



# *6th National Training Conference on PRP Search Enhancement*



*Portland, Oregon*

*May 13-16, 2008*

<http://www.excite.com>

Formerly a crawled-based search engine, Excite was acquired by InfoSpace in 2002 and uses the same underlying technology as the other InfoSpace meta search engines, but maintains its own portal features.

## **Fizzle**

<http://www.fizzle.com/>

Fizzle offers a highly flexible and customizable interface to a wide variety of information sources, ranging from general web results to specialized search resources in a number of subject specific categories. Formerly called SearchOnline.

## **Gimenei**

<http://gimenei.com/>

Gimenei queries an undisclosed number of search engines and removes duplicates from results. Its most useful feature is an advanced search form that allows you to limit your search to a specific country.

## **IceRocket**

<http://www.icerocket.com/>

Meta search engine with thumbnail displays. The Quick View display, similar to what WiseNut has long offered, is cool. The service queries WiseNut, Yahoo, Teoma and then somewhat repetitively also includes Yahoo-powered MSN, AltaVista and AllTheWeb. Disclosure of search sources within the actual search results is not done, sadly. Makes it hard to know exactly where the results are coming from.

## **Info.com**

<http://www.info.com>

Info.com provides results from 14 search engines and pay-per-click directories, including Google, Ask Jeeves, Yahoo, Kanoodle, LookSmart, About, Overture and Open Directory. Also offers shopping, news, eBay, audio and video search, as well as a number of other interesting features. (Review: [New Metasearch Engine: Info.com](#) Search Engine Watch Blog, Oct. 18, 2004)

## **InfoGrid**

<http://www.infogrid.com>

In a compact format, InfoGrid provides direct links to major search sites and topical web sites in different categories. Meta search and news searching is also offered.

### **Infonetware RealTerm Search**

<http://www.infonetware.com>

This site is primarily designed to demonstrate classification technology from Infogistics. It's a meta search engine, and it does topical classification of results, like Vivisimo. However, it is unique in that you can select several different topics, then "drill down" to see results from all of them, rather than being restricted to the results from only one topic.

### **Ixquick**

<http://www.ixquick.com/>

Meta search engine that ranks results based on the number of "top 10" rankings a site receives from the various search engines.

### **iZito**

<http://www.izito.com>

iZito is a meta search engine with a clever feature. Click on any listing you are interested in using the P icon next to the listing title. That "parks" the listing into your to do list. Click on the P tab, and you can see all the pages you've culled. It's an easy, handy way to make a custom result set. Also interesting is the ability to show listings in up to three columns across the screen, letting you see more results at once. (Review: [iZito & Ujiko: Meta Search With Personality](#) Search Engine Watch Blog, Sept. 29, 2004)

### **Jux2**

<http://www.jux2.com/>

This search result comparison tool is cool. It allows you to search two major search engines at the same time, then see results that are found on both first, followed by results found on only one of them next. The small overlap visual tool displayed is great. I used to make examples like this to explain search engine overlap and why one search engine may not cover everything. Now I have an easy dynamic way to do this. The stats link at the bottom of the home page provides more visuals. (Update: [Jux2 Adds New Features](#) , Search Engine Watch Blog, Oct. 13, 2004)

## **Meceoo**

<http://www.meceoo.com/>

Meta search with the ability to create an "exclusion list" to block pages from particular web sites being included. For example, want to meta search only against .org sites? [French version](#) also offered.

## **MetaCrawler**

<http://www.metacrawler.com>

One of the oldest meta search services, MetaCrawler began in July 1995 at the University of Washington. MetaCrawler was purchased by InfoSpace, an online content provider, in Feb. 97.

## **MetaEureka**

<http://www.metaeureka.com>

Search against several major search engines and paid listings services. Offers a nice option to see Alexa info about pages that are listed.

## **ProFusion**

<http://www.profusion.com>

Brings back listings from several major search engines as well as "Invisible Web" resources. Formerly based at the University of Kansas, the site was purchased by search company [Intelliseek](#) in April 2000.

## **Query Server**

<http://www.queryserver.com/web.htm>

Search against major web-wide search engines, as well as major news, health, money and government search services.

## **Turbo10**

<http://turbo10.com>

Turbo10 is a metasearch Engine accesses both traditional web search engines and some invisible web databases, with a very speedy interface. (Review: [Make way for the contender to Google's crown](#) , The Register, May 30, 2003)

## **Search.com**

<http://www.search.com>



Search.com is a meta search engine operated by CNET. It offers both web-wide search and a wide variety of specialty search options. Search.com absorbed SavvySearch in October 1999. SavvySearch was one of the older metasearch services, around since May 1995 and formerly based at Colorado State University.

## **Ujiko**

<http://www.ujiko.com/>

From the makers of visual meta search tool KartOO, this is a really slick service to try. Do your search, then scroll through the list. See something bad? Click the trash can icon, and the listing goes away. It's a great way to prune your results -- even better would have been if everything trashed brought up something new to look at. That would be a help for those who simply refuse to go past the first page of results.

See something you like? Click the heart icon and you can rate the listing. This information is memorized, to help ensure the sites you choose to better in future searches. Unlike KartOO, Ujiko uses results from only one search engine: Yahoo. It also offers many more features I haven't even yet explored, but you can learn more about them here: [http://www.ujiko.com/en\\_html/](http://www.ujiko.com/en_html/) . Gary Price also gives a rundown here: [http://www.resourceshelf.com/archives/2004\\_04\\_01\\_resourceshelf\\_archive.html](http://www.resourceshelf.com/archives/2004_04_01_resourceshelf_archive.html) . The only downside? Flash is required.

