

1 A public hearing of the Jefferson Proving Ground
2 Restoration Advisory Board meeting was held at the Jennings
3 County Public Library, North Vernon, IN at 7:00 P.M. on
4 April 30, 2003.

5

6 **OPENING STATEMENTS BY MR. PAUL CLOUD:**

7 Okay. Good evening. I would like to get
8 started and welcome everyone to Jefferson Proving Ground
9 Restoration Advisory Board meeting. I'm Paul Cloud. I work
10 for the Army and I'm the Army's co-chair person for the RAB.

11 Welcome everyone and make sure you sign in. I don't see
12 anyone here new so I think we have everybody on the mailing
13 list. We will get started in a minute. I don't have any
14 other welcoming remarks. Richard Hill is sitting over here
15 on the side and he's the community co-chair. Richard do you
16 have any opening remarks?

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18 **MR. RICHARD HILL:**

19 Thank you Paul. Good evening everyone. I
20 do have one (1) thing I didn't ask to be put on the agenda
21 that I wanted to discuss. We could probably best fit it
22 between three (3) and four (4) and should just take a few

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1 minutes about our TAP funding and some of that kind of
2 stuff. Other than that I don't have anything for opening
3 remarks.

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5 **MR. PAUL CLOUD:**

6 Okay. We have a copy of all the slides here
7 that you'll be seeing tonight on the projector and ah we
8 will also mail those out to all the members of the RAB along
9 with a copy of the verbatim transcript minutes with our -
10 when we provide it probably about a week or two (2) as per
11 normal. As we go through the agenda if you have any
12 comments or questions feel free to ask and we'll answer as
13 best we can. First item I'd like to talk about is the
14 schedule for the Cantonment Area Feasibility Study. This
15 slide and the next slide show our schedule. You can see
16 here that the Draft of the Feasibility Study was provided in
17 March. We asked for comments to date. We have in fact
18 received comments from the EPA today provided by E-mail and
19 the Corps of Engineers and our contractor are looking at
20 them now. I would expect we would hear from the State and
21 the community in a very short period of time and then we'll
22 move on from there. As far as when the Army would provide

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1 written response to those comments and then when there would
2 be a review of those Army responses and then we get into the
3 next slide that shows the sequential sequence as far as
4 reviewing public review of response to comments ultimately
5 coming down to a face to face meeting between the Army, the
6 State, the EPA, public representatives middle of June. That
7 will probably be at the Proving Ground. We have not set
8 that up specifically yet but that's - I think I've seen some
9 message traffic along those lines and then with the goal of
10 having the Feasibility issued in August. Are there any
11 questions regarding the Feasibility Study for the Cantonment
12 Area? Diane?

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14 **MS. DIANE HENSHEL:**

15 Can we have an extension on comments on this
16 on the open burning because we're not going to get anything
17 until after next week?

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19 **MR. PAUL CLOUD:**

20 Just send me something in writing.

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22 **MS. DIANE HENSHEL:**

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Okay.

MR. PAUL CLOUD:

And ask - tell me how much time you need. We'll - if it's not an extensive extension or a massive long one (1) that will probably be more workable than if it's sixty-nine (69) days. That might be a little more difficult.

MS. DIANE HENSHEL:

No, more like a few weeks.

MR. PAUL CLOUD:

Any other comments or questions on the Feasibility Study? Okay. The next topic I'd like to talk about are the Findings of Suitability to Transfer. This is an update on the two (2) parcels that we have FOSTS on, the first one (1) being the Airfield and the second one (1) being the Northeast Parcel. As you may recall the Airfield Parcel FOST was signed in December of last year and the real estate office of the Louisville Corps of Engineers is currently working the draft or the deed for the property

1 transfer to the Ford Lumber and Building Supply Company.
2 Right now we're expecting that that actual transfer where we
3 hand Mr. Ford the Deed and he hands us a certified check for
4 that parcel will occur in June. And the next slide just
5 shows you as a reminder the general outline of that
6 particular parcel. It has been surveyed and it's seven
7 hundred and seventy-seven (777) acres plus or minus. I
8 think there's a small fracture but seven hundred and
9 seventy-seven (777) acres is the number I recall. The next
10 parcel is the Northeastern Area Parcel approximately four
11 hundred and sixty-five (465) acres. This has not been
12 surveyed yet although as we get closer to the time when the
13 FOST will be approved we will task Mr. Ford with that
14 responsibility. That's thirty-nine (39) acres and it's been
15 proposed for unrestricted use. The next ah couple of slides
16 show the sequence of the Draft FOST being put out for
17 review, when that was done, the comments that we received
18 and when we received them, the response to the comments and
19 the revised FOST went out February. I have received
20 outstanding issues from the State, the EPA and the
21 community. I have in fact finished with the Army's
22 responses to those issues. The FOST now will go up to the

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1 Army for event - eventual staffing in May. And we expect it
2 will probably be signed in August. And then the transfer
3 would probably be by the end of the year. Are there any
4 questions on this parcel?

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6 **MS. DIANE HENSHEL:**

7 Yeah. What are your responses?

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9 **MR. PAUL CLOUD:**

10 I don't think there were any issues raised
11 in the outstanding comments from the State, the community or
12 the EPA that hadn't been received either prior.

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14 **MS. DIANE HENSHEL:**

15 All right.

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17 **MR. PAUL CLOUD:**

18 Or - I think the one (1) issue that came up,
19 let me correct that. There was one (1) issue that did come
20 up. The perchloric issue question came up.

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22 **MS. DIANE HENSHEL:**

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1 Un-huh (yes).

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3 **MR. PAUL CLOUD:**

4 And the Department of Defense policy on
5 perchlorics basically is unless there is compelling evidence
6 and reason to believe that there is a perchloric
7 contamination issue at a particular facility they will not
8 in fact investigate it. And we have no indication in this
9 particular parcel that perchloric of any form was in the
10 area.

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13 **MS. DIANE HENSHEL:**

14 Okay. What - what perchloric data is there
15 at JPG any where?

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17 **MR. PAUL CLOUD:**

18 I beg your pardon?

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20 **MS. DIANE HENSHEL:**

21 What perchloric data is there at JPG any
22 where? This is a relatively new issue.

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MR. PAUL CLOUD:

It's a relatively new concern however perchloric is used in very specific types of ordnance.

MS. DIANE HENSHEL:

Right.

MR. PAUL CLOUD:

I.e. usually rockets and missiles. Those types of things weren't used at JPG.

MS. DIANE HENSHEL:

So don't you think that some sort of confirmatory sampling is warranted someplace?

MR. PAUL CLOUD:

What I'm quoting is the Department of Defense policy. That's what I go by.

MS. DIANE HENSHEL:

Okay. But what you're saying is DOD is

1 assuming innocent until proven guilty rather than the other
2 way around when they've got the money to do the tests.

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4 **MR. PAUL CLOUD:**

5 I thought that's what the American justice
6 system was all based on.

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8 **MS. DIANE HENSHEL:**

9 Well.

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11 **MR. PAUL CLOUD:**

12 Are you trying to tell me it's not that
13 case?

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15 **MS. DIANE HENSHEL:**

16 No.

17 **MR. PAUL CLOUD:**

18 We're guilty until proven innocent?

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20 **MS. DIANE HENSHEL:**

21 It's not that - I'm sorry Paul. It's not
22 that case and a whole lot of the EPA regulations and

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1 guidance. A lot of the time when there is potential for
2 contamination you have to prove that the contaminant is not
3 there rather than assuming that the contaminate is not
4 there.

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6 **MR. PAUL CLOUD:**

7 If there is a reason to believe that there
8 was a possibility or a potential for this based on the
9 activities that occurred at Jefferson specifically, and not
10 only specifically at Jefferson but this specific parcel,
11 there is no evidence that would lead the Army or the
12 Department of Defense to believe that there is a potential
13 for prechloric contamination. This is an evolving issue. I
14 would expect that there would be tinuation of dialogue and a
15 potential future modification of that but that is a policy
16 issue that will be handled under the Pentagon. I do not
17 establish policy. I follow direction.

18

19 **MS. DIANE HENSHEL:**

20 Because that was the comment that I
21 understood to occur at virtually every base and then when
22 other people started doing sampling the Army said oh well

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1 maybe we need to check this out. But only following
2 sampling done by other parties. So why can't - this is sort
3 of my bite is why can't you lead the way?
4

5 **MR. PAUL CLOUD:**

6 What you have to understand it's not an
7 issue of can't.
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9 **MS. DIANE HENSHEL:**

10 Yeah.
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12 **MR. PAUL CLOUD:**

13 You know a lot of issues you and I get down
14 to the same question, can or can't. It's not an issue of
15 can or can't. I mean the Federal government has a lot of
16 money. They can do just about anything.
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18 **MS. DIANE HENSHEL:**

19 Why won't you lead the way?
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21 **MR. PAUL CLOUD:**

22 Because they have established a policy and
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1 until that policy by the leadership is so modified that's
2 the way we go. I'm sure, to give you an example, that the
3 University or Indiana University has certain policies,
4 precedents or procedures that you may or may not agree with
5 but you still comply with them.

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7 **MS. DIANE HENSHEL:**

8 All right.

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10 **MR. PAUL CLOUD:**

11 Yes ma'am?

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13 **MS. KAREN MASON-SMITH:**

14 I just want to add something to that.

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16 **MR. PAUL CLOUD:**

17 Sure.

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19 **MS. KAREN MASON-SMITH:**

20 My understanding is that perchlorate is not
21 only associated with rocket fuel but also pyrotechnics,
22 explosives and others.

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MR. PAUL CLOUD:

There are some instances where it could be. Again the policy of the Department of Defense is unless there is a reason to suspect potential presence of that contaminate in an area they won't sample or investigate it.

MS. KAREN MASON-SMITH:

So are they only associating that with rocket fuel?

MR. PAUL CLOUD:

No.

MS. KAREN MASON-SMITH:

Okay.

MR. PAUL CLOUD:

Okay. Predominantly but not exclusively.

MS. KAREN MASON-SMITH:

Okay. Okay.

1 **MR. PAUL CLOUD:**

2 And again think about the area where this
3 parcel is. The only basic activity that occurs there were
4 the storage of munitions. There weren't any firings done.
5 There weren't any activities done per se. When we had the
6 ammo igloos there that's basically all that was there. And
7 those are very controlled areas and they're basically berth
8 and berms. I mean we didn't fire anything there. I mean
9 this is basically a storage area.

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11 **MR. RICHARD HILL:**

12 You're talking about the Northeastern
13 Parcel?

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15 **MR. PAUL CLOUD:**

16 Yes sir. Yeah.

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18 **MR. RICHARD HILL:**

19 Okay.

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21 **MR. PAUL CLOUD:**

22 That was the question because that was --

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MR. RICHARD HILL:

I missed that.

MR. PAUL CLOUD:

When the issue first came up was for the
Northeastern Parcel.

MS. DIANE HENSHEL:

Because it just hit everybody's radar screen
at this point. If it had come up earlier I promise it would
have been brought up earlier.

MR. PAUL CLOUD:

That's your prerogative. That's what you
may do.

MS. DIANE HENSHEL:

Oh.

MR. PAUL CLOUD:

Karen do you have another question?

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MS. KAREN MASON-SMITH:

Yeah I just wanted to add a comment. What you're saying about this particular site makes sense but I would just hope that JPG is not ruling it out for the entire site.

MR. PAUL CLOUD:

Depending on what the Department of Defense policy is. As I stated if it is in fact - this is an evolving issue. I see articles on it and discussions and message traffic within the Army and the Department of Defense almost on a - on a weekly basis. If and when a policy and the direction from our leadership changes then I will comply with it. But right now my guidance is to follow the direction that has been put out by the Department of Defense on this specific issue. Anything else? Richard did you want to raise your question about the TAP here?

