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## UNITED STATES GENERAL SERVICES ADMINISTRATION

The Sharonville Engineering Depot, according to the Army (see discussion above) was transferred to the General Services Administration ("GSA") in 1949. Gene Crow gave testimony implicating the Army or GSA or both in disposal at the Site (see Army discussion above). Hence, the GSA just recently completed a questionnaire.

GSA stated that it transferred all documents pertaining to its former Sharonville Engineering Depot to the Defense Logistics Agency ("DLA") in 1988. The Department of Justice has requested the DLA Defense National Stockpile Center to search for more information about this matter and will supplement GSA's response if any additional materials are found. I have not yet been provided with any additional information.

GSA stated that it did not receive any nexus package and conducted its investigation based on any possible connection between the Sharonville Depot and the Skinner Site. Historical documents indicated that the Sharonville Engineering Depot once comprised more than 642 acres. GSA stated that from 1947 to 1970, its predecessor, the War Assets Administration, sold or transferred portions of the property to various governmental and private entities. GSA has retained about 80 acres which is leased to the DLA. The DLA operates a storage facility for the National Defense Stockpile program at that location. The GSA is not aware of the type of materials that are stored at this location.

GSA stated that it has found no documents linking this facility with the Site.

GSA listed four other facilities that it owned or operated within a 75 mile radius of the Skinner Site: U. S. Post Office and Courthouse at 110 East Fifth Street, Cincinnati; John Weld Peck Federal Building, 550 Main Street, Cincinnati; U. S. Post Office and Courthouse at 200 W. 2nd Street, Dayton; and Warehouse 4, 3150 Springboro Rd., Moraine. GSA stated that all of these facilities were used as office buildings except Warehouse 4, which was used for paper files and microfiche. The types of materials generated were listed as: paper, trash, and furniture. The types of waste were described only as "office operations and food cafeteria." In response to question 3.c.vii.(F), regarding the form in which waste was picked up, the agency responded: "Trash bags and drums. See attached." There was no attachment which seemed to correspond to this response.

GSA stated that of the transporters listed on Exhibit A, it was only familiar with Rumpke Container Services, Rumpke Sanitary Landfill and King Container Service. GSA used Rumpke Container from 1989 - 1995 and King Container from 1980 - 1981. It believed that any waste hauled by Rumpke from any of GSA's facilities would have gone to Rumpke's own landfill and not to Skinner. It also stated that its wastes would not be hazardous.

GSA provided no information about the use of the Sharonville Depot during the relevant time period. It indicated that the employees who are part of the National Defense Stockpile program were now under the control of the DLA but it appeared that GSA did not make any attempt to contact that agency or its employees who may have knowledge of this facility.

GSA was rushed to complete its questionnaire response. It gave the names of four employees, 3 in Chicago and 1 in Cincinnati, who were interviewed. However, it did not indicate what positions those people occupied within GSA to verify that they were the persons with the most knowledge about possible links to the Skinner Landfill over time. It does not appear that GSA contacted any former employees.

**Waste-in Amount.** As noted above in the discussion of the Army, I have assigned the GSA and the Army together the waste-in amount of 8,889 cys. There is nothing in what the GSA has told me to change this figure except it may be that all of this amount should be assigned to GSA.

**UNITED STATES DEPARTMENT OF ENERGY**

Ray Skinner mentioned a facility in Fernald in relation to phenol tanks. R. Skinner Depo., p. 492, 494. *The testimony might have related only to the Union Carbide facility in Marietta, however.* Nonetheless, the Department of Energy (DOE) was contacted at the request of one or more parties and completed the questionnaire for its facility in Fernald.

The DOE's response related to the Fernald Environmental Management Project (FEMP), a DOE-owned site northwest of Cincinnati, Ohio. Fluor Daniel Fernald, Inc. (FDF) is presently under contract with the DOE to conduct certain environmental remediation activities at this site. FDF began performance of this contract on December 1, 1992. The FEMP was constructed and began operations as a uranium processing plant in the early 1950s as Feed Materials Production Center. National Lead of Ohio (NLO) operated the plant from its opening until 1986. From 1986 until FDF took over in 1992, the site was operated by the Westinghouse Environmental Management Company (WEMCO).

FDF did not conduct any operations or have any responsibilities at the FEMP during the relevant time period (January 1, 1930 - December 31, 1990). However, FDF participated in the response to the questionnaire.

The DOE pointed out that there was no evidence to support any allegation that the FEMP shipped phenol tanks or any other product or waste material to the Skinner Landfill, nor any evidence that the FEMP had phenol tanks.

DOE's answer to Question 2b(viii) stated that, "The only documents identified which reference the Skinner Landfill or the Skinners are attached." While there were no documents attached to the response, I assume they are the Ray Skinner deposition pages sent to the DOE by my office.

The DOE also indicated that the majority of its site wastes were buried in waste pits on its own site or at an on-site sanitary landfill. DOE stated: "There was not a reasonable basis to ship waste materials to the Skinner Landfill or any landfill because the on-site waste pits were readily available at no additional cost, and enabled more convenient and efficient disposal of waste." In 1986, the on-site waste pits and on-site landfill were no longer available, and waste disposal became a highly visible and politically-charged issue. While alternatives were examined and approvals obtained, noncontaminated, nonburnable trash was baled and stored on the site. DOE also stated that records showed that a small number of shipments of cafeteria waste were sent to Rumpke. Noncontaminated office wastes were transported to the Rumpke Landfill beginning in 1987.

Phil Kraus, a Fernald Transportation Department employee, believed that "clean" trash was collected from offices and the cafeteria in 1989, was compacted and picked up by Rumpke. No radiologically contaminated materials were permitted for this collection, and a radiation technician surveyed the trash before it was compacted to make sure that no contaminated material was included. Under the "Green is Clean" project which began in 1990, uncontaminated office trash from the "process side" was placed in dumpsters. Mr. Kraus did not think that any trash from the process side was shipped to Rumpke prior to

1990.

Charlie Block, former Manager of Transportation and Traffic who retired in 1994, had no memory of shipments to the Skinner Landfill. He confirmed that normal, clean refuse would not have been shipped off site until the late 1980s, and it was sent to Rumpke.

Bob Gardner became Manager of Waste Management and Shipping in 1987, and was responsible for all waste shipments except those involving laboratory samples. He would have known if there had been any shipments to Skinner Landfill, but had no memory of any such shipments.

Similarly, all other employees and past employees who were interviewed had no knowledge or recall of any shipments to Skinner Landfill.

FEMP used the following transporters: Rumpke Waste Collection, C&O Railroad (now CSX Transportation), Chemical Leaman Tank Lines, and possibly BFI. In addition, one individual thought that Chem-Dyne may have been used, but he did not have a clear recollection, and no records were found to confirm this suggestion. DOE indicated the following types of trash were collected by Rumpke: general office and cafeteria refuse, including paper and cardboard, scrap desks, shelves and other miscellaneous waste, wastes generated by the Receiving Department including cardboard and wood scraps, skids and packaging materials; some construction debris was also sent.

In 1987 a site-wide trash segregation program was instituted and office-type wastes were collected in 13 dumpsters. Eleven of those dumpsters were located in the non-process area, with the remaining two being located on the process side. The dumpsters were kept locked unless trash was being loaded or when the dumpster was being emptied. When the dumpsters were unloaded, the contents were taken to Building 46 where they were monitored by radiation technicians prior to being compacted. A compactor was leased from Rumpke which was capable of holding 130 cubic yards of compacted material. Rumpke was contacted to collect the trash when the compaction unit was full, approximately every 10 days.

Waste from construction activities was placed in open-top, 20 cy dumpsters in a non-compacted, loose fashion. When not in use, these dumpsters were covered with tarps and locked. Wood generated by construction operations could only be released to Rumpke after being surveyed radiologically clean, and this was done on a piece-by-piece basis. All wood from the production process area was to be processed as low level waste and was to be shipped with other radiological contaminated waste to a licensed low level waste burial facility.