## **WebCrawler**

<http://www.webcrawler.com>

Formerly a crawled-based search engine owned by Excite, Webcrawler was acquired by InfoSpace in 2002 and uses the same underlying technology as the other InfoSpace meta search engines, but offers a fast and clean, ad-free interface.

## **ZapMeta**

<http://www.zapmeta.com>

Provides a variety of ways to sort the results retrieved, plus provides interesting visualization tools and other features. (Review: [ZapMeta: A Promising New Meta Search Engine](#) , Feb. 26, 2004)

## **Specialty Choices**

The metacrawlers listed below let you meta search in specific subject areas.

## **Family Friendly Search**

<http://www.familyfriendlysearch.com>

Meta search service that queries major kid-friendly search engines.

## **GoFish**

<http://www.gofish.com>

Meta search service for licensed and commercially available digital media downloads including music, movies, music videos, ringtones, mobile games and PC games, searching over 12 million media files. (Review: [GoFish Multimedia Shopping Search: IceRocket Deal & Closer Look](#) , Search Engine Watch Blog, Feb. 4, 2005)

## **Searchy.co.uk**

<http://www.searchy.co.uk>

Searches 15 U.K. engines. The advanced search form allows you to change the order that results are presented, either by speed or manually to suit your own preferences.

## **Watson for the Macintosh**

[http://www.apple.com/downloads/macosx/internet\\_utilities/watson.html](http://www.apple.com/downloads/macosx/internet_utilities/watson.html)

Watson is a "Swiss Army Knife" with nineteen interfaces to web content and services -- an improvement on Sherlock, with nearly twice as many tools, including Google Searching.

## **All-In-One Search Pages**

Unlike metacrawlers, all-in-one search pages do not send your query to many search engines at the same time. Instead, they generally list a wide-variety of search engines and allow you to search at your choice without having to go directly to that search engine.

## **Google Versus Yahoo Tool**

<http://www.langreiter.com/exec/yahoo-vs-google.html>

See visually how results compare on Google versus Yahoo.

## **One Page MultiSearch Engines**

<http://www.bjorgul.com/>

Clean interface lets you query major services from one page

## **Proteus**

<http://www.thrall.org/proteus.html>

Lets you easily send your search to one of several search engines. It also has links to search engine help pages.

## **Queryster**

<http://www.queryster.com>

Queryster lets you quickly get results from one of several major search engines, simply by clicking an icon. (Review: [A Fun Multi-Search Tool](#) , Feb. 23, 2004)

## **YurNet**

<http://www.yurnet.com>

Select your search engines from the many choices offered. The results will all appear within one page, side-by-side. It's a great way to compare results, though a bit hard to read with more than two search engines selected.

## **Meta Search Articles**

For other articles and older reviews, also see the [Search Engine Reviews](#) page.

## **Meta Search Engines are Back**

SearchDay, Dec. 4, 2003

<http://www.searchenginewatch.com/searchday/article.php/3109441>

It's been a busy year for the major meta search engines, with a number of notable developments that have restored their usefulness as worthy search tools.

## **Meta Search Engines: An Introduction**

SearchDay, September 16, 2002

<http://searchenginewatch.com/searchday/article.php/2160771>

This week, SearchDay focuses on the world of meta search engines, looking under the hood at how they work and profiling the major players and their offerings.

## **The Big Four Meta Search Engines**

SearchDay, September 17, 2002

<http://searchenginewatch.com/searchday/article.php/2160781>

Though there are dozens of useful meta search engines, InfoSpace is the industry gorilla, operating the four arguably best known and most heavily used properties.

## **The Best and Most Popular Meta Search Engines**

SearchDay, September 18, 2002

<http://searchenginewatch.com/searchday/article.php/2160791>

Meta search engines look pretty much the same up front, but their approach to presenting results varies widely. Here's a list of Search Engine Watch's pick of the best and most popular metas for searching the web.

## **A Meta Search Engine Roundup**

SearchDay, September 19, 2002

<http://searchenginewatch.com/searchday/article.php/2160801>

Completing our roundup of meta search engines, this list focuses on services that are competent and in many cases worthy of a look, but don't meet all of our evaluation criteria.

## **Meta Search Or Meta Ads?**

The Search Engine Report, June 4, 2001

<http://searchenginewatch.com/sereport/article.php/2163821>

A review of meta search services by Search Engine Watch shows that some are providing results where more than half of their listings are paid links. A guide to what's paid, what's not and how to get the most from your meta search service.

*Looking for more articles and reviews of meta search engines? See the Meta Search category of the Search Topics section of Search Engine Watch available to Search Engine Watch members.*

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## **PRP Search Enhancement Team**

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-- April 24 2008 --

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## **Roster of Conference Participants**

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<b>REGION 03</b>
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**REGION 04**

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## **Presenter Biographies**

## **CAROL BERNES**

Carol Bernes has been practicing law for over 25 years. The first 10 years were spent as a staff attorney with the Army Corps of Engineers in Kansas City and New York, doing environmental and government contracting law. In 1990, she began working for EPA Region 2 as a Superfund enforcement attorney. In addition to her caseload, which runs the gamut from small owner-operator sites to large generator sites involving thousands of parties, Carol is a member of the PRP Search Enhancement Workgroup and has participated in and spoken at several conferences. She received her B.S. from The George Washington University in 1974 and her J.D. from the University of Kansas in 1980.

## **JAMIE BRADSHER**

Jamie Bradsher, an Enforcement Officer (EO) with the Enforcement Assessment Team, has been with EPA Region 6 for two years. As an EO, she has worked on various sites, including the Double Eagle Refinery Superfund site, one of the region's most prominent litigation cases. She also participated in settlement negotiations on the Many Diversified Interests site, which was the first agreement by a non-liaible party for Superfund site cleanup in the nation.

