AGREEMENT NO. A-06404

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE MONTEREY COUNTY WATER RESOURCES AGENCY CONCERNING ANNEXATION OF FORT ORD INTO ZONES 2 AND 2A OF THE MONTEREY COUNTY WATER RESOURCES AGENCY

This Agreement is entered into this 21st day of September, 1993, by and between the Government of the United States of America ("Government"), represented by the United States Army, and the Monterey County Water Resources Agency ("MCWRA"), a political subdivision of the State of California, represented by the Monterey County Board of Supervisors.

1. Purpose and Authority:

a. Purpose: The purpose of this agreement is to provide the terms and conditions under which the Fort Ord Lands will be annexed into the Zones.

b. Authority:

(1) By California law, the MCWRA is responsible for managing the surface water and groundwater resources in the Salinas Valley and providing flood control and water conservation services throughout Monterey County. The authority for the MCWRA to enter into this agreement is cited in California Water Code, Appendix 52-43 (Appendix "A"). The MCWRA has the authority to annex the Fort Ord Lands overlying the Seaside Basin based on a Memorandum Of Agreement between the MCWRA, the MPWMD, and the Pajaro Valley Water Management Agency, dated May 10, 1993 (Appendix "B").

(2) The authority for the Government to enter into this agreement was provided in Public Law 101-510 (National Defense Authorization Act for Fiscal Year 1991), Section 2101, dated November 5, 1990 and amended by Public Law 102-190 (National Defense Authorization Act for Fiscal Years 1992 and 1993), Section 2702, dated December 5, 1991. The funding for the Government to enter into this agreement was provided by Public Law 101-519 (Military Construction Appropriations Act, 1991), dated November 5, 1990.

2. Definitions:

a. United States Army Engineer District, Sacramento, California ("Corps"): A field operating agency of the Army Corps of Engineers, a major command of the Army; the agency that will execute this agreement on behalf of the Government;

b. Fort Ord: An existing Army installation in north Monterey County currently operating under the Army Forces Command; Fort Ord will realign to an enclave under provisions of Public Law 101-510 (Defense Base Closure and Realignment Act of 1990); on October 1, 1994, this installation will no longer be known as Fort Ord and will instead be known as the Presidio of Monterey Annex under the Army Training and Doctrine Command; disposal of excess Fort Ord property pursuant to Public Law 101-510 could begin before October 1, 1994 provided the Army has issued a Record of Decision on the Environmental Impact Statement for the Disposal and Reuse of Fort Ord; parts of Fort Ord were leased on a long term basis prior to the realignment decision;

c. Presidio of Monterey Annex ("POM Annex"): The proposed residual military mission enclave remaining on Fort Ord after its realignment; this annex shall continue operations in support of the Department of Defense and other federal agencies in the Monterey Peninsula area; the boundaries of the POM Annex should be finalized by early 1994;

d. Presidio of Monterey ("POM"): An existing Army installation in Monterey County operating under the Army Forces Command; on October 1, 1994, will be under the Army Training and Doctrine Command; POM is the home of the Defense Language Institute; POM will also be responsible for the proposed POM Annex;

e. Reserve Center ("RC"): An existing Army Reserve Center located on 12 acres of Fort Ord not contiguous to the POM Annex; the RC will remain after the realignment of Fort Ord;

f. Fort Ord Lands: A term denoting all lands within the existing boundaries of Fort Ord including: property needed to support the Army's future mission requirements (POM Annex and RC); property under a long term lease; property awaiting disposal either in a caretaker status or under an interim lease; and property already disposed;

g. Salinas Basin: The Salinas River Groundwater Basin; the Salinas Basin generally underlies the northwestern portion of Fort Ord;

h. Seaside Basin: The Seaside Groundwater Basin; the Seaside Basin generally underlies the southwestern portion of Fort Ord;

i. Monterey Peninsula Water Management District ("MPWMD"): A California Special District created by the State Legislature in 1978 having water management authority over the Seaside Basin;

j. Project: A future, long term, reliable, potable water system for the POM Annex/RC and other areas; the Project will provide at least 6,600 acre-feet per year which will permit all Salinas Basin wells on Fort Ord Lands to be shut down except during

emergencies; stopping all pumping from the Salinas Basin on Fort Ord Lands is necessary to mitigate seawater intrusion; the MCWRA is currently developing such a Project to supply water to the Fort Ord Lands, Marina, Salinas, Toro Park, and perhaps other areas in north Monterey County; it is also possible that another water agency, district, utility, or purveyor could develop a smaller scale Project to supply water for just the Fort Ord Lands;

k. Project Implementation: The potable water system cited in paragraph 2.j. shall be considered "implemented" upon both the completion of construction and the delivery of potable water to POM Annex/RC from the completed water system;

l. Zones: Zones 2 and 2A of the MCWRA which are the zones of benefit for the MCWRA Nacimiento and San Antonio Dams, respectively.

3. Problem and Scope:

a. Fort Ord overlies two groundwater basins, the Salinas Basin and the Seaside Basin. See Appendix "C" for a map. Most of the installation's facilities and all of its potable wells overlie the Salinas Basin. The portion of the installation which overlies the Seaside basin has less development consisting mostly of family housing and recreational facilities. Fort Ord's only active well in the Seaside Basin is a non-potable well to irrigate the golf courses. Fort Ord's peak annual withdrawal from the Salinas basin from 1980 to 1992 was 6,600 acre-feet in 1984; and the peak withdrawal from the Seaside Basin from 1986 to 1989 was 424 acre-feet in 1989.

b. The Salinas Basin has had a problem with seawater intrusion since the 1940's. Seawater intrusion occurs when groundwater levels fall below sea level. This is caused by pumping more water out of an aquifer than is being recharged into it. Pumping by Fort Ord has contributed to this problem, but only to a limited extent as the Fort Ord pumping from the Salinas Basin from 1988 to 1992 averaged only 5,200 acre-feet per year and the estimated Salinas Basin overdraft (amount that pumping exceeds recharge) is about 50,000 acre-feet per year. Seawater intrusion has forced the abandonment of many wells along the coast, and required Fort Ord to relocate their well field inland in 1986. In contrast to the Salinas Basin, the Seaside Basin appears to be in a nearly balanced condition.

c. Because of the magnitude of the seawater intrusion problem, a regional solution is needed. Without a regional solution, Fort Ord's remaining potable wells will eventually become contaminated by seawater. The MCWRA is developing a Project to provide a regional water supply system. The MCWRA is also developing the Castroville Sewage Reclamation/Irrigation Project. Both of these projects are intended to mitigate the effects of seawater intrusion in the Salinas Basin.

d. As long as there is an Army enclave on Fort Ord Lands, the Army will need a reliable potable water supply. In view of the limited life of Fort Ord's remaining potable wells, annexation is prudent because it will permit access to water produced by a future MCWRA project. Additionally, annexation will facilitate the disposal and reuse of Fort Ord Lands, and enhance the market value of any property which is sold. This is because, without annexation, the existing Salinas Basin overdraft could significantly limit the water rights of Fort Ord Lands except for the POM Annex/RC.

e. There have been questions raised over Fort Ord's right to withdraw groundwater from the Salinas Basin. Fort Ord/POM Annex/RC claim certain legal rights to the use of water from the Salinas Basin due to their federal status. However, the MCWRA claims limited regulatory authority over Fort Ord/POM Annex/RC's use of Salinas Basin water with respect to withdrawals of polluted or contaminated groundwater; and the MCWRA also claims ownership rights over water used by Fort Ord/POM Annex/RC which is released into the Salinas Basin from the Nacimiento and San Antonio Dams. Annexation and the terms of this agreement will clarify the water rights of both parties.

4. <u>Terms and Conditions:</u>

a. Execution of this agreement, which includes the Annexation Assembly and Evaluation Report (Appendix "D"), shall be deemed to be a petition by the Government, as the present owner of all Fort Ord Lands, to permit the annexation of the Fort Ord Lands by the MCWRA into Zones 2 and 2A. The MCWRA shall thereafter promptly commence proceedings for such annexation, and will diligently and in good faith pursue such annexation proceedings to completion.

b. The parties have discussed and agreed on payment of a fee by the Government totaling $7,400,000, as authorized by Public Law 101-510 and appropriated by Public Law 101-519. The basis for this fee is discussed in section IV.F.1. of the attached Annexation

Assembly and Evaluation Report. Fort Ord will be annexed into the Zones in consideration of the payment of the fee. The Government shall have no further financial responsibility or obligation of any kind to the MCWRA with respect to existing water project costs, e.g., Nacimiento and San Antonio Reservoirs. Further, the MCWRA releases the Government from any and all claims related to Fort Ord's groundwater withdrawals from the Salinas Basin prior to this agreement, and from any claims related to any Government action that may have caused or contributed to seawater intrusion in the Salinas Basin.

c. After execution of this agreement and until Project Implementation, Fort Ord/POM Annex/RC may withdraw a maximum of 6,600 acre-feet of water per year from the Salinas Basin, provided no more than 5,200 acre-feet per year are withdrawn from the 180-foot aquifer and 400-foot aquifer. The 6,600 and 5,200 acre-feet thresholds correspond to the annual peak (1984) and recent average (1988-1992) amounts of potable water Fort Ord has withdrawn from the Salinas Basin (does not include pumpage from the non-potable golf course well in the Seaside Basin). Groundwater withdrawals from the Salinas Basin by Fort Ord/POM Annex/RC for the purpose of environmental restoration shall not count toward the 6,600 and 5,200 acre-feet thresholds. Additionally, groundwater withdrawals from the non-potable golf course well shall not count toward the 6,600 and 5,200 acre-feet thresholds because this well is located in the Seaside Basin. The MCWRA agrees not to object to any Fort Ord/POM Annex/RC withdrawal under 6,600 acre-feet per year, except in compliance with California Water Code Appendix, Chapter 52, Section 22. If the MCWRA is concerned about a withdrawal, the MCWRA will first notify the Fort Ord/POM Annex Commander. The parties agree to make every effort to first resolve seawater intrusion disputes through mutual agreement. In any event, the MCWRA, after notice from the Fort Ord/POM Annex Commander, will not object to withdrawals in support of war, national emergency, contingency operation, troop mobilization, or unexpected mission requirements, and such withdrawals shall not count toward the 6,600 and 5,200 acre-feet thresholds. The Government will develop a water conservation program at Fort Ord/POM Annex/RC and will institute, in its discretion, measures to conserve water. The Government will participate in MCWRA water conservation initiatives and programs as mutually agreed by the parties.

