



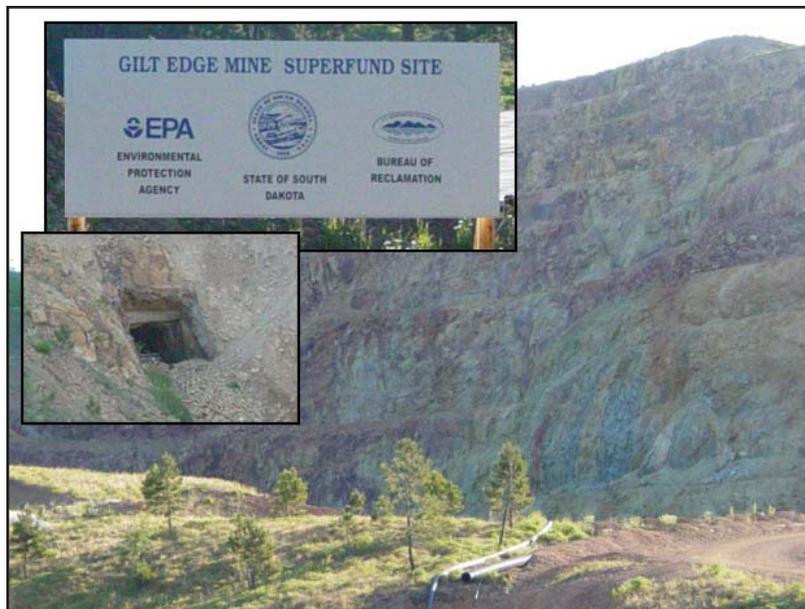
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

EPA-350-R-05-001

August 2005

Annual Superfund Report to Congress for Fiscal 2004



OIG Scorecard Summary of Superfund Results by OIG Goal - Fiscal 2004

OIG GOAL 1

Contributing to Improved Human Health and Environmental Quality

(Below are Superfund Results of OIG Work in Terms of Products, Actions by EPA, and Impacts)

- 36 Environmental Recommendations
- 15 Environmental Risks Identified
- 14 Examples of Environmental Policy, Regulatory, Practice, Process Actions, or Changes Made
- 1 Environmental Risk Reduced
- 5 Certifications/Validations/Verifications (of Environmental Information or Activity Reviewed)
- 1 Best Environmental Practice Implemented
- 8 Environmental Critical Public or Congressional Concerns Addressed

OIG GOAL 2

Improving EPA's Management, Accountability, and Program Operations

(Below are Superfund Results of OIG Work in Terms of Products, Actions by EPA, and Impacts)

- 22 Recommendations for Management Improvements/Additional Review
- 19 Certifications/Validations/Verifications/Allegations Disproved
- 1 Example of Management Policy, Practice, Process Actions, or Changes
- 5 Management Critical Public or Congressional Concerns Addressed
- 11 Criminal, Civil, and Administrative Actions

- \$2,401,864 Total Questioned Costs (\$1,300,021 Federal Share) *
- \$ 260,605 Savings (from investigative actions)
- \$ 220,573 Fines, Settlements, and Restitutions

** exclusive of contracts and Single Audits from audits by Defense Contract Audit Agency, other Federal Auditors, and Certified Public Accountants*

- 75% OIG Customer Satisfaction Rating on Superfund Assignments

**To find out more about the U.S. Environmental Protection Agency's
Office of Inspector General, visit our web site at:**

<http://www.epa.gov/oig>

Cover Photos: Photographs of the Gilt Edge hardrock mining site, courtesy of Tina Lovingood.
Hardrock mining sites may have a significant impact on the Superfund Trust Fund.



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Foreword

This report covers fiscal 2004 Superfund activity of the Environmental Protection Agency (EPA) Office of Inspector General (OIG). The Superfund Amendments and Reauthorization Act of 1986 requires the OIG to annually audit the Superfund program and report the results to Congress.

A growing shortfall in the Hazardous Substance Superfund Trust Fund is of increasing concern to some in Congress. Our audit of EPA's fiscal 2004 financial statements disclosed that the Trust Fund's assets were not sufficient to cover appropriations to EPA. The U.S. Treasury had to transfer \$7.6 million to EPA in fiscal 2004 in excess of Trust Fund amounts available for transfer. Increasingly, Trust Fund deficits will need to be covered from the Treasury's general fund in order for the Trust Fund to continue operations. Due in part to our concerns regarding the Superfund shortfall, in April 2004, we added a new challenge, "Superfund Evaluation and Policy Identification," to our annual list of management challenges submitted to the EPA Administrator. We have performed various studies on Superfund management to provide Congress and EPA with suggestions to maximize available resources.

In response to a Congressional request, we determined that there was a \$174.9 million shortfall in fiscal 2003 for non-Federal Superfund sites. This shortfall prevented EPA from beginning construction in some instances or providing the full amount of funding needed, resulting in projects being segmented into phases or being scaled back. The shortfall only considers EPA's use of extramural funds (funds for contractors and others outside EPA), and does not address EPA's intramural expenditures.

In a separate review, we found that Superfund administrative costs have been growing while other expenditures have been decreasing. From 1999 to 2003, EPA's inflation-adjusted Superfund administrative expenditures increased \$36.8 million while programmatic expenses decreased about \$174 million during the same period. We found there was no central, integrated source of information on Superfund administrative costs, which hampered the Agency's ability to effectively manage them. EPA needs to more consistently define, track, and account for its administrative expenditures, so it can better understand these expenditures and make more effective management decisions. Although many recommendations have been made in the past to address Superfund issues, because EPA's processes to track the effectiveness of recommended actions are limited, continuing and repeated recommendations on how to improve the program's efficiency and effectiveness may not achieve desired results.