Ms. Bradsher began her career with the Agency five years ago in Region 7 where she was initially hired through the EPA Intern Program (EIP). While in Region 7, she worked as an inspector and EO for the Above Ground and Under Ground Storage Tank Group. Through the EIP, she gained additional work experience with the Quality Assurance Group in the Great Lakes Program Office (Region 5) and with the Enterprise Architecture Team in the Office of Environmental Information at EPA headquarters.

Prior to joining EPA, Ms. Bradsher was employed by the Boeing Company in Seattle, Washington for three years as an Environmental Safety and Health Officer. She received a Bachelor of Science degree in Occupational Safety and Health from North Carolina A&T State University. She completed her graduate studies at Murray State University where she received a Master of Science degree in Safety, Health and Environmental Science.

## **ANN BRESLIN**

Ann Breslin is an On-Scene Coordinator for EPA Region 3 in Philadelphia. A native of southwest Florida, she developed a love for the environment at any early age. Leaving an increasingly crowded state, she decided to attend high school in Asheville, North Carolina. Following high school and a year of contemplation, she began her college career at Houghton College in western New York and received a Bachelor of Arts degree in Biology/Environmental Science in 1990. After a fruitless job search, she determined that the best course of action would be to attend graduate school. Ann received a Master of Science degree in GeoEnvironmental Studies from Shippensburg University in December 1992. She spent nine years working in the State of Delaware's Superfund program before escaping to the EPA in February 2003. After a short stint in Region III's Federal Superfund Site Assessment Branch, she was hired on as an



On-Scene Coordinator. OSCs' primary responsibilities include emergency and time-critical cleanups of hazardous substances affecting human health and/or the environment. Ann fully intends to remain an OSC until retirement – or perhaps die in her steel-toed boots.

### **WILDA WATSON COBB**

Wilda Watson Cobb is an Associate Regional Counsel for U.S. EPA Region 4 in the Environmental Accountability Division office of CERCLA/Water Legal Support. In her capacity as an attorney with Region 4, she provides advice and assistance on legal matters, including enforcement and policy matters. Her particular areas of expertise in the CERCLA Office are emergency response and removal issues and issues involving the National Contingency Plan (NCP). Most recently Ms. Cobb has been working on mercury guidance and the revisions to the NCP.

Ms. Cobb has been involved in writing the guidance documents "Determinations Regarding Which Sites are "Eligible Response Sites" under CERCLA Section 101(41)(C) (i), as added by the Small Business Liability Relief and Brownfields Revitalization Act" and "Public Participation in Supplemental Environmental Projects." She is currently working on a national workgroup to update guidance on administrative records. Ms Cobb has spoken on issues dealing with the new Brownfields Act and liability for mercury releases in residences and schools, and has lectured on the National Contingency Plan.

Ms. Cobb has received several bronze medals over the past 17 years for her work at EPA. In 2002, she received a National Notable Achievement Award for her work on the 300 million-gallon release of coal slurry into the waters of Martin County, Kentucky. She earned her J.D. in 1991 from the University Of South Carolina School of Law and her B.A. *Summa cum laude*, in 1986 from Wofford College. She is member of the Georgia Bar.

### **KELLY COLE**

Kelly Cole is an attorney in the Office of Regional Counsel at EPA Region 10 in Seattle, Washington. Her work focuses on legal issues related to CERCLA cleanups, including compliance counseling and litigation. Before joining EPA in 2004, she was an environmental attorney in private practice. Ms. Cole is a member of the California and Washington bars.

### **NANCY DECK**

Nancy Deck has worked for EPA since 1974. She recalls the early years of the Agency and the excitement, energy, and enthusiasm that led the charge at that time. Through all the ups, downs, and frustrations of the many administration changes through the years, she finds the work is still rewarding and the EPA family one she is proud to claim. Nancy started out in Radiation Programs, then moved to the Office of Solid Waste, and finally landed in the Office of Site Remediation Enforcement where most of her years with EPA have been spent. Her work has run

the gamut from managing the early Technical Enforcement Contracts (TES I, II, 11, and 12), to serving on the Agency's Allocation Pilot, which earned her a Bronze Medal, and serving as Team Leader of the National PRP Search Enhancement Team for the last eight years. The Team's accomplishments under her leadership include the Superfund Enforcement Directory (SFED), *PRP Search Manual* (September 2003) (currently being revised), and six National Training Conferences on PRP Search Enhancement. Since the conference is generally held every other year, Nancy claims this may be her last one as retirement beckons. Then again, she muses, if we could somehow score Region 9's Hawaii Office as a venue, she might be persuaded to organize one more!

### **SHEILA ECKMAN**

Sheila Eckman is the Acting Associate Director for the Office of Environmental Cleanup in EPA Region 10. She has been with EPA more than 18 years, most of that time as a Remedial Project Manager, Team Leader, and Unit Manager in the Superfund program. Her previous experience includes working for a state environmental agency and a private environmental consulting firm. She has a Master's Degree in Geo-Environmental Studies.

### **CLARENCE E. FEATHERSON**

Clarence E. Featherston is a senior attorney in EPA's Office of Site Remediation Enforcement (OSRE). Clarence works closely with EPA's Office of General Counsel, EPA's regional offices, and the Department of Justice on CERCLA enforcement issues related to corporate liability, arranger liability, pre-enforcement review, and all things even remotely related to the Aviall/Atlantic Research (ARC) cases. In addition to being a veteran member of the PRP Search Team, Clarence is also a member of OSRE's Aviall/ARC Team and has worked on matters related to the government's involvement in Aviall/ARC since September 2002. Clarence received his A.B. Degree from Brown University and a J.D. Degree with honors from Howard University's School of Law. He is an Advanced Toastmaster.