MR. RICHARD HILL:

Yes. This would be a good place to - to break. And we know that we are running to the end of our TAP funding and ah probably one (1) thing that the RAB needs

1 to look at is how much longer are we going to be doing this?
2 And then if we can even make a guess on that ah are we in
3 agreement with my opinion that we still need technical
4 assistance and can we get that? So I know that there's not
5 a lot of members of the community here tonight, which there
6 isn't usually at this site, but I did want to put that on
7 record that - you know at least in my opinion and the very
8 few others that I've talked to that that's what we're
9 looking at and what we'd like to do.

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11 **MR. PAUL CLOUD:**

12 Let me see if I can answer your questions
13 more or less in reverse order.

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15 **MR. RICHARD HILL:**

16 Sure.

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18 **MR. PAUL CLOUD:**

19 There - under the TAP Program that the
20 Department of Defense initiated the intent was for a maximum
21 of a hundred thousand (\$100,000).

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MR. RICHARD HILL:

Un-huh (yes).

MR. PAUL CLOUD:

At a facility, twenty-five thousand dollars (\$25,000) a year which works out for four (4) years.

MR. RICHARD HILL:

Right.

MR. PAUL CLOUD:

However, there are always exceptions to the generic rule. There is a process by which a community, and I believe I've already provided you with this point of contact information at the Army Environmental Center, can in fact request an exception or a waiver or extension for additional funding. What the community basically has to do is to make a case as to why they believe additional funding is warranted on an installation specific basis and then give an estimation on the time and the additional funding that they believe they will need. As I understand the process when the Army Environmental Center receives such a request

1 the first thing they will do is staff it through the
2 facilities BEC, yours truly. If it is endorsed by the BEC
3 and it goes back to the Army Environmental Center then up to
4 the DA BRAC office and assuming the availability of funding
5 is there then it will get funded. My suggestion would be
6 that in your request that you identify the fact that one (1)
7 the TAP at Jefferson Proving Ground was one (1) of the first
8 if not the first within the Army and it has provided
9 significant benefit, however, the process here has taken
10 longer and we have had to do additional sampling analysis
11 and document writing. It has taken longer than anyone
12 expected and is then out of the control of not only the
13 community but the Army and/or the State or the EPA at
14 various stages okay? So it's not a sole source problem.
15 And then identify what you believe would be a reasonable
16 figure and a reasonable amount of time extension and we can
17 talk about that off line if you would like.

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19 **MR. RICHARD HILL:**

20 Un-huh (yes).

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22 **MR. PAUL CLOUD:**

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1 And then you know whatever else you know in
2 discussions with Diane whatever else you think would be
3 reasonable and prudent identify the remaining steps you know
4 in the process, the completion of the FS, the RD, the RA,
5 you know things like that. And then I would suggest you get
6 it in soon. FY04 is coming up and I can tell you right now
7 that in the FY04 budget that's being computed there is no
8 TAP line.

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10 **MR. RICHARD HILL:**

11 Un-huh (yes).

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13 **MR. PAUL CLOUD:**

14 And that has been pointed out to the people
15 in the Pentagon and I've told them that they should expect a
16 request for additional funding.

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18 **MR. RICHARD HILL:**

19 Un-huh (yes).

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21 **MR. PAUL CLOUD:**

22 But until they get it they can't act on it.

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1 They don't do verbals.

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3 **MR. RICHARD HILL:**

4 Right.

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6 **MR. PAUL CLOUD:**

7 Did that answer your question?

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9 **MR. RICHARD HILL:**

10 Yes I believe that did.

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12 **MR. PAUL CLOUD:**

13 Kevin?

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15 **MR. KEVIN HERRON:**

16 I got to speak so they will at least know I
17 was here. I'm pretty sure that CERCLA has restrictions
18 identified in it on TAP tag - tags and the amount of time
19 that they can be extended or used. There's - I think
20 they've got a cut off point in there and I was thinking it
21 has - it's fairly linked to the Record of Decision being
22 signed. So if we're following CERCLA or if you're - are you

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1 following something else?

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3 **MR. PAUL CLOUD:**

4 Well we've got into this discussion how many
5 times Karen? My understanding is that CERCLA like.
6 Relative to what you - what that really means to anybody
7 we're basically following the CERCLA process.

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9 **MR. KEVIN HERRON:**

10 Un-huh (yes).

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12 **MR. PAUL CLOUD:**

13 But the TAP is a solely funded DOD United
14 States Army ah initiative.

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16 **MR. KEVIN HERRON:**

17 Okay.

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19 **MR. PAUL CLOUD:**

20 It's not a CERCLA initiative. It doesn't go
21 through EPA. It's - you know it's solely from the
22 Department of Defense. So I - I think your question or your

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1 comment has merit and I will have to investigate that next
2 week at the Army Environmental Center to see if that might
3 be an adverse impact on your request for additional funding.

4 There is some logic to that, however, that's something we
5 have to find out. Again we're kind of getting there before
6 anybody else.

7

8 **MR. KEVIN HERRON:**

9 Well to us it could be a justification too
10 so if it says - if it indicates in the regulations that it
11 goes through the Record of Decision.

12

13 **MR. PAUL CLOUD:**

14 Un-huh (yes).

15

16 **MR. KEVIN HERRON:**

17 We're not to the Record of Decision yet.
18 We're at the Feasibility Study then the proposal plan and
19 then the Record of Decision. So that can also support their
20 having additional funding.

21 **MR. PAUL CLOUD:**

22 I agree.

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MR. KEVIN HERRON:

But it could - it could be a negative if they decided they wanted it on through into the RDRA obviously and then that would be something where it wouldn't help them to ah extend funding.

MR. PAUL CLOUD:

Well what I would suggest Richard is once - once I've investigated that a little bit I'll get back to you if you want me to review your proposed or draft letter before it's sent to the Army I can do that. But that's your call.

MR. RICHARD HILL:

I would appreciate that Paul.

MR. PAUL CLOUD:

But as I said the process as it's been explained to me that once the Army Environmental Center receives the request then they send it to the facility BEC, that's me in this case.

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MR. RICHARD HILL:

Un-huh (yes).

MR. PAUL CLOUD:

If it's endorsed by the BEC then we will staff it up to the Pentagon and assuming funding is available then they would provide you know suitable funding. But again as is usually the case with JPG we'd probably get there before anybody else so it would probably be a first.

MR. RICHARD HILL:

Thank you.

MR. PAUL CLOUD:

No problem. Okay. The Depleted Uranium License Termination status. As I think everyone here knows we re-submitted the Restricted Release Termination Plan to the NRC in June of last year. The document along with the Environmental Report was posted on the JPG web site and we mailed it out to the entire JPG mailing list. That's about two hundred and twenty (220) people. We heard back from the

1 NRC in October. They had in fact accepted the documents
2 after their Modified Acceptance Review and were commencing
3 their Detailed Technical Review. And as you've seen in the
4 handouts from the NRC which I'll show here and you have a
5 copy of, NRC has a fairly lengthy detailed administrative
6 process for their Technical Review and their NEPA exercise,
7 but it is the NRC's process, not the Army's. Again here is
8 Dr. Mclaughlin's contact information at the headquarters NRC
9 in Rockville, Maryland. Also in the time span regarding the
10 hearing that Save the Valley had requested on that License
11 Termination Request by the Army based on the fact that the
12 Technical Review had not been completed, was not anticipated
13 to be completed until October of '04, Save the Valley
14 requested of the Administrative Hearing Judge and the Army
15 did not contest the request, that the hearing be put off and
16 put into abeyance until the Detailed Technical Review is
17 done so there would be a complete record for the hearing.
18 That was done and there were a series of letters back and
19 forth between Save the Valley and the Hearing Judge and the
20 Army and the Hearing Judge on that issue and also whether or
21 not some of the issues that Save the Valley had raised the
22 Army thought were relevant and germane. We commented on

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1 that and provided that to the Judge. Save the Valley also
2 was afforded an opportunity to rebut that. You can see that
3 chronological sequence in those slides. At the RAB meeting
4 in February earlier this year after much thought and
5 staffing within the Army all the way up to the Pentagon we
6 initiated and sent a letter to the NRC on the 4th of
7 February proposing a Contingent Parallel Process for - to
8 adjust the DU issue at JPG and that basic proposal to the
9 NRC was that because there was a significant concern within
10 the Army that the NRC would come back to us during or after
11 their Technical Review of the Restricted Release Termination
12 License Proposal and say well we think we need significant
13 more site specific information in the DU area and/or in the
14 surrounding areas north of the firing line. Army you need
15 to go out and get soil samples, ground water, surface water,
16 sediment samples, here, here, here and here. That is a very
17 serious concern of the Army because of the presence of the
18 unexploded ordnance north of the firing line. And as a
19 result we proposed to the NRC that if we could enter into
20 negotiations and successfully complete them we proposed to
21 have a Perpetual Possession Only License for the DUI and the
22 DU impact area of JPG with five (5) year renewables until

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1 such time as it were possible to either take those samples
2 or to re-initiate the Restricted Release Termination
3 procedure. We received -- Kevin?

4

5 **MR. KEVIN HERRON:**

6 The five (5) year renewal is so that you can
7 do a re-evaluation of whether you want to go back and do it
8 - a license full - a license termination? Is that what the
9 idea of the year (5) year renewal is?

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11 **MR. PAUL CLOUD:**

12 There are a number of things that the five
13 (5) year renewal period will probably satisfy. You have to
14 understand one (1) thing right now is the Army and the NRC
15 have not sat down face to face and had any negotiations or
16 discussions on detail specifics on that you know - on the
17 whole proposal actually.

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19 **MR. KEVIN HERRON:**

20 Un-huh (yes).

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22 **MR. PAUL CLOUD:**

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1 And I'll get into that in a minute. But I
2 would expect that that would be part of that process as to
3 just what would be reviewed during that five (5) year
4 interval.

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6 **MR. KEVIN HERRON:**

7 Now what you're saying is that it's
8 something that it would be determined, it's yet to be
9 determined?

10 **MR. PAUL CLOUD:**

11 Well it's something that would be worked out
12 during negotiations. I would assume that that - there will
13 be some things in there that will be reviewed every five (5)
14 years. I mean we will continue to - I would assume we would
15 continue to be inspected annually by the Region up in
16 Chicago. We're inspected every year now by them. I would
17 expect that to continue. I would expect that we would have
18 some degree of sampling analysis and reporting which we do
19 now. Then I would expect that as these five (5) year
20 increments increase that there would be a continual review
21 on the state of the art of UXO cleanup and removal, is it
22 safe, is it safer to go out there? Is it possible? How

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1 much would it cost? Is it - you know so on and so forth,
2 those types of things.

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4 **MR. KEVIN HERRON:**

5 Is it feasible both technologically, safety
6 and financially.

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8 **MR. PAUL CLOUD:**

9 Did that answer your question?

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12 **MR. KEVIN HERRON:**

13 Yes.

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15 **MR. PAUL CLOUD:**

16 The Army received a letter from the NRC
17 dated April 8th. They did in fact accept our proposal. We
18 have copies up there of that. What the Army just submitted
19 to the NRC today via E-mail was a proposed schedule for this
20 sequence and I can give you the generic sequence and what we
21 proposed for dates but it's not clear whether or not the NRC
22 will accept that. It is basically their process but we are

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1 coming up on that time of year when people go on vacations
2 and it gets somewhat more complicated than normal. What we
3 have proposed is that there - the sequence basically is for
4 the NRC to hold a public meeting at their headquarters in
5 Rockville, Maryland and if you cannot "physically be there"
6 it's my understanding, and you can confirm this with Dr.
7 Mclaughlin, is that they will have an 800 number set up so
8 that you can call in on a conference call and participate as
9 if you were there.

