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ARMY CONTRACT MANAGEMENT: COMPLIANCE WITH OUTREACH AND PUBLIC ACCEPTANCE AGREEMENTS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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ARMY CONTRACT MANAGEMENT: COMPLIANCE WITH OUTREACH AND PUBLIC ACCEPTANCE AGREEMENTS

WEDNESDAY, OCTOBER 22, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING
THREATS AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Dayton, OH.

The subcommittee met, pursuant to notice, at 12:37 p.m., in the Fred Smith Auditorium, Sinclair Community College, 444 West Third Street, Dayton, OH, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays and Turner.

Staff present: Lawrence Halloran, staff director and counsel; Robert A. Briggs, professional staff member/clerk; and Chris Skaluba, Presidential management intern.

Mr. SHAYS. A quorum being present, the Subcommittee on National Security, Emerging Threats and International Relations hearing entitled, "Army Contract Management: Compliance with Outreach and Public Acceptance Agreements," is called to order.

Let me first thank Congressman Mike Turner for inviting the subcommittee to Dayton today, and for his thoughtful, diligent service as our vice chairman. His experience, his insight and his candor have added invaluably to our oversight. Obviously when it comes to reforming government, this is no freshman.

We convene here because, as former Mayor Turner will not stop reminding us, everything and everyone in the world has some connection to Dayton. [Laughter.]

As the people of Bosnia-Herzegovina know, what happens here can have international, even global, implications.

The apparently local issue at hand is an Army subcontract for treatment and release of byproducts from the destruction of the chemical weapon VX. But what this community has experienced in the implementation of that contract will have a profound impact on how the United States conducts the process of meeting international treaty obligations for the destruction of VX stockpiles under the Chemical Weapons Convention.

That process, pursued through Army contractors, makes local disposal of the VX dissolution byproduct, hydrolysate, specifically contingent upon the establishment and maintenance of public acceptance. The contract requires detailed, sustained and successful public outreach to build and maintain that acceptance, as it should.

The necessary and noble enterprise of ridding the world of dreaded chemical weapons should not terrorize the localities involved with the technical jargon and vaguely characterized environmental risks. Civic understanding and approval are indispensable elements of this effort. Public confidence should not be diluted or destroyed with the VX.

But the Army at times has appeared to forget, or regret, the critical public outreach and acceptance elements of the agreement. Alternatively attempting to ritualize, minimize or altogether shift responsibility for civic involvement, the government and its contractors have succeeded only in galvanizing public anxiety and opposition to the VX hydrolysate disposal plan.

If only as a cautionary tale how not to forge a required popular consensus, testimony today will be of significant value as the Federal Government, States and localities pursue the important and challenging public business of chemical disarmament.

On behalf of our members, all of whom will receive a complete transcript of today's proceedings, we welcome our witnesses and guests to this hearing. We look forward to a frank discussion of this community's experience and the lessons Dayton holds for the national chemical weapons demilitarization program.

With that, I gladly give up the chair to the Vice Chair.

[The prepared statement of Hon. Christopher Shays follows:]

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Statement of Rep. Christopher Shays
October 22, 2003

Let me first thank Congressman Mike Turner for inviting the Subcommittee to Dayton today, and for his thoughtful, diligent service as our Vice Chairman every day. His experience, his insight and his candor have added invaluably to our oversight. Obviously, when it comes to reforming government, this is no freshman.

We convene here because, as former Mayor Turner won't stop reminding us, everything and everyone in the world has some connection to Dayton. As the people of Bosnia-Herzegovina know, what happens here can have international, even global, implications.

The apparently local issue at hand is an Army subcontract for treatment and release of byproducts from the destruction of the chemical weapon VX. But what this community has experienced in the implementation of that contract will have a profound impact on how the United States conducts the process of meeting international treaty obligations for the destruction of VX stockpiles under the Chemical Weapons Convention.

That process, pursued through Army contractors, makes local disposal of the VX dissolution byproduct, hydrolysate, specifically "contingent upon the establishment and maintenance of public acceptance." The contract requires detailed, sustained and successful public outreach to build and maintain that acceptance; as it should.

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But the Army at times has appeared to forget, or regret, the critical public outreach and acceptance elements of the agreement. Alternately attempting to ritualize, minimize or altogether shift responsibility for civic involvement, the government and its contractors have succeeded only in galvanizing public anxiety and opposition to the VX hydrolysate disposal plan.

If only as a cautionary tale how not to forge a required popular consensus, testimony today will be of significant value as the federal government, states and localities pursue the important and challenging public business of chemical disarmament.

On behalf of our Members, all of whom will receive a complete transcript of today's proceedings, we welcome our witnesses and guests to this hearing. We look forward to a frank discussion of this community's experience and the lessons Dayton holds for the national chemical weapons demilitarization program.

Mr. TURNER [presiding]. Thank you, Mr. Chairman.

I greatly appreciate the chairman having this field hearing and coming to Dayton. He is a leader in the area of national security and on issues of terrorism. He has pushed for U.S preparedness and for preparedness at the local level for responding to terrorist incidences even prior to September 11th. He has led our committee most recently on looking at issues such as the safety of our nuclear weapons stockpiles, nuclear power plants and air cargo carriers and has been a major advocate for increasing the safety in each of those areas. He has brought the full weight and authority of this committee on to this issue, and I do want to say that we would not be here but for his willingness to look at this issue. And I do believe that we would not be having the same outcome but for his interest and appreciation for what this community was attempting to do.

We want to recognize our county commissioners and their efforts in trying to apply sound science and principles in their efforts to reject the permit of Perma-Fix. We have County Commissioner Curran here with us today, along with Vicki Peg and Don Lucas. They are to be commended for taking a stance on a regulatory basis and saying not in our community. And, of course, we have to congratulate Mary Johnson, Willa Bronston, Ellis Jacobs and Jane Forrest for all of their efforts in organizing the community. Angela Jones and the township trustees, what you have done in Jefferson Township in making certain that this is a regional effort and not just a community effort has been very important. This is very Dayton of us to have reached out together and sought a solution that we could all make certain that we could implement.

The testimony today will give us an opportunity for everybody to give their input on the community-wide effort, talk a little about science, talk about intended policies, talk about—we will be talking a little bit about the international treaties that impact this process. We will be talking about processing contracts because that is the issue that really brings us here. It is important that we are having this hearing, but what is most important is that at the end of it we are expecting to hear from Perma-Fix and Parsons and the Army, the results of your hard work, and the resounding answer that this contract will be terminated and these materials will not be coming to our community.

Having said that, I do have a written opening statement that I would like to read for the record. It says that the purpose of this hearing is to review the Army contract and subcontract management in the chemical weapons demilitarization program. As we all know, the Chemical Weapons Convention prohibits the development, production, acquisition, stockpiling, transfer and use of chemical weapons. Under this Convention, the United States must destroy the chemical weapons and chemical weapons production facilities it possesses. The United States currently maintains eight military sites with stockpiles of chemical weapons awaiting destruction by the 2007 deadline.

The Army's plans for destruction of the Newport site was a two-step process of neutralization. Both steps were originally scheduled to be done at the Newport site. However, after the events of Sep-

tember 11th, chemical weapons stockpiles were believed to be vulnerable targets for future terrorist attacks.

Accelerating the destruction of the Newport stockpile became a concern to the Army; thus, the second step of neutralization to destroy the Newport VX was contracted out. And last December, Perma-Fix of Dayton was awarded a $9 million contract to treat and dispose of the hydrolysate shipped from the Newport site.

Mr. Chairman, no one in this community opposes the acceleration of the destruction of the chemical weapons. The problems in our community come from the Army's refusal to establish public acceptance for the planned transport and disposal.

Our witnesses here today will testify that at best the Army has been inconsistent about its stance with regard to the level of public acceptance necessary. The Army has continually delayed responding to concerns and requests for information on the processes from local communities as well as this subcommittee.

Thirty-six local boards and councils passed resolutions against the transport of hydrolysate at Montgomery County. Still Army claimed that it had sufficiently addressed public acceptance requirements of the contract.

As a resident of this community, I am glad that the subcontract has been canceled. However, I am deeply concerned about the Army's unwillingness to recognize the problems inherent in its approach here in Dayton. Chemical weapons destruction is a sensitive issue that will require serious debate in any community that it might affect.

Mr. Chairman, I want to thank you again for your efforts in working with me and allowing this hearing to go forward in our community. And to our witnesses, I want to thank them for their efforts in this great outcome for our community.

[Applause.]

[The prepared statement of Hon. Michael R. Turner follows:]

Statement of Congressman Michael R. Turner
Subcommittee on National Security, Emerging Threats, and International Relations
"Army Contract Management: Compliance with Outreach and Public Acceptance Agreements"

Mr. Chairman, I would like to thank you for taking the time to convene this field hearing in Dayton. The purpose of this hearing is to review the Army contract and subcontract management in the chemical weapons demilitarization program.

I would also like to thank our local officials for taking time from their busy schedules to explain to us the local communities interaction with the Army and Permafix – specifically in respect to attempts at public outreach – over the last year.

As we all know, the Chemical Weapons Convention entered into prohibits the development, production, acquisition, stockpiling, transfer and use of chemical weapons. Under this Convention, the United States must destroy the chemical weapons and chemical weapons production facilities it possesses. The U.S. currently maintains eight military sites with stockpiles of chemical weapons awaiting destruction by the 2007 deadline.

The Army's plans for destruction at the Newport site was a two-step process called neutralization – both steps were originally scheduled to be done at the Newport site. However, after the events of September 11, 2001, the chemical weapons stockpiles were believed to be vulnerable targets for future terrorist attacks.

Accelerating the destruction of the Newport stockpile became a concern to the Army. Thus the second step of neutralization to destroy the Newport VX was contracted out. Last December, Permafix of Dayton was awarded a $9 million contract to treat and dispose of the hydrolystate shipped from the Newport site

Mr. Chairman, no one in this community opposes the acceleration of the destruction of the chemical weapons. The problems in our community come from the Army's refusal to establish "public acceptance" for the planned hydrolysate transport and disposal.

Our witnesses here today will testify that at best the Army has been inconsistent about its stance with regard to the public acceptance measure of the Permafix subcontract. The Army has continually delayed responding to concerns and requests for information on the process from local communities as well as your subcommittee.

Thirty-six local boards and councils passed resolutions against the transport of hydrolysate to Montgomery County. And still the Army claimed it had sufficiently addressed the public acceptance requirements of the contract. Even upon cancellation of the subcontract, the Army is insisting that the decision to cancel the contract was made by Parsons Inc, rather than recognize the public rejection of this activity in the Dayton community.

As a resident of this community, I am glad the subcontract has been cancelled. However, I am deeply concerned about the Army's unwillingness to recognize the problems inherent to its approach here in Dayton. Chemical weapon destruction is a sensitive issue that will require serious debate in any community it may affect.

Mr. Chairman, again thank you for working with me in Washington to get answers to this communities concerns. To our witnesses, I thank you for your willingness to testify on the crusade the community has taken over the last year.

Mr. TURNER. On a procedural note, I will ask unanimous consent that all members of the subcommittee be permitted to place any opening statement in the record and that the record remain open for 3 days for that purpose. Without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statements in the record. Without objection it is so ordered.

If we would please have all of our witnesses stand on the first panel, I will swear you in.

[Witnesses sworn.]

Mr. TURNER. Please note for the record that the witnesses responded in the affirmative.

We have a very distinguished panel of community leaders. Our first testimony on panel one comes from the Honorable Idotha Bootsie Neal, Commissioner, city of Dayton.

STATEMENTS OF IDOTHA BOOTSIE NEAL, COMMISSIONER, CITY OF DAYTON; ANGELA JONES, TRUSTEE, JEFFERSON TOWNSHIP; MARY JOHNSON, PRIVATE CITIZEN; ELLIS JACOBS, ATTORNEY, LEGAL AID SOCIETY OF DAYTON; DENNIS BRISTOW, COORDINATOR, DAYTON REGIONAL HAZARDOUS MATERIALS TEAM; AND JAMES A. BRUEGGEMAN, DIRECTOR, MONTGOMERY COUNTY SANITARY ENGINEERING DEPARTMENT

Ms. NEAL. Well thank you very much, Chairman Shays and Vice Chairman Turner. We really appreciate the subcommittee coming to Dayton, OH on a very important issue and allowing us to have as a part of the community record what the position is.

Good afternoon and thank you for allowing me to speak before you today. In light of the recent decisions that have been announced regarding the proposed agreement between the Army and Perma-Fix of Dayton, I want to thank the House Subcommittee on National Security, Emerging Threats and International Relations for proceeding with today's hearing as a way to officially document the community's position.

From the onset of discussions in March regarding the proposed agreement between the Army and Perma-Fix, I submit that the public has voted consistent and rational, fair in opposition on numerous fronts.

The city of Dayton is on record as of 1 of 33 regional government agencies or organizations opposed to the proposed agreement. We believe such concerted and overwhelming opposition to the agreement is a clear signal of the public's sentiment. To ignore such evidence would be in direct violation of the requirement to gain public acceptance before any final agreement could be consummated.

It is clearly a failure on the part of the key parties involved to galvanize community support and gain acceptance of the proposed agreement. In fact, despite attempts to educate and sway the public into accepting the proposal, the community used the information that was supplied as a way to clearly and rationally outline further public health concerns and justification for its opposition.

The response by the community to oppose the Army's contract with Perma-Fix should in no way be considered a rash, impulsive reaction. The volume and scope of information that the public has

effectively presented to help justify its opposition demonstrates that considerable thought and review went into reaching its conclusions.

Experts in various fields carefully analyzed the impacts if the agreement were to take effect. Questions raised by the city of Dayton and Montgomery County environmental experts indicated that many issues were unresolved. The city of Dayton's own staff and environmental advisory board had outlined numerous unresolved issues even as last week's decision to terminate the agreement was announced. These included lingering questions about the reliability of the chemical detection levels as well as various transportation related concerns.

The research and the analysis conducted by experts led them to essentially the same conclusion, that safety and operational issues of both the transportation and the treatment processes remain very much in doubt, and that the community could be negatively impacted as a result.

The Montgomery County Commission relied on such expert feedback to deny the necessary permits required for Perma-Fix to perform its neutralization process. We commend and support the county in this very important decision.

In addition, the formation of the grassroot organization called Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley illustrated the degree to which local residents were concerned about the proposed agreement. The group helped present good, cogent questions that needed to be addressed in a forthright manner.

The filing of a lawsuit in Federal court further highlighted that the public was unmistakably opposed to the treatment of a toxic nerve agent in the community.

The fact that we are even conducting this hearing today, given the circumstances that have transpired over the past 10 days, is compelling evidence of the public's strong opposition to the proposed agreement.

Although we support United States and international efforts to destroy chemical weapons, this process must be completed in a manner that protects the public health of the surrounding community. Clearly, this was not the case at the Perma-Fix facility.

It is obvious that the contracting parties in this proposal have not achieved the measure of public acceptance required for the contract to proceed. We are pleased that this lack of support played at least some role in the ultimate decision to terminate plans to move forward. That decision is most assuredly one that the citizens of Dayton do support.

Thank you again for allowing me to present this testimony before you today on a very important issue to our community and our region.

Mr. TURNER. Thank you.

Next we have the Honorable Angela Jones, Trustee, Jefferson Township.

[The prepared statement of Ms. Neal follows:]

Dayton City Commissioner Idotha Bootsie Neal
Testimony Before the House Subcommittee on National Security
Concerning Proposed Agreement Between the Army and Perma-Fix
Wednesday, October 22, 2003

Good afternoon and thank you for allowing me to speak before you today. In light of recent decisions that have been announced regarding the proposed agreement between the Army and Perma-Fix of Dayton, I want to thank the House Subcommittee on National Security for proceeding with today's hearing as a way to officially document the community's position.

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(OVER)

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In addition, the formation of a grass roots organization – called Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley – illustrated the degree to which local residents were concerned about the proposed agreement. The group helped present good, cogent questions that needed to be addressed in a forthright manner.

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It is obvious that the contracting parties in this proposal have not achieved the measure of public acceptance required for the contract to proceed. We are pleased that this lack of support played at least some role in the ultimate decision to terminate plans to move forward. That decision is most assuredly one that the citizens of Dayton do support.

Thank you again for allowing me to present this testimony before you today.

Ms. JONES. Good afternoon, Mr. Chairman and members of the committee. It is a pleasure to be here today to present my views on steps taken by the Army, Perma-Fix and Montgomery County with respect to the satisfaction of public acceptance requirements in Montgomery County's contract with the U.S. Army and Parsons. In doing so, I want to stress that my comments are based upon information I am aware of in the capacity as a Jefferson Township Trustee, a position which I have held for 6 years.

I have been invited to provide remarks regarding the extent to which I believe public acceptance measures of the contract in question have been fulfilled. However, it has been difficult to obtain a meaningful definition of what is meant by a measure of public acceptance for planned hydrolysate transport and disposal.

During the mid-summer of 2002, representatives from Perma-Fix of Dayton met with Jefferson Township officials stating that they were considering pursuing a contract with the Army to dispose of VX Hydrolysate. Shortly thereafter, Perma-Fix met with Montgomery County officials, also advising them that they were considering pursuing the contract. The Trustees were advised that Perma-Fix had submitted an application to Parsons in September 2002, to dispose of VX Hydrolysate.

Soon after, the Jefferson Township administrator and fire chief met with a review team from Newport, IN; Parsons and the U.S. Army during their site visit at Perma-Fix of Dayton.

On December 26, 2003 an announcement was made that Perma-Fix of Dayton had received a limited notice to proceed and was awarded a subcontract from Parsons. Township officials met with Perma-Fix officials to discuss the best way to inform Jefferson Township residents of the award. After the announcement the townships were contacted—the township trustees were contacted by the citizens and urged to oppose the project. Perma-Fix then set up its first open house meeting, which was in January 2003. Officials from Perma-Fix, Parsons; Newport, IN and the U.S. Army were present with displays of showing the proposed process, general information packets and to answer questions from the Jefferson Township Community.

After the first open house, it was clear to me that there were a lot of unanswered questions about the proposed project, the disposal process and how it would impact the health and safety of the township residents.

Perma-Fix decided to hold a meeting in March 2003 to establish a citizen advisory panel. This meeting ended with the same unanswered questions. The citizen advisory panel was held to get citizens involved; however, the citizens did not wish to participate as a part of this panel. Rather, citizens came to the meeting asking pointed questions and to air their opposition to this process. This was clearly not public acceptance.

Subsequently the Board of Trustees, in response to the concerns of the citizens and the inability of the Army, Parsons and Perma-Fix to adequately provide answers to specific health and safety questions, issued the following position statement on April 1, 2002: "It is the position of Jefferson Township Trustees that the movement of VX Hydrolysate from Newport, Indiana to Parsons located in Jefferson Township, Montgomery County, Ohio is unacceptable.

After receiving numerous calls from citizens and listening to their concerns at our monthly meetings and attending public information forums regarding the issues, we believe that there were several unanswered questions regarding the safety of the proposed project. This being the case, Jefferson Township Trustees unanimously oppose Perma-Fix's efforts to process the VX hydrolysate in Jefferson Township."

The Montgomery County Commissioners passed a resolution on June 10, 2003 opposing the transportation and treatment of VX hydrolysate at Perma-Fix of Dayton's facility in Jefferson Township. The Montgomery County Commissioners also contracted with Dr. Bruce Rittmann from Northwestern University as an expert consultant to undertake an independent study of Perma-Fix's proposed treatment methods and their entire process. Dr. Rittmann concluded that he did not fully understand the impact of Perma-Fix's demonstration studies.

In conclusion, I would like to state for the record there can be no public acceptance when the same consultant recommends that Perma-Fix should upgrade its existing process equipment and address current problems before committing to process VX hydrolysate. There can be no public acceptance when the process of treating VX hydrolysate while being on—while based on apparently scientifically sound steps has not been proven effective on a larger scale.

There can be no public acceptance when the General Accounting Office issued a report in September 2003 criticizing the U.S. Army and the Department of Defense and their weapons—excuse me. I am sorry. U.S. Army and Department of Defense for their management of the entire chemical weapons destruction program.

This concludes my prepared statement. Thank you for the opportunity for appearing before the committee.

Mr. TURNER. Thank you very much.

Next we will hear from Mary Johnson, who as a citizen of Jefferson Township has been one of the leaders of the opposition and is a member of Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley.

[The prepared statement of Ms. Jones follows:]

Ms. Angela R. Jones, Trustee - Jefferson Township
Statement Before the House Subcommittee on National Security, Emerging Threats and International Relations

October 22, 2003

Titled
"Army Contract Management: Compliance with Outreach & Pubic Acceptance Agreements"

Good afternoon Mr. Chairman and Members of the Committee. It is a pleasure to be here today to present my views on steps taken by the Army, Perma-Fix and Montgomery County with respect to the satisfaction of the public acceptance requirements in Perma-Fix's contract with the U.S. Army and Parsons. In doing so, I want to stress that my comments are based upon information I am aware of in my capacity as Jefferson Township Trustee, a position I have held for 6 years.

I have been invited to provide remarks regarding the extent to which I believe the public acceptance measures of the contract in question have been fulfilled.

However, it was difficult to obtain a meaningful definition of what is meant by "a measure of public acceptance for planned hydrolysate transport and disposal".

During mid-summer of 2002, representatives from Perma-Fix of Dayton met with township officials stating that they were considering pursuing a contract with the Army to dispose of VX Hydrolysate. Shortly thereafter Perma-Fix met with Montgomery County officials, also advising them that they were considering pursuing the contract. The Trustees were then advised that Perma-Fix had submitted an application to Parsons in September of 2002, to dispose of VX Hydrolysate.

Soon after, the Township Administrator and Fire Chief met with a review team from Newport IN, Parsons and the Army during their site visit at Perma-Fix of Dayton.

On December 26, 2003 an announcement was made that Perma-Fix of Dayton had received a Limited Notice to Proceed and was awarded a subcontract from Parsons. Township officials then met with Perma-Fix officials to discuss the best ways to inform Township residents of the award.

After the announcement, Township Trustees were contacted by citizens and urged to oppose the project. Perma-Fix then set up the first Jefferson Township Open House in January 2003.

Officials from Perma-Fix, Parsons, Newport, Indiana and the U.S. Army were present with displays showing the proposed process, general information packages and to answer questions from the Jefferson Township community.

After this first Open House, it became clear to me that there were a lot of unanswered questions about the proposed project, the disposal process and how it would impact the health and safety of Jefferson Township residents.

Perma-Fix decided to hold a meeting in March of 2003 to establish a Citizen Advisory Panel. This meeting ended with the same questions unanswered.

The Citizen Advisory Panel meetings were held to get citizens involved. However, the citizens did not wish to participate as part of the panel. Rather, citizens came to these meetings to ask pointed questions and to air their objections to the project. ***This was clearly not public acceptance.***

Subsequently, the Board of Trustees, in response to concerns from citizens and the inability of the Army, Parsons and Perma-Fix to adequately provided answers to specific health and safety questions, issued the following position statement on April 1, 2003:

> "It is the position of the Jefferson Township Trustees that the movement of VX Hydrolysate from Newport, Indiana to Perma-Fix, located in Jefferson Twp., Montgomery County, OH is unacceptable.
>
> After receiving numerous calls from Citizens, listening to their concerns at our monthly meetings and attending public information forums regarding the issue we believe there are several unanswered questions regarding the safety of the proposed project. This being the case, the Jefferson Township Trustees unanimously oppose Perma-Fix's effort to process VX Hydrolysate in Jefferson Township."

The Montgomery County Commissioners passed a resolution on June 10, 2003 opposing the transportation and treatment of VX Hydrolysate at the Perma-Fix of Dayton facility in Jefferson Township.

The Montgomery County Commissioners also contracted with Dr. Bruce Rittmann of Northwestern University as an expert consultant, to undertake an independent study of Perma-Fix's proposed treatment method and their entire process. Dr. Rittmann concluded that he did not fully understand the impact of the Perma-Fix demonstration study.

In conclusion, I would like to state for the record that:

1. There can be no public acceptance when the same consultant recommends that Perma-Fix should upgrade the existing process equipment and address current problems before committing to process the VX Hydrolysate.

2. There can be no public acceptance when the process for treating the VX Hydrolysate, while based on apparently scientifically sound steps, has not been proven effective on a larger scale.

3. There can be no public acceptance when the Government Accounting Office issued a report in September of 2003 criticizing the U.S. Army and the Department of Defense for their management of the entire chemical weapons destruction program.

That concludes my prepared testimony. Thank you for the opportunity to appear before the Committee. I will be happy to answer questions from the committee, at this time.

Ms. JOHNSON. Thank you for inviting me to testify today. I am Mary Johnson, a citizen of Jefferson Township and a member of the Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley. I am a retired registered nurse and certified nurse practitioner. I have been requested to speak on my experience with public acceptance.

For public acceptance to occur residents must be informed. On January 23, 2003 an open-house meeting concerning a VX hydrolysate destruction plan was held in Jefferson Township by Perma-Fix after it had already received its contract from the Army. No great effort was seen to notify residents of the impending open-house meeting. My friend Willa Bronston contacted me. At the open-house meeting held during the day and ending at 6 p.m. there was small group sharing only. Folders of information were distributed, representatives of the Army, Parsons and Perma-Fix reassured us that nothing harmful remained in VX hydrolysate.

Later Ms. Bronston and I discovered—I paraphrase—under certain conditions VX byproducts can revert to the VX agent. Plus the following: VX is so toxic that it takes only 6 to 10 milligrams to kill in 15 minutes. Four basic methods are used to destroy VX—incineration, supercritical water oxidation, neutralization and biodegradation. All four of the basic methods are experimental and have major problems. None of the four methods had long-term studies to demonstrate safety standards. VX is an organophosphate that can interrupt fetal development producing birth defects, cause nervous system illnesses such as memory loss, Alzheimers, hyperactivity, attention deficit, multiple sclerosis and breathing problems, among others.

We took this information from the trustees of Jefferson Township to the county commissioners to political representatives. Hugh McGuire invited us to his group meeting with Laura Rench, Michelle Cooper and later Jane Forrest Redfern. We joined and we named ourselves Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley.

Because the contract between the Army, Parsons and Perma-Fix called for community acceptance, we focused on gaining resolutions from neighboring communities, agencies and social groups in opposing the plan. We obtained legal counsel, Mr. Ellis Jacobs of Legal Aid Society of Dayton. We went everywhere to discuss this issue, because it affected everyone in our midst.

Our questions were not answered concerning criteria for company selection. Only a few first responders along the truck route were oriented. There was no response to city of Dayton Water Department manager, Donna Winchester's critical questions until long past her deadline. No answers were given on April 10, 2003 at the accountability meeting attended by greater than 200 individuals. As early as March 14, 2003, our attorney, Mr. Jacobs, filed a Freedom of Information Act request with the Army seeking information about the process used for choosing Perma-Fix, scientific information to process VX hydrolysate and information about VX hydrolysate. To date, no information has been received as a result of that request.

The Ohio Environmental Protection Agency and Regional Air Pollution Control Agency told us there were no rules nor permits

to prevent VX hydrolysate from coming to our community. Numerous nuisance violations have already been assessed against Perma-Fix. The fumes emitted from Perma-Fix makes one's head reel with disorientation and dizziness, provoking nausea and sometimes vomiting.

Further, representatives of the Army, Parsons and Perma-Fix said the VX hydrolysate plan could not be carried out in Indiana because, "the expense was too high, the standards were too stringent and the oversight too great." After sharing this information with all jurisdictions and agencies encountered, 37 neighboring municipalities and agencies passed resolutions opposing this plan. Dr. Bruce Rittmann, the expert selected by Montgomery County Commission confirmed our assessment that this project had too many unanswered questions and too many risks to be performed in a residential area.

In conclusion, we support the government's effort to destroy these weapons of mass destruction, but not in a residential area or where children will be placed at risk. We recommend that the local, State, Federal Governments and agencies collaborate with citizens, scientific experts and the military to resolve this issue.

I thank you all for inviting me to speak.

Mr. TURNER. Thank you, Ms. Johnson.

[Applause.]

Mr. TURNER. The Chair has reminded me that this being a public hearing it would be inappropriate for us to have applause.

Mr. SHAYS. Put the blame on me. [Laughter.]

That is very necessary, frankly.

Mr. TURNER. I appreciate that reminder.

Next we will have Ellis Jacobs of the Legal Aid Society.

[The prepared statement of Ms. Johnson follows:]

Testimony of Mary Johnson
To the House Subcommittee On National Security,
Emergency Threat and International Relations,
Committee on Government Reform

Hearing on Army Contract Management:
Compliance with Outreach and Public Acceptance Agreements
Sinclair Community College

October 22, 2003

Introduction: Thank you for inviting me to testify today. I am Mary Johnson, a citizen of Jefferson Township and a member of Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley. I am a retired Registered Nurse and Certified Nurse Practitioner. I have been requested to speak on my experience with Public Acceptance.

Public Acceptance

For public acceptance to occur: residents must be informed. A way to inform residents is providing a forum where an audience is gathered, questions can be asked, honest answers or truth can be given.

Jefferson Township's introduction to the VX hydrolysate destruction plan was preceded by hearsay. An open house format meeting, occurring January 23, 2003, was later provided and there were small-individualized groupings. This outreach effort was not part of the company's approval process because the outreach meeting was scheduled after PermaFix had already received its contract from the Army. At the open house meeting, there was no collective group or audience sharing. Folders of information were distributed. The open house was scheduled during the day and ended at 6pm in the evening.

