

**Former Nansemond Ordnance Depot
Public Meeting Summary**

March 7, 2002

Tidewater Community College – Portsmouth Campus
Draft Interim Land Use Control Implementation Plan (LUCIP)

6:00 p.m.

Open House & Exhibit Displays

The Corps hosted an open house in the lobby of the Manning Building between 6:00 p.m. and 7:00 p.m. Army Corps representatives were on hand to answer questions. The following exhibits were on display to highlight 2001 Accomplishments: James River Beachfront Removal Action; Track K Dump Removal Action; Nansemond River Beachfront Removal Action; Pit 18 Ordnance Survey Area Removal Action Exhibit; Site Map showing Removal Action Areas; and Ordnance & Explosives. The Land Use Control related displays were entitled: The Challenge; The Process; The Solution.

Handout materials included the following fact sheets: 2001 Accomplishments, Residential Well Sampling, Ordnance & Explosives Removal Actions, Ordnance & Explosives (OE) Glossary, Ordnance and Explosives Land Use Controls for the Former Nansemond Ordnance Depot; and a handout describing what to do if anyone encounters potential Ordnance items. This handout also included a map showing where the OE sites are at FNOD, and photos of some of the OE items at FNOD.

7:00 p.m.

Welcome and Introductions (*Ken Hafner, U.S. Army Corps of Engineers*)

Ken Hafner opened the meeting and introduced Rob Thomson from the EPA and Eric Salopek who is the DEQ representative on the project. Ken also introduced Rick Aiken, who is a J.M. Waller contractor who works for the Corps. Ken said this meeting is a kick off of a public comment period on the draft interim Land Use Control Implementation Plan (LUCIP).

Ken said that the controls will be relatively transparent and hopes everyone will be able to live with them. The purpose of Land Use Controls (LUCs) is to ensure the long-term safety of anyone who uses the property. LUCs will also help the Corps to maintain the long-term environmental quality of the site.

Ken mentioned that the LUCIP and fact sheets were available in the lobby. The plan would also be on the website as well as all of the exhibits and fact sheets.

7:05 p.m.

USACE Presentation (*Rick Aiken – J.M. Waller and Assoc. and Joe Skibinski – SAIC*)

Rick introduced Joe Skibinski from SAIC who was involved in the development of the plan. The Corps is at the cutting edge of developing, implementing, justifying and explaining land use controls. This may be one of the first approaches like this nationwide and the Corps expects it to become a model for other sites.

Rick reiterated that the purpose of the meeting was to kick off the public comment period on the LUCIP. The plan is called a *draft interim plan* because it isn't final yet and because it only covers the next three to five years during Ordnance and Explosives (OE) cleanup efforts. After the public comment period, comments will be taken from both regulatory agencies and stakeholders and incorporated into the plan. At that point a final document will be published including a responsiveness summary answering all the

comments and explaining why decisions were made. Then the Corps will look at how to implement long-term controls. The Corps expects long-term controls to be very similar to those in the draft interim plan and hope that the short-term plan will roll into a long-term plan.

The Corps began its investigation with an archive search report (an extremely detailed look at the history of the site including historical aerial photography). This analysis allowed the Corps to determine sites with potential OE concerns. He pointed out the areas where there are OE concerns including the Main Burning Ground area (which is owned by GE), the kick-out areas to the side of GE (Dominion Lands), Impregnite Kit Area, Horseshoe pond, J Lake, some magazine areas, a couple of buildings, the TNT Removal area, and the North and South athletic fields.

Those particular ordnance sites have been broken down into 4 basic types of sites:

- 1) burials and trenches including the GE area;
- 2) demilitarized scrap disposal areas like the James River Beachfront, where items were demilitarized and dumped;
- 3) kick-out areas like Dominion Lands where items exploded in the trenches sometimes were kicked out and scattered; and
- 4) one wash out area.

There are several areas that still need to be looked at including J Lake and the Horseshoe Pond, and other areas where work is ongoing including the Main Burning Ground and Dominion Lands. OE work has been completed at the James River and Nansemond River Beachfronts, and part of Dominion Lands.

Rick showed a graph of the current land uses and zoning and emphasized that nothing is zoned for residential use, which means that there is a significant reduction in risk.

All of this information makes up the Conceptual Site Model that overlays the status of the existing sites and the land use that is expected. Rick pointed out the various sites on the model.

The goal of LUCs is to protect human health and the environment. Rick said the Corps understands that no OE removal is perfect so the Corps believes that they need to augment the removals and cleanups that they have completed with a set of usable land use controls. Rick turned the presentation over to Joe Skibiniski.

