

**TITLE REPORT**  
**UMATILLA CHEMICAL DEPOT**  
**MORROW AND UMATILLA COUNTIES**  
**OREGON**

**SEATTLE DISTRICT**  
**REAL ESTATE DIVISION**

15 August 2008

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<u>INDEX</u>	<u>PAGE</u>
Title Opinion	3
Summary of Real Property Actions and Interests	3
Fee Estate	3
Withdrawn Lands	4
Easements	4
Licenses	5
Water Rights	5
Outstanding and Third Party Interests	6
Outgrants	7
Legal Description	8
Legislative Jurisdiction	8
Flood Hazards	9
Fixtures of Historical or Artistic Value	9
Environmental Issues	9
Certification Signature	11

Attachments:

1. Acquisition, Outstanding Interests, and Outgrant Documents CD
2. Tract Register
3. Outstanding and Third Party Interests
4. Legal Description
5. Legislative Jurisdiction
6. Real Estate Tract Map
7. Real Estate Outgrant Map
8. Legislative Jurisdiction Map

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TITLE OPINION

The undersigned, a Realty Specialist in the Real Estate Division, Seattle District, Corps of Engineers, hereby certifies that an examination has been made of the records of said Real Estate Division pertaining to the acquisition, management, and disposal of interests in land by the United States Government at the above excess installation. Based on the examination, it is my opinion that the interests and title held by the United States of America, as of this date, are as summarized below and shown on maps and all supporting lists and documents referenced and attached.

SUMMARY OF REAL PROPERTY ACTIONS AND INTERESTS

The great majority of the Umatilla Chemical Depot (UMCD) was acquired in the early 1940's in the build up to World War II. In the mid-1950's easements were acquired on the north and east boundaries of the installation for a safety buffer area. A summary of the interests in the 19,728.02 acres currently held by the United States Government and under the jurisdiction of the US Army is shown below with further detail and explanation in the remainder of the report:

Fee Estate	17,054.41 acres
Easements	2,673.61 acres
Licenses	2 areas
Water Rights Certificates	8

Copies of all title documents for fee and easement estates, withdrawals, licenses, and water rights including title reports, deeds, declarations of taking, judgments, and final opinions of title; Executive Orders, Federal Register publications, and public laws related to the withdrawals; title exceptions and third party interests; jurisdiction data; disposals; outgrants; and maps, are available in the Seattle District office. They reflect all public recording data and have been copied and scanned to produce electronic copies that are available on a CD which is included as Attachment 1 (with hard copy only) and have been stored with this document on the AKO web site for the installation.

FEE ESTATE

The United States acquired from private owners by direct purchase and condemnation the fee simple estate in 8,774.55 acres during the early 1940's. These acquisitions are

detailed on the Tract Register (Attachment 2) as Tracts 1 through 20 with the previous owner's name, acreage, and dates for conveyance deeds and condemnation actions.

#### WITHDRAWN LANDS

The Army obtained use and jurisdiction of 6,999.86 acres in Tract A by Executive Order No. 8794 dated June 14 1941 and 160 acres in Tract B by Executive Order No. 8999 dated December 26 1941 from the Public Domain by withdrawal from the Department of Interior, Bureau of Land Management (BLM). These withdrawals were amended by Executive Order 9526 and Public Land Order 986 which restored jurisdiction to the BLM. An additional 1,280 acres in Tract C north and east of the installation was withdrawn from BLM by Public Land Order 1789 published 10 February 1959 for a safety area. These areas are shown on the Tract Register. In 1971 40 acres of Tract C were relinquished to BLM for disposal and in 1972 an additional 120 acres of Tract C were relinquished to BLM also for disposal. The relinquishments were done with a request that BLM issue any patents subject to certain restrictive easement rights necessary for a safety area. The total remaining area of withdrawn lands is 8,279.86 acres.

By Public Law 108-375, Section 2846, October 28, 2004, it was decreed that the approximately 8,300 acres of withdrawn lands within the installation were no longer suitable for return to the public domain and shall remain under the administrative jurisdiction of the Army for purposes of management and disposal pursuant to the Base Realignment and Closure Act of 1988. Thus, the Army has jurisdiction and is authorized to treat this former withdrawn BLM land as a fee disposal.

#### EASEMENTS

In 1956 through 1958 the United States acquired restrictive easements for the north and east safety areas by direct purchase and condemnation. The 2,648.69 acres in the easements are shown as Tracts 23E through 29E on the Tract Register. In 1974 and 1977 additional easements were acquired over 160 acres in Tracts 130E and 131E for the safety area. These easements were acquired over the same 160 acres formerly held and relinquished to BLM as a part of Tract C, thus preserving the integrity of the safety area. These same rights in Tracts 130E and 131E already existed by virtue of Public Land Order No. 1789 dated 10 February 1950 and were still a matter of record in the Patent files of the Bureau of Land Management, Oregon State Office, Portland, Oregon. In 1971 135.08 acres of the originally acquired 143.12 acres in Tract 28E were disposed of by sale to the owner of the underlying servient estate. The net easement area is 2,673.61 acres.

