





































1                   And we see at EPA FOSTs and FOSLs a  
2           little bit different than the Army sees FOSTs and  
3           FOSLs. We interpret -- we interpret the legislation  
4           to say that the regulatory community has in some cases  
5           concurrence authority and in some cases the law can be  
6           construed to say that we have just comment authority.  
7           Again, that's us. And we're at odds with the Army.  
8           And, please, don't misinterpret this and think that  
9           Bart and Chris and Ron are not seeing eye to eye on  
10          things, that's not what we're talking about here,  
11          we're talking about a policy issue. We think we have  
12          concurrence -- not concurrence authority, but  
13          certainly comment authority. And in Region 4 we view  
14          that as being a literal translation of the law that  
15          the Army is to seek our advice and our input. And  
16          while we're trying to do that, not all that  
17          comfortable in some of the things that are coming out  
18          in the FOSTs. And we're working the issues that are  
19          out there, but we may end up attaching a letter to a  
20          transfer document saying, we don't agree with your  
21          finding. We do not think that it's ready to transfer,  
22          for whatever reason. I'm telling you that to give you  
23          a heads-up so it's no surprise. By way of example,

1 one of the FOSTs here in front of y'all is parks and  
2 recreation.

3 MR. CHRIS JOHNSON: FOSL.

4 MR. BART REEDY: That's a FOSL  
5 there. One of the things that Chris and I are  
6 concerned about -- again, speak up if I misspeak or  
7 over-speak or under-speak -- in this particular  
8 document we have a concern that some of the property  
9 over at the golf course and some of the property  
10 captured in this lease has not been investigated to an  
11 extent where we can look you in the eye and say, to  
12 our best judgment, this property is clean, this  
13 property is not property that is going to present the  
14 community a short-term or a long-term problem or be a  
15 short-term or long-term problem for the ecological  
16 health of the area. And we think -- at EPA we think  
17 that the way to get past that hurdle is what is --  
18 what we term institutional controls. Institutional  
19 controls being non-engineered acts on a parcel of  
20 land. When we view a parcel of land, if there is a  
21 problem, it can be a human health or it can be an  
22 ecological problem -- there are a lot of ways to avoid  
23 the problem and thereby lower the risk. One of those

1 could be isolating the community from the problem, via  
2 fences, warning signs, deed restrictions, any number  
3 of ways to go about that, all non-engineered kinds of  
4 things. And we're not getting assurances from the  
5 Army on these properties, some of these properties  
6 right here, that indeed that's happening.

7 We've got -- in Region 4 we've got  
8 a plan that we've worked really well with a lot of  
9 folks, and it lays out very specifically what the  
10 service intends to do globally and very site specific,  
11 as well, two separate approaches to it. And we call  
12 that an institutional control plan. And it embraces  
13 everything from who is going to put the fence up, who  
14 is going to do what to clean this particular site up,  
15 who is going to be responsible after the green Army  
16 leaves, is the City of Anniston going to take it over.  
17 Those kinds of things are a little -- are of import,  
18 and they're laid out in the plans that I'm speaking  
19 to. And we're trying to work those plans right now.  
20 But I don't know that we're going to have the plans --  
21 I don't think the Army is going to get the plans ready  
22 in time to get this FOST out the door for you guys.  
23 That is my big concern. And you ought to know that,

1 so it does not come as a shock.

2 MR. CHRIS JOHNSON: And I think --  
3 and we met on this last week about this FOSL. And the  
4 problem is it's incorporating a lot of clean property  
5 that's ready to be, you know, even transferred, if  
6 they would like it to be transferred. The problem is,  
7 within the lease, there is also properties that's  
8 currently, you know, category seven, it's unevaluated.  
9 We think, you know, it's potentially there might be a  
10 problem there. The problem is we haven't finished the  
11 investigation and until we know the results of the  
12 investigation, it's hard to know where the problems  
13 are. So, when you even start trying to implement  
14 institutional controls, you're going to have to be  
15 real conservative up front with the institutional  
16 controls, not knowing truly what the problems are.  
17 So, to us, it seemed the -- the FOSL seemed kind of  
18 premature at this point, because, you know, the  
19 investigations aren't complete.

20 The second issue is a liability  
21 issue and something that we certainly want to make  
22 sure the language is appropriate, not only to protect  
23 the City of Anniston but also the Army, because the



1 problem is when two people use the same property and  
2 especially for similar use, it starts becoming  
3 difficult, if there ever is a problem or if we find a  
4 problem who is liable. And under CERCLA, under  
5 strict, joint, and several, the city can be liable if  
6 they're not careful on how they go about the language  
7 is written in these transfer documents.

8 So, and that was -- that was  
9 discussed. It was discussed with the JPA. It hasn't  
10 really, I don't think, been discussed with the City of  
11 Anniston Parks and Recreation, but it's certainly  
12 something we're concerned about. And so we're working  
13 on that language, as well, with the liability issues  
14 and making sure that's written appropriately.

15 MR. JAMES MILLER: What is the  
16 Army's response to your concerns?

17 MR. BART REEDY: Do you want the  
18 verbal or -- we have a problem. We've got a problem.  
19 TRADOC has committed to start working it. We've been  
20 -- we have been requesting -- we've been giving them  
21 heads up and been requesting that we work this stuff  
22 for a good, long time. And it just hasn't taken on  
23 the import that we feel that it should. It's really

1       difficult to predict what the Army's position -- what  
2       their final position is going to be. They gave us a  
3       verbal, yeah, we'll work it. But that's so broad that  
4       the devil is in the details. So, I can't give you a  
5       good answer. I cannot give you a decent answer.