d. Until Project Implementation, Fort Ord/POM Annex shall have exclusive ownership and operation of potable wells #24, #29, #30, #31, #32, Jacks well, and Pilarcitos well in the Salinas Basin, and the non-potable golf course well #1 in the Seaside Basin. See Appendix "C" for the locations of these wells. Jacks well, Pilarcitos well, and well #24 are inactive; well #32 has

recently failed; and the rest are active. The MCWRA agrees not to object to Fort Ord/POM Annex/RC replacing any existing well or adding any new well on Fort Ord Lands subject to the conditions described in paragraph 4.c. above. Also until Project Implementation, Fort Ord/POM Annex/RC shall be the sole user of the aforementioned wells, provided that the Government, in its sole discretion, may permit the use of the Salinas Basin wells by others for use on Fort Ord Lands, or may provide water from the Salinas Basin wells to others on Fort Ord Lands in connection with any reuse plans. The Government shall retain all reasonable and necessary utilities and reserve all necessary easements to operate and maintain all Fort Ord/POM Annex/RC wells. After Project Implementation, Fort Ord/POM Annex shall retain ownership of the aforementioned wells, and the Government agrees to stop pumping from the Salinas Basin wells except for an emergency such as fire fighting or a situation as described at the end of paragraph 4.c. above. Project Implementation shall be no cause to curtail or stop pumping from any Seaside Basin well on Fort Ord Lands.

e. The Government will not pay any MCWRA assessments (such as standby charges, water delivery charges, water project assessments, etc.) until a MCWRA developed Project is implemented. This applies to not only the portions of Fort Ord retained by the Army, but also to any other portions of Fort Ord transferred to federal entities. See paragraphs 4.j.(3) and 4.j.(4) for a discussion of these future assessments.

f. The annexation into the Zones shall provide the Government with appropriate representation in Zone administration and decision making.

g. Should future litigation, regulation or other unforeseen action diminish the total water supply available to the MCWRA, the MCWRA agrees that it will consult with the Fort Ord/POM Annex Commander. Also, in such an event, the MCWRA agrees to exercise its powers in a manner such that Fort Ord/POM Annex/RC shall be no more severely affected in a proportional sense than the other members of the Zones.

h. If prior to Project Implementation, any Fort Ord/POM Annex well (including any located in the Seaside Basin) becomes contaminated with seawater, or is adversely affected by regulatory or legal action, the MCWRA: shall cooperate with the Government in finding an interim water supply; shall assist the Government in any permit processes necessary to obtain such an interim water supply; and shall provide the same services to the Government as it would to any other municipal water supplier in the Zones under similar circumstances. The Government will bear the costs of obtaining

such an interim water supply. Such costs will not include the cost of MCWRA staff time in providing services to the Government hereunder. The MCWRA will continue to monitor the rate of seawater intrusion, and will keep the Fort Ord/POM Annex Commander informed as to: the rate of seawater intrusion; the progress of plans for its Project; and the estimated remaining life of the Fort Ord/POM Annex wells. The MCWRA shall pass to the Fort Ord/POM Annex Commander any information they may obtain related to the continuing yield of Fort Ord/POM Annex wells located in the Seaside Basin.

i. As part of the disposal of Fort Ord, the Government is considering transferring the ownership and operation of the Fort Ord wells and water distribution system to a successor water purveyor, utility, or agency. Under such a transfer, the MCWRA agrees that the Government, in its sole discretion, may transfer its applicable water rights under this agreement to the successor water purveyor, utility, or agency. The MCWRA also agrees not to object to such a successor obtaining or developing a water supply from outside the Salinas Basin for the Fort Ord Lands.

j. If the opportunity arises and it is in the Government's best interests, the Government, in its sole discretion, may participate in a Project developed by an organization other than the MCWRA. In any event, Government participation in a MCWRA developed Project would be contingent on the following:

(1) The MCWRA shall, upon Project Implementation, continue to provide water and related services to Fort Ord/POM Annex/RC and shall provide for Government representation in MCWRA decisions affecting Fort Ord/POM Annex/RC, and in MCWRA's administration of the Project.

(2) The water allocation to be made available to POM Annex/RC from the Project shall be based only on the water needed to support the Army's future, long term mission requirements, or as otherwise agreed to by the parties. By the time of Project Implementation, all excess Fort Ord Lands should have been disposed. The water allocation to be made available to the disposed property from the Project shall be an issue between these property owners and the MCWRA.

(3) The capital cost for the Project shall be distributed among all properties within the Zones in an equitable manner. The Government would favorably consider a funding plan similar to the MCWRA's proposed funding plan for the Castroville Sewage Reclamation/Irrigation project in which approximately 50 percent of the capital cost is funded by the MCWRA members receiving the water, and 50 percent is funded by other members in

the Zones. An acceptable funding plan will also require that the capital cost paid by each member receiving water from the Project generally be proportional to their water allocation from the system. In any funding plan, the Government will reserve the right to pay the capital cost through either periodic assessments, or by a lump sum amount. The Government does not intend to be a party to any agreement in which military appropriations fund an inequitable portion of the capital cost of the Project. The $7,400,000 annexation fee shall not count toward the Government's share of the Project's capital cost.

(4) The MCWRA's cost to operate and maintain (O&M) the Project should be distributed on the basis of water usage or allocation. If the MCWRA proposes to distribute O&M costs on the basis of property area, then the Government only intends to pay such an assessment and any applicable standby charges on the Fort Ord Lands needed to support Army missions, i.e., POM Annex and RC. The Government will not pay O&M assessments or standby charges for any Fort Ord property in a caretaker status awaiting disposal. Any federal entities which have acquired portions of Fort Ord will not pay standby charges on property which is unsuitable for development.

(5) Prior to either the initiation or commitment of any military appropriations to the Project by the Government, the MCWRA shall complete all appropriate feasibility studies and environmental reviews. With respect to only Fort Ord Lands under Army control, participation in the Project, or any other water supply project is subject to compliance with applicable federal laws and regulations, e.g., Army Regulation 420-41 and Federal acquisition regulations; and subject to final review and approval by the Government.

(6) As Fort Ord/POM Annex/RC will, upon Project Implementation, rely on the MCWRA's ability to provide potable water, the MCWRA shall defend the rights of Fort Ord/POM Annex/RC to a water supply upon implementation of the Project as though those rights were its own.

5. <u>Funding:</u>

a. The Government hereby obligates, pursuant to section 2702 of Public Law 102-190, $7,400,000 for the annexation fee, the basis of which is set forth in Appendix D, section IV.F.1. Upon completion of the annexation, the Government shall make payment to the MCWRA in the amount of $7,400,000.

b. The $7,400,000 annexation fee shall be the maximum Government payment in consideration for the annexation of the Fort Ord Lands and the execution of this agreement.

c. The parties recognize that this agreement is subject to the availability of funds provided by Congress.

6. Duration of Agreement:

a. If the Government decides to participate in a Project developed by an organization other than the MCWRA pursuant to paragraph 4.j. of this agreement, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

b. In the event the Army ends its presence at Fort Ord, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

c. If Fort Ord has not been annexed to the Zones by September 30, 1995, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

d. If the MCWRA has not achieved reasonable progress by December 31, 1999, toward implementation of a MCWRA developed project; or a MCWRA developed Project has not been implemented by December 31, 1999, and the Government is not convinced that the MCWRA can achieve Project Implementation within a time frame deemed reasonable by the Government, then the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

e. In the event this Agreement is terminated before the annexation has been completed, the MCWRA, in its sole discretion, may continue with the annexation; however, in such circumstance, the Government shall not make any payment for such annexation. In the event this agreement is terminated after the Fort Ord Lands have been annexed into the Zones, the Government will not demand return of the payment. In the event this agreement is terminated by the Government pursuant to any of the above conditions, the MCWRA agrees not to file any claim against the Government related to the termination.

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

7. Binding on Successors: This agreement shall be binding upon and shall inure to the benefit of the non-federal successors and assigns of the Government's interest in the property now known and referred to as Fort Ord, California, except that this agreement shall not exempt any such non-federal successor or assign, whether of fee title or some lesser interest in the property, from any ordinance or other regulation enacted by the MCWRA or from any assessment, charge, tax, or other monetary exaction levied by the MCWRA. All such non-federal successors and assigns shall be subject to regulation and be subject to assessment, charge, tax, or other monetary exaction to the extent allowed by law at the time such enactment or levy is in effect.