### **ERIC FRENCH**

Eric French serves as a program analyst in the Office of Site Remediation Enforcement (OSRE). He joined EPA in 2005. As a member of the National PRP Search Enhancement Team, Mr. French assists with the development of OSRE's web content. Prior to EPA, Mr. French worked as a computer engineer in the private sector. He holds a B.S. in Computer Science and a M.S. in Environmental Management.

### **SARAH GOOD**

Sarah Good is an Environmental Planner 3 with the Washington State Department of Ecology. She completed her master's degree in marine science in Woods Hole, Massachusetts in 2004. In

2005, she started working for the Washington State Department of Ecology as a communications and environmental education specialist, implementing public involvement requirements of the Model Toxics Control Act (MTCA) at state toxic sites. The majority of her time was dedicated to conducting enhanced public involvement on the Lower Duwamish Waterway Superfund site. She worked with local and federal agencies and with community groups to develop the first Duwamish River Festival. This event took the typical public meeting outside and incorporated fun activities in order to reach a broader audience. Ms. Good won the agency award in workplace diversity for this work.

In 2006, Ms. Good became an environmental planner for the Lower Duwamish Team. Ecology's Duwamish Team was awarded the 2006 Ecology Agency Award for commitment to excellence. Today Ms. Good is the only environmental planner responsible for producing and reporting on source control plans for Duwamish sites as required by the joint Memorandum of Understanding between EPA and Ecology on this project.

### **MARGARET HERRING**

Margaret Herring is an Investigator for EPA Region 5. She was worked as a Superfund investigator for over 10 years. Previously, Ms. Herring worked for the Social Security Administration and the U.S. Department of Labor. At both agencies, her responsibilities involved gathering information from diverse public and private sources and analyzing the information for program requirements. Ms. Herring is a licensed attorney in Illinois (inactive status) and is trained in the use of library reference materials, government records, and archives.

### **STEPHEN HESS**

Stephen Hess is an Attorney-Advisor in EPA's Office of General Counsel (OGC). He serves as OGC's contact for real estate issues, including property acquisitions, institutional controls, access, relocations under the Uniform Relocation Act, CERCLA liens, and takings issues. Prior to joining EPA, Mr. Hess was in private practice in Richmond, Virginia, representing developers, lenders, local governments, and businesses in real estate and corporate transactions. He received a B.B.A. from James Madison University and a J.D. from George Mason University School of Law.

### **STEPHEN HOFFMAN**

Stephen Hoffman is a Senior Environmental Scientist and Federal Enforcement Officer at U.S. EPA. He received a B.A. in Physical Geography from Bowling Green State University in 1972 and an M.A. in Physical and Economic Geography from Boston University in 1976. He has 30 years' experience conducting RCRA inspections and environmental risk studies of mining and mineral processing, petrochemical, nuclear, pharmaceutical, and hazardous waste disposal facilities. Mr. Hoffman serves as EPA's representative on the United Nations Industrial Development Organization global mercury mining project and is senior staff on the National

Mining Team and the Abandoned Mine Lands Team.

Prior to joining EPA in 1989, Mr. Hoffman was the manager of the Washington, D.C. office of Fred C. Hart, an environmental consulting firm where he conducted environmental risk audits of industrial facilities throughout the United States as well as conducting environmental risk studies at industrial plants in Belgium, Hong Kong, Taiwan, Australia, New Zealand, and Canada.

Mr. Hoffman has published several books on environmental auditing and a number of articles on the environmental impacts of energy and mineral development.

### **STEPHEN KEIM**

Stephen Keim is currently employed at EPA's Office of Site Remediation Enforcement (OSRE) in Washington, DC, as an attorney-advisor in the Policy and Program Evaluation Division. He is a member of both the PRP Search Enhancement Team and OSRE's Insurance Workgroup. Before coming to EPA, he practiced environmental insurance law at a private law firm and worked as an environmental consultant on hazardous waste issues. Steve has received a B.A. from Dartmouth College, a J.D. from the University of Virginia School of Law, and a Master of Environmental Management (M.E.M.) degree from the Yale School of Forestry and Environmental Studies. He is a member of the Virginia and District of Columbia bars.

### **STEPHANIE KERCHEVAL**

Stephanie Kercheval is a FOIA Officer in EPA Region 10. Ms. Kercheval has worked for EPA for 21 years, 10 of which have been spent in the FOIA program.

### **KRISTINE KOCH**

Kristine Koch has worked for EPA Region 10 for 11 years and has 20 years of federal service. She has been a Remedial Project Manager with EPA's Superfund program since 2005 and has worked for the Office of Water as a National Pollutant Discharge Elimination System (NPDES) permit writer. She has also worked for the Department of Defense in environmental engineering and for General Electric as a design engineer in their Nuclear Energy Division. She has a Bachelor of Science degree in Chemical Engineering from the University of Washington.

### **COURTNEY KUDLA**

Courtney Kudla is an Enforcement Officer for Region 6, Superfund Division, Enforcement Assessment Team. Since starting with Region 6 as a Federal Career Intern, she has worked in Superfund for four years and the Office of External Affairs for one year. As an Enforcement Officer in Superfund, Courtney has worked to identify PRPs at several ground water plume sites and to negotiate settlements at both remedial and removal sites. Recently, Courtney assisted the

Region 6 Enforcement Removal Coordinator in developing a process to ensure the Superfund Trust Fund is reimbursed by responsible parties for costs incurred at emergency responses.

Before making her way to Texas, Courtney attended Manchester College in North Manchester, Indiana where she received a Bachelor of Science in Sociology. She attended Indiana University (IU) for her Master's in Public Affairs. At the IU School of Public and Environmental Affairs, she focused on Environmental Policy.