There did not seem to be a great effort to notify residents of the impending open house meeting. My friend, Willa Bronston, contacted me. At her behest I hurriedly dressed and we rushed to the Jefferson Township school administration building to see what was happening. I had no time to prepare or research before leaving my house. I knew nothing about VX or VX hydrolysate.

At the open house, we met representatives of the Army, Parsons, and PermaFix. I asked questions but knew so little, I am not sure my questions were on target enough to elicit answers of clarity. I remember the representatives placating and reassuring us that all is well, nothing harmful remained in VXH, and how this project was a great thing for us all.

Ms Bronston and I returned home and began our research. We discovered the National Research Council that published voluminous amount of information concerning VX and VXH. In a document on Supercritical Water Oxidation, in a paraphrase 'under certain conditions, VX byproducts can revert to the VX agent.' This information was startling. We proceeded to discover:

1. VX was so toxic and lethal that it takes only 6-10 mg to kill in a matter of 15 minutes – through the skin or inhalation, not just through ingestion.
2. There were four basic methods in efforts to destroy this chemical: incineration, supercritical water oxidation, neutralization, and biodegradation.
3. All four of the basic methods for destroying VX were experimental.
4. None of the four methods had long-term studies to demonstrate safety standards.
5. All methods had mishaps and problems in different cities such as Tooele, Utah, Corpus Christi, Texas, and Johnston Atoll in the Pacific Ocean.
6. VX is an organophosphate that can interrupt fetal development producing birth defects, cause nervous system illnesses such as memory loss, Alzheimer, hyperactivity and attention deficit, and breathing problems.

We decided to take this information to the Trustees of Jefferson Township. We were directed to speak to the County Commissioners, which we did. We notified our political representatives. We had numerous conversations with representatives of the Montgomery County Sanitation Department, Army, Parsons and PermaFix. As we continued our saga we joined forces with other groups of citizens who were drawn in alarm to this issue. Hugh McGuire invited us to his group meetings with Laura Rench, Michelle Cooper and later Jane Forrest Redfern. We named ourselves Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley.

Because the contract between the Army, Parsons and PermaFix called for community acceptance, our focus spotlighted gaining resolutions from neighboring communities, agencies and social groups in opposing the Plan. We attended numerous meetings, sometimes as many as four in one week. We staged rallies, wrote letters to the editors and letters to public officials, made thousands of phone calls all over the United States to experts and to our elected officials, sent numerous emails and faxes, we brought in knowledgeable speakers, we produced videos, we produced a program for Dayton Access Television Station, held environmental issue forums, we attained legal representation (with outstanding representation by Mr. Ellis Jacobs of Legal Aid Society of Dayton and Mark Chilson and Margaret Young of Young & Alexander Co., L.P.A.), filed lawsuits, and attended public functions in the community. We even toured PermaFix. We went everywhere to discuss this issue because it affected everyone in our midst.

The contract called for every jurisdiction to be notified along the route from Newport, Indiana to Jefferson Township. Every first responder or firefighter was to be oriented to VXH with a Material Safety Data Sheet and given tours of PermaFix. Only a few were oriented.

We citizens asked numerous questions concerning this issue including the criteria for company selection. We either got no straight answer or no answer at all. Donna Winchester, manager of the City of Dayton Water Department, sent ten major questions and a three-week deadline for a response and did not receive it until six to eight weeks later. On April 10, 2003, we had an accountability meeting (one in a series of meetings) with an attendance of greater than 200 individuals at Jefferson Township High School. There were no straight answers given that evening, either, only the same response such as "We'll get back with you." They never called nor sent the information requested.

On March 14, 2003, our attorney, Mr. Jacobs, filed a freedom of information act request with the Army, seeking information about the process used for choosing PermaFix, scientific information to process VXH, and information about VXH. To date, no information has been received as a result of that request.

We called agencies such as Ohio Environmental Protection Agency and Regional Air Pollution Control Agency. Both agencies' representatives explained that their agencies had no rules nor permits to prevent VXH from coming to our community. It is a stark reality that our environment is not being protected. One can tell that pollution of our air is present just by walking on Cherokee Street where PermaFix emits fumes and chemicals on a daily basis. PermaFix's neighbors are not allowed a quality of life because of the odors that make one's head reel with disorientation and dizziness, that provoke nausea and sometimes vomiting when exposed. These responses to the chemicals presently being emitted from PermaFix prevent neighbors from enjoying their own backyards. They can't even have a backyard picnic. Numerous nuisance violations had already been assessed against PermaFix.

Another small matter not addressed was that a road was widened for PermaFix's usage to avoid exposing children in the neighborhood to the large semi-trucks that crowd the lanes. The improved road has seldom been used – perhaps only when media was invited to tour the company. All other times the gate is closed because of need of repair. The question has been frequently asked, "If PermaFix can not performed these minor tasks, how can the Army trust PermaFix to perform a highly delicate operation with VXH?"

These issues were discussed with the representatives of Army, Parsons and PermaFix. They were asked to give a reason for sending VXH to a neighborhood of residents where children had been seen playing on PermaFix's lawn and towers. Mere feet separate residents from the property line of PermaFix. There is no buffer zone of 2.6 miles to the nearest population concentration as in Newport, Indiana. The response to the question concerning keeping VXH in Indiana was the following: "the expense too high, the standards were too stringent, and the oversight too great."

The Miami Valley Community and this nation cannot afford to be casual about what to do with these weapons of mass destruction. These weapons were made to be so lethal that they could kill in minutes. That is the problem in trying to destroy these weapons because the bonds between the chemicals are so stable. It is difficult to break them by all the methods the Army has available. With every method there is a lethal problem. With supercritical water oxidation, the salts produced from the process destroyed the reactor. What did they do with the salts? In Corpus Christi, the salts were deep welled into the Gulf of Mexico and sealed. Incineration produces dioxins which is a known cancer-producing agent. During incineration of VX agent in Tooele, Utah, Salt Lake City, down wind, received high levels of dioxin that contaminated cows' milk. In Anniston, Alabama incineration does not take place during school hours but polluting emissions from chemical weapons incineration are adding to the existing polychlorinated biphenyls (PCBs), a contamination problem from previous industries' output.

VX hydrolysate, produced by neutralization, is so caustic that a chance spill will destroy pavement, grass, and contaminate water, requiring evacuation. (Let's not even

think what VXH will do to flesh.) Biodegradation is a new science as far as its application to VXH. The National Research Council listed at least two real concerns with this method: 1) micro-organic predators and 2) pathogens. An additional concern for biodegradation is that there is not enough information available to say what other ills can evolve from this method. In other words, it is an immature science.

We raised the question of how anyone could know whether these experiments were successful, accurate or safe. The fact that these methods were experimental made it difficult for anyone to provide oversight. All laboratory tests provided mixed results with definite reservations at all attempts to destroy this agent. Scale up could have been disastrous because of the unpredictability of chemical reactions.

This information was shared with all jurisdictions and agencies that we encountered. We encouraged each group to do its own research. We shared with them research sources to assist them. We invited them to participate. In the end, 37 neighboring municipalities and agencies passed resolutions opposing this plan. Dr. Bruce Rittman, the expert selected by Montgomery County Commission confirmed our assessment that this project had too many unanswered questions and too many risks to be performed in a residential area. Another problem is the fact that Jefferson Township has a volunteer fire department – capable - but at a timely-response disadvantage because of the very nature of being voluntary. This fact promoted great discomfort as we investigated this plan.

In conclusion, we support the government's effort to destroy these weapons of mass destruction but not in anyone's residential area. Not where children, the most vulnerable population group to nerve agents, will be placed at risk and whose development can be so profoundly interrupted that they may not be able to grow into responsible citizens but may become invalids of the health care industry. Not where the infrastructure of the community is so anemic, it cannot address an immediate response to a horrific disaster.

We have assessed the VXH plan to be too risky and too dangerous a threat to our health and well-being and Dr. Rittman validated our concerns. Most important, 37 entities passed resolutions, exercising their responsibility to their constituents and citizens by rejecting this plan. We recommend that the local, state, federal governments and agencies collaborate with citizens, scientific experts, and the military to determine the safest path for us all to follow in destroying these weapons of mass destruction.

Mr. JACOBS. Mr. Chairman, thank you very much for bringing the subcommittee hearing here today. It may surprise you to know this, but we do not get a lot of this kind of attention from Washington, and we certainly do appreciate it. Congressman Turner, you answered the call. The community expressed their concerns to you and you were there and pursued this issue. I thank you and I know the entire community thanks you.

Let me first—it has been my honor to represent the community organization that has taken an interest in this issue. Let me first say that everybody in this community thinks it is an important task to destroy the VX nerve agent that is stored at the Newport Chemical Weapons Depot. We think that it should be destroyed as quickly as possible, but it was never necessary to ship the VX hydrolysate offsite in order to pursue the accelerated neutralization schedule. And you can see that by the fact that it will not be shipped today is not going to delay the destruction of the VX at Newport by 1 day, by 1 minute. The Army always had available to them the option of destroying the VX as quickly as they were able and then storing the VX hydrolysate onsite until they were prepared to take that second step. Hopefully that is what the Army will do now. And as soon as they are ready to proceed with the destruction of the VX they will be able to do that. No delay is necessary and no delay is warranted.

And I should note that the VX that has been stored was created at the Newport Chemical Weapons Depot in the 1960's. It has been stored safely there for 40 years. At that site is a skilled work force that knows how to handle this substance, who is experienced in handling the substance. And the Army's original plan that Congressman Turner alluded to was a good plan. They need to go back to Plan A.

When this community first heard about the attempt to bring it here, the VX hydrolysate, we said to ourselves, is it a good idea to take VX hydrolysate, 900,000 gallons of it, load it into tanker trucks, drive it down narrow, rural roads across busy interstate highways, up West Third Street in the middle of our community and treat it, using an experimental process at a facility, Perma-Fix, that has a very problematic environmental record, in the middle of a densely populated neighborhood.

Well, the answer to us was obvious. People around me and the people I met said it is a no-brainer. I think the question that is worth asking is because we know the Army certainly has many good brains at its disposal, how was such a decision made, and were there opportunities to avoid making such an inappropriate decision that were not taken.

And I would submit that there were at least three legal safeguards that had the Army followed them, they would never have made this inappropriate decision. And I will briefly go through each of them.

The National Environmental Policy Act [NEPA], requires the Army and all Federal agencies, when they are undertaking major Federal actions that can impact the environmental, to do environmental impact statements. And in fact, the Army recognized that destroying VX nerve agent and destroying the VX hydrolysate is such a major action and so the Army did an environmental impact

statement for Indiana. And I hold up a copy of it. As you can see, it is a substantial document—I resisted the temptation to put it into the record—a substantial document wherein they looked at everything that you should look at for just such a project. They looked at the nature of the topography, they looked at who lives nearby, they looked at what the emergency response capabilities were of the people that live nearby.

What happened? Did they ever do such an environmental impact statement or update or supplement when they changed the plan and decided to bring the second half of this to Dayton? They did not. Clearly the law required them to do so, but this was a legal safeguard that they ignored as they moved forward with this idea.

Another legal safeguard can be found right in the text of the law that mandates that they destroy these chemical weapons. It first appeared in the 1986 Department of Defense Authorization Act, Section 1412. And this act clearly reflects the concern of the Congress at the time that this sort of activity be handled in the most environmentally sensitive way. How does it reflect it? Very specifically. It says that in destroying these chemical weapons, you have to do it with maximum protection of the environment and in facilities designed solely for destroying chemical weapons. That's what you said, that is what Congress told the Army to do back in 1986. The Army ignored that. Clearly Perma-Fix is not a facility designed solely for destroying chemical weapons. Unfortunately, there was one court case where a private group, a citizens group, tried to enforce that law. The court never reached the merits of that contention, but they said that there was no implied private right of action. In other words, the Federal Government can enforce the law, but private citizens could not. Unfortunate because clearly the congressional intent was we want you to build facilities and do it somewhere where people are not around. They ignored that.

And then finally, the final safeguard that I want to talk about today is the contract that has been referred to several times already here today. I brought a copy of it, I am afraid all of my documents have grown beards over time, but here it is. It again is a substantial document. And while destroying chemical weapons is a lot like brain surgery, interpreting a contract is not. Two simple things—you look at the specific language and you look at the context. The specific language, and I think it is remarkable language and very good language, talks about honoring public acceptance, getting and keeping public acceptance.

And then the context within which that appears is a contract that requires the company to inform the community about what they are doing. And in fact, pays them handsomely to do that. Clearly the intent of this contract was that the company would seek public acceptance and in the absence of it, it would not go forward.

Again, this community resoundingly rejected this thing and despite this contract, the Army had a difficulty turning around, as they should have.

Three opportunities, three legal safeguards that the Army ignored. It is unfortunate. It brings us back to the question of why. Why was such an inappropriate decision made. I do not know and it is certainly a worthwhile question for the Army. Clearly Con-

gress, NEPA and the act requiring the destruction of these chemicals wanted it to be done in the method most protective of the environment. Clearly the contract was designed to ensure that the community where this was going to be done would be accepting of it. But that was not done.

I think the Army has a lot of questions to answer about why they choose to proceed as they did in this particular circumstance.

Thank you so much for bringing your committee hearing here. Thank you for the opportunity to testify.

Mr. TURNER. Thank you, Mr. Jacobs.

Next we will hear the testimony of Dennis J. Bristow, coordinator, Dayton Regional Hazardous Materials Response Team.

[The prepared statement of Mr. Jacobs follows:]

TESTIMONY OF ELLIS JACOBS

TO THE HOUSE SUBCOMMITTEE

ON NATIONAL SECURITY, EMERGENCY THREATS

AND INTERNATIONAL RELATIONS, COMMITTEE ON

GOVERNMENT REFORM

HEARING ON, "ARMY CONTRACT MANAGEMENT:

COMPLIANCE WITH OUTREACH & PUBLIC

ACCEPTANCE AGREEMENTS"

SINCLAIR COMMUNITY COLLEGE

OCTOBER 22, 2003

Introduction

Thank you for asking me to testify at this subcommittee hearing. I want to thank the subcommittee chairman Congressman Christopher Shays and our Congressman Michael Turner for convening this hearing and providing the opportunity to explore the issues related to the Army's decision to bring VX hydrolysate to Dayton for processing and the Army's insistence on that plan despite the unanimous rejection of that plan by all political jurisdictions in this area.

I want to particularly thank Representative Turner for the role he played in pursuing this matter and his willingness to insist that the Army honor the rejection of this plan by our community.

I have been legal counsel to the citizens' group, the Citizens for the Responsible Destruction of Chemical Weapons of the Miami Valley, which formed in late 2002 to oppose the Army's VX hydrolysate plans.

In that capacity, I have focused on the legal issues involved. My testimony here today will explore some of those issues.

From the very beginning, the Army's decision to truck VX hydrolysate to Perma-Fix in Jefferson Township Ohio flew in the face of established Federal law. Had the Army followed its legal obligations and its own policies, I believe it would never have made the decision to ship VX hydrolysate here and the ensuing controversy would have been avoided.

As I will discuss in this testimony, the Army's plan was plainly in violation of the Department of Defense Authorization Act of 1986, P.L. 99-145, Section 1412 (Nov. 8, 1985), 50 U.S.C. § 1521 and the National Environmental Policy Act, § 102(2)(C), 42 U.S.C. § 4322(2)(C).

In addition, once the inappropriate decision was made to use Perma-Fix as a

subcontractor on this project, the "public acceptance" provision of that contract provided yet another opportunity for the Army to reverse course.

The Background

The U. S. Army presently stores 1,690 ton containers containing 1,265 tons of VX nerve agents at the Newport Chemical Depot ("NCD") outside of Newport, Indiana. This nerve agent is among the most lethal chemical weapons in the U.S. chemical weapons arsenal. The agent was manufactured at the Newport weapons facility in the 1960's and has been stored safely at that facility ever since. The Newport facility is a highly secure, 7,000 acre compound located in rural Indiana, near the Illinois border. The closest population concentration is 2.6 miles away at Newport, Indiana, where 578 people live. The NCD is approximately 150 miles from Montgomery County, Ohio.

The Department of Defense Authorization Act of 1986, P.L. 99-145, Section 1412 (Nov. 8, 1985), 50 U.S.C. § 1521, committed the U.S. Government to the destruction of its stockpile of lethal chemical agents and munitions. The Secretary of Defense was required, by the Law, to carry out that destruction with "maximum protection for the environment, [and] the general public" and to do so at "facilities designed solely" for that purpose. 50 U.S.C. § 1521(c).

Pursuant to this law, the Department of Defense set out to develop a plan for the destruction of these materials, which are stored at nine (9) facilities throughout the country. The Newport Chemical Depot is one of those facilities. During the development of those plans concerns surfaced that the Army was going to rely exclusively on incineration to destroy the material. In response, Congress included in the National Defense Authorization Act of 1993, P.L. 102-484, Section 174 (Oct. 23, 1992), 50 U.S.C. § 1521, the requirement that the Secretary of the Army evaluate and, if appropriate, use alternative technologies to destroy the material at

certain facilities, including Newport. The law specified that the environmental protection and dedicated facility requirements of the earlier law would apply. P.L. 102-484, Sec. 174(b).

Soon thereafter, the United States signed the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention Treaty - "CWC"), www.defenselink.mil/acq/acic/treaties/cwc, which went into effect on April 29, 1997. The CWC requires the destruction of "chemical weapons," defined as certain listed toxic chemicals and their precursors. The list includes VX nerve agent and three (3) chemicals, Thiol amine, EMPA, and MPA, which are found in VX hydrolysate. Together these three (3) chemicals make up 30-50% of the weight of VX hydrolysate.

VX Neutratization at the Newport Chemical Depot

Pursuant to the above laws and treaty, the Army formulated a plan to destroy the VX nerve agent stored at the Chemical Depot in Newport, Indiana using a chemical neutralization process at the Newport facility. Chemical neutralization of VX nerve agent is a two-step process. The first step changes the VX nerve agent to VX hydrolysate, a highly dangerous substance which contains the listed chemical precursors of VX nerve agent. The second step uses further chemical processes to destroy the listed chemicals in the VX hydrolysate and to reduce the toxicity of that substance so that it can be disposed of in a public treatment facility.

The Army recognized that this plan was a "major Federal action significantly affecting the quality of the human environment", that the National Environmental Policy Act (NEPA) applied, and that an Environmental Impact Statement would have to be prepared. NEPA, 42 U.S.C. §4321.

On June 3, 1997, the Army began the process of preparing a Final Environmental Impact Statement ("FEIS") to assess the potential environmental impacts of construction and operation

of a facility at the Newport Chemical Depot ("NECD") to "pilot test" chemical neutralization followed by supercritical water oxidation ("SCWO") as a potential disposal technology for the bulk VX stored at that site (FEIS p. 1-1).

The "pilot test" which was assessed in the FEIS involved the impacts which might result from the destruction of 615 ton containers of VX, almost one-third (1/3) of the total amount of VX stored at the facility (FEIS p. 2-9). According to the FEIS, "any use of the proposed NECDF [Newport Chemical Disposal Facility] beyond pilot testing is beyond the scope of this EIS and would be addressed in future NEPA review and documentation." (FEIS p.1-7).

The FEIS for this action was issued in December, 1998. On February 3, 1999, the Army issued a Record of Decision ("ROD") based on this FEIS to proceed with the proposal "to demonstrate the feasibility of using the neutralization/SCWO disposal technology to destroy agent VX at NECD". (ROD p. 3).

In July, 2002, the Army issued a Final Environmental Assessment ("EA") purporting to supplement the FEIS previously prepared. The EA compares the process evaluated in the FEIS with an accelerated process for the destruction of the entire stockpile at Newport and looks at the possible transport of the VX hydrolysate off-site to a commercial Treatment, Storage and Disposal Facility ('TSDF'). The EA does not evaluate any of the technologies which could be used at a commercial off-site TSDF to treat the VX hydrolysate, nor does it evaluate any particular TSDF or the impacts on any community surrounding a particular TSDF. (EA p. 1-2) The EA recognizes that some impacts that would be avoided or reduced at NECD could be transferred to a receiving TSDF. (EA p. 1-3) None-the-less, the analysis did not extend to the TSDF.

On October 28, 2002, the Army issued a Final Finding of No Significant Impact ("FONSI") based on the EA, finding that, compared to the project as originally assessed in the

FEIS, the project with the proposed changes would have no significant adverse impacts on the area, land, ecological resources, water, archaeological and historic resources, socioeconomic resources, and people "living near the project site" in Indiana. (FONSI p. 2).

At the time the EA was conducted, Perma-Fix of Dayton had not been chosen as the TSDF that would conduct the second step in the Army's VX destruction project.

As required by NEPA, the CEQ rules which implement NEPA, 43 Fed. Reg. 55978-56007 (1978), 40 C.F.R. 1500-1508, **and the Army's own NEPA rules, Army rule 200-2, 32 C.F.R. Part 51**, the EIS and EA prepared for this action provide a detailed description of the environment in the area surrounding the Newport facility. However, neither the EIS nor EA contain a description of the area surrounding the Perma-Fix of Dayton facility in Montgomery County, Ohio.

As required by law, the EIS and EA prepared for this action include an assessment of impacts on the environment surrounding the Newport facility but they include no assessment of the impacts on the area surrounding Perma-Fix of Dayton in Montgomery County, Ohio.

As required, the EIS and EA also make an assessment of the likely environmental effects of using the SCWO process for the second step in VX destruction. They make no assessment of the likely environmental effects using bio-remediation for the second step in VX destruction.

As required, the EIS and EA make an assessment of the likely environmental effects of using a new custom built facility in Newport for this action. They make no assessment of the likely environmental effects of using an existing facility, Perma-Fix of Dayton, with a particular environmental history for this action.

As required, the EIS and EA prepared for this action assess whether the action will have a disproportionate impact on minority or low- income populations at the Newport site, but they contains no such assessment of the Perma-fix of Dayton site.

The process of preparing the EIS and EA for this action included, as required, in the Indiana and Illinois area surrounding the Newport facility, publicizing the EIS and EA process, seeking public and official input and incorporating and responding to that input. No such efforts were made in the community surrounding Perma-Fix of Dayton. Public meetings were held in Indiana as part of the EIS and EA process, no such meetings were held in Ohio.

As required, the EIS and EA considered and included mitigating measures related to the Newport facility in Indiana, the process to be used there, and the community surrounding that facility. No consideration was made of mitigation measures for the Perma-Fix of Dayton facility in Ohio, the different process to be used there, or the community surrounding that facility.

The Army had no reason to dismiss the dangers of VX hydrolysate. While neither the FEIS or EA engage in a detailed assessment of the dangers associated with exposure to VX hydrolysate during routine processing or from an accidental spill, nonetheless, the EA firmly establishes that such dangers do exist. The EA found that:

(A) A fire associated with a tank of VX hydrolysate could result in toxic material being carried off of the 7,000 acre (10.934 square miles) Newport Depot. In the situation evaluated at Newport, the EA found that risk to the general population from such a fire would be limited since the distance to the nearest concentration of population was 2 to 3 miles, and because trained response forces were present. (EA p. 3-27, 4-31).

(B) The chance of accidents increases during processing as the material is handled. Response teams, trained and equipped for these events, will need to be able to respond promptly to minimize the adverse impact of any release. (EA p. 3-27).

(C) Because of caustic and toxic properties of hydrolysate, an accidental spill

during transport could cause disruption and possibly require an evacuation. (EA p. 3-20).

(D) A fire involving hydrolysate would create a difficult situation requiring firefighters to be protected against any toxic hazards as well as the fire. (EA p. 3-26).

(E) A transportation accident involving the release of VX hydrolysate into a body of water could result in significant impacts. (EA p. 3-9).

(F) To store VX hydrolysate safely weather and temperature changes must be tracked. (EA p. 3-5).

(G) Hydrolysate storage and treatment leads to emissions of toxic air pollutants but no estimates are available on the specific types and quantities of toxic organic compounds that would be released. (EA p. 3-5).

In addition, the Material Safety Data Sheet ("MSDS") for VX hydrolysate February 25, 2003, establishes the dangers of exposure. For instance, the MSDS states that inhalation can lead to "possible coma". **(Attached hereto as Exhibit 1)**.

Further, while it is recognized that VX hydrolysate poses a significant danger to human health and the environment, much of the information needed to fully evaluate possible adverse effects is incomplete or unavailable. For example, according to the February 25, 2003, MSDS for VX hydrolysate, this mixture is "military unique" and there is no established toxicity threshold limit value nor is there a permissible exposure limit for it. VX hydrolysate contains a number of hazardous organic constituents for which there are also no known threshold limit values. In addition, even much of the basic physical data about VX hydrolysate, needed to respond to spills, fires, and other accidents, is not available.

The dangers of VX hydrolysate and the lack of critical information about it were recently

confirmed in a report prepared by Dr. Bruce Rittman for Montgomery County

The Perma-Fix Subcontract

The Army contracted with a private firm Parsons, to carry out parts of the project to destroy the VX nerve agent stored at NECD. Effective December 21, 2002, Parsons contracted with Perma-Fix of Dayton to perform the second step in VX destruction at its facility in Drexel, Jefferson Township, Montgomery County, Ohio. All of the funds for this subcontract come from the Army, the subcontract is comprised largely of a U.S. Army endorsed statement of work, and the Army participated in the selection of Perma-Fix of Dayton as the subcontractor. Perma-Fix of Dayton is an existing facility, which was designed for the treatment of various waste materials. Its existing bioreactors will be used to treat the VX Hydrolysate. Pursuant to this subcontract, the VX Hydrolysate will be trucked approximately 150 miles from NECD to Perma-Fix of Dayton.

This subcontract, between Parsons and Perma-Fix of Dayton provides that the work may be contingent upon the establishment and maintenance of public acceptance throughout the period of performance.

Perma-Fix of Dayton, however, did not established nor maintained public acceptance. The community in the area surrounding Perma-Fix of Dayton was united in its opposition to the plan to bring VX hydrolysate to that facility. The trustees for the governing jurisdiction, Jefferson Township, unanimously passed a resolution opposing those plans on April 1, 2002. Montgomery County Commissioners passed a similar resolution on June 10, 2003. Twenty-One (21) other surrounding jurisdictions – including Dayton, Harrison Township, Miami Township, Miamisburg, Moraine, New Lebanon, Trotwood, Kettering, Centerville, and Montgomery County - have also passed resolutions opposing the plan to treat VX hydrolysate at Perma-Fix of Dayton. This is in stark contrast to the community surrounding the Newport Chemical Depot

which supports conducting both steps of VX destruction on site in Newport. The FEIS reflects the support in Indiana and county commissioners from that area have recently reconfirmed that support.

The Community of Jefferson Township

The area in Ohio where Perma-Fix is located could not be more different from the area in Indiana, which was examined in the NEPA process. The area in Indiana is rural, with the closest population center 2.6 miles away at Newport, where 578 people live. Newport is 97.6% white and has no African American residents. Vermillion County, which contains Newport is 98.4% white. The poverty rate for Newport is 9.1% and for Vermillion County it is 9.5%. The community where the Perma-Fix of Dayton facility is located is known as Drexel. Drexel is in Jefferson Township, Montgomery County, on the western boundary of the City of Dayton, and is an urban neighborhood. The Perma-Fix of Dayton facility is located in the middle of the Drexel neighborhood. Houses line the streets, which directly abut the facility. Truck traffic to this facility must travel through this neighborhood on narrow residential streets, which have no curbs or sidewalks. The area is served by a volunteer fire department. Drexel contains day care centers, nursing homes, churches, and schools, including a school for people with multiple disabilities. It has an extremely high rate of poverty and a large percentage of African American households. According to the 2000 census, 2,057 people live in Drexel. 33.5% of the families in Drexel have incomes at or below poverty. This compares to 7.8% for the State of Ohio, 35.1% of the population in Drexel is African American, compared to 11.5% in the State. The area surrounding Drexel is densely populated and has an even higher percentage of African American households, than does Drexel.

The Perma-Fix Facility

The Perma-Fix of Dayton facility has a history of environmental problems, including

numerous instances when emissions and strong odors from the facility have made normal life in the neighborhood impossible and have caused burning eyes, nausea and headaches. The Regional Air Pollution Control Agency ("RAPCA"), which is responsible for air pollution control in the Dayton area, has documented over 150 instances of emissions between July, 2001, and the present and has attributed many of them to the facility's bioreactors which are to be used to process the VX hydrolysate. In recent months, RAPCA has found odor problems on 70% of its random surveillance visits. Neighbors of the facility have made dozens of written and verbal complaints against this facility.

The record of Perma-Fix's environmental problems was available to the Army before it allowed Perma-Fix received the VX hydrolysate contract. On January 10, 2002 RAPCA issued a Notice of Violation ("NOV") to Perma-Fix of Dayton for failure to comply with Administrative Findings and Orders related to nuisance violations and the need for air pollution permits for its air emissions sources, including the bioreactors. That NOV remains pending and unresolved. **(Attached as Exhibit 2)**.

Also, in 2002, the Ohio EPA found that Perma-Fix of Dayton was in violation of hazardous waste storage requirements and had failed to pay certain treatment fees. In responding to the Ohio EPA in May and June 2002, the company maintained that it did not have the financial resources to fully pay the penalties and fees accessed.

This facility also operates without many of the expected permits and with little environmental oversight. This information would also have been available to the Army before Perma-Fix received this contract. There are no state or federal air pollutant permits for the bioreactors which will process the VX hydrolysate. The air emissions from them are not subject to any enforceable limits on the amount or type of air emission which can come from them.