FOR THE UNITED STATES OF AMERICA

Michael W. Collins

Acting Assistant Secretary of the Army for Installations, Logistics and Environment

9/10/93

Date

FOR THE MONTEREY COUNTY WATER RESOURCES AGENCY

Barbara Shipnuck

Monterey County Board of Supervisors

September 21, 1993

Date

Appendices:

A - California Water Code, Appendix 52-43
B - Addendum No. 1 to the Memorandum Of Agreement Between the MCWRA, the Monterey Peninsula Water Management District, and the Pajaro Valley Water Management Agency
C - Location of the Existing Wells
D - Annexation Assembly and Evaluation Report

COPY

REPORT TO THE BOARD OF SUPERVISORS OF THE MONTEREY COUNTY WATER RESOURCES AGENCY

SUBJECT	BOARD MEETING DATE	AGENDA NUMBER
APPROVE AND AUTHORIZE THE CHAIR TO SIGN THE AGREEMENT AND ANNEXATION RESOLUTION OUTLINING THE TERMS AND CONDITIONS TO ANNEX FORT ORD INTO MONTEREY COUNTY WATER RESOURCES AGENCY ZONES 2 AND 2A	9-21-93 10:50 AM	
WATER RESOURCES AGENCY		

RECOMMENDATION

Approve and authorize the Chair to sign the Agreement and Annexation Resolution outlining the terms and conditions to annex Fort Ord into Monterey County Water Resource Agency Zones 2 and 2A.

SUMMARY

The United States Army has presented the Monterey County Water Resources Agency (MCWRA) with a petition to be annexed into MCWRA's Zones 2 and 2A. The petition includes an Agreement covering the terms and conditions for the annexation (copy attached). On September 13, 1993 the MCWRA Board of Directors received the Agreement and voted to recommend it be approved by your Board. Since the Agreement has been signed by the authorized representative for the Army, your Board's approval and signature by your Board Chair on the Agreement and Annexation Resolution will complete the annexation action and obligate the Army to a payment of $7.4 million to the MCWRA.

DISCUSSION

√ On July 10, 1990 the Monterey County Board of Supervisors, acting then for the Monterey County Flood Control and Water Conservation District, authorized the Chair of the Board of Supervisors to sign a Memorandum of Agreement (MOA) that contained the terms and conditions for the annexation of Fort Ord into MCWRA Zones 2 and 2A. The MOA was never co-signed by the Army at that time because it did not address the closure of Fort Ord.

√ On April, 1993 Army officials on Fort Ord submitted an MOA to the MCWRA for approval. This MOA was approved by the Board of Supervisors on April 20, 1993. When this version of the MOA was received by Army officials in Washington DC, it was rejected on the grounds that it did not sufficiently address the down-sizing of Fort Ord or the Installation's future reuse.

The MOA was changed to an "Agreement" and re-written by Army officials in the Pentagon. The Agreement as is now being presented preserves the key components of the earlier MOA and more completely addresses the Army's declining presence on Fort Ord. It establishes a total cap on groundwater pumping from the Salinas Groundwater Basin, quantifies the amount of water the Army will need for their residual presence and quantifies the amount of water that will be available for civilian reuse.

Approval of the Agreement and the Annexation Resolution by the Board of Supervisors at this time will complete the annexation. The Army will become contractually obligated to pay the agreed annexation fee of $7,400,000 upon being presented with the signed Agreement and Annexation Resolution.

The Agreement consists of the Petition for Annexation and Appendices A, B, C, and D. Exhibits to Appendix D, are available upon request at the offices of the MCWRA.

OTHER AGENCY INVOLVEMENT

In August of 1992 the MCWRA sent a letter to all the Communities surrounding Fort Ord and to other agencies that might be affected by the annexation of the Fort into MCWRA Zones 2 and 2A. The letter indicated the MCWRA's intent to pursue the annexation and it asked the addressees to indicate their support or opposition to the intended action. A summary of the responses is shown on pages 10 and 11 of Appendix D, the Annexation Assembly and Evaluation Report. In addition, on September 9, 1993 the Fort Ord Reuse Group wrote a letter to the Army in support of the annexation.

FINANCING

There is no impact to the General Fund. After annexation, the MCWRA would receive $7.4 million from FY 1991 Military Construction Army appropriated funds. The full amount is scheduled to be applied against the costs of the Castroville Reclamation and Irrigation Project.

William F. Hurst
General Manager

Before the Board of Supervisors in and for the County of Monterey, State of California

COPY

Agreement No. A-06404 --)
Agreement Between the United States of)
America and the Monterey County Water)
Resources Agency Concerning Annexation of)
Fort Ord Into Zones 2 and 2A of the Monterey)
County Water Resources Agency, Approved;)
Chairwoman Authorized to Sign . . . . .)

Upon motion of Supervisor Johnsen, seconded by Supervisor Strasser Kauffman, and carried, the Board hereby approves Agreement No. A-06404 between the United States of America and the Monterey County Water Resources Agency concerning annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency, and authorizes the Chairwoman to sign said agreement.

PASSED AND ADOPTED this 21st day of September, 1993, by the following vote, to-wit:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen and Karas.

NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 67, on September 21, 1993

Dated: September 21, 1993

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

By Nancy Lukenbill
Deputy

Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 93-387 --
A Resolution of the Board of Supervisors of the Monterey County Water Resources Agency Making findings for the Annexation of Certain Territory, Known as the Ft. Ord Annexation, to Zones 2 and 2A of the Monterey County Water Resources Agency, Setting Forth the Conditions for Said Annexation, and Approving Said Annexation.

WHEREAS,

A. For many years, the territory known as Ft. Ord, in Monterey County, California, has obtained its potable water from the Salinas Valley Groundwater Basin.

B. Much of the water in the Salinas Valley Groundwater Basin is derived from the Groundwater recharge program made possible through the operation of Lake Nacimiento and Lake San Antonio. The dams that impound these lakes were built and are operated by the Monterey County Water Resources Agency (MCWRA). The capital, operating and maintenance expenses of these reservoirs have been paid for by the property owners in MCWRA Zones 2 and 2A.

C. Ft. Ord is not in Zones 2 and 2A, and has never paid any of the assessments for the reservoirs, although it has benefited from the groundwater recharge program maintained by Zones 2 and 2A.

D. Over the years, seawater intrusion has progressively advanced into the northern portions of the Salinas Valley Groundwater Basin, rendering wells useless for potable and agricultural purposes and threatening nearby water supplies. Several wells previously used to supply water to Fort Ord have been lost to seawater intrusion.

E. The MCWRA proposes to develop a seawater intrusion program that would replace groundwater wells in the northern portion of the Salinas Valley. The program would rely on groundwater or surface water developed in Zones 2 and 2A. The program would require that all properties to be benefited by the program be in Zones 2 and 2A.

F. The territory of Fort Ord is not in Zone 2 and 2A. The U. S. Government, as owner of said property, desires that the territory of Fort Ord be annexed to Zones 2 and 2A, in order to compensate Zones 2 and 2A for past benefits received and to insure the territory's right to participate in the seawater

intrusion program, should a water project be built in Zones 2 and 2A for the benefit of this area.

G. The proposed annexation is not a project within the meaning of CEQA because (1) the terms of the annexation limit the use of water on Ft. Ord to present or historical levels of water use, pending the completion of a water supply project for the benefit of this area, and (2) the annexation does not commit the MCWRA or Ft. Ord to the development of any particular water project or to any other action that will result in changes in the environment. Therefore, it can be seen with certainty that there is no possibility that the annexation will result in significant environmental effects.

H. This annexation is conducted pursuant to the Monterey County Water Resources Agency Act, Section 43.

NOW, THEREFORE BE IT RESOLVED:

1. It is in the best interest of Zones 2 and 2A and the territory described in Exhibit A, referred to herein as the Ft. Ord annexation, that the territory described in Exhibit A be annexed to the zones.

2. The boundaries of the territory to be annexed, as set forth in Exhibit A, are appropriate and need not be modified.

3. There are no other annexation petitions pending before the Agency that involve annexation of any of the same territory to the same zones.

4. The territory described in Exhibit A is hereby annexed to Monterey County Water Resources Agency Zones 2 and 2A, subject to the conditions set forth in the annexation agreement, attached hereto as Exhibit B. The annexation fee shall be paid as provided in Exhibit B.

5. The annexation shall take effect immediately upon the adoption of this resolution.

6. On the effective date of the annexation, the territory described in Exhibit A shall be subject to all the liabilities and entitled to all the benefits of the zone, except as otherwise provided in the annexation agreement, attached hereto as Exhibit B.

Upon motion of Supervisor Johnsen, seconded by Supervisor Karas, the foregoing resolution is adopted this 21st day of September, 1993, by the following vote, to-wit:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen and Karas.

NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 67, on September 21, 1993

Dated: September 21, 1993

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

By Nancy Lukenbill
Deputy

PETITION FOR ANNEXATION
TO ZONES 2 AND 2A
MONTEREY COUNTY WATER RESOURCE AGENCY
MONTEREY COUNTY, CALIFORNIA

AFFIDAVIT

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the attached Memorandum of Agreement with attachments, when executed by the parties thereto, constitutes a petition for the annexation of the territory of Fort Ord, in Monterey County, California, to Zones 2 and 2A of the Monterey County Water Resource Agency, Monterey County, California, by 100 per cent of the owners of the land described therein, and I am informed and believe that the information contained therein is true and correct.

Dated: 9/10/93

Signature

Name: MICHAEL W. OWEN

Title: Acting Assistant Secretary of the Army
(Installations, Logistics and Environment)

§ 52–43. Annexation to zones

Sec. 43. (a) In addition, or as an alternative, to the procedures for amending zones described in Section 7, any territory in the agency lying within the watershed within which a zone is situated may be annexed to that zone pursuant to this section. Territory which is in, or annexed to, one zone may be annexed to another zone pursuant to this section.

(b) The following applies with respect to the annexation of new territory to any zone pursuant to this section:

(1) (A) A petition for annexation by election signed by 25 percent of the freeholders residing in the territory proposed to be annexed as shown by the last equalized assessment roll of the county shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory proposed to be annexed and its assessed valuation as shown by the last equalized assessment roll and shall ask that the territory be annexed to the zone. The petition shall be accompanied by a bond in the sum of not less than one hundred dollars ($100), to be approved by the board and filed with the clerk of the board as security for the payment by the petitioners of the reasonable cost of the election on annexation, in the event that at the election less than a majority of the votes cast are in favor of annexation. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petitioner shall be published by the petitioners for at least two weeks preceding its hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency, together with a notice stating the number of signers of the petition, the time when the petition will be presented to the board and that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers.