DOE indicates records reflect the following estimates of waste generated:

Office & cafeteria trash	85 cy per week (compacted)
Construction debris	15 cy per week (uncompacted)
Miscellaneous	5 cy per week [compaction not indicated]

DOE estimated that Rumpke collected approximately 130 cy of compacted wastes every 10-12 days and approximately 60 cy of construction debris per month, from 1987 to 1990.

**Waste-in Amount.** On this record, I find no evidence that the DOE is a liable party.

**UNITED STATES POSTAL SERVICE**

The Postal Service's scope of search was limited, by agreement, to three sites: the Post Office next to the Skinner site, the West Chester Post Office, and the former Sharonville Engineering Depot. In actuality, there are only two sites, because the site next to the Skinner Landfill is the same as the West Chester Post Office, and is referred to as such in its questionnaire response. The former Sharonville Engineering Depot is now known as the Cincinnati Bulk Mail Center.

The West Chester Post Office was constructed in 1977 next door to the former post office which was a leased facility. The original facility is currently in use by the Board of Education. In 1983, a sidewalk removal project took place at the West Chester Post Office. An unknown contractor removed the concrete waste. In 1989, an expansion/modernization project took place at this facility and was contracted by Rand Construction Company.

In September 1982, the storm water catch basins at the Cincinnati Bulk Mail Center (BMC) were reworked by Gray Construction, Inc. Since the contractor was responsible for removing any material and/or debris from the site, the Postal Service did not know whether any material was removed and what landfill, if any, was used by the contractor.

The Postal Service had no records of waste disposal or trash hauling services prior to June 1993. The Postmaster of West Chester indicated that the West Chester facility may have used BFI and Rumpke to haul trash, but the Postmaster has only held that position since 1993.

The Postal Service offered no other information regarding its waste practices, except that BFI has been used by the Bulk Mail Center since May 1996, and Rumpke was used by this facility from June 1993 to April 1994. The Postal Service did not indicate what its waste disposal practices were prior to June 1993 or between April 1994 and May 1996.

**Skinner Log.** The Skinner log has an entry for \$1,393.42 on June 25, 1983 for the West Chester Post Office under the heading "Miscellaneous Dumping in Disposal Plant." The Postal Service was unable to locate any records relating to this entry but suggested it related to the disposal of concrete debris from the removal of a sidewalk.

**Site Witnesses and Postal Service's Response.** Rodney Miller testified that demolition debris from the West Chest Post Office was disposed of at the Landfill. Mr. Miller estimated that about 20 loads were disposed of using 30 cy trucks. R. Miller Depo., p. 178-179.

Ray Skinner estimated that the West Chester Post Office resulted in the disposal of about 30 truckloads of construction debris. R. Skinner Depo., p. 400. Other deponents also discussed the disposal of landscape debris or construction debris from this facility. E. Skinner Depo., p. 439; M. Roy Depo., p. 288; L. Gregory Depo., p. 165.

The Postal Service could not locate the construction contract for the construction of the

West Chester Post Office. I was told, however, that typically, the Postal Service does not accept ownership of a new post office until after the construction is completed. Hence, the Postal Service argued, it had no authority to direct the disposal of construction debris. Alternatively, the Postal Service argued the wastes were not hazardous.

With respect to the Cincinnati Bulk Mail Center, Ray Skinner testified that the facility hauled cardboard boxes, skids, wood, and paper to the Landfill. He estimated that this type of waste was disposed of once every three to six months for at least a two to three year period. He also said that much of this material was salvaged and sold by his father. R. Skinner Depo., p. 397, 402. Ray Skinner also testified that, when the Postal Service constructed a new post office in the Sharonville Engineering Depot (i.e., the Mail Center), the construction debris was brought to the Site. R. Skinner Depo., p. 399. He did not specify the amount of debris, only that it was more than the 30 loads generated at the West Chester Post Office. R. Skinner Depo., p. 401.

Maria Roy also thought that debris from the Mail Center construction came to the Landfill but she had no personal knowledge of this fact. M. Roy Depo., p. 290. No other witnesses had knowledge of the Mail Center waste or construction debris.

The Postal Service's research produced nothing to affirm or refute the testimony of Ray Skinner. It argued that the waste was not hazardous in either case and, in the case of construction debris, pointed out its typical contract.

**Waste-in Amount.** The use of the Site does not appear to be in dispute here. I was not provided with a copy of the contracts in question so it is difficult for me to address the argument that the Postal Service is not an arranger for disposal of construction debris with respect to the two facilities. As I approach the end of what has now become a number of judgments trying to weigh the evidence reasonably in the context of this matter as a whole, I have decided to assign the Postal Service some construction debris from both facilities as follows:

West Chester	One-half of the 25 loads (the average of Rodney Miller and Ray Skinner's estimates on number of loads) x 30 cy per load, or 375 cys.
Mail Center	Two times the West Chester construction debris total, or 750 cys.

With respect to the other waste described by Ray Skinner, I have decided to assign the Postal Service a default waste-in total of 50 cys (I assumed an average of 25 cys of trash reached the landfill on two occasions).

Hence, the waste-in total for the Postal Service is 1,175 cys.

**UNITED STATES INFORMATION AGENCY ("USIA")**

USIA was linked to the Site through testimony about the Voice of America transmission tower construction or demolition debris.

The Voice of America Bethany Relay Station ("VOABRS") was a radio relay transmission facility, consisting of a transmitter building, an electrical substation, and antenna curtain arrays. Its function was to receive Voice of America radio broadcasts from Washington, D.C. and relay them to target audiences in countries outside the United States. No manufacturing of any kind occurred at the facility.

USIA owned the facility from 1949 to the present. Operations stopped in 1995. Prior to 1949, the facility was owned by the Reconstruction Finance Corporation ("RFC"). RFC assembled the property from five separate individuals between June and December 1943. Actual operation of the facilities was done for some years by the Crosley Broadcasting Corporation, a private company.

From information developed by the General Services Administration (GSA), construction plans for the transmitter building, antenna arrays, and supporting structures above and below ground were drawn up in 1943 by Carl E. Sinnige, a Registered Professional Engineer from Cincinnati. The plans are labeled DPC Plancor No. 1805, suggesting that they may have been a variation of other plans developed by the Defense Plants Corporation, a former entity within the United States Department of Defense (DOD). DOD is already a named party. Construction was by the Crosley Broadcasting Corporation. Erection of the rhombic-type antenna was by the Bertke Electric Co. of Cincinnati, using materials purchased and fabricated by Cincinnati Gas and Electric Co. USIA had no evidence to indicate that the Skinners had any role in the construction of the facility.

The nexus documents provided only refer to unspecified construction debris during the actual construction of the facility in 1943. USIA concluded that no materials were transported from the facility to the Site. This belief is based on the anecdotal information from Paul Wiseman who worked at the facility from about 1970 - 1995, the absence of any records in USIA files reflecting the transport of materials to the Skinner Site, records contained in the nexus documents which fail to show any transport of materials from the VOABRS facility to the Site, and the sworn statement of Roger Ludwig, a longtime Skinner employee, who stated that the VOABRS had "nothing to do with the dump or anything."

USIA argued that there was no evidence that Skinner transported any materials from the VOABRS facility to an offsite location. The Skinner logs show an entry in 1973 for \$175.00 for transporting a load of wood poles from the Wright-Patterson Air Force Base in Dayton, Ohio to the VOABRS facility. No hazardous materials were involved in the transaction.

With respect to the alleged transport that occurred in 1943 from the VOABRS facility to the Site, which was prior to USIA's ownership interest in the VOABRS, USIA had no knowledge of the transporter of the alleged construction debris. Of the transporters identified in Exhibit A, only Skinner was hired by USIA to perform hauling.



USIA argued that the nexus documents only contain anecdotal information. Elsa Skinner said that Skinner had built the Voice of America. This statement contradicted the historical background developed by the General Services Administration. (GSA hired a consultant to perform background work relative to the eventual disposal of the facility. Work included title searches in Ohio and historical research by an historian.) Maria Skinner Roy asserted that Skinner built the Voice of America and that construction debris was disposed of at Skinner, but construction work was done in 1944 and Maria Skinner Roy was not born until 1948, USIA added.