There are no federal or state hazardous waste (Resource Conservation and Recovery Act)

permits which govern the Perma-Fix of Dayton waste processing operation which would have been used to process the VX hydrolysate. The Ohio EPA found that Perma-Fix of Dayton needs no such permits now or once it began to process the VX hydrolysate because this process at the Perma-Fix of Dayton facility is exempt from such requirement due to the waste water exemption. (Ohio Administrative Code 3745-54-01(C)(5).

The permit which governs the liquid effluent which Perma-Fix of Dayton releases to the Montgomery County Public Treatment Works is issued by Montgomery County. The permit sets limitations on only 18 substances. VX hydrolysate and its constituents, Thiol amine, EMPA, MPA, and EA2192, are not among the substances which are controlled by this permit. The public treatment works discharges to the Great Miami River.

The Army could have avoided this controversy by following the law and its own rules

First, if the Army had followed National Environmental Policy Act (NEPA), and its own rules implementing NEPA, it unlikely that it would have chosen such an unapproriate site to treat VX hydrolysate.

The law requires the preparation of a supplemental EIS whenever there are substantial changes in a plan that has been evaluated in an EIS. The Army plan to use Perma-Fix clearly was a substantial change from the plan evaluated in the Newport EIS. It should have triggered the preparation of a supplemental EIS pursuant to 40 C.F.R. § 1502.9(c) and 32 C.F.R. § 651.24. The substantial changes in the proposed action include:

(A) The decision not to treat the VX hydrolysate at the Newport Chemical Depot, but instead to treat it at Perma-Fix of Dayton in Drexel, Jefferson Township, Montgomery County, Ohio.

(1) The Indiana site is in an isolated rural area, with very few people living near by. Perma-Fix of Dayton is located in the

middle of a residential neighborhood, Drexel, where thousands of people live. Routine emission or accidents at the Newport site are unlikely to impact significant numbers of people. In Drexel, thousands of people will be impacted.

(2) Environmental impacts at the Indiana site will not have a disparate impact on minority or low-income neighborhoods because that area has very few minorities and poor people. The impacts from this action in Drexel will have a disproportionate impact on minority and low-income population because of the composition of the Drexel neighborhood.

(3) The site in Newport Chemical Depot has a highly trained emergency response team on site that has many years of experience dealing with chemical weapons stockpiles. (FEIS p. 1-6). At Perma-Fix of Dayton, the first responder is the Jefferson Township volunteer Fire Department.

(4) The topography, surface water, ecological resources, geohydrology, solid waste disposal options, cultural, archaeological, and historic resources of the two sites are vastly different. must be handled with great care and precision.

(5) The existing air quality at the two locations is significantly different. Vermillion County, Indiana, which contains the NECD is in attainment of all state and National Ambient Air Quality Standards. Montgomery County, Ohio does not meet the 8 hour ozone standard and the PM 2.5 particulate standard. Montgomery County also

has significant toxic releases, ranking 8th among Ohio's counties.

(6) Perma-Fix of Dayton has a history of enviromment problems. The facility and/or its personnel have had difficulty handling existing waste in a way which keeps emissions from affecting the surrounding neighborhood. VX hydrolysate, in addition to being toxic and corrosive, has a very strong odor and must be handled with great care and precision.

(B) The decision to transport the VX hydrolysate approximately 150 miles from the Newport Depot to Drexel for treatment, rather than transporting it by a short pipe from one building to another for treatment on the Newport Chemical Depot site. The routine emissions and the risk of accident are substantially changed by this change in this action.

(1) There are large population concentrations along the truck route from Newport to Drexel. Those populations will be subject to toxic emissions in the event of an accident.

(2) The changed action will result in the VX hydrolysate being trucked past numerous bodies of water, an accident resulting in a spill into any of those bodies of water will have significant negative impacts.

(3) The roads in the vicinity of Perma-Fix of Dayton are narrow. There are no curbs or sidewalks, putting pedestrians at risk.

(C) The decision to not use super critical water oxidation ("SCWO") to treat the VX hydrolysate but instead to use bioremediation to treat it. SCWO is a high pressure, high temperature process. Bioremediation uses neither high

pressure nor temperature but instead uses a reactor with biological agents. The emissions from treatment will be substantially changed by this change in the action. Air emissions from bioremediation will be different in content and amount from SCWO emissions, liquid effluent will also be different, as will the solid waste produced by the process. Risks of accident during treatment will also be different because the material will be handled differently.

Had the Army followed the law and prepared a supplemental EIS, it would have uncovered all of this new information. It is unlikely that armed with a complete picture, the Army would have contracted with such a problematic facility using an untested technique in such an inappropriate location.

Second, if the Army had followed P.L. Section 1412, 50 U.S.C. §1521, the law which mandated the destruction of the U.S. Stockpile of Chemical Weapons, it would not have chosen a private contractor using existing facilities, like Perma-Fix, for this sensitive task.

P.L. 99-145, Section 1412, 50 U.S.C. § 1521, requires that, in destroying chemical weapons agents doing so, the Secretary shall provide for -

"(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions". P.L. 99-145, Sec. 1412(c), 50 U.S.C. § 1521(c).

P.L. 102-484, 50 U.S.C. § 1521, provides that the Secretary of Defense shall evaluate and implement, where appropriate, alternative plans for destruction of chemical agents and munitions subject to P.L. 99-145, Section 1412(c), while preserving the requirements for environmental protection and dedicated facilities.

Finally, the "public acceptance" provision of the Perma-Fix subcontract provided one more opportunity for the Army to take note of the inappropriateness of the Perma-Fix subcontract. This subcontract provision is clear, as was the resounding lack of public acceptance in the community surrounding Perma-Fix.

Thank you very much for this opportunity to provide testimony on this important issue.

Material Safety Data Sheet

Exhibit 1

Date: February 25, 2003

VX/NaOH Hydrolysate

Emergency Contacts:
Contact Organization-- Newport Chemical Agent Disposal Facility (NECDF), Phone: 765-245-5901
24-Hour Emergency Telephone Number—Newport Chemical Depot Emergency Operations Center (NECD EOC), Phone: 765-245-5257/7280

Section I - General Information

Waste Generator's Address:
U.S. Army Newport Chemical Agent Disposal Facility
ATTN: Operations
HWY 63 South
PO Box 519
Newport, IN 47966

Trade Name And Synonyms: VX/NaOH Hydrolysate or Caustic VX Hydrolysate

Chemical Name: Aqueous mixture of mostly (29 to 47%) Ethylmethylphosphonic acid and 2-(diisopropylamino)ethanethiol and their sodium salts

Chemical Family: Not applicable – this material is a mixture.

Formula/Chemical Structure: This is a mixture and does not have a formula or specific chemical structure.This mixture is created during the reaction of liquid VX nerve agent [O-ethyl-S-(2-isopropylaminoethyl) methylphosphonothiolate] in heated sodium hydroxide and water. This reaction destroys the VX (not detectable at a method detection limit of 20 parts per billion in the mixture) with a number of organic sulfur and phosphorous compounds, water and sodium hydroxide remaining. This mixture is known to separate into two layers and is corrosive due to the presence of sodium hydroxide.

NFPA 704 Signal:
Health - 3
Flammability – 2

Special - 0

Section II – Ingredients

Ingredients/Name	Percentage by Weight	Threshold Limit Value TLV
Water	50 - 60 wt%	Not Applicable
2-(diisopropylamino)ethyl mercaptan (thiol)	15 - 25 wt%	Unknown
Ethylmethyl phosphonic acid (EMPA)	14 - 22 wt%	Unknown
Sodium Hydroxide	0 - 5 wt%	$2mg/m^3$
Methyl phosphonic acid (MPA)	1 - 3 wt%	Unknown
2-(diisopropylamino)ethyl disulfide	0 - 5 wt%	Unknown
Other Components (including ethanol and diisopropylamine)	2 - 5 wt%	Unknown
EA 2192	< 0.002 wt%	Unknown
VX	< 20 ppb	*

*There is no TLV for this material. However, the U.S. Army has developed a "military unique" Airborne Exposure Limit (AEL) for VX at 0.00001 mg/m3

Section III - Physical Data

Boiling Point Deg C: Data not available

Vapor Pressure (Torr): Data not available

Density (25 Deg C): 1.17 g/ml

pH: 13.5 to 14.0

Freezing (Melting) Point: Data not available

Odor and Appearance: Two-phase liquid with strong, pungent ("skunky") odor. Detection of odor occurs at very low airborne concentrations of some sulfur-containing chemical compounds

in this mixture—ranging from the low parts per billion to high parts per trillion. Ventilation controls (e.g., laboratory hoods and negative pressure ventilation during loading and unloading) are recommended for prevention of odor complaints (from workers or general public) during handling of this material. The upper, organic layer has a dark amber color while the lower layer is light amber in color.

Section IV - Fire and Explosion Data

Flashpoint:
Upper Layer (1-5% of total): 127°F (53° C) —As determined by Pensky-Martens Closed-Cup Test Method.
Lower Layer (99 to 95% of total): No flash point up to 205° F (96° C).

Flammability Limits (% By Volume): Not known

Extinguishing Media: Upper layer is combustible; use dry chemical, CO_2, or water spray as extinguishing agents. Cool containers with flooding quantities of water until well after fire is out.

Special Fire Fighting Procedures: Type BC fire extinguisher may be used for incipient fires. Contact the fire department. Firefighters should use self-contained breathing apparatus.

Unusual Fire And Explosion Hazards: None known

Section V - Health Hazard Data

Threshold Limit Value (TLV) or OSHA Permissible Exposure Limit (PEL): This mixture is military unique and an established TLV or PEL does not exist for this material. NECDF has established an airborne worker exposure limit for the 2 (diisopropylamino) ethyl mercapton (thiol) contained within this mixture. The NECDF exposure limit for this thiol is established at 40 parts per billion (ppb) and was calculated based upon a review of existing toxicity studies/information for this thiol and compounds with similar chemical structures. This exposure standard was calculated using very conservative (protective) assumptions and was calculated for 40-hour workweek exposures throughout a worker's lifetime.

Health Hazards: May be harmful if swallowed, inhaled, or in contact with the skin. Material may be destructive to tissue of the mucous membranes and upper respiratory tract, eyes, and skin. May cause lacrimation (tearing), blurred vision, and photophobia. Eye contact may cause chemical conjunctivitis and corneal damage. Contact with the skin may cause an aching sensation and/or burns, may cause skin rash (in milder cases), and cold and clammy skin with cyanosis or pale color. If swallowed may cause severe pain, nausea, vomiting, diarrhea, and shock. Inhalation can lead to severe irritation of upper respiratory tract with coughing, burns, breathing difficulty, and possible coma.

Effects Of Overexposure: May include burning sensation, coughing, wheezing, laryngitis, shortness of breath, headache, nausea vomiting.
Material presently is not listed by the International Agency for Research on Cancer (IARC), National Toxicology Program (NTP), Occupational Safety and Health Administration (OSHA), or American Conference of Governmental Industrial Hygienists (ACGIH) as a carcinogen.

Emergency and First Aid Procedures:

Inhalation: If inhaled, remove victim from source area to fresh air seek medical attention immediately. If victim stops breathing administer CPR. If breathing is difficult, give oxygen.

Eye Contact: If material comes in contact with the eyes flush with water immediately for at least 15 minutes. Assure adequate flushing by pulling eyelids apart with fingers. Seek medical attention.

Skin Contact: Remove victim from the source immediately and flush affected areas with copious amounts of soap and water for at least 15 minutes. Seek medical attention.

Ingestion: If swallowed, do NOT induce vomiting. Seek medical attention immediately. If ingested wash out mouth with water. If victim is fully conscious rinse out mouth with water and/or give a cupful of water. Never give anything by mouth to an unconscious person.

Section VI - Reactivity Data

Stability: Stable under ordinary conditions of handling and storage.

Conditions to Avoid: Extreme temperatures. Based on NaOH content, avoid contact with acids, flammable liquids, organic halogenated compounds, especially trichloroethylene. Contact with metals such as aluminum, tin and zinc and alloys containing these materials may cause the formation of flammable hydrogen gas. Contact with nitromethane and other similar nitro compounds may cause the formation of shock sensitive salts.

Hazardous Polymerization: Unknown

Hazardous Decomposition: Unknown

Section VII - Spill, Leak, And Disposal Procedures

Steps To Be Taken In Case Material is Released or Spilled: Refer to Emergency Guide Response No. 132. Evacuate area. Spill response personnel should wear self-contained breathing apparatus, protective boots and gloves. Protective clothing should be made of PVC, Teflon, Silver Shield or Viton materials. Some materials used for protective clothing (e.g., Neoprene and Butyl Rubber) may be incompatible with hydrolysate and should be removed if

changes are noted.

Absorb all spilled material with vermiculite, dry lime or soda ash, scoop up, keep in a suitable closed container and hold for waste disposal. Avoid runoff into storm sewers and ditches that lead to waterways. Clean up spills immediately, ventilate area and wash spill site from areas with copious amounts of water after material pickup is complete. Liquids resulting from releases or spill cleanup should be contained and analyzed to determine appropriate disposal.

Waste Disposal Method: Dispose in accordance with local laws and regulations. The mixture is classified as a RCRA D002 (Corrosive) and D001 (Ignitable) waste. Note that some states regulate products resulting from the destruction of a chemical warfare agent as hazardous waste (including Indiana, Maryland, Utah, and Oregon).

Section VIII - Special Protection Information

Respiratory Protection: For emergency situations (like during spills or fires), the use of self-contained breathing apparatus (SCBA) is recommended to insure that inhalation of sodium hydroxide or other materials in the mixture is prevented. Appropriate respiratory protection (SCBA or air-purifying) should also be considered if airborne exposures exceed the NECDF exposure limit of 40 ppb during routine handling.

Ventilation System: A system of local exhaust is recommended to control employee exposures during routine handling of this mixture. A local exhaust ventilation system is recommended because it can control the emissions of contaminants at their source, preventing the dispersion of contaminants into the general work area. Please refer to the ACGIH document, Industrial Ventilation, A Manual of Recommended Practices, most recent edition, for further details.

Protective Clothing and Gloves: As a minimum, impervious Viton gloves or equivalent in protection should be worn to prevent skin exposure. Gloves and other protective clothing should be changed-out on a periodic basis to prevent degradation.

Eye Protection: At a minimum chemical goggles should be worn. For splash hazards or when working with large quantities of the material goggles and face shield should be worn.

Other Protective Equipment: For laboratory operations, wear lab coats, gloves and have respiratory device accessible. Remove and launder contaminated clothing before reuse.

Section IX - Special Precautions

Precautions To Be Taken In Handling and Storing: Chemical showers, eyewash stations, and personal cleanliness facilities should be provided. Wash hands after handling and before meals.

The carrying, storage, usage and/or consumption of food, beverages, cosmetics, smoking materials tobacco products or other products for chewing; or the chewing of such products in work areas, should be prohibited. Exits must be designed to permit rapid evacuation. Do not inhale aerosolized VX-hydrolysate, get in eyes, on skin, or on clothing. Avoid prolonged or repeated exposure. Keep tightly closed. Store in a cool dry place away from incompatible substances.

Section X - Transportation Data

Proper Shipping Name: Waste corrosive liquids, flammable, n.o.s. (sodium hydroxide and di-isoproplyamine),

DOT Hazard Class: 8, Packing Group II, with a subsidiary hazard class of 3

DOT Label: Corrosive (Primary) and Flammable (Subsidiary)

DOT Marking: Corrosive liquids, flammable, n.o.s., (Sodium hydroxide and di-isoproplyamine) UN 2920, Packing Group II

DOT Placard: Corrosive (Primary) and Flammable (Subsidiary)

Emergency Accident Precautions And Procedures: See sections IV, VII, and VIII.

Mari Kenfik
→ Mont Co.
Mont C

REGIONAL AIR POLLUTION CONTROL AGENCY
Serving Clark, Darke, Greene, Miami, Montgomery, and Preble Counties
117 South Main Street, Dayton, OH 45422-1280
937.225.4435 FAX: 937.225.3486
www.rapca.org

Exhibit 2

January 10, 2002

Certified Mail
Mr. Jeff Pocisk, Vice President
Perma-Fix of Dayton, Inc
300 S. West End Avenue
Dayton, Ohio 45427

NOTICE OF VIOLATION

Summary

On July 24, 2001, Penna-Fix of Dayton (PFD) agreed to Administrative Findings and Orders issued by the Regional Air Pollution Control Agency (RAPCA). PFD has not complied with these Orders and is therefore in violation of the Ohio Administrative Code (OAC) rules and the Montgomery County Combined General Health District Air Pollution Control Regulations (MCCGHDAPCR) rules 3745-31-02, "Permit to Install Requirements," 3745-77-03, "Content of a Permit Application," 3745-21-07, "Control of Emissions of Organic Materials from Stationary Sources," and 3745-35-02, "Permit to Operate." In addition, PFD is in violation of "40 CFR Part 63 Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations" and Ohio Revised Code (RC) 3704.05.

Dear Mr. Pocisk:

On July 24, 2001, Perma-Fix of Dayton (PFD) agreed to Administrative Findings and Orders issued by the Regional Air Pollution Control Agency (RAPCA). These orders included the following requirements:

- V.1. Compliance with the provisions of OAC and MCCGHDAPCR rule 3745-15-07. Such compliance was to include, but not limited to, the control of odors.

- V.2.a. Completion of emissions testing and quantification for the bioreactor and related processes was to be completed no later than September 21, 2001. Submission of a report to RAPCA outlining the actual and potential emissions at the facility was to be completed no later than October 5, 2001.

- V.2.b. A report was to be submitted to RAPCA no later than October 21, 2001, outlining the available additional control measures and a schedule for the expeditious installation of control equipment and/or measures, as necessary, to comply with the provisions of OAC and MCCGHDAPCR rule 3745-15-07 and all other applicable local, state, and federal air pollution control regulations by utilizing the emissions data in the report required October 5, 2001.

- V.3. PTI and PTO applications were to be submitted, as applicable, for any air contaminant source not otherwise exempt under OAC and MCCGHDAPCR rules 3745-31-03, 3745-35-02, 3745-35-05, and/or 3745-15-05 no later than November 14, 2001. This was to include revised applications for currently permitted units, as necessary, to account for all applicable air pollution control regulations.

As of this date, PFD has not complied with these Orders. Emissions testing and emissions quantification has not been completed, a comprehensive emissions report has not been submitted, control options have not been addressed, and complete PTI and PTO applications have not been submitted.

On October 5, 2001, PFD submitted "A Determination of Air Pollutant Potential to Emit and Facility Source Classification (Draft Document)". This draft potential to emit document does not completely and accurately provide the data necessary to determine potential emissions from Perma-Fix's Dayton, Ohio facility. Failure to provide a complete and correct quantification of emissions and subsequent utilization of these data to determine the need for additional control equipment is in violation of V.2.a. and V.2.b. of the Administrative Findings and Orders and RC 3704.05.

RAPCA has utilized the WATER9 model to develop emissions estimates for the agitated tanks identified as T-1, T-602, and T-603. As modeling of these tanks individually would result in over-estimating the true emissions, RAPCA modeled these tanks in series. Reasonable assumptions regarding wastewater temperature, tank dimensions and agitation parameters were made. However, the maximum hourly design rate and tank volume, as provided by PFD in the draft PTE document, dated October 5, 2001, were also incorporated into the model. RAPCA has estimated the HAP emissions from these three tanks to be as high as 19.9 tons per year.

While the potential to emit (PTE) for tanks T-1, T-602, and T-603 has been estimated to be less than the major source threshold for Title V applicability (25.0 TPY total HAPs), emissions from many other air contaminant sources located at the PFD facility must be

considered when determining the facility's PTE. The air emissions units (areas) and RAPCA's emissions estimates for each unit (area) are listed in Table 1.

Table 1, Estimated Emissions for Air Contaminant Sources at Perma-Fix of Dayton

Emission Unit (Area)	Emission Unit Identification	Estimated Emissions
Building B Wastewater Treatment	OR1, OR2, Condensate Separator, Surge Tank, T-1, T-2, TW-1, T-602, T-603	WATER9 modeling indicates emissions as high as 19.9 tons per year (TPY) HAPs
Bioplant	T-801D, T-801E, Bio-SBR, Bio-VDR, Utility Tank Activated Sludge, T-702, Utility Tank Clarifier	Two of these tanks are aerated biological treatment tanks. Information is not yet available for the estimation of emissions. The OC and HAPs emissions are expected to be very high.
Building B Centrifuge Room	Tricanter, Centrifuges (3 identical)	Condenser emissions were not characterized in the PED draft PTE document. PED must determine OC/HAPs vented as fugitive and OC/HAPs emissions from the condenser. All information is not yet available for the estimation of emissions.
Building C Heating Equipment	H1, H2, H3, H4, Boiler	Natural Gas Fired Units (each 2.5 mmBtu/hr). OC less than 0.1 TPY
Building E Hazardous Waste Drum Bulking/Storage	Drum Bulking, S-71	0.21 TPY OC
Building G Solidification Area	Fixation, Solidification Pit, G-1, G-2, G-3, T-802, T-803, T-804, T-805, T-807, T-808	Estimated emissions up to 20 TPY HAPs
Tank Farm	numerous storage tanks, condensate tank	0.7 TPY OC
Total Estimated HAPs Emissions		39.9 TPY HAPs , not including centrifuge room, bioplant, and n-hexane emissions

It is RAPCA's assessment that the PTE for HAPs exceeds the major source threshold of 25.0 TPY, and may exceed 100 TPY of organic compounds. As a result, the PFD facility is subject to the requirements of OAC rule 3745-77 (Title V Rules). An owner or operator subject to the requirements of OAC rule 3745-77-03(A) must have submitted a Title V application by no later than April 4, 1995. Failure to submit the appropriate air permit applications is a violation of OAC rule 3745-77 and V.3. of the Administrative Findings and Orders. In addition, failure to submit a PTI application for all emissions units subject to the requirements of OAC rule 3745-31-02, "Permit to Install Requirements" is a violation of V.3. of the Administrative Findings and Orders.

Additionally, off-site waste and recovery operations that are major sources of HAPs are subject to "Subpart DD – National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations." Failure to submit a control equipment plan to meet the requirements of 40 CFR Part 63, "Subpart DD – National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations," OAC rule 3745-21-07, "Control of Emissions of Organic Materials from Stationary Sources," and OAC rule 3745-15-07, "Air Pollution Nuisances Prohibited" is a violation of V.2.b of the Administrative Findings and Orders.

On December 5, 2001, RAPCA returned the PTI applications for the three 200,000 gallon steel storage tanks. The applications were deficient and returned to PDF for proper completion. RAPCA is not yet in receipt of the completed applications. It is our understanding the 200,000 gallon storage tanks have already been installed without obtaining a permit to install. Installation of air contaminant sources, such as the aforementioned storage tanks, without first obtaining a permit to install is in violation of OAC 3745-31-02.

Perma-Fix of Dayton is hereby notified that it is in violation of OAC and MCCGHDAPCR rules 3745-31-02, 3745-77-03, 3745-21-07, 3745-35-02, 40 CFR Part 63 Subpart DD, and V.2.a, V.2.b., and V.3. of the Administrative Findings and Orders effective on July 31, 2001, and RC 3704.05. Within 7 days of receipt of this letter, PFD shall complete all emissions testing and emissions quantification and submit a complete and accurate report to RAPCA outlining the actual and potential emissions at the facility. In addition, within 30 days, PFD shall submit complete PTI applications for any air contaminant source not otherwise exempt under OAC and MCCGHDAPCR rules 3745-31-03 and 3745-15-05. Within 45 days of receipt of this letter, PFD shall submit a Title V application, and a control plan to comply with the terms of Orders V.2.a, V.2.b., and V.3. of the enforcement orders agreed to by Perma-fix on July 24, 2001. Also, within 45 days of receipt of this letter, Perma-fix shall submit an initial notification and a notification of compliance in accordance with 40 CFR Part 63 Subpart DD and 40 CFR Subpart A.

Acceptance of the compliance plan and schedule by RAPCA does not constitute a waiver of Ohio EPA's and RAPCA's authority to seek civil penalties as provided in sections 3704.06 and 3707.99 of the Revised Code (RC). The determination whether to pursue such penalties will be made at a later date.

If you should have any questions regarding this matter, please contact Rebecca Pohlman at 225-4453 or me at 225-5941.

Sincerely

D. Curtis Marshall

D. Curtis Marshall
Abatement Supervisor

cc. William D. Hayes, Vorys, Sater, Seymour and Pease LLP
John Paul, RAPCA
Michael Matis, RAPCA
Rebecca Pohlman, RAPCA

Mr. BRISTOW. Thank you, Mr. Turner. I am sorry I caused a little bit of disruption. I had to leave, we had an incident going in town.

In my testimony I will reference Perma-Fix quite a bit because the majority of my dealings were with officials from Perma-Fix. But I believe that they were answering questions and maybe their lack of information that was provided to us was because of what they were being told by Parsons and the U.S. Army. So I just wanted to make that clear before I start.

My first knowledge of the proposed neutralization/disposal of VX hydrolysate at Perma-Fix came from a local 11 o'clock newscast. the next day I received calls from various agencies in the Dayton area inquiring if I had further information about this news story.

I waited a few days and after not being contacted by Perma-Fix, I went to the Perma-Fix facility and inquired about the news story. I was escorted into the plant and was introduced to a group of individuals said to be working on the project. I stated my concerns that none of the surrounding fire chiefs or myself had been contacted about the proposed disposal project. I was informed that the news media had caused problems for the project. The plans were to inform interested parties prior to the news media airing this type of story.

I expressed the need for Regional Haz-Mat to be involved with the project because of our providing emergency response to all Montgomery County Fire Departments and my position of emergency coordinator for the local emergency planning committee. I was advised that someone from the facility would be in touch.

A few days later, I received a call from I believe Tom Trebonik. The gentleman advised me he was heading up the project for Perma-Fix. During this conversation, I emphasized my concern about providing proper training and equipment to the fire departments and our haz-mat team. This material would be different from other types of materials we have dealt with. It would first be identified as a chemical warfare agent even if treated prior to transport to Dayton. I offered to help in any way with providing information and training to any and all first responders in Montgomery County. I informed Mr. Trebonik that I would like to attend sessions or meetings they may have with local first responders, and I was assured that I would be kept informed of meetings.

A few weeks later, I was invited to attend a meeting at the plant that included representatives from the Ohio EPA, Ohio Highway Patrol and also the Highway Patrol's Haz-Mat Enforcement Agency, along with Montgomery County Health and Sanitary Departments. A picture was being painted by Perma-Fix representatives that was intended to make us believe that nothing could go wrong and there was no need for much concern. My position is to be the devil's advocate at this type of meeting and ask the tough questions. I did ask questions about the physical characteristics of the material, the plan for catastrophic releases of the material and the impact on the surrounding area if a release would take place. I inquired about the impact on the aquatic life if a catastrophic release would occur into a waterway during transport. My greatest concern was not the immediate impact on the environment, but long term devastation to our waterways and natural resources in general. I then asked questions about the impact on the neighborhood sur-

rounding the Perma-Fix facility, both from routine processing and in the event of an unplanned release.

After asking these questions, I sensed reluctance on the part of Perma-Fix to include me in planned meetings with local fire departments. On numerous occasions, I received inquiries from representatives from the Jefferson Township and Trotwood Fire Departments asking if I would be attending training sessions and tours at the Perma-Fix facility. Even though I had asked Mr. Trebonik to include Dayton Regional Haz-Mat in these sessions, we were not informed directly by Perma-Fix. It was only because of our excellent relationship with the fire departments involved that they contacted me and informed me of these meetings.

I, along with other members of the regional team, attended these sessions and attempted to point out some of the critical points and the experimental basis of the disposal process. The information that was constantly being given to first responders was the VX hydrolysate is no different than a one quart can or bottle of Drano drain cleaner. This is not an accurate description of VX hydrolysate.

In March of this year, I was asked to serve on the Perma-Fix Citizen Advisory Committee. While serving on this committee, I continued to ask the questions I had been asking since the original meeting at their facility. In my opinion, issues and answers to not only my questions but also those of others were often avoided, and sometimes smoke screens thrown up to dodge these questions. Occasionally questions would arise inquiring about the operation of the Perma-Fix facility, and no one at the meeting would have information. This occurred with Mr. Trebonik and the facility manager, Mr. McEldowney, present. These questions were general in nature, and one would presume those in attendance from Perma-Fix would have been able to provide these answers.

It was clear to me that Perma-Fix did not intend to share information with us. It is also quite clear that the public will not accept the disposal of VX hydrolysate, as the disposal would be occurring within a few hundred feet of people's homes.

Through all these meetings and conversations with Perma-Fix officials, I was treated with respect, and they were always courteous.

Respectfully submitted, Dennis J. Bristow.

Mr. TURNER. Thank you.

Mr. Brueggeman.

[The prepared statement of Mr. Bristow follows:]

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After asking these questions I sensed reluctance on the part of Perma-Fix to include me in planned meetings with local Fire Departments. On numerous occasions I received inquiries from representatives from the Jefferson Township and Trotwood Fire Departments asking if I would be attending training sessions and tours at the Perma-Fix facility. Even though I had asked Mr. Trebonik to include Dayton Regional Haz-Mat in these sessions, we were not informed directly by Perma-Fix. It was only because of our excellent relationship with the Fire Departments involved that they contacted me and informed me of these meetings.