6                       DR. BARRY COX: Bart, as a  
7       clarification, did you say you could or could not  
8       block the transfer of property?

9                       MR. BART REEDY: On the lease,  
10      Chris has the statutory authority to block it.

11                      DR. BARRY COX: What about the  
12      transfer?

13                      MR. BART REEDY: Well, that's up in  
14      the air. All of us are fussing about that.

15                      MR. CHRIS JOHNSON: The transfer,  
16      they have to have concurrence from the State. A lease  
17      -- and I'm not -- you know, it's our understanding  
18      that it's only able to attach comments for the lease.  
19      They have to attach our concerns and comments to the  
20      actual lease agreement.

21                      DR. BARRY COX: Will this go as a  
22      dirty FOSL or as a clean FOSL if it's transferred?

23                      MR. CHRIS JOHNSON: It would be

1 dirty.

2 MR. RON LEVY: Well, no, it's not  
3 going to be dirty, either. The problem is the data is  
4 not in yet and we're transferring property. In this  
5 case, the FOSL, we're leasing property where the data  
6 is not in yet, so that we've not completed all of the  
7 investigation. So, you can't say it's dirty, you  
8 can't say it's clean, because we don't have the data  
9 to support either.

10 MR. CHRIS JOHNSON: Well, you have  
11 to assume it's dirty in order to be protected with  
12 your institutional controls.

13 MR. RON LEVY: And I haven't said  
14 anything because I wanted y'all --

15 MR. BART REEDY: Go ahead.

16 MR. RON LEVY: There is definitely  
17 a difference of opinion here, in terms of also, as  
18 Bart pointed out, interpretation of what the law says.  
19 In fact, the Army's position is that on leases, we ask  
20 for comments and we try to address the comments.  
21 However, it doesn't stop the process. It's -- on  
22 transfers, the State does have some authority there.  
23 But even in that case, we'll attempt to resolve the





1 comments the best we can. And if we don't feel the  
2 comments are resolved, we will, again, attach the  
3 comments provided to the new -- to the property holder  
4 or the new property holder and also attempt to  
5 transfer it, as well, during that time period.

6 Bart and Chris are both right. We  
7 do have some difference -- major differences, as it  
8 relates to institutional controls, things that I'm  
9 hoping that we can get through, though, there is a big  
10 gap, between it. We are working it, Bart pointed that  
11 out. Hopefully, I can convince folks that we need to  
12 implement a responsibility, accountability piece,  
13 because I think that's your biggest problem, to these  
14 transfers, because I think what the biggest concern is  
15 here is, on property that's transferred, who is going  
16 to be there to take responsibility or be accountable  
17 for cleaning up. And that's not just saying, okay,  
18 big Army or big Department of Defense, it's who, who  
19 specifically is going to be there to do that. I think  
20 it gets rather specific.

21 Our differences on the lease,  
22 because we have not completed -- because we have not  
23 completed the investigations, we really cannot say one



1 way or the other whether they're clean or dirty. They  
2 were identified as category seven. If you all  
3 remember, we went through interpretations of what the  
4 different categories are under CERFA. It means  
5 they're unevaluated. Most of that is coming in and  
6 will be in before the end of the fiscal year, all that  
7 data. But we have not been able to present that to  
8 the State or to the EPA because it's just not done,  
9 yet. The thing that I would point out that the Army's  
10 position has been is that these facilities are going  
11 for like use. The golf course is going for a golf  
12 course to the City of Anniston. The gymnasium is  
13 going for a gymnasium. The tennis courts is a tennis  
14 court. Youth activity center, same thing. Volleyball  
15 courts, basketball, tennis courts, all that is going  
16 for the same thing.

17 Chris pointed out, it's a bigger  
18 issue than, you know, just the fact it's going for the  
19 same thing. The liability issues, we want to make  
20 sure the future property holder knows what he's  
21 getting into. And I understand that, but this is a  
22 lease. The Army's position, it's a lease. We still  
23 hold accountability for the property and to continue

1 on with the cleanup. And we have actually done all  
2 the sampling but we have not provided -- we haven't  
3 completed the analysis and provided the baseline to  
4 the State and EPA from that standpoint, that is  
5 correct. But again, the Army's position is that it's  
6 going for like use and because of that reason, there  
7 should not be a risk or a limited risk. And the data,  
8 although it's not complete, will be available for a  
9 baseline purposes. So, that's kind of how the Army  
10 views it.

11 MR. FERN THOMASSY: Can you put a  
12 time line on that baseline availability?

13 MR. RON LEVY: Lisa, have we got  
14 any time lines on when we think -- Ellis, when we  
15 think we're going to have this data available? It's  
16 something that we know is a need and we're trying to  
17 get it to Chris and Bart as soon as we can, but I  
18 don't --

19 MS. JEANNE YACOB: We have the  
20 data, we're just -- we have two reports submitted that  
21 we're waiting to hear their reviews so that once we  
22 get an agreement on format and what they have in terms  
23 of content, we'll start cranking out reports. But we

1 -

2 MR. RON LEVY: But some of the data  
3 actually, we haven't even started like on the UST  
4 stuff, but I don't think --

5 MR. POPE: Right.

6 MR. RON LEVY: -- we've even  
7 started that, which is something that --

8 MS. JEANNE YACoub: No, but most of  
9 the properties for SIs we've got the data.

10 MR. RON LEVY: We just have not got  
11 it to them. And he's right, he's not seen it, so he  
12 can't really say it's clean, not clean. However --  
13 and our position has always been, these facilities are  
14 going for like use. And what they've said as well is  
15 that we have to be concerned because things like the  
16 -- specifically, about the golf course, because we're  
17 going to turn it over to the City of Anniston being  
18 run as a golf course. The concern there is if we're  
19 not able to hand it off, there is jobs involved, and  
20 if you allow a golf course to stay idle, it becomes  
21 useless after -- I mean, it's just -- it goes to seed  
22 and because you've not kept up with it, it's going to  
23 be problematic.