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11 **MR. RICHARD HILL:**

12 Paul, Dr. Mclaughlin expressed that to me
13 that they would be doing that.

14 **MR. PAUL CLOUD:**

15 All right. Anyway we have - we have
16 proposed based on the things that we internally have to do
17 within the Army that that meeting occur on the 1st of July.

18

19 **MS. DIANE HENSHEL:**

20 Okay.

21

22 **MR. PAUL CLOUD:**

23

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1 Approximately thirty (30) days later the
2 Army would submit to the NRC a Draft License Amendment for
3 the Perpetual Possession Only initiative. Approximately
4 thirty (30) days later, right after Labor Day, and the NRC
5 has to make a Federal Register notice on this, that's why
6 there's at least another thirty (30) days, the NRC would
7 then announce and conduct a public meeting in the community.
8 And this would be in all three (3) counties. So it would
9 probably be one (1) county one (1) night, the next night
10 another county and the third night the third county. That's
11 an NRC process. And the times, dates, locations they would
12 set up. About thirty (30) days after that one (1) of three
13 (3) or four (4) things would happen. Either the NRC would
14 get back to the Army with request for additional information
15 based on the input they had received from those meetings,
16 they would have additional comments or questions themselves
17 based on their staff's Technical Review of the License
18 Amendment or they could grant the License Amendment. In
19 either case if the process basically goes the way the Army
20 is hoping - I would hope that by the end of the year that we
21 are successful and the License Amendment has been issued for
22 the Perpetual Possession Only. But the Army has reserved

23
24

1 the right that should an issue come up that either agency
2 does not feel they're able to cross that line on then the
3 Army will go back to Restricted Release Termination Process.

4 We have not withdrawn that application yet. Only if the
5 Possession Only License Amendment is successfully completed
6 will we withdraw the Restricted Release Termination License
7 Process and application. Ken?

8

9 **MR. KEN KNOUF:**

10 Going back to the public meeting at the NRC
11 headquarters. Who typically would attend that meeting since
12 it's unlikely the general affected public would go to
13 Rockville? Who typically would go to that meeting?

14

15 **MR. PAUL CLOUD:**

16 Well I can't speak in detail for the NRC or
17 who I would - off the top of my head - who I would expect
18 from the NRC to be there would be obviously Dr. McLaughlin,
19 possibly one (1) or more of his management chain, probably
20 an attorney, possibly one (1) or more of their technical
21 experts: a geologist, hydrologist, environmental person.
22 Don't know. That's up to them. Who we are intending to be

23

24

1 there right now is myself, Joyce Kuykendall, the Radiation
2 Safety Officer for JPG, our attorney, Dick Wakely, and we
3 are evaluating having one (1) of our contractors who helped
4 us with the Environmental Report and the License Termination
5 Plan to provide technical backup, that's SAIC in this case.

6 And that's who we're expecting to have there. Does that
7 answer your question?

8

9 **MR. KEN KNOUF:**

10 Any other - any other agencies represented
11 or invited?

12

13 **MR. PAUL CLOUD:**

14 Again the NRC will make whatever
15 notifications and availabilities of participation so I mean
16 if they put out an 800 number the State or the EPA or you
17 know the Indiana Department of Health wants to you know call
18 in - again as I understand it they will establish an 800
19 number that can be called in. Now I don't know how many
20 lines that will accommodate but that is an NRC logistical
21 issue to resolve. Yes sir?

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MR. JOHN RUYACK:

The five (5) year renewal Possession Only Amendment what happens if that doesn't go through? You're still back to the point where you can't get that, the DU transported off of the site. So it sounds like you're still in trouble.

MR. PAUL CLOUD:

Well what we would do is we would - if you assume that that is the case the Army would say okay NRC for whatever reason we can't agree on accomplishing this Possession Only. Continue with - complete your Technical Review and get back to us with your specific questions and/or requests for additional information. If and when we received those, which we, you know I assume we would, we would have to evaluate them to see if in fact the magnitude, the degree, the location, the types of things they want were reasonable from a personal safety prospective for exposure to UXO on the Proving Ground. Then we would have to go see how much it was going to cost and go make a number of steps. I mean you're talking a whole series of sequential steps before we would get to the point where we could evaluate

1 whether it's doable or not. But the concern was significant
2 enough and the potential was high enough that we made a
3 contingent request for Possession Only. Diane?

4

5 **MS. DIANE HENSHEL:**

6 Could you give us some idea of the timing of
7 what's going to happen if the Possession Only goes through?

8 I realize this is not your process.

9

10 **MR. PAUL CLOUD:**

11 I just did.

12

13 **MS. DIANE HENSHEL:**

14 Now Paul.

15

16 **MR. PAUL CLOUD:**

17 I did.

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19 **MS. DIANE HENSHEL:**

20 No you didn't. There are steps beyond that
21 that are of issue.

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MR. PAUL CLOUD:

Such as? Give me an example. Maybe you know something I don't know.

MS. DIANE HENSHEL:

Well no it's not something you don't know. It's something that you do know but you stopped right before this point and that is that once the Possession Only goes through at what point do - does the public come back and say okay now can we discuss what monitoring is being done and needs to be done?

MR. PAUL CLOUD:

No. Okay. Let me --

MS. DIANE HENSHEL:

That's what I'm asking about. So I'm asking about the next steps and timing on that.

MR. PAUL CLOUD:

My understanding is that the public's

1 opportunity for that issue.

2

3

4 **MS. DIANE HENSHEL:**

5 Un-huh (yes).

6

7 **MR. PAUL CLOUD:**

8 Is done during one (1) this phone call
9 meeting in Rockville although that's not the real - let me
10 finish. That's not the real - that is an opportunity. That
11 is the initial opportunity.

12

13 **MS. DIANE HENSHEL:**

14 Okay.

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16 **MR. PAUL CLOUD:**

17 The real opportunity, formal, official
18 opportunity, my understanding.

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20 **MS. DIANE HENSHEL:**

21 Okay.

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MR. PAUL CLOUD:

Is that when the NRC holds their three (3) meetings as happens here, probably in September, that's - and that issue - that opportunity then is the formal opportunity for the community to raise those types of questions. If the NRC either has internally resolved those questions or has the answers to those or they come back to us and we provide answers that they're satisfied with, then - in either case before the Amendment would be granted you would - the community would have an opportunity is my understanding of the process.

MS. DIANE HENSHEL:

So are you saying that if the renewal goes through and takes the place of the License Termination Plan Process, the Decommissioning Process, then it goes through with the monitoring plan in place at that time and their --

MR. PAUL CLOUD:

It will be effective for at least the next five (5) years unless --

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MS. DIANE HENSHEL:

All right that's interesting to know.

MR. PAUL CLOUD:

Unless it's my understanding - and we may not even get into excruciating detail on the License Amendment. But one (1) of the things that the Army will be asked to do would be okay say you're sampling again for soil sediment, ground water, surface water and you've identified a certain level as a trip level for additional action. Well the obvious question is what's the additional action? Well unless you know the details on the specific levels you received and the communication you received it in you could have a document that's fifteen (15) feet high with all the what if combinations and permutations. So it would be my expectation that the Army would propose to the NRC, and this is I think kind of the standard, that if we receive an analytical result that meets or exceeds one (1) of those trip levels.

MS. DIANE HENSHEL:

Un-huh (yes).

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MR. PAUL CLOUD:

That we would be required to go back to the NRC within a very short time frame with a proposal on what to go do and then they would have to agree. Now whether or not they went out to the public that would be their burden. But that would be my understanding of the process. If we received a trip level then we would have to go back to them and say okay we got this hit at this point at this media, this is what we propose.

MS. DIANE HENSHEL:

Can I ask you to clarify something then?

MR. PAUL CLOUD:

Yes.

MS. DIANE HENSHEL:

In this letter there seems to be sort of two (2) programs being discussed at the same time and in parallel, terminology being Radiation Protection Program and Monitoring Program, which I sort of assume were linked to a

1 certain extent. Ah but the other issues that makes this a
2 question is that NRC is traditionally over seeing uranium
3 and radioactive materials from the radiological point of
4 view exclusively and haven't addressed uranium and the other
5 radiological heavy metals as heavy metals. Is it at this
6 point - it wouldn't be under the Radiation Protection
7 Program I wouldn't think that you would set a criteria for
8 an action level of uranium as a heavy metal. Is it under
9 the Monitoring Program Action Plan that you have the
10 criteria for uranium as a heavy metal and not as a
11 radiological element or where is it?

12 **MR. PAUL CLOUD:**

13 My understanding is it won't be anywhere.

14

15 **MS. DIANE HENSHEL:**

16 Well --

17

18 **MR. PAUL CLOUD:**

19 The license under the - that the Army has
20 with the Nuclear Regulatory Commission which they have
21 statutory authority for is for, as you know, the
22 radiological constituency. NRC has not, unless - you know

23

24

1 they can correct me and feel free to call Tom if you want,
2 but in all our conversations with him you know he has agreed
3 that they have the authority for the radiological issue
4 only.

5

6 **MS. DIANE HENSHEL:**

7 Okay. So we're back to my two (2) favorite
8 Regulatory people over there.

9

10 **MS. KAREN MASON-SMITH:**

11 Well I think that - I think that the meeting
12 that's been called is the time for us to bring these issues
13 up. That will be the only time that I'm aware of that we
14 all can participate. And I think we all are invited.

15

16 **MS. DIANE HENSHEL:**

17 Okay.

18

19 **MS. KAREN MASON-SMITH:**

20 I have spoken to Dr. Mclaughlin and he has
21 told me the same thing that they would have a conference
22 line set up so you know once you guys establish a schedule

23

24

1 ah EPA plans to participate.

2

3 **MS. DIANE HENSHEL:**

4 Okay.

5

6 **MR. PAUL CLOUD:**

7 The E-mail sent to Tom this afternoon that
8 outlined the July 1st, August 1st and September 2nd through
9 4th and end of September beginning of October. Once they
10 reviewed it in their agency and looked at their calendars
11 schedules and everything I would expect within the next few
12 days, maybe next week, they would get back to us that yeah
13 that's fine or this is what we propose instead, whatever.
14 But as soon as the "official schedule" comes out between the
15 NRC and the Army we will make sure that anyone that is
16 interested knows about it.

17

18 **MS. DIANE HENSHEL:**

19 Okay. I'm still just trying to clarify here
20 so with everybody here if NRC says that we are holding to
21 only considering radiological criteria what then happens to
22 uranium as a heavy metal? I know that Indiana's turned it

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24

1 over by statute so I think that Indiana is sort of out of
2 the question unless they take it back by statute right?

3

4 **MR. KEVIN HERRON:**

5 We cannot touch radiation as far as --

6

7 **MS. DIANE HENSHEL:**

8 Right. But you can touch heavy metals?

9

10 **MR. KEVIN HERRON:**

11 We are precluded on what NRC regulates. If
12 they do not regulate the heavy metal properties then - then
13 obviously that regulation doesn't hold. The regulation
14 basically says that if NRC regulates it then the State is
15 out of it.

16

17

18 **MS. DIANE HENSHEL:**

19 Okay. But --

20

21 **MR. KEVIN HERRON:**

22 So if - if the NRC says we don't regulate

23

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1 that as a heavy metal then what that tells me on that
2 regulation is is that we are precluded from regulating that
3 side of it, just that other one (1).

4

5 **MS. KAREN MASON-SMITH:**

6 But my understanding, and again I could be
7 wrong.

8

9 **MS. DIANE HENSHEL:**

10 Yeah.

11

12 **MS. KAREN MASON-SMITH:**

13 Paul and I think agree that NRC has
14 jurisdiction and that goes back to the letter that Dr.
15 Mclaughlin sent to Richard. Was that December?