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Through all of the meetings and conversations with Perma-Fix officials I was treated with respect, and they were always courteous.

Respectfully Submitted,

Dennis J. Bristow
October 16, 2003

Mr. BRUEGGEMAN. I am here representing Montgomery County Board of Commissioners.

The county had to address two different questions. The first issue involved public acceptance based on the public health and welfare of our citizens and environment. The second involved the discharge of the treated waste into sewers to be treated at our Western Regional Treatment Plant. Many of the same questions asked about the health and welfare of our citizens were asked concerning the potential impact of this waste on our wastewater treatment process and the surface waters.

When we were first notified that Perma-Fix would possibly treat the VX hydrolysate, the Commissioners and the Sanitary Engineering Department staff raised the same questions asked by the public. The Army and Perma-Fix assured us that public acceptance was a major determining factor in the final decision to extend Perma-Fix's contract from the lab testing to full scale operations.

In June, the County Commissioners passed a resolution opposing the transporting and treatment of hydrolysate at the Perma-Fix facility located in Jefferson Township. This resolution was based on the Commissioners' concern over the safety of their citizens and the quality of the environment and the many unanswered questions. They also were concerned because impact of the treatment of the hydrolysate on Jefferson Township and on other Montgomery County communities was uncertain. Yet it appeared as if the Army, Parsons and Perma-Fix intended to continue pursuing the transportation and treatment of the VX hydrolysate.

We knew very little concerning the impact the treatment of this waste product would have on the health and welfare of the local community, on the county owned wastewater treatment plant and ultimately on the surface water environment of the great Miami River. In order to better understand these potential impacts, we hired an outside consultant, Dr. Bruce E. Rittmann, to conduct a scientific review of the treatment process proposed by Perma-Fix. Dr. Rittmann is a professor at Northwestern University Illinois and has an extensive background in the treatment of hazardous waste and biological treatment of organic waste.

Perma-Fix's proposed pretreatment process involves two phases, an oxidation phase and a biological degradation phase. The first phase of the treatment is an oxidation process. This process removes thialamine, one of the three Schedule II compounds. Removing thialamine eliminates the most odorous compound and eliminates any possibility of reconstructing the VX nerve agent once the pH is reduced. Lowering the pH also reduces the caustic problem.

Based on this, the recommendation was made that the first oxidation treatment process should be completed at the facility in Newport, IN, regardless of where any additional treatment is conducted.

The second phase of the treatment is a biological treatment of the aqueous portion. According to the Army, "During biological treatment, bacterial would digest the more complex compounds in hydrolysate to form simpler compounds such as carbon dioxide and water." EMPA and MPA are the two remaining Schedule II compounds that are referred to by the Army.

According to Dr. Rittmann's evaluation, this did not occur. Very little reduction, if any, occurred during the biological treatment process in the laboratory. In order to reach the concentration levels, Perma-Fix mixed the compound with other waste, reducing the concentration by dilution. Dr. Rittmann's report indicated two of the Schedule II compounds, EMPA and MPA, were partially reduced in the aqueous component during the oxidation step, but were merely diluted during the biodegradation phase. This dilution enabled Perma-Fix to claim they met the biodegradation standard and the discharge levels required by contract.

The Army contends it is committed to safely destroying the VX agents stockpiled in Newport, which I do not question. They also contend all the major organic constituents of hydrolysate have been proven in a treatability study to be successfully removed or destroyed in the treatment criteria. Theoretically, biological degradation of the organic compounds is possible. The Army has inferred in a letter to one of our citizens dated July 31, 2003 that Perma-Fix and the Army will not discharge untreated chemicals or hydrolysate into the sewers or rivers. They indicated during biological treatment, bacteria will digest the more complex compounds in hydrolysate to form simpler compounds such as carbon dioxide and water. These statements are misleading in that EMPA and MPA would be discharged.

There are no studies indicating these compounds would be completely removed in the county's wastewater treatment plant. There are no studies to indicate what these compounds would do once released into our rivers. This is a major question that has been asked and never answered. The dilution of the two compounds and the lack of an environmental toxicity test are the main reason Perma-Fix was denied the privilege of discharging the waste into our system.

In addition, the Army has not provided all of the information requested by the county. The county prosecuting attorney requested on July 25, 2003 certain documents pertinent to the proposal by the Army to transport and treat the VX hydrolysate in Montgomery County. By letter dated August 13, 2003, the Army advised the county to resubmit the request for these documents. This was done on September 15 by letter and electronic fax. To date, nothing has been received.

There is a lack of public acceptance, which on the surface appeared, until recently, to be ignored by the Army. The Army has not provided answers to questions asked by the officials and citizens.

I would thank you for allowing us to present our views concerning this issue before your committee.

[The prepared statement of Mr. Brueggeman follows:]

COMMENTS FOR OCTOBER 22, 2003

James Brueggeman

Montgomery County Sanitary Engineering Department

I am here today representing Montgomery County Board of Commissioners. The County had to address two different issues.

The first issue involved public acceptance based on the public health and welfare of our citizens and environment. The second issue involved the discharge of the "treated" waste into the sewers to be treated at our Western Regional Wastewater Treatment plant. Many of the same questions asked about the health and welfare of our citizens were asked concerning the potential impact on our wastewater treatment process and our surface water.

When we were first notified that Perma Fix would possibly treat the VX Hydrolysate, the Commissioners and the Sanitary Engineering Department staff raised the same questions asked by the public. The Army and Perma Fix assured us that public acceptance was a major determining factor in the final decision to extend Perma Fix's contract from the lab testing to full- scale operations.

In June, the County Commissioners passed a resolution opposing the transporting and treatment of Hydrolysate at the Perma Fix facility, located in Jefferson Township. This resolution was based on the Commissioner's concern over the safety of their citizens and the quality of the environment and the many unanswered questions. They also were concerned because the impact of the treatment of the Hydrolysate on the Jefferson Township and other Montgomery County communities was uncertain. Yet, it appeared as if the Army, Parsons and Perma Fix intended to continue pursuing the transportation and treatment of the VX Hydrolysate.

We knew very little concerning the impact the treatment of this waste product would have on the health and welfare of the local community, on the county-owned wastewater treatment plant and ultimately on the surface water environment of the Great Miami River. In order to better understand these potential impacts, we hired an outside consultant, Dr. Bruce E. Rittmann, to conduct a scientific review of the treatment processes proposed by Perma Fix. Dr. Rittmann is a professor at Northwestern University, IL. and has an extensive background in treatment of hazardous waste and biological treatment of organic wastes.

Perma Fix's proposed pretreatment process involves two phases, an oxidation phase and a biological phase. The first phase of treatment is an oxidation process. This process removed thiolamine, one of the three schedule 2 compounds. Removing thiolamine eliminates the most odorous compound and eliminates any possibility of reconstituting the VX nerve agent once the pH is reduced. Lowering the pH also reduces the caustic problem. Based on this, the recommendation is made that this first oxidation treatment process should be completed at the facility in Newport, IN. regardless of where the additional treatment is conducted.

The second phase of treatment is the biological treatment of the aqueous portion. According to the Army, "During biological treatment, bacteria will digest the more complex compounds in hydrolysate to form simpler compounds, such as carbon dioxide and water". EMPA and MPA are the two remaining schedule 2 compounds that are referred to by the Army. According to Dr. Rittmann's evaluation, this did not occur. Very little reduction, if any, occurred during the biological treatment process in the laboratory. In order to reach the concentration levels, Perma Fix mixed the compounds with other waste reducing the concentration by dilution.

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The Army also inferred in a letter to one of our citizens, dated July 31, 2003, that "Perma Fix and the Army will not discharge untreated chemicals or Hydrolysate into your sewer or rivers". They indicated, "During biological treatment, bacteria will digest the more complex compounds in Hydrolysate to form simpler compounds, such as carbon dioxide and water". These statements are misleading in that EMPA and MPA would be discharged. There are no studies indicating these compounds would be completely removed in the County's wastewater treatment plant. There are no studies to indicate what these compounds would do, once released into our rivers. This is a major question that has been asked and never answered.

The dilution of the two scheduled 2 compounds and the lack of environmental toxicity test are the main reason Perma Fix would be denied the privilege of discharging this waste into our system.

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There is a lack of public acceptance, which on the surface, appeared until recently, to be ignored by the Army. The Army has not provided answers to questions asked by officials and citizens.

Mr. TURNER. Thank you all for your testimony. At this point, we will go to questions from the committee and we will begin with a 10-minute round of questions and begin with our chairman.

Mr. SHAYS. First, Mr. Chairman, thank you again for pointing out the need to have this hearing. And I would say to the panelists, thank you for your very concise statements and to the point statements. I have conducted 16 years of hearings and the presentations by this panel was really quite outstanding.

I also want to say for the audience as well. This is a congressional hearing, it is not a community meeting. We keep a transcript and we want to respect the comments of all the witnesses, both the first and second panel, and this committee is determined that both panels know this process is a fair one, one designed to get information and not designed to, you know, move public pressure one way or the other. So that is the basis for the hearings.

The basis here is frankly from my standpoint as chairman of the subcommittee that we need to understand this process. The experience in Dayton is important for you; for the committee, it is important for us to know how it impacts all communities in the country, how do we achieve the objective we want. All of us, and the panelists have said this, we know we have chemical weapons. Why we ever made them in the first place, you know is obviously open to question, but we did as a country and as a world community agree that chemical weapons needed to stipulation. We had a convention that agreed that they would be and that we would then go through the process of destroying these horrific weapons of mass destructions. And we want these weapons to be destroyed, the chemical weapons. But we wanted to follow a process that is fair and safe and so on.

I am going to ask some questions that will be a little redundant to some because some made the point in their statement, but I would like to get it all together in the form of keeping all the panelists responding to each kind of issue.

I would like to know—we will go with you, Ms. Neal, and right down, when did you learn that Perma-Fix was going to be involved in this process?

Ms. NEAL. We were informed by a citizens group or residents from Jefferson Township. They officially came to our City Commission meeting, making us aware of the fact that a contract had been let and that there was going to possibly be movement of this chemical. We were not informed officially through letter that this process was going to take place by Perma-Fix or any other party.

Mr. SHAYS. By Perma-Fix.

Ms. NEAL. We were not. It was clearly by volunteers and residents of the community who first made us aware of this.

Mr. SHAYS. Ms. Jones, how were you notified, again? When did you first learn?

Ms. JONES. I am trying to see if I can find——

Mr. SHAYS. I will come back to you. Ms. Johnson.

Ms. JOHNSON. I found out on January 23, my friend Willa Bronston, called me and said did you know there is an important meeting taking place tonight. No, I did not. It was late in the afternoon, I was chilling. And so here I had to jump into some clothes,

prepare and get out of there, and I did not know anything about it. I did not know what VX was.

Mr. SHAYS. Thank you. Mr. Jacobs.

Mr. JACOBS. I learned I believe in February from Mary and other people involved in the group.

Mr. SHAYS. Mr. Bristow.

Mr. BRISTOW. I really do not have a date, it was a local news station, WHIO, ran a story on the 11 o'clock news and it said "Deadly Chemical Agent to be disposed of in Montgomery County."

Mr. SHAYS. Explain to me your responsibility. It says Dayton Regional Hazardous Materials Team.

Mr. BRISTOW. We are a hazardous materials team that actually serves the 41 fire departments in Montgomery and Greene County. We are made up of about 150 members, those 150 members come from the 40 different fire departments in the two counties. The municipalities, all 40 jurisdictions in the two counties, pay a per capita fee to Dayton Regional Haz-Mat and then we actually respond to the hazardous materials incidents and do the mitigation, stopping, plugging the leak, that type of thing.

Mr. SHAYS. Mr. Brueggeman.

Mr. BRUEGGEMAN. Yes, sir. We learned early on in December. Perma-Fix, along with officials from the Township, met with our staff to inform them of what they were considering. At that meeting, I also recommended that they talk to the County Administrator, they set up a meeting I believe, the following week. I am not sure on the dates, but it was early in December.

Mr. SHAYS. And you learned from whom again?

Mr. BRUEGGEMAN. Perma-Fix and the Township officials, I am not sure if there was a Township trustee there, but there was an official from the Township.

Mr. SHAYS. Again going back, what steps—excuse me, Ms. Jones.

Ms, JONES. Jefferson Township Trustees became aware of it the latter part of June-July 2002.

Mr. SHAYS. Thank you. What steps did each of you take—and maybe it does not involve some of you as much. Mr. Jacobs, you basically became involved, attorney Jacobs, by residents and organizations that engaged your services.

Mr. JACOBS. That is correct.

Mr. SHAYS. OK.

But I would like to know what steps did you take to solicit information about the specifics of what was happening?

Ms. NEAL. After having the presentation made before the City Commission, we directed our city manager who then directed our staff who is responsible for environmental issues to followup and have some initial concerns and feedback and a report. And we also had our environmental advisory board to look into the issue and make some recommendations as to what the position of the city of Dayton should be.

Mr. SHAYS. Ms. Johnson.

Ms. JOHNSON. I am sorry, would you repeat the question?

Mr. SHAYS. Yes, I would like to know what steps did you take to get information.

Ms. JOHNSON. Oh, we did a thorough research, we researched everything. And our main force was the National Research Council

publication that had—the first article that I read about it was "Super Critical Water Oxidation" and it was a report on the method, the problems, the process. And there were major problems that occurred in Corpus Christi, Texas. And they were trying to scale up the method of super critical water oxidation and the salts that precipitated out destroyed the reactor.

Mr. SHAYS. Mr. Bristow.

Mr. BRISTOW. I went directly to Perma-Fix after the story on the 11 o'clock news. I waited a couple of days and had different fire chiefs calling me asking me if I had been informed.

Also part of my position is the emergency coordinator for the local emergency planning committee, which is part of the State emergency response committee. And we have always had a good working relationship, Dayton Regional Haz-Mat has always had a working relationship with Perma-Fix. They provide lab facilities for unknown materials. So I felt comfortable with just walking in the front door and asking and they were very honest and open at that time with what they were doing, and explained to me that the process of informing the public really was circumvented by the news story that occurred the night before or a couple of days before.

Mr. SHAYS. Thank you.

Mr. BRUEGGEMAN. We had asked Perma-Fix for some of the information, as much literature as they had on it. They gave us literature, they gave us literature on some of the other processes and identification of the VX agent and its components and the hydrolysate.

In addition to that, we got on the Internet and pulled off as much literature as we could. Many of the documents were similar to what was given to us by the public later on. Ms. Johnson and her group had done a good job of research also, which reinforced many of the things that we had.

We then, because of the unanswered questions in our mind and the limited knowledge, started to look for an expert who could better help us identify what this was going to do.

Mr. SHAYS. Could you for the record explain the significance of Schedule II compounds?

Mr. BRUEGGEMAN. It is my understanding—I am not an expert in this area, but it is my understanding that when you break down the hydrolysate or when you form VX agent, you have three basic, what they consider, Schedule II compounds that are necessary to form the VX agent. When they hydrolycize the VX nerve agent, it breaks down into these Schedule II compounds and there are some other side compounds that are broken down.

It is my understanding that if they lower the pH, there is a possibility, under certain conditions, that it will reconstitute and reform VX nerve agent. So you have to have all three of the Schedule II compounds available to do that, so if one is missing, it cannot be reconstituted.

Mr. SHAYS. OK. Let me just ask each of you what kind of cooperation you felt you got from the Army, if you contacted the Army and from Perma-Fix. I do not need a lot of detail, but what kind of cooperation you received from each as you inquired, if you did inquire from either.

Ms. NEAL. Our staff inquired and I understand they provided limited information.

Mr. SHAYS. From the Army?

Ms. NEAL. Yes.

Mr. SHAYS. And from Perma-Fix?

Ms. NEAL. Yes.

Mr. SHAYS. OK.

Ms. JONES. The Township Trustees and administration had spoken with Perma-Fix on several occasions and one was indicated in the outline that we had asked that they would have more public involvement. I attended many of Perma-Fix and Parsons and the U.S. Army forums and at one particular meeting which was early on in March, I think it was March 18, it was right before they——

Mr. SHAYS. I need you to sit forward——

Ms. JONES. I am sorry.

Mr. SHAYS. We want to make sure the transcriber is getting this.

Ms. JONES. It was right before them considering the citizens advisory panel.

Mr. SHAYS. Let me just ask, I do not need too much detail right now. What I want to just know in general is how you would rate the cooperation of both the Army and Perma-Fix in terms of your outreach to get information. I would want to know if you had information outstanding from the Army or Perma-Fix. I am going to actually start over again since I asked the question a little differently, with your permission. I am beyond my 10 minutes here.

Ms. Neal, how would you decide the cooperation of the Army—your staff and so on—and Perma-Fix? Was it satisfactory or less than satisfactory?

Ms. NEAL. Less than satisfactory.

Mr. SHAYS. From both the Army and Perma-Fix?

Ms. NEAL. According to the information I received, yes.

Mr. SHAYS. And do you still have requests outstanding?

Ms. NEAL. My understanding is there are still unresolved issues and unanswered questions.

Mr. SHAYS. Thank you. Information that you have requested, you have not received.

Ms. NEAL. Correct.

Mr. SHAYS. Is that the same experience you have had, Ms. Jones?

Ms. JONES. Unsatisfactory.

Mr. SHAYS. Both the Army and——

Ms. JONES. Perma-Fix, yes.

Mr. SHAYS. Thank you. Ms. Johnson. You are not speaking in the capacity of a government official, you are speaking as a community activist?

Ms. JOHNSON. That is correct.

Mr. SHAYS. OK.

Ms. JOHNSON. Yes, it is unsatisfactory and I stated in my statement March 14 was filed a Freedom of Information Act request with the Army and we never received any response to this day.

Mr. SHAYS. Let me be clear. Mr. Jacobs, do you work in conjunction with Ms. Johnson or——

Mr. JACOBS. I do. I represent the group whose name is too long to say that Mary is part of.

Mr. SHAYS. OK, thank you. So maybe, Mr. Jacobs, you could provide a little more detail on this issue.

Mr. JACOBS. On March 14, I sent a Freedom of Information Act letter to the Army asking for what I thought was relatively routine information about the decisionmaking process, how did they decide to send it here, a copy of the contract, a copy of standards, all the stuff that you would expect that you would want to see. And while there was some correspondence back and forth, to this date, I have not gotten the first document from the Army as a result of that request.

Mr. SHAYS. OK. Let me just say for the record, any request that the Commission has made to the Army or to any other one involved in this process, whatever the decision is on whether or not to move forward in Dayton, we still will want that information, because this is an effort to understand the process and the process is important for us to understand. So we will keep working to understand that and we will try to assist you in getting information that you need to kind of close the record here.

Mr. JACOBS. Thank you.

Mr. SHAYS. Mr. Bristow.

Mr. BRISTOW. Initially, there was great cooperation I think and our presence was welcomed and once they learned that we would not accept the canned answers we were getting and wanted more specific answers, the cooperation waned quite a bit.

Mr. SHAYS. Both with the Army and Perma-Fix or just with—was your contact with both or just with Perma-Fix?

Mr. BRISTOW. Actually the contact was with Perma-Fix and it is just my opinion, you know, that the responses I was getting from Perma-Fix were just what the Army wanted them to release.

Mr. SHAYS. Fair enough. Whether that is in reality true, the fact that is your perception is important to have on the record.

Mr. BRISTOW. Thank you.

Mr. SHAYS. Thank you.

Mr. BRUEGGEMAN. Our cooperation with Perma-Fix or Perma-Fix's cooperation with us was very good. When we would ask for information, they would give it to us if they had it available. As the process went on, it appeared as if they were also asking permission to release the information to us and sometimes that was slow. But I think their intent to cooperate with us and our expert was great. The cooperation with the Army, as I indicated, we had asked for information and it was not provided. And it appears as if the Army's comments on the side were not very cooperative.

Mr. SHAYS. Thank you. Let me ask a question just out of my ignorance in not knowing your government. Is the Jefferson Township part of your county department? In other words, do you do work for Jefferson, is there a connection there?

Mr. BRUEGGEMAN. No, the county is the broader organization which is very different than municipalities in jurisdiction. The Township is a separate entity.

Mr. SHAYS. But it is——

Mr. BRUEGGEMAN. It is within Montgomery County, yes.

Mr. SHAYS. But they depend on you to do the Engineering Department——

Mr. BRUEGGEMAN. No, the reason why we are involved with Jefferson Township is that we have a regional wastewater treatment plant and the waste from Jefferson Township in that area would come into our treatment plant.

Mr. SHAYS. I see.

Mr. BRUEGGEMAN. So that is why we would be involved.

Mr. SHAYS. Thank you. Thank you very much for your responses and thank you for your generosity in letting me go beyond my 10 minutes.

Mr. TURNER. Any time, Mr. Chairman.

Mr. Jacobs, I want to talk to you for a moment about the environmental impact study that you were talking about. You were describing an environmental impact study that had been performed pretty extensively for Newport, IN, and that there was not, correspondingly, an environmental impact study for Dayton. And as you know, one of the issues that we ran up against when we were looking at the issue of public acceptance is that at one point an Army response that public acceptance, when it was clear it was not coming, would be redefined to be regulatory compliance.

You were raising the environmental impact study issue is part of a regulatory compliance process. What I would ask you, for those who might not know, what types of issues might be different from Newport, IN and Dayton, OH that would have to be taken into consideration if an environmental impact study was done for this particular process.

Mr. JACOBS. Sure. First let me say that the law, the NEPA law that requires you to do an environmental impact study is primarily a procedural law. So procedurally the Army would have been required to get with all of the political leaders in our area to meet and have detailed meetings with all of our environmental regulators and to gather information from all of them. If they had done that, then some of the things that they would have learned that are clearly different in our context than in the Indiana context, they would have learned that this facility is smack dab in the middle of a densely populated neighborhood where 3,000 people live in Drexel, hundreds of thousands of people live within several miles of this facility.

In Indiana, it is in a relatively isolated rural area. The Newport chemical facility itself is 10 square miles. It is 2.6 miles from the closest population concentration which is Newport where 578 people live. So clearly the danger to a population is significantly different.

They would have learned that the economic and racial makeup of the two communities is vastly different. Newport reported in the last census that there were no African-Americans that lived there. This community is 35 percent African-American. Newport reports 9 percent poverty rate; this community reports a 33 percent poverty rate. So clearly very disparate communities.

They would have found out that a stone's throw away from the Perma-Fix facility is the Calumet School, a school for people with multiple disabilities. The day I went by the Calumet School, I saw students there leaving, being put on a school bus, all of them were in wheel chairs. How would that school be evacuated if there was a problem there? The Calumet School exists a stone's throw away

from Perma-Fix. I doubt there is anything equivalent or certainly nothing equivalent that was identified in the EIS in Newport.

Here the first responder would be the Jefferson Township volunteer department backed up by Mr. Bristow's folks. There, they have highly skilled haz-mat people onsite who know exactly what to do. They are just right down the hall presumably from where they would be doing this work.

So the differences just go on and on and I tried to detail them in my testimony. But had they followed through on this process, they would have discovered all of this stuff about our community and the contrast between this community and the community where the material has been stored and was supposed to have been treated could not be—the differences could not be more dramatic.

Mr. TURNER. In following up on the chairman's question concerning public outreach, I want to first read a few sections of the contract which I think are important, and I want to focus to some extent on the Army's participation.

If you look at the contract itself, there is a statement of work section and then in the section labeled 3, it goes on to label it as a work description. And it breaks down into waste transport, waste treatment disposal and then there is public outreach support, which Mr. Jacobs indicated that in the contract itself, there is a separate line item for compensation for that specific activity of the public outreach support. It is pretty exhaustive. The three paragraphs that I want to read is subparagraph (b) first. It says: "The contractor and government shall retain primary responsibility for outreach."

The next subparagraph in (e), it says "Subcontractor outreach plans shall include an early initial subcontract activity involving public and government notifications and public sessions intended to establish a measure of public acceptance for planned hydrolysate transport and disposal work."

Now if you look at this section where it says "The subcontract outreach plans shall" and then what it is intended to do and that is to achieve public acceptance, it is not open to question as to whether or not that needs to be done as a condition for this to move forward.

It goes on to say "Completion of subcontract work may be contingent upon the establishment and maintenance of public acceptance throughout the subcontract period of performance."

The next provision is saying with the word "may" be contingent concerns the public acceptance being maintained throughout the period. But the initial paragraph in (e) talks about public acceptance having to have been achieved prior to going forward.

And then if you go on to management support, 3.5 and subparagraph (c), it says that "The subcontractor's program manager shall immediately notify the contractor's subcontract administrator of any conditions potentially detrimental to said contract work." And then it lists them, it lists them separately. It says "public outreach acceptance issues, safety incidences, operational problems, regulatory issues." Each one are given equal weight and each one are broken out separately.

If you go to the end of the contract at paragraph 6, performance, it says this statement, "Initial public outreach activities to confirm

public acceptance will commence immediately with notice to proceed."

So all of the provisions of the contract relate to an effort of public outreach and information. Second then, a confirmation that public acceptance has occurred and even making it a contingent provision for this to begin, and a possible contingency for it to continue throughout the process.

In focusing back on the paragraph that says that the subcontractor and the government shall retain primary responsibility for outreach, I would like to focus on the Army's outreach efforts. To the extent that you are aware or have participated, I would like to know about events or meetings that you participated in where the Army was present and what their statements were with respect to public outreach and with respect to public acceptance.

We will start with Ms. Neal.

Ms. NEAL. As an elected official in the largest municipality contiguous to Jefferson Township, there was no official discussion with the elected officials from the Army.

Mr. TURNER. Ms. Jones.

Ms. JONES. There were several and I attended all of those. There was not a lot of dialog between the Army, Parsons or Perma-Fix. As I had stated in my statement here, I think that there was one initial one where they spoke generally to different aspects of the whole process, but the majority of the meeting ended up where the citizens who came to the meeting at that point, they didn't want it. So they would come to the meetings and the meetings would then turn into input from the citizens of why they opposed it and ask questions, the same questions that they would ask at every meeting. So there was not a lot of information coming from them other than the community trying to get them to answer specific questions regarding health and safety.

So if you ask me was there a lot of dialog regarding that, no, because the questions were not answered.

Mr. TURNER. Ms. Johnson, contact with the Army with respect to public acceptance.

Ms. JOHNSON. Please.

Mr. TURNER. Ms. Johnson, the question is with respect to public acceptance and direct contact with the Army.

Ms. JOHNSON. Whenever we asked questions, we never got responses. They knew that we did not want it and they ignored us. They did not return documents that stated why they were coming or whatever questions that we asked about how they went about making their decision.

Mr. TURNER. Mr. Jacobs.

Mr. JACOBS. I attended mostly meetings that were organized by the community, but the Army would be invited to make a presentation and the thing I recall most was the Army's insistence that the material is just like Drano. And after—citizens can pull down the MSDS sheet, the material safety data sheet on this, and read for themselves that 30 to 50 percent of VX hydrolysate are these complex Schedule II compounds that are not just like Drano, and are in fact rather dangerous. And to have the Army continue that mantra undermined all of their credibility and made it very hard for people to believe what they had to say about it.

Mr. TURNER. Mr. Bristow.

Mr. BRISTOW. I would just have to re-emphasize what's been said up to this point. It appeared that if we were willing to accept a PowerPoint presentation that they gave and the flavor of that presentation would be how this material is safe and it will not harm you. It was always a quart of Drano. Although it was a 4,000 gallon tanker coming down the road, we were to relate it as a quart of Drano and not only would I ask questions but other people on the citizens advisory panel asked questions, people from the audience asked questions and it was always the same answer continuously, this material is not dangerous, this material is no more than a quart of Drano. And after the third or fourth time, people did some research and they knew that was not true.

Mr. TURNER. Mr. Brueggeman.

Mr. BRUEGGEMAN. My first contact with the Army was at a public meeting at Jefferson High School. The thing that surprised me as Parsons and Perma-Fix seemed to be prepared for the meeting, the Army's comments seemed as if they were unaware of the public outcry that was occurring and they were misreading the intent of what people were asking them. It seemed like they took a different approach than I would have expected anyone to take concerning that this was a public meeting and the people had already voiced a lot of serious concerns. It did not look like they were prepared for it.

Mr. TURNER. On behalf of the committee, I want to thank all of you for testifying, and personally as a member of this community, I want to thank you for all of your efforts.

Mr. SHAYS. If the Chair would yield. I just want to tell you, Mr. Jacobs, we do have—the committee does have a copy of the environmental impact statement as well as the subcontract, and we thank you for not requesting that it be inserted into the record, but it will be part of the record.

Thank you.

Mr. JACOBS. Thank you very much.

Mr. SHAYS. I would also like to thank all of our witnesses, you did an excellent job.

Mr. TURNER. Thank you so much.

We will then be going to our next panel, who will be joining us and I will introduce them when they come to the table.

On the second panel is Dr. Louis Centofanti, president and CEO of Perma-Fix; Mr. Michael A. Parker, Acting Director, Chemical Materials Agency of the U.S. Army and also testimony of John T. Stewart of Parsons, Inc. We will be hearing their responses both to the testimony that they have heard and also hearing their testimony.

Gentlemen, we appreciate each of you coming here today and being able to provide your testimony to our committee. We will begin by providing you with the oath that your testimony will be the truth to the committee. If during your testimony or during the question period there is anyone that you believe that you will be relying on for additional information, it would be appropriate for them to stand also at this time and to be sworn in. So if you would please stand, or anyone else that you would like to have testifying before the committee.

[Witnesses sworn.]

