

TESTIMONY
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM
US HOUSE OF REPRESENTATIVES
JULY 27, 2001

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I am pleased to have the opportunity to provide to the Committee this written statement describing Army activities at the formerly used defense site (FUDS) located in Spring Valley, District of Columbia. My testimony will discuss the Department of Defense (DoD) FUDS Program generally and our actions in the Spring Valley area. I will summarize the Army's efforts to determine the nature and extent of contamination at the area, the actions we took based on the information we had at the time, and the coordination we had with American University, District and federal regulators, and the community.

The Army's number one priority for Spring Valley is to ensure that any remaining contamination from defense related activities that presents a risk to human health and the environment is quickly identified and eliminated. We share the concerns of the residents and will continue to work with them to rapidly complete a safe and thorough cleanup in their neighborhood. We will continue to work hard to keep the residents and regulators informed of all activities at the site. This hearing is one more way in which we can accomplish this goal.

The Army is cleaning up contamination related to DoD activities at this site during World War I. I continue to believe that past decisions made by the Army at this site were made in good faith and were intended to be in the interest of the community. The Army has continued to respond as new areas of concern and types of contamination are identified, and we will continue to do so until the Army, regulatory agencies, and the community are satisfied that the clean up is complete.

As the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), I oversee environmental, safety, and occupational health programs within the Army, including restoration, compliance, pollution prevention, environmental technology, occupational health and safety. My responsibilities include the development of Army policy and guidance, oversight of programs and their implementation at Army installations all over the world. I was appointed to my current position in 1996.

The Formerly Used Defense Sites (FUDS) Program is part of the Defense Environmental Restoration Program (DERP), which was established by Congress in 1986. Under the DERP, DoD has the authority and funding to respond to releases of hazardous substances that it caused. FUDS are properties that the military services

owned, leased, possessed, or used prior to 1986. The Army is the Department of Defense Executive Agent for the FUDS Program, having responsibility for all sites, regardless of which military service used the site. I am the senior Army official who oversees Executive Agent activities. The Corps of Engineers, which is well-suited to the task because of its expertise, experience, and organizational capabilities, executes the program through its geographic Divisions and Districts.

The FUDS Program inventory includes more than 9,000 properties now owned by other government agencies, corporations, and private individuals. The Army has determined that approximately 2,700 of the 9,000 require cleanup. The Spring Valley area is one of the 2,700 FUDS in the United States and its territories which require cleanup. As for the remaining properties, cleanup was either completed, is not required, or they are not eligible under the program because the contamination that might be present did not result from defense activities. Current property use varies from industrial to residential or public use. The type of response required can vary, including cleanup of hazardous, toxic, or radioactive waste; removal of ordnance and explosives; and building demolition and debris removal.

The Army's mission and objective with regard to the FUDS Program is to identify eligible sites, to assess the need for clean up, and to complete the cleanup. These actions are taken through the following process. First, a site is identified through military records, or it is brought to our attention by regulatory agencies or the public. Second, an extensive search of historical records is conducted to determine whether any military component used the site and the nature of activities. In this inventory phase, an assessment is made of whether DoD activities could have contributed to any contamination present on the property. If the conclusion is yes, an investigation is initiated during which environmental sampling is conducted to determine the nature and extent of DoD contamination and what response actions are appropriate. In the final phase, cleanup of the property to levels that protect human health, safety, and the environment is accomplished, as required. Throughout this process, the Army coordinates with property owners, local and state agencies, the community, and, where appropriate, the U.S. Environmental Protection Agency.

The FUDS Program presents special challenges since DoD no longer owns the property and must obtain the landowner's permission to conduct on-site investigations, studies, and cleanup. In some instances, property owners refuse to grant the necessary rights of access because they fear that the fact of a cleanup will adversely affect their property values. However, at many locations, cleanup of sites has allowed current owners and communities to redevelop property that otherwise could not be accomplished, or enhanced the value by assuring subsequent owners that the property is clear of any contamination.

Determining which of the 2,700 FUDS properties requiring cleanup to address first is a challenge. The Army uses a worst-first prioritization approach, whereby all sites are assessed according to the relative risk they present to human health, safety, and the environment. The Army attempts to first address those sites that present the greatest

risk. Because of the nature of the contamination and its location in a residential community, Spring Valley is one of the highest priority projects within the Program.