16

17 **MR. KEVIN HERRON:**

18 Is that the letter that he didn't get?

19

20 **MR. PAUL CLOUD:**

21 I think he's probably got it by now.
22 Everybody but Richard got it.

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MR. RICHARD HILL:

Yeah I like that. That was a good one (1).

MS. KAREN MASON-SMITH:

Yeah but the bottom line is that you know they have the overall regulatory authority. And Paul is that your understanding?

MR. PAUL CLOUD:

That's my understanding. My suggestion, and that's all it is, you're free to take whatever action to address this issue to the regulators that you feel appropriate. My suggestion is to raise this at the phone call in the public meeting.

MS. KAREN MASON-SMITH:

This is our time.

MS. DIANE HENSHEL:

Right. Clearly we will.

MR. PAUL CLOUD:

1 That's your option. That's not you know
2 something that you'd be solely and exclusively focused on
3 one (1) specific constituent.
4

5 **MS. DIANE HENSHEL:**

6 I understand. And it's an issue that's at
7 both the State and the Federal level and it's an issue
8 that's complicated by having interagency agreements and
9 interagency you know whatever.
10

11 **MR. KEVIN HERRON:**

12 And it's complicated by UXO.
13

14 **MS. DIANE HENSHEL:**

15 Right.
16

17 **MR. KEVIN HERRON:**

18 Of which is a sole and complete regulatory
19 authority of the Army.
20

21 **MS. DIANE HENSHEL:**

22 But there's already problems when you have
23

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1 different authorities setting different criteria for action
2 which already happens. It happens State, it happens
3 Federal, it happens - well Army, I don't know about Army too
4 much on that one (1). Usually it's State and Federal that
5 are contradictory levels. When that's contradictory levels
6 on a - on a chemical where everybody is agreeing upon the
7 end point and everybody is agreeing upon the nature of the
8 concern here you've got one (1) chemical which has two (2)
9 completely different types of natures of concern, two (2)
10 different types of mechanisms, two (2) different ways in
11 which it's acting negatively or adversely on the body. Ah
12 and I think the assumption had always been in the past well
13 it's a rad - radioactive element therefore that's the
14 scariest part there so that's the part we'll regulate on and
15 that will be protected for the rest of everything else
16 because clearly we're more sensitive just to the
17 radiological properties. And that may not be the case. And
18 when that's not the case and the heavy metal properties
19 become a greater concern because the criteria level was
20 cited at a lower level then what happens?

21

22 **MR. PAUL CLOUD:**

23

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1 Well I think at least a partial answer to
2 that, whether you agree or disagree, is that one (1) it's a
3 matter of potential exposure access. Now one (1) of the
4 things you mentioned that was in the letter from the NRC was
5 the ERM. And part of that ERM we - also includes the access
6 controls. So it's fenced, barbed wire and it's signed.
7 There are locked --

8

9 **MR. KEN KNOUF:**

10 It's not barbed wire.

11

12 **MR. PAUL CLOUD:**

13 I'm talking about north of the firing line.

14 I'm talking about north of the firing line, not the DU
15 area. But to get to the DU area outside of the facility
16 there is a chain linked fence with barbed wire. There's
17 signage there. When you get north of the firing line for
18 some of the approved activities, you know access to the DU
19 area as you well know is very strictly controlled and all
20 the roads have locked barricades on them. That's one (1).
21 The other one (1) is that to the best of my knowledge there
22 are no regulatory established standards for the heavy metal

23

24

1 issue on DU.

2

3 **MS. KAREN MASON-SMITH:**

4 And one (1) thing I want to add is I can't
5 think of the Congressman's name. Have you seen the latest
6 news release?

7

8 **MR. RICHARD HILL:**

9 McDermont?

10

11 **MS. KAREN MASON-SMITH:**

12 What's his name?

13

14 **MR. RICHARD HILL:**

15 McDermont?

16

17 **MS. KAREN MASON-SMITH:**

18 Yes. It boils down to a legal issue.

19

20 **MS. DIANE HENSHEL:**

21 Right.

22

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1 **MS. KAREN MASON-SMITH:**

2 That's just the bottom line. Legally they
3 have the authority to make all decisions including on the
4 chemical constituents. And that's just the way of - of
5 establishing a standard operating procedure, a Memorandum of
6 Understanding.

7

8 **MS. DIANE HENSHEL:**

9 Right.

10

11 **MS. KAREN MASON-SMITH:**

12 So even if we don't like it and everybody is
13 aware of it, it boils down to legally who has the authority.

14 But I think Congressman McDermont has proposed a new law or
15 whatever to at least introduce trying to change that. And
16 that brings into play those issues that you're bringing up.

17

18 **MS. DIANE HENSHEL:**

19 Okay.

20

21 **MS. KAREN MASON-SMITH:**

22 So I mean I don't know how long it takes to

23

24

1 get something like that through but at least it's on
2 everyone's radar and I think this is also an opportunity to
3 raise this during the call to Dr. McLaughlin. You know is
4 he aware of this?

5

6 **MS. DIANE HENSHEL:**

7 I'm sure he's aware of it.

8

9

10 **MS. KAREN MASON-SMITH:**

11 Well I'm sure he's aware of it.

12

13 **MS. DIANE HENSHEL:**

14 I don't think there's a question.

15

16 **MS. KAREN MASON-SMITH:**

17 This time - this time we get to at least
18 hear an answer from him. Every time we come to a RAB
19 meeting we're asking Paul questions.

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21 **MS. DIANE HENSHEL:**

22 I'm sure Paul doesn't mind.

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MR. PAUL CLOUD:

I'm eagerly awaiting him being in the hot seat.

MS. KAREN MASON-SMITH:

You haven't heard Dr. Mclaughlin's response.

MR. KEVIN HERRON:

The squeaky wheel gets the oil and if you have to say it a thousand times then you say it a thousand times. And if this is one (1) of those border line or unknown areas is it something where there's going to be action taken immediately? No it may take government's you know geologic time or whatever. But at least it's - you have to get it in front of everybody and you have to get the right people working on it. More times than not you've got someone that makes the regulations, i.e. a Congressman that has some power to change a regulation or establish one (1) that can benefit the process then that more times than not is probably the best thing that can happen.

1 **MS. DIANE HENSHEL:**

2 I think we would just like some clarity on
3 who is in charge of the final decisions on some of the
4 issues that are relevant that aren't being paid attention
5 to.

6

7 **MS. KAREN MASON-SMITH:**

8 Well I request that you be there Diane to
9 articulate.

10

11 **MS. DIANE HENSHEL:**

12 I will be happy to be there. I'm planning a
13 trip to visit my sister I guess.

14 **MR. MIKE MULLETT:**

15 You know that playground game hot potato
16 right?

17

18 **MS. DIANE HENSHEL:**

19 I'm going to be left holding the hot potato?

20

21 **MR. MIKE MULLETT:**

22 No. I doubt you'll watch a bunch of people

23

24

1 throwing it around.

2

3 **MS. DIANE HENSHEL:**

4 If I were to plan this I tell you it would
5 be something different.

6

7 **MR. MIKE MULLETT:**

8 I bet you watch a bunch of people throwing
9 it around.

10

11 **MS. DIANE HENSHEL:**

12 I'd really like to see some just people
13 saying yes this is an issue because we're not the only place
14 that this is an issue for you know. It's not. There's a
15 whole number of different both active and not so active
16 bases.

17

18 **MR. MIKE MULLETT:**

19 Which is one (1) of the reasons why you're
20 the hot potato.

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22 **MS. DIANE HENSHEL:**

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Yeah.

MR. MIKE MULLETT:

If this were the only place then --

MS. DIANE HENSHEL:

And this relates to active war is the other problem unfortunately because it means that it might have implications for Iraqi closely.

MR. MIKE MULLETT:

Just to give you one (1) lawyer's opinion I don't think there's any doubt that it's an issue in the Decommissioning Process.

MS. DIANE HENSHEL:

Right.

MR. MIKE MULLETT:

And that effectively if it doesn't get raised in the Decommissioning Process then it's mute. So if you don't raise it in the Decommissioning Process --

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MS. DIANE HENSHEL:

Well we will be raising it.

MR. MIKE MULLETT:

So if you don't raise it it's gone.

MR. JOHN RUYACK:

The NRC has no authority over - over heavy metals. That's the thing.

MS. DIANE HENSHEL:

Yeah this is the problem.

MR. JOHN RUYACK:

They can only regulate it as a radioactive material because their standards say that if you're exposed to this much you have to be below this level of radiation and that's all they're gonna do. So if the NRC is not going to regulate uranium as a heavy metal now, if somebody decides that EPA or the State or somebody can do it, let's let them do it. The NRC is not going to do it.

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MR. MIKE MULLETT:

Well they're going to have to do something to deal with it procedurally in the course of the Restricted Release Termination Process which I'm sure is one (1) of the reasons why the Army would just as soon be out of here. But it's - it's quite clear from - from a legal standpoint that you can't have the vacuum. And I just think that the law in this is quite clear that although the - in terms of the NRC regulating it that the NRC cannot decommission this place until such time as that issue has been addressed.

MR. JOHN RUYACK:

I'm sure the NRC is going to say that at this level the radiation that's emitted from that uranium is below regulatory concerns and just deal with that. That's what they'll say. Now wherever and I think we could all agree I mean way back when when I took chemistry uranium is more toxic as a heavy metal than it is as a source of radiation.

MR. KEVIN HERRON:

1 Well what's going to have to happen is
2 somebody is going to have to demonstrate or establish some
3 kind of a standard for it as a heavy metal whether it's the
4 ATSDR or whether it's an EPA toxicologist takes it on or
5 somebody, whether it's a university that's got a - that's
6 done a big study and has - has volumes of data and
7 information and says okay here, look what we've got. This -
8 we need to establish and this proves that we should
9 establish a standard at this. And maybe until that happens
10 then it's going to make it very difficult to move in that
11 direction.

12

13 **MR. MIKE MULLETT:**

14 Okay. NRC's jurisdiction is co-terminates
15 with its pre-emption to the extent that if it doesn't have
16 jurisdiction it's doesn't have pre-emption. So you got to
17 choose. You can't say we can't deal with heavy metal
18 property because this is subject to NRC jurisdiction because
19 it's nuclear material. You can't have both of those things.

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21 **MS. KAREN MASON-SMITH:**

22 But that's what --

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MS. DIANE HENSHEL:

That's what's being said.

MR. MIKE MULLETT:

Oh I understand. I understand. I understand. That doesn't work. That doesn't work.

MR. KEVIN HERRON:

I'm not saying that. I'm just saying that it needs to be defined - they need to say we don't cover it and then at that point it comes down to okay if they're not going to regulate that and we're not precluded from regulating it.

MR. MIKE MULLETT:

If they don't have jurisdiction they can't regulate it. But if they don't have jurisdiction they can't pre-empt anybody else's regulation of it either.

MR. JOHN RUYACK:

You have - you have to remember the uranium

1 that the NRC has - has what they call below regulatory
2 concerns.

3

4 **MR. MIKE MULLETT:**

5 As far as the nuclear radioactive aspect of
6 it is concerned.

7

8 **MR. JOHN RUYACK:**

9 Yes. And that's my point. That's all they
10 can regulate. So if they detect (inaudible) that it's not
11 regulated.

12

13 **MR. MIKE MULLETT:**

14 As far as the nuclear aspect is concerned.

15

16 **MR. JOHN RUYACK:**

17 Yes.

18

19 **MR. PAUL CLOUD:**

20 Let me - let me interrupt here for just one
21 (1) second. I've heard a couple of things or at least my
22 perception of what I heard was that there may be an

23

24

1 impression out there that because the NRC does not regulate
2 or have the statutory authority to regulate the heavy metal
3 properties of uranium that that pre-empts anyone else from
4 doing that. That is not my understanding.

