

**FINDING OF SUITABILITY TO TRANSFER
(FOST)**

Rufus N. Garrett, Jr. United States Army Reserve Center (AR009)

El Dorado, Arkansas

June 2014

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1. PURPOSE

The purpose of this Finding Of Suitability To Transfer (FOST) is to document the environmental suitability of certain parcels or property at the Rufus N. Garrett, Jr. United States Army Reserve (USAR) Center, located in El Dorado, Arkansas, for transfer to the City of El Dorado consistent with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy. In addition, the FOST includes the CERCLA Covenant, and Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

2. PROPERTY DESCRIPTION

The property consists of 2.83 acres, which includes two buildings: a training building and a storage building (formerly an Organizational Maintenance Shop (OMS)). The property was previously used for administrative and classroom purposes, an indoor firing range, and light vehicle maintenance. The property is intended to be transferred out of federal ownership through a public auction. A site map of the property is attached (Enclosure 1).

3. ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the property was made based upon the Environmental Condition of Property (ECP) report dated February 6, 2007, ECP Update Report dated February 2013, and ECP Recertification dated May 2014. The information provided is a result of a search of agency files during the development of these environmental surveys.

A list of documents providing information on environmental conditions of the property is attached (Enclosure 2).

4. ENVIRONMENTAL CONDITION OF PROPERTY

The DOD Environmental Condition of Property (ECP) categories for the property are as follows:

ECP Category 1: Entire Parcel

A summary of the ECP categories is provided in Table 1 – Description of Property (Enclosure 3).

4.1. ENVIRONMENTAL REMEDIATION SITES

There are no environmental investigation/remediation sites and no evidence of groundwater contamination on the property.

4.2. STORAGE, RELEASE, OR DISPOSAL OF HAZARDOUS SUBSTANCES

There is no evidence that hazardous substances were stored in excess of the 40 CFR Part 373 reportable quantities. There is no evidence that hazardous substances were released, or disposed of on the property. The CERCLA 120(h) Notice and Covenant at Enclosure 4 will be included in the Deed.

4.3. PETROLEUM AND PETROLEUM PRODUCTS

4.3.1. UNDERGROUND AND ABOVE-GROUND STORAGE TANKS (UST/AST)

There is no evidence that petroleum products were stored in underground or above-ground storage tanks on the property.

4.3.2. Non-UST/AST Storage, Release, or Disposal of Petroleum Products

There is no evidence that non-UST/AST petroleum products in excess of 55 gallons were stored for one year or more on the property. The 2007 ECP report states that because it was reported that there was no oil/water separator associated with the former vehicle washrack on the property, there is a potential for residual POLs to be released to the surrounding environment. However, the washrack had been removed by that time and there was no evidence of a release of petroleum products from the washrack. Also, it was not stated whether the washrack discharged to the municipal sewer system. A release to a municipal sewer system is not a release to the environment. Any other release would not have occurred in greater than *de minimis* amounts.

4.4. POLYCHLORINATED BIPHENYLS (PCB)

There is no evidence that PCB-containing equipment is located or was previously located on the property.

4.5. ASBESTOS

There may be asbestos-containing material (ACM) in the following buildings: training building. The suspect ACM includes: roofing tar located on the training building addition and four pipe elbows located in the ceiling above the break room. See the 2007 ECP report and 2013 ECP Update for additional information.

Any remaining friable asbestos that has not been removed or encapsulated will not present an unacceptable risk to human health because it is non-friable, undamaged, and/or located in inaccessible areas. The transferee assumes responsibility for abatement or management of ACM in accordance with applicable federal, state, and local requirements. The deed will include an asbestos warning and covenant (Enclosure 5).

4.6. LEAD-BASED PAINT (LBP)

The following buildings are known or presumed to contain lead-based paint (LBP): training building and storage building. See the 2007 ECP report for additional information. The property was not used for residential purposes and the building will be restricted from residential use in the future unless the transferee undertakes all actions necessary to comply with state and federal laws regarding lead-based paint. The deed will include a lead-based paint warning and covenant (Enclosure 5).

4.7. INDOOR FIRING RANGES

The following buildings are known to contain lead-contaminated dust from a former indoor firing range: training building. Lead-contaminated dust was remediated to concentrations below 200 µg/ft². See the 2007 ECP Report for additional information. The deed will include a lead-contaminated dust notice and covenant (Enclosure 5).