USIA further asserted that none of the Skinner records reflected that materials, hazardous or otherwise, were ever sent from VOABRS to the Site. No USIA documents were located that indicated it either. There was no evidence that the construction debris ever existed, USIA says. Nor is there evidence regarding what its composition might have been if it did exist. It could have consisted merely of excess lumber or other non-hazardous materials, USIA adds.

To the extent that construction debris from 1943 is seen as a connector to the USIA's responsibility for costs at the Site, those entities who appeared to actually have had a hand in the construction work should be included, USIA also argued. USIA asserted that Crosley Broadcasting Corp., the Bertke Electric Company of Cincinnati and the Cincinnati Gas and Electric Co. should be linked to any waste found to reach the Site from the Voice of America facility.

**Skinner Log.** There is an entry in the log dated November 19, 1973 for \$175 under the entry, "Income on Trucking, Hauling & etc." for the USIA, Bethany Relay Station, in Mason, Ohio. One interviewee thought that this charge was for the hauling of wood poles from the WPAFB to the Bethany Relay Station. This witness' recollection was supported by another interviewee who said the same thing. The USIA also cited Elsa Skinner's deposition saying that this entry was not for dumping. E. Skinner Depo., p. 181.

There was another entry dated July 22, 1973 under the heading "Income on Demolition Work and Miscellaneous Wrecking Jobs" listing the USIA Bethany Relay Station as the customer. USIA could not determine the basis for this entry but argued that it did not reflect waste disposal at the Landfill (about which it found no information) or that it reflected the disposal of a barn that had been blown down by a tornado (see discussion below of Site Witness testimony).

USIA argued that the Skinner log had some structure and organization to it that suggested that this entry did not relate to waste disposal. I understand the argument but having been through this process, I am not confident that the Air Force's intuitive argument necessarily is correct. There are a number of examples in this report of waste disposal not reflected in the log or not reflected under the entry "dumping."

**Site Witnesses.** Ray Skinner testified that the Voice of America disposed of 40 or 50 empty paint drums (some with residues) when the towers or buildings were painted. He testified that he personally saw the towers painted. Some, if not all, of these drums were scrapped. R. Skinner Depo., p. 457, 460, 467-68. He also said the Voice of America

disposed of creosoted telephone poles, a barn and three houses (with asbestos shingles). He was not sure of the time period. Ray Skinner thought that 50 or 60 loads came to the Landfill because of the demolition debris from the barn (30 loads) and three houses. R. Skinner Depo., p. 457, 460, 469. USIA felt that Ray Skinner also contradicted himself at page 456 of his deposition when he said, "I can't say nothing about them. It is just what my dad said." Having taken Ray Skinner's deposition, and having re-read the testimony, I do not agree that he was being contradictory. I do believe he was at the facility and I believe that he also heard stories from his father. I am focused only on what he said he saw.

An interviewee who worked at the Relay Station from 1968 - 1991 testified that personnel at the facility sawed discarded telephone poles into sections and burned them onsite. He disputed the disposal of empty paint drums. He did recall a tomado destroying a barn and recalled that someone was hired to bulldoze the barn and bury it in an onsite trench. The interviewee did not recall who was hired. USIA suggested that this event might explain the second Skinner log entry above. The interviewee did not recall the demolition and disposal of any houses.

Elsa Skinner testified that, "When Albert was working up there, they cleaned up the ground and he hauled it in for them." E. Skinner Depo., p. 485. She also said that VOA "called him in several times after that, too, so I couldn't tell you the years." She could not describe the waste. E. Skinner Depo., p. 486.

USIA also noted that even if original construction debris was disposed of at the Site, there was no evidence it was responsible for the debris. The facility was built under contract by third parties, USIA repeated. In a "typical" construction contract, I was told, the United States assumes control of the facility only after it is constructed.

**Waste-in Amount.** I am persuaded that waste reached the Site from the VOA facility. I have decided to assign it 30 loads of barn demolition debris and 20 loads from the houses. I do not assume that the houses had asbestos shingles. I have used 11 cys per load to be consistent with determinations made elsewhere where, I assumed, John Skinner's dump truck was involved. As to the paint drums, I have no reason to believe that they were not all scrapped. Hence, the waste-in total for USIA is 550 cys.

## UNITED STATES GOVERNMENT AGENCIES

There were several United States government agencies discussed in the Preliminary Report. Joint comment briefs were served on November 10, 1998, and February 8, 1999. The de minimis settlement offer was accepted by the United States Information Agency, the United States Air Force, the United States Department of the Army and the United States Postal Service. The Department of Energy ("DOE") and the United States General Services Administration ("GSA") remain in the ADR process. The United States' comments were thus limited to these two parties.

The Department of Justice ("DOJ") represents the interests of the United States in this matter, including all of its departments, agencies and instrumentalities. The DOJ first explained that since the federal defendants were unable to share the Preliminary Report with the Environmental Enforcement Section ("EES") or the EPA, they state they are not able to present the United States' position.

**Orphan Share.** The federal defendants urge the deletion of the Preliminary Report's recommendation regarding the orphan share as it is not fair that the United States or EPA should fund this share when they have not been permitted to view or respond to the Preliminary Report. Let me repeat what I believe was said in telephone exchanges. The Preliminary Report was not intended to assign an orphan share to the United States. What the Preliminary Report said was that any objective reviewer of the facts of this case would conclude that, in this particular case, a huge injustice would exist if the remaining parties -- including the federal defendants -- were forced to pay all of the response costs for this Site. John Skinner is dead. Albert Skinner is dead. Chem-Dyne Corporation is long gone. The bulk of the solid waste delivered to the Site before the NPL listing came from orphan shares. The bulk of the solid waste delivered to the Site after the NPL listing came from construction and demolition debris. I do not pretend, and have no desire, to make Superfund policy. I was simply trying to convey the message that, after spending months studying the unique facts of this case, I came to the firm belief that, while perhaps technically "liable" under the Superfund law, the parties involved in this case were being pushed beyond even reasonable Superfund limits. Hence, I suggested that the parties consider ways to approach EPA to see if there was a way, within the Agency's Superfund Administrative Reform movement, to remedy the unfairness that would result when the parties that represent the smallest percentage of responsibility pay the largest percentage of dollars. As an allocator, I have never otherwise encountered a case like this one and, hence, I have never made such a recommendation. I hope I never encounter another case like this one. And I understand that there may be no mechanism available to generate sufficient orphan share funding here. But, simply put, I could not remain silent in the face of the overwhelming unfairness presented by the application of traditional Superfund principles to the federal defendants and the other parties in this very unique case.

In any event, I discuss orphan shares separately and have allocated the orphan share in the main body of this Report.

**Municipal Settlement Policy.** I was asked to omit any discussion on Municipal Settlement Policy (see pages 35 and 36 of the Preliminary Report). The main body of this Final Report does not further consider the matter.

**Non-ADR Participants.** The federal defendants asked that I prepare a summary of waste-in amounts for non-ADR participants, saying it would be beneficial because it would allow a comparison between participating and non-participating PRPs. I have not yet done so and will do so if the parties believe it will be helpful. Let me explain, however, why I have not done so. Appendix 6 of the Preliminary Report contains a summary of testimony or, in some cases, an analysis of testimony or other information regarding entities not involved in the ADR process. While I might be able to convert some of the information to a waste-in amount, and while I did so in certain cases, from my experience with the parties in the ADR process, I was reluctant to undertake the effort without input from these parties. Recall that some of these parties were invited to participate in the ADR process and declined. I could not tell if that was because they felt they were misidentified or whether they had other reasons that might render wasteful an effort to quantify a volume. I invite the Department of Justice counsel to confer with counsel for the other parties and if a consensus is reached that I should undertake the effort, to let me know and I will try to do so.

**Waste-in Amounts.** I am not addressing earlier comments with respect to the Air Force and Postal Service.

As to the Sharonville Depot, I was asked to treat the share related to this facility as one share for the GSA and the Defense Logistics Agency ("DLA") and they will then determine how to divide the allocation between themselves. I have honored that request.