(D) At the time specified for the hearing, the board shall hear the petition and may adjourn the hearing from time to time. Upon final hearing of the petition, the board, if it approves the petition as originally presented or in a modified form, shall make an order describing the exterior boundaries of the territory proposed to be annexed and ordering that an election be held in such territory for the purpose of determining whether or not the territory shall be annexed to the zone. The order shall fix the day of the election, which shall be within 60 days from the date of the order, and shall show the boundaries of the territory proposed to be annexed to the zone and shall set forth the measure to be submitted to the voters of such territory and shall designate the precincts, polling places and election officers for such election and state the times between which the polls shall be open. The order shall be published pursuant to Section 6066 of the Government Code. This order shall be entered in the minutes and is conclusive evidence of a due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of the petition, qualified to sign.

(E) The election shall be held and conducted as provided in Chapter 1 (commencing with section 22000) of Part 1 of Division 12 of the Elections Code and sample ballots and polling place cards shall be mailed as provided in section 10012 of the Elections Code. If a majority of the votes in the territory proposed to be annexed at an election called therein by the board for that purpose are in favor of the annexation, the clerk of the board shall make and cause to be entered in the minutes and endorsed on the petition an order approving the petition and the petition shall be filed. The entry is conclusive evidence of the fact and regularity of all prior proceedings of every kind required by law and of the facts stated in the entry. The board at its next regular meeting after the entry shall, by an order, alter the boundaries of the zone and annex to it the territory described in the petition. The order of the board is conclusive evidence of the validity of all prior proceedings leading up to the annexation and recited in the order, and from and after the order the territory is part of the zone. If, at the election, less a majority of the votes in a territory proposed to be annexed are in favor of the annexation of the territory to the zone, the signers of the petition shall, within 10 days after the canvassing of the votes of the election, pay to the board the reasonable cost of the election and, if not paid within 10 days, the board may sue on the bond to recover the cost of the election. If the result of the election is against annexation, the board shall, by order, disapprove the petition and enter the order in its minutes. No other proceeding shall be taken in relation thereto until the expiration of six months from the presentation of the petition, except to collect the costs of the election.

APPENDIX A

(2) (A) A petition for annexation without election signed by the owners of real property in the territory proposed to be annexed which real property represents at least 75 percent of the total assessed valuation of real property in the territory as shown by the last equalized county assessment roll, shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory and the assessed valuation of real property therein as shown by the last equalized county assessment roll and shall show the amount of real property owned by each of the petitioners and its assessed valuation as shown by the last equalized county assessment roll. The petition shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petition shall be published by petitioners at least two weeks preceding the hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency. With the petition there shall be published a notice stating the number of signers of the petition, the time when the petition will be presented to the board and stating that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers. A printed copy of the petition and notice as so published shall be mailed pursuant to Sections 53520 to 53523, inclusive, of the Government Code.

(D) At the time designated the board shall hear the petition and any person interested, and may adjourn the hearing from time to time. Upon the hearing of the petition, the board shall determine whether or not it is in the best interests of the zone and the territory that the territory be annexed to the zone and the board may modify the boundaries of the territory proposed to be annexed as set forth in the petition by decreasing the area of the territory. If the board upon final hearing determines that it is in the best interests of the zone and of the territory proposed to be annexed that the territory be annexed, it shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition and the territory is then a part of the zone.

(3) A petition for annexation without election signed by 100 percent of the owners of real property in the territory proposed to be annexed may be presented to the board. The petition shall designate specifically the boundaries of the territory and shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners. The board shall determine, upon reviewing the petition, whether or not it is in the best interest of the zone and the territory that the territory be annexed to the zone. The board may modify the boundaries of the territory proposed to be annexed as stated in the petition by decreasing the area of the territory. If the board determines that it is in the best interest of the zone and of the territory proposed to be annexed that the territory be annexed, the board shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition, and the territory is then a part of the zone.

(4) No petition or request for annexation pursuant to paragraphs (1) to (3), inclusive, may be accepted by the board if a zone annexation petition involving any of the same territory is pending before it for annexation to the same zone.

(5) An order for annexation may be by ordinance or resolution. Whenever any new territory is annexed to a zone, the territory thereupon becomes subject to all the liabilities and entitled to all the benefits of the zone. Any order for annexation may provide for, or be made subject to, the payment of a fixed or determinable amount of money for the acquisition, transfer, use, or right of use of all or any part of the existing property, real or personal, of the zone. The board may provide that payment of the amounts shall be either: (1) in lump sums or (2) in semiannual installments with interest thereon at a rate not to exceed 12 percent over a period not to exceed 10 years beginning on July 1 following the next succeeding March 1. If the payment is in semiannual installments, the board shall provide in the ordinance that the total of each sum to be paid by each parcel shall constitute a lien on the parcel as of noon on the next succeeding March 1, the same as the lien for general agency and zone taxes; that the semiannual installments shall be paid and collected at the same time and in the same manner and by the same persons as, and together with and not separately from, general agency and zone taxes and shall be delinquent at the same time and thereafter subject to the same thereafter sell, lease, or otherwise dispose of the property in the manner prescribed by law for counties.

(Stats.1990, c. 1159 (S.B.2580), § 41.)

Historical and Statutory Notes

Derivation: Former § 52-31, enacted by Stats.1947, c. 699, § 31.

A

ADDENDUM NO. 1 TO MEMORANDUM OF AGREEMENT BETWEEN THE MONTEREY COUNTY WATER RESOURCES AGENCY, THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AND THE PAJARO VALLEY WATER MANAGEMENT AGENCY

This is Addendum No. 1 to the memorandum of agreement (MOA) between and among the Monterey County Water Resources Agency (MCWRA), the Monterey Peninsula Water Management District (MPWMD) and the Pajaro Valley Water Management Agency (PVWMA), dated December 15, 1991. The date of this addendum for reference purposes is September 28, 1992.

RECITALS

This addendum to the MOA is entered into in light of the following facts:

A. MCWRA is developing a Seawater Intrusion Program (SIP) to mitigate the effects of seawater intrusion into the groundwater basin along the coast under Ft. Ord, Marina, and the Castroville area. This program has been in the planning stages for several years. As part of this program, it has been proposed that pumping from existing groundwater wells supplying Fort Ord and the Marina County Water District (MCWD) be curtailed or eliminated, the construction of additional wells in the seawater intrusion area be limited or prohibited, and a replacement potable water supply be provided to Fort Ord and the MCWD by MCWRA, from wells to be constructed in the Salinas Valley. In order to control pumping from existing wells, MCWRA may acquire the existing wells. MCWRA may at some time seek to levy assessments within the subject area, to impose charges for water provided to the subject area, and to raise revenues from within the subject area in other ways, in order to operate, maintain, and improve the SIP in that area. MCWRA decisions on whether to proceed with this project will be made in the future.

B. MPWMD has an interest in this part of the SIP, in that part of Fort Ord and adjacent areas are within MPWMD's boundaries. Nevertheless, MPWMD does not wish to participate in the SIP, and does not wish to impede its implementation.

C. The impending closure of Ft. Ord calls for additional coordination among the three parties to this MOA.

D. The Board of Directors and/or Board of Supervisors of the Monterey County Water Resources Agency has requested changes in the original MOA.

APPENDIX B

AGREEMENTS

1. Consent to project within territory of Ft. Ord. The parties hereto agree that MCWRA may carry out the SIP within the territory presently occupied by Fort Ord and northwards along the coast, may acquire existing wells drawing water from the Salinas Valley and other property within the territory, may provide water to the territory in connection with the SIP, and may exercise any regulatory authority within that territory as may be needed in connection with the SIP and may levy assessments and impose charges in connection with the SIP for water provided within such territory, without any further compliance with the terms of the MOA, notwithstanding that any part of such territory may be located within the boundaries of MPWMD.

2. Future expansion of MPWMD boundaries. If MPWMD boundaries are expanded to include additional territory involved in the SIP, MPWMD will not object to the continued operation of the SIP in that area.

3. Coordination of programs and activities in connection with closure of Fort Ord. The MCWRA, PVWMA, and MPWMD will coordinate programs related to the closure of Fort Ord and will cooperate in the implementation of future developments within the Fort Ord area. In anticipation that a portion of the future water delivery system to the Fort Ord area will be located within the MPWMD area and that the water supply for that system will be developed from the MCWRA area which is outside of the MPWMD area, the MPWMD and the MCWRA will comply with one another's ordinances as follows:

(a) The MCWRA shall have exclusive authority to regulate water delivery systems that deliver water to the area that is both within the present Fort Ord boundaries and within the MPWMD boundaries in existence at the time of the regulation, and the MPWMD will comply with any such ordinance enacted by the MCWRA.

(b) The MPWMD shall have exclusive authority to regulate the management of the Seaside groundwater basin within the present Fort Ord boundaries, and the MCWRA will comply with any such ordinance enacted by the MPWMD.

(c) This Memorandum of Agreement does not commit the MCWRA to provide any specific quantity of water to Fort Ord or to any portion of it, nor does it commit the MCWRA to provide any water to Fort Ord from the Salinas Valley Groundwater Basin. It also does not give to an other agency the authority to compel provision of water to Fort Ord.