5

6 **MR. MIKE MULLETT:**

7 Can't it?

8

9 **MR. PAUL CLOUD:**

10 As far as I understand it what I would - if
11 I were anyone who was interested in this I would talk to Tom
12 or the State or the EPA and get them to respond in a more
13 formal or official manner, probably not at this meeting, but
14 should either the State or the EPA or whoever want to
15 initiate that formal official regulatory process for the
16 heavy metal issue regarding uranium, it's my understanding
17 that just because the NRC does not regulate it that does not
18 pre-empt them from establishing a criteria and a process and
19 a regulation. However, having said all that I think it's
20 obvious to some of the professionals here and the experts in
21 the field that that process is not an over night process.
22 It takes months and years, usually in the years category to

23

24

1 even do the studies, to get the datas and write the proposed
2 regulation, put it out for comment, to respond to the
3 comments and then to issue the notice in the Federal
4 Register establishing a date when those new regulations will
5 take effect. That is not an over night process. If it were
6 to be started today it would be my estimation 2010 or later
7 would be the absolute earliest.

8 **MS. DIANE HENSHEL:**

9 I agree.

10

11 **MR. PAUL CLOUD:**

12 But that's what I - that's my understanding.

13

14 **MR. MIKE MULLETT:**

15 I would agree with that but - but I think
16 that the issue then becomes given that doesn't the NRC,
17 pursuant to the MOA, have an obligation to coordinate with
18 the agency that does have jurisdiction with respect to heavy
19 metal properties prior to concluding the Decommissioning
20 Process as far as the nuclear issues?

21

22 **MR. PAUL CLOUD:**

23

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1 I would agree with you if there was such an
2 agency. There is not. And the reason I say that - and the
3 only reason I say that is EPA to the best of my
4 understanding and the State to the best of my understanding
5 has not established a level for metal toxicity for uranium.
6 Without that establishment of that criteria who is the NRC
7 to go to? They don't have anyone to go to. You have to
8 have that established. Again I would strongly recommend,
9 encourage people if they're interested to participate in the
10 call and public meetings when the NRC publishes the schedule
11 and feel free to bring these questions and comments up at
12 that time. How they respond is you know their policy and
13 procedures.

14

15 **MR. KEVIN HERRON:**

16 The basics are this: you have to have
17 hazardous substance that threatens or potentially threatens
18 the environment or human health.

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20 **MS. DIANE HENSHEL:**

21 Right.

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MR. KEVIN HERRON:

Okay the key being hazardous substance.

MS. DIANE HENSHEL:

Right.

MR. KEVIN HERRON:

Okay. Somebody needs to identify clearly and definitely that uranium as a heavy metal is a hazardous substance.

MS. DIANE HENSHEL:

There - there is something --

MR. RICHARD HILL:

Aren't there Federal breaking broader standards for uranium?

MR. KEVIN HERRON:

As far as I know my risk people have - they've not showed anything to me and I've gone to them several times to show me any standard.

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MS. DIANE HENSHEL:

EPA did just set the drinking water criteria
for it.

MR. PAUL CLOUD:

That's in public drinking water.

MR. RICHARD HILL:

Yes. Right.

MR. PAUL CLOUD:

And that's not even effective until this
December.

MS. DIANE HENSHEL:

Yeah but --

MR. PAUL CLOUD:

In very specific, isolated cases.

MS. DIANE HENSHEL:

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Yeah but --

MR. KEVIN HERRON:

You've got MCLs. Basically you're talking about an MCL because that - in a way drinking water standards are based on MCLs. So if that's the case then there is a standard that's being established and once that's established then it makes things easier anyway because you can - now you can come back and say well there's a standard that shows this as being a - it can't be in water for people to consume. Okay you can take that back and say well then if it's above that can't you say it's a hazardous substance? But again that comes down - what will ultimately end up happening there is you will have to have attorneys, lawyers or whatever that's going to end up getting involved with that.

MS. DIANE HENSHEL:

No I think - I think you just say that because there was a need for criteria for it at all, anything indicates that it must be hazardous substance, so can't you argue it that way? Can't you also argue it from

1 the fact that you've got kidney damage demonstrated in
2 uranium product studies? I mean there isn't a whole lot.
3 There's a few.

4

5 **MR. MIKE MULLETT:**

6 I think the characterization of it as a
7 hazardous substance is different from setting a safety
8 standard for it. And I think that's where we get back to
9 this issue of whether or not there's somebody with
10 jurisdiction is a different question from whether or not the
11 entity with jurisdiction has fully discharged his
12 responsibility with regard to setting the standards.

13

14 **MS. KAREN MASON-SMITH:**

15 Well standards are set for uranium. Now is
16 there a difference between depleted uranium and uranium?

17

18 **MR. PAUL CLOUD:**

19 Yes.

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21 **MS. KAREN MASON-SMITH:**

22 Because we have Superfunding.

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MS. DIANE HENSHEL:

As a heavy metal, no. As a radiological element, yes.

MS. KAREN MASON-SMITH:

Right.

MR. PAUL CLOUD:

That's correct.

MS. KAREN MASON-SMITH:

We have SuperFund sites. Kerr McGee is one (1) of them in West Chicago, Illinois and I know it's on the MPL but uranium is the issue and certainly EPA and the State are involved with that.

MS. DIANE HENSHEL:

But they agree with it mostly radiologically right?

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MS. KAREN MASON-SMITH:

Not necessarily, no.

MS. DIANE HENSHEL:

No?

MS. KAREN MASON-SMITH:

So that's something that we can look into but again that's a site that's been placed on the NPL. But depleted uranium I think is where things get a little shaky.

MS. DIANE HENSHEL:

Only because radiologically it's not as potent.

MR. RICHARD HILL:

But otherwise metal properties would be the same right?

MR. KEVIN HERRON:

1 Yeah. Right.

2

3 **MS. DIANE HENSHEL:**

4 It would be metal, heavy metal.

5

6 **MS. KAREN MASON-SMITH:**

7 Right. But the fact that is it a
8 radiological material NRC has jurisdiction so again --

9

10 **MR. RICHARD HILL:**

11 Well let's not worry about that.

12

13 **MS. KAREN MASON-SMITH:**

14 I know. So whatever.

15

16 **MR. PAUL CLOUD:**

17 As I said before in some of my telephone
18 conversations with Dr. Mclaughlin, ah and he'll love this
19 when he reads it in the minutes because he loved it in the
20 February one, he's eagerly anticipating being the person in
21 the hot seat and responding to all these either at the
22 public meeting or later in writing. Now he - you know the

23

24

1 NRC may not even respond at the meeting in Rockville or in
2 the public meetings. It may be, and this might be a
3 relevant question to ask, they may just be in a kind of like
4 a sponge mode where here, we're here. This is a regulatory
5 requirement that we provide the community with an
6 opportunity to comment on this proposal by the Army. We are
7 not at this time prepared nor will we respond to your
8 questions or comments. However they will all be taken down
9 verbatim and we will at some later date provide a written
10 response. That may be what happens. So do not expect and
11 anticipate that you will get an automatic same day response.

12

13 **MR. KEVIN HERRON:**

14 That will be the same thing as you - as you
15 putting out the proposed plan for - on this site. You're
16 going to announce a thirty (30) day comment period or
17 whatever. You're going to have - hold a public meeting or
18 several public meetings.

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20 **MR. PAUL CLOUD:**

21 Well actually - we're not no.

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MS. DIANE HENSHEL:

No NRC is.

MR. PAUL CLOUD:

The NRC is.

MR. KEVIN HERRON:

No. I'm talking about for the - the RDRA.

MR. PAUL CLOUD:

Yeah.

MR. KEVIN HERRON:

They are almost identical.

MR. PAUL CLOUD:

They are. They are very similar
administratively.

MR. KEVIN HERRON:

They are almost identical.

1 **MR. PAUL CLOUD:**

2 Yeah.

3

4 **MR. KEVIN HERRON:**

5 They are - they're going to announce a
6 public comment period. They're going to identify meetings.
7 They're going to say okay you can write - written comments
8 will be received during this time and at the end of that
9 process then they'll - then they'll do their responses to
10 those comments.

11

12 **MS. KAREN MASON-SMITH:**

13 But they can also decide not to respond.

14

15 **MR. PAUL CLOUD:**

16 That's their - yes sir?

17

18 **MR. MIKE MULLETT:**

19 Can we back up just a little bit?

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21 **MR. PAUL CLOUD:**

22 Sure.

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MR. MIKE MULLETT:

And first talk a little bit about the fork in the road here as far as the current License Termination proceeding and the proposed or potential License Amendment Process. Does the License Termination proceeding in your Gantt Chart, does that continue to march forward while your License Amendment is being considered or are you basically in a situation where the NRC staff is going to put its Technical Review in abeyance pending resolution of the issues with regard to the License Amendment Process?

MR. PAUL CLOUD:

The magnitude and the degree to which the NRC are applying resources to the continuation of the Technical Review for the Restricted Release Termination is internal. I do not know that. If you would really like an answer to that I would suggest you call Dr. McLaughlin.

MR. MIKE MULLETT:

The second thing I guess is - this is part of it. As I'm sure you're aware the presiding officer in

1 the existing process is pretty annoyed at this point.

2

3 **MR. PAUL CLOUD:**

4 I have gotten that indication that he was
5 concerned with a particular previously non-participatory
6 party who is now a participant.

7

8 **MR. MIKE MULLETT:**

9 Yeah.

10 **MR. PAUL CLOUD:**

11 Yes sir.

12

13 **MR. MIKE MULLETT:**

14 And what I think this - you know the one (1)
15 problem we - things have gotten turned around here time wise
16 but Save the Valley is going to have to make a comment here
17 in fifteen (15) days in terms of what it thinks about this -
18 this process, this proposal. I was hoping that NRC was
19 going to file something today but apparently they didn't
20 because I didn't get it. Did you?

21

22 **MR. PAUL CLOUD:**

23

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1 No. I've not seen anything.

2

3 **MR. MIKE MULLETT:**

4 So presumably if they're going to file it
5 they're going to go ahead and file it tomorrow. They said
6 they'd do it by today but the Judge gave them until tomorrow
7 so apparently they're going to go ahead and take the extra
8 day.

9

10 **MR. PAUL CLOUD:**

11 Take the extra day.

12 **MR. MIKE MULLETT:**

13 Take the extra day. But I think that the
14 part of it that relates to the Army, you know the Judge
15 presumed but nobody from the Army has said for sure that the
16 Army didn't know about that document when it filed its
17 status report.

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19 **MR. PAUL CLOUD:**

20 Which document is that?

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22 **MR. MIKE MULLETT:**

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The public document.

MR. PAUL CLOUD:

The one (1) that Save the Valley found?

MR. MIKE MULLETT:

Yeah.

MR. PAUL CLOUD:

We did not.

MR. MIKE MULLETT:

Okay.

MR. PAUL CLOUD:

We didn't know it existed until you made it
- brought our attention to it.

MR. MIKE MULLETT:

Okay.

MR. PAUL CLOUD:

We were not aware of that at all. Myself,

1 Joyce, our attorney were not aware of that document. That
2 is an accurate statement. And I think - either in
3 conversations or in written correspondence to the Judge we
4 have - the Army has conveyed that to them and/or to the NRC
5 that we were not aware of that document until Save the
6 Valley identified it on the NRC's public document site.