1                   Now, that's not withstanding what  
2       Chris and Bart are concerned about, it's just a view  
3       on the part of the city and the Army to try to get  
4       this property into reuse. And we've done it through a  
5       lease process. And he's --what he also mentioned,  
6       well, there is other pieces in there that we know are  
7       category one, we should be able to transfer just as  
8       much. But we -- but our process, our process for  
9       transferring property is extremely cumbersome and  
10      long-term and that's transfers. So, our intent here  
11      was to get it out on a lease, because it was going for  
12      a like use early, so that we could continue on with  
13      the investigations and the cleanup, and then at some  
14      point when we can say, you know, we've completed that,  
15      then we look at doing the actual transfer, because I'm  
16      almost sure that the Army would not attempt to  
17      transfer the property if it was not clean, unless we  
18      could get the State to agree to transfer it. And in  
19      that case, it would be a dirty FOST.

20                   MR. FERN THOMASSY: Let me ask a  
21      couple of questions. Number one, site investigations,  
22      have any of the cuts in your funding then moved those  
23      site investigations out so they can't be done and

1 can't be contracted and can't be scheduled?

2 MR. RON LEVY: No. In fact, all of  
3 the work for these sites --

4 MR. FERN THOMASSY: They're gone?

5 MR. RON LEVY: The money is there  
6 and they're either under contract or working this.

7 MR. FERN THOMASSY: Has the JPA  
8 taken this list and established priorities or do you  
9 know what they want done first? Is there an  
10 agreement?

11 MR. RON LEVY: In working with the  
12 JPA, we do have -- we do have a list of in priority of  
13 property to go. This is driven not by, necessarily by  
14 the JPA, this was a public benefit conveyance to the  
15 City of Anniston. So, although the JPA concurred with  
16 it, it's really not their -- really not their action.  
17 And that's why Chris said, and does anybody in the  
18 City of Anniston know about this and understand their  
19 concerns, as well. And he wanted to talk to the City  
20 of Anniston about it, and we provided Chris with a  
21 point of contact on that.

22 MAYOR KIMBROUGH: They've talked to  
23 the JPA, they've got two members here.



1 MR. PETE CONROY: Yeah, the answer  
2 is, yes.

3 MR. CHRIS JOHNSON: That's the --  
4 we talked to Mr. Whitley and the lady on the end here.  
5 But that's the fundamental -- when we reviewed the  
6 FOSL, the first thing that come to mind was, you know,  
7 we can't agree -- I mean, that's what we're here to do  
8 is to provide the community assurance on the condition  
9 of the property. And really the Army sends us the  
10 document, asking ADEM and EPA, do you agree with the  
11 condition of the property. And that's what -- and  
12 that's why -- really what the document's doing, a  
13 finding of suitability to lease. And our whole -- you  
14 know, after we realized we didn't have the report in  
15 to give us the information we need to determine the  
16 environmental condition of the property, I wrote a  
17 letter to Ron, basically stating that the document's  
18 premature and we can't -- we can't concur with the  
19 findings, because we don't know them. And that's what  
20 brought us into this discussion that we're currently  
21 -- that's ongoing now about how, you know -- then what  
22 are we going to do.

23 Well, what we looked at is we're

1       needing two things, one, we need assurance on some  
2       liability that the Army will make sure that they'll  
3       clean up and investigate the contamination that's  
4       found based on the report that's coming at a later  
5       date. And two, that the ICs are properly written and  
6       in place to protect the people in case there are  
7       problems out there that we don't know about. So,  
8       that's the two fundamental issues that we're concerned  
9       with.

10                   MR. FERN THOMASSY: ICs?

11                   MR. CHRIS JOHNSON: Institutional  
12       controls. In other words, you know, letting the  
13       people know whether it's a tenant who mows the grass,  
14       whatever, don't dig here, don't drill wells here.

15                   MR. PETE CONROY: And you want to  
16       see that on paper?

17                   MR. CHRIS JOHNSON: Absolutely.

18                   MR. PETE CONROY: A plan?

19                   MR. BART REEDY: You bet.

20                   MR. PETE CONROY: For the record, I  
21       want to welcome Mayor Ed Kimbrough and also Lisa  
22       Kingsbury.

23                   What about more specifically, what

1 parcels are you concerned with? And more  
2 specifically, what are the concerns?

3 MR. CHRIS JOHNSON: We'd have to  
4 pull the actual -- but I can -- for example on the  
5 golf course, a good example would be the creek. We  
6 don't know the condition of sediments and surface  
7 water of the creek right now. So, that might be a  
8 good place to keep children from wading, keep people  
9 from going in there and getting their golf balls.  
10 There is also two mixing -- pesticide mixing and  
11 storage areas where there might have been some  
12 potential for some spills. That's a good area where  
13 we wouldn't want a construction worker out there  
14 digging in the ground or putting in a well, things  
15 like that. So, those are the kinds of restrictions  
16 you would place on the property, basically. Most of  
17 it is involved with restricting subsurface, you know,  
18 digging and getting into the soil subsurface and  
19 getting into the water. But also the golf course, the  
20 surface water and sediment would also be another  
21 restriction.