4.8. RADIOLOGICAL MATERIALS

There is no evidence that radioactive material or sources were stored or used on the property.

4.9. RADON

Radon surveys were conducted in the following buildings on the property: training building and storage building. Radon was not detected at or above the EPA residential action level of 4 picocuries per liter (pCi/L) in these buildings.

4.10. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) are present on the property. In addition the buildings were used for administrative and vehicle maintenance purposes. The term "MEC" means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

4.11. OTHER PROPERTY CONDITIONS

There are no other hazardous conditions on the property that present an unacceptable risk to human health and the environment.

5. ADJACENT PROPERTY CONDITIONS

There are no conditions adjacent to the property that present an unacceptable risk to human health and the environment.

6. ENVIRONMENTAL REMEDIATION AGREEMENTS

There are no environmental remediation orders or agreements applicable to the property being transferred. The deed will include a provision reserving the Army's right to conduct remediation activities if necessary in the future (Enclosure 4).

7. REGULATORY/PUBLIC COORDINATION

The EPA Region 6, Arkansas Department of Environmental Quality and the public were notified of the initiation of this FOST. Regulatory/public comments received during the public comment period will be reviewed and incorporated, as appropriate. A copy of the regulatory/public comments and the Army Response will be included at Enclosure 6.

8. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the property have been analyzed in accordance with the National Environmental Policy Act (NEPA). The results of this analysis are documented in the Environmental Assessment and the Finding of No Significant Impact dated November 2013. There were no encumbrances or conditions identified in the NEPA analysis as necessary to protect human health or the environment.

9. FINDING OF SUITABILITY TO TRANSFER

Based on the information above, I conclude that the Property qualifies as CERCLA §120(h)(4) uncontaminated property and is transferable under that section. In addition, all Department of Defense requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions in the Environmental Protection Provisions that shall be included in the deed for the property. The deed will include the CERCLA 120(h)(4) Covenant and Access Provisions and Other Deed Provisions. Whereas no hazardous substances or petroleum products were stored for one year or more, known to have been released, or disposed of on the parcel, a hazardous substance or petroleum notification is not required.



FOR THE COMMANDER

STEWART R. FEARON
COLONEL, EN
Regional Engineer

6 Enclosures

Encl 1 -- Site Map of Property

Encl 2 -- Environmental Documentation

Encl 3 -- Table 1 -- Description of Property

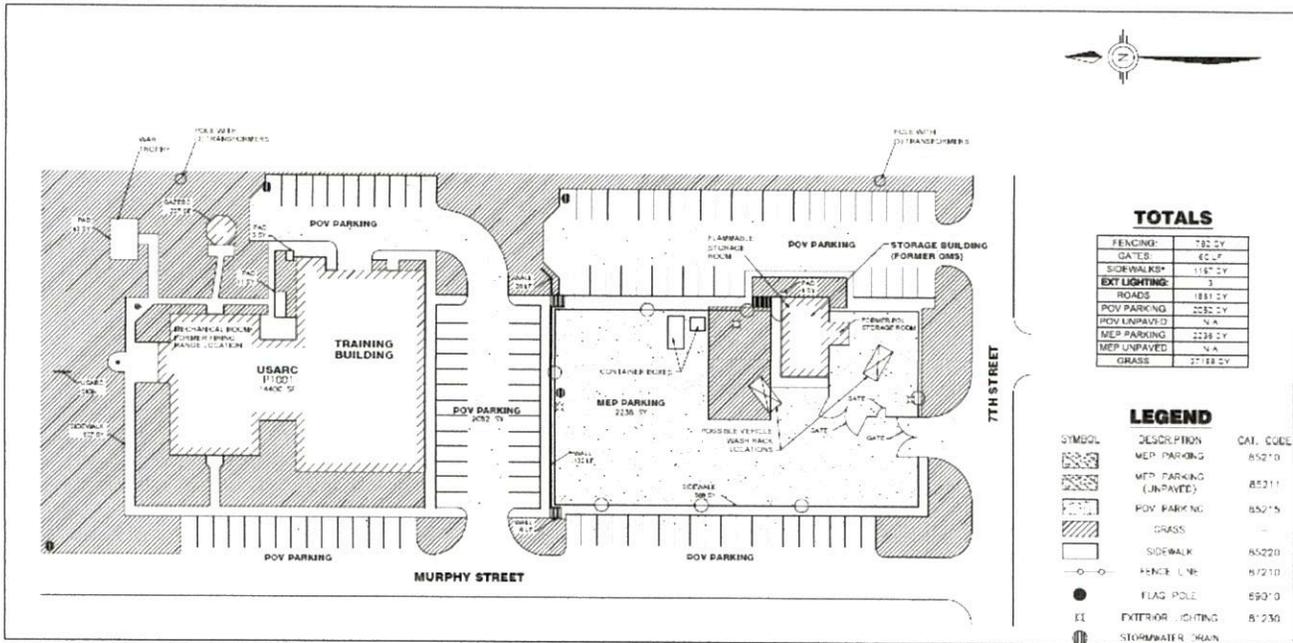
Encl 4 -- CERCLA Covenant, and Access Provisions and Other Deed Provisions