4. Deletion of paragraph 18. Paragraph 18 is deleted from the original MOA.

(MOA.ADD - 3/15/93)

B

5. Deletion of paragraph 19. Paragraph 19 is deleted from the original MOA.

IN WITNESS WHEREOF, the parties execute this memorandum of agreement as follows:

MONTEREY COUNTY WATER RESOURCES AGENCY:

Dated: May 25, 1993 By [signature]
Chair, Board of Supervisors

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT:

Dated: 15 APRIL 1993 By [signature]
Chair, Board of Directors

PAJARO VALLEY WATER MANAGEMENT AGENCY:

Dated: 7/14/93 By [signature]
Chair, Board of Directors

* *

Approved as to form:

[signature]
Counsel for MCWRA

Dated: 5/6/93

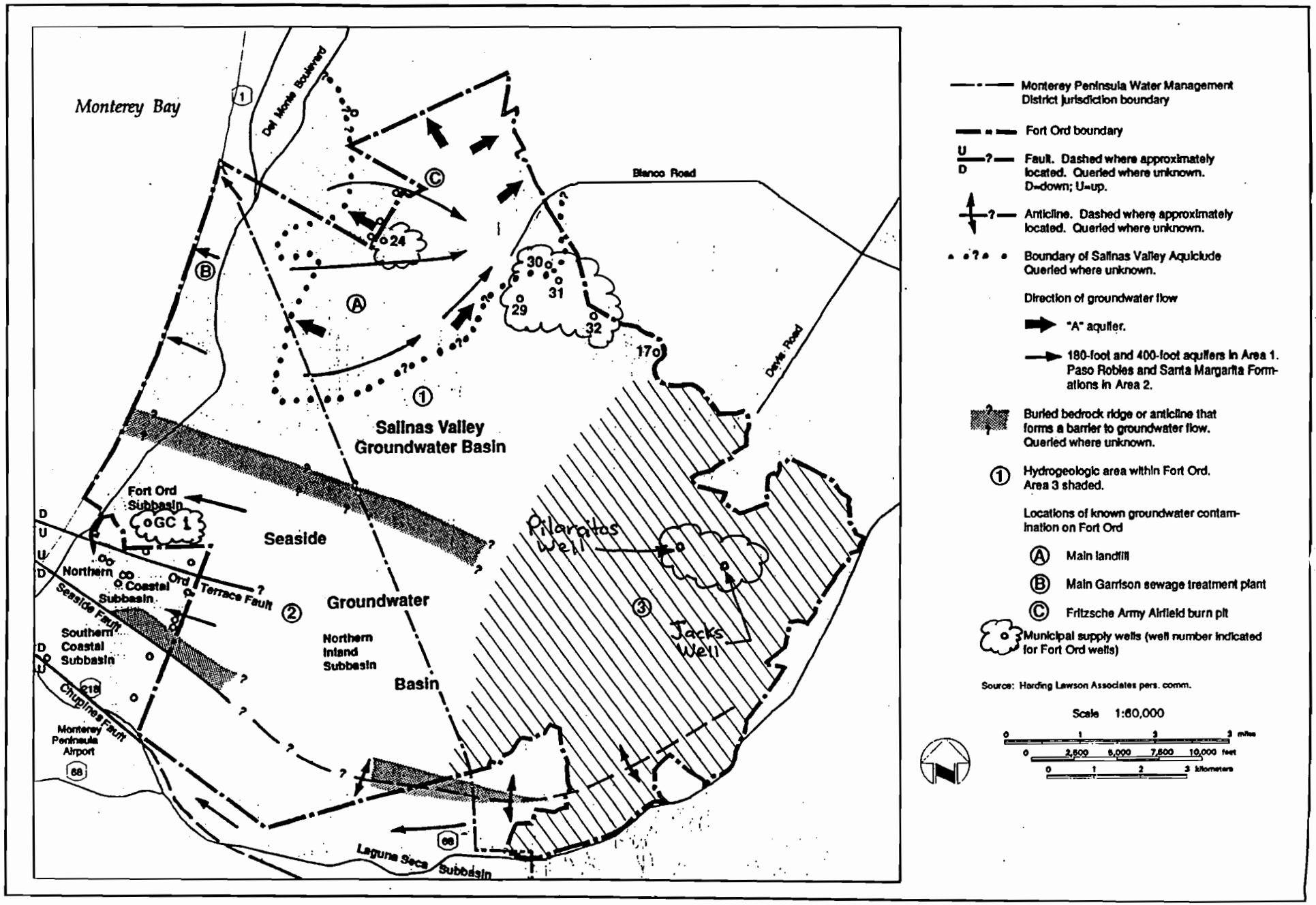
Approved as to form:

[signature]
Counsel for MPWMD and PVWMA

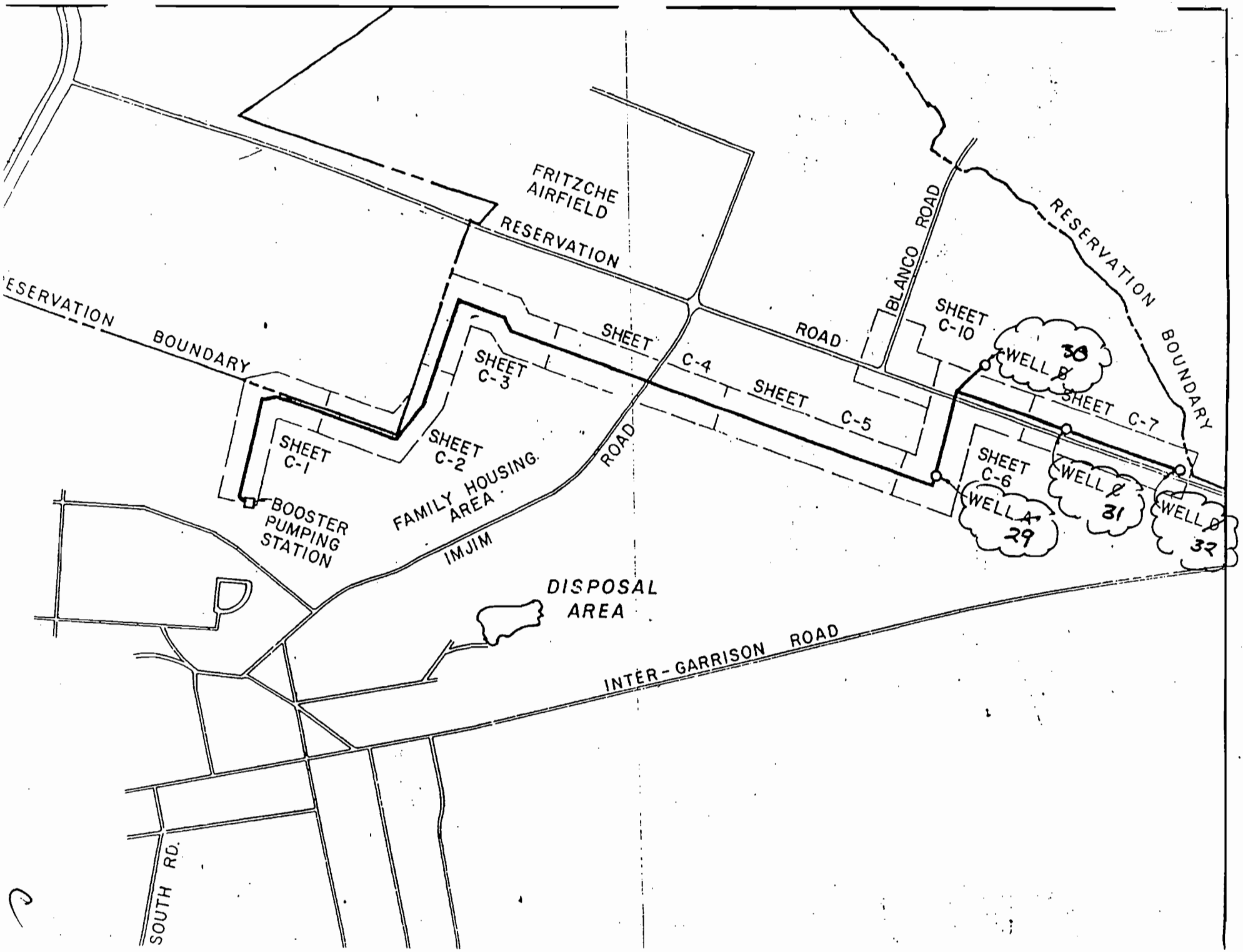
Dated: April 7, 1993

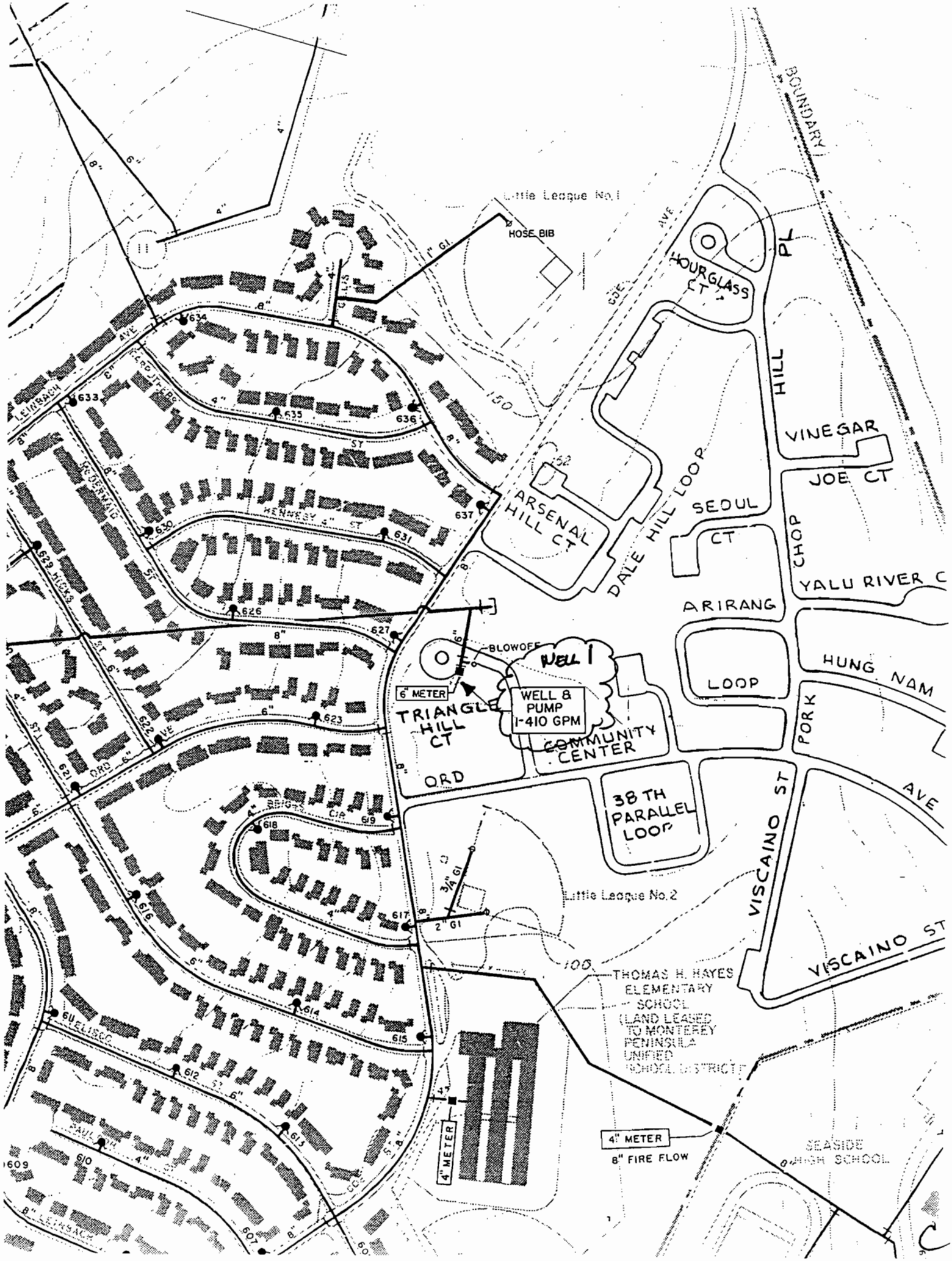
B

Hydrogeologic Conditions in the Fort Ord Vicinity



APPENDIX C


FRITZCHE AIRFIELD
RESERVATION
RESERVATION BOUNDARY
BLANCO ROAD
RESERVATION BOUNDARY
SHEET C-10
WELL B 30
SHEET C-7
SHEET C-4
SHEET C-5
SHEET C-3
SHEET C-1
SHEET C-2
SHEET C-6
WELL A 29
WELL C 31
WELL D 32
BOOSTER PUMPING STATION
FAMILY HOUSING AREA
IMJIM ROAD
DISPOSAL AREA
INTER-GARRISON ROAD
SOUTH RD.



BOUNDARY
Little League No. 1
HOSE BIB
HOURGLASS CT
PL
HILL
VINEGAR
JOE CT
ARSENAL HILL CT
DALE HILL LOOP
SEOUL CT
CHOP
YALU RIVER C
ARIRANG
LOOP
HUNG NAM
PORK
AVE
BLOWOFF
WELL 1
6" METER
TRIANGLE HILL CT
WELL & PUMP 1-410 GPM
COMMUNITY CENTER
ORD
38 TH PARALLEL LOOP
VISCAINO ST
VISCAINO ST
Little League No. 2
THOMAS H. HAYES ELEMENTARY SCHOOL (LAND LEASED TO MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT)
4" METER
8" FIRE FLOW
SEASIDE HIGH SCHOOL
4" METER
LEINBACH
HENNESSY
HICKS
ORD
BRIGGS CIR
ELISCO
PAULSON

ANNEXATION ASSEMBLY AND EVALUATION REPORT
FOR THE ANNEXATION OF FORT ORD
BY THE
MONTEREY COUNTY WATER RESOURCES AGENCY
10 SEPTEMBER 1993

I. EXECUTIVE SUMMARY. The purpose of this annexation by the Monterey County Water Resources Agency (MCWRA) is to provide the basis for a long term, reliable, potable water supply to support the Army's residual mission at Fort Ord after it is realigned per the Base Closure and Realignment Act of 1990. Annexation will also facilitate the disposal and reuse of the portions of Fort Ord not needed to support the Army's residual mission. This report provides the background and justification for the annexation, which is contingent on the conditions in the accompanying Agreement. See Exhibit 1 for a regional map showing Fort Ord, and Exhibit 2 for the location of cities surrounding Fort Ord.

II. INTRODUCTION.

A. Overview of Annexation.

1. Fort Ord, like all large communities in North Monterey County, obtains all of its water supply from groundwater. From the map at Exhibit 3, it can be seen that the northwestern part of Fort Ord (Area 1) overlies part of the Salinas Valley Groundwater Basin (Salinas Basin). Within Area 1, there are three aquifers known as the 180-foot, 400-foot, and 900-foot aquifers. These aquifers are not necessarily found in every location of Area 1. Presently, Fort Ord has three active potable wells in the 180-foot and 400-foot aquifers of the Salinas Basin (wells 29, 30, and 31). By California law, the MCWRA has water management authority over the Salinas Basin. The Salinas Basin has been in an overdraft condition for many years.

2. The southwestern part of Fort Ord (Area 2 on the map) overlies the Seaside Groundwater Basin (Seaside Basin), which is divided into several subbasins due to geologic conditions. The part of Fort Ord which overlies the Seaside Basin supplies a substantial amount of recharge to this basin. Presently, Fort Ord has only one active well in the Seaside Basin to irrigate the Fort Ord golf courses (well 1). Due to occasional high salinity, water from this well is considered to be non-potable. By California law, the Monterey Peninsula Water Management District (MPWMD) has water Management authority over the Seaside Basin. In contrast to the Salinas Basin, the Seaside Basin appears to be in a nearly balanced condition.

3. In the eastern part of Fort Ord (Area 3 on the map), the boundary between the Salinas and Seaside Basins is not defined. This is not a significant issue since this area has a low

APPENDIX D

infiltration rate and subsurface permeability. As a result, the area is unsuitable for significant groundwater development, and it probably doesn't contribute a substantial amount of recharge to the western basins.

4. Pumping by Fort Ord has contributed to the Salinas Basin overdraft, but only to a limited extent as the Fort Ord withdrawals from 1988 to 1992 averaged only 5,200 acre-feet per year compared to the estimated Salinas Basin overdraft of about 50,000 acre-feet per year. The overdraft has resulted in the intrusion of seawater into the Salinas Basin which has caused the contamination of many wells along the entire coastal region, including several on Fort Ord. Although recent studies show that the rate of seawater intrusion may have slowed in the Fort Ord area, the seawater is continuing at a rapid pace in the Castroville-Salinas area several miles north of Fort Ord. Exhibit 4 shows the seawater intrusion problem. The MCWRA has requested the annexation of all of Fort Ord as part of its long term effort to halt all pumping along the Salinas Basin coastal region by providing a replacement water supply. In this manner, the seawater intrusion could be stopped and perhaps even reversed.

5. Fort Ord realized that the seawater intrusion would eventually contaminate its remaining wells, so in January 1990 the President requested Congress approve a military construction project for $7,400,000 to "Purchase part of a regional water supply system, as the first phase of a two-phase regional water supply project to provide a dependable long-term water supply for Fort Ord and the cities of Marina and Castroville." The fiscal year 1991 Defense legislation provided a $7,400,000 authorization and appropriation for the annexation of Fort Ord into the MCWRA. Additional funds for the Army's share of the regional water supply project (second phase) were never budgeted because the 1991 Defense Base Realignment and Closure process (BRAC 91) dictated that the 7th Light Infantry Division stationed at Fort Ord relocate to Fort Lewis, Washington. As a consequence, the Army deferred action on the annexation until the future status of Fort Ord was determined, and more information was available on the cost for the Army to participate in a regional water supply project.

6. Pursuant to BRAC 91, part of Fort Ord will be retained to support the Defense Language Institute (DLI) at the nearby Presidio of Monterey (POM). This Fort Ord enclave is designated as the POM Annex. Additionally, a 12 acre Reserve Center within Fort Ord will be retained (not contiguous to the POM Annex). As part of the BRAC 93 process, the Army recommended that the POM and POM Annex be closed, and the DLI be relocated to Fort Huachuca, Arizona. However, the 1993 Defense Base Closure and Realignment Commission's recommendations, which the President endorsed to Congress, call for the DLI to remain at the POM, and for the POM Annex to be downsized to only include housing and the commissary, child care facility, and post exchange. Congress is not expected to disapprove the Commission's recommendations.

7. With a BRAC 93 decision to retain an Army presence at Fort Ord, it is imperative that the Army obtain a reliable water supply to support the residual mission. For the Army to gain access to a regional water supply project being developed by the MCWRA, annexation is required. Annexation will also benefit the Army by facilitating the disposal and reuse of the parts of Fort Ord to be excessed. More detail on these and other benefits is provided in section IV.E. of this report.

B. Area to be Annexed. The area to be annexed is the whole of Fort Ord, California, which is made up of 28,602.84 acres. Refer to Exhibits 14 through 18 for real estate maps of the installation.

C. Purpose of the Area and Mission Objectives. Prior to BRAC 91, Fort Ord's primary purpose was to station the 7th Light Infantry Division. Subsequent to BRAC 93, the installation's primary purpose will be to provide housing and other facilities in support of the nearby POM and Naval Post Graduate School.