22 MR. BART REEDY: But this is --  
23 this is by way of example what we're talking about

1       when we talk about institutional controls is what he's  
2       talking about, but it's not just for the golf course,  
3       it's for, you know, various and sundry properties  
4       around the --

5                       MR. CHRIS JOHNSON: Right. In  
6       fact, they took -- there was two in there, Reily Lake  
7       and I think Yahoo Lake that were actually pulled out  
8       by the city, I think --

9                       MR. RON LEVY: Pulled out by the  
10      Army.

11                      MR. CHRIS JOHNSON: -- based on the  
12      Army saying we've got some potential landfill issues  
13      here. And, you know, so --

14                      MR. RON LEVY: Let me correct that.  
15      The city didn't pull anything out. We told them that  
16      --

17                      MR. CHRIS JOHNSON: Okay, the Army  
18      told them.

19                      MR. RON LEVY: -- we're not going  
20      to move to do anything on those because of the issues  
21      with them.

22                      MR. CHRIS JOHNSON: But those again  
23      are category seven sites that are unevaluated that,

1       you know, to me, right now, that we're not sure if  
2       those are a problem, either. So, the way we have to  
3       go about it is the golf course is category seven, so  
4       is Reily Lake. The bottom line is: We don't know the  
5       condition of the property from the environmental  
6       standpoint.

7                       MR. BART REEDY: Now, if the  
8       recipient of the property is fully aware of all of the  
9       data that's out there or the lack of data that's out  
10      there and the recipient is willing to step up to the  
11      plate and say, you bet, we'll continue the  
12      investigation as Chris sees it and as Bart Reedy sees  
13      it, as EPA and ADEM see it, and we're willing to  
14      bounce for the cleanup if there is a cleanup needed,  
15      we're -- we would have a lot bigger level of comfort  
16      that all the cards are on the table. We don't have  
17      that level of comfort, yet, at all.

18                     MR. FERN THOMASSY: But before you  
19      go to that, are you saying, both you and ADEM saying,  
20      that the Army will not add institutional controls to  
21      its documentation --

22                     MR. BART REEDY: Negative.

23                     MR. FERN THOMASSY: -- nor will it

1 take on the liability statement that it needs to,  
2 based on its baseline, to protect whoever takes it  
3 over until the investigations and any remediation that  
4 might be needed is accomplished?

5 MR. BART REEDY: That's kind of  
6 close, I think. It's not -- it's not that the Army  
7 has systematically said, no, we're not going to do  
8 this, it's just that we can't get it done. It's one  
9 thing to hear a no. If we heard a no, we would --  
10 Chris and I would be in a lot better position to give  
11 you some very fundamental plans on what we, our two  
12 agencies, intend on doing. We could answer that  
13 question a little more firmly for you. But we haven't  
14 got a no. We get verbal yeses. And there are some  
15 folks now, just within the past week, ten days, have  
16 started going, wait a minute, these guys down there  
17 are actually -- they actually mean what they're  
18 saying, they do want institutional controls and they  
19 want this stuff written down, so I guess we better pay  
20 attention. So, there are things -- there are people  
21 now actually working it and that's the first time  
22 that's happened.

23 MR. PETE CONROY: What kind of

1 delay would it make to have these institutional  
2 control documents in place?

3 MR. RON LEVY: Assuming that we  
4 stopped everything, a couple of -- several -- it  
5 depends on how quickly we could get through to some  
6 sort of agreement. And I -- you know, we're just  
7 starting that now. I've got to believe we're talking  
8 a couple, several months.

9 MR. CHRIS JOHNSON: I think one  
10 thing that needs to be mentioned, too, Ron, is that I  
11 think everybody is assuming that the Army can't  
12 continue operations and maintenance of these  
13 facilities after they leave, and that's not  
14 necessarily the case. All that's negotiable. The  
15 Army can continue maintenance programs on these areas,  
16 you know, if that's -- if that's what it takes. So, I  
17 don't -- they haven't come out and said they will,  
18 they haven't come out and said they won't. So, that  
19 needs to be clear, as well.

20 MR. RON LEVY: I'm not sure what  
21 you're saying, Chris.

22 MR. CHRIS JOHNSON: What I'm saying  
23 is: Just like Rick Akins (phonetic) said last week,

1       that the Army has not said they will or said they  
2       wouldn't maintain the golf course if they need to or  
3       these --

4                       MR. BART REEDY:  Cut the grass.

5                       MR. CHRIS JOHNSON:  Or cut the  
6       grass or whatever.

7                       MR. TOM TURECEK:  What's the  
8       function of this sixty person caretaker contingency  
9       that I read about?  Who owns that?  Is that Department  
10      of the Army's?

11                      MR. RON LEVY:  Uh-huh.

12                      MR. TOM TURECEK:  Maybe that -- is  
13      that part of what they're supposed to do --

14                      MR. RON LEVY:  No.

15                      MR. TOM TURECEK:  -- until the  
16      transition is complete?

17                      MR. RON LEVY:  No, they're not  
18      going to run the golf course, no.

19                      MR. TOM TURECEK:  Not run it but --

20                      MR. RON LEVY:  Or cut the grass or  
21      do anything -- a lot of them are property folks, some  
22      of the environmental staff, some are just transition  
23      folks that are involved in the turnover of the



1 property, and then there may be some -- a few  
2 contractor people -- that's not part of the sixty --  
3 that if we have to, we'll work things like grass  
4 cutting. But the golf course is a -- is a -- is a --  
5 it's not the same issue. I mean, the golf course is a  
6 money-making proposition for folks and it's intended  
7 to go to the City of Anniston.