On the merits, the federal defendants follow-up their comments on February 8, 1999, providing additional copies of documents previously submitted by the DLA which confirm that a fire destroyed three sections of a warehouse at the Sharonville Depot in August of 1963. The federal defendants noted that the Allocator relied on the testimony of Gene Crow and Charles Ringel who stated that the fire debris was disposed of at the Skinner Landfill. However, the federal defendants stated that the DLA and GSA documents "provide no basis for concluding that hazardous substances from the Sharonville Depot were disposed of at the Skinner Landfill." They state these documents show that the debris consisted mostly of wood, concrete block, building material and hemp fiber. They point out that, while other commodities were stored in the building, i.e., molybdenum, ferrochrome, titanium, and vanadium pentoxide, these materials (except for the titanium) were largely unaffected by the fire. Some spillage of the molybdenum and ferrochrome, did occur, but the spilled material was recovered. Only vanadium pentoxide is listed as a hazardous substance, and "[n]o loss was reported to have taken place in regard to the vanadium pentoxide." DLA 0056."

They admit the fire created a large amount of debris. They feel if the debris was disposed of at the Skinner Site, it should have been reflected on the Skinner Logs, and it was not. Also, if such a large amount was disposed of at the Site, they feel a Skinner family member should have remembered, and no Skinner family member claimed that "debris from the fire was disposed of the Site". They feel the lack of a log entry, along with the lack of

any Skinner family recollection, is strong evidence that the debris was not disposed of at the Site.

**Plaintiff's Reply to Federal Defendants' Comments.** The plaintiffs feel that Gene Crow's testimony "was right on target" and state that the federal defendants offered unpersuasive argument that Crow's recollection should be ignored because of "no ledger entries" and "no one in the Skinner family claimed that debris from the fire was disposed of at the Site."

Plaintiffs point out: (1) it was well established that the ledger entries were not complete and this should not detract from Crow's testimony; (2) Ray Skinner began working full time at the Site after the Depot fire, and so this disposal did not come up in his testimony; and, (3) Elsa provided "little assistance in giving a Site history." The plaintiffs state "Gene Crow's testimony was and is credible and has now been corroborated by records of the United States government. The Final Report should conclude that debris from the Depot fire was disposed of at the Site."

Plaintiffs claim the only remaining question is volume. They point out that the information from the March 1969 appraisal of the Sharonville Depot attached to the federal defendants' comments prove the Depot was much larger than Crow estimated. "This new information increases the potential waste-in volume for the GSA/DLA by a factor of more than three." Plaintiffs submit the Final Report should use the new dimensions set forth in the Graves Appraisal at 12, GSA-0122 (I found it at GSA-0018), which are 180 feet by 960 feet, and describe the three sections burned by the fire as 180 feet by 240 feet each. Plaintiffs then compute a volume for the space by multiplying 180 x 240 x 3 sections x 12 feet in height divided by 27 cubic feet/cy, and then divided the total by 2 (as I did in the Preliminary Report as a safety factor) resulting in a total of 28,800 cys. They claim that, in light of Crow's testimony that it took a year or more to remove the fire debris, this waste-in figure seems reasonable, if not conservative. Plaintiffs request that the volume attributed to GSA/DLA should be increased to 28,800 cys.

**Analysis.** First, let me say that I appreciate the DOJ's continued diligence in this matter.

I agree with the plaintiffs that the absence of an entry in the log or the absence of recollection of the testimony of the Skinners does not affect the direct evidence supplied by Mr. Crow and Mr. Ringel from their personal observations.

I also have studied the additional documents located by the DOJ and they do change the waste-in analysis. Plaintiffs have accurately stated the correct dimensions of the building. Following the approach used in the Preliminary Report, the revised waste-in figure for the GSA/DLA is 28,800 cys.

The more significant question involves the waste contents. A memorandum in the materials submitted explained that Sections 1, 2 and 3 of the building suffered through the

fire. (DLA 0055-56). The document explained that titanium metal was stored in a small portion of the third section. The document continued:

The containers were stacked four drums high, on dunnage between each vertical row of drums. It is estimated that the original stack was 10 drums long by 10 drums wide. The titanium sponge stack was surrounded on two sides by drums containing low-carbon ferrochrome, at one side it was adjacent to cordage fiber and on the fourth side it was close to the east wall of the building.

The heat generated by the fire was so intense to force open the steel drums containing the ferrochrome with a great deal of spillage of this commodity. (See photos). Save for some physical contamination from debris resulting from the fire, the ferrochrome alloy was not affected by the exposure to the flames.

At the south-end entrance of the building in Section 1 were stored a considerable quantity of wooden barrels containing molybdenite and a quantity of smaller drums containing vanadium pentoxide.

A comparatively small number of barrels containing molybdenite equivalent to 21, 55-gallon steel drums were burned by the fire spilling the contents, however the material was recovered. No loss was reported to have taken place in regard to the vanadium pentoxide. These commodities are now stored in other buildings.

An earlier document (DLA-0028) stated that:

ferrochrome drums burned to such an extent that replacement would seem to be required. Some of the rows had fallen, with bursted (sic) drums and contents spilled. Loose material contaminated but no visible damage from fire.

Most of the Titanium drums destroyed by fire. Only drum heads and partial drums remaining in pile. Material seems to have been consumed with ashes left in pile.

To its credit, the Department of Justice did not argue that there was no possible loss from these chemicals in the debris that was disposed of. It argued that only vanadium pentoxide is listed as a hazardous substance and there was no loss reported of this material.

I believe that a district court would conclude from reading these documents that some amount – though not necessarily a large amount – of ferrochrome, titanium, or molybdenum, or perhaps all three, was lost to the debris. That no loss of vanadium pentoxide was "reported" does not, in my mind, mean that there was no loss of this material, although how the district court would interpret this statement may well depend upon the availability of expert testimony. I must say that the xeroxed copy of the pictures submitted did not present a "pretty" scene but I cannot tell from the copies how much of this material was mixed in with some of the "cordage" that was described by Gene Crow. My immediate instinct, when I reviewed the pictures, was to conclude that the drummed materials were bulldozed up and hauled away, but that is a reflection on how badly damaged the drums looked. As is true with many aspects of this case, the ADR process can only go so far with the interpretation of the evidence on a purposefully limited record.

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**UNITED STATES AIR FORCE ("USAF")**

USAF's investigation related to Wright-Patterson Air Force Base (WPAFB).

WPAFB is a fully functioning USAF installation primarily concerned with the conception, design, development, and support of weapon systems. The military has operated the WPAFB (or its predecessors) since 1917. Prior to the creation of the USAF, the US Army was in charge of operations at that location. The USAF continues today to operate the WPAFB.

Nexus package information connected WPAFB to the disposal of solid debris such as wood, brick, stone, sheet rock, nails, asbestos, paint, etc. from building demolition. The Air Force agreed that demolition debris generally contained building materials such as wood, brick, concrete, wallboard, nails, etc. It also indicated that, prior to the implementation of controlling regulations, there was no segregation of demolition debris. Once regulations governed the disposal of a substance (such as asbestos), the substance was segregated for separate disposal.

Base personnel were interviewed and several thousand documents relating to demolitions were reviewed, I was told. No one had ever heard of the Site and there was no mention of the Site in any of the documents, it was reported. The Air Force also reviewed hazardous waste manifests still in existence and no information concerning the Site was found. The Air Force believed that manifests for 1980 and 1981 were never generated or, if generated, have been destroyed. They continued to search for these manifests but I have not been advised that any were located. In addition, over 48 boxes of archived records going back to 1942 were reviewed, I was told. What information was contained in these boxes is not clear to me.

The Air Force's investigation found no information indicating that demolition debris contained anything other than normal building materials, I was advised. I was further advised that, while many demolitions were performed by Air Force personnel, usually the debris was buried at one of several on-base landfills. Outside contractors were used for larger demolitions. Prior to government asbestos regulation, the contractors were responsible for disposing of the debris at an approved facility. It was presumed that any debris removed from the WPAFB went to one of the nearby landfills.

