

May 4, 2007 (8:50am)

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket No. 40-8838-MLA
	)	
U.S.ARMY	)	ASLBP No. 00-776-04-MLA
	)	
(Jefferson Proving Ground Site)	)	March 9, 2007

**ADDITIONAL DISCLOSURES OF THE U. S. ARMY**

Pursuant to 10 C.F.R. § 2.336(b) and the Board's Order of January 16, 2007, granting the parties' joint unopposed motion regarding mandatory disclosures ("January 16 Order"), Licensee U. S. Army ("Army"), by counsel, respectfully supplements its mandatory disclosures made on January 24, 2007, as follows:

(a) (1) The name, the address and telephone number of each person, including any expert, upon whose opinion the Army bases its response to Save The Valley's (STV's) claims and contentions and upon which the Army may rely as a witness, and a copy of the analysis or other authority upon which that person bases his or her opinion:

NO ADDITIONAL INFORMATION TO DISCLOSE AT THIS TIME

(a) (2) (i) Copies of all additional documents and data compilations in the possession, custody, or control of the Army that are relevant to STV's Contention B1 and its supporting bases are attached hereto as Exhibit A and are identified as follows:

1. E-mail from P. Cloud to M. Sweeney dated April 4, 2007, relating to April/May monitoring well site preparation and May/June monitoring well installation.

2. E-mail chain between P. Cloud and J. Skibinski last dated April 30, 2007, relating to field sampling procedures.

3. E-mail from J. Skibinski to P. Cloud dated April 18, 2007, relating to 3 additional aliquots from well sample.

4. The following listed documents were informally disclosed by Army to Counsel for STV and for the NRC Staff by e-mail dated February 13, 2007:

i. the website for requested "Archives Search Report for June 1995" and hard copies of the documents available for pick up by STV at JPG office; and

ii. copy of e-mails dated February 9, 2007 pertaining to disposal of April 2006 ERM samples.

**(a) (2) (ii)** Copies of all additional tangible things (e.g., books, publications and treatises) in the possession, custody, or control of the Army that are relevant to STV's Contention B1 and its supporting bases:

NO ADDITIONAL INFORMATION TO DISCLOSE AT THIS TIME

**(a) (2) (iii)** Pursuant to the Order modifying 10 CFR § 2.336, entered herein on January 16, 2007, the Army has not identified or produced: (a) documents on ADAMS which have been served in the current proceedings or the prior Jefferson Proving Grounds (JPG) decommissioning proceedings initiated on petition by STV; (b) media clippings, recordings or videos; and (c) duplicate copies of documents which are identical in content and annotation but are in the hands of multiple recipients.

**(a) (3)** Pursuant to the Order modifying 10 CFR § 2.336, entered herein on January 16, 2007, the Army submits the following list of additional documents, otherwise required to be disclosed, for which a claim of privilege or protected status is being made:

1. Power Point presentation identifying candidate additional characterization activities for funding augmentation, dated February 2006.

2. E-mail between J. Skibinski and P. Cloud dated April 4, 2007, relating to draft items for possible discussion with NRC Staff.

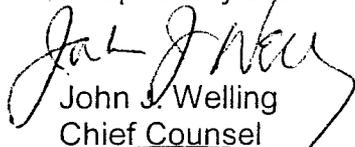
The Army claims a "deliberative process" privilege in each of the above listed additional materials in that such documents may reveal the mental processes of governmental officials generated prior to reaching a decision pertaining to submittals and proposals to the NRC in the decommissioning proceedings. No claim of privilege is made as to materials containing post-decisional analyses or that do not reveal the "give and take" of decision-making herein.

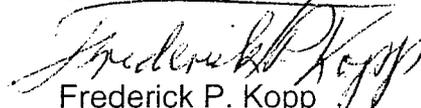
### Conclusion

The Army's additional disclosures made herein are based on the information and documentation reasonably available to it. The Army has not fully completed its investigation of the matters raised by STV in this case and reserves the right to amend and/or supplement the responses and disclosures made herein as further information becomes available. All relevant additional materials required by 10 CFR § 2.336, as modified, have been disclosed, and the additional disclosures are accurate and complete as of the date of this document.

Dated this 3<sup>rd</sup> day of May, 2007.

Respectfully submitted,

  
John J. Welling  
Chief Counsel

  
Frederick P. Kopp  
Counsel

U.S. Army Garrison – Rock Island Arsenal  
Office of Counsel (AMSTA-RI-GC)  
One Rock Island Arsenal Place  
Rock Island, IL 61299-5000

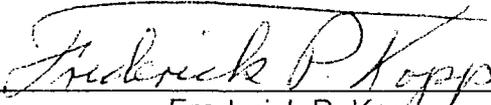
Attorneys for the Army

**Certification of Compliance with 10 CFR §2.336**

County of Rock Island     )  
  ) ss  
State of Illinois            )

The undersigned certifies that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, all relevant materials required by 10 CFR § 2.336, as modified by the Order pertaining thereto entered herein on January 16, 2007, have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

Signed this 3<sup>rd</sup> day of May, 2007.