8 MR. CHRIS JOHNSON: Well, I think  
9 the issue, though, is that the Army is -- you know,  
10 they are doing things like keeping the heating and  
11 cooling systems on to maintain integrity of the  
12 buildings. And to continue to cut a golf course to  
13 maintain its integrity, you know, to us is the same  
14 thing. So, it's -- and all that is negotiable.

15 But that's the issue that we wanted  
16 to certainly let you guys know about that we're having  
17 right now with the Army with the FOSLs. And this  
18 isn't just FOSTs and FOSLs, this is -- we have these  
19 same issues with fed-to-fed transfers --

20 MR. BART REEDY: Same issues.

21 MR. CHRIS JOHNSON: Call it a  
22 permit, call it an economic development conveyance,  
23 whatever, because the issues don't change. It still

1 goes back to liability, whether DOJ is getting the  
2 property or whether James Miller is getting the  
3 property, my issues don't change.

4 MR. JAMES MILLER: But you guys  
5 attaching a rider to all the transferring documents,  
6 saying that it wasn't cleaned up to your satisfaction,  
7 wouldn't that leave the Army liable if in fact  
8 anything was found and the --

9 MR. RON LEVY: Well, we are -- we  
10 will, no matter what, there will always be under  
11 CERCLA 120-H covenant that requires us by law to come  
12 back in the event something in the future is  
13 discovered. Now -- but it's more complicated than  
14 just that. There are details associated with that  
15 that have to be worked out that I think they want to  
16 point out. Just saying that as opposed to how that's  
17 actually accomplished are two different things.

18 MR. TOM TURECEK: If the City of  
19 Anniston said, okay, we'll take it under those  
20 conditions, then doesn't that introduce a risk on  
21 their part, too?

22 MR. RON LEVY: I would think so,  
23 yes.



1 MR. CHRIS JOHNSON: It certainly  
2 does.

3 MR. TOM TURECEK: And that's one of  
4 your major issues, right, is you don't want them to  
5 unknowingly, unwittingly lease a piece of property --

6 MR. CHRIS JOHNSON: Right.

7 MR. TOM TURECEK: -- without the  
8 attachments?

9 DR. BARRY COX: But on the other  
10 hand, also, your concern is -- I understand is that  
11 it's not only the City of Anniston's liability, but  
12 the risk of people that will be using the facility.

13 MR. CHRIS JOHNSON: Exactly, sure.

14 MAYOR KIMBROUGH: I thought you --  
15 when we started this thing, we brought up an issue,  
16 Ron -- and this might be two separate issues -- about  
17 the cleanup. And it was stated that when you cleaned  
18 the property up to the -- whatever level you had to,  
19 depending on the use of it, and then it was okayed, if  
20 they wanted to change that say from a park area to a  
21 residential area, which would dictate more cleanup, if  
22 they had accepted that property after that, then the  
23 Federal Government had no obligation, all they were

1 obligated to do was to clean it up to the level in  
2 which the first exchange was.

3 MR. BART REEDY: That is correct.

4 MR. CHRIS JOHNSON: That's right.

5 MR. BART REEDY: Everything you  
6 just said is correct. The Army -- the services -- and  
7 I -- my personal opinion is -- I believe this to be  
8 correct -- they have got one too many golf courses in  
9 Anniston, Alabama, and they want to get rid of the  
10 golf course. We've got data out there that has not  
11 been evaluated, yet, and there are impacts, we suspect  
12 some impacts from past activities that we need to --  
13 that we need to document. The Army -- and I believe  
14 correctly so -- is not going to clean the golf course  
15 or a parcel of property down here in, you know, in the  
16 mechanized area, they're not going to clean that up to  
17 a residential standard. That's not going to happen.  
18 And I don't think you and I would want to pay to have  
19 that done. Likewise, they're not going to -- they're  
20 not going to sell or transfer, get rid of a parcel of  
21 property that was cleaned up to a level to support  
22 industrial use, transfer the property and then have  
23 James again come back and go, you know, I changed my

1 mind, I'm not going to service trucks down here, what  
2 I'm going to do is set up an avie (phonetic) area, so,  
3 you guys need to come back and clean this up to  
4 absolute pristine. No, the Army is not going to do  
5 that. And I don't think any of us would expect that.  
6 So, that doesn't -- they're not doing that. That's  
7 not what we're talking about.

8 MAYOR KIMBROUGH: I would expect  
9 it, but I know some folks look at the money. But I  
10 would expect it to be able to be clean -- to clean it  
11 up to where it could be -- you wouldn't be limited on  
12 its use. And I know we're looking at finances and  
13 you're talking about that, but we're looking at it,  
14 you know, from this community as how can we best use  
15 this property.

16 MR. CHRIS JOHNSON: I'll tell you  
17 --

18 MAYOR KIMBROUGH: And if the  
19 priorities change on the use of that and it was  
20 established at one time that it was at level so and so  
21 that it was going to be cleaned, and then the  
22 priorities are, we don't know what's going to happen,  
23 twenty, twenty-five years and how it might develop and

1       how all the properties might change and the use of it  
2       might change.