The total amount of waste generated by WPAFB during the relevant time period was not known. A search of available records indicated that none of the transporters listed in the questionnaire response hauled material for the WPAFB. Records indicated that a single shipment of asbestos was sent from WPAFB by U.S. Abatement (a contractor) via King Container to the BigFoot Run Landfill on March 6, 1990. The Air Force said that it found no information that indicated demolition debris or any other hazardous material from WPAFB was ever sent to the Site.

Landfills nearby WPAFB, which the Air Force presumed received debris from the WPAFB, were listed as follows:



Pinnacle Road Landfill  
Breitenstine's Landfill, Inc.  
Rumpke Waste Inc.  
Randolph Farms, Inc.  
Bigfoot Run Sanitary Landfill  
Pulaski Landfill Inc.  
Athens-Hocking Reclamation Ctr.  
BFI Waste (Cincinnati, Ohio)  
Powell Road Landfill  
Mason-Morrow Landfill  
Tremont  
Petro-Cell  
ELDA

Outside contractors would be used for demolition in cases where there was a shortage of Air Force Civil Engineering personnel/equipment, a job needed to be performed quickly, or there was a need for specialized knowledge, i.e., the demolition job might require personnel with specialized knowledge in handling hazardous wastes/materials or the structure to be demolished posed special challenges, size, for instance. Outside demolition contractors (to include demolition/renovation) used by the Air Force for larger demolitions were:

Green Earth  
LVI Environmental  
CCC, Inc.  
National Service Cleaning  
LEPI  
ACME Wrecking  
Monarch Construction  
Staffco Construction  
USA Environmental  
Blunt Bros. Corporation  
H.S.A. Construction  
Butt Construction  
King Wrecking Company  
Acme Wrecking Company  
O'Rourke Wrecking Company  
Kayahoga (presumably Cuyahoga) Wrecking  
Precision Environmental Co.  
Nova Group, Inc.  
S.K. Construction Co.  
U.S. Abatement Inc.  
Alloyd Asbestos Abatement Co.  
Asbestos Solutions Inc.  
Specialty Systems of Ohio Construction, Inc.  
M.K. Moore and Sons Inc.  
I & F Corporation

Central Insulation Systems, Inc.  
Wise Construction Co.  
Buckeye Oil Co.  
TOLTEST  
Howard Ponce Co.  
Labrique  
Cippewa  
Environmental Controls Corporation  
Mechanical Systems of Dayton  
RODGLO Inc.  
Thomas Marker  
B.G. Davis  
Sherman R. Smart Co.  
Schnippel Cons. Co.  
Maecorp. Corporation  
Brown and Root  
Centennial  
Herbert Yeargin

**Site Witnesses.** Ray Skinner testified that 50 - 60 drums and crates of waste were disposed at the Skinner Landfill. The drums were dumped off an Air Force truck into a trench and buried at some point in the 1950s or 1960s. He did not know the contents of the drums or crates. He may have poured the contents out of the drums, he said later, but he was not sure if he had. R. Skinner Depo., p. 666, 668-670, 673-674, 1355. He also said that 9 to 12 loads per day of barracks rubble, including floors, ceilings, walls and tar shingles were disposed at the Site by an outside contractor over a three month time period. The contractor used three Dayton landfills, he said, plus the Skinner Landfill. He remembered one as being called "Penal" (phonetic) which I take to mean the Pinnacle Road Landfill, mentioned above. R. Skinner Depo., p. 658, 660, 664, 669, 1353. Aircraft parts and some computers also were part of the waste from WPAFB, although the parts may have been scrapped by Rodney Miller. R. Skinner Depo., p. 661, 675.

I include some of Ray Skinner's testimony here:

Q. Let me finish. Do you have any pictures of the barracks at Wright-Patterson as they were being demolished?

A. No, they did not allow no cameras, no photography stuff on the military base.

Q. Can you describe the size of the barracks?

A. They was several hundred feet long. I'll say 3 or 4 units high, 40, 50 feet wide. I don't know if they had asbestos siding on them or what, to be truthful with you.

Q. When you said 3 to 4 units high, what does that mean?

A. Three floors high.

Q. Floors?

A. I don't remember if they was a flat roof or a tapered roof or A roof (indicating). But I do remember the buildings, about the same color as this wall (indicating), with brown on them.

Q. And all of this came to the landfill?

A. And no – they searched the trucks every time almost, the guards did, to make sure there was no stuff smuggled out or any pictures taken.

Q. And all of this came to the landfill?

A. Ninety percent. He hauled to three different landfills in Dayton, too.

R. Skinner Depo., p. 1351-1352.

Rodney Miller was aware of the demolition of a water tower from the WPAFB by John Skinner but was not aware of the disposal of any waste at the Landfill from this facility. R. Miller Depo., p. 59.

Elsa Skinner said that the Air Force was a user of the Landfill but could provide no details on the type or amount of waste, or the time period of use. E. Skinner Depo., p. 202. There were no log entries for the Air Force, the Air Force has noted.

The Air Force's investigation produced no record or person who could support Ray Skinner's testimony. Ray Skinner had, at one point, mentioned the name "Joe Potter" in regard to the disposal of barracks waste from the base. The Air Force actually found an individual named Joe Potter who did some flooring work at WPAFB in 1975-76. By coincidence, nearly 20 years later, Mr. Potter met Ray Skinner with respect to a racing car matter. This Joe Potter had nothing to do with the transport of waste to the Site from the base, he said in an affidavit provided to me.

The Air Force has pointed out to me that it operated 25 landfills at the base since the 1920s. On-site landfills received chemical wastes until 1972. Substances which could be burned were burned, I was told, at the base landfills. The Air Force concluded that there would have been no need to dispose of waste offsite until about 1972. The Air Force also explained that, if a contractor was performing demolition work at the base, the contractor was permitted to dispose of waste in a base landfill at no charge. And, even if this was not the case, the Air Force said, there are a number of landfills closer to the base than the Skinner Landfill. It would make no economic sense, the Air Force argued, to haul waste a longer distance to the Skinner Site (40 miles).

**Waste-in Amount.** This is another situation where the fact disputes are numerous and significant. Ray Skinner has given testimony of personally being at the base. He gave barracks descriptions which I assume are accurate since I was not told that they were not. I also assume that there was a barracks demolition since I was not told that there had not been one. I did read the Air Force's Attachment 3, a 1971 bid document that said that demolition debris would be disposed of on-site after being separated into combustible and non-combustible debris. I do not know if this same offer was made in all bid packages in the 1950s and 1960s. I do not know whether the conditions of the on-site landfills made them attractive or unattractive to a prospective demolition contractor. I recognize the proximity of Dayton landfills, but Ray Skinner said that three of them were, indeed, used and he himself acknowledged that he did not know why the contractor in question was using the Skinner Landfill because of the distance involved ("It was a really a long drive. It didn't make sense to me to drive that far." R. Skinner Depo., p. 662).

For purposes of this process on this record, I have decided to reconcile the evidence conflict by crediting in part what Ray Skinner has said and crediting in part what the Air Force's investigation has shown. I have decided to assign the Air Force 100 loads of demolition debris x 20 cys per load, or 2,000 cys, to account for the Ray Skinner testimony regarding the barracks' demolition. Ray Skinner's other testimony is too non-specific and uncertain as to time, waste amounts, or source for me to feel comfortable in assigning any waste-in amount to the Air Force as a result of it.

**UNITED STATES DEPARTMENT OF THE ARMY**

The Army's response focused on the Sharonville Engineering Depot, in Cincinnati, Ohio.

**Sharonville Engineering Depot.** This facility was used during World War II for the staging and issuance of equipment and materials by the Corps of Engineers. Construction of the Depot was completed in 1942, with the exception of the Manufacturing Building, which was completed in 1944. Later, the Depot was used as a center for receiving used and unused materials from overseas units. Then it was used to store surplus government property in the Cincinnati region, which was sold to the public eventually. The Army owned the Sharonville Engineering Depot through the World War II era until 1949.