Hardrock mining sites identified nationwide may have significant financial impacts on the Superfund Trust Fund, and we looked at ways

EPA can improve its efforts in this area. Hardrock mining involves extraction of certain metals and minerals from the earth, including copper, gold, and silver (but not coal), and many sites will require decades to clean up. We identified 156 hardrock mining sites that may cost at least \$7 billion to clean up. We noted uncertainty in ranking the sites in regard to human health and environmental risks, as well as determining how many of the identified responsible parties will have the ability to pay for lengthy cleanup actions, and EPA needs to pay greater attention to these issues.

More than half of EPA's fiscal 2004 budget was awarded to organizations outside the Agency through assistance agreements, including a significant amount related to Superfund sites. As a result of two of our assistance agreement reviews, EPA terminated one inappropriate grant and we discovered unallowable outlays in another.

Addressing Superfund shortfalls is a critical issue, and we will continue to assist Congress and EPA in their efforts to ensure there is adequate funding to protect against potential adverse health and environmental impacts resulting from Superfund sites. Early identification, communication, and evaluation of issues needed to reform Superfund can better prepare the Agency to manage the Superfund program in an efficient and effective manner.

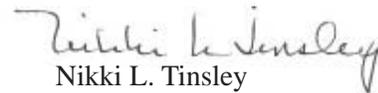

Nikki L. Tinsley
Inspector General

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Hazardous Substance Superfund Trust Fund

The Government Management and Reform Act of 1994 requires Federal agencies to prepare annual audited financial statements. The requirement for audited financial statements was enacted to help bring about improvement in agencies' financial management practices, systems, and controls so that timely, reliable information is available for managing Federal programs.

One of the major entities covered by the Environmental Protection Agency's (EPA) financial statements is the Hazardous Substance Superfund Trust Fund (Trust Fund). The EPA Office of Inspector General (OIG) audit of the Agency's financial statements satisfies our Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) audit requirement to annually audit the Trust Fund.

During fiscal 2004, the Trust Fund assets were not sufficient to cover appropriations to EPA. Consequently, the U.S. Treasury Bureau of Public Debt, which manages the Trust Fund, transferred funds to EPA in excess of the assets available to be transferred by \$7.6 million in fiscal 2004. EPA's view is that the shortfall will be covered by the collection of cost recoveries and receipt of interest income over time. In our opinion, because cost recoveries have declined and the investment principal upon which the interest is earned has steadily decreased, any deficit and future financing will have to be covered almost entirely by appropriations from the Treasury's general fund in order for the Superfund Trust Fund to continue operations. The following summary of our fiscal 2004 financial statement audit relates to all findings resulting from our audit of EPA's financial statements, including those of the Trust Fund.

EPA Earns Unqualified Opinion on Financial Statements

EPA earned an unqualified opinion on its fiscal 2004 financial statements, which includes the Trust Fund. In evaluating EPA's internal controls,

we identified 10 reportable conditions in the following areas. Although we do not believe they represent material weaknesses that would prevent the fair presentation of reliable financial statement amounts, they are internal weaknesses that still should be corrected.

- EPA's Quality Assurance Guide, which is the framework for implementing the Agency's financial management program, is out of date.
- Despite improvements, regional calculations related to unearned revenue did not include the proper amounts of cumulative disbursements, resulting in a \$14 million understatement of unearned revenue.
- Finance offices were unable to record accounts receivable transactions promptly in the Integrated Financial Management System due to untimely submission of documentation. Further, we identified \$1,963,980 in unrecorded fines and penalties.
- EPA did not promptly record marketable securities received from companies in settlement of debts. Specifically, of the four accounting offices receiving such settlements of debts, only one recorded receipt of non-cash assets.
- Contractor-held property acquisition values were understated by about \$6.9 million due to the omission of a contract from the EPA Reports of Government-Owned/Contractor-Held Property documents.
- Obligations were not recorded in the proper accounting period. In one region and a finance center, 10 out of 16 obligations tested were recorded in fiscal 2005 but were actually fiscal 2004 obligations.
- The Operations Systems Staff of the Office of the Chief Financial Officer developed and

implemented accounting systems without assessing the risks these systems pose to Agency assets, personnel, and operations.

- The Operations Systems Staff also did not ensure management controls were operating effectively by assessing and testing security controls for the Grant Payment Allocation System and Inter-Governmental Document Online Tracking System.
- There was a general breakdown of security controls related to software changes that could undermine the integrity of Integrated Financial Management System software libraries and financial system data.
- We continued to be unable to assess the adequacy of the automated application control structure as it relates to automated input, processing, and output controls for the Integrated Financial Management System.

Our tests of compliance with laws and regulations did not identify any instances of noncompliance with laws and regulations that would materially misstate the financial statements. However, we identified three noncompliances under the Federal Financial Management Improvement Act. Specifically, EPA: did not comply with standards requiring it to provide full costs per output to management in a timely fashion; continued to experience difficulties in reconciling some intragovernmental transactions due to some Federal entities not providing needed information; and still needed to establish a background check program for non-Federal personnel. We also found an instance of noncompliance related to reconciling Trust Fund balances with Treasury.

In its response to our draft report, the Agency generally concurred with our recommendations and noted the completion or planning of a number of corrective actions.

We issued our report (2005-1-00021) on November 15, 2004.

Details on Superfund Shortfall Provided to Congress

In response to a congressional request, we reviewed the fiscal 2003 funding needs for non-Federal Superfund sites and estimated a \$174.9 million shortfall.

This limited funding prevented EPA from beginning construction at all sites (\$118.5 million of the shortfall) or providing the full amount of funds needed (\$56.4 million of the shortfall), resulting in projects being segmented in phases and/or scaled back.

EPA emphasized the funding of ongoing construction over new construction starts. For fiscal 2003, the National Risk Based Priority Panel considered 35 new start projects and determined that 9 should receive remedial funds. Of the remainder, 15 did not receive remedial funds, and 11 were determined not ready for various reasons, including enforcement issues, changed site conditions, and design complications.