Joe provided the formal DOD definition of Land Use Controls which includes: "...any type of physical, legal, or administrative mechanism that restricts the use of, or limits access to, real property to prevent or reduce risks to human health and the environment." LUCs are broken into three categories: Engineering and Access Controls; Institutional Controls; and Education or Notification Programs. The Education programs are not necessarily controls but are used to support the controls.

Engineering controls are engineered remedies that contain, reduce, or eliminate contamination or include the installation of physical barriers to limit access to property. Access controls are physical means used to limit access including construction support, fences, and signs. These will be applied at FNOD. Joe pointed out that not every site gets every type of control.

Institutional controls are legal elements and fall into two general categories – Proprietary or private controls, which landowners undertake voluntarily in their deeds or documents

associated with the ownership of the property; and Governmental controls including zoning, advisories, and restrictions.

The third type of control is Education/Public Notification and Administrative. Examples of public notification include the fact sheets, public meetings, and RAB meetings. Administrative activities include consultations, monitoring, and deed notices.

The development of the plan has been a coordinated effort between many different groups of people. It was first presented in August 2000 at a RAB meeting. Following that the Corps briefed the Land Use Control Work Group, which is a work group comprised of many of the stakeholders and landowners. At that meeting the Corps/SAIC described what the land use control options might be for FNOD and distributed a questionnaire to solicit input and feedback from the stakeholders. SAIC used feedback from the questionnaires to prepare a briefing for the RAB and incorporated this feedback into the LUCIP. Joe showed a diagram of the development and implementation process. It began with a group of internal development documents including the Land Use Control Assurance Plan (LUCAP), the Land Use Control Options Paper (LUCOP) and Risk Management Strategy Report. Next, the Corps distributed the draft interim LUCIP to the stakeholders for their review and comment. This public meeting is the beginning of a 30-day public comment period. Once public comments are received and incorporated into the LUCIP, the Corps will negotiate with the landowners and the City and hopes to develop a Memorandum of Agreement to help establish and maintain the land use controls.

The LUCAP proposes the assurances that are needed for LUCs. The Corps has developed a model Memorandum of Agreement and collected some comments. The LUCAP document preliminarily defines roles, responsibilities and authorities for the groups that will implement, maintain and monitor the LUCs.

The LUCOP identifies site-specific options, looks at existing controls and evaluates options against five criteria including: short-term effectiveness; implementability; cost; State acceptance; and community acceptance.

The Risk Management Strategy Report looks at historical uses of the site, findings from investigations and ongoing removal actions, and current and future land use. This information is used to construct the Conceptual Site Model. The Corps looked at OE risk impacts and whether risk reduction would result from implementing certain controls.

Those three documents converged into the LUCIP, which is the main document that is being submitted for review. The Draft Interim LUCIP identifies why, where, who, what, how, and when LUCs will be implemented. As mentioned, once feedback is gathered a final report will be developed.

None of the controls in and of themselves fully satisfies the goal of protecting human health and the environment; so the Corps is proposing a series of controls that will be used depending on the characteristics of the site.

For the entire FNOD property, the Corps proposes education and notification. For the sites that are suspected OE sites or known OE sites, the Corps will monitor zoning and maintain fences and signs. By monitoring zoning, the Corps is proposing that an agreement be established with the City of Suffolk that would be built into the building permit review process. If there is any particular type of change in property use or zoning, the Corps could be involved. The Corps does not have the authority to implement these

controls on its own. Joe showed a matrix of what the roles and responsibilities proposed for each of the different groups involved and for the different types of controls. For example, the Corps would prepare plans and reports for removal actions, and the regulators would conduct the reviews. The LUCIP relies heavily on the City of Suffolk and the various landowners. There is heavy emphasis on monitoring and maintaining educational information about the site and making it accessible to the public.

Rick added that when you look at the responsibilities of the property owners, there are different responsibilities for private and non-private landowners. If private, the landowner has to go through the City to obtain building permits and abide by current zoning or apply for a variance for zoning. In this instance the Corps would have an opportunity to interface with the private property owner who is planning on constructing something inconsistent. Non-private landowners do not have to go through the same process. They still have to follow building codes, but they have the ability to ignore current zoning regulations on their property. The Corps is asking the non-private landowners – HRSD, VCCS, and VDOT to agree to coordinate on certain types of construction. The only place where the Corps would actively object to residential development would be on those sites where OE was removed.

Bea Rogers asked about the different areas and Rick said that both the Horseshoe Pond and J Lake are areas with OE concern that the Corps has not fully investigated yet. Once the Corps investigates them, these sites may be removed as OE sites, but they are currently listed because this is an interim plan and the Corps has not yet determined the OE status.

Joe reiterated the goal for the LUCs to augment the removal actions that are ongoing, underway or planned for particular sites. He opened the floor for questions.