The Depot consisted of warehouse buildings, administration buildings, a maintenance shop building, an inflammable storage building, and a water reservoir. The Maintenance Shop Building serviced equipment such as trucks. It was also used for processing and packaging (records did not indicate what was processed or packaged).

In 1949, Depot buildings had been leased by Philip Carey Manufacturing, Crosley Motors, Fox Paper Co., GM Frigidaire Division, The Kroger Company, L & L Cooperage Co., Pease Woodwork Co., Procter & Gamble, and Samuel Sons Iron & Steel. Agricultural leases were held by Walter Wall and Fred Hendrix.

The Depot was assigned to the Bureau of Public Buildings of the General Services Administration (GSA) on July 15, 1949. The Army's investigation indicated that there was an agreement to sell the facility to the Distiller's International Trading Corporation in 1949. It is not clear to me that this sale actually occurred, however.

In total, the Sharonville Engineering Depot consisted of 602.05 acres of land held in fee and a 0.33 acre easement acquired in 1942. The following outlines the United States' real estate transactions with respect to the facility:

- a. On December 9, 1948, 1.157 acres were quitclaimed to the State of Ohio for highway use.
- b. On April 27, 1959, 55.2 acres were quitclaimed to the State of Ohio for highway use.
- c. On June 2, 1960, 2.618 acres were quitclaimed to the State of Ohio for highway use.
- d. On May 13, 1963, 12.26 acres were quitclaimed to Penker Construction Co.
- e. On June 14, 1963, 21.45 acres were quitclaimed to John E. Knoechel and Florence A. Knoechel.
- f. On June 26, 1963, 52.666 acres were quitclaimed to Melville Meyers.

- g. On September 9, 1963, 33.361 acres were quitclaimed to FADA Radio and Electric Co., Inc.
- h. On September 9, 1963, 52.899 acres were quitclaimed to FADA Radio and Electric Co., Inc.
- i. On October 22, 1970, 85.5 acres were quitclaimed to the Hamilton County Joint Vocational School District.
- j. On April 23, 1976, 135.0598 acres were quitclaimed to the City of Sharonville, Ohio.
- k. GSA retained 80.00 acres for a holding area. The remainder of the land, 60.0692 acres, is still under GSA control.

The site has been redeveloped by the new owners and renamed the Sharonville Commerce Center, according to a 1986 memorandum produced by the Army in its follow up response.

**Kings Mills Ordnance Distribution Plant.** The Army said that the Kings Mills Ordnance Distribution Plant (KMOP), Kings Mills, Ohio, was apparently a small arms ammunition plant owned by the Army until 1944. It was built during the WWII era on a site owned by Remington and operated by Remington until 1944. The Kings Mills Ordnance Distribution Plant was transferred to the United States Department of the Navy on July 25, 1944. The entire site was declared excess to the War Assets Administration (WAA) on May 14, 1947, and custody and accountability were assumed by the WAA on July 1, 1947. The General Services Administration (GSA) later assumed control of the installation and opened it as the Sharonville GSA Warehouse Facility.

In November 1942, KMOP consisted of some newly constructed buildings in addition to existing structures owned by Remington. The facility produced about 793,487,000 rounds of .30 carbine ammunition and about 162,921,235 rounds of shot shell ammunition. The site stopped the production of medium-caliber and small-arms ammunition in 1944 before it was acquired by the Navy for the production of landing craft parts.

The Army located a number of individuals who were interviewed. The Army reported these interview results:

a. Viola Abraham worked at the KMOP from 1943 - 44, until the plant closed at the Main Manufacturing Building (G-1). Her duties were to inspect loaded .30 caliber bullets for split casings and other visible defects. She said civilians trained her for her job. She saw no military personnel at the plant and all personnel at the plant were civilian and most were women. Remington paid her. Civilian inspectors occasionally performed quality control inspections. She did not have any information relating to the Skinner Site.

b. George Terwillinger worked for the Big Four Automotive Equipment Corporation from 1959 - 1962 at the Mainville, Ohio office in the shipping and receiving and purchasing

departments. His company's KMOP facility produced tire studs and conducted painting operations. He had no information relating to the Skinner Site or to the Army's influence over operations at KMOP.

c. Janet Stagge performed duties at the Remington plant related to bookkeeping in accounts receivable, general stenography and mail work. While at KMOP, she observed military personnel visiting occasionally. She did not have any information relating to the Skinner site or to the Army's influence over operations at KMOP.

d. Doris Smith worked at the King Powder Co. in 1942 for the Navy. She did not have any information relating to the Skinner site or to the Army's influence over operations at KMOP.

e. Jack Nulson worked for the Army's Cincinnati Ordnance District as a civilian Ballistics Inspector. The Army trained selected inspectors for three months at the University of Cincinnati, and then for two weeks at the Philadelphia Arsenal. He worked at the Remington plant in the summer of 1942. Inspections of cartridges were completed at the KMOP. Ballistics testing was performed at the Remington plant. He heard that Remington produced two million cartridges a day, but he was unsure how production levels changed over time.

Although he did not work at KMOP, he saw military personnel occasionally visit. He believed that Army Regulations were kept in the Administrative Building at KMOP. Ballistics testing records were also stored at KMOP. He said that Captain Luck was in charge of operations at KMOP and was at the site daily. Remington had no involvement with operations at KMOP, according to him. He thought that a company called "Deca Records" operated at the site after the Ordnance Department left.

f. Roger Daily and Harlan Hegeson were employees of Dimco-Grey Inc., a company that contracted with Diversified (another company related to KMOP site). Mr. Daily was a Quality Manager, Mr. Hegeson was a Quality Assistant Group Leader. They both visited the Diversified property on the site and performed a quality inspection around 1989. They provided no information related to the Skinner Site or the Army's influence over operations at KMOP.

g. Martha Carr worked at Kings Mills site for Delco-Remy in the late 1940s. Her duties included working the milling machine in the factory for less than a year. She also worked at the Tool Crib dispensing tools and in the Accounting Department as a cashier. She said the factory contained an assembly line and manufactured "parts." She did not know any details about the parts. She recalled that the milling machine used cutting fluid. She did not remember seeing DOD staff at the site. She provided no information related to the Skinner Site.

**Remington Arms/Peters Cartridge.** The Army did not find any information directly regarding Remington Arms/Peters Cartridge Kings Mills facility.

**Fostoria Plant.** According to the United States Army Corps of Engineers (COE), only

the Fostoria Plant, Fostoria, Ohio, and the Fall Creek Ordnance Plant, Indianapolis, Indiana, are facilities included in the Formerly Utilized Defense Site (FUDS) program. The United States acquired the 12.06 acre Fostoria site on March 13, 1942 from National Carbon Company, Inc. The property is located in Fostoria, Seneca County, Ohio, 35 miles south of Toledo, Ohio. The Army was involved in carbon production on the property. According to the COE, no known ordnance or hazardous waste was related to the Army's use of the site. The entire property was conveyed by the Secretary of War to the Reconstruction Finance Corporation (RFC) on May 21, 1946. The site was later sold by the RFC. The COE was going to continue to research transactional documents to attempt to further clarify the circumstances of the sale. I have not been provided with an update on this continued research.

**Falls Creek Ordnance.** The Falls Creek Ordnance facility was located in Indianapolis, Indiana, and 19.18 acres were originally acquired by Declaration of Taking on June 9, 1942 from Fairbanks, Morse and Co. On June 4, 1943, .37 acres were purchased from Emily G. Isgrigg for a railroad spur. The Falls Creek Ordnance was utilized by the Department of Defense (DOD) for the manufacture of armor plating. In November 1945, the facility was declared excess to the War Assets Administration (WAA). Food Machinery and Chemical Company (FMC) acquired the property from WAA on May 21, 1947. T.B.I. Corporation purchased the property from FMC on August 1, 1976.