Mr. TURNER. Please note for the record that the witnesses have responded in the affirmative. We will begin this panel with Dr. Louis Centofanti, president and CEO of Perma-Fix.

STATEMENTS OF DR. LOUIS CENTOFANTI, PRESIDENT AND CEO, PERMA-FIX, INCARCERATION; MICHAEL A. PARKER, ACTING DIRECTOR, CHEMICAL MATERIALS AGENCY, U.S. ARMY; AND JOHN T. STEWART, PARSONS INFRASTRUCTURE & TECHNOLOGY GROUP, INCARCERATION

Dr. CENTOFANTI. Thank you. I appreciate the opportunity to speak. One, I have submitted a statement which includes quite a bit of technical information, and I think for the committee, the most important is probably lessons learned. At the end, we have tried to summarize seven major points as we look at this project. If anyone else ever tries it, hopefully they will look at that and answer some of those questions and issues raised. I think, you know, the community was very diligent, worked hard and consistent in opposing this project, and I think raised a variety of issues that—many are addressed in our seven points in terms of things that need to be done in the future.

As an old college professor, I guess in retrospect this will be a great example of a case study, if anybody ever wants to look at it, on how to—what should be done or should not be done. You know, probably from our point of view, besides the seven points as you really look at them, there is one very—one critical one that affected us the most dramatically. For this project, we really saw ourselves making two promises. One, our contact with the Army and Parsons to carry out this activity. The second was a promise to our community, being a good neighbor and a good citizen. I think early on they spoke very loudly and consistently that they did not want this project.

Our problem was that, as we looked at it, we were in a box. We do a lot of work for the Federal Government under contract and a default on this contract would have been a fairly serious event for the whole company. At the same time, we were listening to our neighbors opposition in the community. So if we went ahead with the project, we basically threatened the facility; and if we backed out, we would be in default under the contract. I think that is addressed in one of those issues that in the future it is a very serious—ourselves being put into that sort of situation. We were in a no-win situation.

Like I say, a lot of the issues that were raised by the citizen groups—are in our comments. The information, our role as a contractor—a subcontractor, and yet at the same time the Army's desire to respond to Congress and get in the middle of the project when theoretically we should have been the out-front people. So as we look at this, it was a—well, just an unfortunate situation. It is finished. My comments are there. I will be happy to more address any questions later as they come up in terms of the points at the end, if there is such.

Mr. TURNER. Mr. Parker.

[The prepared statement of Dr. Centofanti follows:]

Perma-Fix of Dayton, Inc. Testimony to the House of Representatives Committee on Government Reform; Subcommittee on National Security, Emerging Threats, and International Relations.

In accordance with the instructions provided to Perma-Fix of Dayton, Inc. (PFD) by the subcommittee, in its letter dated 15 October 2003, testimony provided will focus on: a review of the management of an Army agreement with Perma-Fix of Dayton, Inc. through prime contractor Parsons Infrastructure & Technology Group Inc. (Parsons) Further it is our understanding that the subcommittee wishes to assess the implementation of provisions requiring contracting parties to establish "a measure of public acceptance for planned Hydrolysate transport and disposal". It is our understanding that the subcommittee will examine steps taken by the Army, PFD, and Montgomery County with respect to the satisfaction of the public acceptance requirements of the subcontract between Parsons and PFD. PFD will also outline the specific requirements in the original RFP, our proposal, the resulting subcontract (#742168 40069) with Parsons and our understanding of and our activities to satisfy these requirements. In an effort to improve the process and inform the subcommittee PFD will also provide issues, lessons learned and recommendations.

Testimony.

Contract description: Perma-Fix of Dayton Inc. entered into a subcontract (#742168 40069) with Parsons on 21 December 2002. The subcontract resulted from our proposal in answer to a Request for Proposal (RFP) issued on or about 29 August 2002.

The work description contained in the RFP Statement of Work separated the work into 5 activities (1) Waste Transport, (2) Waste Treatment/Disposal, (3) Public Outreach Support (4) Treaty/Inspection Support and (5) Management Support. The established evaluation factors for award were divided into 3 categories: Technical, Commercial and Risk.

As outlined above, this testimony will focus on those aspects of the subcontract related to the "measure of public acceptance for the planned Hydrolysate transport and disposal".

The Subcontract Statement of Work related to "public acceptance" is defined by section **3.3 Public Outreach Support** as follows:

"Detailed subcontractor requirements for public outreach shall be indicated in an outreach plan submitted with the Subcontractor's proposal. Minimum outreach and related requirements to be addressed in the plan are as follow:"

a. *"Subcontractor outreach plan shall indicate that outreach responsibility is principally that of the Subcontractor, with support from the Contractor and Government, for outreach activities in the transportation-route and TSDF areas. The subcontractor shall act as the primary spokesman for subcontract work at*

public sessions or in response to written or media inquires. The outreach plan shall indicate a specific point of contact for Subcontractor outreach activities."

b. *"The contractor and Government shall retain primary responsibility for outreach in the Newport community. The Subcontractor shall support, as requested, Contractor and Government personnel in their Newport-area outreach activates."*
c. *"Subcontractor outreach plans shall acknowledge Contractor and Government outreach involvement and include descriptions of interfaces, roles and responsibilities."*
d. *"Subcontractor plans shall include monitoring, and reviewing with Contractor and Government personnel, transport-route and TSDF-community media and information sources for local sentiments and concerns."*
e. *"Subcontractor outreach plans shall include and early/initial subcontract activity involving public and government notifications and public sessions intended to establish a measure of public acceptance for planned Hydrolysate transport and disposal work."*

"Completion of subcontract work may be contingent upon the establishment and maintenance of public acceptance throughout the subcontract period of performance."

The CONTRACTOR RESPONSIBILITIES (Section 5.0). As specified in the Subcontract are as follows:

"Particular Contractor responsibilities pertinent to Subcontractor are work as follow:"

a. *"The Contractor working with Government counterparts, will maintain primary responsibility for public outreach effects in the Newport area. On occasions, the Contractor may request outreach support from the Subcontractor to help address program work activities."*
b. *"The Contractor will provide hydrolysate samples sufficient for TSDF acceptance testing and any required process development and demonstration testing."*
c. *"The Contractor will provide details of pretreatment studies (see Attachment 0.3) data to subcontractor requiring hydrolysate pretreatment prior to TSDF primary treatment."*
d. *"The Contractor will provide NECDF-site safety training, plans and requirements pertinent to preparation of the Subcontractor's NECDF-Site Safety Plan (see section 4.2) and performance of work at the NECDF site."*
e. *"The Contractor will provide waste property certification prior to transfer of hydrolysate to Subcontractor's transport vehicles. In particular, Contractor will confirm that hydrolysate VX concentration is non-detect at the method detection limit (MDL)."*

f. *"The Contractor will provide waste manifests prior to transfer of hydrolysate to SubContractor's transport vehicles, including, in particular, waste quantity (ie, volume)."*

g. *"The Contractor will provide a complete transfer station appropriate for transfer of hydrolysate waste from the NECDF waste holding tanks to the Subcontractor's transport tankers. The transfer station will have the capability of transferring hydrolysate to the Subcontractors transport tankers at a rate of up to 70 gallons/minute."*

The Pertinent General Provisions (Section VI). The following provisions were established by the RFP and incorporated into the Subcontract.

17. TERMINATION.

A. Default: *"Should Subcontractor at any time refuse or neglect to supply sufficient and properly skilled workers, or fail in any respect to prosecute the Services or any separable portion with promptness and diligence, or fail in the performance of any portion of this subcontract required for the satisfactory completion of the Services, or become insolvent, Contractor may terminate this Subcontract for default, after forty eight (48) hours written notice to Subcontractor to correct the deficiency. Contractor may also terminate Subcontractor's right to proceed with the Services or such part of the Services where defaults have occurred." "Convenience: Should the Prime Contract be terminated or canceled pursuant to the terms thereof, or upon ten(10) days advance notice, Contractor may terminate this Subcontract by written notice to Subcontractor. Such termination shall be effective in the manner specified in the notice and shall be without prejudice to any claims that contractor or Owner may have against Subcontractor."*

B. *"Upon receipt of a termination notice pursuant to paragraphs A or B, above, Subcontractor shall unless the notice directs otherwise immediately discontinue the Services."*

Further, the condition establishes: "Subcontractor shall be liable for, and pay to, Contractor any reasonable cost, including the cost for additional managerial and administrative services, in excess of the subcontract Price for the Services.

Termination for default also results in the inability to win Government contracts for up to three years.

Pertinent portions of the RFP include the following:

SECTION A – INSTRUCTIONS TO OFFERORS

SCHEDULE:

1. *"It is anticipated that work will commence with a Contract Award and limited Notice to Proceed (NTP) in September 2002. Initial Public Outreach activities to confirm public acceptance, will commence immediately with the limited Notice to Proceed. Actual Hydrolysate transport and disposal operations are scheduled to begin as early as July 2003 and extending through the completion of the Hydrolysate processing schedule. (For the purpose of establishing the Subcontract completion date, the Period of Performance completion date shall be considered as March 31, 2004.)"*

EVALUATION FACTORS FOR AWARD:

Evaluation Factors. The Evaluation Factors for award defined in the RFP's Instructions to Offerors for Technical and Commercial did not specifically address Outreach support. However the evaluation criteria established under these general factors (Technical, Commercial) were assumed by PFD to address the Outreach support. The risk evaluation included specific language related to public acceptance.

The **Technical Criteria** indicated that the evaluation would assess the subcontractors *"thorough understanding of the requirements, and is properly permitted and certified, for performance of subcontract work; has the facilities and capacities necessary for performance of work; has adequate staff with appropriate experience and training for performance of the work; has provided complete, well reasoned and technically sound plans for performance of work; and has sound operating, environmental, quality, and health and safety history and programs for performance of subcontract work."*

The **Commercial criteria** included a *"focus on assessing the ability of the offeror to perform and complete program work without interruption resulting from financial-instability or regulatory compliance issues."* The evaluation also employed information gathered by the Contractor prior to the release of the RFP.

The **Risk Evaluation criteria** included a risk evaluation which included *"assessment of risk associated with establishing and maintaining public acceptance of program work throughout program completion, comparative risk to the public and environment associated with performance of program work, and financial risk and liabilities to the Contractor and Government incurred during performance, and continuing beyond completion, of program work. Risk assessment may largely relate to the primary transport and disposal technology proposed by the offeror for treatment/disposal of the NECDF Hydrolysate waste."*

In order to establish fair and reasonable criteria for evaluation, Offerors were provided with the following information pertaining to the specific waste form requiring treatment as well as the amount of time anticipated to perform outreach services under the Statement of Work, this information is identified below:

SECTION B-1 – SUBMISSION FORM, BASE PROPOSAL:

"The Offeror's are to use a total of 3000 Man-Hours for the purpose of pricing this section B-1 of the Request for Proposal. After Subcontract Award, should the actual Hours incurred be more or less than stated above, an equitable adjustment to the Subcontract Price may be determined."

SECTION O – STATEMENT OF WORK
Attachment 0.1 – Material Safety Data Sheet (MSDS)

The RFP included a Material Safety Data Sheet (MSDS) for the trade name and synonyms: VX/NaOH Hyrolysate. The waste mixture included the following hazard description:

SECTION V - HEALTH HAZARDS DATA:

Health Hazards: *"May be harmful if swallowed, inhaled, or absorbed through the skin. Material may be destructive to tissue of the mucous membranes and upper respiratory tract, eyes, and skin. Material is considered hazardous because of its content of caustic and toxic compounds. This material should be handled with caution and appropriate protective clothing should be worn when handling."*

Effects of Overexposure: *"May include burning sensation, coughing, wheezing, laryngitis, shortness of breath, headache, nausea vomiting. Exposure to large quantities could cause ataxia, tearing, tremors, and salivation."*

"Material presently is not listed by the International Agency for Research on Cancer (IARC), National Toxicology Program (NTP), Occupational Safety and Health Administration (OSHA), or American Conference of Government Industrial Hygienists (ACGHI) as a carcinogen."

Emergency and First Aid Procedures:

"Inhalation: If inhaled, remove victim from source/area to fresh air; seek medical attention immediately. If victim stops breathing, administer CPR. If breathing is difficult, give oxygen. Seek medical attention immediately.

Eye Contact: If material comes in contact with the eyes, flush with water immediately for at least 15 minutes. Assure adequate flushing by pulling eyelids apart with fingers. Seek medical attention immediately.

Skin Contact: Remove victim from the source immediately and decon affected area by flushing with copious amounts of soap and water for at least 15 minutes or with house hold bleach while removing contaminated clothing and shoes. Seek medical attention immediately.

Ingestion: If ingested, wash out mouth with water. Seek medical attention immediately.

Description of PFD's proposal to the "public acceptance "portions of the RFP.

Assumptions. In any proposal, a potential bidder is required to make certain assumptions. Consistent with and based on the language of the RFP, Perma-Fix of Dayton (PFD) made the following assumptions related to Public outreach:

1. That PFD could and would be able to safely treat the Hydrolysate.
2. That the Contractor and the Government had developed an extensive outreach program at Newport.
3. That in the course of development of the Newport Outreach, the Contractor and the Government had developed extensive, accurate and complete information related to the health and safety risks associated with Hydrolysate.
4. That the information provided by the Contractor and the Government in the Material Safety Data Sheets and supporting analytical data reflects the true and complete risks associated with the hydrolysate offered for treatment.
5. That the Contractor and the Government had established analytical processes sufficient to assure their ability to "confirm that hydrolysate VX concentration is non-detect at the method detection limit (MDL)."
6. That the Contractor would and could provide hydrolysate samples sufficient for pretreatment testing in a timely manner.
7. That the samples provided would be representative of the actual Hydrolysate for treatment.
8. That in support of testing and process validation the contract would and could provide sufficient "details of pretreatment studies data" to allow assessment of health and safety risks.
9. That as outlined in the Statement of Work the primary responsibility for outreach would be PFD and that all actions by the Army and Contractor would be directed by PFD.
10. That all conditions, statements or promises made by the Army or the Contractor related to the contract or the use of TSD's had been fulfilled and disclosed in the RFP.
11. That the citizens of Dayton would, if presented with our test results and Contractor/Government provided objective scientific evidence, understand and accept the transport and disposal of VX hydrolysate.

PDF proposed PUBLIC OUTREACH PLAN
In response to the RFP and in accordance with the assumptions made, PFD submitted a Public Outreach Plan. The Plan as submitted is included below.

PUBLIC OUTREACH PLAN
Under the Chemical Weapons Convention Treaty ratified by the US. Government in 1997, the United States is obligated under international law to destroy its stockpile of chemical weapons by the year 2007. It is important that these weapons of mass destruction be destroyed in a manner that is extremely protective of human life and health and, at the same time, is environmentally responsible. While the U.S. Government and the Department of Defense, specifically the US Army, are committed to complying with the Treaty, in order to implement chemical weapons destruction, it becomes necessary to physically handle them. Many of the weapons in storage are located in areas which have, over time, grown and developed into significant residential communities for military personnel and workers at the storage facilities and their families.

Perma-Fix of Dayton, Inc. (PFD) understands that the most critical component of this project for the destruction/demilitarization of chemical nerve agent (VX) is to gain community acceptance for affected areas surrounding the Newport Chemical Depot (NECD), along the transportation route, and at the receiving Treatment, Storage, and Disposal Facility (TSDF). Without a strong public outreach plan and a commitment by the successful subcontractor, Parsons, and the Government, this project can not be successful. Stimulation of dialogue, discussion and education can be accomplished through effective utilization of public outreach activities.

PFD has a long history of working closely with affected communities, regulatory agencies, and environmental groups to gain the needed acceptance for performing waste treatment activities. This experience will be used to establish a public outreach plan for this project that will ensure that information is disseminated in a understandable, concise, and timely manner. PFD will work closely with communities, First Responders, and State Emergency Response personnel to monitor and collect their respective concerns and ideas since all of these groups will be an integral part of the process to safely and effectively transport and treat the residual Hydrolysate waste stream. PFD's relatively close proximity to the NECD will minimize the number of affected communities that will be subject to our outreach program, and is an offered benefit to Parsons and the Government.

PFD will perform transport of the Hydrolysate using dedicated new vacuum tankers, which are proven to be a safe and reliable means of transport of this type of waste. The use of vacuum trucks, as described in the Transport Plan, will greatly reduce the risk of leaks during transport. Transport of Hydrolysate will occur from Newport, IN to Dayton, OH, approximately 210 miles, largely over well-maintained interstate highways. The minimal distance between facilities and use of new DOT approved tankers will minimize the risks associated with transport. However, due to the sensitive nature of this project it is important to ensure that communities understand the risks associated with the project and have a means to voice their concerns. To accomplish this, PFD proposes a phased

approach to performing community outreach for the affected communities along the transport route through the States of Indiana and Ohio.

Although PFD currently has a strong community information and involvement program around our Dayton, Ohio facility, this proposed community outreach program would be performed in the PFD facility area as well. PFD understands that Parsons and the Government will retain primary responsibility for outreach in the Newport community, however PFD will be available to support those efforts in any way. PFD is ready and able to immediately begin implementation of this plan, as discussed below, upon contract award.

The specific point of contact (POC) for PFD public outreach activities will be Thomas Trebonik. Contact information for the POC is provided below:

Thomas A. Trebonik
Perma-Fix Environmental Services, Inc.
4041 Batton Street NW, Suite 110
North Canton, Ohio 44720
Phone:330.498.9750
Fax: 330.498.9751
ttrebonik@Perma-Fix.com

Phase I

Initial Contacts

Phase I will consist of meeting with Indiana and Ohio State Emergency Response Agencies to discuss this project and to obtain their support for contacting the appropriate First Responder groups and/or local emergency planning committees in each of the proposed transport route communities. PFD will be responsible for transport and response to any incidents that may occur, however it is imperative to ensure that emergency responders are well aware of the hazards associated with Hydrolysate since they will also respond to any possible accident/incident that may occur. Protection of the First Responders, the residents that they are responsible for, and the environment is of the utmost importance to PFD, and this can be accomplished through cooperative agreements with all the appropriate stakeholders.

Cooperative Efforts with Affected Parties

PFD has developed a transport route map (FIGURE X) that identifies 30-mile diameter areas along the entire transportation route (excluding the local Newport community). These areas represent the potentially affected communities through which the Hydrolysate will be transported. It is our intention to meet with the appropriate First Responder groups in each of the 8 identified diameter areas. These meetings will facilitate First Responder understanding of the project and its transport, identify and provide them with any needed training to respond to possible transportation incidents,

and if necessary provide them with essential equipment needed to respond to a Hydrolysate transport incident. First Responders will include groups such as State Highway Patrol, local police and fire departments, volunteer fire departments, Hazmat teams, and emergency medical organizations.

Duration

Phase I primary activities will be accomplished prior to waste transport in July 2003. Refresher training may be required for some of the First Responders, and will be provided by PFD upon their request throughout the term of the project.

Phase II

Introduction

Phase II activities will consist of hosting a series of Informational Open House (IOH) meetings for each of the 8 affected transport-route communities to discuss the project with local residents. It is further anticipated that at least four (4) additional IOH meetings will be held in the community local to the PFD treatment facility and other selected locations along the transport route. These IOH meetings will begin immediately after the initial Phase I activities of meeting with State Emergency Response and First Responder organizations. This is necessary so that State and local area First Responders can be available to participate in the informational meetings, and is anticipated to facilitate improved communication and acceptance of this project.

Public Notification

PFD will utilize local media outlets (newspapers and radio announcements) to inform the public about the IOH, its location and schedule. In addition, PFD will post information about the IOH meetings on its Internet web site and include the web address in the newspaper announcements. A meeting site in each of the 8 areas will be selected that would be of appropriate size and set-up to host these meetings, and if possible will be located near I-70 interchanges for convenience. Because PFD developed the 30-mile diameter areas and the areas overlap, the distance that residents would be required to travel to attend one of the meetings will be minimized. In addition, the proximity of the areas will allow for residents to travel to meetings in surrounding areas if desired.

NCED Public Outreach Program

PFD recognizes that Parsons and the Government have expended significant effort in establishing and developing their own Public Outreach Programs and, as such, have prepared and developed project information materials that could be used to enhance PFD's Outreach Program. PFD will request that Parsons and the Government provide support personnel for these IOH meetings so that affected residents have the resources available to them in the meetings that can address any specific concerns about the project.

PFD Outreach Schedule

Each IOH will be scheduled and conducted over a two-day period (anticipated to be Monday and Tuesday) at each of the locations. The IOH will be conducted during the hours of 10:00 am through 8:00 PM on each of the scheduled days. The two day expanded schedule is designed to accommodate the work schedule of most persons and should accommodate persons who may not be able to attend an IOH on other days of the week due to regularly scheduled religious or community/school functions.

PFD Outreach Format

The format for the meetings is proposed to be more informal and one-on-one sharing of information with local residents. It is our experience in hosting informational meetings similar in nature to this, that work stations that allow people to gather around and inspect informational material, and discuss and ask questions in a more intimate setting which is more conducive to a productive meeting. The goal is to provide an atmosphere where residents can discuss their concerns, address experts who can communicate the specifics (including risk) associated with the project to them, and feel that they are a part of the process.

The specific format of the meetings will be approved by Parsons and the Government outreach personnel before initiation of the first IOH. It is PFD's proposed concept to set up a welcoming table at the entrance to the meeting location. Outreach staff will greet the residents and provide them with a general informational brochure describing the project. Interested citizens will be given the opportunity to request future project updates by providing their name/address/e-mail. Outreach staff will explain how the IOH is set up and direct the citizens into the meeting room. A record of the number of residents attending the IOH will be maintained for each meeting and provided as required to Parsons and the Government.

Each IOH will include a minimum of two (2) information stations set up at opposite ends of the meeting room. The stations will be separated to provide ample space for residents to gather, review the visual aids, ask questions and listen to the responses to questions raised by others. Two separate Stations simply help minimize the number of persons congregated at a Station. In larger communities, three (3) or four (4) Stations staffed with adequate personnel may be necessary.

PFD Outreach Feedback

A separate station will be established and identified for acceptance of written or oral comments/concerns. Written comments/concerns will be gathered, numbered with a consecutive numbering system, and a logged using the commentor's name and address. If a commentor does not wish to provide his/her name and address, it will be so noted on the log. To obtain oral comments audio/video equipment is proposed.

Arrangements will be made to provide the opportunity for concerned citizens to immediately provide oral comments/concerns and voice their opinions. A microphone and tape recording device will be used as a backup to the video recording. Each commentor will be asked to initially provide his name and address prior to providing the oral comments. A separate written log of the commentor's name and address will be maintained. If a commentor does not wish to provide his/her name and address, it will be so noted on the log.

Copies of all written and oral comments/concerns, associated comment logs, citizen requests for future information, and IOH attendance obtained at each individual IOH will be transferred to Parsons and the Government for review. In addition, individual de-briefing sessions will be held with the IOH staff to provide immediate feed back on the Program and to help evaluate overall local sentiment for the project.

Additional monitoring of local newspaper, television, and radio stories/comments on the IOH and general project will be conducted. Subscriptions to smaller local newspapers along the Transportation route will be obtained and the newspapers reviewed by PFD personnel for all articles relating to the Project. A Clipping Service may be employed to assist in locating newspaper articles published in the newspapers of major metropolitan areas such as Indianapolis, Indiana, and Dayton, Ohio. All articles will be forwarded to Parsons and the Government for review and discussion of public sentiment and acceptance of the project.

Copies of radio and television reports of the project will be purchased from the local stations and likewise forwarded to the Contractor and Government for review and discussion.

PFD Outreach Resources

Each station at an IOH meeting will have identical, large format visual aids to assist in responding to questions. Copies of significant project documents, such as Environmental Assessment Investigations and Findings will be available for *on-site* inspection only. A handout will be available listing all repository locations for general project information.

Visual aids anticipated for the IOH Stations include a chart explaining the "Who, What, Where, When and Why" of the project; Basic Treatment Scheme for the destruction of VX; Hydrolysate Composition; Transportation Route; Transportation schedule; General Pretreatment Scheme; and Primary (Biological) Treatment Process. The graphic identifying the Transportation Route will include identification of sensitive areas (such as Scenic Rivers, Major Recreational areas (parks/lakes/rivers), wetlands, known habitats for listed or rare, threatened and endangered species, and Cities/Towns directly on the Transportation route. Parsons and the Government will be requested to review and approve all visual aids and graphics prior to their use.

PFD Outreach Training

All technical and support personnel involved in the IOHs would be required to attend a one-day training session. This session would communicate all key aspects of the project including the VX neutralization process; the composition of the Hydrolysate to be transported; contingency planning associated with the transport of the Hydrolysate; and the proposed methods of pretreatment and disposal. The training would be required prior to an individual being scheduled for staffing an IOH. PFD has assumed that the training session will be supported and attended by the appropriate Parsons and Government Technical and Outreach personnel.

The purpose of the training session is to ensure that all personnel involved with the IOHs provide consistent, credible information about the project. Support personnel will be instructed to direct all technical questions to the appropriate outreach technical support personnel.

PFD Outreach Personnel Requirements

Each IOH will be staffed with a minimum of six (6) outreach technical support personnel (optimally two each from the Government, Contractor and PFD) to answer general and technical questions about the project. The POC for PFD outreach technical activities and supporting staff will ensure that each IOH will be adequately staffed with the appropriate personnel. It is anticipated the PFD Program Manager will attend each of these IOH meetings.

Additional support personnel will be drawn from within Perma-Fix Environmental Services, Inc., the parent of PFD. In addition, sufficient support staff will be necessary to conduct each IOH. It is anticipated that a minimum support staff of four (4) persons will be required for each IOH. Support staff will function to greet citizens, accept/log written comments, video/record/log oral comments, and provide general assistance to all IOH team members.

First responders, community leaders, and regulatory personnel will be encouraged to participate in the IOH meetings.

PFD Outreach Follow-Up Activities

While the initial public outreach activities are designed to stimulate discussion and measure public acceptance for the project, communication of on-going activities can help to dispel rumors and correct non-factual information. A monthly newsletter designed to provide concerned citizens with a continuous update of project activities related to the transport, treatment and disposal phases of the project will be prepared and mailed/e-mailed to all persons requesting future updates. Preparation of the newsletter will be closely coordinated with Government and Parsons public outreach personnel. In additional, this update information will be provided on the PFD web site for stakeholder convenience.

Summary

PFD is committed to ensuring the success of the transport, treatment, and disposal of Hydrolysate project. A strong consistent community outreach plan such as proposed here is essential to this success. PFD is ready to initiate activities as outlined in this proposed Outreach Plan with the assistance and approval of Parsons and the Government.

Highlights of Public Outreach Plan and Initial Implementation Process

Even before responding to the Request for Proposal, Perma-Fix of Dayton, Inc. recognized the importance of the Public Outreach activities and the need for providing accurate information to the general public on the proposed project. PFD likewise recognized the importance of obtaining input from the general public on the proposed project. As part of this process, PFD personnel met with a variety of local community leaders to solicit input on the proposed project. PFD was prepared to cease all activities related to responding to the Request for Proposal had any of the parties expressed strong opposition to the Project.

Without having initially received strong opposition to the Project, PFD proceeded to respond to the Request for Proposal and prepared its Outreach plan. PFD understood from the original Request for Proposal and from discussion held with the Contractor that, to the maximum extent possible, activities associated with the Project must be completely transparent. That is, all planned activities for the transportation and treatment of Hydrolysate and information developed should be shared with the community in the Newport area; the community along the transportation route; and the local community in the area of the PFD facility. Information should likewise be provided to all interested parties regardless of location.

In accordance with the subcontract, PFD prepared a public outreach program. The program prepared by PFD was approved by both the Army and the Contractor under the subcontract; the army and the contractor had the responsibility for public outreach in the Newport area.

Upon receipt of the limited Notice to Proceed (received by PFD on December 21, 2002), Perma-fix of Dayton, Inc. immediately began activities relating to the implementation of its Public Outreach Plan pursuant to the subcontract. Personnel were assigned to the Project and information acquired from the Contractor (Parsons) and the Army to support development of information necessary to implement Phases I and II of the Public Outreach plan.

While the plan called for a Phased approach to implementation, it became apparent that in order to quickly and effectively reach the local community within the Dayton area and to begin correcting mis-information that had surfaced regarding the Project, it would be necessary to contemporaneously implement both Phases of the Outreach Plan.

A decision was made to accelerate Phase II and conduct public Information open Houses at the same time as contacting the appropriate First responder Groups and/or local emergency planning committees.

The first Informational Open House (IOH) was held by Perma-Fix of Dayton, Inc. on January 23, 2003 in the Dayton area; approximately one month after receiving the Limited Notice to Proceed. PFD's IOH was supported by technical personnel from both Parsons and the Army, with the expressed goal of providing the community with accurate information on the project. Information presented at the IOH included fact sheets on VX agent and Hydrolysate and on the Limited Notice to proceed issued to Perma-Fix of Dayton. The IOH was advertised through local news media and by fliers placed within strategic locations frequented by the residents living near the PFD facility. The IOH was attended by approximately 120 local residents.

The resulting contract.

As stated, the limited Notice to Proceed was issued to PFD on 21 December 2002. Following extensive discussions, two important changes were later made to the original base contract. The first change established a more extensive demonstration study with clear criteria for success. The second change established a special termination provision which allowed for suspension of all Phase Two (transport, treatment and disposal) if PFD failed to meet the established success criteria for the Demonstration Study. The same provision also allowed for suspension if "*in its sole opinion the Contractor determines that the project cannot proceed due to a material impairment beyond the control of either party*".