Our shortfall estimate only considers the regions' use of extramural resources (funds for contractors and others outside EPA), and does not address intramural resources (obligations involving the labor and travel of EPA personnel that are obligated to specific Superfund sites).

We issued our report (2004-P-00001) on January 7, 2004.

Limitations Found in Management of Superfund Administrative Costs

Several factors inhibit EPA's ability to effectively determine, allocate, manage, and optimize rising Superfund administrative costs, according to information we gathered as part of a congressional request.

From 1999 to 2003, EPA's inflation-adjusted Superfund expenditures declined about 11 percent, from \$1.71 billion in 1999 to \$1.52 billion in 2003. However, administrative expenditures, which accounted for about 25 percent of those expenditures,

increased \$36.8 million during that 5-year period. Meanwhile, programmatic expenses, which accounted for the other 75 percent of expenditures, decreased about \$174 million during the same period.

Personnel-related expenditures accounted for nearly 80 percent of the total known administrative expenditures, and to a large extent involve payroll-related costs.

We found there is no central, integrated source of information on Superfund administrative costs, which hampers the Agency's ability to effectively manage them. EPA's Environmental and Management Appropriation absorbed an additional \$370 million in Superfund support costs over the 5 years, but these additional Superfund costs are not identified as such in EPA's accounting system. We also found that Superfund administrative requirements are largely based on prior years' allocations and a 1987 Agency workload model.

Despite efforts to make improvements, inefficiencies remain regarding contracting and special accounts, as well as recovering unspent obligations. Further, EPA does not follow up to see if corrective actions solved problems. Consequently, repeated recommendations on how to improve the program's efficiency and effectiveness may not achieve desired results.

We issued our report (2004-S-00004) on September 15, 2004.

Hardrock Mining Sites May Have Significant Impact on Trust Fund

Hardrock mining sites identified nationwide may have significant financial impacts on the Trust

Fund and on States. Most of the sites will require decades to clean up, and the ability of the Superfund program, States, or responsible parties to pay for generations of sustained cleanup activities needed for many mining sites is questionable.

Hardrock mining, which is not coal mining, involves the extraction of certain metals and minerals from the earth, including copper, gold, iron ore, lead, and silver, and can cause significant impacts on the environment. EPA has reported that the metal mining industry was the largest toxic polluter in 2000, releasing 3.4 billion pounds of toxics, or 47 percent of the total released by U.S. industry.

Our review identified 156 hardrock mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion to clean up (at a maximum total EPA cost of \$15 billion). These costs are over 12 times EPA's total annual Superfund budget of about \$1.2 billion for the last 5 years.

There is some uncertainty regarding the ranking of sites in regard to human health and environmental risks. Also, there is uncertainty regarding how many of the potential responsible parties identified for sites will have the ability to pay for lengthy cleanup actions. Further, after EPA turns over responsibility for long-term remedial actions to States after 10 years, there is concern regarding the States' ability to pay.

We issued our report (2004-P-00005) on March 31, 2004.

Assistance Agreements

More than half of EPA's fiscal 2004 budget was awarded to organizations outside the Agency through assistance agreements, including a significant amount of funds related to Superfund sites. Therefore, the effective management of assistance agreements is essential for EPA to ensure it efficiently manages Superfund efforts.

On July 20, 2004, the Inspector General testified on the need for EPA to improve how it measures environmental results generated by grants. Although EPA has made progress in this area, more needs to be done, the Inspector General told the U.S. House of Representatives' Subcommittee on Water Resources and the Environment, Committee on Transportation and Infrastructure.

Further, on March 3, 2004, the Assistant Inspector General for Audit had testified before the Senate's Committee on Environment and Public Works on how EPA needs to continue to improve the way it manages assistance agreements. The Assistant Inspector General noted that project officers did not perform all the necessary steps when conducting pre-award reviews, and oversight once grants are awarded also needs improvement.

CERCLA requires audits "of a sample of agreements with States," and we perform financial and compliance audits of assistance agreements with States and political subdivisions. During 2004, the OIG issued three reports on specific assistance agreements related to Superfund, including two reports on agreements awarded to States. Details on each follow.

Coeur d'Alene Coalition Grant Inappropriate

As the result of a hotline complaint, we found that EPA inappropriately awarded a technical assistance grant to the Basin Cleanup Coalition in Coeur d'Alene, Idaho. As a result of our review, EPA terminated the grant, which would have totaled \$50,000 in Federal funds.

The purpose of the grant (No. 1-97025201) was to fund the hiring of a technical advisor to assist communities affected by the Superfund cleanup in the Coeur d'Alene River Basin in understanding and participating more fully in the cleanup process. The Basin covers four counties in Idaho and Washington State.

We found that the Coalition was not a qualified grant recipient because of potential conflicts of interest and because it did not meet administrative and management capability requirements. The Coalition did not have a sufficient membership to have a Board of Directors, and thus was unable to enter into contracts to hire a technical advisor. Also, the Coalition did not obtain the tax exempt status required by the grant.

On December 5, 2003, following our meeting with EPA Region 10 officials, the Region notified the Coalition that the grant was terminated, resulting in \$50,000 being put to better use.

We issued our report (2004-P-00010) on March 25, 2004.

Idaho Outlays of \$649,362 for Bunker Hill Cleanup Questioned

We questioned unallowable outlays that Idaho made to meet cost sharing requirements for Federally funded remedial actions at the Bunker Hill Superfund site in the Coeur d'Alene Basin.

Of the \$7.9 million in outlays made by Idaho under Cooperative Agreement No. V990431-01, we questioned \$649,362 related to unallowable costs incurred before award of the agreement, unsupported payroll costs, unallowable pre-remedial action costs, duplicate costs, and excess costs reported for the institutional controls program.