If you brought a Frisbee, golf clubs, hiking shoes, or running shoes, Courtney would love to join you outdoors anytime.

### **ANDREA MADIGAN**

Andrea Madigan is an enforcement attorney in EPA Region 8's Legal Enforcement Program, Office of Enforcement, Compliance, and Environmental Justice. She joined EPA in 1990 and works primarily on Superfund enforcement cases. Ms. Madigan also chairs EPA's National Bankruptcy Work Group. Prior to joining EPA, she was in private practice specializing in bankruptcy and commercial litigation. Ms. Madigan received her J.D. from the University of Colorado in Boulder, Colorado in 1983, and has served as an adjunct instructor at the University of Denver, College of Law.

### **ALAN MARGOLIS**

Alan Margolis graduated from the University of Pennsylvania and received his J.D. from the University of Pittsburgh Law School in 1985. He joined EPA's Office of General Counsel in 1991, specializing in information law. He has spent most of his EPA career in OGC where he was assistant general counsel for information law for three years. He also spent three years as an attorney-advisor in the Office of Environmental Information.

### **CHERYLE MICINSKI**

Cheryle Micinski has been practicing law for more than 30 years. The first ten years were spent as a prosecutor with county and city. She began employment with EPA in 1981. She became a Branch Chief, Superfund Branch in 1987 and a Deputy Regional Counsel in 1993. She teaches many Superfund-related courses for EPA and has been a frequent speaker at seminars and programs relating to hazardous waste topics. She has taught Superfund Enforcement Process for many years for the CERCLA Academy and has been an instructor and moderator for New Superfund Attorney Training. She is an Adjunct Professor in the School of Business at Avila University in Kansas City, Missouri. Cheryle received her A.B. from Indiana University in 1968 and her J.D. from the University of Missouri-Kansas City in 1973. She is a member of the Missouri Bar.

## **HERB MILLER**

Herb Miller is a Civil Investigator with EPA Region 4 with 21 years of experience in Superfund enforcement and PRP search activities. He has a B.S. in Chemistry from Western Kentucky University, and did graduate work at Emory University. As a member of the National PRP Search Enhancement Team, Mr. Miller contributed to development of the 2003 *PRP Search Manual*. Mr. Miller has received two bronze medals from EPA and a commendation from the Department of Justice for his work on cost recovery cases in Region 4. Between Western Kentucky University and graduate school, Mr. Miller worked at the Kennedy Space Center and was present for the launch of Apollo 11, the first moon landing in 1969.

## **LEO J. MULLIN**

Leo Mullin is a Cost Recovery Expert for EPA Region 3. He joined EPA as a Civil Investigator in October 1989. His responsibilities include conducting and/or overseeing PRP searches; working with the Office of Regional Counsel and Department of Justice on cost recovery complaints; and making determinations associated with corporate veil piercing, corporate successor liability, allocation of liability, ability to pay, and financial assurance. He also assists in responding to questions concerning potential liability from the purchase of contaminated property. Mr. Mullin has testified as an expert witness on matters such as ability to pay, financial analysis, and property valuation. He has also submitted testimony regarding issues such as corporate veil piercing, corporate successor liability, the cost of site cleanups, and allocation of responsibility for site cleanups. From 1982 to 1989, Mr. Mullin was employed as a Revenue Officer by the Internal Revenue Service. Prior to 1982, he worked for an urban redevelopment consultant. Mr. Mullin received a B.A. in Politics from St. Joseph's University in 1982.

## **KIM MURATORE**

Kim Muratore has been a Case Developer in the Superfund program in Region 9 since 1990 and has worked on a wide range of sites, including landfills, former mines, wood-treating facilities, and area-wide ground water sites. Superfund program staff in Region 9 are responsible for enforcement for a site from cradle to grave, so Ms. Muratore has performed PRP searches, conducted ATP assessments, developed proposed settlement offers, participated in negotiations, drafted litigation referrals, filed liens, provided litigation support, and worked on the enforcement portions of 5-year reviews. As an auxiliary duty, she manages the region's Superfund ADR budget and tracks the program's SOLs. About 30 times a year, she leaves these duties behind to visit local elementary schools and teach environmental science topics that she has developed, providing hands-on learning experiences for the kids.

## **BARBARA NANN**

Barbara Nann is an assistant regional counsel in EPA Region 6's Superfund and Brownfields

programs. She has been with EPA since 2002. Barbara received a B.S. in Biology and a B.A. in Political Science from Indiana University in 1997. She received her J.D. and environmental law certificate from Lewis and Clark Law School in 2001. She is a member of the Texas bar.

### **CARLYN PRISK**

Carlyn Winter Prisk is a Civil Investigator in the Region 3 Superfund program's Cost Recovery Branch and has been Region 3's representative on the PRP Search Enhancement Team for the last five years. Ms. Prisk has been with Region 3 for almost 10 years, spending a year in ORC as a paralegal before becoming an investigator.

### **BRUCE PUMPHREY**

Bruce Pumphrey started with EPA the day before the inauguration of President Ronald Reagan. His first work at EPA headquarters was in the Water Quality Standards program. In 1984, he relocated to Region 5 where he worked in the Water Quality Standards program and subsequently in NPDES compliance and enforcement. In 1987, due to a very crazy supervisor, he had the option of blowing his brains out or moving to Superfund and doing PRP search work. He chose Superfund and has never regretted the decision. Bruce has been in the Superfund enforcement program for 21 years with the exception of short stints in the Office of Water and OSWER. He returned to headquarters in 1991 and has been with the Office of Site Remediation Enforcement for all but two years of that time. Bruce's primary focus during that time has been strategic planning, performance management, program analysis in support of Superfund reauthorization, and program evaluation. Bruce loves working in the Superfund enforcement program but is looking forward to retirement in about five years.