Encl 5 -- Environmental Protection Provisions

Encl 6 -- Regulatory/Public Comments and Army Response

ENCLOSURE 1

SITE MAP OF PROPERTY



**Source: May 2007 ECP Report

ENCLOSURE 2

ENVIRONMENTAL DOCUMENTATION

Document	Source
Environmental Condition of Property (ECP) Report for Rufus N. Garrett, Jr. U.S. Army Reserve Center (AR009), El Dorado, Arkansas. Prepared for U.S. Army Corps of Engineers—Louisville District. February 2007.	90th RRC
Memorandum for Record, Report on Status of Asbestos Containing Materials at AR009 Garrett USAR Center. October 4, 2012.	63d RSC
Radiation Closeout Survey Report. December 23, 2012.	63d RSC
ECP Update Report. Prepared by 63d RSC. February 2013.	63d RSC
Environmental Assessment for the Closure of the Rufus N. Garrett, Jr. United States Army Reserve Center (AR009), El Dorado, Arkansas. Prepared by U.S. Army Corps of Engineers, Mobile District. November 2013.	63d RSC
ECP Recertification. Prepared by 63d RSC. May 2014.	63d RSC

ENCLOSURE 3

TABLE 1 – DESCRIPTION OF PROPERTY

Building Number and Property Description	Condition Category	Remedial Actions
Entire Parcel	1	None required.

Category 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred. (including no migration of these substances from adjacent areas)

Category 2: Areas where only release or disposal of petroleum products has occurred.

Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.

Category 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.

ENCLOSURE 4

CERCLA COVENANT, AND ACCESS PROVISIONS AND OTHER DEED PROVISIONS

The following CERCLA Covenant and Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

I. Property Covered by Covenant and Access Rights Made Pursuant to Section 120(h)(4)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(4)(D)):

For the property, the Grantor provides the following covenants and retains the following access rights:

A. Covenant Pursuant to Section 120(h)(4)(D)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(4)(D)(i)):

Pursuant to section 120(h)(4)(D)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(4)(D)(i)), the United States warrants that any response action or corrective action found to be necessary after the date of this deed for contamination existing on the property prior to the date of this deed shall be conducted by the United States.

B. Access Rights Pursuant to Section 120(h)(4)(D)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(4)(D)(ii)):

The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the property, to enter upon the property in any case in which an environmental response or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response or corrective action is on the property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the grantee and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the United States shall provide the grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the grantee's and the grantee's successors' and assigns' quiet enjoyment of the property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

In exercising such easement and right of access, neither the grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

II. OTHER DEED PROVISIONS:

A. "AS IS"

a. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. The Grantee understands and agrees that the Property and any part thereof is offered "AS IS" without any representation, warranty, or guaranty by the Grantor as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.

b. No warranties, either express or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the United States.

c. Nothing in this "As Is" provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

B. HOLD HARMLESS

a. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns, and (2) any and all any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of conveyance.

b. The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

c. Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

C. POST-TRANSFER DISCOVERY OF CONTAMINATION

a. If an actual or threatened release of a hazardous substance is discovered on the Property after the date of conveyance, Grantee, its successors or assigns, shall be responsible for such release or newly discovered substance unless Grantee is able to demonstrate that such release or such newly discovered substance was due to Grantor's activities, use, or ownership of the Property. If the Grantee, its successors or assigns believe the discovered hazardous substance is due to Grantor's activities, use or ownership of the Property, Grantee will immediately secure the site and notify the Grantor of the existence of the hazardous substances, and Grantee will not further disturb such hazardous substances without the written permission of the Grantor.

b. Grantee, its successors and assigns, as consideration for the conveyance of the Property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance on the Property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations.