In 1992, the Honorable John A. Boehner, U.S. House of Representatives, specifically asked whether any Defense Agency ordnance was disposed at the Skinner Landfill. He also asked whether the Department of Defense utilized the Skinner Landfill in any way. The Corps of Engineers conducted a review of their FUDS records to determine whether the KMOP or other site(s) in the program may have disposed of wastes at Skinner. The Army reviewed these records and found no active Army installation that could be identified as a potential source of contribution of wastes to the Skinner Landfill. Specifically, the COE informed Congressman Boehner on August 7, 1992 that:

- a. The Army had no records of using the Landfill for ordnance disposal.
- b. The COE was conducting an environmental restoration project at the Sharonville site and if any information on disposal became available the COE was going to immediately provide that information to the U.S. Environmental Protection Agency (EPA). The Army was not aware of any such communication to EPA.
- c. There were no records of ordnance disposal at Sharonville because typically ordnance records were never stored at any engineering supply depot.
- d. The United States Army Technical Escort Center surveyed the Skinner Landfill in 1976 for any signs of chemical or explosive items. No evidence of disposal of such military material was detected. Additionally, no records were found at the Army Chemical Research, Development and Engineering Center concerning any ordnance disposal at Skinner.

**Site Witnesses.** Ray Skinner testified that he had no personal knowledge of disposal



of waste from the Sharonville Army Depot. R. Skinner Depo., p. 404. He did say that mustard or nerve gas was buried at the Landfill based on what his father said or based on an incident where his father passed out. R. Skinner Depo., p. 405-415, 1341.

He described seeing green "military trucks" driven by persons in uniform who brought in plastic cylinders and crates that were bolted together and some tanks. He did not know the contents. He said he was seven or eight years of age when he saw this (mid 1950s). R. Skinner Depo., p. 404-417. The Army points out that Ray Skinner had not mentioned this disposal event in prior sworn statements or interviews.

Maria Roy recalled the presence of a military figure on the Site when she was a child. She also recalled "weird cans" that were marked "U.S. Army." M. Roy Depo., p. 113-116. She also told the story of seeing men in khaki pants disposing of barrels in the "black swimming pool" at the Site. She was about eight years of age at the time (around 1956). She said the trucks were "Army trucks," saying they were "camouflage" green. M. Roy Depo., p. 65-69.

As to King Powder or Kings Mills Ordnance, Elsa Skinner explained that her husband was a foreman at the facility and that gun powder was made there. She thought he worked there for about five years in the 1940s. The Army was running it while he worked there, she said. She said that she saw trucks from the Kings Mills facility bringing waste to the Site in the 1940s, saying that the Army was the "head of it at the time." E. Skinner Depo., p. 21, 35, 36, 217-218. As to the Sharonville Depot in "Gano," she explained that, before the post office facility that is there now (see Postal Service discussion below), the Army was stationed there and continued as follows:

A. Anyhow, they had a post office there, and before the post office there was -- the Army was stationed there. And that was way, way back. That was way before my time even. And everybody in Gano knew that they hauled into that dump, to the other gentleman that owned it at the time.

Q. This is before your husband purchased it?

A. Mm-hmm, yes. I think it was gone by the time we got it.

Q. All right. So the person who sold your husband the property told your husband that --

A. Said to let them haul in there, that he had told them they could.

Q. That Army facility in Gano, Ohio?

A. We saw the soldiers even come in.

Q. You did, yourself?

A. Yes.

Q. All right. Brought in waste from some facility?

A. Whatever. I don't know what it was.

Q. I understand that, but it was from Gano, Ohio, is your understanding?

A. Yes.

E. Skinner. Depo., p. 215-216.

In response to this testimony, the Army repeated the scope of its research effort, saying that it revealed no connection to the Landfill. The Army also argued that Albert Skinner's historic reference to the burial of ordnance and mustard gas was investigated and nothing was found. Albert Skinner withdrew his allegation at a later date as well, I was told.

Gene Crow recalled that a building at the Depot caught on fire. The building housed thousands of tons of hemp rope and old milkweed used to make life jackets. John Skinner hauled the waste debris from this fire to the Landfill, Mr. Crow testified. He said that it took more than a year to dispose of all of the waste from this cleanup. He explained that the materials in the building had been stored there since World War II had ended. The building that housed this waste was 400 feet long by 100 feet wide. It "burned for a week." In addition, crushed wooden pallets, concrete debris and roadbed material, and demolition debris (walls, insulation material, roofs) were all hauled to the Landfill, he said. G. Crow Depo., p. 13-22.

With respect to Mr. Crow's statements, the Army said that it was unlikely that this waste contained much, if any, hazardous substances, and sought a "de minimis" share in relation to it.

**Waste-in Amount.** As to Mr. Crow's testimony, the difficulty is in quantifying it. He described the building as filled and leveled as a result of the fire by the time it was cleaned up completely. I do not know the height of the building, but assuming that it was a warehouse type building, I do not think it is unreasonable to assume a height of 12 feet. Taking into account the effect of burning, on the one hand, to reduce the volume of material and the additional demolition debris on the other, to add to the volume, I am going to measure the waste-in amount by the capacity of the facility, 17,778 cys (400 x 100 x 12 divided by 27) divided by 2, as a measure of safety, or 8,889 cys. Since it is not clear to me whether this waste-in total belongs to the Army or to the General Services Administration (I think it is the latter), I will simply assign the volume to both for the time being.

As to the Ray Skinner and Maria Roy testimony, the Army may well have delivered waste in the 1950s to the Site but, aside from the implausibility of the disposal of dangerous substances at this Landfill and the concern I have about relying on what Ray Skinner or Maria Roy saw when they were in second or third grade, there is not a sufficient identification

of the Army as the source of the waste carried in the vehicles and drivers described by these witnesses.

Elsa Skinner's testimony has some allocation value to it, in my judgment. She appeared to have sufficient personal knowledge that I cannot simply ignore her testimony. To address it, I have decided to assign the Army a default figure of 100 cys to account for it.

Hence, the Army's waste-in total is 100 cys, and the Army/GSA together have been assigned a total of 8,889 cys.

Final Allocation Recommendations in Alphabetical Order, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste		Solid	Liquid	Owner/	Rest of	Total
	Waste In	Waste In	In Total	Percentage	In Total	Percentage	Waste	Waste	Operator	Chem-	
	Cys	Gallons	Cys		Gallons				& Part of	Dyne	
			372908		262252						
UNITED STATES AIR FORCE	2000	0	372908	0.5363%	262252	0.0000%	0.05%	0.00%			0.05363%
UNITED STATES INFORMATION AGENCY	580	0	372908	0.1475%	262252	0.0000%	0.01%	0.00%			0.01475%
UNITED STATES POSTAL SERVICE	1175	0	372908	0.3151%	262252	0.0000%	0.03%	0.00%			0.03151%
US DEPARTMENT OF ENERGY	0	0	372908	0.0000%	262252	0.0000%	0.00%	0.00%			0.00000%
US DEPARTMENT OF THE ARMY	100	0	372908	0.0268%	262252	0.0000%	0.00%	0.00%			0.00268%

8889? G-SA

08/30/99 MON 16:11 FAX 202 616 2426 ENVIRONMENTAL DEFENSE

Waste-in List for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1999

PRP	Source	Amount or Capacity	Compaction or Multiplier or Divisor	Frequency or Loads	Wk/Mo/Yr	Years 1 is the default	Solid Sub Total	Liquid Sub Total	Solid Total Cys	Liquid Total Gals	Response Cost Dollar Credit	Solid Waste In Total 372906	Percentage
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UNITED STATES AIR FORCE	Skinner R	20	1	100	1	1			2000			372906	0.5363%
UNITED STATES INFORMATION AGENCY		11	1	80	1	1			890			372906	0.1476%
UNITED STATES POSTAL SERVICE	Skinner R	30	0.5	25	1	1	375					372906	0.0000%
UNITED STATES POSTAL SERVICE	Skinner R	30	0.5	80	1	1	780					372906	0.0000%
UNITED STATES POSTAL SERVICE	Skinner R	25	1	2	1	1	50					372906	0.0000%
UNITED STATES POSTAL SERVICE									1175			372906	0.3151%
US DEPARTMENT OF THE ARMY	Skinner E	100	1	1	1	1			100			372906	0.0268%
US DEFENSE LOGISTICS AGENCY/GENERAL SERVICES ADM	Grow, G, Docs.	57800	0.5	1	1	1			28900			372906	7.7231%
US DEPARTMENT OF ENERGY		0	0	0	0	0			0			372906	0.0000%