### **CAROL ROPSKI**

Carol Ropski is a Senior Enforcement Specialist with Region 5's Emergency Services Support Section in the Emergency Response Branch, Superfund Division. Ms. Ropski has been an Enforcement Specialist in the Emergency Response Branch since 1990. Along with two Office of Regional Counsel attorneys, she is the primary contact for mercury enforcement in Region 5. This core mercury enforcement team ensures a consistent approach for the region's enforcement efforts on mercury sites. Ms. Ropski has been considered the region's mercury enforcement expert since 2000 when the number of mercury sites in the region exploded. There were 167 mercury sites from FY 2000 to FY 2007. Her responsibilities for the sites include enforcement from the time the site is discovered until completion of the cost recovery process. This includes mercury sites with administrative orders, voluntary removal actions, and fund-lead with a cost recovery component. She has also assisted in developing the region's mercury policy and was on the workgroup that developed the "Guidelines for Responding to Mercury Spills & Releases in Schools and Residences" document.

Ms. Ropski has received several Bronze Medals for her enforcement work on Superfund sites, notably the Nicor Mercury Regulators site and Chicago Methyl Parathion. She has been nominated twice for "Technical Enforcer of the Year". She is also a member of Region 5's Response Support Corp and Incident Management Team and worked in the region's EOC during the Katrina response. Ms. Ropski developed a manual for EOC operations. In addition to her other responsibilities, she coordinates the region's accomplishments reporting in CERCLIS for the removal program. She has a B.A. in Environmental Studies from Northeastern Illinois University.

### **MIKE RUDY**

Mike Rudy is an enforcement specialist and civil investigator with Region 8's CERCLA program. He has 23 years of federal service. Mike started his career as a Special Agent in the U.S. Air Force Office of Special Investigations (OSI) in 1985. As a special agent he conducted criminal, counter-intelligence, and fraud investigation in the United States and overseas. His last assignment with OSI was as a detachment commander in the Gulf War. Since 1992, Mike has served as a FIFRA and TSCA inspector, multimedia inspector, enforcement specialist, and civil investigator. He has been in Superfund enforcement since 1999. He has both B.S. and M.P.A. degrees.

### **GRECHEN SCHMIDT**

Grechen Schmidt is a Senior Investigator with EPA's Region 10 in Seattle, Washington. She joined EPA in 1988 as a Community Involvement Coordinator. She designed and coordinated the Superfund Technical Assistance Grant Program (TAG) for the region and helped develop the national community involvement training material and Department of Defense Community Involvement training. She served as EPA's technical expert on the Superfund process and the TAG programs in a criminal trial, resulting in a conviction and maximum prison sentence. From 1995-1997, Ms. Schmidt worked as a compliance officer in the drinking water program, focusing on drinking water systems in the State of Washington. From 1997 to 1999, she took an IPA to the Alaska Department of Environmental Conservation to help develop their community involvement program. In 2000, Ms. Schmidt became an investigator in the Office of Environmental Assessment. Today she is the only civil investigator in Region 10 and provides support to all regional programs.

### **GREGORY SULLIVAN**

Gregory Sullivan is a lead attorney-advisor in EPA's Office of Site Remediation Enforcement, coordinating the work of a team of attorneys focused on legal, enforcement, and policy issues in Superfund and RCRA corrective action cleanups. He specializes in enforcement issues related to institutional controls, post-construction completion, and reuse of contaminated properties. Prior to joining EPA, Mr. Sullivan worked on cleanup and long-term stewardship issues in the U.S. Department of Energy's Office of Environmental Management. He received a B.A. from the



Western Washington University in Bellingham, Washington and earned his law degree from American University's Washington College of Law in Washington, D.C.

### **ANDREW TAYLOR**

Andrew Taylor has worked on remedial PRP searches for five years as a case developer and environmental scientist for EPA Region 9. Prior to joining EPA, he worked for 10 years as a hydrogeologist and field geologist for private environmental consulting firms in New York and California, performing soil, ground water, and Phase I and II investigations for EA Engineering, Going & Associates, ERM-West, and GAIA Consulting. Mr. Taylor spent two years working as an urban environmental management consultant (aka Urban Peace Corps Volunteer) in Ivory Coast, West Africa, where he determined that the difference between rural and urban Peace Corps volunteers is their access to cold beer. He holds a B.A. in Geology from Rutgers University.

### **LANCE VLCEK**

Lance Vlcek is an Investigator with EPA Region 5. He has more than 30 years' experience conducting criminal and civil investigations. Mr. Vlcek has conducted investigations for the U.S. Army (active and reserve) and federal agencies including the Department of Energy, Defense Contract Audit Agency, Immigration and Naturalization Service, and Consumer Product Safety Commission in addition to EPA.

### **STEPHANIE WENNING**

Stephanie Wenning is a Compliance Officer in EPA Region 3. She joined EPA in October 2007. Ms. Wenning's responsibilities include conducting PRP searches and working with the Office of Regional Counsel and Department of Justice on cost recovery complaints. From 1996 to 2007, she was employed as a Superfund Technical Assessment and Response Team (START) contractor in Regions 3 and 5. Ms. Wenning received a B.S. in Environmental Science from Indiana University in 1996.

### **ROBERT WERNER**

Robert (Bob) Werner is an Enforcement Officer in Region 6. Bob's career includes eight years as a U.S. Army Commission Officer, five years as an IRS Revenue Agent dealing with high-net-worth individuals and small and mid-size corporations, eight years as a supervisor with General Motors, one year as an FDIC bank examiner, and 18 years as an EPA Civil Investigator. He received a B.S. degree in Business with an Accounting major from the University of Kansas in 1965 and an M.B.A. degree from Golden Gate University in San Francisco in 1973.

