

Alaska Community Action on Toxics
Chronology of Actions Concerning Eagle River Flats, Fort Richardson, Alaska

1949 Eagle River Flats, encompassing about 2,200 acres, established as impact range for mortar and artillery training within Fort Richardson. Fort Richardson is a 56,000 acre Army base located immediately north of Anchorage, Alaska

Three types of munitions have been fired into Eagle River Flats: high explosives, smokes (white phosphorus or hexachloroethane-zinc mixture) and illumination flares.

1988 Military ceases open burning and open detonation of munitions on site

1989 Biologists estimate 2,000-5,000 waterfowl deaths per year at Eagle River Flats

1990 Biologists determine that waterfowl deaths are linked with ingestion of poisonous white phosphorus

1994 Environmental Protection Agency lists Fort Richardson on National Priorities "Superfund" List of the most polluted sites in the United States

1998 Army releases their Proposed Cleanup Plan under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or "Superfund" law. Alaska Community Action on Toxics (ACAT) serves on the Fort Richardson Restoration Advisory Board (RAB), a citizens' advisory committee that meets on a quarterly basis. ACAT provided formal public comments on the Army's proposed cleanup plan, citing the Army's failure to address the larger problem of continuing toxic pollution from the more than 10,000 unexploded bombs and other munitions at Eagle River Flats.

2001 Alaska Community Action on Toxics, Chickaloon Tribe, Cook Inlet Keeper, and Military Toxics Project (collectively, the Plaintiffs) filed a Notice of Intent to Sue on June 15, 2001, citing violations by the Army of the federal Clean Water Act; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Federal Facility Agreement for Fort Richardson; and the Solid Waste Disposal Act.

In August, 2001 the plaintiffs sent a letter to the Department of Defense proposing settlement terms. At the request of the Defendants and after September 11, settlement discussions commenced with all parties trying in good faith to negotiate a mutually agreeable settlement. Plaintiffs expressed a willingness to forego injunctive relief while the military obtained permits necessary for legal operation of bombing operations on

Eagle River Flats. From September 2001 to April 10, 2002, parties communicated and tried to reach agreeable settlement terms.

2002 On April 10, 2002 the military informed plaintiffs that it was terminating settlement discussions. On April 12, 2002, plaintiffs filed a complaint with the court to protect their legal position. Plaintiffs filed an Amended Complaint for Declaratory and Injunctive Relief on June 26, 2002. Plaintiffs and Defendants meet in Anchorage to resume negotiations in November 2002.

2004 On October 28, 2004 the Plaintiffs and Department of Defense reach settlement agreement. The major provisions of the agreement include:

- Monitoring the health and behavior of beluga whales in and around Eagle River Flats;
- Additional protection to ensure that beluga whales are not harmed by military activities;
- Water quality monitoring for toxic chemicals associated with military munitions firing;
- Provisions for enhanced community right-to-know and documentation about military munitions firing activities at Fort Richardson and chemical constituents of munitions;
- Restrictions on munitions firing activities to protect migratory birds;
- Prompt cleanup of munitions that fall outside the immediate impact area of Eagle River Flats;
- Feasibility study to determine potential for substitution of safer munitions in order to minimize environmental impacts;
- The Army will obtain a Clean Water Act permit for its munitions discharges;
- The Army will initiate Government-to-Government consultations with Upper Cook Inlet Tribes;
- Provisions to allow the Plaintiffs to engage independent experts to study the environmental impacts of the bombing and to recommend measures to avoid those impacts.