7:45 p.m.

Question and Answer Period

Q: Dave Saunders asked what would happen if 20 or 30 years from now construction is taking place and the contractor digs and finds something that looks like OE. He asked who would pay for the disposal.

A: Rick said that in the future if something is found people should follow these guidelines– Don't touch it, don't move it, and call 911. The 911 dispatcher has been briefed and knows to call EOD, who has a 24-hour response line. EOD is prepared to respond and are funded by DOD. The Corps would get involved and come back to determine if its an isolated incident or an OE site they missed. The site remains a Formerly Used Defense Site forever. Even if the Corps gets to the end of this cleanup and believes the cleanup is complete, and something is found, the site is still a FUDS site and eligible for FUDS cleanup funding.

Q: Bea Rogers said that she thought the controls in some cases haven't worked too well. Bea and Cherie Walton, both members of the RAB, recently returned from a CPEO meeting where they heard a story of a brand new housing development on a site that had been turned over to a city and in turn sold to a contractor. Now, residents are finding unexploded ordnance buried in some areas near the surface. Dave Sheets (USACE – Huntsville) asked where the site was and Bea said Arlington, Texas.

A: Rick indicated that this situation is exactly what the Corps is trying to avoid. He was not sure institutional controls were implemented at that time or in that situation. Bea asked why the city would have sold the site. Rick said that when the property transfers, sometimes the notice recorded on the deed can be thrown out, and the knowledge of the property's history lost. The Corps is asking landowners not just to record a notice, but perhaps to use a covenant that will run with the land that won't be dropped off at transfer.

At FNOD the agreement with the City will be documented through a Memorandum of Agreement. The Corps has discovered recently that if a developer finds something wrong with the site, the developer will not want to touch it. Once the property owner is made aware of the risk, they have a significant liability if they choose to ignore it. By bringing the information out into the open, the Corps has basically forced landowners to participate. Rick said the Corps has tried to make the LUCIP as logical and as acceptable as possible. GE is more than happy to restrict the use of the land to avoid future liability. Dominion Lands and their developers really want to know where they can build without liability. Keeping information in the public is really the way around a situation like Bea described.

Dave Sheets, the ordnance project manager for the project said that FNOD has historical photos and records, but not all sites have detailed records. A site like FNOD is a few hundred acres, but in Texas you may be dealing with sites the size of Rhode Island. Investigating a site this size is very expensive and it is possible things fell through the cracks. He commented that once institutional controls are implemented on a site, they should not be lost. The reason the Corps does the EE/CA study, which is done before the removals, is to identify the areas where they know they have issues. In areas where they do not know the history of what happened, it is hard to go out and investigate large areas. Dave said that this may have been what happened. Cherie Walton added that this was a bad situation – the city knew when they sold the land, the developer knew when they built, and when someone from the community called to ask about it, they were told not to worry about it.

Ken Hafner said to the best of their knowledge all of the ordnance is going to be removed at FNOD. The reason for the LUCIP is because they cannot guarantee that they have reached every square inch of the 975 acres. The process is more complex and comprehensive than in 1987 when they found the first TNT at the site.

The LUCIP has gotten all the way to Headquarters of the Corps. They have reviewed it and their lawyers are reviewing it. The engineering is simple, but the legal issues must be straightened out to ensure implementation. Even Headquarters has admitted that they haven't seen LUCs evaluated to this level, analyzed, documented, and presented in this way. The Corps is making sure that there is some method to educate and advise anyone buying property there that this was a former ordnance site, and that there is the possibility of finding ordnance, and that the landowner can always contact the Corps. The Corps is learning new information daily during the investigations. That is why there are six source areas that got the project put on the NPL and there are now 21 Areas of Concern that the Corps wants to go through systematically and review.

Dave Sheets pointed out that there was no Unexploded Ordnance (UXO) found at FNOD. The fuzes found at FNOD are not sensitive and would not hurt someone unless they are really unaware of what they are. These are the type of ordnance items that the military personnel at the former base tried to dispose of by blowing up. Sometimes these OE items didn't get fully burned out.

Q: How big is the ordnance?

A: Rick said the biggest things (175 mm) were steamed out, but would probably not hurt you if you could pick them up.

Q: How dense is the ordnance?

A: Rick said in the Main Burning Ground OE is fairly dense but in some 100-by-100 foot grids they have found only two 20mm and about 4 pieces of OE scrap. In the pits

there are a lot of OE items that were buried that probably should not have been, but the Corps can remove most of the material.

Q: Kirk Stevens asked how the landowners and stakeholders felt about the plan?