In our opinion, because of the questioned costs, the outlays reported on the State's Financial Status

Report do not present fairly, in all material respects, the allowable outlays incurred in accordance with the criteria set forth in the agreement, and we recommended that EPA disallow the questioned costs.

We issued our report (2004-4-00016) on June 2, 2004.

New Mexico Funds of \$11,558 Questioned

We found total outlays reported in financial statements by the New Mexico Environmental Department under EPA Cooperative Agreement No. V986338-01, related to Superfund efforts, to generally be accurate, although we noted \$11,558 in questioned costs.

Of \$2.9 million in cumulative total outlays claimed, the State did not fully match its 10-percent cost sharing requirements for its core program activities under the agreement, resulting in a \$11,558 overdraw of Federal funds. The State agreed with our recommendation to recover that amount.

The agreement was authorized under CERCLA to provide financial support for various Superfund efforts, including pre-remedial activities, EPA-led management assistance activities, State-led activities for Fruit Avenue and North Railroad Avenue plume sites, voluntary remediation activities, and various administrative costs.

We issued our report (2004-4-00012) on March 31, 2004.

Remedial Action Decision Making

We performed in-depth reviews of the reliability of site-specific analytical data as a basis for sound site remediation decisions. In addition, the OIG has worked closely with the Agency to characterize Superfund sites. Through these and other actions, the OIG is working to ensure that Agency decisions on site remediation are based on data of known quality.

Due to obstacles noted to hazardous waste cleanup, in our 2004 memorandum to the Administrator on key management challenges, we added a new challenge this year, "Superfund Evaluation and Policy Identification." Further, we found that some States were unable to address assessment needs and face future Superfund challenges. Also during 2004, we reviewed a petition regarding Idaho's Hazardous Waste Program, and issued reports on activities at various sites that involved remedial action decision making. Details follow.

New Management Challenge on Superfund Added

Over the last few years, a number of reviews of the Superfund program have identified troubling obstacles to the Agency's ability to effectively meet the Nation's current and future needs for hazardous waste cleanup. In particular, the Superfund program cannot meet all of its current reported needs for cleanup, including remedial action. Also, due to falling Trust Fund balances, the percent of Superfund appropriations coming from general revenues has increased dramatically. Thus, we added this challenge, "Superfund Evaluation and Policy Identification," to our list of management challenges submitted to the Administrator in April 2004.

EPA has processes for evaluating and reforming Superfund, but has failed to identify or communicate the current fiscal and other program management challenges that are causing great pressure on the program. Early identification,

communication, and evaluation of these types of issues can better prepare the Agency to manage the Superfund program and keep it directed on efficient and effective achievement of cleanups.

Some States Unable to Address Superfund Assessment Needs

Some States need to address backlogs in site assessments in order to improve their hazardous waste site cleanup programs, and need to increase their capacity to take cleanup actions at additional sites in the future.

The five States reviewed (Kansas, Michigan, New Jersey, Pennsylvania, and Washington) have all implemented processes for identifying, assessing, investigating, and prioritizing hazardous waste sites similar to EPA's remedial process for the Superfund program. However, three of the States (Kansas, New Jersey, and Washington) had a total backlog of 423 sites awaiting site assessment, and another (Pennsylvania) also appeared to have a backlog.

Until these backlogs are eliminated, States cannot assure that sites posing the greatest threat to human health and the environment are being addressed promptly, and the States' capacity to address future hazardous waste sites may be limited.

The five States reviewed have developed cleanup standards based on risk and sound science that should be sufficiently protective of the environment, but their processes are more streamlined than the baseline approach established by EPA. Therefore, if EPA wants the States to assume a larger role in addressing National Priorities List sites, it should consider giving the States greater flexibility regarding the approaches to use.

Over the next 10 years, States will be assuming additional operation and maintenance

responsibilities for long-term response actions at many sites, but many States may not have the resources needed to undertake these future obligations because of declining budgets.

We made various recommendations to help EPA enhance the role of States as co-implementers of the Superfund program, and EPA and States generally agreed with our recommendations.

We issued our report (2004-P-00027) on September 1, 2004.

Marjol Battery Site Needs Additional Measures

Our review of citizens' concerns regarding the Marjol Battery Site in northeastern Pennsylvania found that sufficient actions were taken at the site, although additional precautionary measures can be taken.

Approximately 5,500 people live within a one-mile radius of the site, located in the Borough of Throop. Polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and lead were identified in the surface soil in the site's former operational areas. Prior to being a battery processing facility, coal mining had been done at the site.

A technical expert – a mining engineer – with whom we contracted concluded that excavating all material in the northern portion of the site and placing the remaining soil under permanent solidified caps will be sufficiently protective. Also, although residents were concerned about the potential for mine fires in two underground coal seams, the expert indicated that the chance of these two seams having been mined extensively is low and, thus, the risk of mine fires is low.

Nonetheless, the expert said potential surface strains should be calculated at the site and compared to allowable strains for the permanent solidified cap. Also, a consultant for the Borough said the objection to the proposed final remedy will be removed if 8 to 12 additional boreholes are drilled through the 2 seams of concern, to ensure the seams have not been mined extensively and

thus are not susceptible to mine fires. Consequently, to allay residents' concerns, we recommended that the drilling be done, although no specific evidence indicates it is necessary.

EPA agreed with our recommendation to calculate the surface strains and agreed to work with the Borough to evaluate the potential for mine fires at the site.

We issued our report (2004-P-00017) on May 18, 2004.

Stauffer Site Remedies Adequate

We found that EPA followed required procedures for remedy selection, oversight, and community involvement at the Stauffer Chemical Company Superfund Site in Tarpon Springs, Florida. However, additional actions can be taken.

Phosphorus sludge has been removed from above-ground storage tanks at the site, and EPA has signed a record of decision addressing heavy metals and radiation in soil and waste. However, citizens are concerned, among other things, that old and forming sinkholes could cause structures at the site to subside and thus create pollutant pathways.