The estate taken for said public use is a perpetual restrictive easement consisting of the following rights,

a. The right to prohibit human habitation and remove buildings presently or hereafter used therefor.

b. The right to prohibit occupation or erection of buildings or roofed structures, including barns and sheds, as well as dwellings, which would be occupied by persons either usually or intermittently.

c. The right to prohibit gatherings of more than 25 persons.

d. The right to post signs indicating the nature and extent of United States control.

e. The right and easement of access for ingress and egress over and across the said lands for the purpose of exercising the above rights. RESERVING, HOWEVER, to the owners, their heirs and assigns, all right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights hereby taken, including, but not limited to the right to graze livestock on said lands, and the right to farm the lands, subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

Tracts 23E and 29E were acquired through negotiations granting the Government the above rights and the additional rights to grant, convey, transfer or assign, or permit the use and occupation of the easement area, by most legal means as further specified in the Restrictive Easement Deeds dated December 13 1956 and May 1 1958, respectively. Only the deeds for these two tracts have these additional rights and it is questionable whether the clause conveys any additional rights not already available to the Government.

A complete Tract Register of all acquired withdrawn, fee, and easement tracts is included as Attachment 2 and a Real Estate Map reflecting all acquired interests is included as Attachment 6.

## LICENSES

License agreements were obtained from the Union Pacific Railroad Company in the form of an Agreement dated 5 August 1943 in Tract 21-L for a private 24-foot wide road crossing and on 13 January 1943 for a Wire Line Agreement in Tract 22-L for a 3/4-inch galvanized iron pipe conduit underneath and across the roadbed and track for a telephone wire crossing, both along the south boundary of the installation. These are essentially permissions to cross the railroad tracks and convey no interest in the lands. They are subject and subordinate to the paramount use of railroad purposes by the licensor. The road agreement was to "continue in full force and effect for the duration of the present emergency and for a period of six (6) months thereafter". The document has never been terminated or otherwise amended, thus, by its terms it has expired but the road may still exist and be used by the Government. The wire agreement is in effect until terminated. The successor railroad company will probably want to enter into new agreements with new installation owners.

## WATER RIGHTS

During the course of the operation of the installation, a number of recorded Water Rights were obtained from the State of Oregon. In Oregon, water rights are "appurtenant" (attached) to the specific property where the water use is authorized. Unless the Department approves an application to transfer the water right to a different parcel of land or approves an instream lease, the water right may be exercised only on the specific land identified in the water right certificate. As a general matter, when a landowner sells or conveys his or her land, the water rights associated with that land are also conveyed to the new owner unless the Purchase and Sale Agreement or deed includes a specific exclusion of the water rights or the new owner otherwise receives notice that the appurtenant water rights have been conveyed to another party. The water rights are granted in the following certificates:

Certificate of Water Right	Well 1	March 13, 1967
Certificate of Water Right	Well 2	March 13, 1967
Certificate of Water Right	Well 3	May 24, 1967
Certificate of Water Right	Well 4	March 13, 1967
Certificate of Water Right	Well 5	May 24, 1967
Certificate of Water Right	Well 6	January 11 1963
Certificate of Water Right	Well 7	March 13, 1967
Certificate of Water Right	Well 8	January 11, 1963

## OUTSTANDING AND THIRD PARTY INTERESTS (SUMMARY)

The Withdrawals were completed subject to all forms of appropriation under the public-land laws and one was subject to Oregon Grazing District No. 7. In one or more Withdrawals, jurisdiction was in the Army temporarily but that was later changed to BLM jurisdiction.

The Fee tracts were acquired in some condemnation cases subject to no rights. In other condemnations and purchases, the standard clause "...subject to existing easements for public roads and highways, public utilities, railroads and pipelines..." was included in the estate. The title reports in some cases show liens, encumbrances, and outstanding rights in third parties. Records do not reflect whether these were paid or acquired or otherwise cleared from title. However, in these cases, the Final Title Opinions issued by the Department of Justice show valid title vested in the USA.



Tracts 23E through 29E, 130E and 131E are safety easements generally acquired subject to liens and assessments and subject to existing easements for public roads and highways, public utilities, railroads and pipelines, and reserving rights which do not interfere with the Government rights including the rights to graze and farm. Outstanding liens and assessments were against the servient estates (or underlying ownerships) and do not affect the acquired easements. The outstanding easements for public utilities did not affect the title to the safety easements or the intended use as a safety area by the USA. The reserved uses and rights do not interfere with the Government rights acquired.

There are no exceptions to title, reservations, defects, or other title issues that would affect disposing of title now in the USA to other parties.