## **JAMES A. WILLIAMS**

James A. Williams is an Investigator in EPA Region 3's Cost Recovery Branch . He joined EPA as an Investigator in May 1990. His responsibilities include researching and performing financial analysis on all types of small and large businesses, estates, and individuals. These analyses are performed to determine ability to pay, identify any successor entities that may be liable, or to verify the adequacy of the financial assurances provided by performing settling defendants. Mr. Williams also conducts PRP searches and participates in the negotiation of settlements in cost recovery cases. He has won numerous regional and national awards and received a commendation from the Department of Justice for his work at EPA. Prior to working at EPA, Mr. Williams was a Revenue Officer in the Philadelphia District Office of the Internal Revenue Service from 1981 to 1990. Mr. Williams received a B.A. from West Chester State College.



# Using Collaboration and Innovation to Identify PRPs

**Lower Duwamish Waterway Superfund Site  
Background  
May 2008**

- About five miles of waterway between the southern tip of Harbor Island and Turning Basin #3. Waterway flows into Elliott Bay at Seattle and is part of the Puget Sound.
- Traditional fishing ground for the Muckleshoot and Suquamish Indian Tribes.
- In the early 1900's this area was primarily forest and farmland.
- In 1909 Seattle formed the Duwamish Waterway commission to sell bonds and re-channel the river creating new land for development and increasing the river's capacity for ocean-going vessels.
- In 1913 the U.S. Army Corps of Engineers began to straighten and deepen the river to a depth of 50 feet for 4 ½ miles. The work was completed in 1920.
- Commercial and industrial growth along the waterway since then has contributed to the contamination in the waterway sediments. Filling and dredging has occurred since 1918, so the face of the waterway has changed over time.
- By 1938 companies along the Duwamish Waterway included a several shipyards, a propeller manufacturer, several lumber companies, a paper box manufacturer, a glass manufacturer, several machine shops, an airplane manufacturer, several slaughter or rendering companies and several construction companies.
- In 1945 the newly created Washington State Pollution Control Commission began investigating the Duwamish-Green River area and found that "For some time it has been apparent that pollution from these plants [along the river] has been entering the Duwamish-Green River Waterway. In some instances this pollution flows directly into the river, but in most cases it first enters the sewers, where after mingling with human wastes, it then escapes by means of the outfalls into the waters of the stream." Contamination included oil, acid metal dips, chromic acid, caustic wash, copper ammoniate, animal wastes and gravel wash water.
- In 1955, there were four sewer outfalls, two storm water outfalls and one sewage treatment plant on the waterway.
- During the 1950's & 1960's, the Washington State Pollution Control Commission continued to document sources of pollution to the Duwamish. Problems were identified and state and local agencies worked with companies along the waterway to improve water quality.



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### Presenters:



**Grechen Schmidt**  
Investigator  
EPA Region 10  
206-553-2587



**Sarah Good**  
Environmental Planner  
Washington State Dept. of Ecology  
425-649-7257

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### What you will learn:

- Background information about the cleanup at the Lower Duwamish Waterway Superfund site.
- How we address overlapping responsibilities for identifying PRPs.
- The benefits we see from sharing information between agencies.

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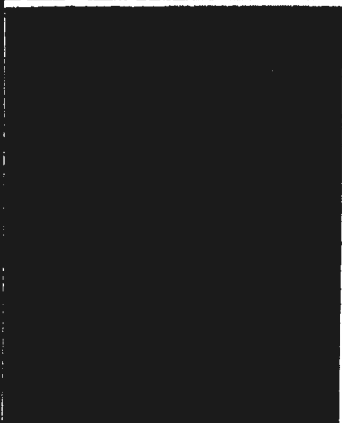
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The Duwamish River was dredged and straightened.

In light blue you can see the path of the river before 1909.

In dark blue is the current path of waterway.

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Duwamish then....



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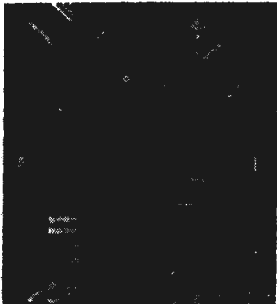
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Duwamish today...



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### Duwamish then....



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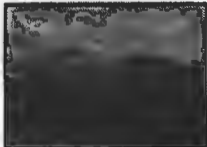
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### The Duwamish today



Boeing Plant 2



Columbia barge



Marine and Coast Guard



South Park neighborhood, Boeing Plant 2



Ship 4

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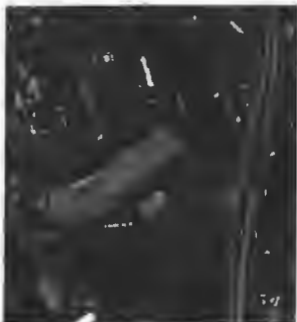
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### Duwamish Today...



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You can't keep the sediments clean unless you address the sources

Thus Region 10 and Ecology developed this innovative two-pronged approach.

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**Lower Duwamish  
Memorandum of Understanding  
(unique agreement in Region 10)**

- Signed in April 2002/Updated April 2004
- Joint Consent Decree
- Ecology and EPA Roles and Responsibilities:
  - Ecology: lead for source control/  
support for in-water work
  - EPA: lead for in-water work/  
support for source control

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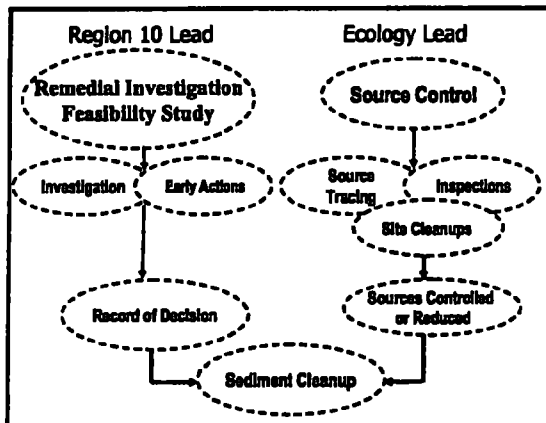
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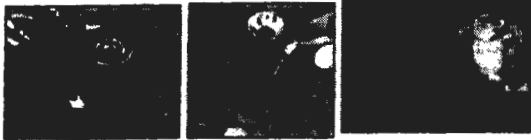
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### Source Control--Ecology

The process of finding and then stopping or reducing releases of pollution to waterway sediments.