An independent expert – a hydrogeologist – retained by the OIG concluded that EPA's selected remedy is feasible. However, the remedy is only feasible if the design incorporates cautionary recommendations included in the June 2003 draft report on the geophysical study, and if additional groundwater characteristics information and analysis are addressed.

We concluded that EPA Region 4 appropriately monitored site activity, early geophysical and groundwater studies, and site contaminant identification. However, EPA should have ensured that the subsequent 2001-2003 studies were completed earlier to better address the potential for sinkholes.

EPA agreed with our recommendations to implement cautionary recommendations from previous

geological studies, study groundwater further, and revise the site's community relations plan.

We issued our report (2004-P-00018) on June 3, 2004.

Escambia Site Actions Generally Appropriate

EPA cleanup planning, relocation of residents, and community relations were appropriately conducted at the Escambia Wood Treating Superfund site, Pensacola, Florida, although we noted several potential areas for improvement.

The Escambia site in EPA Region 4 is an abandoned wood preserving facility where various health risks were identified and 358 households were permanently relocated.

Overall, EPA took appropriate cleanup planning actions at the site. EPA plans to conduct a remedial action to address the contaminated soil mound and contaminated ground water. We noted that it could be beneficial for the Region to include State, local government, and community concerns in future sampling and analysis plans.

The U.S. Army Corps of Engineers effectively implemented a very large and complex residential relocation project at the site. To enhance future relocations, Region 4 should continue to require the Corps to provide appraisal details to property owners, more closely monitor housing inspections, and allow residents a period of time to report replacement housing problems and obtain reimbursement for legitimate repairs.

EPA made efforts to inform the community and keep it up to date on activities at the site. To bolster future community relations, EPA should consider reviewing and updating the site Community Involvement Plan, conducting more public meetings, and providing compact discs and courtesy copies of future administrative record documents.

We issued our report (2004-P-00032) on September 30, 2004.

IEL Landfill Site Contamination Discounted

EPA Region 5 had properly discounted radioactive contamination at the Industrial Excess Landfill (IEL) Superfund site, Uniontown, Ohio. We also concluded that the remedy selected was in accordance with EPA policy.

Citizens brought these issues to our attention because of concerns that the landfill was contaminated with radioactive waste, and that the method used to clean up the ground water was inappropriate. That method, monitored natural attenuation, involves a variety of processes that act without human intervention to reduce the contaminants in soil or ground water.

In the early 1990s, the landfill was tested for radioactivity; in 1995, EPA's Science Advisory Board concluded it was unlikely radioactive contamination was present at the site. A radiation expert, retained by the OIG, determined that 2000 and 2001 ground water tests met drinking water requirements with respect to radioactivity and did not pose a danger to public health.

We also found that EPA policy was followed in selecting monitored natural attenuation, that the landfill site was appropriately sampled and analyzed, and that contaminants from the site that could pose a danger to public health were being appropriately monitored.

We issued our report (2004-P-00031) on September 29, 2004.

Bunker Hill Site Actions Generally Appropriate

An EPA OIG review of complaints regarding the Bunker Hill Superfund site, in Idaho, and the surrounding Coeur d'Alene Basin area found that EPA followed laws and regulations in listing the site and met community involvement standards. However, we found that the site's Lake Management Plan could better address cleanup.

We found that EPA followed laws and regulations in listing the site, and concluded that EPA made a

logical decision to first do cleanup work in the Bunker Hill “Box” (where the mines and smelter were located) and then later pursue further cleanup as needed in the overall Basin. EPA is permitted to address the most critical areas first, and we consider that a logical decision.

Another concern raised was whether CERCLA authorizes the Basin Environmental Improvement Commission to plan, prioritize, and perform response/remedial actions, as specified in the September 2002 Record of Decision. The Act does not address the creation of such an independent body. However, the National Contingency Plan encourages and allows the involvement of such a commission.

We found that the Coeur d’Alene Lake Management Plan could better address cleanup under the Clean Water Act. The management actions recommended in the Plan lack detail, and do not fully support an EPA decision to conduct a partial deletion of the Lake from the National

Priorities List. We recommended better implementation of the plan. Further, due to the lack of dedicated funding for Plan implementation, we recommended that EPA, the State of Idaho, and the Coeur d’Alene Tribe form a consensus about dedicating the funds.

Although concerns were raised about EPA properly following laws and regulations in handling community involvement during the Superfund process, we concluded that community involvement met standards. We found many instances where EPA took positive steps to involve the community, and noted considerable input by the community for the remedial design work for the overall Coeur d’Alene Basin. Also, we found evidence that EPA took steps to help alleviate the economic downturn in Shoshone County, which includes the Bunker Hill Box and much of the Coeur d’Alene Basin.

We issued our report (2004-P-00009) on March 24, 2004.

Response Claims

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, authorizes EPA to pay any claim for response costs by “any other person” as a result of carrying out the National Contingency Plan. Potentially Responsible Parties, who often make these claims, are required to enter into a Preauthorized Decision Document with EPA to cover work for which some costs will be reimbursed. The Preauthorized Decision Document specifies the work to be performed, the portion of the cost that EPA will reimburse, and the procedures through which the Potentially Responsible Parties can make claims for reimbursement.

We do not audit response claims, but instead review claims by following the instructions in the Agency’s claims guidance for the claims adjuster. During 2004, we performed one such review, as discussed below.

Review of Picillo Superfund Site Claim

We reviewed the first claim submitted by the five Potentially Responsible Parties for the CERCLA response action at the Picillo Pig Farm Superfund Site in Coventry, Rhode Island. The Preauthorized Decision Document authorizes the Potentially Responsible Parties to submit claims against the Superfund Trust for an amount not to exceed the lesser of \$1,400,000 or 40 percent of eligible, reasonable, and necessary costs incurred for the waste removal action. The Claim Administrator submitted documentation detailing incurred costs from November 2002 through December 2003 of \$1,549,628, and requested reimbursement of \$619,851. During our review nothing came to our attention that caused us to believe that the claimed costs were ineligible, unreasonable, or unnecessary.