A complete list of title liens, encumbrances, and outstanding rights in third parties for each tract acquired for this installation is included in this report as Attachment 3.

## OUTGRANTS

There are a number of grants of easements for significant facilities supporting or passing through the UMCD. These are listed below:

DACA67-2-03-72, Easement for Electric Power or Communication Facility, to Umatilla Electric Cooperative Association, term of 50 years from 1 October 2002 and ending 30 September 2052, over portions Sections 35 and 36, T5N, R27E, WM; and Section 1, T4N, R27E, WM.

DACA67-2-03-73, Easement for Electric Power or Communication Facility, to Umatilla Electric Cooperative Association, term of 50 years beginning 1 October 2002 and ending 30 September 2052, over portions Sections 12, 13, 24, and 25, T4N, R27E, WM.

DACA67-2-97-302, Easement for Electric Power or Communication Facility, to Umatilla Electric Cooperative Association, term of 50 years beginning 26 September 1997 and ending September 25, 2047, over portions Sections 1, 12, 13, and 24, T4N, R27E, WM.

DACA67-3-08-109, License for National Guard Purposes, to State of Oregon, term of 5 years beginning 1 January 2008 and ending 31 December 2012, for use of Buildings 115, 53, 36, 30, M1 SIMNET, rifle range, tank commander's proficiency course and the Mobile Conduct of Fire Trainer Pad and associated lands.

DACA67-9-03-71, Consent to Cross U. S. Government Easement, to Umatilla Electric Cooperative, indefinite term beginning 3 October 2002, for construction of 115 KV electric transmission line over Tracts 26E and 27E.

DACA67-2-83-72, Easement for Communication Facility, to US West Communications, term of 50 years beginning 27 May 1983 and ending 26 May 2033, for buried cable lines.

DACA67-2-82-137, Easement and Relinquishment of Access rights for a Section of the National System of Interstates and Defense Highways, to State of Oregon, term indefinite beginning 16 January 1984, for right of way expansion of I-82 on east boundary of UMCD.

DACA67-2-83-72, Easement for Right of Way for Electric Power Transmission or Communication Facilities, to Pacific Northwest Bell Telephone, term 50 years beginning 27 May 1983 and ending 26 May 2033, for "said facilities" in Section 25, T4N, R27E, WM, and Section 26, T4N, R27E, WN.

DACA67-9-99-62, Consent to Construct Gas Line Pending Grant of Easement, to Cascade Natural Gas, term of 2 years, beginning 28 October 1998, for natural gas line to Chemical Demilitarization Plant, in Section 34, T5N, R27E, WM. (Term expired, easement not granted yet.)

There are a number of expired leases, licenses, and permits to various entities such as the American Red Cross, Defense Logistics Agency, Oregon State Police, and US West Communications that were not renewed. It is not known whether these or other entities are occupying building or land areas. In addition, there are additional entities, such as the Oregon State Health Department, County Disaster Control, and Umatilla Fire Department that are occupying building or land areas for storage and other purposes without benefit of documentation.

There may be encroachments on the northwest corner of UMCD from the adjacent farm operations.

The listed documents verifying specific known use of UMCD by others are reflected on a Real Estate Outgrant Map included as Attachment 7.

#### LEGAL DESCRIPTION (SUMMARY)

All or parts of Sections 1-28 in T4N, R27E, W.M.; Sections 31-36 in T5N, R27E, W.M.; Section 36 in T5N, R26E, W.M.; and Sections 1, 12, 13, and 24 in T4N, R26E, W.M., in Morrow and Umatilla Counties, Oregon, containing 19,728.02 acres.

A complete perimeter metes and bounds legal description including all the fee and easement lands in the installation is included in Attachment 4.

#### LEGISLATIVE JURISDICTION (SUMMARY)

The United States presently has exclusive jurisdiction (only Federal law applies) over 8,774.55 acres of fee land and a proprietary interest (only State of Oregon law applies)



over 8,279.86 acres of formerly public domain (withdrawn) land, 2,673.61 acres easement, and two no-area licenses.

Federal jurisdiction may be ceded to the State of Oregon such that Federal law and State of Oregon law apply (concurrent jurisdiction) or such that only State of Oregon law applies (proprietary jurisdiction). This may be desired if there is to be a period when the mission is terminated and UMCD is not yet transferred or quitclaimed to another party. If jurisdiction is not ceded to the State of Oregon, exclusive jurisdiction will terminate with change of ownership from the Federal government.

A complete statement of Federal Legislative Jurisdiction is included in Attachment 5 and a Legislative Jurisdiction Map showing the jurisdiction status of the entire UMCD area is included as Attachment 8.

## FLOOD HAZARDS

There are no known flood hazards. The installation lands are dry and arid with few, if any, seasonal drainage areas.