Funding for the FUDS Program comes from a specific account appropriated by Congress to the Department of Defense. Funding has remained at a steady level of about \$200 million each year. The Program has received “plus ups” from Congress each year for the past five years. These “plus ups” have been used to address urgent needs as they arise, such as Spring Valley. We estimate that the cost to complete the FUDS Program, that is, to complete all response activities at the 2,700 properties, is \$12 billion. Thus, at current funding levels, the program will take 50 or more years to complete.

I will now turn my discussion to the former American University Experiment Station, located in what is now known as Spring Valley. We are not aware of any other location where chemical agents were tested in what became a well-established residential neighborhood at the heart of a large metropolitan area such as Washington, DC.

I believe the decisions made at Spring Valley were reasonable at the time they were made, based on the information available at the time and our ability to interpret it. In 1986, at the request of American University, an Army technical support organization reviewed historical records to determine the potential for buried chemical warfare material or munitions at the site. The University was preparing for construction of new facilities and, aware of past use of the property, wanted to ensure safety. An Army review of records concluded that there was little likelihood of large-scale ordnance burial. It did not rule out small-scale burials, but indicated that individual items would be difficult to locate. Analysis of historical photo imagery indicated potential burial sites, but official Army records showed that surplus agents and chemicals had been shipped to Edgewood Arsenal, Maryland, after the American University Experiment Station closed. That information, along with the fact that no munitions had been discovered in the nearly 60 years of farming and development of the property, led the Army to a decision not to pursue further study at the site. Nonetheless, the Army offered an approach that we believed would be of more direct and immediate assistance to American University. This approach was to support the University by providing ordnance specialists throughout the construction project. The Army prepared a support plan and afforded the University an opportunity to provide input before it was finalized. The University completed its project without finding any munitions. The US Army Audit Agency concluded that: “The Army adequately tried in 1986 to determine if munitions were buried in the Spring Valley area.”

In 1995, the Army issued the decision that no further action was necessary for all areas of the Spring Valley property, except the Captain Rankin area. This decision was based on the results of an extensive remedial investigation lasting for two years in which geophysical surveys of 492 properties failed to locate any burial pits. In addition, environmental sampling was conducted at 13 areas that included 17 points of interest. In all, over 260 samples were taken. No chemical agents, explosives, or breakdown products were found in any of the soil samples taken. The sample results were

evaluated in a risk assessment that determined that there was no elevated human health risk requiring remedial action. Sampling for a full suite of contaminants conducted by the US Environmental Protection Agency did not identify arsenic at levels requiring action. Comments received during a 30-day public comment period on the Army's remedial investigation report indicated broad support for a No Further Action decision. Parties indicating their support included the Environmental Protection Agency, the District of Columbia government, the community, and the developers of the property, the W.C and A.N. Miller Companies. Consequently, in June 1995, the Army issued a No Further Action decision for this portion of the site. The Army continued to investigate to determine appropriate response action for the Captain Rankin area.

This project was given close attention and priority. For example, the Army responded immediately to the discovery of munitions by a construction crew in 1993; we immediately dispatched a technical escort team; and the team remained on site until it completed its work. The safety and well-being of the community was, at that time, and continues to be of paramount importance to the Army. More recently, the Army further demonstrated its commitment to ensure public health concerns were addressed by expediting the sampling of the American University Child Development Center. When sampling results showed elevated levels of arsenic in soil, hair samples from children and workers were taken, and testing showed that there had been no exposure to arsenic. The Army conducted additional sampling to further define any potential exposure. As the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), I continue to receive regular updates and visit the site to ascertain progress.

The Army acted in good faith at every stage of this project based on the information and technology available to us at the time. Nonetheless, it is now clear that some contamination went undetected despite our efforts. Over the past 15 years, we have learned a great deal about past practices dating back to World War I, and how to better detect and characterize contamination. A review of our actions at Spring Valley will ensure that what we have learned is applied as we go forward investigating and remediating sites.

The Office of the Secretary of Defense's and the Army's policy has continued to evolve and stress the importance of regulatory and community outreach. In 1986, the Army had no information indicating that there was a risk to human health, safety or the environment. The Army Audit Agency reviewed the facts and concluded that, because there was no finding of a release of hazardous substances or materials, the Army was not required to notify local authorities and third parties of its research or findings regarding the property. The Army provided the 1986 report to American University, since it had requested that the Army conduct the research earlier that year.