These changes were driven by a PFD concern that community outreach was an unknown and that the demonstration testing represented a substantial risk to the continued operations of Dayton facility. The provision also reduced the risk of a termination for default resulting from a condition beyond PFD's control. The Demonstration Study and the establish success criteria provided additional assurance to all of the parties that the process outlined for the treatment of Hydrolysate was clearly defined and would work as described.

It is important to note that the original base contract did not establish treatment levels for Thiol, EMPA or MPA. At the time, these Schedule 2 compounds were not regulated.

The Subcontract was later modified and approved by Parsons and the Army to include the treatment standards for Thiol, EMPA, and MPA. Again the standard was not developed to meet a regulatory condition but rather to meet a Chemical Weapons Convention Treaty requirement.

Actions in support of Public Outreach.

In addition to the Informational Open House held on January 23, 2003, PFD conducted a number of meetings with first responder groups, regulatory personnel, community leaders, and the general public through the formation of a Citizens Advisory Panel (CAP). The goal of the various meetings was to provide as much information as available on the project and to solicit response and comment. A detailed chronological listing of the PFD activities conducted is included on the attached pages. The listing was prepared from information contained in the files of PFD with additional input and support from the Contractor. The listing does not include additional outreach activities conducted by both Parsons and the Army.

DATE	**Activity**
8/8/02	PFD contacted Ed Ramsey (Jefferson Twp. Trustee) and Robert Bradley (Jefferson Twp. Administrator) to solicit feedback on PFD submitting a Proposal.
8/9/02	PFD contacted Jennifer Piper (Environmental Aid for Governor Robert Taft) to solicit feedback on PFD submitting a Proposal. She indicated that she would contact the Ohio EPA Director's Office and she suggested that PFD work through the Southwest District Office of the OEPA.
8/9/02	PFD contacted Harold O'Connel (Ohio EPA, SW Dist.), Phil Harris (OEPA, SW Dist.), and Marianne Piekatowski (OEPA, SW Dist.) to solicit feedback on PFD submitting a Proposal.
8/02	PFD contacted Becky Pohlman (RAPCA) and Maria Crusett (RAPCA) to solicit feedback on PFD submitting a Proposal.
8//12/02	PFD contacted Ryan Goug (Legislative Asst. for Congressman Hobson) to solicit feedback on PFD submitting a Proposal.
8/13/02	PFD contacted Don Tucker (Montgomery Co. POTW) to solicit feedback on PFD submitting a Proposal. He suggested that PFD meet with the Co. Administrator.
8/15/02	PFD contacted D. Feldman (Mont. Co. Adm.), Jim Brueggeman (Mont. Co. Wastewater Treatment Div.) and Robert Bradley (Jeff. Twp. Adm.) to solicit feedback on PFD submitting a Proposal. They suggested that PFD obtain a letter of approval from the OEPA.
8/02	PFD contacted Heather Lauer (OEPA Public Interest Center) to inform that PFD was considering submitting a Proposal.

9/02	PFD contacted Harold O'Connell and Phil Harris (OEPA) as a courtesy call to inform them that PFD had submitted a Proposal.
10/02	PFD contacted Robert Bradley (Jeff. Twp. Adm.) to inform him that PFD had submitted a proposal.
10/02	PFD contacted Heather Lauer (OEPA Pub. Int. Ctr.) to inform her that they had submitted a proposal.
12/2/02	PFD contacted Curt Marshall, Becky Pohlman, and Maria Crusett of RAPCA that PPFD had submitted a Proposal. RAPCA indicated that a Permit To Install may be necessary.
12/26/02	PFD faxed Michael DeWine (U.S. Sen.), George Voinovich (U.S. Sen.), Robert Taft (Governor), and Tom Roberts (OH State Sen.), and Dixie J. Allen (OH House of Rep.) an information paper on the TSDF Contract Award and Press Release. Received confirmation of receipt.
12/26/02	PR Newswire public press release on TSDF Contract Award.
1/7/03	PFD faxed Michael Turner (U.S. Congress) information paper on TSDF Contract Award and Press Release. Received verbal confirmation of receipt.
1/7/03	PFD faxed Michael DeWine (U.S. Sen.), George Voinovich (U.S. Sen.), Michael Turner (U.S. Congress), Robert Taft (Governor), Tom Roberts (OH State Sen.), Dixie J. Allen (OH House of Rep.), Harold O'Connell (OEPA), Phil Harris (OEPA), Heather Lauer (OEPA Pub. Int. Off.), Jaciel Cordoba (Channel 2 News), Rodney Tims (Channel 7 News), and Christy Chatman (Channel 22 News) a flier announcing the Informational Open House.
1/7/03	Public Announcement of Information Open House at the Jefferson Township Trustee Meeting and distributed to local businesses near PFD.
1/7/03	PFD responded to inquiries from WHIO Channel 7 (CBS) on the Open House and the work planned.
1/8/03	PFD faxed Becky Pohlman (RAPCA) a flier announcing the Informational Open House.
1/03	PFD made courtesy calls to Heather Lauer (OEPA Pub. Int. Ctr.), Becky Pohlman (RAPCA), Robert Bradley (Jeff. Twp. Adm.), and Don Tucker (Mont. Co. POTW) to inform them of the issuance of the Limited Notice to Proceed.
1/10/03	PFD held meeting with employees for the discussion of Demonstration Study.
1/21/03	Dayton Daily News reporter Kelly Wynn contacted PFD and LLAND Group members for article.

1/21/03 – 1/23/03	Clear Channel Communications Radio Announcements for Informational Open House (150 announcements over 2-day period on 6 stations).
1/21/03 – 1/23/03	Announcements published in the Dayton Daily News and fliers posted in the local neighborhood.
1/22/03	PFD held a meeting with Jeff Hines, Phil Harris and Mike Joseph of the OEPA, SW District to provide general project information. PFD, Parsons, and Army Representatives visited with the Ohio EPA
1/23/03	Information Open House (~ 120 Citizens attended). Provided information on project, answers to questions and addressed concerns.
1/23/03	IDEM Representatives provided a tour of the PFD facility.
1/24/03	WDAO Radio broadcasts inflammatory and misleading information.
1/28/03	PF Completed requested interview with NPR reporter .
1/30/03	PF representatives participated in WDAO Radio show to combat misinformation broadcasted on 1/24/03
2/4/03 – 2/5/03	Parsons and PFD Representatives discussed hydrolysate project with Montgomery County Wastewater Authority. The meeting was called by Montgomery County Officials, 14 people attended.
2/7/03	Tom Roberts (OH Sen.) and Dixie J. Allen (OH Rep.) visited the PFD facility and were provided information on the project and answers to their questions.
2/10/03	Public Outreach planning session (PF, Parsons, Army reps)
2/11/03 – 2/12/03	Messaging training held at Newport Outreach Office
2/19/03	PFD participated in Newport Citizens Advisory Commission Mtg.
2/20/03	PFD met & provided Congressional Briefing to OH Fed. Legislative representatives. PFD representatives met with assistants of Sen. DeWine, Sen. Voinovich, Rep. Turner, Rep. Hobson, and Rep Boehner. PFD also met with assistants of Sen. Lugar and Sen. Bayh.
2/26/03	PF hosted meeting with Sgt. Gordon Jackson (OH state highway patrol), Larry Nanna (OHP MCEI Supervisor), Capt. Turner (Mont. Co. Sheriff Dept.), Chief Roy Mann (Jeff. Twp. Fire Dept.), Batt. Chief Boggs (Jeff. Twp. Fire Dept.), Joe Lewis (Jeff. Twp. Fire Dept.), Dennis Bristow (Dayton Regional Haz/Mat Coordinator), Jim Crawford (OEPA Haz/Mat Coordinator) and Vern Fortson (Jeff. Twp. Zoning Commission).

3/3/03	PFD conducted joint training session of the Jeff. Twp. And New Lebanon Fire Depts. in which they provide the MSDS for hydrolysate. Approximately 25 people attended. Participants requested a tour of the facility.
3/5/03	PF Coordinated facility tour with Local First Responders (Jeff Twp. & New Lebanon Fire Depts.)
3/17/03	PF hosts media day to provide correct information on the Hydrolysate Project, to provide a facility tour, and to announce the CAP meeting. In attendance were representatives from the Dayton Daily News, Channel 2 news, Channel 7 News and Channel 22 News.
3/18/03	First Citizens Advisory Panel Meeting
3/19/03	PF held information session for 1st Responders along transportation route in OH. Those in attendance included Dennis Bristow (Dayton Reg. Haz/Mat Coordinator), Lt. Dave Potts (Clayton Police Dept.), Capt. Chris Zapata (Clayton Fire Dept.), Sgt. Fred Beck (Trotwood Police Dept.), Greg Potter (Trotwood Fire Dept.), Larry Martin (Trotwood Fire Dept.), and Bud Bergman (Englewood Fire Dept.).
3/19/03	PF assess PO & Emerg. Resp. needs along transportation route.
3/31/03	PFD met with Fred Meyers (Trotwood City Manager) to provide project information to community along the transportation route. Provided informational packets to all council members and were asked to attend the next Council meeting.
4/2/03	CAP Meeting
4/7/03	PFD attends Trotwood City Council Mtg. Trotwood City Council pass resolution opposing Project.
4/8/03	Parsons, PFD, Army Outreach Work session.
4/10/03	Meeting of the CRDCW with presentation by Kevin Flamm, John Stewart and Tom Trebonik; Craig Williams (CWWG) in attendance
4/23/03	Conference call on Outreach Survey
4/29/03	PF meets with OH Emergency Management Agency
4/29/03	CAP Meeting
5/1/03	PFD, Parsons and Army attend and present Project Information at SE Priority Board Meeting
5/6/03	Columbus OH network News conducted interview in Dayton
5/9/03	Final Conference call on Survey
5/20/03	A Pre-Editorial Board Conference Call was held involving Parsons, PFD and Army Representatives.

5/21/03	Meeting with Dayton Daily News Editorial Board, Jim DeBrosse and Eddie Roth (editor) at 2 pm EDT. Jeff Brubaker and Terry Arthur were present as representatives of the Army. John Stewart attended as representative for Parsons. Lou Centofanti, Tom Trebonik, Chuck Vella, and Beth Mehlberth attended as representatives for PFD.
6/03/03	CAP Meeting
6/04/03	PFD President, Lou Centofanti and Tom Trebonik meet with residents in Local Neighborhood
6/26/03	PFD provided Parsons with an initial draft of their Newsletter.
6/30/03 – 7/3/03	PFD edited and provided a revised version of the newsletter to Parsons for review.
7/2/03	Rebecca Bryant presented the results of the public opinion poll conducted for Montgomery County Residents.
7/9/03	Bruce Rittman, technical consultant hired by Montgomery County was on-site at PFD with representatives from Montgomery County to discuss/evaluate the Hydrolysate Treatment and Disposal Project. PFD provided a briefing of the proposed process, a tour of the facility and their dedicated Laboratory, and open discussions. Parsons representatives were also in attendance.
7/18/03	PFD submitted Draft Newsletter for Parsons' Review.
7/18/03	Parsons received notice from Tom Trebonik that the CAP meeting has been postponed to a TBD date closer to the date of completion of Dr. Rittman's report to Montgomery County.
7/22/03	Parsons provided feedback on the PFD Newsletter, including comments from Glen Shonkwiler and Parsons staff.
7/28/03	Parsons receives a final version of the newsletter.
8/11/03	Reed, from the Senate Armed Services Committed, visited the PFD Facility. Parsons' representatives, John Stewart, Scott Rowden and Guillermo DeHerrera participated in the meeting. PFD provided a presentation of the TSDF Project and a tour of the PFD Facility and their Chemical Demilitarization Laboratory.
8/13/03	Parsons-PFD meeting with the Indiana Emergency Management Agency in Indianapolis, IN. Tom Trebonik and Scott Rowden explained the general plan for transport and treatment/disposal of the hydrolysate in the Dayton, Ohio Perma-Fix facility. Discussion details included: a) description of the proposed transportation route, b) schedule for transporting the hydrolysate through Indianapolis (i.e., time of day), c) description of tanker trucks that would be used (to include the vacuum capabilities of the tanker, communication capabilities—cellular phone and radio, type of placarding, and rinsing of the tankers between trips), and d) characteristics of the hydrolysate.

Lessons learned.

While it is clear that a considerable effort was expended in conducting the Public outreach Activities, the process and outcome have yielded valuable information.
If it is the intention of the Army to contract for this work at an off-site TSDF, somewhere outside of Dayton. PFD respectfully provides the following observations and recommendations:

1. PFD attempted to make its part of the outreach program clear and concise. It is not sufficient to develop outreach information that is understandable to subject matter experts only. Hydrolysate derived from VX is not just another hazardous material. The chemistry and health risks can and were equated to materials with similar health risks. The general public is not willing to accept that Hydrolysate is like Drano, no matter who or how often we say it. Materials developed for public outreach need to speak the truth as simply as possible.

   RECOMMENDATION. The Army's & Contractor technical staff needs to work with the public relations group to simplify the available data. The goal should be to develop materials that are understandable and true, not just technically accurate. This process will not be easy and there may be data gaps that must be filled. But until the Contractor and the Army can fill those data gaps and provide straight forward unqualified answers to the questions raised by the Dayton community, the program will have a difficult time using off-site TSDFs.

2. It is as critically important to understand what the community in Dayton wanted to see. Issues related to toxicity of hydrolysate, combustion by-products, EA 2192, Thiol, EMPA, and MPA need to be addressed. To the public, the lack of immediately available information related to these compounds is seen as a lack of concern or interest in public safety.

   RECOMMENDATION. Obtain an independent review of the issues raised at Dayton. Have the National Research Council, National Academy of Science or Oak Ridge National Laboratory assess the questions and review available data for gaps. From the study develop toxicity and ecotoxicity information that is complete, accurate and understandable.

3. The public fears VX. The name is enough to shut down the public's willingness to listen. The current moving target for method detection limits (MDL) has to be resolved. Our Subcontract required the Contractor to *"confirm that hydrolysate is not detected at the method detection limit (MDL)"*, which is consistent to previous Army assurances. The public does not understand that because of rapid analytical advancements, what is 20 parts per billion today may be something lower tomorrow, and the entire process involved with establishing and confirming the residual concentration of VX using the MDL may change.

RECOMMENDATION. Change the Army position away from dependence upon the MDL process to focus on some residual VX concentration that can confidently be detected. Develop and explain the risks associated with this established level and have the toxicity data to back it up.

4. Either accept and follow the language established for our Subcontract or change it. Our subcontract language requires that the Subcontractor be responsible for Public Outreach, except for the Newport area. This language never anticipated the type of resistance encountered at Dayton. Once the Congressional offices got involved the Army reacted and responded to questions both formally and informally, before there was time to coordinate between all respondents.

   RECOMMENDATION. Change the Subcontract language. The Army will not standby, waiting for a subcontractor to tell them how to respond to a Congressional inquiry. New contract language must established to provide for joint responsibility with the Army as the lead. There are actions involving the local community reaching out to the state level that should be the responsibility of the Subcontractor. However, the information required to respond and inform rests with the Army and its Contractor, not with the Subcontractor. To make the Subcontractor responsible for Public Outreach without all the available information and resources readily accessible, places the Subcontractor in an untenable position

5. "Public acceptance" may not be definable and it may not be possible to create an operational definition for a subcontract. In the broadest sense, public acceptance could be defined as everyone needing to agree with the project. By the narrowest definition, if the Army can force it without armed resistance, then the public has accepted it. In between these two extremes are a lot of uncertainties. "Public acceptance" may be best defined as the "community acceptance" of a risk as a result of a perceived benefit.

   One of the simplest examples is the acceptance of hazardous materials within our communities. Gasoline, a very hazardous material, is accepted because we all see a benefit that exceeds the risks. When you move away from gasoline and its obvious benefit, to chromic acid for example (chromic acid is frequently used in metal plating facilities), the benefits are not as clear to anyone other than those employed at a plating shop. In the case of hydrolysate at PFD, it is difficult to perceive a benefit to overcome the anticipated risks.

   RECOMMENDATION. The public needs to understand and receive some benefit. The people of Newport are more willing to accept the VX project because it is already there and it will go away. The people of Dayton have never seen a benefit from this project. There is nothing for the community that offsets for them what is currently a defined risk. Assure that the receiving community is protected and realizes specific benefits.

6. The process developed by PFD is valuable and important. Both the Army and the contractor approved that the PFD process could destroy the VX in an environmentally safe manner. As an alternative to incineration the process developed by Parsons at Newport and PFD at Dayton can provide a safe environmentally sound solution to destruction of VX. It can't and won't happen in Dayton. But with some work, complete information, and community cooperation and benefits, who knows, maybe it will work at some other viable site. Chemically and biologically destroying the VX components (such as with the PFD process) is a lot better than burning them or simply diluting them and flushing them into a bay or river somewhere.

   RECOMMENDATION. Find a way to use the process PFD has successfully demonstrated.

7. Finally, from day one PFD had decided that it would not accept hydrolysate at the Dayton plant until all questions were answered and we were sure that the materials could be safely transported, treated and disposed. But, the structure of the subcontract created a real internal conflict for the company. On one hand PFD was obligated to accomplish the mechanics of a public outreach program with "public acceptance" defined by the Army as continued operation under existing permits. On the other hand we were faced with a community protest. The community protest was so extreme that the future operation of the PFD facility was in jeopardy. There was no way to either back away or continue without doing harm to the company. If we pressed ahead under the subcontract, we risked losing the facility. If we accepted the community position, we were potentially in default of our contract. The only hope was to listen to the public, understand their concerns, and try to find and provide answers if they would listen.

   RECOMMENDATION. The program must find a better definition for "Public Acceptance". As discussed above a definition may not be possible, but at the point of any new contracts, all parties need to have a clear understanding of what "public acceptance" means. Once the performance thresholds are established subcontract language must allow a subcontractor who has otherwise fulfilled their obligations to get out of the contract in response to community actions without a default.

The citizens and local officials who worked this issue are to be commended for their hard work and tenacity. The people of Dayton have clearly stated their non-acceptance of the VX hydrolysate. Maybe if we could have had the answers to their questions when they were first asked, or had been able to show a benefit to the community, we would have successfully performed the safe treatment and disposal of the VX Hydrolysate.

Mr. PARKER. Good afternoon, Mr. Chairman and members of the committee. With the Chair's permission, I would like to submit the full statement for the record and just do a quick summary, if that would be permissible.

Mr. TURNER. That will be fine.

Mr. PARKER. I am Michael Parker, the Director of the Chemical Material Agency responsible for safe storage and disposal of our Nation's chemical weapons.

Mr. SHAYS. Mr. Chairman, if he could talk just a little louder. I am not sure, are you hearing in the back?

VOICES. No.

Mr. PARKER. All right, I am Michael Parker, Director of the U.S. Army Chemical Material Agency responsible for the safe and environmentally compliant storage and disposal of the Nation's chemical weapons. Of paramount value to the Chemical Material Agency is the safety of our work force and the American public. While we have stored, and continue to store, chemical weapons safely for over 50 years, the ultimate risk reduction is the ultimate disposal of these weapons. No weapons, no risk.

I am happy to report that over 26 percent of the 31,000 tons of chemical—of the U.S. chemical stockpile, 83,000 tons of chemical agent to date have been safely disposed of. We have three plants in operation, on line every day, reducing the risk to the American public. We will have three additional plants on line within the year to include the Newport facility, which is what brings us here today. The Newport and Aberdeen sites were significantly accelerated after the unfortunate events of September 11th. This was done as a risk reduction measure primarily to the communities where these munitions are stored. The concept was to significantly streamline the neutralization process and dispose of the neutralized material, the hydrolysate, at large scale, fully permitted commercial facilities treating similar wastes. This approach facilitated the maximum acceleration of the disposal at these two sites. The Aberdeen site, as I mentioned earlier, is on line and employing this concept quite successfully, the use of a commercial TSDF, treatment storage and disposal facility, for the treatment of the hydrolysate at the Aberdeen site.

Technical concerns were raised here in the Dayton area. This coupled with the decision by the Montgomery County Water Commission relating to Perma-Fix's operating permit has resulted in the decision by the Parsons Co. to terminate the contract. We are in the process of pursuing alternate options for the treatment of the Newport hydrolysate. We are actively working on these options and will have an alternate course of action in place by the end of the month of November. We are still committed to rapidly neutralizing the VX stocks at Newport and are looking at implementing mitigating measures to try to maintain as rapid a schedule at Newport as we possibly can.

In summary, the chemical weapons storage and disposal program has demonstrated over a very long timeline a strong safety and environmental compliance record. We will continue this demonstration throughout the course of the program, safeguarding our work

force and the American public until the last drop of material is disposed of.

Thank you, Mr. Chairman.

Mr. TURNER. Mr. Stewart. Mr. Stewart is with Parsons.

[The prepared statement of Mr. Parker follows:]

RECORD VERSION

STATEMENT BY THE UNITED STATES ARMY:

DIRECTOR, CHEMICAL MATERIALS AGENCY

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

DAYTON, OHIO

FIRST SESSION, 108TH CONGRESS

CHEMICAL DEMILITARIZATION

22 OCTOBER 2003

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
COMMITTEE ON COVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

STATEMENT BY

MR. MICHAEL PARKER

DIRECTOR, CHEMICAL MATERIALS AGENCY

ON THE UNITED STATES CHEMICAL DEMILITARIZATION PROGRAM

Mr. Chairman and members of the Committee, I am Michael Parker and am grateful to have the opportunity to address this committee. I consider it an honor to serve as Director of the Chemical Materials Agency (CMA) and to be involved with the U.S. Army's chemical demilitarization program.

As the Director, CMA, I am the individual responsible for the Army's mission of safe and environmentally compliant storage and disposal of the Nation's chemical weapons stockpile. It is a mission where safety -- of our communities, our workers and our environment – is the key overriding component. This is no small task. I am also entrusted by the American public to ensure their tax dollars are used wisely to complete this most important mission, the safe destruction of our stockpile of chemical agents and munitions. I have in the past and will continue in the future to examine potential approaches that will speed our mission of destruction and help complete this mission safely and in doing so, remove the risk posed to all Americans by continued storage.

I support the successful implementation of the Chemical Demilitarization Program while ensuring that the public, community, state, and federal emergency managers, state and federal environmental regulators, and the Congress, have timely, accurate information about the progress of the Program.

The mission of the Chemical Demilitarization Program is to destroy all U.S. chemical warfare materiel while ensuring maximum protection to the public, demilitarization facility workers, and the environment. Each day a chemical agent destruction facility operates, the threat posed by continued storage of chemical warfare materiel is reduced. I am proud to inform you that today we have three facilities in operation destroying the Nation's stockpile of chemical agents and munitions. By the end of next calendar year, we expect to have three additional sites operational. Our first destruction facility on Johnston Island, in the Pacific, successfully destroyed more than four million pounds of chemical agent, completing its mission in November of 2000. The dangers posed by continued storage of the balance of the agents and munitions in the continental U.S. is the impetus that drives the Program forward, because the safety of American citizens is the paramount concern for the Army, and indeed, all of us in attendance today.

Since the U.S. Chemical Demilitarization Program began 20 years ago, we have safely destroyed over 26 percent of the Nation's stockpile of lethal chemical agents and munitions, which initially included over 31,000 tons of chemical agents and munitions.

Presently, incineration facilities for chemical weapons destruction are operating at Tooele, Utah, and Anniston, Alabama, and a neutralization facility is operational at Aberdeen, Maryland. Construction of our incineration facilities at Umatilla, Oregon, and Pine Bluff, Arkansas, is complete and these facilities are undergoing final systems testing. These facilities are scheduled to become

operational next calendar year. Construction is nearly complete at our second neutralization-based facility located at Newport, Indiana. This facility is also scheduled to become operational next calendar year. Technologies have been selected for our two remaining stockpile sites at Pueblo, Colorado, and Blue Grass, Kentucky. The technologies selected were neutralization followed by bio-treatment at Pueblo and neutralization followed by Super Critical Water Oxidation (SCWO) at Blue Grass.

What brings us here today is the disposition of the hydrolysate that results from the neutralization process to be employed by the Newport, Indiana, facility. At Newport, the original destruction approach selected for destruction of the stockpile of bulk nerve agent was neutralization followed by on-site super critical water oxidation (or SCWO) of the resulting hydrolysate, a waste product that results from the neutralization process. After SCWO treatment and verification to ensure compliance with all effluent discharge standards and other permit conditions, the resulting product would be shipped to a commercial treatment, storage and disposal facility.

After the events of September 11, 2001, the Department of Defense pursued alternative approaches to accelerate the destruction process, based on concerns that terrorists might target the stockpile. In conjunction with this effort, options were investigated to accelerate the destruction of the bulk chemical agent stored at the Aberdeen and Newport sites. The facility was redesigned to rapidly neutralize the VX and to transport the neutralized material, hydrolysate, to an off site commercial waste treatment facility. This approach eliminated the VX

risk to the community very quickly and utilized existing commercial facilities treating large quantities of similar waste. A similar off-site treatment/disposal approach was selected for Aberdeen. In December 2002, Parsons, the Army's systems contractor for the Newport facility, informed the Army of its selection of a hazardous waste treatment facility for the disposal of the hydrolysate. The selected facility was Perma-Fix of Dayton, a permitted disposal facility. While the Army did approve Parsons' subcontract with Perma-Fix, Parsons' was responsible for conducting all aspects of the source selection, and the resulting agreement is set forth in a contract directly between Parsons and Perma-Fix. I wish to emphasize that the Army is not a party to this contract, and it does not have a contractual relationship with Perma-Fix.

I am pleased to report that the Army has had considerable success with its accelerated destruction approach at Aberdeen, Maryland, and, to date, more than one hundred thousand pounds of chemical agent have been destroyed at that site. Unfortunately, the proposed plan to ship hydrolysate from VX neutralization operations at Newport, Indiana, to Perma-Fix (Dayton) encountered local public opposition. For the past several months, the Army, in conjunction with our systems contractor, Parsons, and Perma-Fix, has been attempting to address these concerns.

The recent decision by Montgomery County (Ohio) to require additional testing and to not issue a permit to Perma-Fix (Dayton) for the discharge of effluent to the Montgomery County public-owned treatment works has precluded Perma-Fix from treating the hydrolysate as planned. On October 13, 2003

Parsons, issued a stop work order to Perma-Fix (Dayton), and is beginning to terminate the contract based on Perma-Fix's inability to proceed as originally envisioned.

Because the Army is not a party to the contract between Parsons and Perma-Fix (Dayton), we will direct any questions regarding the terms of that contract, and specifically its provisions relating to "public acceptance," to the Parsons representatives who are in attendance today at this hearing. We do wish to state, however, that Army contracts in support of the chemical demilitarization program are solicited, awarded, and administered in accordance with the Federal Acquisition Regulation or FAR, and the Department of Defense and Army FAR supplements. These regulations, among other things, prescribe standard contract clauses. In response to inquiries from this subcommittee, we have researched whether Army prime contracts contain the public acceptance provisions similar to those in Parsons' contract – with our effort focused on contracts associated with the chemical demilitarization program. Based on this review, we have no reason to believe that Army contracts use such terminology. None of the standard FAR or FAR supplement clauses refer to public acceptance, and we did not find any non-standard clauses to that effect in use in the chem demil program contracts.

In closing, I would like to reiterate that the Army's paramount objective is to reduce the risk to the public and to the communities surrounding chemical storage sites as we safely eliminate the U.S. stockpile of lethal chemical agents and munitions. The program remains committed to considering all alternatives

that represent safe processes for the elimination of the stockpile, with the least burden to all taxpayers. If the safe alternatives involve communities on the periphery of the treatment sites, the Army and its contractor will take every effort to ensure full compliance of all regulatory requirements for the safe disposal of the hydrolysate. The Army is committed to meeting the U.S.' obligations under the Chemical Weapons Convention and will continue to explore any available means to accelerate the destruction of the nation's stockpile safely and effectively.

Mr. STEWART. Mr. Chairman and members of the Committee, I am John Stewart and I work for Parsons Infrastructure & Technology Group, Inc., hereinafter referred to as Parsons.

Parsons has the prime contract with the U.S. Army to design, construct, operate and close the chemical agent neutralization facility located at the Newport Chemical Depot in Indiana. I am Parsons' project manager for the Newport Chemical Agent Disposal Facility and I am responsible for all aspects of Parsons' work at Newport. The Newport project will neutralize the VX nerve agent and transport the neutralized material, hydrolysate, to an offsite commercial waste treatment facility. That was our plan. The hydrolysate is very similar to many other standard industrial waste products that are commercially treated day-to-day. Off-site disposal of the hydrolysate more rapidly eliminates the VX risk to the public.

The acquisition of an offsite commercial treatment, storage and disposal facility involved a rigorous, comprehensive, nationwide competitive selection process. Driven by the events of September 2001 and a desire to accelerate the destruction of VX, we performed an industry survey that identified over 100 treatment, storage and disposal facilities. We subsequently issued a subcontractor qualification survey and received 45 expressions of interest in May 2002. During June 2002, we performed site audits and compliance history reviews at the 11 facilities that indicated interest and which we initially evaluated as qualified and permitted to treat waste with characteristics similar to hydrolysate. In July 2002, we issued a request for proposal to the 11 firms. The request for proposal evaluation criteria included technology, expertise, transportation plans, regulatory compliance, safety, history, capacity, risk as it relates to stability, environmental, public outreach, technical capability and cost. In October 2002, we received four proposals. One of these proposers subsequently withdrew their proposal.