Performance Reviews

In addition to the reviews required by CERCLA and the Superfund Amendments and Reauthorization Act, we conduct other reviews that address or are related to Superfund issues. Following are summaries on several completed during fiscal 2004.

Tribal Superfund Program Needs Direction

EPA has been a Federal leader in efforts to develop tribal relationships, and was the first Federal agency to adopt a formal Indian policy. EPA has undertaken various efforts since 1998 to enhance the tribal role in the Superfund program. However, EPA has still not fully developed its tribal strategy in relation to Superfund, even though the strategy was initiated in 2002, and the Agency needs to do so.

EPA's tribal strategy lacks a detailed implementation plan, including milestones, priorities, targets, and measures. Also, strategy completion has been hindered because of little emphasis from top leadership, a lack of clear goals, missing critical information, and EPA regions not being included in its development. In the absence of clear direction, EPA regions have developed divergent regional tribal programs. This makes it difficult for EPA to consult with and protect tribal interests when making Superfund decisions.

During case studies of six tribes, we noted that the stronger and more effective relationships demonstrate four important characteristics: frequent and timely communication, appropriate information sharing, addressing issues raised by tribes, and operating in a government-to-government relationship. Ultimately, successful partnerships create more effective decisions.

The Agency concurred with our recommendations and agreed to take actions to finalize its tribal strategy, with tribal and regional input, during fiscal 2005.

We issued our report (2004-P-00035) on September 30, 2004.

Weaknesses Found in Indian Country Site Inventory

In connection with our ongoing evaluation of EPA activities to enhance the role of Indian tribes in the Superfund program, we noted immediate actions were needed to address weaknesses in the Agency's development of an inventory of hazardous waste sites in Indian Country.

In 1999, the Agency started its development of an inventory of hazardous waste sites on Indian land, and provided funding to the Tribal Association on Solid Waste and Emergency Response (TASWER) to provide EPA with necessary tribal input. Our review of EPA's efforts to develop an inventory disclosed some serious shortcomings:

- Project mismanagement issues associated with TASWER caused substantial delays.
- EPA had not fully defined the inventory-related information needed.
- TASWER's methodology for obtaining tribal input had serious limitations.
- EPA had not developed a detailed plan for validating, managing, storing, or updating the baseline inventory.

We believe that these shortcomings, if not substantially addressed, will prevent a credible and reliable inventory from being produced. Moreover, without significant modifications, EPA will be required to make an additional investment in this effort.

We recommended that EPA provide more oversight to TASWER; define specific program information needs; review the inventory methodology and address key limitations; and

develop a detailed plan for validating, managing, storing, and updating the baseline inventory. EPA generally indicated our recommendations were appropriate.

We issued our report (2004-P-00003) on January 30, 2004.

Brownfields Program Needs Further Actions

Although stakeholders were generally pleased with the brownfields program, designed to restore and revitalize contaminated properties (including some former Superfund sites), EPA experienced a number of problems. Estimates on the number of brownfields sites range from 450,000 up to one million.

During fiscal 2003, EPA announced over \$73 million in competitive assessment, revolving loan fund, and brownfields cleanup grants. We noted concerns regarding untimely and unclear guidance, the need for additional guidance, a time-

consuming grant application review process, and limitations in providing applicant feedback.

EPA's Office of Brownfields Cleanup and Redevelopment responded to and addressed these concerns and made progress. However, we noted that the applicant and site eligibility determination process lacked documentation. We also noted required property ownership deadlines being questionably extended, problems regarding travel funds, and EPA not implementing environmental performance measures for brownfields.

Recommendations to EPA included developing a process for sampling applications to conduct more detailed eligibility evaluations, implementing environmental performance measures, and evaluating the current workload model to ensure new responsibilities of the expanded brownfields program are reflected in the model. EPA agreed with most of our recommendations.

We issued our report (2004-P-00020) on June 21, 2004.

Investigative Activity

The OIG Office of Investigations continued to focus its investigative resources on allegations of fraud, waste, and abuse in high risk and high dollar EPA programs and administrative areas, including the Superfund program. High priority was also given to environmental programs and employees when the action under investigation had the potential to seriously undermine the integrity of the Agency and/or the public trust in the Agency's ability to carry out its mission to protect public health and safeguard the environment.

Proactive and reactive investigative efforts by the Office of Investigations covered all stages of the Superfund program:

- The Laboratory Fraud Directorate continued its initiative to detect and investigate laboratory fraud within the environmental community, involving commercial, contractual, and Agency laboratories. Many of these laboratories conduct analyses and produce data used to make decisions concerning Superfund sites.
- The Financial Fraud Directorate continued major efforts in uncovering fraudulent activities in the award and performance of contract and assistance agreements. EPA programs, including Superfund, are dependent on contractors and assistance agreement recipients to perform a significant portion of the work related to EPA's mission.
- The Computer Crimes Directorate continued to monitor previously identified computer security weaknesses, identify new and emerging vulnerabilities, and advise the Agency on any additional computer security enhancements that are needed. We continued to perform criminal investigations of intrusive activities affecting EPA systems and data.

During fiscal 2004, our Superfund investigative efforts resulted in:

- Two Convictions
- One Civil Complaint
- One Sentencing
- Seven Administrative Actions, including one 10-year debarment

Monetary fines and restitution totaled more than \$220,573. In addition, \$260,605 in cost savings were realized. During the past three fiscal years, cumulative monetary fines, restitution, and recoveries resulting from Superfund investigations totaled more than \$18.5 million. We expect to see a continued increase in significant actions as OIG's investigative emphasis on major Agency contracting and laboratory fraud continues.