After the discovery of munitions by a construction crew in 1993, the Army conducted extensive outreach to the community. This included the development of a Public Involvement and Response Plan that had the specific objectives of: keeping the community informed; providing an opportunity to review and comment on work being

conducted; and to ensure that community concerns are integrated into plans and actions. Mechanisms for doing so included site visits, community meetings, newsletters, status updates, a website, and an information repository. The plan established a citizens' advisory group and a geographic zone captains' group. Both groups were residents who volunteered to help the Army keep their neighbors informed of Army activities, and to keep the Army informed of the residents' concerns. In addition, residents were notified by certified letters of the results of any sampling performed on their property and the availability of key documents relating to the geographic zone in which their property was located. The community participated in the cleanup process by appointing a member of the Spring Valley Homeowners' Group to the Technical Review Committee (TRC). The TRC is a team comprised of Army, EPA, state, and local representatives who review progress and make recommendations for future action. In 2001, a Restoration Advisory Board (RAB) comprised of 14 community members as well as representatives from several involved agencies was established in accordance with the wishes of the community. The purpose of the RAB is to provide an expanded opportunity for public input into the cleanup process. The RAB meets monthly, and the meetings are open to the public.

The Army has worked closely with the District of Columbia Department of Health, the Environmental Protection Agency, American University, and the Agency for Toxic Substances and Disease Registry since 1993 to share information and to coordinate plans and future actions. I believe that the Army has been forthright in providing information to all interested parties.

Between 1993 and 2000, the Army spent over \$40 million from the FUDS account at the Spring Valley site. The fiscal year 2001 requirement has grown to over \$10 million, \$7 million more than originally programmed. This increase is primarily due to the expanded sampling at the Child Development Center, the arsenic sampling effort at all 1200 residential properties, and the exploration of suspected burial pits. The Army is shifting resources from other projects to accomplish the work. "Doing the right thing" has always been the Army's intent at the site. The Army will continue to allocate resources to the Spring Valley project as needed to ensure human health and safety are not compromised.

CONCLUSION

In summary, the Spring Valley FUDS is a property where we have found both chemical and non-chemical munitions in a residential area. We are applying our best expertise, resources, and technology to the situation. Cleaning up buried ordnance and other military items is one of the biggest challenges facing the Army's environmental program today. While our use of detection technologies has improved, our ability to distinguish buried munitions items from non-hazardous metal scrap remains a challenge. As a consequence, intrusive investigations often become the most effective approach, however, they are costly and potentially dangerous.

I believe that the Army has tried to make the best decisions in the interests of the residents of Spring Valley that it could. Today, we understand more about past practices and how they may impact the environment, and our technology may be better for detecting contamination that it was even as recently as 1995. We are reviewing our actions at this site to ensure that we continually improve our ability to identify contamination that could pose a risk. We will continue our current program to cleanup this site as comprehensively and effectively as possible, in coordination with regulatory agencies and the community. I believe we have the policies and procedures in place to ensure that this occurs.

The Baltimore District Corps of Engineers is the Army's lead manager for all aspects of the project. I have full confidence in the Baltimore District to manage all aspects of this project including the technical, consultation with regulatory and health agencies and outreach efforts associated with Army responsibilities at Spring Valley. The Baltimore District has a regular on-site presence and is handling day-to-day operations in an exemplary manner. I will continue to monitor progress, and be involved in critical decisions.

I appreciate the opportunity to testify and provide the Army's view.

Q&As

Q: What is the Army doing to ensure this doesn't happen again? What is the "this" here? Is it the burial of the materials, the 86 review?

A: Enhanced oversight of Executive Agent, systematic review of INPRs as requested by States, enhanced outreach, budget initiatives [what are the "budget initiatives"?)

Q: Why didn't the Army publicly reveal the existence of the 1986 analysis until 1993, after chemical munitions were accidentally uncovered in Spring Valley

A: [I would think the answer should start with: We found no problem at the time and felt it was not necessary. Further, there was no requirement for the Army to notify regulatory agencies or the public that it had conducted a study. The situation would have been different if the Army had located munitions, CWM or other hazardous materials. The Army provided the report to American University and offered on site ordnance expertise and support in the event that ordnance was discovered during the construction. The Army developed a plan, which was approved by the University that included a pre-construction ordnance survey, on site EOD personnel, and on-call emergency response. Finally, it was left up to the University to decide: The plan specified that American University would provide information to the public regarding Army support to the University, and would retain responsibility for media coverage unless a munition is found.

Q: The July 9 Washington Post article alleges that the Army caused people from 1986 to present to be exposed to unacceptable levels of contamination that they could have identified 15 years ago.

A: In 1986 the Army did not have evidence indicating that there were buried munitions nor any risk to public health, safety or the environment. Even now, we do not know whether there has been exposure; the munitions and CWM identified have been buried, and there is no clear exposure pathway. Thus, to say it caused people to be exposed is not a fair statement.