3                       MR. BART REEDY: Right.

4                       MAYOR KIMBROUGH: And then I think  
5       it's very unfair if it's costly to put it on the  
6       burden of the person that purchases that property to  
7       clean it to -- when the Federal Government has put  
8       that there, to have the responsibility to spend that  
9       money when we have an opportunity to get it cleaned,  
10      now. And I know when we study -- I know about  
11      feasibility studies and about the money and everything  
12      like that, but I saw in the paper where we're sending  
13      millions of dollars to Russia to help them clean up.  
14      You know, so we're worried about Anniston, Alabama.

15                      MR. BART REEDY: And there are a  
16      lot of people that would absolutely agree with you  
17      that it should be as clean when the Army leaves as it  
18      was the day before they showed up. There is, however,  
19      lacking in the statute that power to make that happen.

20                      MR. CHRIS JOHNSON: I tell you,  
21      though, the goal that we have certainly at our  
22      department and I think amongst the BCT is that we're  
23      going to try to go and get as much unrestricted use as

1 we can out here.

2 MR. RON LEVY: That's a true  
3 statement, that we will do everything we can for --

4 MAYOR KIMBROUGH: Where is the two  
5 things that are going on now? And y'all might have  
6 discussed this, Marion Institute, this area up in  
7 here, and then the bypass is the big thing. And those  
8 are probably the two priorities. Is this hung up in  
9 what you're discussing now, exchange of this property?

10 MR. BART REEDY: I have yet to see  
11 -- I don't know the parcel of property that Marion  
12 Institute wants.

13 MR. CHRIS JOHNSON: I don't,  
14 either.

15 MR. BART REEDY: I don't want to --  
16 Mayor, I don't know that one right now. I can't speak  
17 to that.

18 MR. RON LEVY: We have not --

19 MR. BART REEDY: Now, the bypass,  
20 there is an Army of Army folks I guess it would be,  
21 doing -- working the UXO for the bypass. But the same  
22 kinds of issues that Chris and I are speaking to right  
23 now are happening over there, instead of a chemical



1       contaminant, there is another contaminant that goes  
2       boom.

3                       MR. CHRIS JOHNSON: I think from a  
4       timing aspect --

5                       MR. BART REEDY: Same stuff.

6                       MR. CHRIS JOHNSON: -- the bypass  
7       is not going to be a problem. You know, we're still  
8       on schedule with ADOT's schedule.

9                       MR. BART REEDY: Yes.

10                      MS. MIKI SCHNEIDER: The bypass  
11       does have some issues, though, outside this.

12                      MR. CHRIS JOHNSON: From what  
13       standpoint?

14                      MS. MIKE SCHNEIDER: Not regarding  
15       ADEM.

16                      MR. FERN THOMASSY: Part of the  
17       funding issues?

18                      MS. MIKI SCHNEIDER: Yeah.

19                      DR. BARRY COX: Is there a role  
20       that you see from what you're saying that you would  
21       like to -- or you think that the RAB should play in  
22       this issue?

23                      MR. BART REEDY: I would -- I don't

1 think I would ask -- right now, we're just giving you  
2 a piece of information so that there is no surprise.  
3 I don't think that you guys ought to do anything, yet,  
4 from -- I'll give you EPA's perspective, and then  
5 Chris can give you his perspective.

6 We have verbal -- a verbal  
7 agreement that the Army will start working  
8 institutional control, a plan. Who is doing what,  
9 when is it going to happen, who is going to be  
10 responsible for it? And we want a phone number. We  
11 want a name and a phone number. The Federal  
12 Government is just a little too broad as a contact  
13 point for us. Our position, quite frankly, is this:  
14 We're just going to wait for a minute -- and I've got  
15 a draft of some language on my desk on my computer  
16 right now, and I'm going to give that -- shoot that  
17 up to TRADOC to give them something to start  
18 scratching on. And if we can come up -- if they can  
19 come up with a global plan with solid teeth in it,  
20 agreeing to own the liability or agreeing that if they  
21 can find somebody out there that will take it dirty,  
22 we'll take it, they can get all that done globally,  
23 you probably haven't got a problem. But we don't know

1       that, yet. We're just -- we've been asking and been  
2       asking and it hasn't happened and now it's getting to  
3       a point where it's becoming critical. But, I guess,  
4       Barry, that don't do anything, yet. I just want you  
5       to be aware of it so if the next meeting comes around  
6       and there is a bunch of arm flapping going on, it  
7       won't catch you by complete surprise. I suggest that  
8       you give TRADOC a chance to fulfill their promise to  
9       do what they said they were going to do.

10                   MR. PETE CONROY: What's the next  
11       step? On somebody's calendar, what's the next meeting  
12       or --

13                   MR. BART REEDY: The next step is  
14       to get the language from Bart to Chris, get one more  
15       cut. Now, this is draft language, very draft  
16       language.

17                   MR. PETE CONROY: Of what?

18                   MR. BART REEDY: Institutional  
19       controls.

20                   MR. PETE CONROY: Requirements.

21                   MR. BART REEDY: A requirement,  
22       yeah, that we see, get that to TRADOC. And that  
23       should happen within the middle of next week.