Following are three instances of Superfund investigative activities with results in fiscal 2004.

Laboratory President Convicted at Trial

On August 17, 2004, following a jury trial, Edward V. Kellogg, President, owner, and Quality Control Officer of Johnson Laboratories, Inc., New Cumberland, Pennsylvania, was found guilty of 34 counts of mail fraud. The charges were filed in May 2003 in U.S. District Court, Eastern District of Pennsylvania. In addition, on November 18, 2003, EPA's Debarring Official issued a Notice of Suspension to Kellogg as a result of the May 2003 indictment.

Johnson Laboratories provided analytical testing of environmental samples, including water and wastewater, to the EPA at the Bruin Lagoon Superfund Site in Bruin, Pennsylvania, as well as to municipalities and commercial clients required to comply with environmental laws and regulations administered by the EPA. Among the tests prepared by Johnson Laboratories were tests for volatile organic compounds (VOCs), a contaminant whose presence in water is regulated

by the EPA. VOCs can contaminate drinking water, and VOCs in wastewater may be discharged into rivers and streams, affecting fish, wildlife, and potential drinking water sources.

As the head of the business, Kellogg allowed environmental test results to be fraudulently prepared and billed to customers from May 1998 through July 2000. These test reports were false in that they purported to contain the results of VOC testing performed in accordance with EPA method 601/602, when in fact Kellogg knew this testing method had not been used. Instead, VOC testing had been performed under the lesser inclusive EPA method 624. Johnson Laboratories did not have the necessary laboratory instruments to perform the tests in accordance with EPA method 601/602 as Kellogg reported to his customers.

This investigation was conducted jointly with the EPA Criminal Investigation Division, the Pennsylvania Attorney General's Office, and the Pennsylvania Department of Environmental Protection.

Subcontractor Agrees to \$260,605 Settlement

The Government, through its prime contractor, entered into a contractual settlement with Environmental Chemical Corporation (ECC), Cincinnati, Ohio, resulting in a savings to the Government of \$260,605. ECC was a subcontractor that provided laboratory testing services for an EPA-funded, U.S. Army Corps of Engineers contract to perform cleanup work at the Drake Chemical Superfund Site in Lock Haven, Pennsylvania.

During the course of the contract, it was determined that ECC was involved in laboratory testing improprieties, such as not following its own established policies and procedures for testing and false calibrations, which resulted in ECC losing its Lab Validation and in harm to the Government. The Government and ECC, through

the prime contractor, agreed that if ECC would close out its subcontract and not seek payment of \$260,605 of previously billed but unpaid costs, the Government would consider that just compensation for the potential ECC fraud.

This case was conducted jointly with the U.S. Army Criminal Investigation Division Command and the Defense Criminal Investigative Service.

Impersonator Sentenced for Copying Official Seals

On February 6, 2004, Steven L. Nagy was sentenced in U.S. District Court, Northern District of Texas, to 46 months in prison, followed by 3 years of supervised release. Nagy was also ordered to pay \$218,656 in restitution and a \$200 special assessment. This sentencing follows Nagy's October 27, 2003, conviction in connection with charges related to impersonation, including false statements and mail fraud. In addition, on August 12, 2004, Nagy was debarred from Government contracting for 10 years.

Nagy, the owner and operator of Earth Source Environmental Management, Sallisaw, Oklahoma, created copies of professional engineering seals bearing the names and license numbers of at least four professional engineers. Nagy used the forged credentials to write, sell, and distribute fraudulent Spill Prevention Control and Countermeasure Plans.

Under Federal regulation, Spill Prevention Control and Countermeasure Plans are required to be signed and certified by a licensed professional engineer and maintained on file at certain facilities. If a facility does not have a signed and certified plan, it is fined \$5,000 regardless of the quality of the plan. Nagy admitted to producing Spill Prevention Control and Countermeasure Plans for more than 100 customers since 1991 using the forged credentials. Spill Prevention Control and Countermeasure Plans are instituted to assist facilities from needing emergency response cleanup actions under the Superfund program.