Waste-In List for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1989

	Liquid Waste		Comments	Comments	PARTY		Liquid
	In Total	Percentage					Total
PRP	262252						Cys
UNITED STATES AIR FORCE	262252	0.00%			Defendant	Yes	
UNITED STATES INFORMATION AGENCY	262252	0.00%			Defendant	Yes	
UNITED STATES POSTAL SERVICE	262252	0.00%	West Chester		ADR Participant	Yes	
UNITED STATES POSTAL SERVICE	262252	0.00%	Mail Center (2x West Chester)		ADR Participant	Yes	
UNITED STATES POSTAL SERVICE	262252	0.00%	See report for derivation		ADR Participant	Yes	
UNITED STATES POSTAL SERVICE	262252	0.00%			ADR Participant	Yes	
US DEPARTMENT OF THE ARMY	262252	0.00%	Default figure in absence of better record		Defendant	Yes	
US DEFENSE LOGISTICS AGENCY/GENERAL SERVICES ADMIN	262252	0.00%	See report for derivation		Defendant	Yes	
US DEPARTMENT OF ENERGY	262252	0.00%			ADR Participant	Yes	

Confidential Pursuant to Court Order

Waste-in List in Solid Waste Volume Order for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1999

	Solid	Liquid	Solid Waste		Liquid Waste	*
	Waste in	Waste in	In Total	Percentage	In Total	Percentage
Name Of Party	Cys	Gallons	Cys		Gallons	
UNITED STATES AIR FORCE	2000	0	372906	0.5363%	262252	0.0000%
[REDACTED]						
UNITED STATES POSTAL SERVICE	1175	0	372906	0.3151%	262252	0.0000%
UNITED STATES INFORMATION AGENCY	550	0	372906	0.1475%	262252	0.0000%
[REDACTED]						

Waste-in List in Solid Waste Volume Order for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste	
	Waste In	Waste In	In Total	Percentage	In Total	Percentage
	Cys	Gallons	Cys		Gallons	
US DEPARTMENT OF THE ARMY	100	0	372906	0.0268%	262252	0.0000%

US DEPARTMENT OF ENERGY	0	0	372906	0.0000%	262252	0.0000%



Waste-in List in Liquid Waste Volume Order for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste	
	Waste In	Waste In	In Total	Percentage	In Total	Percentage
	Cys	Gallons	Cys		Gallons	
UNITED STATES AIR FORCE	2000	0	372906	0.5363%	262252	0.0000%
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
UNITED STATES POSTAL SERVICE	1175	0	372906	0.3151%	262252	0.0000%
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
UNITED STATES INFORMATION AGENCY	550	0	372906	0.1475%	262252	0.0000%
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Waste-in List in Liquid Waste Volume Order for the Final Allocation Report and Recommendations, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste	
	Waste In	Waste In	In Total	Percentage	In Total	Percentage
	Cys	Gallons	Cys		Gallons	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
US DEPARTMENT OF THE ARMY	100	0	372906	0.0268%	262252	0.0000%
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
US DEPARTMENT OF ENERGY	0	0	372906	0.0000%	262252	0.0000%
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Final Allocation Recommendations in Alphabetical Order, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste		Solid	Liquid	Owner/	Rest of	Total
	Waste In	Waste In	In Total	Percentage	In Total	Percentage	Waste	Waste	Operator	Chem-	
	Cys	Gallons	Cys		Gallons				& Part of	Dyne	
			372808		262262				Chem-Dyne		
DEFENSE LOGISTICS AGENCY GENERAL SERVICES ADM.	28800	0	372808	7.7231%	262262	0.0000%	0.77%	0.00%			0.77231%

Waste-In List for the Preliminary Allocation Report and Recommendations, Skinner Landfill Superfund Site, October 6, 1998

ENVIRONMENTAL DEFENSE

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PRP	Source	Amount or Capacity	Compaction or Multiplier or Divisor	Frequency or Loads	Wt/Mo/Yr	Years 1 is the default	Solid Sub Total	Liquid Sub total	Solid Total Cys	Liquid Total Gals	Response Cost Dollar Credit	Solid Waste In Total 363690	Percentage
UNITED STATES AIR FORCE	Skinner R	20	1	100	1	1			2000			363690	0.5499%
UNITED STATES INFORMATION AGENCY		11	1	50	1	1			890			363690	0.1512%
UNITED STATES POSTAL SERVICE	Miller, Skinner R	30	0.5	25	1	1	375					363690	0.0000%
UNITED STATES POSTAL SERVICE	Skinner R	30	0.5	80	1	1	750					363690	0.0000%
UNITED STATES POSTAL SERVICE	Skinner R	25	1	2	1	1	50					363690	0.0000%
UNITED STATES POSTAL SERVICE									1178			363690	0.3231%
US DEPARTMENT OF THE ARMY	Skinner E	100	1	1	1	1			100			363690	0.0273%
US DEPARTMENT OF THE ARMY/GENITAL SERVICES ADMIN	Grow, G	17778	0.5	1	1	1			8889			363690	2.4441%
US DEPARTMENT OF ENERGY		0	0	0	0	0			0			363690	0.0000%

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Waste-In List for the Preliminary Allocation Report and Recommendations, Skinner Landfill Superfund Site, October 8, 1998

ENVIRONMENTAL DEFENSE

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PRP	Liquor Taxes		Comments	Comments
	In Total	Percentage		
	259308			
UNITED STATES AIR FORCE	259308	0.00%		
UNITED STATES INFORMATION AGENCY	259308	0.00%		
UNITED STATES POSTAL SERVICE	259308	0.00%	West Chester	
UNITED STATES POSTAL SERVICE	259308	0.00%	Mail Center (2x West Chester)	
UNITED STATES POSTAL SERVICE	259308	0.00%	See report for derivation	
UNITED STATES POSTAL SERVICE	259308	0.00%		
US DEPARTMENT OF THE ARMY	259308	0.00%	Default figure in absence of better record	
US DEPARTMENT OF THE ARMY/GENERAL SERVICES ADM.	259308	0.00%	See report for derivation	
US DEPARTMENT OF ENERGY	259308	0.00%		

Waste-in List in Solid Waste Volume Order for the Preliminary Allocation Report and Recommendations, Skinner Landfill Superfund Site, October 6, 1998

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste	
	Waste In	Waste In	In Total	Percentage	In Total	Percentage
	Cys	Gallons	Cys		Gallons	
US DEPARTMENT OF THE ARMY GENERAL SERVICES ADM	889	0	363690	2.4441%	259308	0.0000%
UNITED STATES AIR FORCE	200	0	363690	0.5498%	259308	0.0000%
NY						
UNITED STATES POSTAL SERVICE	1175	0	363690	0.3231%	259308	0.0000%
UNITED STATES INFORMATION AGENCY	550	0	363690	0.1512%	259308	0.0000%

Waste-in List in Solid Waste Volume Order for the Preliminary Allocation Report and Recommendations, Skinner  
Landfill Superfund Site, October 6, 1998

US DEPARTMENT OF THE ARMY	100	0	363690	0.0275%	259308	0.0000%	

US DEPARTMENT OF ENERGY	0	0	363690	0.0000%	259308	0.0000%	

Waste-in List in Liquid Waste Volume Order for the Preliminary Allocation Report and Recommendations, Skinner Landfill Superfund Site, October 6, 1998

Name Of Party	Solid	Liquid	Solid Waste		Liquid Waste	
	Waste In	Waste In	In Total	Percentage	In Total	Percentage
	Cys	Gallons	Cys		Gallons	

US DEPARTMENT OF THE ARMY GENERAL SERVICES ADM.	8889	0	363690	2.4441%	259308	0.0000%
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UNITED STATES AIR FORCE	2000	0	363690	0.5499%	259308	0.0000%
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UNITED STATES POSTAL SERVICE	1175	0	363690	0.3231%	259308	0.0000%
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