In December 2002, Parsons informed the Army of their selection of a hazardous waste treatment facility for the disposal of hydrolysate. The selected facility was Perma-Fix in Dayton, OH, a fully permitted disposal facility for this type of waste. The language used by Parsons in our subcontract with Perma-Fix required the subcontractor to perform public and government notification and public outreach sessions to "establish a measure of public acceptance," and stated that "completion of subcontract work may be contingent upon the establishment and maintenance of public acceptance throughout the subcontract period of performance."

This statement was separated from the other deliverable requirements because it was a guiding principle for the Public Outreach Program rather than a contract deliverable. The gauge Parsons used to evaluate public acceptance was two fold. First, the establishment of an active public outreach program and second, compliance with Federal, State and local requirements. It was never Parsons intent to establish a requirement to obtain, retain or achieve public acceptance by every citizen, but to establish a measure of community understanding that Perma-Fix could safely and effectively treat the hydrolysate generated at the Newport Chemical facility. It is also important to understand that in its request for proposals, Parsons neither used public acceptance as a selection cri-

terion for the applying firms, nor required public acceptance as a contact deliverable.

On October 13, 2003 Parsons directed Perma-Fix to stop work on the subcontract related to treatment of hydrolysate produced during neutralization of the chemical agent VX at Newport. With this action, Perma-Fix's Dayton, OH site is eliminated as an alternative for the disposal of the Newport hydrolysate. This decision was reached after the Montgomery County Commissioners' meeting on October 7, 2003, where it become evident that constraints related to Perma-Fix's operational permit with Montgomery County would preclude the use of the Perma-Fix facility in Dayton, OH. Parsons, as part of the Newport project team, is working closely with the U.S. Army to evaluate options for the hydrolysate treatment.

Of primary importance is the safety of the worker and of the public, closely followed by protection of the environment. Schedule and costs will always be considered, but we will not allow schedule or costs to jeopardize safety or the environment. We will communicate our plans for a path forward as soon as we have identified one, which should be in the November 2003 timeframe.

That is the end of my statement, sir.

[The prepared statement of Mr. Stewart follows:]

RECORD VERSION

STATEMENT BY THE PARSONS INFRASTRUCTURE & TECHNOLOGY GROUP, INC. (herein referred to as PARSONS):

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

DAYTON, OHIO

FIRST SESSION 108TH CONGRESS

HYDROLYSATE TREATMENT

22 OCTOBER 2003

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
COMMITTEE ON COVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

STATEMENT BY

JOHN T. STEWART

ON THE UNITED STATES CHEMICAL DEMILITARIZATION PROGRAM

Mr. Chairman and members of the Committee, I am John Stewart, and I work for Parsons Infrastructure & Technology Group, Inc., hereinafter referred to as Parsons. Parsons has the prime contract with the U.S. Army to design, construct, operate, and close the chemical agent neutralization facility located at the Newport Chemical Depot in Indiana. I am Parsons' Project Manager for the Newport Chemical Agent Disposal Facility and I am responsible for all aspects of Parsons work at Newport. The Newport project will neutralize the VX nerve agent and transport the neutralized material, hydrolysate, to an off site commercial waste treatment facility. The hydrolysate is very similar to many other standard industrial waste products that are commercially treated day-to-day. Off site disposal of the hydrolysate material more rapidly eliminates the VX risk to the public.

The acquisition of an off site commercial treatment, storage, and disposal facility involved a rigorous, comprehensive, nation-wide competitive selection process. Driven by the events of September 2001 and a desire to accelerate the destruction of VX, we performed an industry survey that identified over 100 treatment, storage, and disposal facilities. We subsequently issued a Subcontractor Qualification Survey and received 45 expressions of interest in May 2002. During June 2002 we performed Site Audits and Compliance History

Reviews at the 11 facilities that indicated interest and which we initially evaluated as qualified and permitted to treat wastes with characteristics similar to hydrolysate. In July 2002 we issued a Request for Proposal to the 11 firms. The Request for Proposal Evaluation Criteria included technology, expertise, transportation plan, regulatory compliance, safety, history, capacity, risk (stability, environmental, public outreach, technical capability), and cost. In October 2002 we received 4 proposals. One of these proposers subsequently withdrew.

In December 2002, Parsons informed the Army of their selection of a hazardous waste treatment facility for the disposal of hydrolysate. The selected facility was Perma-Fix, Dayton, Ohio, a fully permitted disposal facility for this type waste. The language used by Parsons in our subcontract with Perma-Fix required the subcontractor to perform public and Government notification and public outreach sessions to "establish a measure of public acceptance" and stated that "Completion of subcontract work *may* be contingent upon the establishment and maintenance of public acceptance throughout the subcontract period of performance" (emphasis added). This statement was separated from the other deliverable requirements because it was a guiding principle for the Public Outreach Program rather than a contract deliverable. The gauge Parsons used to evaluate Public Acceptance was two fold: first, the establishment of an active Public Outreach Program; secondly, compliance with federal, state, and local requirements. It was never Parsons intent to establish a requirement to obtain, retain, or achieve public acceptance by every citizen, but to establish a measure of community understanding that Perma-Fix could safely and effectively

treat the hydrolysate generated at the Newport Chemical Depot. It is also important to understand that in its request for proposals, Parsons neither used public acceptance as a selection criterion for the applying firms, nor required public acceptance as a contract deliverable.

On 13 October 2003 Parsons directed Perma-Fix to stop work on the subcontract related to treatment of hydrolysate produced during neutralization of the chemical agent VX at Newport. With this action, Perma-Fix's Dayton, Ohio, site is eliminated as an alternative for the disposal of the Newport hydrolysate. This decision was reached after the Montgomery County Commissioners meeting on 7 October 2003 where it became evident that constraints related to Perma-Fix's operational permit with Montgomery County would preclude the use of the Perma-Fix facility in Dayton, Ohio. Parsons, as part of the Newport project team, is working closely with the U.S. Army to evaluate options for the hydrolysate treatment.

Of primary importance is the safety of the worker and of the public, closely followed by protection of the environment. Schedule and costs will be considered, but we will not allow schedule or cost to jeopardize safety or the environment. We will communicate our plans for a path forward as soon as we have identified one, which should be in the November 2003 timeframe.

Mr. TURNER. I will go through a series of questions for members of the committee, and I will start. I think the most important question for everyone in this community is the current status of this contract and the elimination of the Perma-Fix site as a possible site for these materials. Mr. Stewart.

Mr. STEWART. As I stated, it is a Parsons' subcontract. I did sign the letter that stopped all work for Perma-Fix on this, and we are in the process of negotiating the termination with Perma-Fix. It does eliminate Perma-Fix of Dayton as an option for hydrolysate treatment.

Mr. TURNER. OK. And that is the distinction in the materials we have. We currently have a copy of Parsons' letter of October 14th that is a direction to stop work. And we heard Mr. Parker's testimony representing the Army, that the process of going from stop work to termination is current. Is that accurate that this contract will be terminated and not just a stop-work order?

Mr. STEWART. Yes, sir.

Mr. TURNER. OK. And you are agreeing to the termination and that indicates——

Mr. STEWART. Perma-Fix and I have a meeting of the minds on the termination of this project for them.

Mr. TURNER. You have indicated that you will be looking at other alternatives. You are not looking at any alternative that includes this site, is that correct?

Mr. STEWART. That is true.

Dr. CENTOFANTI. We are not challenging their decision.

Mr. TURNER. Pardon?

Dr. CENTOFANTI. We are not challenging their decision.

Mr. TURNER. OK. What I want to hear from you is that—you know, obviously you are currently in the process of where you have a stop-work order, but you do not have termination. You are concurring and agreeing to termination of the contract with Parsons.

Dr. CENTOFANTI. Absolutely, yes.

Mr. TURNER. When you are in that position, it will be my understanding that you will be under no contractual obligation to accept any of these types of materials at your site, is that correct?

Dr. CENTOFANTI. Correct.

Mr. TURNER. Do you have any intention to ever again enter into an agreement to accept these materials at this site?

Dr. CENTOFANTI. No, absolutely.

Mr. TURNER. Are you participating in discussions of alternatives in the disposal of these materials with the Army and with Parsons?

Dr. CENTOFANTI. Not at this time. This contract to only use Dayton was the only contact we had with the Army and the—and Parsons.

Mr. TURNER. If they should engage you in those discussions, the Army and Parsons, for the purposes of discussing with you technology or proprietary information or knowledge that you have, it is my understanding from your testimony that any of those options or alternatives that you would propose would not include the Daytonsite.

Dr. CENTOFANTI. They would not include Dayton.

Mr. TURNER. Mr. Parker, my understanding from your testimony is that this contract is moving toward termination. The Army is consenting to that, is that correct?

Mr. PARKER. That is correct.

Mr. TURNER. And in that termination then the facility of Perma-Fix that is in the Dayton area would not be considered as a viable alternative?

Mr. PARKER. That is correct.

Mr. TURNER. You had also mentioned that you are looking at other alternatives, and so I take that to mean in your testimony that the alternatives that you are looking at do not include a facility in the Dayton area?

Mr. PARKER. That is correct.

Mr. TURNER. I have some other questions that relate to—let me ask this one before I pass it off to the chairman. With respect to Parsons, I take it that you are consenting fully—you have indicated that the action of the Montgomery County Commissioners is evident as a constraint to your moving forward with the contract. I take it that since you as parties are moving forward with the termination of this agreement, that you will not be moving forward with any litigation with Montgomery County or any other jurisdiction to try to obtain permits in any judicial process?

Mr. STEWART. We have—public acceptance was a gauge. We were waiting for the technical, independent evaluation from Montgomery County. When we saw how everything happened on October 7th and everything, no, we are not moving forward with any sort of litigation, any sort of further consideration in the Dayton area.

Mr. TURNER. Dr. Centofanti, with respect to Perma-Fix?

Dr. CENTOFANTI. We are finished with this project in Dayton, period. There is nothing moving forward in terms of anything with the county or——

Mr. TURNER. So you are accepting the ruling of the county then? You do not intend to pursue any——

Dr. CENTOFANTI. We do not intend to challenge it. I would have said that earlier, we would not challenge the county if they said no.

Mr. TURNER. Mr. Parker.

Mr. PARKER. The Army is following the lead of our prime contractor, Parsons. We have no intent of pursuing any matter here locally.

Mr. TURNER. OK. I have other questions with respect to the public acceptance process, but I will turn to the chairman at this point.

Mr. SHAYS. Thank you. As we said in the beginning, one issue is the issue as it relates to Dayton and surrounding communities. I think that is fairly clear where we are at. Mr. Parker, I would like you to have the opportunity to describe the challenge that you have in disposing of chemical weapons. I want to say to all of you here, we know you have a very important task, and we know that you have a requirement by Congress, by the President, by treaty obligations that are international treaties, to dispose of these chemicals. So we have a deadline that frankly I wonder if we will be able to meet. I do not think the Russians, for instance, will be able to meet it. So just tell me what the challenge is overall. Give me and this committee a sense of the task at hand. I would like you to speak a little louder if you could.

Mr. PARKER. If I could. I am sorry, I am in the process of taking a cold here and I am——

Mr. SHAYS. I am sorry.

Mr. PARKER. As you—you have been following this, Mr. Shays, I know you have been in Russia to see their program in regard to the overall activity—your committee looking at the cooperative threat reduction program and the effectiveness, etc. So you have a basis of the international challenges.

The U.S. challenges are one that these materials are highly toxic, they are dangerous, they were intended to be lethal. In many regards, the way the munitions are configured for a military use, mated up with high explosives and fuses, take the challenge that would be associated with the chemical agents themselves, which are significant, and brings many other confounding challenges. The mechanical processes in order to separate these various components make these facilities very large. The need for total containment in the event that one of the munitions would detonate during the disassembly process requires very large, very robust structures which are quite a challenge to construct. All of the maintenance activities have to be done in a suitable level of protection, which is form of total encapsulation, which makes the maintenance operations extremely difficult and challenging. The primary treatment technology that we have chosen for most of the assembled chemical weapons, an incineration-based technology, has been highly controversial, raising the concerns with many members of the affected communities around these storage sites.

Mr. SHAYS. Let me ask you, is that part controversial with the scientists or with the general public? Let me paraphrase by saying when I was in Russia, at one site, which literally had millions of shells of chemical weapons stacked in sheds that reminded me of summer camp facilities. They were stacked like wine bottles—and which, you know, I will say again parenthetically, a lot of concern that someone could just simply insert something in and take out the shell and the Russians would never know. When I was there, they were saying we incinerate, but the Russians were not comfortable with that and they want to go through this dilution process. So tell me, is this a debate on incineration among scientists or between scientists and the general public?

Mr. PARKER. Well, I think if one would accept the National Research Council as a solid scientific body, they have endorsed incineration as an effective and safe means to dispose of chemical weapons. The concerns are raised by members of the community, and it is beyond a narrow slice of environmental activists, it is a general concern about the potential release out of an incinerator of incomplete products of combustion during normal operations and in the event of an accident the release of chemical warfare material.

Mr. SHAYS. So it is more based on, if you did the process properly and you truly incinerated, there is not a disagreement with the environmental community. The environmental community raises its concern that probably some would be released without incineration or there could be some other experience during that process that could be catastrophic?

Mr. PARKER. I think more on the environmental activists' side who were fundamentally opposed to incineration as a hazardous

waste treatment technology in a universal context, that the health standards by which these processes are judged are inadequate.

Mr. SHAYS. Is it cheaper and faster to incinerate than to go through this other process? How should I describe the process?

Mr. PARKER. Well, chemical neutralization.

Mr. SHAYS. Chemical neutralization. Is that a longer process and more costly?

Mr. PARKER. We, at the direction of Congress, just recently looked at the Bluegrass, Kentucky and the Pueblo, Colorado sites comparing incineration with neutralization, and it was—in a cost and schedule context, it is a wash. It is a break even.

Mr. SHAYS. We have eight storage sites, is that correct?

Mr. PARKER. Yes, sir, in the United States.

Mr. SHAYS. And how many in other places? None of this is classified, correct?

Mr. PARKER. That is correct. We had a facility on Johnson Island which was a storage and a disposal site. That site has completed its disposal activities and will be formally closed out here on November 5th, completely demolishing the demil facility. So that will be a complete closure.

Mr. SHAYS. Now, are we in the process of doing two types, the chemical neutralization and incineration right now to destroy chemical weapons or are we doing both?

Mr. PARKER. Yes, sir, four sites are chemical neutralization based and four sites are incineration based.

Mr. SHAYS. I misunderstood then. In the beginning you said we had three sites and then we were adding three. What were those three sites?

Mr. PARKER. The three sites that are active are the Deserete Chemical——

Mr. SHAYS. I do not need to know what they are. I just need to know how I can—I get four and four is eight and then three and three is six. I must be mixing apples and oranges.

Mr. PARKER. The other two sites are the Pueblo, CO and Bluegrass sites, which are just under contract in the design phase.

Mr. SHAYS. OK. So we have three active, three soon to be completed and——

Mr. PARKER. Soon to be active.

Mr. SHAYS [continuing]. And two in the design stage?

Mr. PARKER. Correct.

Mr. SHAYS. OK. And the process of neutralization it is a two-step process?

Mr. PARKER. Yes.

Mr. SHAYS. So the second phase, or final phase of neutralization will be off those four sites? They would not be self contained within those four sites? In other words, you will not do both the first part and the second part in the same site?

Mr. PARKER. It varies site by site. The Aberdeen site, as I said earlier, is right now actively neutralizing, doing the primary treatment onsite. The secondary treatment is done at DuPont's Deep Water, New Jersey facility in a bio treater. It is our intent to seek out a—it is one of the options for the Newport site to seek out another commercial facility that is more suited, as well as pursue other backup options in Newport. Pueblo will use neutralization

followed by bio treatment onsite. The final decisions have not been made with Bluegrass, but it will be onsite neutralization followed by super critical water oxidization most likely onsite.

Mr. SHAYS. Dr. Centofanti——

Dr. CENTOFANTI. Yes, sir.

Mr. SHAYS [continuing]. Thank you very much, Mr. Parker.

One, I appreciate the spirit in which you gave your opening testimony. I did sense a point that I do want to clarify. The sense of feeling an obligation to the Army, but also participating. Your company did—let me first understand. You represent all of Perma-Fix? You are the CEO of the entire——

Dr. CENTOFANTI. Yes, of the whole company.

Mr. SHAYS. And you have many sites around the country?

Dr. CENTOFANTI. We have nine treatment facilities. Six are hazardous, three are nuclear.

Mr. SHAYS. Three are what?

Dr. CENTOFANTI. Nuclear waste. We are treating nuclear.

Mr. SHAYS. Oh, I did not know that. OK, so six hazardous. Have you been involved in the—when you say hazardous chemicals, not necessarily weaponized chemicals?

Dr. CENTOFANTI. No, no weapons.

Mr. SHAYS. So was this the first introduction you were proceeding in the chemical weapons side?

Dr. CENTOFANTI. Yes.

Mr. SHAYS. I am anticipating that part of your—you were thinking you were part of a process of dealing with—I do not want to put words in your mouth, but I am just trying to wonder if I am correct or not. When you were looking at the second phase, were you looking more at the second phase as no longer being a chemical weapon because it was——

Dr. CENTOFANTI. No, we did see it as a chemical weapon byproduct.

Mr. SHAYS. OK.

Dr. CENTOFANTI. And when we initially looked at it, we had a technology we thought was ideal for treating that material.

Mr. SHAYS. OK.

Dr. CENTOFANTI. And so that is why we did pursue it.

Mr. SHAYS. Well without getting in a big debate, do you still think it is ideal or do you have some questions about it?

Dr. CENTOFANTI. No. I think the realities here—again, it is—you heard many times the Drano issue, and it is very interesting, because technically when people like at it they describe it that way, even the consultant for the county did. But in reality it does come from VX and it carries the perceived—there is a perceived reality and a technical reality here. And the perceived reality—as you know being a political leader—is reality to the public. So it goes back to the question of incineration.

Mr. SHAYS. I think I understood your answer, but I am not quite sure.

Dr. CENTOFANTI. OK.

Mr. SHAYS. But let me just understand, though. From Mr. Stewart's testimony—by the way, Mr. Stewart, thank you for being here, because it gives us a more complete picture of this process. The last thing I want to do as a Member of Congress is require

that we destroy chemical weapons and then in the next process tell you you cannot do it. So it is going to get me to this next point of talking about the process. I do want to clarify one point. What I think, Dr. Centofanti, I heard from Mr. Stewart was though that you did proactively seek a contract, is that accurate?

Dr. CENTOFANTI. Yes, we did at the beginning.

Mr. SHAYS. And so from the standpoint of Parsons and the Army, you were involved in this process. Once you started this process, you felt an obligation to pursue it when I sense you had some second thoughts, is that correct?

Dr. CENTOFANTI. When the—yes, as public opposition built.

Mr. SHAYS. You felt as that as a contractor with the military and the government, you were out there and you needed to pursue it and you had other contracts and other relationships?

Dr. CENTOFANTI. And we were also driven by the that we had a process that we thought was very unique and did work and would be very valuable to the Army.

Mr. SHAYS. I hear you. But from the standpoint of Parsons, you sought them out and they gave your contract due diligence, and they said yes, you should do it.

Dr. CENTOFANTI. Yes.

Mr. SHAYS. From their standpoint the ball was in your court, correct?

Dr. CENTOFANTI. Yes.

Mr. SHAYS. Let me ask you this last point. Is this process of getting community acceptance something that is new to you? I would think given that this is chemical hazardous material, that you should have a pretty good idea of how you do that. I mean your statement is on record that you guys did not do a very good job of that. I mean that is on the record, and I would concur. So we do not need to, you know, beat it to a pulp here. Just explain to me, given that you are successful and an important company in this process, why did it break down? Did you think the system was so good that you did not have to do the same kind of outreach? Explain it to me.

Dr. CENTOFANTI. I think in looking back, you could sit here and try to judge would it have ever worked under any circumstance and that is always hard to do.

Mr. SHAYS. That is true.

Dr. CENTOFANTI. When the citizens asked for information, many times we were not able to give the information to them in a timely manner, the information, for whatever reason, and that right away bred, you know, a——

Mr. SHAYS. A suspicion.

Dr. CENTOFANTI [continuing]. A suspicion, right. We were going through a review process ourselves, so we were also in a catch 22. They wanted the information upfront. We were doing a review, which was our whole treatability study, and collecting much of the information that was needed. So we were in a process that was not good from a public outreach point of view. They wanted all of the information from our treatability study and how it was going to work and get the results when we were just doing it to demonstrate it to the Army and Parsons in collecting all the information on the final process. To the process was a modification of an

existing process—two existing processes. So we were very confident it would work. But we had to put it all together and then demonstrate it to the Army to show that it did work, so we were in a tough position in terms of the public outreach.

Mr. SHAYS. Let me conclude. I have some other questions I could ask, but my time is ended.

I would like to say, Mr. Parker, we received a letter from Brigadier General Guy C. Swann, who said information that the committees requested would no longer be necessary, since the contract was terminated. I would hope you would convey to the General that—and we will as well, that the information is still requested and still is needed, because we do want to understand this process. I do think this has been a learning experience that is an important one. I will say—and I mean no disrespect—I have not felt that the Army was as forthcoming as I would like to see, particularly to Congress.

I was trying to get into my first panel, you know, you were cooperating with, I think, the people you thought had the direct involvement, a little less with some government officials, and with the public even less. But I would kind of put Congress first on this list. We do need this information and we will, you know, expect it and so on.

Mr. PARKER. I will take that back to General Swann and Mr. Bolton and get the material—see that the material gets to you.

With regard to the Army's response to the community, we—I certainly believe—and I was a little bit surprised, I have to admit, that the—some of this may have fallen through the cracks. In some cases, I do know, as Lou has indicated, some of the questions had to do with responding to how Perma-Fix's process would work. When the questions were asked, Perma-Fix had yet to complete the work. We only recently got that information, along with Dr. Rittmann's report. We will close out with the community those outstanding issues. We have tried to be responsive to the community. We sent out over 900 responses to individual citizens answering questions that were asked. So I believe we have attempted from an Army perspective to be responsive.

Mr. SHAYS. I wish you had not have said that, because I know you have had a lot of responses. The communication between our committee and the Army was less than satisfactory. I do not want to even get into kind of documenting it, because I think it is pretty obvious. We can have a slight disagreement, but I want to say to you from my standpoint it was not, and in terms of the interaction with the community it was not good. You may have had surrogates that you expected to do a better job, and that is a fair comment, but ultimately, as they say, you know, we know where the ultimate responsibility lies.

Mr. PARKER. I will accept the criticism and I will take it back to the Army leadership and make sure it is understood.

Mr. SHAYS. But we will totally and completely pursue getting this information.

Mr. PARKER. Yes, sir.

Mr. SHAYS. Thank you very much, and thank you, Mr. Chairman.

Mr. TURNER. Mr. Parker, one of the things in your written testimony and that you have testified orally to is of particular concern

to me. During my request for information on this matter, I have routinely been told by the Army that Perma-Fix's contract is not with the Army and therefore the terms of that contract are not within the Army's purview or authority, and you said here, because the Army is not a party to the contract between Parsons and Perma-Fix, we will direct any questions regarding the terms of that contract relating to public acceptance to Parsons. You go on to say that FAR regulations are incorporated into the contract. Now my understanding of government contracting—and I want you to correct me if I am wrong—is that when you award a contract to Parson, that Parsons has no ability to enter into a contract with Perma-Fix unless the full text of that contract is submitted to you for approval.

Mr. PARKER. Let me defer that to Brad Pierce who is the contacting officer for the primary contract between the Army and Parsons.

Mr. SHAYS. We need to make sure you have a card for the transcriber.

Mr. TURNER. And he was sworn in.

Mr. PIERCE. I will do that as soon as this question is over.

Generally in government contracting——

Mr. TURNER. Would you identify yourself.

Mr. PIERCE. Oh, I am sorry. My name is Brad Pierce. I am Chief of the Camp Demil Contracting from the Army Field Support Command. So I have responsibility for all the systems contracts for chemical demilitarization.

In response to your question, in government contracting, yes, our relationship is with the prime contractor, and it depends on the contract about how far that goes to our review and approval of their subcontracts. Clearly all the terms and conditions that we put in the contract from the Federal Acquisition Regulations have a flow-down provision to them, that we expect to go down to the systems contracts. We review the contractor's purchasing system to ensure that they have those processes in place, that their people are trained to ensure that they are complying with those requirements. If a contractor has a purchasing system that is approved, then we allow them to subcontract without prior government review of their subcontracts. We will just go in on—typically on an annual basis and audit what they have done to ensure that they are complying with the terms and conditions of the contract.

Parsons does have an approved purchasing system. Notwithstanding, when contracts get over a certain dollar threshold—and each contract defines that differently—we have the right to prove or to consent to their subcontracts. They provide us a package of their subcontract terms, conditions and negotiations, we review it to ensure that they have complied with competition, small business, the terms and conditions of our contract and then give them the consent to go forward and subcontract. But that relationship at that point in time is between the prime contractor and the subcontractor. You know, the terminology we use is privity of contract. There is no privity of contract between us the government and the subcontractor. We constantly remind our work force that nobody in the Federal Government has the right to direct a subcontractor. We just do not have the authority.

Mr. TURNER. In this particular instance we are dealing with the destruction of weapon systems.

Mr. PIERCE. Yes, sir.

Mr. TURNER. Did the Army approve the contract between Parsons and Perma-Fix?

Mr. PIERCE. Yes, we did.

Mr. TURNER. And did that include approving the text of that contract?

Mr. PIERCE. What we approved—what we do in real—it is a matter of terminology. We gave the consent for them to subcontract, but as part of that process—as a matter of fact, it was somewhat unusual in a lot of contracts—the Army did provide a lot of oversight and even participated in some of the review of the proposers to their subcontract requests for proposal.

Mr. TURNER. So is that a yes?

Mr. PIERCE. Yes.

Mr. TURNER. OK. That is an important point to me, because in every meeting that I had with the Army, I would get, well this is between Parsons and Perma-Fix, and it is not between Parsons and Perma-Fix. It is between the community and the Army, because the Army is the government, and when the government is coming into a community and saying we are going to do something, but we are not really obligated to you as a community, it is very disconcerting to people who here specifically believe that the government is by and for us, not by and for a contract between Perma-Fix and Parsons. So I wanted to make that point that you approved the text of the contract. So the sentence saying that you are not a party to the contract and therefore the language of the contract is just between Perma-Fix and Parsons really is not very accurate I believe because it does not tell the whole story. The whole story is, you reviewed the contract, you approved its terms; therefore, you would have approved a public acceptance component.

Mr. Parker, in your position as the Acting Director of Chemical Materials Agency, would communications from Parsons concerning their belief that a portion or a provision of the contract might not be able to be performed or that the contract itself might be in jeopardy, would those communications come to you?

Mr. PARKER. Ultimately yes. There are—as Mr. Pierce outlined, there are personnel at the Newport site who are directly involved, as well as a project manager assigned to this project, Col. Jesse Barber, and that information would flow up through either the site or the project manager, Col. Barber, to me.

Mr. TURNER. The reason why I asked this question, I wondered if the Army received any communications from Parsons or Perma-Fix that indicated that they believed the public acceptance was not going to be achieved and that the contract may need to be terminated?

Mr. PARKER. Well certainly it was very obvious and we were well aware—I was well aware of the contentious nature with the community, and there was a lot of discussion about how we were going to address that. The approach was to await the technical outcome of Perma-Fix's treatment studies, and then the feedback from the independent technical consultant—the water board's technical consultant, Dr. Rittmann, to make a judgment of whether or not there

was a technical basis to go forward with the contract. As it turns out, the technical issues raised, plus the issue of whether or not—or the decision, I guess, that the water board was not going to issue a permit made the whole issue of public acceptance somewhat moot because we were not going to go forward with a contract because it was unexecutable independent of public acceptance.

Mr. TURNER. I am going to ask the question again because I was not quite certain of your answer. It sounded to me that there were discussions that occurred between the Army, Parsons and Perma-Fix with respect to the perceived lack of public acceptance by this community on the part of Perma-Fix and Parsons, and that concern was given to the Army as a possible issue that would impact both Parsons and Perma-Fix's ability to perform. Is that correct?

Mr. PARKER. I would shape it slightly different. The Army was aware, I was aware, I think the Army leadership was aware of the highly contentious nature, the feedback from members of the community, the local elected officials, as was cited earlier, 33 or 38 jurisdictions that had issued some form of proclamation or other vehicle, were raising their concerns and negative position toward Perma-Fix processing this material. That was all known and it was an area of concern and a lot of discussion.

Mr. TURNER. And the Army was still prepared to proceed even with the resounding roar that you just described?

Mr. PARKER. We would have taken—had the technical outcome from Perma-Fix's efforts been validated by the independent reviewer—or independent review by Dr. Rittmann and the water board would have come forward with a positive position on allowing that material to be treated, I think we would have went out to the community—or requested Perma-Fix to go out to the community, along with Parsons, and we would have participated and made an attempt to convince the community that their issues could be addressed. This was a safe and environmentally acceptable manner. If the communities would have come back at that point with a negative, then we would have had another decision point on whether or not to proceed.

Mr. TURNER. Next, I would like to introduce Larry Halloran who is our legal counsel for the committee, who also has a few questions.