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Report No.	Description	Date
2004-2-00009	CH2M Hill, Inc. - FYs 2000-2001 RAC 68-W9-8225	05-NOV-03
2004-M-00003	Ombudsman Review of CART Complaints at Coeur d'Alene Site	24-NOV-03
2004-2-00015	Foster Wheeler Environmental Corp. - FY2001 RAC 68-W9-8214	26-NOV-03
2004-M-00002	Ombudsman Review of Complaints on World Trade Center Followup	01-DEC-03
2004-2-00017	Tetra Tech NUS, Inc. - FYs 1996-1998 RAC Close-out 68-S6-3003	18-DEC-03
2004-1-00030	Black & Veatch Special Proj. Corp. - FY2000 RAC 68-W9-9043	31-DEC-03
2004-2-00018	Tetra Tech NUS, Inc. - FYs 1999-2000 RAC 68-S6-3003	05-JAN-04
2004-P-00001	Boxer/Dingell Congressional Request - 2003	07-JAN-04
2004-P-00003	Superfund Issues in Indian Country	20-JAN-04
2004-P-00005	Mega Financial Responsibilities at Superfund Mine Sites	04-FEB-04
2004-1-00042	Weston Solutions, Inc. - Preaward PR-CI-03-10595	02-MAR-04
2004-1-00043	Lockheed Martin Serv. - Preaward REAC PR-CI-03-10595	03-MAR-04
2004-2-00019	Weston Solutions, Inc. - DACA45-98-D-0004 Delivery Order #1	03-MAR-04
2004-2-00020	Tetra Tech EM, Inc. (EMI) - Preaward PR-CI-03-10595	03-MAR-04
2004-2-00021	URS Operating Svcs & URS Group, Inc. - Preaward PR-CI-03-10595	03-MAR-04
2004-2-00023	Versar, Inc. - CACS 68-01-7053 & Follow-up Audit complete 2/2004	08-MAR-04
2004-M-00007	Ombudsman Review of Alberton, MT, Train Derailment Cleanup	12-MAR-04
2004-2-00024	Tetra Tech Inc./B&V SPC Joint Venture - FY2000 RAC 68-S7-3002	16-MAR-04
2004-1-00048	Metcalf & Eddy Inc. - FYE 2001 RAC 68-W6-0042	18-MAR-04
2004-P-00009	Coeur d'Alene/Bunker Hill Ombudsman Audit	24-MAR-04
2004-P-00010	Hotline Complaint - Basin Cleanup Coalition	25-MAR-04
2004-P-00011	EPA Equipment Purchases for Counter Terrorism Preparedness	29-MAR-04
2004-4-00015	New Mexico Environment Department SF Cooperative Agreement	31-MAR-04
2004-2-00029	Stone & Webster, Inc. - DACA45-96-D-0007 #8 CACS	19-APR-04
2004-1-00060	EG&G Tech Svcs. Inc. - CACS 68-W8-0126 Rev Final Voucher 119	17-MAY-04
2004-M-00009	Ombudsman Review of Picillo CERCLA Claim	26-MAY-04
2004-M-00010	Ombudsman Review on Complaints on Farms Near Delta, CO	01-JUN-04
2004-4-00016	Idaho SF Credit Claim - Cooperative Agreement V990431-01	02-JUN-04
2004-P-00018	Ombudsman Review, Stauffer Chemical Co. Site, Tarpon Springs, FL	03-JUN-04
2004-1-00077	CH2M Hill, Inc. - FY2001 CAS Accounting Change Cost Impact	08-JUN-04
2004-M-00012	Ombudsman Review, Cascade Pole Co. Site, Olympia, WA	08-JUN-04
2004-P-00020	Brownfields Management Review: Program Implementation	21-JUN-04
2004-1-00084	E&E FY2003 Personal Computer System	22-JUN-04
2004-1-00089	Toeroek Associates, Inc. - Preaward RFP #PR-R4-04-10086	24-JUN-04
2004-4-00017	CH2M Hill, Inc. - FY2001 CAS Disclosure Statement Revisions	28-JUN-04
2004-4-00018	CH2M Hill, Inc. - FY2001 CAS Disclosure Statement Revisions	28-JUN-04
2004-4-00019	CH2M Hill, Inc. - FY2001 CAS Disclosure Statement Revisions	28-JUN-04
2004-M-00013	Ombudsman Review, Bridgeport (NJ) Rental and Oil Services Site	29-JUN-04
2004-2-00039	Indtai, Inc. - Preaward PR-R4-04-10086 & Acctg Sys Survey	06-JUL-04
2004-M-00014	Ombudsman Review, Rocky Mt. Arsenal Cleanup, Denver, CO	29-JUL-04
2004-2-00040	Weston Solutions, Inc (Roy F. Weston) - FY1999 ARCS 68-W9-0057	02-AUG-04
2004-2-00042	Aarcher, Inc. - Preaward PR-R4-04-10086/Pre-Award Acctg Sys	05-AUG-04
2004-1-00094	Bechtel Group Inc. - FY 1997 Incurred Cost	06-AUG-04
2004-1-00096	Tetra Tech EMI - FY 9/30/2001 Annual Close-out RAC 68-W6-0037	10-AUG-04
2004-2-00043	Weston Solutions, Inc. - FYE 12/31/1998 ARCS 68-W9-0057	12-AUG-04
2004-2-00044	Weston Solutions, Inc. - FY 12/31/99 RAC Close-Out 68-W7-0026	13-AUG-04
2004-2-00046	Tetra Tech Inc/B&V SPC Joint Venture - FY1999 RAC 68-S7-3002	16-AUG-04
2004-2-00047	Tetra Tech Inc/B&V SPC Joint Venture - FY1999 RAC 68-S7-3002	17-AUG-04
2004-S-00003	E&E State Income Tax Allocation FYs 90 thru 01	23-AUG-04
2004-1-00101	Shaw E&I Findlay Joint Venture - FY2002 Preaward PR-CI-02-10152	24-AUG-04
2004-P-00026	EPA Needs to Improve Change Controls for Integrated Financial Management System	24-AUG-04
2004-4-00035	E&E - Non Compliance With Cost Accounting Standard 402	25-AUG-04
2004-1-00103	Roy F. Weston, Inc. - CFY 12/31/1996 (& 1995) ARCS 68-W9-0015	31-AUG-04
2004-4-00036	E&E - Non Compliance With Cost Accounting Standard 402	31-AUG-04
2004-P-00027	Role of Superfund NPL State Cleanup Program Evaluation	01-SEP-04
2004-1-00108	Griffin Services, Inc. - FYE 1/31/2000 Incurred Cost	13-SEP-04
2004-S-00004	Superfund Mandate: Administrative Support Issues	15-SEP-04
2004-S-00005	E&E Revised Disclosure Statement Review	22-SEP-04
2004-1-00112	Metcalf & Eddy Inc. - CFY 2002 RAC 68-W6-0042	24-SEP-04
2004-2-00050	CH2M Hill, Inc. - FY 2001 RAC Annual Close-out 68-W6-0025	24-SEP-04
2004-2-00051	CH2M Hill, Inc. - FY 2002 RAC Annual Close-out 68-W6-0025	24-SEP-04
2004-P-00031	Ombudsman Review, Industrial Excess Landfill Site, Uniontown, OH	29-SEP-04
2004-P-00032	Ombudsman Review, Escambia Site, Pensacola, FL	30-SEP-04
2004-P-00035	Tribal Superfund Program Needs Clear Direction	30-SEP-04
2004-S-00008	E&E Floorcheck FY03	30-SEP-04