  
\_\_\_\_\_  
Frederick P. Kopp

Subscribed and sworn to before me this 3rd day of May, 2007.

  
\_\_\_\_\_  
Notary Public.



## Exhibit A

### Item No. 1.

From: Cloud, Paul D RDECOM [paul.d.cloud@us.army.mil]  
Sent: Wednesday, April 04, 2007 10:33 AM  
To: Matthew Sweeney (matthew.sweeney@interr.ang.af.mil)  
Cc: 'Skibinski, Joseph N.'; Joe Robb (Joe\_Robb@fws.gov); Kopp, Frederick  
P Mr CIV USA USAMC; Welling, John CIV USA USAMC  
Subject: DU Area Well Activity

Matt: Per our discussion today, below is the schedule as I currently know it for the April/May monitoring well site preparation and the May/June monitoring well installation in and around the DU area at JPG.

For monitoring well site preparation:

1. 4/30 - 5/4
2. 5/7 - 5/11

For monitoring well installation:

1. 5-14 - 5/23
2. 5/29 - 6/7
3. 6/11 - 6/15

Should there be any changes to this schedule I will insure that the contractor /I keep you informed. Also, the contractor knows to coordinate with you and Fish and Wildlife Service for any activities north of the firing line.

If you have any questions please let me know.

Paul

**Item No. 2.**

From: Skibinski, Joseph N. [mailto:JOSEPH.N.SKIBINSKI@saic.com]  
Sent: Monday, April 30, 2007 11:14 AM  
To: Cloud, Paul D RDECOM  
Subject: RE: Report (UNCLASSIFIED)

Paul,

Sorry for the confusion due to the limited detail provided in my previous message. The point that I was trying to make is that the selection of the surface water and sediment sample locations may be influenced by precipitation events that will not be seen within a few weeks/days of completing the installation of the groundwater wells. Section 6.2.2 of the 2005 FSP discusses the relevance of groundwater stage monitoring as follows: □ In order to evaluate groundwater flow potentials, groundwater elevation fluctuations, and response to precipitation events, groundwater elevation recorders will be installed into select monitoring wells □ The recorders will be operated for a minimum of one hydrologic year and will be downloaded quarterly. □

In addition, Section 4.1 of the Well Location Selection Report states, □ Discontinuities in the bedrock (e.g., faults, fractures, joints, and bedding planes) are avenues for movement of groundwater □ the majority of the flow through the aquifer occurs within the groundwater conduits. □ As some of these conduits may intersect with streams and cave springs, the influence of precipitation on the flow between groundwater and surface water will not be known until the elevation data from the monitoring wells and surface water gauging stations have been evaluated together. By the time the wells will have been installed, ten months of stream and cave spring elevation data will have been collected, but only one part of the hydrologic year will have been measured for groundwater.

In light of the discussion above, we can either develop a FSP Addendum based on the information that will be available in July 2007 (Option 1) or we can wait until we have additional groundwater stage data (Option 2). As it appears that NRC is interested in reviewing the sampling protocols soon, I believe Option 1 is preferable to them. However, if we do so, it is possible that some of the surface water and sediment sample locations may need to be adjusted or samples may need to be added later. This is what is meant by the □ compromise □ referenced in the original message. Option 2 would provide more data upon which to determine surface water and sediment sample locations, but it may not meet the needs of NRC. Feel free to contact me at (703)810-8994 if you have any further questions or concerns.

Regards,  
Joe

---

From: Cloud, Paul D RDECOM [mailto:paul.d.cloud@us.army.mil]  
Sent: Monday, April 23, 2007 2:13 PM

To: Skibinski, Joseph N.  
Cc: Kopp, Frederick P CIV USA USAMC; john.j.welling@us.army.mil  
Subject: RE: Report (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Joe: I am not sure what is meant in the third paragraph below (the one that begins "One drawback that still exists ..."). Please respond by providing a more detailed explanation of what is meant in the discussion in that paragraph.

Paul

-----Original Message-----

From: Skibinski, Joseph N. [mailto:JOSEPH.N.SKIBINSKI@saic.com]  
Sent: Wednesday, April 18, 2007 8:09 PM  
To: Cloud, Paul D RDECOM  
Subject: RE: Report (UNCLASSIFIED)

Paul,

We have fixed the problem with the username/password on the JPG website, so you should be able to access it now. I was successful when I tried a few minutes ago.