D. Present and Future Uses of the Property. Relocation of the 7th Light Infantry Division is in progress with the last units scheduled for departure by December 1993. Pursuant to BRAC 91, the Army is disposing of excess property in accordance with applicable law. To support the residual mission, the POM Annex is presently configured to occupy about 1,500 acres. However, under BRAC 93, the POM Annex is to be downsized by excessing facilities such as both golf courses. The Environmental Impact Statement for the disposal and reuse of Fort Ord, which is nearing completion, has identified the following possible uses for the parts of Fort Ord to be excessed: educational, office park (private and government), commercial, recreational, aviation, natural resource management, and housing.

E. Acquisition Origin of Fort Ord. The original Fort Ord reservation comprising 15,809.50 acres was purchased by the United States from the David Jacks Corporation on 4 August 1917. After 1940, an additional 12,793.34 acres were acquired. The total area is 28,602.84 acres.

F. Political Subdivision Seeking Annexation. The subdivision seeking annexation of all the lands comprising Fort Ord is the MCWRA which, per California law, is responsible for managing the surface water and groundwater resources in the Salinas Valley and providing flood control and water conservation services throughout Monterey County. MCWRA is requesting that Fort Ord be annexed into Zones 2 and 2A. The MCWRA established Zone 2 as the benefit assessment zone in connection with the construction of Nacimiento Reservoir (completed in 1957), and established Zone 2A as the benefit assessment zone in connection with the construction of San Antonio Reservoir (completed in 1967). Since the construction of these reservoirs, the MCWRA has operated a groundwater recharge program for the benefit of Zones 2 and 2A, using waters from the

two reservoirs and other programs to enhance natural percolation in the Salinas Basin. It is appropriate for Fort Ord to be annexed into Zones 2 and 2A because Fort Ord's potable water supply has historically come from the Salinas Basin. Per a Memorandum of Agreement signed in May 1993 between the MPWMD and MCWRA, the MPWMD does not object to the MCWRA annexing that part of Fort Ord overlying the Seaside basin provided that the MPWMD retains water management authority over the portion of the Seaside Basin underlying Fort Ord. Refer to Exhibit 19 for a large map showing the existing boundaries of Fort Ord and Zones 2 and 2A. Note that although a small portion of Fort Ord is currently shown to be within Zones 2 and 2A, the property is not presently annexed. Refer to Exhibit 20 for a large map showing the entire area of Zones 2 and 2A.

III. LEGAL STATUS OF THE PROPERTY

A. Title Held by the Government. The Army has a fee title interest in the property proposed for annexation. This action by the MCWRA will not affect the Army's title.

B. Degree of Legislative Jurisdiction. The degree of jurisdiction over most of the property is exclusive federal jurisdiction. Annexation will not alter this jurisdiction and it will not interfere with official Army activities or functions including those remaining after realignment and closure.

C. Applicable State Annexation Laws and Ordinances. The procedures for annexation are found in California Water Code, Appendix 52-43 (see Appendix A to the Agreement). The Army intends to petition the MCWRA Board of Supervisors for annexation pursuant to section 43.(b)(3). Pursuant to section 43.(b)(5), annexation may require a fee. See section IV.F. of this report for a discussion of the annexation fee.

D. Regulations on Annexation. The following govern the actions of the Army in annexations:

1. Army Regulation 405-25, Annexation (1 April 1974).

2. Engineering Regulation 405-1-12, Chapter 9, Federal Legislative Jurisdiction and Annexation (Change 4, 5 September 1978).

IV. POTENTIAL IMPACT OF ANNEXATION.

A. Source of Utilities. Water is the only utility that will be affected by the proposed annexation. Fort Ord now receives all of its water from wells on Fort Ord that are owned and operated by the Army. Since seawater intrusion is threatening these wells, the Army needs a long term, reliable, replacement water supply. Such

a water supply would likely come from a future MCWRA project; however, the Agreement provides the Army with the flexibility to obtain a replacement water supply from another source if the opportunity arises and it is in the Army's best interests. The replacement water supply system will provide water in bulk to the installation. The Army or a successor entity will continue to be responsible for operating and maintaining the water distribution system on Fort Ord Lands. Paragraph 4.d. of the Agreement addresses the fact that the Army will retain the necessary easements to operate and maintain Army wells.

B. Adverse Impacts on the Mission.

1. Utilities and Services. Annexation will have no impact on Fort Ord utilities and services, or the installation's plan to find a water purveyor to take over the water distribution system.

2. Taxation and Licensing. Municipalities acquire the power to tax private persons and private property by annexation. Military personnel, to some extent, and Government instrumentalities such as Post Exchanges are exempt from such taxation. The Agreement states that the Army will provide the MCWRA with $7,400,000 in consideration for the annexation. However, the Agreement also stipulates that the Army will not pay any MCWRA assessments (including standby charges) until after the POM Annex and Reserve Center gain access to a replacement water supply provided by the MCWRA (see paragraph IV.F.2.). To the extent that federal property may be exempt from local assessments, a utility service contract in accordance with AR 420-41 between the Army and the MCWRA may require the payment of a contractual fee to replace any assessments. Such fee will be mutually agreed upon.

C. Effect on Installation Master Plans. Upon annexation, the MCWRA will acquire some control over Fort Ord's water supply. From a practical standpoint, this control should not prevent the Army from constructing any projects needed to support Fort Ord's residual mission. Additionally, the Agreement provides Fort Ord with special rights to obtain any water needed in the event of war, national emergency, contingency operation, troop mobilization, or unexpected mission requirements.

D. Annexor's Capability to Furnish Benefits.

1. The main benefit the Army expects to receive from the MCWRA is a long term, reliable water supply. Based on its charter, the MCWRA should be the most capable organization to plan, finance, construct, and operate a regional water supply system. The MCWRA's first attempt to develop a water supply system for Fort Ord and Marina was halted in 1992 due to opposition from land owners in and around the proposed Buena Vista well field (located inland from Fort Ord). This project had a capacity of 11,600 acre-feet/year.

2. An alternative project now being studied by the MCWRA consists of dispersed wells along a 20 mile stretch of the Salinas River and storing excess runoff from the Arroyo Seco River (a tributary of the Salinas River) in a shallow aquifer using percolation ponds. Water would then be pumped from the dispersed well system and from the shallow aquifer to replace the potable wells serving Fort Ord, Marina, Salinas, Toro Park, and perhaps other areas in north Monterey County. Water would also be provided to recharge the Salinas Basin near the coast to raise the groundwater level and halt (or even reverse) the seawater intrusion. The Water Transfer Project is being planned for a capacity of about 50,000 acre-feet per year. Construction completion is planned by the year 2000. The MCWRA's current estimated cost of this project is $157 million, which equates to a capital cost of $3,155 per acre-foot per year.

3. There is another MCWRA project to mitigate seawater intrusion which is already under design. The project will upgrade the existing regional sewage treatment plant to tertiary standards, and pipe the effluent to Castroville for crop irrigation. This project should provide about 19,500 acre-feet per year, and is estimated to cost $71 million. When this project comes on line (maybe as early as 1996), the estimated 50,000 acre-feet per year Salinas Basin overdraft will be significantly reduced. This should extend the life of all wells near the coast, including those on Fort Ord. The MCWRA intends to use the Army's $7.4 million annexation fee to complete design of the Castroville Project.

4. Based on the above reasons, it is concluded that the MCWRA is the most capable organization to provide a reliable water supply for the Fort Ord Lands. This is a challenging task as the MCWRA is under considerable pressure to develop a regional water supply project quickly because the wells serving over 100,000 people in the coastal region are being threatened by seawater intrusion. Because of this threat, the State Water Resources Control Board is monitoring the MCWRA's progress in this area. If the MCWRA, for whatever reason, is unable to develop a regional water supply system, then the Agreement permits the Army to obtain a long term water supply for the POM Annex and Reserve Center from another party. Additionally, even if the MCWRA is making progress in developing a regional water supply project, the Agreement provides the Army the option of obtaining a long term water supply for the POM Annex and Reserve Center from another party if it is in the Army's best interests, e.g., the other water source is less costly or available at a more advantageous time.

E. <u>Benefits to Accrue from Annexation.</u> Upon annexation of Fort Ord into Zones 2 and 2A, the MCWRA will not immediately provide any direct governmental service on the installation. The benefits of annexation will accrue initially on an indirect basis, and direct services will be provided later. The benefits to the Army from annexation are as follows:

1. The most important benefit of annexation is that it will allow the Fort Ord Lands to gain access to a regional water supply project being developed by the MCWRA. Fort Ord's existing wells are being threatened by seawater intrusion due to the existing Salinas Basin overdraft. The MCWRA is the most capable, and most likely entity to implement a regional water supply project to support the POM Annex and Reserve Center.

2. Another important benefit is that annexation will facilitate the disposal and reuse of the parts of Fort Ord to be excessed under base closure and realignment. This is the main reason for annexing all Fort Ord Lands at this time instead of waiting to annex just the POM Annex and Reserve Center after the MCWRA has better defined its proposed regional water supply project, i.e., all environmental permits and approvals obtained. Under the Agreement, the new owners of Fort Ord excessed property would have the right to drill and pump on their property subject to the conditions described in paragraph IV.E.3. below, and paragraph 4.c. of the Agreement. Also, property which has already been annexed by the MCWRA will be easier to dispose because of its potential access to a long term water supply project being developed by the MCWRA, and a short term water supply from Fort Ord's existing wells (see paragraph IV.E.3. below). Without annexation, the MCWRA or state regulatory agencies could object to the Army providing water to owners of excessed Fort Ord property, even if only for a short duration. Additionally, these same agencies could severely limit or control pumping by the owners of excessed Fort Ord property due to the Salinas Basin overdraft. Lastly, even if all of these new property owners wanted to be annexed, it would be an administrative burden for the MCWRA compared to annexing just Fort Ord.

