

Who Put EPA in Charge?

In a word: Congress. The National Priorities List, created by Congress in 1980, and requires that EPA take charge of and/or oversee the cleanup of the nation's most contaminated sites. Once a site is placed on the National Priorities List cleanup must follow a specific process laid out by EPA.

The Environmental Protection Agency (EPA) placed Fort Ord, all 28,000 acres, on the National Priorities List in 1990 (long before FORA took title to the ESCA properties in 2007). At that time EPA and the Army entered into an enforceable agreement (the Federal Facilities Agreement), which set standards, timetables, reporting requirements and established stipulated penalties for failure to meet those standards and timetables. Because the Army had not completed the required remedial work at the time that FORA acquired the ESCA properties, the Administrator of EPA, with the concurrence of the Governor of California, had to approve the transfer of the ESCA properties to FORA. As a condition of approval, EPA and the California Department of Toxic Substances Control (DTSC) required FORA to enter into an enforceable agreement. This agreement, known as the Administrative Order on Consent, provides EPA and DTSC with oversight responsibility, approval authority for remedial work and the authority to enforce the terms of the Administrative Order on Consent with stipulated penalties.

By law, EPA has the authority and the responsibility to assure that the remedial work at Fort Ord is performed properly, satisfies applicable standards of performance and stays on schedule. EPA's letter to FORA regarding the recent breach of restrictions on certain parcels at the former Fort Ord is consistent with their oversight authority and responsibility to assure that public safety is maintained, endangerment is avoided and that protective measures are effective.