1 MR. FERN THOMASSY: Will we get  
2 copies of that or can we get copies of that?

3 MR. BART REEDY: I wish you would.

4 MR. FERN THOMASSY: Thank you. I  
5 think we should.

6 MR. BART REEDY: I think you  
7 should, too.

8 MR. PETE CONROY: How do we arrange  
9 for that?

10 MR. BART REEDY: Ask me.

11 MR. PETE CONROY: We are formally  
12 asking you right now.

13 MR. BART REEDY: Then you'll get  
14 them.

15 MR. PETE CONROY: Okay. Of course,  
16 you'll --

17 MR. BART REEDY: Do you want them  
18 to go to you or how do you see that working?

19 MR. PETE CONROY: I would be --

20 MR. BART REEDY: This is what RABs  
21 do.

22 MR. RON LEVY: To tell you the  
23 truth, there is no reason why we wouldn't provide them

1 to you. I mean, if Bart provides them to me, we  
2 certainly can get copies of them and hand them out.  
3 Honestly, the Army is not going to withhold that  
4 information to you. So, I mean, Bart can give it to  
5 you or he can give it to us and we're going to see it,  
6 too, because we are working it together. And we can  
7 definitely put it before the RAB. So, just know that  
8 --

9 MR. PETE CONROY: I would suggest  
10 that it be sent directly, you know, to Ron, and then  
11 have Joan distribute them to all of us immediately.

12 DR. BARRY COX: Mail them out.

13 MR. PETE CONROY: Mail them out.

14 MR. RON LEVY: The thing about it  
15 is that this is all going to be working in draft. And  
16 just understand it's draft. We'll be working through  
17 --

18 MR. BART REEDY: And, please, hear  
19 what Ron just said. This is draft, liberty -- who's  
20 an attorney here? So, these are issues that we've  
21 got, you know, his attorneys, our attorneys, and  
22 TRADOC's attorneys are kind of fussing at it. We're  
23 trying to guide them down the road of where they ought

1 to go.

2 MR. PETE CONROY: Well, some of us  
3 have been sitting on this RAB here for a couple of  
4 years kind of at times wondering why we come to these  
5 meetings once a month.

6 MR. BART REEDY: This is why you  
7 come to the meetings.

8 MR. PETE CONROY: It's apparent to  
9 me, this is exactly the reason that we come to these  
10 meetings.

11 MR. BART REEDY: And you're going  
12 -- you'll get another real good example of why you  
13 come to the meetings when we start getting the SIs  
14 that we're talking about. Those ought to be starting  
15 to come in the door within the next --

16 MR. CHRIS JOHNSON: Month or so.

17 MR. BART REEDY: -- month and a  
18 half, two months.

19 MR. ELLIS POPE: Next month or so,  
20 yeah.

21 MR. BART REEDY: Yeah. We've got a  
22 -- we have a format, a couple of prototypes out there  
23 before Chris and I right now, that requires us -- that



1 we're -- that we need to tell these guys, yes, this is  
2 the way it needs to happen. This is the way the  
3 reports need to look. And then when those come in,  
4 you're going to get that data, too, that says, we took  
5 a sample here and it's dirty. We took a sample here,  
6 and it's clean. So, we're getting to where you guys  
7 are going to have a whole bunch to do.

8 MR. PETE CONROY: So now, you'll  
9 have these requirements for institutional controls --

10 MR. BART REEDY: No, sir. I'm  
11 going to --

12 MR. PETE CONROY: -- in a draft.

13 MR. BART REEDY: I'm going to make  
14 it clear -- and it's bold and highlighted draft.

15 MR. PETE CONROY: Good. And that  
16 will be then sent to Ron, to the Army.

17 MR. BART REEDY: Uh-huh.

18 MR. PETE CONROY: And then what are  
19 you going to do with it?

20 MR. RON LEVY: Well, we're going to  
21 be working it between ourselves until we get to the  
22 language that we feel we can both agree on. But when  
23 I get the first cut, if you want to see that,



1 certainly we'll let you see it. I mean, but again --

2 MR. PETE CONROY: Is that something  
3 everybody is interested in?

4 MR. FERN THOMASSY: Bart, will you  
5 be asking in your transmittal document, also for the  
6 Army to identify a specific entity and person to be  
7 responsible for laying out the plan to get this done  
8 and then accomplishing it and that being --

9 MR. BART REEDY: Negative.

10 MR. FERN THOMASSY: -- the  
11 development?

12 MR. BART REEDY: Negative, no.  
13 That is -- that's really Ron's job and there is --  
14 those people are already identified. The people that  
15 need to massage what the -- the product that I'm  
16 fixing to go give --

17 MR. FERN THOMASSY: Yeah.

18 MR. BART REEDY: -- those people  
19 are -- they know who they are.

20 MR. FERN THOMASSY: That wasn't  
21 what I heard earlier. I heard you say --

22 MR. BART REEDY: Then I misspoke.  
23 Try me again.

1 MR. FERNH TOMASSY: Okay. I heard  
2 you say earlier that just saying that the Department  
3 of Defense -- you said Federal Government -- but that  
4 the Department of Defense is going to do it wasn't  
5 enough, you wanted to have a specific phone number.