3. Until the MCWRA's regional water supply project is implemented, annexation will give the Army the right to withdraw up to 6,600 acre-feet per year from the Salinas Basin underlying Fort Ord Lands, and allow the Army to allocate some of this water for reuse. The Army or its successor water purveyor, utility, or agency may also develop groundwater supplies located outside the Salinas Basin. The amount of water needed to support the Fort Ord residual mission was the subject of a June 1993 Report titled "Water Requirements at Fort Ord Under Base Realignment and Closure", which was prepared under the supervision of the Army Corps of Engineers, Institute for Water Resources (IWR). This report concluded that the POM Annex, as presently configured, would require in fiscal year 1995 1,085 acre-feet of potable water provided that additional water conservation measures are implemented. This report also estimated that 403 acre-feet of non-potable water would be used in fiscal year 1995. The non-potable water is pumped for the golf courses from a well located in the Seaside Basin. These requirements would decrease if the POM Annex is downsized in accordance with BRAC 93. Based on a POM Annex potable water requirement of 1,429 acre-feet per year (IWR estimate plus appropriate adjustments computed by Fort Ord), there could be

up to 5,171 acre-feet per year of water available for reuse and to maintain any undisposed Fort Ord Lands and facilities in a caretaker status. Note that the Agreement only allows 5,200 of the 6,600 acre-feet per year threshold to be pumped from the 180-foot and 400-foot aquifers in the Salinas Basin. Fort Ord's active potable wells draw from the 180-foot aquifer, so a new well into the 900-foot aquifer would be needed to gain access to the additional 1,400 acre-feet per year. The Agreement also states that Fort Ord groundwater withdrawals for environmental restoration will not count toward the 6,600 acre-feet per year threshold because either the withdrawals will be small, or if they are large, the water will probably be disposed in the sanitary sewer system where it will be used by the Castroville Sewage Reclamation/Irrigation Project to help reduce seawater intrusion.

4. There is concern that the Fort Ord wells could become contaminated with seawater before the MCWRA implements their regional water supply project. In this event, annexation would be a benefit to the Army because the MCWRA will provide Fort Ord with the same services as they would provide to any other municipal water supplier in the Zones under this circumstance, i.e., assistance in finding an interim water supply and in obtaining any permits. The Army would bear the cost of obtaining this interim water supply. Under the Agreement, the MCWRA will periodically provide Fort Ord with the estimated remaining life of their wells, and the progress on the MCWRA Water Transfer Project.

5. Annexation will resolve questions concerning Fort Ord's right to withdraw groundwater from the Salinas Basin. The Agreement states that in consideration of the $7,400,000 annexation fee, the MCWRA will release the Government from any financial responsibility for existing MCWRA water projects from which Fort Ord may have benefitted (Nacimiento and San Antonio Reservoirs). Additionally, the Agreement states the MCWRA will release the Government from any claims related to seawater intrusion in the Salinas basin.

6. Under California law, annexation will provide the Fort Ord with the same representation in MCWRA matters as any other property owner in Zones 2 and 2A.

7. Another benefit of annexation is that the enclosed Agreement includes some of the conditions which must be satisfied for the Army to participate in a future MCWRA regional water supply project. The objective of these conditions is to assure that the regional water project costs assigned to the Army are equitable in comparison to the Army's allocation of water from the project. These protections are very important in view of the fact that the Army believed it was being saddled with a disproportionate cost share of the original Buena Vista project, and the fact that the POM Annex will only require a small part of the capacity of MCWRA's proposed regional water project. The Army strongly believes that part of the cost of a regional water project must be funded by all

members of Zones 2 and 2A. The water supply project is just as important to halting seawater intrusion as the Castroville Sewage Reclamation and Irrigation project, and the MCWRA plans to have 50 percent of this project funded by Zone 2 and 2A members not receiving water from the Castroville project.

F. Effect on the Budget of the Installation.

1. Annexation Fee: The Army and the MCWRA have agreed upon an annexation fee of $7,400,000, which was authorized and appropriated by Congress in the fiscal year 1991 Defense legislation. The amount of the fee is related to the benefits provided by MCWRA's existing water projects (Nacimiento and San Antonio Dams) and water management practices which protect the yield of the Salinas Basin. It is from this basin that Fort Ord has historically obtained its potable water supply. The annexation fee is consistent with the current MCWRA Annexation Policy at Exhibit 5. There are two components of the fee - for area and water use. The area component is the area to be annexed in acres times $277. The $277 is the sum of the present worth capital cost of each dam divided by the acreage of its respective zone. The water use component is $783 times the maximum amount of water to be pumped from the Salinas Basin in acre-feet per year. The $783 is the present worth, on a acre-foot per year basis, of past operation and maintenance costs for Zones 2 and 2A. Based on information from current and former Fort Ord personnel, it appears that MCWRA's current annexation policy was in effect when the Congressional budget estimate for the annexation fee was developed in 1989. The area component of the fee was apparently computed by using 8,000 acres multiplied by $277/acre or $2,216,000. Since the existing Fort Ord developed area is about 5,000 acres, the 8,000 acre figure was apparently used to account for future growth. The water use component apparently was developed using the peak withdrawal of 6,600 acre-feet/year (1984) multiplied by $783/acre-foot/year or $5,167,000. The area and water use components total $7,383,800, which was rounded to $7,400,000. The Agreement stipulates that the $7,400,000 fee will be paid to the MCWRA after completeion of the annexation.

2. Annual Assessments: The Agreement stipulates that until the POM Annex and Reserve Center receive water from a MCWRA water supply project, the Army shall not pay any assessments such as standby charges, water delivery charges, or water project assessments. Standby charges, which generally fund the MCWRA administrative costs, vary from year to year and have increased over time. At present, these charges are limited to a maximum of $15 per acre per year for each zone, per the California Water Code, Appendix 52-12. For the POM Annex and the Reserve Center, which after annexation will be in two zones (2 and 2A), this would amount to a maximum of $30 per acre. The Army's potential water project assessments (capital costs) and water delivery charges (operation and maintenance) are discussed in Agreement paragraphs 4.j.(3) and

4.j.(4), respectively. The Agreement stipulates that the Army will not pay any assessments or charges on Fort Ord property in a caretaker status awaiting disposal. Additionally, paragraph 7 of the Agreement provides the MCWRA with expanded authority to collect assessments from Fort Ord property leased to private interests by the Army.

V. POSITION OF COUNTY AND OTHER GOVERNMENT ENTITIES ON ANNEXATION.

A. MCWRA. The MCWRA initiated the annexation of Fort Ord to help solve the Salinas Basin seawater intrusion problem, and guarantee a continuing supply of potable water for Fort Ord. Annexation is a necessary step in this process. The MCWRA is moving toward annexing all property within the Salinas Basin so they can effectively manage the aquifer. With the annexation of Fort Ord and Marina, which are both in progress, all major properties within the Salinas Basin will be annexed.

B. Other Political Subdivisions. Letters were sent by the MCWRA to other communities and agencies that share boundaries with Fort Ord or have an interest in the annexation of Fort Ord by the MCWRA. The respondents, with their comments, are listed below. A sample copy of the letter is attached (Exhibit 6), as well as copies of the responses.

1. City of Monterey, CA; voted not to oppose annexation (Exhibit 7).

2. Monterey County Local Agency Formation Commission; voted to support (Exhibit 8).

3. Marina Coast Water District (formerly known as the Marina County Water District); voted not to oppose annexation (Exhibit 9). The Marina Coast Water District is currently working with the MCWRA to be annexed into zones 2 and 2A because of their concerns over the long term reliability of their existing groundwater supply.

4. Monterey Peninsula Water Management District; approved the annexation (Exhibit 10).

5. City of Del Rey Oaks, CA; voted not to oppose annexation (Exhibit 11).

6. City of Marina, CA; initially voted to table consideration of support or opposition to the annexation. The City of Marina has subsequently agreed not to oppose annexation provided that the Agreement stipulates that Fort Ord may pump up to 6,600 acre-feet of water per year from its wells, and that water not needed for the residual mission can be provided for reuse (Exhibit 12). This provision is contained in paragraph 4.c. of the Agreement.

7. City of Seaside, CA; opposes the annexation (Exhibit 13). It is concluded that in spite of this opposing response, Fort Ord should be annexed by the MCWRA. The first reason is that annexation under the terms of the attached Agreement is in the Army's best interest. The second reason is that the Army concludes there is no reasonable basis for a conflict because the Seaside groundwater supply, which is managed by the MPWMD, will not be affected by the MCWRA's annexation of Fort Ord.

VI. CONCLUSION AND RECOMMENDATIONS. This annexation is in the best interests of the Government, and it is recommended that it be approved contingent on the provisions in the attached Agreement.

EXHIBITS:

1 - Regional map
2 - Vicinity map
3 - Map of the Salinas Valley Groundwater Basin
4 - Figures showing the seawater intrusion problem
5 - MCWRA annexation policy
6 - Typical MCWRA letter sent to local interests to obtain comments on the MCWRA's proposed annexation of Fort Ord
7 - Response, City of Monterey
8 - Response, Monterey County Local Agency Formation Commission
9 - Response, Marina Coast Water District
10 - Response, Monterey Peninsula Management District
11 - Response, City of Del Rey Oaks
12 - Response, City of Marina
13 - Response, City of Seaside
14 - Fort Ord real estate map, entire installation
15 - Fort Ord real estate map, segment 1A
16 - Fort Ord real estate map, segment 1B
17 - Fort Ord real estate map, segment 1C
18 - Fort Ord real estate map, segment 1D
19 - Map showing boundaries of Fort Ord and Zones 2 and 2A
20 - Map showing entire Zones 2 and 2A