## FIXTURES OF HISTORICAL OR ARTISTIC VALUE

There are no Category I (properties of major importance) or Category II (properties of importance) properties at UMCD. There are two Category III (properties of minor importance) buildings identified as the Headquarters building (Building 1) and the Firehouse (Building 2). General preservation recommendations were included in a Historic Properties Report dated July 1984. These properties are eligible for nomination to the National Register. They should not be demolished and their facades, or those parts of the property that contribute to the historical landscape, should be protected from major modifications.

## ENVIRONMENTAL

RCRA Facility Assessment and initial Remedial Investigations were conducted on UCD in the late 1970s through 1988 leading to the NPL Listing in August 1987. Response actions did not occur until after the Federal Facilities Agreement was signed in October 1989. The Operable Unit response actions followed completion of RI/FS Reports and ROD signatures in September 1992 through July 1994.

UMCD was placed on the Base Realignment and Closure (BRAC) list for realignment in 1998 and closure in 2005. The current activities at the facility include remediation of CERCLA sites and demilitarization of nerve agents, blister agents, and chemical munitions under RCRA authorities. Closure of the installation will not occur until the demilitarization activities are completed.

Most hazardous waste activities at UMCD have been associated with munitions, including the disassembly, analysis, modification, reassembly, and repacking of conventional munitions and the storage of chemical munitions and containerized blister agents. Specific disposal operations include release of wastewater from the Explosives Washout Plant into two leaching beds; and various deactivation, demolition, burning, or burial sites for sewage treatment sludge, munitions, and scrap. UMCD also received a RCRA permit to incinerate toxic nerve agents, blister agents, and chemical-filled munitions.

The CERCLA remedial activities at UMCD were divided into eight Operable Units (OU) because of the variety of potential contaminants and the number of discrete sites. These OUs and their respective ROD dates are listed below.

OPERABLE UNIT	ROD DATE
Explosive Washout Lagoons Soils OU	September 1992
Deactivation Furnace OU	December 1992
Active Landfill OU	August 1993
Inactive Landfills OU	August 1993
Explosives Washout Lagoons Groundwater OU	July 1994
Explosives Washout Plant OU	July 1994
Ammunition Demolition Activity (ADA) OU	July 1994
Miscellaneous Sites OU	July 1994

The 1999 five-year review concluded that for the Explosive Washout Lagoons Soils, Explosives Washout Plant, Deactivation Furnace Soils, Miscellaneous Sites, Active Landfill, and Inactive Landfills OUs, the selected remedies "did not result in hazardous substances remaining on-site above levels that allow for unlimited and unrestricted use." The 1999 review further concluded that "no CERCLA Five Year Review Requirements will apply" to the remedial actions undertaken at these OUs, and that these OUs did not "require any long-term management or review."

For two other OUs -- the Explosive Washout Lagoons Groundwater OU and Ammunition Demolition Activity OU -- the 1999 review concluded that remedial actions at these OUs resulted "in hazardous substances remaining on-site above levels that allow for unlimited and unrestricted use," and that these OUs "will require long-term management or review," with reviews conducted at least every five years.

On July 7, 2004, the Army and ODEQ remedial managers conducted a site visit, after which the Army, EPA, and ODEQ reviewed the remedies presently implemented for all eight operable units. All remedies remain protective of human health and the environment. The remedial systems are operating and functioning as designed and no modifications are currently necessary. Therefore, the Army certifies that the remedies implemented at UMCD remain protective of human health and the environment.

The next five-year review will be completed by September 2009. Future five-year

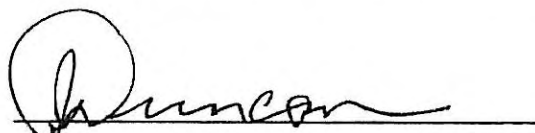
reviews are necessary at the Explosives Washout Lagoons Groundwater OU and the Ammunition Demolition Activity OU, and Site 39 in the Miscellaneous Sites OU because contamination remains above levels that allow for unrestricted use and unlimited exposure. An update on the status of the Landfill OU will also be included in the next five-year review, due to changes at that OU.

An Environmental Condition of Property for disposal purposes will be completed at a later time more specifically identifying conditions that may be placed on areas of the installation that remain subject to remediation consistent with uses proposed in a reuse plan.

#### CERTIFICATION SIGNATURE

Our representative responsible for this Title Report is the undersigned, telephone (206) 764-3746, FAX (206) 764-6579, or email at [Joseph.C.Duncan@usace.army.mil](mailto:Joseph.C.Duncan@usace.army.mil).

DATE: 15 August 2008

A handwritten signature in black ink, appearing to read "J. Duncan", is written over a horizontal line. The signature is stylized and cursive.

Joseph C. Duncan  
Realty Specialist  
Realty Operations Branch  
Real Estate Division  
Seattle District