D. ENVIRONMENTAL PROTECTION PROVISIONS

The Environmental Protection Provisions are at Enclosure 5, which is attached hereto and made a part hereof. The Grantee shall neither transfer the property, lease the property, nor grant any interest, privilege, or license whatsoever in connection with the property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

ENCLOSURE 5

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be attached, in a substantially similar form, as an exhibit to the deed and be incorporated therein by reference in order to ensure protection of human health and the environment.

1. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

A. The Grantee is hereby informed and does acknowledge that non-friable asbestos or asbestos-containing material ("ACM") may be found on the Property. The Property may contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain non-friable asbestos or ACM. The Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency have determined that such unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

B. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The Grantee agrees to be responsible for any remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or ACM hazards or concerns.

2. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that there is a risk of exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

B. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Property, as defined under 24 Code of Federal Regulations Part 35, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992).

C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any lead-based paint hazards or concerns.

3. NOTICE AND COVENANT OF LEAD-CONTAMINATED DUST FROM FORMER USE OF AN INDOOR FIRING RANGE

The training building on the Property was formerly used as an indoor firing range. Lead-contaminated dust was remediated, and confirmation sampling indicates lead concentrations below 200 µg/ft². The Grantee, its successors and assigns are hereby notified and acknowledge that additional lead-contaminated dust remediation may be necessary for a particular use or to comply with applicable law. All costs for any additional remediation for lead-contaminated dust shall be at the sole expense of Grantee, its successor or assigns, and not the United States. Furthermore, the remediation of lead contaminated dust inside buildings is not within the scope of releases that make a response action necessary under CERCLA Section 120(h)(3)(A).

4. NOTICE OF PESTICIDE APPLICATIONS AND COVENANT

A. The Grantee is hereby notified and acknowledges that registered pesticides have been applied to the property conveyed herein and may continue to be present thereon. The Grantee further acknowledges that where a pesticide was applied by the Grantor or at the Grantor's direction, the pesticide was applied in accordance with its intended purpose and consistently with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 U.S.C. § 136, et seq.) and other applicable laws and regulations.

B. The Grantee covenants and agrees that if the Grantee takes any action with regard to the property, including demolition of structures or any disturbance or removal of soil that may expose, or cause a release of, a threatened release of, or an exposure to, any such pesticide, Grantee assumes all responsibility and liability therefore.

ENCLOSURE 6

Regulatory/Public Comments and Army Response

- Arkansas Department of Environmental Quality (ADEQ)
FOST Review Response Letter (No Comments)
(15 July, 2014)



ARKANSAS
Department of Environmental Quality

sent via e-mail and standard mail

May 28, 2013

Department of the Army
Attn: Environmental Office - Laura M. Caballero
BRAC Environmental Coordinator
63d Regional Support Command
230 R.T. Jones Road
Mountain View, California 94043

Re: United States Army Reserve Center in El Dorado, Arkansas (AR009)
Environmental Condition of Property Update Report dated April 2013

Dear Ms. Caballero:

The Arkansas Department of Environmental Quality - Hazardous Waste Division (ADEQ) has reviewed the *Environmental Condition of Property (ECP) Update Report* document dated April 2013. The ECP Update Report concludes that the United States Army Reserve Center located at 815 West 8th Street, El Dorado, Arkansas, 71730 is suitable to be classified as an ECP Category Type 1. Based on the sufficient record of environmental compliance as documented in this report, ADEQ concurs with this classification. However, EPA-NESHAP regulation and Arkansas Regulation 21 require the identification of all asbestos-containing materials (ACM) that could be disturbed during renovation. Therefore ADEQ recommends that the ACM status of the roof be adequately determined prior to any planned renovation of the roof. If you have any questions, please contact me at (501) 682-0836 or mcdaniel@adeq.state.ar.us.

Sincerely,

A handwritten signature in cursive script that reads "Clay McDaniel".

Clay McDaniel
Engineer
Technical Branch
Hazardous Waste Division