6 MR. BART REEDY: No, no, that's two  
7 -- you want to take a shot at it?

8 MR. CHRIS JOHNSON: That was for --  
9 as far as the negotiations on the ICs, those contacts  
10 are known. It's who within the Army is going to be  
11 responsible for, you know, implementation, monitoring,  
12 enforcement. You know, it could -- those kind of  
13 issues. That could be, you know, a police officer  
14 here on post. Those points of contact. Or EOD for  
15 example, they might be responsible. Those are the  
16 kinds of things, as far as points of contact, that  
17 we're unclear on. Has to do with more enforcing --

18 MR. BART REEDY: Does that --

19 MR. FERN THOMASSY: Yeah. I didn't  
20 see the separation before.

21 MR. PETE CONROY: Just out of  
22 curiosity, is this new news to the JPA or were you all  
23 aware of this conflict?



1 MS. MIKI SCHNEIDER: No. We had a  
2 discussion my first day on the job.

3 MR. BART REEDY: Was that your  
4 first day?

5 MS. MIKI SCHNEIDER: Yeah, it was.  
6 Regarding this.

7 May I ask a question? I don't know  
8 if it's appropriate.

9 MR. PETE CONROY: Yes.

10 MR. BART REEDY: Yes, it is.

11 MS. MIKI SCHNEIDER: Is this draft  
12 that you're going to be passing back and forth  
13 recommendations for general ICs or will these be FOSL  
14 specific? Will these be tied to a FOSL?

15 MR. CHRIS JOHNSON: This one right  
16 now is really speaking to this FOSL here.

17 MR. BART REEDY: Correct.

18 MR. CHRIS JOHNSON: But that's kind  
19 of something else we're asking for is we're wanting a  
20 master plan for ICs. And it is a little more general,  
21 that basically says, here is how we're going to  
22 implement, enforce, and do institutional controls.  
23 Then you have a specific plan for a specific piece of

1 property, because ICs change depending on each piece  
2 of property.

3 MS. MIKI SCHNEIDER: Right.

4 MR. CHRIS JOHNSON: So, this one  
5 right here, because it's before us now, really will be  
6 site specific.

7 MS. MIKI SCHNEIDER: Okay.

8 MR. CHRIS JOHNSON: Because we  
9 haven't gotten the big plan, yet, you know.

10 MS. MIKI SCHNEIDER: Okay. That  
11 answered my question.

12 MR. BART REEDY: This can be done.  
13 This project that we're talking about right now --

14 MR. CHRIS JOHNSON: It has to be  
15 done.

16 MR. BART REEDY: -- it has to be  
17 done and it can be done without being an impediment.  
18 But just sitting and waiting on it ain't going to make  
19 it happen.

20 DR. BARRY COX: Bart, you mentioned  
21 earlier the fed-to-fed transfer. Do you have any  
22 concerns about the sampling and the data or the  
23 procedure there?

1 MR. BART REEDY: The question, as I  
2 heard -- what I heard is a two-part question. The  
3 sampling and the data, no, there is no disagreement  
4 amongst us on the sampling, the methodology, any of  
5 the hard-core technical issues. No, we are in  
6 agreement there.

7 On a fed-to-fed, by way of example,  
8 we have a document in front of us on the DOJ property.  
9 And Chris and I had a pretty similar question. Who --  
10 you want to transfer the property, you got some folks  
11 that want it, we agree it should be transferred, needs  
12 to be transferred. Who at DOJ is going to -- who at  
13 DOJ is going to sign up and say, EPA, ADEM, we  
14 acknowledge that there are some areas out here that  
15 are uninvestigated and could be -- might or might not  
16 -- we had reason to believe that some of these  
17 properties were not clean. Not terribly dirty, but  
18 just not clean.

19 We would like that information. We  
20 would like that information. And it's EPA's position  
21 that really the public deserves that information.  
22 There's a difference of opinion between the Army and  
23 us over just how far we can stick our nose in there on

1 -- and ask, you know, very specifically, is L. Z.  
2 Going to be responsible for this? Who at DOJ is going  
3 to be responsible?

4 MR. DONALD CUNNINGHAM: Who signed  
5 for the CDTF? That's obviously dirty.

6 MR. BART REEDY: Say again.

7 MR. DONALD CUNNINGHAM: Who in DOJ  
8 has already or is in the process of assuming that  
9 responsibility for the CDTF, a known contaminated area  
10 that ain't going to get cleaned up?

11 MR. BART REEDY: Well, the  
12 building, itself, it's our understanding from what we  
13 have, the building, itself is -- other than various  
14 nerve agents, is actually pretty clean. That doesn't  
15 sound right.

16 MR. CHRIS JOHNSON: Actually, it's  
17 -- in other words, it's down to the three X level.  
18 They don't -- they wouldn't want to clean it to a five  
19 X level, because they're going to continue to do the  
20 same thing.

21 MR. BART REEDY: Right.

22 MR. CHRIS JOHNSON: So, us spending  
23 a whole lot of money and cleaning it up for them to

1 get it dirty again, obviously isn't --

2 MR. DONALD CUNNINGHAM: I  
3 understand that. What I'm saying is: It would appear  
4 to me that the CDTF or the DOJ's perspective should be  
5 a model for the rest, at least.

6 MR. RON LEVY: The CDTF, there is  
7 -- on the fed-to-fed transfer for the DOJ, there is  
8 really two separate issues going on here. One is  
9 we're transferring property that's outside of the CDTF  
10 buildings and other facilities, and then there is the  
11 CDTF. And there is language in the -- right now we're  
12 working a permit, first. I'll have to explain to you  
13 what that is. But there is language in that that  
14 says, you know, okay, we're responsible for  
15 everything, but the CDTF, as it applies to the live  
16 agent. And you take responsibility, because you're  
17 really doing what they're calling a hot transfer.  
18 You're taking it with whatever agent's inside the  
19 facility. And you will be responsible from here on  
20 for that.

21 However, anything that results from  
22 past Army practices really outside of the facility,  
23 you know, in and around that area, we sign up for as

























































