7

8 **MR. MIKE MULLETT:**

9 I think the other - the other aspect of this
10 again and you know from a - from a Save the Valley
11 prospective looking at it from a legal prospective you know
12 you don't want to get put in a situation of ah waiving or
13 being precluded earlier in the process with respect to an
14 issue that may become relevant even important later in the
15 process. And - and I think that certainly in terms of this
16 whole situation with respect to this Possession Only License
17 Amendment and the extent to which Save the Valley would want
18 to pursue its procedural ah rights, procedural options with
19 respect to that particular ah option as it has with respect
20 to the Restricted Use Termination you know to the extent
21 that they've got doubts, it's better to be safe than to be
22 sorry. And - and - and I think that in terms of this - this

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1 whole situation here to the extent to which there are a lot
2 of unanswered questions with respect to you know where this
3 goes, I think some of the questions that Diane has been
4 asking are certainly very, very germane in that regard. And
5 certainly you know my understanding in terms of what the NRC
6 has said for example is that the monitoring wells that those
7 are open for negotiation and the extent to which you need
8 additional monitoring wells in different locations for
9 example.

10

11 **MS. DIANE HENSHEL:**

12 And monitored.

13

14 **MR. MIKE MULLETT:**

15 That - that that would be --

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18 **MR. PAUL CLOUD:**

19 That would be something that the Army
20 expects will be discussed not only at the meeting in
21 Rockville but once we, the Army submit our Draft License
22 Amendment Proposal, but then subsequently in September at

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1 the public meetings here in the community. And then after
2 that then the NRC would look at what they have received as
3 far as our document and our proposal, what their staff has
4 reviewed and analyzed and three (3) what the community has
5 responded to and provided as input, concerns, requests,
6 whatever. And then based on that it would be the NRC's
7 burden to either ah internally respond to those or come back
8 to the Army and say well what about this and this and this?
9 Just we need more data or explanation or detail on why you
10 don't believe this should be done or why - what you're doing
11 you think is something that resolves that or answers that
12 question or supports a reasonable approach to your proposal
13 so on and so forth. And then it would be ultimately the
14 NRC's burden once the Army has responded on whether or not
15 they will accept it or not. Again we need to understand
16 that this is not a guaranteed process. It's a contingent
17 parallel. If we reach that line in the sand where either
18 the NRC doesn't want to step over or the Army doesn't want
19 to step over the process stops. Go back to the Restricted
20 Release Termination. It's as simple as that.

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MR. MIKE MULLETT:

1 Right. And - and where Save the Valley is
2 at this point of course is that they've got standing.

3

4 **MR. PAUL CLOUD:**

5 Standing for the Restricted Release.

6

7 **MR. MIKE MULLETT:**

8 Correct.

9

10 **MR. PAUL CLOUD:**

11 That's correct.

12

13 **MR. MIKE MULLETT:**

14 And they've got a hearing down at the end of
15 the Technical Review Process. So from a procedural
16 standpoint you know they're - they're where they want to be
17 with respect to the Restricted waste.

18

19 **MR. PAUL CLOUD:**

20 And the Army has responded to the Judge's
21 query on the relevancy/muteness should the Possession Only
22 be successful regarding Restricted Release Termination

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24

1 Process.

2

3 **MR. MIKE MULLETT:**

4 Sure.

5

6 **MR. PAUL CLOUD:**

7 And you see that.

8

9 **MR. MIKE MULLETT:**

10 But it's not moving unless you withdraw.

11

12 **MR. PAUL CLOUD:**

13 That's true. But let me finish the thought.

14

15 **MR. MIKE MULLETT:**

16 Okay.

17

18 **MR. PAUL CLOUD:**

19 The Judge has also tasked as you know the
20 NRC staff with providing any feedback on that same issue.

21

22 **MR. MIKE MULLETT:**

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1 the Valley should take whatever initiative they feel they
2 are comfortable with to establish an understanding of what
3 their options are and then act accordingly.

4 **MR. MIKE MULLETT:**

5 Okay. Now the other thing that I think is a
6 little unclear again is what Possession Only means.

7

8 **MR. PAUL CLOUD:**

9 Possession Only is what we have now. If you
10 read the License now it says Possession Only until License
11 Termination.

12

13 **MR. MIKE MULLETT:**

14 I'm not arguing that. But what does it mean
15 with regard to what the Army can do while it's in
16 Possession?

17

18 **MR. PAUL CLOUD:**

19 Nothing. Other than control access,
20 continue to monitor and insure that accessibility is
21 restricted and controlled in a manner that any person -
22 undocumented personnel exposure is either eliminated or so

23

24

1 severely restricted as it would not pose any threat to human
2 health.

3

4 **MR. MIKE MULLETT:**

5 I don't want to bring in bigger issues in
6 other places but just as an example there's some you know
7 very significant litigation that has just been undertaken in
8 the west in terms of the extent to which DOE and ATF think
9 that in the terms of the ability to transport in, transport
10 out, so on and so forth that you know they apparently have -
11 think they have that right in the west. Obviously the State
12 of Washington and other people out there don't agree. And
13 it's just as an example would Possession Only entitle the
14 Army if we've got an issue of state here in terms of all
15 this depleted uranium in Iraq and we need someplace to put
16 this depleted uranium in Iraq could we - could the Army take
17 depleted uranium from Iraq and - and put it at Jefferson
18 Proving Ground under a Possession Only License?

19

20 **MR. PAUL CLOUD:**

21 I would - I cannot - I cannot comment on
22 that officially because that would be a policy decision by

23

24

1 the Army leadership in the Pentagon. What I would expect
2 though is that - first of all the Proving Ground is licensed
3 to the total amount that they're allowed to have. And if
4 memory serves me correct I believe that total amount at any
5 one (1) time on the Proving Ground is a hundred thousand
6 (100,000) kilograms. We estimate there's seventy (70,000)
7 to seventy-five thousand (75,000) kilograms out in the DU
8 Impact Area now. We don't have a you know ounce accurate
9 estimate. So even if what you have suggested were proposed,
10 if that were to occur I would expect that the Army in some
11 manner or fashion would one (1) have to go back to the NRC
12 one (1) to let them know what we're doing and two (2) if it
13 were to exceed that hundred thousand (100,000) or even if
14 we're currently restricted to "Possession Only for what we
15 already have in the ground" which is what I think, they
16 would have to get a License Amendment for that which is an
17 open process anyway. But I can't officially comment on that
18 because that's - that's a theoretical.

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20 **MR. MIKE MULLETT:**

21 Un-huh (yes).

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MR. PAUL CLOUD:

And that's clearly a policy level issue on the Pentagon. Interesting question.

MR. KEN KNOUF:

Fish and Wildlife Service may have something to say about that.

MR. PAUL CLOUD:

Well let's just say it would be a very interesting interagency policy level ah conundrum. It would be interesting.

MR. MIKE MULLETT:

Don Rumsfeld is known for his consideration of Fish and Wildlife Service.

MR. PAUL CLOUD:

Any other questions regarding this issue?

MR. MIKE MULLETT:

1 I've got one (1) more.

2

3 **MR. PAUL CLOUD:**

4 Sure. No problem.

5

6 **MR. MIKE MULLETT:**

7 Taking this particular process that you've
8 ah described here how - how do we get if you will the same
9 level of understanding with respect to what would be
10 involved with that fork in the road that you currently have
11 with respect to this fork in the road? It seems to me that
12 I mean you've got essentially a ninety (90) day time frame
13 here that you laid out earlier that will be going on over
14 the summer time. Whereas you've been at this now what, how
15 many years? It's going on four (4) years?

16

17 **MR. PAUL CLOUD:**

18 Well I think - let me see if I can respond
19 to that initially with some background. For better or worse
20 JPG was at the forefront of this whole thing and actually
21 pre-dated NRC regulations on the whole issue of Restricted
22 Release Termination. And actually identified that as the

23

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1 option they were going to pursue before it was really even
2 "available". The problem as I see it is that this is all an
3 evolving issue right now but it's an NRC process no matter
4 which fork in the road you take whether we take collectively
5 the Restricted Release Termination Process, that's an NRC
6 process initially. They accepted it administratively, they
7 are into the Technical Review, they have to do that and they
8 have to do their NEPA exercise, they have to hold their
9 public meetings, so on and so forth. That's all their
10 scheduling, their administrative process under their
11 control. Under the Possession Only while they have asked
12 us, the Army, to propose a meeting schedule it is still
13 their process. Now if they propose for some reason this
14 meeting to occur in Rockville next week, which they could
15 propose, I don't think the Army would be able to favorably
16 respond for some very reasonable and logical reasons. And
17 I'm not sure the community would be able to you know attend
18 either. But it's the - that process is still the NRC's
19 process. The timing on certain other things is specified in
20 their regulations like the notice of their public meetings
21 out here in September. They have to do a Federal Register
22 notice of a minimum of thirty (30) days. So that's why once

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1 we the Army have submitted our Draft License Amendment,
2 August, very shortly thereafter they will come out, the NRC
3 would come out with their notice of public meeting and
4 probably publish the Draft License Amendment in the Federal
5 Register and then they would hold their meetings so on and
6 so forth. It's their process. It's not the Army's.

7

8 **MR. MIKE MULLETT:**

9 Right.

10

11 **MR. PAUL CLOUD:**

12 So we don't control it. We may be asked for
13 input and suggestions and coordination but ultimately it
14 will be the NRC's decision.

15

16 **MR. MIKE MULLETT:**

17 I appreciate that and the process is
18 important and obviously this - people have gotten
19 comfortable and knowledgeable about the process. I was
20 thinking more about the in state issues as far as the
21 environment and public health are concerned and - and the
22 extent to which this Possession Only - you call it perpetual

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1 the - I think technically they are calling it indefinite
2 five (5) year renewal or - or whatever, the extent to which
3 you know implicit in that as there was in the Restricted Use
4 was essentially no clean up ever. Ah and - and so you -
5 you've essentially got you know the concept of - of a - of a
6 sacrifice zone that is indefinitely subject to you know
7 being fenced in. And then this - this issue of given that
8 fact how you isolate it or how you ah - ah isolate I guess -
9 isolate the sacrifice zone from the rest of the environment
10 so that - to the extent that there is contamination that's
11 dangerous to human health and the environment within the
12 sacrifice zone that it doesn't migrate outside the - the
13 sacrifice zone. And I guess my - my question - my question
14 is in terms of the extent to which people have come to their
15 particular concept of their particular understanding with
16 respect to this Restricted Decommissioning Plan, Restricted
17 Use Decommissioning Plan, you know how - how do people come
18 to an understanding as to what - what the new plan means in
19 those in state terms and how the new plan is or is not
20 different, better, worse than the old plan as far as those
21 in state terms are concerned?

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MR. PAUL CLOUD:

Well without going into obviously any details into the Possession Only because we haven't worked those out yet, ah it's my current understanding that should the Possession Only be successfully culminated that one (1) there's going to be continued monitoring of some nature, frequency and specificity. There will be certain levels that if exceeded the Army will have to take additional action on, probably to be negotiated based on specific data retrieved. Three (3) there is going to be continued access controls i.e. the fencing around the facility, the signage, the locked gates, the escorted access only into the DU area. So there are - there's a lot of what the Army was proposing in the Restricted Release Termination regarding access controls that will automatically and to a significant extent be wholesale cut and pasted over into the Possession Only. Now the details obviously we're going to work out assuming we're successful.

MR. MIKE MULLETT:

How about the institutional control issue?

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MR. PAUL CLOUD:

Well again that's part of the access controls. Now details would depend on whatever question, comment or concern is raised but the access controls is a significant part. I mean the property stays under Federal ownership as even the NRC identified in their letter. The Army is "enduring agency". It's not ABC, fly by night ink that's going to declare bankruptcy tomorrow and go to South America. I mean if we do we have bigger problems than the DU. But I mean - so that's a relevant and significant thing.

MR. MIKE MULLETT:

Un-huh (yes).