A: Rick said that GE agrees and really wants to avoid problems. The Corps had only initially proposed notification and GE came back and indicated that they would like to restrict future land use. Dominion Lands is in agreement with the notice. HRSD sent a letter saying they didn't want to have their property, the wastewater treatment plant, affected by Land Use Controls. However the Corps is working with them to reach solution. Rick said that Tim Fink of Tidewater Community College hadn't weighed in very strongly, but Pat Genzler of VCCS helped them re-write the notice language he believed would be acceptable.

Ken said the basic answer is that they have been pleasantly surprised with the responses they have gotten. He said the OE items out there when it was an active depot were packaged and shipped in and out. DOD was not expecting these materials to blow up. The OE items were safe enough for military personnel at the former depot to handle. The items were disposed of in burning areas where burned pieces were kicked out in different directions.

Q: Kirk Stevens asked if there was a review period and if the Corps would go out and solicit input.

A: Ken said that this meeting is kicking off a public comment period for the next 30 days.

Q: Kirk asked if part of the LUCIP had a requirement to make sure property owners didn't build residentially.

A: Rick said, as part of the Memorandum of Agreement, the Corps will be asking property owners to report land use upon request. The Corps will contact landowners a couple of times in the first year to ask if the landowners have experienced any problems that need to be looked into. As time goes on, the Corps will contact landowners every year or two, and then eventually because it will become part of the CERCLA remedy, there will be a 5-year review. The Corps programs for 30 years, but doesn't know how long the review process will actually run. The Corps has developed a list of things they will ask the property owners to do including: notifying the Corps if signs and fences need repair, notifying the Corps if non-private landowners plan to do construction on site, and notifying the Corps if private landowners do anything on their property that is inconsistent with the agreement. The Corps is also asking property owners to prosecute trespassers and adhere to building codes and permitting.

Ken said that the Corps is also investigating working with Miss Utility as a method of notification. Miss Utility seems to be interested in cooperating. It is a little innovative but may over the long term give the Corps another way of following up with development at the site. Rick said when someone is going to dig they are supposed to call Miss Utility. The information goes into a clearinghouse and then anyone that subscribes to the free service and has a footprint in the area where they want to dig receives a notice for \$1. So for not a lot of money cities are required to participate and that is how they get notification that there is construction or digging taking place. The Corps is allowed to participate too, they just have to provide Miss Utility with the footprint they want to be reported. Then the Corps would need to figure out what to do with the notice such as mail information to the person digging. In an area of greater concern, there are contractors that can deliver a package of information to the landowner for \$15. Rick suspects by this summer, the Corps may have an arrangement set up. Ken said that this mechanism may

be a very viable tool in the future, but they will obviously have to look at the bureaucracy and figure out the long-term effectiveness of this method.

Of the 975 acres the plan addresses actual restrictions at only approximately 60 acres. Less than 10% of the FNOD area has real OE concerns. These are the areas that the Corps wants to closely monitor. Rick pointed out that the Corps has already completed OE clearance on 30 of the 60 acres.

Ken asked if anyone had any other questions and asked the regulators if they had anything to add. Rob Thomson (EPA) said that it is important to remember this is an interim plan and the real thrust of LUCs is to make people aware that these are areas where they are finding some type of munitions and there is activity going on. At some point there is going to be a final plan that will go through the same review and comment period. Hopefully at that time the Corps will be done with OE removal.

Ken said the Corps expects it will take 3-5 years to complete the work. Once the interim plan is in place, they will use it and have an opportunity to modify, refine, and adjust the plan as needed.

Ken said the Corps is soliciting comments in writing. Comments can be submitted in writing or via e-mail, but he would rather not take them over the phone because they want to address every comment in the final document as accurately as possible.

He thanked everyone for coming, including SAIC for presenting and CEC for the exhibits and fact sheets.

8:20 p.m.

Meeting adjourned

Guests Present:	Affiliation:
Ken Hafner	USACE, Norfolk
Rick Aiken	J.M. Waller and Assoc.
Joe Skibinski	SAIC
Rob Thomson	EPA, Region 3
Eric Salopek	Virginia DEQ
Diana Bailey	USACE, Norfolk
Tim Fink	TCC
Bea Rogers	RAB Community Co-chair
Bill Rogers	Community
David Saunders	RAB
Cherie Walton	RAB
Russ Dudley	RAB – VDOT
Bobby Belleza	USACE, Norfolk
Joyce Heffington	HRSD
Kirk Stevens	Navy
Roland Baltimore	Community
Jim Hines	Community
Cynthia Taylor	City of Suffolk
Dave Sheets	USACE, Huntsville
Brent Frazier	USACE, Huntsville
Amanda Ralph	SAIC
TJ Die	Zapata Engineering
Tina Kuhn	CEC, Inc
Lacey Young	CEC, Inc