second draft of the report.

5. I concur with the additional comments contained in the attached Memorandum signed by Mr Thomas Lederle, Division Chief for BRAC, Office of the Assistant Chief of Staff for Installation Management (OCASIM).

6. My point of contact for this action is [REDACTED] Assistant for BRAC, [REDACTED]  
[REDACTED]



Paul D. Cramer  
Acting Deputy Assistant Secretary of the Army  
(Installations, Housing, and Partnerships)

Enclosure

CF: [REDACTED] ADUSD(I&E)  
[REDACTED] OSD OGC

## Management Comments

### Army Assistant Chief of Staff for Installation Management Comments

Final Report  
Reference



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT  
600 ARMY PENTAGON  
WASHINGTON DC 20310-0600

DAIM-ODB

JUN 20 2013

MEMORANDUM FOR the Deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships), 3E475 Army Pentagon, Washington, DC 20310

SUBJECT: Comments on draft report D2012-D000CG-0206.000, "Cost Increases and Delays Occurred During Closure and Land Transfers of Army Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005."

1. The Assistant Chief of Staff for Installation Management (ACSIM), Base Realignment and Closure (BRAC) Division appreciates the opportunity to comment. After review, there are concerns about the assumptions, statements, and general tone and content of this report. It appears the DoDIG did not incorporate any of the BRAC Division's clarifications shared with your staff during the meeting on 22 April 2013 and in subsequent emails. The report reads as if DoDIG does not fully understand BRAC or the processes already in place to guide the BRAC process and resolve environmental issues. Due to these concerns and erroneous content of the audit, the ACSIM BRAC Division non-concurs with the findings and the recommendation of this audit.

2. The recommendation that the "...Chief, Base Realignment and Closure Division for the Army Assistant Chief of Staff for Installation Management, establish a plan for mediation through which Environmental Protection Agency, state environmental agency officials, and the local redevelopment authorities involved can resolve ineffective communication and problems as they occur" and the report do not acknowledge or address the processes in place to work with communities and regulators. The BRAC Division was proactive in reaching out to Local Reuse Authorities (LRAs) and regulators very early in the BRAC 2005 action. Every effort was made to provide assistance including the development of "Commission Developer Reports" to identify potential reuse for the consideration of the LRAs.

3. The following specific examples demonstrate where we believe the DoDIG is misinformed:

a. Footnote number 2 on page 3, defining the National Priorities List (NPL) is incorrect. A site may be on the NPL and be under active remediation, or even in active use (hence not abandoned). This footnote is misleading and misrepresents the remediation currently underway at Riverbank Army Ammunition Plant (RBAAP).

b. As stated in our April meeting, issues of properly applied pesticides being considered solid waste is not Army policy. The BRAC Division had extensive discussions on this topic with state and federal regulators. Pesticides are covered by

Revised  
Recommendation

Revised  
Page 3

## Management Comments

### Army Assistant Chief of Staff for Installation Management Comments (Cont'd)

Final Report  
Reference

DAIM-ODB

SUBJECT: Comments on draft report D2012-D000CG-0206.000, "Cost Increases and Delays Occurred During Closure and Land Transfers of Army Ammunition Plants and Chemical Depots Under Base Realignment and Closure 2005."

Federal Insecticide Fungicide and Rodenticide Act (FIFRA) and the Army is not prepared to enable the Environmental Protection Agency (EPA) to promulgate new policy without going through the appropriate procedures. The BRAC Division elevated this issue immediately. The Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health (DASA-ESOH) and his staff were involved early to try to resolve the impasse. The pesticides issue was elevated to the Assistant Secretary of the Army for Installations, Environment and Energy (ASA (IEE)) who engaged EPA to facilitate resolution. The issue now has Department of Defense involvement but is still not resolved. An impasse does not equal ineffective communication. The issues were clear, Army BRAC and regulators met in person on several occasions, exchanged numerous emails, and held numerous conference calls in our attempts to resolve this issue.

4. Army BRAC continues to leverage its productive relationships with LRAs, State and Federal Regulators to advance our mutual goals of conveying property for the local reuse.

5. Should you have any questions please contact me at [REDACTED] or [REDACTED].



THOMAS E. LEDERLE  
Chief, Base Realignment  
and Closure Division

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## Acronyms and Abbreviations

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<b>BRAC</b>	Base Realignment and Closure
<b>EPA</b>	Environmental Protection Agency
<b>KSAAP</b>	Kansas Army Ammunition Plant
<b>LRA</b>	Local Redevelopment Authority
<b>LSAAP</b>	Lone Star Army Ammunition Plant
<b>MSAAP</b>	Mississippi Army Ammunition Plant
<b>NASA</b>	National Aeronautics and Space Administration
<b>NECD</b>	Newport Chemical Depot
<b>OSD (AT&amp;L)</b>	Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics)
<b>PCBs</b>	Polychlorinated Biphenyls
<b>RBAAP</b>	Riverbank Army Ammunition Plant
<b>RCRA</b>	Resource Conservation and Recovery Act
<b>UMCD</b>	Umatilla Chemical Depot

# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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4800 Mark Center Drive  
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