Mr. HALLORAN. Thank you, Mr. Chairman. Just—two things really. Mr. Parker, you described the process underway—the chemical demilitarization process underway where the second phase goes to a plant—the DuPont plant in New Jersey, is that right, or Pennsylvania?

Mr. PARKER. New Jersey, yes.

Mr. HALLORAN. New Jersey. Was there a public acceptance provision in that subcontract?

Mr. PARKER. No, I do not believe there was. Brad, can you clarify? I should have asked you to start with.

Mr. PIERCE. Yeah. I have reviewed that subcontract and there was some language in there about public outreach. It did not have the same language about a public—you know, maintenance of public acceptability, though.

Mr. HALLORAN. To your knowledge, is the same language in this contract in effect any place else?

Mr. PIERCE. No.

Mr. HALLORAN. OK. Another matter—and this might be best addressed to Dr. Centofanti. In the briefing we received, hydrolysate was described as an industrial waste similar to many things found in the industrial waste stream and is unique only because of where it is generated, because it comes from scary VX. Do you agree with that characterization, Dr. Centofanti?

Dr. CENTOFANTI. When we started this project we had several conditions. One, of course, that they could guarantee—demonstrate to us that there was no VX in it. So I think our biggest concern in the early stages was the demonstration of the lack of VX. If you do look at it chemically, and I think from a very technical point of view—this raises many issues with the community in terms of trying to describe it as some simple chemical material. You heard it with the citizen groups. I think it actually works against anybody trying to do that, because no matter what it is, it—where it came from, it carries just a real stigma, a public stigma. There is a little misunderstanding on the Schedule II compounds. They are really just the components. But all of that just fits together to add a level of concern and distrust about the materials. So the——

Mr. HALLORAN. In your other work, what is the closest thing to this that you handle?

Dr. CENTOFANTI. I do not even want to mention because Mary will jump on me over here. It was initially——

Mr. HALLORAN. Not here, any place. In any industrial waste, what could I look up in a chemical manual?

Dr. CENTOFANTI. Dr. Rittmann himself described it in a meeting and he was sort of booed down when he said, well this is like Drano.

Mr. HALLORAN. Yes.

Dr. CENTOFANTI. And technically, if you really look at it, it is hazardous because it has sodium hydroxide in it which is Drano. That is technically correct. But again, I think that is—materials like this cannot even be looked at like that because of where it came from and the concern does it have VX, does it have other byproducts and that they are that way?

Mr. HALLORAN. Thank you very much.

Mr. TURNER. Mr. Chairman, do you have additional questions?

Mr. SHAYS. Yes. One, I would like to put in the record, a letter we received from R.L. Brownlee, Acting Secretary of the Army, on July 30th in conjunction with the letter that we received, dated—I guess it was today. We were given today. And this letter said in July—when we—it is stamped July 30th. It said we would receive important information in 45 days. So we will just insert both of those.

And just to ask you, Mr. Stewart, and maybe Mr. Parker, the term "a measure of public acceptance," is that a term that is put in your contract by the Army that you then transferred to your subcontractor?

[The information referred to follows:]

THE SECRETARY OF DEFENSE
WASHINGTON

JUL 24 2003

The Honorable Christopher Shays
Chairman
Subcommittee on National Security, Emerging Threats
and International Relations
U.S. House of Representatives
Washington, DC 20515-6143

Dear Mr. Chairman:

Thank you for the letter you signed with Representative Turner regarding Army contracting for the disposal of chemical weapons and materials. I have asked Mr. Les Brownlee, Acting Under Secretary of the Army, to address your specific questions. He will get back to you as soon as possible.

With best wishes,

Sincerely,

REP. CHRISTOPHER SHAYS
2003 JUL 29 PM 1:18
WASHINGTON, D.C.

DEPARTMENT OF THE ARMY
WASHINGTON DC 20310

30 JUL 2003

The Honorable Michael Turner
Vice Chairman, Subcommittee on National Security
Emerging Threats and International Relations
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am providing an interim response to your July 16, 2003, letter to the Secretary of Defense regarding the Subcommittee's concerns about United States Army contracting practices related to its mission to destroy the nation's stockpile of chemical agents and munitions. Due to the volume of materials requested in your letter, the Army will be unable to collect the information in the amount of time specified. The Army anticipates being able to provide the requested information within 45 days.

I appreciate your interest and concern regarding the safe destruction of the nation's stockpile of chemical agents and munitions. I look forward to working with you on this important matter.

Sincerely,

R. L. Brownlee
Acting Secretary of the Army

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DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF LEGISLATIVE LIAISON
1600 ARMY PENTAGON
WASHINGTON, DC 20310-1600

REPLY TO
ATTENTION OF

The Honorable Christopher Shays
Chairman, Subcommittee on National Security
Emerging Threats and International Relations
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in connection with your July 16, 2003 request for certain documents concerning the then proposed treatment and disposal of hydrolysate from the Newport Chemical Agent Disposal Facility (NECDF) at a commercial waste facility in Dayton, Ohio. As you may be aware, Montgomery County, Ohio officials recently declined to grant the Dayton facility certain regulatory approvals needed to proceed. The Army's systems contractor for the NECDF, Parsons Infrastructure & Technology Group Inc., has informed us that it is, therefore, in the process of terminating its contract with the Dayton facility and that the Dayton facility has been eliminated as an alternative for the disposal of the NECDF hydrolysate.

In view of these developments, the Army does not believe that any further action upon the Subcommittee's document request is warranted. We understand that the Subcommittee still plans to proceed with the field hearing scheduled for October 22, 2003. The Army intends to provide a knowledgeable witness from its Chemical Demilitarization Program Management Office. We also understand that Parsons will have a representative present to answer the Subcommittee's questions.

The safe destruction of the stockpile of chemical agents present at the NECDF and other storage sites around the country is a national priority. We appreciate the continued support of the U.S. Congress as the Army moves forward with this important program.

I have provided a similar to letter to Representative Michael R. Turner in his capacity as Vice Chairman of the Subcommittee.

Thank you for your interest in this important national security program.

Sincerely,

Guy C. Swan, III
Brigadier General, U.S. Army
Chief of Legislative Liaison

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Mr. STEWART. No, sir.

Mr. SHAYS. Pardon me?

Mr. STEWART. No, sir.

Mr. SHAYS. No. So tell me, is that just a term that you use when you interact with all your subcontractors? Is it just like company policy that you want public acceptance and so therefore you would expect it when you—first off, do you have your own operations?

Mr. STEWART. Yes, sir.

Mr. SHAYS. Why was that term put in there?

Mr. STEWART. It is not a standard term that we use in our subcontracts. This is the only subcontract that Parsons has that has the term public acceptance in it.

Mr. SHAYS. Was that at the request of the government?

Mr. STEWART. I would not say it was at the request of the Army. It was a lot of discussions. As it was outlined earlier, it was a very collaborative, integrative team putting together this acquisition. It was suggested that, you know, we needed an active public outreach program. It was suggested that one measure—to make sure that we had an active outreach program to get the facts out, to address concerns was to put some sort of measure of public acceptance. At that time it seemed very prudent and we put it in our subcontract.

Mr. SHAYS. At that time it was prudent and it still is prudent, but I mean it is a lot of wiggle room in a measure of public acceptance. And you may have seen this term used by the community in ways that you did not expect. But I do think it was a wise thing. I do think you should expect that your subcontractor will reach out to the community to get acceptance. I am just curious as to what motivated that.

Mr. Chairman, I want to, if I could, thank our witnesses, and say that those of you working for the government, we appreciate your service to our government. And to those, Mr. Parker, who work with you, we know you have a very difficult task and we know that there are lots of pressure to deal with this very serious issue as quickly as we can and we appreciate that. I would like to think there will be better communication between your office and the Army and our committee, and I think that is going to happen. And to say that—you know, one thing, all of us in this room, we are all part of one family. Dayton has clearly demonstrated that it can work in a very mature and intelligent way, and I would think the people of Dayton would be very proud of how you interacted with each other and ultimately how you interacted with the government as well. You know, we all keep learning. I cannot tell you the mistakes that our committee makes and I make as a Congressman, and gratefully some of them are not so public. But we have a lot to be proud of in our country. I appreciate the tone of the witnesses and their cooperation at this hearing, both in the first panel and the second. And I would also say the cooperation of the audience as well. Thank you.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank you again for the opportunity to have this hearing. And for each of the members of the second panel, we always ask, and the Chairman always makes certain that if anyone who participates in the panel has anything else that they want to add or they have thought since an answer or something they want to clarify, that they would have

that opportunity. Do any of you at this point wish to embellish your comments?

Mr. PARKER. Congressman Turner, I would like to just leave one point that—so it is not potentially misunderstood. The term was used that we terminated, or Parsons has terminated the contract, and, you know, as you pointed out, ultimately the Army is responsible. So the Army and Parsons have terminated the contract with Perma-Fix. Rather than leave a potentially negative note on that, I would like to note for the record that Perma-Fix did perform under the terms of the contract, through the treatment study, they did exactly what they were contracted to do. They did it well. The outcome of that effort, which is why we did it, because we did not know the outcome, led to a conclusion that the follow-on activity, the ultimate disposal of the hydrolysate was simply not going to work out in this setting. But Perma-Fix performed well under the terms of the contract, and any implication that there was a negative toward Perma-Fix in that regard is misunderstood.

Mr. TURNER. Very good clarification, Mr. Parker. Thank you for making that.

Anyone else?

[No response.]

Mr. TURNER. If not, our chairman has generously offered that we would end this hearing at 3 o'clock and that during the next 10 minutes or so, what we would do is, we would ask for the panel to remain and that if anyone present who did not get to testify, and who is a member of the audience, would like to make a comment, it would be included in the record. Not a question for our panel, but a comment that would be included in the record, and if it can be done in a quick manner so that anyone who has an interest in doing that would have an opportunity to. We would take this 10 minutes then to include those comments in the record.

Mr. SHAYS. Mr. Chairman, what will be important is, whoever chooses to, we will make sure that the transcriber will have their full name and address. So we will like you to state it for the record. It would be helpful, if I could, Mr. Chairman, to just know how many right now want to and then we know how we space out the time. So we have one other individual there and so on. How many people? If you would stand then we would know. Why do not one or two come on this side.

Bob, are you going to get their full name and address and so on?

Mr. BRIGGS. Yes, sir.

Mr. SHAYS. I have until five after three.

Mr. TURNER. OK. And this will not be considered testimony, but additional comments for the record?

Mr. SHAYS. It is testimony, but not under oath.

Mr. TURNER. Testimony but not under oath.

STATEMENT OF JANE FORREST REDFERN

Ms. REDFERN. I am Jane Forrest Redfern and I am environmental projects director for Ohio Citizen Action. I have worked in this community for 17 years and I have never seen a company or organization be so bad at public outreach. The citizens of Jefferson Township spent very little money in educating themselves, educating the public, public officials, regulatory agencies, and this com-

munity now knows how to spell and say VX hydrolysate. I mean it is not a fear of VX nerve agent. There are very toxic byproducts, Schedule II compounds, in what they were going to bring here. As someone said, it was a dilution, it was not a permanent treatment for VX hydrolysate as Dr. Rittmann's report.

You know, it is just incredible to me that a group of folks could educate the community and let them know—you know, over and over, the Army, Mr. Flynn respectfully, came to our accountability session. We got more by getting citizens together and getting all of the officials lined up—we got more out to the public at that meeting than the Army or Perma-Fix did in the last year. I mean it was just incredible at the lack of organization and outreach and respect for the citizens of this community, or any community, about what their—what they could actually understand and absorb and make decisions for themselves.

I guess I want to make a few points and then I will end up. One is that I hope the Army and Congress and Parsons takes Dr. Rittmann's report very seriously. There are some major concerns about the bio remediation. It looked like dilution to me, and that is not a solution for pollution. I think that is a thing that Parsons needs to consider, you know.

And then last, I guess, I want to just commend all of the public officials, Congressman Turner, this committee, because this is a factor of chemical safety. I have worked with communities throughout the country and throughout this region and there are facilities that threatens our safety every day in this neighborhood.

Mr. TURNER. Jane, we are going to have to move on.

Ms. REDFERN. And we hope that you will consider not only looking at these more closely but facilities that pose a chemical threat right now today.

Mr. SHAYS. Mr. Chairman, may I take the gavel back?

Mr. TURNER. You have it. [Laughter.]

Mr. SHAYS. Let me just explain. I am getting on an airplane and I would like to be able to conduct the hearing and be able to conclude it and not miss my flight. I love Dayton, but I want to go home. [Laughter.]

So we will just come to the next person. I am sorry you have to come up front. I am going to be pretty strict about the time. It is going to be a minute to a minute and a half. If you would state your name and your point.

Mr. DELL. Do I hold this?

Mr. SHAYS. No, you can just talk nice and loud, straight forward.

Mr. DELL. All right, I will be brief.

STATEMENT OF PHILIP DELL

Mr. SHAYS. Your name.

Mr. DELL. My name is Philip Dell and I am a resident of Jefferson Township. I just primarily wanted to make one point. I will add that I am very grateful to you. I think you guys have done a wonderful job.

But I just wanted to make one point that I did not hear anywhere else. Three miles from Perma-Fix is the Veterans Administration Hospital and Medical Center which serves thousands of vet-

erans on a daily basis. I did not hear that mentioned anywhere in the facts, so I just wanted to put that in the record.

Mr. SHAYS. Thank you very much.

Next. Is the mic working? Hold on 1 second. We are going to get you a mic. Come on up here. There it is. It is working. It is working, sir. Your name and address. Your name, where you live and your position.

STATEMENT OF DERRELL ARNOLD

Mr. ARNOLD. Yes, my name is Derrell Arnold and I live in Dayton, OH. I am an environmentalist.

Mr. SHAYS. Let me just make one more point. I am sorry to interrupt you. I need them to write their address. I do not want you to Bob.

Mr. ARNOLD. Yes, sir. One thing I would like to bring up is, the Army has ultimate cradle-to-grave responsibility regardless of who they sub the contract out to. The Army is still responsible for their product. Even if it goes into a landfill it is still theirs. If it leaches out from the Superfund perspective it goes right back to the Army. They are the ones that are to pay for the cleanup.

In addition, as far as this community awareness thing, I just want to read this to you real quick. This is SARA, Title III, which was enacted in 1986. The Emergency Planning and Community Right to Know Act of 1986 establishes requirements for Federal, State and local governments and industry regarding emergency planning and community right to know reporting on hazardous and toxic chemicals. This legislation builds upon EPA's Chemical Emergency Preparedness Program and numerous State and local programs aimed at helping communities to better meet their responsibilities in regard to potential chemical emergencies. The Community Right to Know provisions will help to increase the public's knowledge and access to information on the presence of hazardous chemicals in their communities and releases of these chemicals into the environment. States and communities—excuse me, I lost my place. States and communities working with facilities would be better able to improve chemical safety and protect public health and the environment. The Emergency Planning and Community Right to Know, also known as Title III——

Mr. SHAYS. We need you to wrap up.

Mr. ARNOLD. I was just going to let you know it is four sections.

Mr. SHAYS. OK, thank you.

Mr. ARNOLD. You are welcome. Thank you.

Mr. SHAYS. I appreciate it very much.

I am sorry to rush you like this, but if you could, please.

STATEMENT OF TOM TILLER

Mr. TILLER. My name is Tom Tiller and I live in Montgomery County. I have several points that I certainly would like to make. The designation of a Schedule II component in the VX hydrolysate is from the Chemical Weapons Convention, the international treaty. That is not just an incidental item. That is given that designation because of its ability to reconstitute the VX.

I also certainly think this committee should look at the whole concept of putting out a contract, the subcontract to Perma-Fix,

that was both demonstration and destruction of the material, that they were not dealing with that material in the past. They had not done it before. They had to demonstrate that they had a process to do it, as opposed to other processes that were investigated by the National Research Council where the Army went to someone and said this is the process to use. They went to Perma-Fix and gave them a contract to both come up with the process and destroy it, which gives, you know, problems in all respects. Certainly I would not expect a contract to be written on that basis for that material.

Mr. SHAYS. Thank you, sir.

STATEMENT OF LAURA RENCH

Ms. RENCH. My name is Laura Rench. I live in New Lebanon, OH.

If I was to understand Mr. Parker correctly from the Army, he stated that if we are to believe the National Research Council, incineration is a safe way of destroying chemical weapons. He also stated that the maintenance and construction of facilities to destroy chemical weapons is of the highest standards, but yet the maintenance, construction and treatment of these facilities is not done by NRC scientists. It is done by contractors like Parsons and subcontractors like Perma-Fix; therefore, how do we ever know destruction of chemical weapons is done by the highest standards?

Thank you.

Mr. SHAYS. Thank you very much.

Tip the mic down a little bit.

STATEMENT OF GWENDOLYN CRUTCHER

Ms. CRUTCHER. My name is Gwendolyn Crutcher and I live on Liberty Ellerton Road.

When it started, we were told that it could not be incinerated, that it had to be disposed of the way Perma-Fix was. I want to know how can that be when you have it incinerated in Anniston, AL, and if anybody is going to do anything in Congress to make sure that that community is safe? Because they have given them gas masks. Nobody has ever brought that out. Please check other sites.

Mr. SHAYS. Thank you, ma'am.

Ms. CRUTCHER. Thank you.

Mr. SHAYS. Does that mic work over there?

Ms. BRONSTON. Yes.

Mr. SHAYS. OK. Yes, ma'am.

STATEMENT OF WILLA BRONSTON

Ms. BRONSTON. I would like to say that——

Mr. SHAYS. Give us your name and where you are from.

Ms. BRONSTON. Willa Bronston, Dayton, OH, Jefferson Township.

And I would like to say that one of our assertions from the beginning was that this was an experiment, and by their own testimony they were trying to demonstrate to see if they could do it. All along that is probably something that should have preceded really even trying to come into a community, the testing.

The other thing that I would like to say is about Anniston, AL, and draw your attention to incineration. They have a state-of-the-

art—"state-of-the-art" facility there where after their beginning incineration trials left a large percentage of material that was dangerous, unincinerated when they opened the incinerator. And further, they do not incinerate in Anniston, AL during school hours. And I think that is an important acknowledgement of their fear for the community and for their children.

Thank you.

Mr. SHAYS. Thank you, ma'am.

STATEMENT OF GENERAL OHUI

Mr. OHUI. I am General Ohui and I live in Jefferson Township, and I want to express my appreciation to my neighbors for struggling through this, and for you to come and help us to try and alleviate a problem.

I recognize the fact that the Army has to destroy this because it is an international problem. I want to point out, because it has not been mentioned very much, the difference between Newport and Jefferson Township is that is a military operation. It is protected from any intrusion or incursion from anybody on the outside because that is a dangerous material. I think it needs to be mentioned that is the Army's responsibility. And, of course, we get away from this because they continue to say that they are going to put this to a civilian contractor. It does not alleviate the Army or the military's responsibility to do away with this. I think we need to keep that in mind. Jefferson Township is not a military place. It is a civilian area and we are concerned about citizens, as well as we are concerned about the weapons of mass destruction. We are not negating the fact it needs to be destroyed. But from our research and whatever, it has not been done successfully anywhere. It has been looked at by many, many areas in terms of zoning and responsibilities and whatever and that question has not been answered. So we are still struggling for answers and we recognize the fact that you have a problem, but we recognize the fact that we do, too. Health, welfare and morals is our end of the thing.

Mr. SHAYS. Thank you very much, sir.

Are we all concluded here? Let me again thank Representative Michael Turner. I only took the gavel—[applause]—I only took the gavel when I started noticing he was calling all of our witnesses from the floor by their first names—[laughter]—and struggling with how he can ask them to speak in such a short period of time. I realize that you could have gone on much longer and I apologize for moving it along so quickly. Again, I thank both our first and second panel. We are all learning through this process. The comments made from the floor are noted, particularly by our staff. We will followup on some of those points. Again, any last comments before I hit the gavel?

Mr. TURNER. I would again just like to thank the chairman for having this committee. I know he did not pause to allow me to do it again, but the reality is, you know, as chairman of the committee, what we look at and what issues we dive into are of his perusal and control, and his being—the chairman being willing to travel here and cause this hearing to occur here in addition to his time spent on it is much appreciated. So thank you.

[Applause.]

Mr. SHAYS. Just before hitting the gavel, I would like to thank Mr. Turner's staff, Stacy Barton, Mike Gaynor and Bill Vaughn. The staff of Sinclair Community College. This has been a wonderful facility to be at, and we thank them. The subcommittee's staff, Chris Skaluba, who is here as a DOD management intern and will be returning back to the DOD, and we will miss him dearly. Bob Briggs on our staff, as well as the court reporter, William Warren. So, William, you get to note your name at the very end of this hearing. Thank you. This hearing is adjourned.

[Whereupon, at 3:07 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

2003 Resolutions Opposing VX Hydrolysate Transportation to & Treatment at PermaFix Corporation In Jefferson Township & Disposition Into Montgomery County Sewer System

1. Jefferson Township Board of Education 3-31-03
2. Jefferson Township Board of Trustees 4-01-03
3. City of Trotwood 4-07-03
4. Village of New Lebanon 4-15-03
5. City of Dayton 4-23-03
6. Harrison Township Board of Trustees 5-05-03
7. Perry Township Board of Trustees 5-07-03
8. City of Moraine 5-22-03
9. Butler Township Board of Trustees 5-29-03
10. Jackson Township Board of Trustees 6-02-03
11. Miami Township Board of Trustees 6-04-03
12. City of Clayton 6-05-03
13. Montgomery County Commission 6-10-03
14. City of West Carrollton 6-10-03
15. Miami Valley Regional Planning Council 6-11-03
16. City of Miamisburg 6-17-03
17. City of Bellbrook 6-23-03
18. German Township Board of Trustees 6-26-03
19. Montgomery County Township Association 7-01-03
20. Pineview Neighborhood Association 7-02-03
21. Bear Creek Church of the Brethren 7-17-03
22. Saponi Nation of Ohio 7-18-03
23. City of Centerville 7-21-03
24. City of Kettering 7-22-03
25. Phillips Temple CME Church 7-24-03
26. Dayton Branch NAACP 7-24-03
27. City of Oakwood 7-30-03
28. LEAD Leaders for Equality and Action in Dayton 7-28-03
29. Washington Township 8-04-03
30. Dayton Pastors and Ministers 8-12-03
31. SCLC 8-12-03
32. American Friends Service Committee 8-18-03
33. September 11th Coalition 9-11-03
34. Five Rivers MetroParks Board of Park Commissioners 9-12-03
35. Greater Dayton Christian Connection, 10-02-03
36. Urban League 10-08-03
37. Miami Conservancy District Board, 10-9-03

City of Moraine

4200 Dryden Road, Moraine, Ohio 45439 Administrative (937) 535-1000 Fax 535-1275 Police/Fire 298-7424

October 21, 2003

Congressman Mike Turner
120 W. Third Street
Suite 305
Dayton, Ohio 45402

Dear Congressman Turner:

The Council of the City of Moraine, Ohio previously passed a Resolution expressing the objections of the Council to the U.S. Army's plan to dispose of VX hydrolysate at Perma-Fix, Inc. in Jefferson Township, Ohio. It goes without saying that the Council and the residents of Moraine were delighted to hear the news that the U.S. Army had withdrawn and canceled its plans to ship the hydrolysate to Perma-Fix and we wish to thank you for your efforts which were instrumental in the Army's decision.

The City Council of Moraine, however, wishes to reiterate their strong opposition to any future plans of the Army which include disposing of hydrolysate at Perma-Fix without studies being done to ensure that any discharge of the hydrolysate into the Miami River will not be harmful to the water supply and to the residents who are dependent on the water.

As you know, the Army has refused to provide proof that if an accidental discharge of hydrolysate would occur it would not harm the residents of Moraine and other residents of Montgomery County. One can only assume that they do not have such proof and no long term studies have been conducted to determine whether or not there may be adverse consequences if such discharge would happen.

As you know, the aquifer of the Great Miami-Little Miami rivers is a principal source of drinking water to sixteen (16) counties and if contaminated it would create a significant hazard to the public health of persons living in these 16 counties, as well as being a possible source of contamination of the Ohio and Mississippi Rivers. It, therefore, should be extremely important to everyone involved that such occurrence does not happen.

On behalf of the Council and citizens of the City of Moraine, I wish to express our appreciation for your concern and efforts to prohibit this project without further proof that the citizens of the area will not be endangered by the Army's plan to dispose of this dangerous material. We further urge you to continue in your efforts to ensure that no further efforts are made to dispose of the VX hydrolysate until there is proof that it is safe to do so.

Sincerely yours,

Robert J. Rosencrans
Mayor of the City of Moraine

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Monica Williamson
Mildred Wood

United States Representatives
Christopher Shays, Chairman
Michael Turner, Vice Chairman
Subcommittee on National Security,
Emerging Threats and International Relations

Date: October 22, 2003

Subject: Congressional Hearing
Topic: United States Army Contracting Practices
Chemical Weapons Destruction VX Nerve Agent

Mr. Chairman:

The questions I pose to the Congressional Committee today and await an official answer to are these.

1. How does the United States Army define, " Community's Public Acceptance" when contracting for services that affect civilian residents?
2. Is a local permit refusing an industry permission to discharge an end product into the Montgomery County Sewer System enough to permanently end this issue for Montgomery, County residents?
3. Does the Montgomery Department of Sanitary Engineering and a vote from the Montgomery County Commissioner permanently end the issue of nerve agents and the by products being released into the sewer system of Montgomery County?

Mr. Chairman, Mr. Vice Chairman I commend the committee on behalf of the 33,456 residents who live in the Northwest Section of Dayton, Ohio.

(2)

We have gone on record supporting all local governments, agencies, organizations and groups to stop the destruction of the chemical weapon nerve agent VX in Montgomery County, Ohio.

I thank you and the committee for convening and attempting to find answers to the questions raised not only by the citizens of Montgomery County, Ohio but by citizens throughout all of these United States of America concerning the destruction of nerve agents.

I thank you for attempting to receive a clear and definable definition from the United States Army as to what its terminology truly means as it relates to public acceptance.

Sincerely,
William B. Schooler
William B. Schooler
Chairman Northwest Priority Board
Citizen Division City of Dayton, Ohio

Comments for inclusion in the record of the Subcommittee on National Security, Emerging Threats, and International Relations Hearing of October 22, 2003, in Dayton, Ohio.

The following eight points are issues or items of concern that one citizen believes are important enough to warrant Congressional investigation.

1.) The issue of liability for any harm to citizens or the environment which could result from taking CWMD material off Federal property and consigning it to some commercial company. Doing treatment and disposal to the environment of CWMD's for profit poses huge risks to the public and should minimally require the TDSF to post appropriate size bonds and have insurance sufficient to cover any catastrophe that could possibly occur.
2.) The issue of the contract given to PFD being for both the development of a neutralization process and the reward for the successful application of the experimental process to be developed. At a minimum, the tying of the highly technical development work to the for-profit treatment and disposal of the VXH precludes any unbiased basis for credibility of the interpretation of the development work. Is the concept of awarding contracts for disposal of CWMD's to the lowest bidder going to be the basis for meeting our Government's responsibilities?
3.) The claim made that PFD was selected because of their experience of treating hazardous materials similar to VXH, while in fact PFD had to bring in highly specialized personnel from other firms to do the experimental development work. The assertions by the Army that the treatment work on VXH by PFD was like the usual work done by PFD, when the development of a proffered process took months longer than the time specified in the contract.
4.) Especially problematic to the citizens was the complete lack of oversight of the development work done at PFD. Other work on destruction of CWMD's appears to have been conducted under the purview of the National Research Council, while work at PFD had no independent third party oversight or technical review.
5.) Since the VXH was to be transported interstate from the secure Army depot at Newport, IN, to PFD in a residential neighborhood in Ohio, and VXH is a Schedule II listed compound, the citizens believed that all anti-terrorism agencies should have been involved in all aspects of the project. VXH is classified as a Schedule II compound by the Chemical Weapons Convention because VXH can revert back to VX and therefore should be of the greatest concern to antiterrorism and homeland security forces. Particularly noteworthy is the reason given by Army representatives that the need for haste in performing the second step in the destruction of the VX from Newport was the threat of terrorists taking advantage of the highly dangerous VXH.

6.) Also related to 5 was the inability of PFD to perform the contractual outreach to the communities along the truck route from Newport, IN, to Dayton, OH, because the routes couldn't be revealed due to Homeland Security concerns.
7.) An area certainly deserving of further inquiry is the basis of the decision to abort the secondary step in the destruction of VX of using a SCWO process at Newport, IN, and instead pin all hopes upon the possibility of developing a secondary process of chemical oxidation followed by biodegradation and dilution. The decision is particularly questionable in light of the stated plans to utilize the SCWO process to destroy the VX at the Bluegrass Arsenal in KY.
8.) Lastly, I'd recommend insisting upon use of accurate terminology in all testimony. If hydrolyzed VX nerve agent is being referred to, it should be called VXH or VX hydrolysate, so not to be confused with any other hydrolyzed chemical. If destruction of chemical properties is meant, it should not be taken as synonymous with neutralization, which connotes adjustment of degree of a property such as pH. If commercially sourced hazardous liquid wastes are meant, they should not be called waste waters as if they were residentially generated wastes usually piped to a public sewage treatment plant. If VXH is the result of hydrolyzing VX, the VXH is the product of the process, not a by-product. The term by-product should be reserved for describing incidental resultants, such as off-gases from the biodegradation process.

Tom Tiller
8175 Germantown Pike
Germantown, Ohio 45327

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