MR. PAUL CLOUD:

I mean we are part of the Federal government. We - there is signage, there is fencing, there is barbed wire, there are locked barriers to the DU area, there is very strict access control to the area. We will continue to monitor to some negotiated you know level and detail specificity. So if you add all those together I

1 think that goes a long way. Now again detail specifics to
2 be negotiated. I'm not sure that that - I don't think that
3 probably answers your question specifically.

4

5 **MR. MIKE MULLETT:**

6 No, no. That did. I - I mean - and I think
7 that's - in terms of just exactly in terms of these issues
8 like institutional control, public access. I mean you go
9 through what - what Save the Valley filed and in terms of -
10 of essentially saying you know is alternative "B" better,
11 the same or worse than alternative "A" you have these kind
12 of criteria. And in terms of people getting comfortable so
13 that they can make that evaluation that seems to me to be an
14 important part of the process here ah and the extent to
15 which you just - you're going to have all this happen in
16 ninety (90) days the extent to which people are going to be
17 able to get knowledgeable enough and comfortable enough soon
18 enough to you know reach that conclusion in their mind in
19 ninety (90) days. That's - that was my concern.

20

21 **MR. PAUL CLOUD:**

22 Acknowledge that but I think one (1) thing

23

24

1 that has not been I guess included in your discussion there
2 was the statement that should the Possession Only be
3 successful that does not "end the process". One (1) of the
4 - if you recall one (1) of the significant comments concerns
5 by the community i.e. Save the Valley in this case, was the
6 fact that if the Restricted Release Termination was
7 successful there would be no more monitoring. Now I think
8 there's been an inaccurate perception that that was an Army
9 request or requirement. That is not the case. That was
10 actually specified and identified by the NRC at a RAB
11 meeting several years ago and it's on the record. Because -
12 as they accurately indicated if the License were terminated
13 they don't have the regulatory authority anymore.

14

15 **MR. MIKE MULLETT:**

16 Un-huh (yes).

17

18 **MR. PAUL CLOUD:**

19 Therefore there's no monitoring that would
20 be done. However they would ensure that the institutional
21 controls as you've indicated would be required and they
22 would check them. But you know that's part of that process.

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MR. RICHARD HILL:

Kevin wants to say something.

MR. PAUL CLOUD:

Kevin?

MR. KEVIN HERRON:

So if they lose regulatory authority then that means that somebody can come back in without question and go after the heavy metal properties?

MR. PAUL CLOUD:

Well that assumes that you go through the Restricted Release Termination. If you go the Possesion Only then the Army still has a license with the NRC. It's renewed as we've suggested every five (5) years which is more or less the standard.

MR. KEVIN HERRON:

Well I understand. But is that correct that they lose regulatory authority?

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MR. PAUL CLOUD:

I don't know at this time. I don't know.

MR. KEVIN HERRON:

Okay Tom did you hear?

MS. DIANE HENSHEL:

Could you clarify what exactly the NRC does when it comes in and inspects "the site"?

MR. PAUL CLOUD:

I know what they do here. I don't know what they do anyplace else.

MS. DIANE HENSHEL:

Well could you tell us what they do here?

MR. PAUL CLOUD:

What they do when they come here as far as what I see on the facility because I don't know - I assume that they check the fencing and the signage on the perimeter but I don't know that.

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MR. KEN KNOUF:

There's no they. It's he.

MR. PAUL CLOUD:

When I say they I say the NRC. It's usually one (1) individual. The NRC or the - yeah the EPA is the same. When they come down for the annual RCRA inspection for the OB area they send one (1) guy down. He usually spends an hour here or so and that's about it. And they go look at the site specific thing that they regulate. Now that's what happens when the NRC comes down. Gentleman from Region 3 in Chicago comes down usually August-September time frame. He comes in and he usually sends a letter or an E-mail or phone call announcing when he's going to be here because he knows he has to be escorted. We don't just give him a key and say go on up there, have a nice day, come back when you're done. And we take him up there. He usually looks at the signages, the controlled access, the locked gates. He takes a look at the monitoring wells, not only in the DU area but the background ones down in the cantonment area. Then he leaves.

1 **MS. DIANE HENSHEL:**

2 So he never walks the perimeter?

3

4 **MR. PAUL CLOUD:**

5 Whatever. I don't know. He does what he
6 does.

7

8 **MR. KEN KNOUF:**

9 He actually spends more time on the
10 perimeter.

11

12 **MS. DIANE HENSHEL:**

13 Okay.

14

15 **MR. KEN KNOUF:**

16 Going around than he does on the interior.
17 He is here to do access control is the perimeter.

18

19 **MR. RICHARD HILL:**

20 That makes sense.

21

22 **MS. DIANE HENSHEL:**

23

24

1 Right. So how does he do this? Does he
2 actually get out and walk?

3

4 **MR. KEN KNOUF:**

5 No he drives and he checks gates.

6

7 **MR. PAUL CLOUD:**

8 We drive. When he's on the facility --

9

10 **MS. DIANE HENSHEL:**

11 How does he check fences if he's driving?

12 **MR. KEN KNOUF:**

13 I'm driving.

14

15 **MS. DIANE HENSHEL:**

16 How does he get out while you're driving and
17 how close are you to the fence?

18

19 **MR. KEN KNOUF:**

20 I'm in the road.

21

22 **MR. PAUL CLOUD:**

23

24

1 We're on the perimeter road.

2

3 **MR. KEVIN HERRON:**

4 Fifteen (15), twenty (20), thirty (30) feet
5 maybe.

6

7 **MS. DIANE HENSHEL:**

8 So can you see holes? Can you see damage
9 from animals?

10

11 **MR. MIKE MULLETT:**

12 I'm a professional hole watcher. You bet
13 you.

14 **MR. JOHN RUYACK:**

15 You can't see - you can't see the fence on -
16 on the north side of the main road.

17

18 **MR. MIKE MULLETT:**

19 No. That all depends on whether or not the
20 coffee is hot, fresh and good.

21

22 **MR. KEN KNOUF:**

23

24

1 Well there are sections but there are
2 sections that you can see the fence from the inside
3 perimeter road.

4

5 **MS. DIANE HENSHEL:**

6 Yeah.

7

8 **MR. JOHN RUYACK:**

9 We did the whole - the State people did the
10 whole thing and we were the ones that he told us he couldn't
11 see the fence all the way.

12

13 **MR. KEN KNOUF:**

14 I wouldn't say that he sees every mile of
15 the perimeter fence but he's not as concerned with the north
16 end which is a good twelve (12), fifteen (15) miles from
17 where the DU area is. It's less likely there's somebody
18 coming from the north area going all the way down to the DU
19 area from the perimeter side where it's --

20

21 **MR. PAUL CLOUD:**

22 Near the firing line.

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MR. KEN KNOUF:

Right.

MR. PAUL CLOUD:

A much shorter distance. A couple of miles at most, maybe a mile.

MR. JOHN RUYACK:

But you still go by there.

MR. KEN KNOUF:

As I said his focus has always been generally the perimeters on either side, east and west, and he will - I mean he will get out and go shake a gate or so and look at the locks and that normally doesn't take very long.

MR. PAUL CLOUD:

Whatever he wants to do we take him there. But when we go north of the firing line he does not go along.

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MS. DIANE HENSHEL:

Paul I just wanted to get some sense of what exactly he did. I've never actually gotten that. You said was he came down here and inspected.

MR. KEVIN HERRON:

Paul didn't you in the past have one (1) that wanted to actually kind of walk out and inspect the DU area way back when?

MR. PAUL CLOUD:

I don't --

MR. RICHARD HILL:

That wasn't an inspector. That was - I remember who that was and I can't remember his name.

MR. PAUL CLOUD:

That was Bobby Eades.

MR. RICHARD HILL:

Yeah.

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MR. PAUL CLOUD:

And actually Dr. Eades came out in '9 -
January of '95. He actually came out with some very senior
management people from Headquarters.

MR. KEVIN HERRON:

Okay.

MR. PAUL CLOUD:

And then we did take him out there. But it
was more or less a familiarization tour. It wasn't an
inspection.

MS. KAREN MASON-SMITH:

That was NRC?

MR. PAUL CLOUD:

Yeah. In fact you were here for that.

MS. KAREN MASON-SMITH:

Oh. It was a long time ago.

MR. PAUL CLOUD:

1 It was a long time ago. There was snow on
2 the ground. Bobby started walking up the trench and that's
3 when I got real upset. Bobby turn around now and come back.
4 You don't go in there.

5

6 **MS. DIANE HENSHEL:**

7 He was walking in the trench?

8

9 **MR. PAUL CLOUD:**

10 About ten (10) feet off the road. He had a
11 radiac meter and he was looking for stuff and I stopped him.
12 That was a long time ago.

13

14 **MS. DIANE HENSHEL:**

15 He also needed a metal detector.

16

17 **MR. KEVIN HERRON:**

18 It would do you no good because it would be
19 going off all the time.

20

21 **MS. KAREN MASON-SMITH:**

22 Paul I have a couple of questions.

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MR. PAUL CLOUD:

Sure.

MS. KAREN MASON-SMITH:

Who does your ground water sampling?

MR. PAUL CLOUD:

CHPPMP

MS. KAREN MASON-SMITH:

Okay.

MR. PAUL CLOUD:

CHPPM does it. I'll have to get you the -
Sharon I'll have to get you the - what Chiel stands for. I
can never get it right.

MR. RICHARD HILL:

They were just here last week.

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MR. HUGH McALEAR:

U.S. Army Center of Health Promotion and
Preventive Medicine.

MR. PAUL CLOUD:

Okay that's it.

MS. DIANE HENSHEL:

Where are they?

MR. PAUL CLOUD:

At Aberdeen Proving Ground.

MR. KEN KNOUF:

Now you know why he's here Kevin.

MR. PAUL CLOUD:

He's a part of the Army.

MS. KAREN MASON-SMITH:

He knows about Maryland. Aberdeen. Okay my
second question is what other constituents do they sample

1 for? Is it only depleted uranium?

2

3 **MR. PAUL CLOUD:**

4 Uranium.

5

6 **MS. KAREN MASON-SMITH:**

7 Okay.

8

9 **MR. PAUL CLOUD:**

10 They do uranium.

11

12 **MS. KAREN MASON-SMITH:**

13 Uranium?

14

15 **MR. PAUL CLOUD:**

16 They do uranium. If they receive a certain
17 level for total uranium then we would do an isotopic
18 analysis to see if in fact it is DU because as you know
19 depleted uranium has a lower concentration of uranium 235
20 naturally occurring in the background. We've never exceeded
21 or even approached that level.

22

23

24

1 **MS. KAREN MASON-SMITH:**

2 Right.

3

4 **MR. PAUL CLOUD:**

5 So we've never had to go with isotopic
6 analysis.

7

8 **MR. KEVIN HERRON:**

9 Yeah. Some carst has naturally occurring
10 uranium.

11

12 **MS. KAREN MASON-SMITH:**

13 Why is the Army not required to establish
14 for explosives or whatever, you know other constituents?

15

16 **MR. PAUL CLOUD:**

17 The NRC doesn't regulate that.

18

19 **MS. KAREN MASON-SMITH:**

20 Well I know. I understand that.

21

22 **MR. PAUL CLOUD:**

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Okay.

MS. KAREN MASON-SMITH:

I'm stepping outside of the NRC now.

MR. PAUL CLOUD:

Okay. I thought we were still talking about that.

MS. KAREN MASON-SMITH:

Well I mean we're now getting back to Diane's question which is you know we've got a lot of other stuff out there.

MR. PAUL CLOUD:

Un-huh (yes).