I spoke with Todd about the timeframe needed for developing FSP Addendum 5. He believes we could collect groundwater levels after all the wells have been installed and developed, hopefully at the end of June. We could then collect the surface water flow data for the month of July and tie it together with the groundwater level data to develop a recommended set of surface water/sediment sample locations by the end of July (assuming no hearing occurs).

One drawback that still exists is the limited understanding of the communication between groundwater and surface water based on data for only a brief part of the hydrologic cycle. In other words, the flow conditions could differ during the wet season, which could result in the need to add and/or move surface water/sediment locations. Perhaps a compromise is to develop FSP Addendum 5 using a smaller number of samples with the understanding that more may be needed and some locations may need to be moved during the latter stages of the characterization process.

Joe

---

From: Cloud, Paul D RDECOM [mailto:paul.d.cloud@us.army.mil]  
Sent: Wednesday, April 18, 2007 1:30 PM  
To: Skibinski, Joseph N.

Subject: Report (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Joe: The Ebinger report we talked about is attached. Also, Is there some reason there is a username and password now required to assess the JPG web site on the SAIC server?

Paul

Paul D. Cloud  
JPG BEC  
RSO for JPG  
OSD BTC for JPG

410-436-2381  
DSN 584-2381  
FAX: 410-436-1409

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Item No. 3.**

From: Cloud, Paul D RDECOM [mailto:paul.d.cloud@us.army.mil]  
Sent: Wednesday, April 18, 2007 9:46 AM  
To: 'Skibinski, Joseph N.'  
Cc: Kopp, Frederick P CIV USA USAMC; Welling, John CIV USA USAMC  
Subject: RE: Spring 2007 ERM Sampling During Week of 23 April 2007

Joe; Thanks, Paul

-----Original Message-----

From: Skibinski, Joseph N. [mailto:JOSEPH.N.SKIBINSKI@saic.com]  
Sent: Wednesday, April 18, 2007 10:38 AM  
To: Evens, Brooks; Cloud, Paul  
Subject: Spring 2007 ERM Sampling During Week of 23 April 2007

Paul and Brooks,

We will have 2 staff (Max Wilkinson and Eric Schrupf) onsite at JPG next week (arriving 23 April and departing on 27 April). They will conduct the semi-annual environmental radiation monitoring (ERM) sampling. We have requested Mr. Ken Knouf to purge the wells and document general information about the purging (e.g., date of purge, approximate volume).

While we are there, we will collect 3 additional aliquots from well MW-DU-006 for analysis by high resolution-inductively coupled plasma-mass spectrometry (HR-ICP-MS). They will be analyzed under the following scenarios: (1) analyzed via HR-ICP-MS with standard techniques and method detection limits (MDLs) (normal dilution); (2) analyzed via HR-ICP-MS with enhanced MDL for U-235, no dilution (provided that total dissolved solids [TDS] is low enough); and, (3) analyzed via HR-ICP-MS with greatly enhanced MDL for U-235, attempted pre-concentration of the sample (again, based upon TDS). The results will be used to determine the viability of using HR-ICP-MS for the planned characterization efforts. At this point, we are trying to keep the information separate so it is not included in the ERM report. We will probably document the results separately in a stand-alone white paper to NRC and/or in FSP Addendum 5. We will discuss these options with you before submitting anything in writing.

Feel free to contact me at (703)810-8994 if you have further questions or concerns.

Regards,  
Joe

**End of Primary Document and Attachments**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Alan S. Rosenthal, Chair  
Dr. Paul B. Abramson  
Dr. Richard F. Cole

_____	)	Docket No. 40-8838-MLA
In the Matter of	)	
U.S. ARMY	)	ASLBP No. 00-776-04-MLA
(Jefferson Proving Ground Site)	)	May 3, 2007
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the Additional Disclosures of the U. S. Army filed on May 3, 2007 in the above-captioned proceeding have been served on the following persons by U. S. Mail, first class, and (as indicated by asterisk) by e-mail this 3rd day of May 2007:

Administrative Judge Alan S. Rosenthal, Chair\*  
Atomic Safety and Licensing Board Panel  
U. S. Nuclear Regulatory Commission  
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E-mail: [rsnthl@comcast.net](mailto:rsnthl@comcast.net)

Administrative Judge Paul B. Abramson,\*  
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U. S. Nuclear Regulatory Commission  
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Washington, D.C. 20555-0001  
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Administrative Judge Richard F. Cole\*  
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U.S. Nuclear Regulatory Commission  
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Office of Commission Appellate Adjudication  
U.S Nuclear Regulatory Commission  
Mail Stop: O-16-O-15  
Washington, DC 20555-0001

Richard Hill, President \*  
Save the Valley, Inc.