MS. KAREN MASON-SMITH:

So basically the Army I guess makes the decision or whatever you guys are doing because we - we have never officially studied the north area under CERCLA and we talked about it when you initially did your EBS but ah

1 because of funding and different things that issue kind of -

2

3

MR. PAUL CLOUD:

4

5 That is still an evolving issue. Last fall
6 there was a - specific to JPG there was a study done north
7 of the firing line where the Army Environmental Center came
8 out with a contractor and some DOD specialists for avoidance
9 coverage and actually did in fact drill eight (8) more wells
10 Ken total? I think it was eight (8) more wells total north
11 of the firing line, one (1) of them in the DU area and took
12 a bunch of samples, soil, sediment, ground water, surface
13 water specifically analyzing for explosives and metals.
14 That report has not been issued yet. I don't know when it's
15 going to be issued.

15

16

MS. DIANE HENSHEL:

17

For perchloric?

18

19

MR. PAUL CLOUD:

20

I don't know.

21

22

MS. KAREN MASON-SMITH:

23

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1 **MS. DIANE HENSHEL:**

2 That's a metal.

3

4 **MR. KEVIN HERRON:**

5 They actually drilled in the DU area?

6

7 **MR. PAUL CLOUD:**

8 Yes. They had DOD coverage and they
9 monitored every I think it was one (1) or two (2) feet
10 before they would - you know they would do a sweep and drill
11 down a foot or two (2) and then they put their probe back in
12 it and say okay drill another two (2) feet. That's how it's
13 done. But they didn't do anything that's massive or
14 extensive. It was very specific and isolated.

15

16 **MR. KEVIN HERRON:**

17 Small like a two (2) inch drill?

18

19 **MR. PAUL CLOUD:**

20 I don't remember.

21

22 **MS. DIANE HENSHEL:**

23

24

1 **MR. PAUL CLOUD:**

2 You've been out there the day after the
3 burn.

4

5 **MS. DIANE HENSHEL:**

6 But how hard would it be --

7

8 **MR. PAUL CLOUD:**

9 You've seen how much stuff there is Diane.

10

11 **MS. DIANE HENSHEL:**

12 But how hard would it be to do a tracing
13 study?

14

15 **MR. PAUL CLOUD:**

16 We're getting back to the can or how hard it
17 is.

18

19

20 **MR. MIKE MULLETT:**

21 Or how expensive it would be to do that.

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MR. PAUL CLOUD:

Not the issue of policy and direction.

MS. DIANE HENSHEL:

I think you have that memorized Paul.

MR. PAUL CLOUD:

Well I'm sure you've got the questions
memorized too.

MR. KEVIN HERRON:

They don't even have any perimeter
monitoring wells at the perimeter on east or west at the
fence line where it would be safe to put one (1) in. That
would be my question is why they don't even have one (1)?

MR. PAUL CLOUD:

Part of the answer to that is that the State
has in fact monitored all the streams going into and out of
the Proving Ground for uranium. And they're continuing as
far as I know to do that on a monthly basis and they're not
getting any hits for uranium.

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MS. DIANE HENSHEL:

Well you're --

MR. PAUL CLOUD:

And I gave it - a sample data to Richard.

MR. RICHARD HILL:

Yeah.

MR. PAUL CLOUD:

So I mean they're doing that and they're not getting any hits.

MS. KAREN MASON-SMITH:

Now which office is that?

MR. PAUL CLOUD:

That's the Department of Health.

MR. KEVIN HERRON:

The Department - the people collecting the

1 sample are with our office of water quality in our stream
2 survey section. But they're collecting the samples and
3 taking it to our State Department of Health and/or
4 radiological health people and they're the ones that are
5 actually analyzing it.

6

7 **MS. DIANE HENSHEL:**

8 But there's no like muscle data?

9

10 **MR. KEVIN HERRON:**

11 Just water.

12

13 **MS. DIANE HENSHEL:**

14 Yeah.

15

16 **MR. PAUL CLOUD:**

17 That's a State initiative. They're free to
18 do that.

19

20 **MS. DIANE HENSHEL:**

21 I understand but water - water's harder to
22 hit. It's easier to find it in a place where it

23

24

1 concentrates.

2

3

4 **MR. KEN KNOUF:**

5 I thought that Dan Sparks had done some work
6 on muscles.

7

8 **MS. DIANE HENSHEL:**

9 No.

10

11 **MR. KEN KNOUF:**

12 None at all?

13

14 **MS. DIANE HENSHEL:**

15 Not that I know of. Dan referred me to
16 somebody else and said go talk to them so I got with them.

17

18 **MR. KEN KNOUF:**

19 I thought somebody had done some work.

20

21 **MS. DIANE HENSHEL:**

22 Somebody did a survey but nobody did

23

24

1 testing. There's no data on tests. Am I talking too
2 quietly again?

3

4 **MR. KEVIN HERRON:**

5 I can't hardly hear you.

6 **MS. DIANE HENSHEL:**

7 Somebody did a survey but nobody's done
8 testing so there's a difference obviously. And I think that
9 the bio-assay, the aquatic bio-assay, is definitely the
10 place to be finding any uranium because that's where you're
11 going to be getting the concentration and that's where it's
12 going to accumulate over time and where you're going to see
13 the influence over time of roll over products.

14

15 **MR. KEVIN HERRON:**

16 So the NRC needs to think about making that
17 a requirement?

18

19 **MS. DIANE HENSHEL:**

20 Oh I think that's a great idea. That plus
21 the air testing during the burnings, yeah.

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MR. PAUL CLOUD:

Are there any other questions?

MS. DIANE HENSHEL:

Put that in the paper again huh for the readers?

MR. PAUL CLOUD:

This slide basically shows the process under the Restricted Release Termination. If we continue along that we can complete the NRC's Technical Review in October of 2004 and in parallel with that they would be doing their Environmental Impact Statement Process. Again this slide shows the NRC's point of contact information. You've all seen this. It has Dr. Mclaughlin's commercial and toll free number and E-mail address on it and his normal mailing address. This is the Army's point of contact. This is Ms. Joyce Kuykendall. She's our Radiation Safety Officer. She is located at Aberdeen Proving Ground with me. It has her contact information there if you have any specific questions to ask her. Any additional comments or questions? Kevin?

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MR. KEVIN HERRON:

Okay. Kind of jumping back but the letter from - from the NRC accepting Army's contingent alternative License Termination request.

MR. PAUL CLOUD:

Un-huh (yes).

MR. KEVIN HERRON:

Now you have - the Army will be submitting an Amended License that they want?

MR. PAUL CLOUD:

Let me go over the process again. The Army made a proposal to the NRC. That was the February 4th letter saying because of our concerns about personnel safety, assuming you're going to have us go out and do significant site specific investigations north of the firing line we propose this. In April the NRC responded saying we agree with your proposal to enter into negotiations for a License Amendment for Possession Only.

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MR. MIKE MULLETT:

That's a good idea.

MR. PAUL CLOUD:

Now that has started this sequence which I laid out basically in the E-mail that was sent to the NRC today with this proposed schedule for this License Amendment process, i.e. January or July 1st meeting teleconference in Rockville.

MR. KEVIN HERRON:

So that puts us --

MR. PAUL CLOUD:

Well this is the NRC process. You have to understand.

MR. KEVIN HERRON:

But what are you going to comment on? Just the fact that you've asked to do it?

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MR. PAUL CLOUD:

It affords - this is my understanding. This is my understanding. Again you have to understand that it's the NRC's process, not the Army's process. My understanding is that it will be the initial opportunity for members of the community and i.e. any other regulators to be involved to express - to ask questions and to "express concerns". Just on the generic of what they know because I agree with you. Until the Army submits their draft they won't have a detail specific relevant to that draft. But that does not prevent them from identifying other issues, questions, concerns or raising flags. But subsequent to that the Army submits their draft in August, the NRC does their Federal Register notice, they have their public meetings out in the community and another opportunity.

MR. KEVIN HERRON:

Right. At that point that July meeting then people if they don't like the fact that - that path then they can say well we would rather stop.

MR. PAUL CLOUD:

1 Well but again that decision is as far as
2 whether or not the Army and the NRC continue down the path
3 for Possession Only that would be a decision ultimately that
4 the NRC would assume - they would make saying well based on
5 whatever input we don't think this is a viable alternative.

6 Let's go back to the Restricted Release Termination.
7 That's their decision, not the Army's per se. We have
8 proposed the alternative. They have accepted the invitation
9 basically to enter the negotiations. The Army has reserved
10 the right if we come up to a line that either they or we do
11 not want to cross then we'll go back to the other process.
12 Now they have that same option you know. If they're not
13 comfortable and don't want to cross the line then we'll say
14 time out. Go back. Did that answer your questions?

15

16 **MR. KEVIN HERRON:**

17 Un-huh (yes).

18

19 **MR. PAUL CLOUD:**

20 Any other comments or questions? Yes sir?

21

22 **MR. JOHN RUYACK:**

23

24

1 What would - how would we go about splitting
2 samples with Chipel? We don't have access to those
3 monitoring wells.

4

5 **MR. PAUL CLOUD:**

6 Until October probably not at all. They
7 were just here last week because that's when the next
8 scheduled sampling is. Should that sampling occur assuming
9 several things that one (1) the Possession Only has been
10 successfully negotiated and either the same or a different
11 sampling frequency has been established then request for
12 something like that could be made. The Army could evaluate
13 that but we would need to have something in writing with a
14 specific request as to who, what, when, where, why, how and
15 so on and so forth.

16

17

18 **MR. JOHN RUYACK:**

19 Who would that be addressed to?

20

21 **MR. PAUL CLOUD:**

22 It would probably be sent to Joyce.

23

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MR. JOHN RUYACK:

Joyce. Okay.

MR. PAUL CLOUD:

Anything else? Okay. This is the next RAB meeting, July 30th. It will be in Madison at the Public Library on Wednesday at seven o'clock (7:00) P.M. And these are the next two (2) meetings for the rest of the year, the one (1) in July and then the one (1) in November at South Ripley Elementary School. I have no further comments or any closing statements. Richard? Opportunity?

MR. RICHARD HILL:

Thank you everyone for coming tonight and appreciate their comments and if you didn't sign in ah there's a sign in sheet up front. That's about it I guess.
Thank you.

MR. PAUL CLOUD:

Thank you.

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MR. MIKE MULLETT:

One (1) last question.

MR. RICHARD HILL:

No, that's not it. Sorry about that.

MR. MIKE MULLETT:

I just wanted to - you're talking here about the next meeting being July 30th and you've indicated that DA would be submitting its Draft License Amendment on or about July 30th. Do you think it's likely that you would have the Draft License Amendment in time for the next meeting here?

MR. PAUL CLOUD:

Don't know. Possible. Possible. I'm sure that's something we will have to consider and based on what kind of feedback we get from the NRC on what we sent them today.

MR. MIKE MULLETT:

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Thank you.

MR. PAUL CLOUD:

Sure. Thank everyone for coming.

* * * * *

CONCLUSION OF HEARING

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C E R T I F I C A T E

STATE OF INDIANA)
) SS:
COUNTY OF JEFFERSON)

I, Sharon Shields, do hereby certify that I am a Notary Public in and for the County of Jefferson, State of Indiana, duly authorized and qualified to administer oaths;

That the foregoing public hearing was taken by me in shorthand and on a tape recorder on April 30, 2003 in the Jennings County Public Library, North Vernon, IN; That this public hearing was taken on behalf of the Jefferson Proving Ground Restoration Advisory Board pursuant to agreement for taking at this time and place; That the testimony of the witnesses was reduced to typewriting by me and contains a complete and accurate transcript of the said testimony.

I further certify that pursuant to stipulation by and between the respective parties, this testimony has been transcribed and submitted to the Jefferson Proving Ground Restoration Advisory Board.

WITNESS my hand and notarial seal this _____ day of May, 2003.

Sharon Shields, Notary Public
Jefferson County, State of Indiana

1 My Commission Expires:

2 July 2, 2007

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