Office of the Secretary \*  
Attn: Rulemaking & Adjudications Staff

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E-mail: [phill@venus.net](mailto:phill@venus.net)

U.S. Nuclear Regulatory Commission  
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E-mail: [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov)

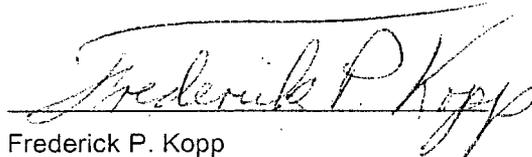
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Tom McLaughlin, \*  
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Environmental Management Programs (FSME)  
Division of Waste Management and  
Environmental Protection (DWMEP)  
Decommissioning and Uranium Recovery  
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Materials Decommissioning Branch (MDB)  
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Dated May 3, 2007



Frederick P. Kopp  
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**From:** "Kopp, Frederick P CIV USA AMC" <frederick.kopp@us.army.mil>  
**To:** "Gatheright, Venita Ms CIV USA AMC" <Venita.Marie.Gatheright@us.army.mil>, <rsnthl@comcast.net>, <rfc1@nrc.gov>, <daw1@nrc.gov>, <pba@nrc.gov>, <MLZ@nrc.gov>, <DER@nrc.gov>, <HEARINGDOCKET@nrc.gov>, <mmullett@mullettlaw.com>, <phill@venus.net>, <src2@nrc.gov>, <tgm@nrc.gov>  
**Date:** Mon, May 14, 2007 9:03 AM  
**Subject:** RE: In the Matter of U.S. Army (Jefferson Proving Ground Site); Docket No. 40-8838-MLA; ASLBP No. 00-776-04-MLA, March 9, 2007

Please disregard the typo on the cover sheet of Army's recently submitted "Additional Disclosures". The case heading bears a date of "March 9, 2007" although the signature and certification of completeness bear the date of "May 3, 2007". May 3, 2007 is the correct date. I apologize for any confusion this may have caused.

DOCKETED  
USNRC

May 14, 2007 (9:03am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

//signed//  
Frederick P. Kopp  
Attorney-Advisor  
U.S. Army Garrison-Rock Island Arsenal  
Office of Counsel (AMSTA-RI-GC)  
Bldg. 90, 2nd Flr, Rm 24A  
Rock Island, IL 61299-5000  
DSN 793-7951; Comm (309) 782-7951; Fax (309) 782-3475  
E-mail: koppf@ria.army.mil

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-----Original Message-----

**From:** Gatheright, Venita Ms CIV USA AMC  
**Sent:** Thursday, May 03, 2007 4:12 PM  
**To:** 'rsnthl@comcast.net'; 'rfc1@nrc.gov'; 'daw1@nrc.gov'; 'pba@nrc.gov'; 'MLZ@nrc.gov'; 'DER@nrc.gov'; 'HEARINGDOCKET@nrc.gov'; 'mmullett@mullettlaw.com'; 'phill@venus.net'; 'src2@nrc.gov'; 'tgm@nrc.gov'  
**Cc:** Kopp, Frederick P CIV USA AMC; Welling, John CIV USA AMC; Gatheright, Venita Ms CIV USA AMC  
**Subject:** In the Matter of U.S. Army (Jefferson Proving Ground Site); Docket No. 40-8838-MLA; ASLBP No. 00-776-04-MLA, March 9, 2007  
**Importance:** High

The attached Additional Disclosures of the U.S. Army are provided in the above captioned matter. The POC is Mr. Frederick P. Kopp, USAG-RIA, Office of Counsel, (309) 782-7951.

//signed//  
Venita M. Gatheright  
Paralegal Specialist  
Military Legal Assistance and Claims  
U.S. Army Garrison-Rock Island Arsenal

Office of Counsel (AMSTA-RI-GC)  
Bldg. 90, 2nd Flr, Rm 27  
1 Rock Island Arsenal  
Rock Island, IL 61299-5000  
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\*\*\*\*\*This document was digitally sent to you using an HP Digital Sending device.\*\*\*\*\*

CC: "Welling, John CIV USA AMC" <john.j.welling@us.army.mil>

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**Subject:** RE: In the Matter of U.S. Army (Jefferson Proving Ground Site); Docket No. 40-8838-MLA; ASLBP No. 00-776-04-MLA, March 9, 2007

**Creation Date** Mon, May 14, 2007 9:02 AM

**From:** "Kopp, Frederick P CIV USA AMC" <frederick.kopp@us.army.mil>

**Created By:** frederick.kopp@us.army.mil

**Recipients**

nrc.gov

OWGWPO03.HQGWDO01

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**Files**

MESSAGE  
Mime.822

**Size**

2043  
4802

**Date & Time**

Monday, May 14, 2007 9:02 AM

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**ReplyRequested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

**Junk Mail Handling Evaluation Results**

Message is eligible for Junk Mail handling  
This message was not classified as Junk Mail

**Junk Mail settings when this message was delivered**

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Junk Mail using personal address books is not enabled  
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