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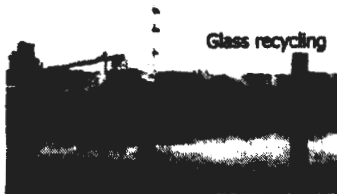
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### Ecology's Source Control Efforts

- Ecology develops Source Control Plans
- Conduct Inspections
- Ecology conducts MTCA cleanups



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### Sediment Cleanup--EPA

- Sediment in "Right of Way" of Duwamish Waterway
- Sediment in nearshore areas



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### Identifying PRPs by Region 10

1. PRP research began in 2001 with 4 major areas of concern

- Review of agencies files
- Interviews conducted at facilities
- Preliminary information was shared with Superfund staff in 2002

2. Investigative work continues through 2002-2004

- "Informal" requests for information sent to Port of Seattle, City of Seattle, King County and General Services Admin.

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### Identifying PRPs by Region 10

3. PRP work expanded to new areas of river.  
GNL/104(e) sent out starting in 2005.

4. In 2002, began sharing information with Ecology for source control documents.

5. To date, over 50 GNL/or 104(e) sent out Review this information and determine if interviews need to be conducted.

6. ROD due 2010.



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### Identifying PLPs by Ecology

1. Ecology identifies contaminated property **and** has an available site manager to work on the site.

2. Ecology sends Pre-PLP letter to Parties.

3. The parties respond.



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### Identifying PLPs by Ecology

4. Ecology reviews response.
5. Ecology sends Final PLP letter.
6. Ecology sends a letter initiating negotiations for an Agreed Order.

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### Ecology & Region 10 Comparison

#### CERCLA & MTCA

- Similar statutes, Consent Decree enforces both
- 2 distinctions- MTCA covers oil and state has sediment management standards

#### EPA & Ecology have different RP approaches

- EPA has an Investigator doing a broad search along the entire LDW site.
- Ecology uses targeted approach naming PLPs when we know there is an issue *and* when we have site managers available to work on the site.

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### Ecology & Region 10 Comparison

104 (e) provides EPA with information about the business and financial (ability to pay etc.) MTCA doesn't have anything like that.

#### Different responsiveness

- The same business/property owner may respond openly to one agency and very guarded to another.
- Sharing information between agencies is key

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### The light dawns!!!



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### Getting Started is the Hard Part

- Scope of the project is so large.
- Resources for both agencies is small for identification of PRP/PLP.
- No model to follow describing how to share information, and what information can be shared.
- Learning MTCA & Superfund and how they complement/contrast with each other.

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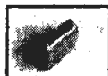
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### Initial barriers to project

- Washington state "sunshine laws"



- EPA's FOIA requirements



- Getting teams to accept/understand new coordination

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### **In a nutshell coordination helps Ecology because...**

PRP Search includes information on all the properties along the river. Ecology needs all the available information on all the upland facilities along the river in order to:

- Write reports that include all info for creating source control plans.
- Develop Source Control Action Plans include Action Items necessary to prevent recontamination of the sediments.
- Cite information in PLP notice letters for MTCA investigations.

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### **In a nutshell coordination helps EPA because...**

- Ecology has many environmental files and reports.
- Ecology Source Control documents can provide up to date information about property investigated some years earlier.
- Ecology reports include upland facilities that EPA will need to consider as potential sources of sediment contamination in the next phase of the investigation.
- This information supports EPA's identification of PRPs.

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### **Benefits of Collaboration**

- Prevents duplication of effort
- Saves money for both agencies
- Allows all agencies to consider long-term impacts of policy decisions
- Allows long-range planning to occur earlier in the process

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### More Benefits of Collaboration

- Allows for comparison of information gathered to ensure accuracy.
- Allows reports produced by both agencies to be as complete as possible—reviews.
- Improves trust between agencies.
- EPA and Ecology have a united front with the public on these issues.

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### That's all Folks!

Questions?

Comments?

Concerns?

Thoughts?



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## NOTES





# **Contaminant Sampling for PRP Confirmation**

## **Contaminant Sampling for PRP Confirmation**

Courtney Kudla and Jamie Bradsher  
EPA, Region VI

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## **Contaminant Sampling Pilot Project**

EPA, Region VI conducted a pilot project to  
address the Region's difficulty of locating  
PRPs at Sites prior to the RI/FS

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## **How to get Started....**

Review any information regarding the:

- Site Description
- Surrounding Land Use
- Site History
- Previous Investigations
- Prior Removal actions

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### **Enforcement Activities**

- PRP Search
  - Deed and Title Search
  - Corporate Research
  - 104(e) Letters
- PRP Search Report
- Issue General Notice Letters

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### **Determining Sampling Area**

- Compare Site Assessment Information with PRP Search Report
- Site Team Discussion

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### **Sampling Selection Process**

- Who is going to do the work?
  - Other Agencies
  - Contractors
- What type of work should be done?
  - Sampling Methods
  - Surveys

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### Documents for Site Work

- Work Plan
  - Purpose
  - Elements of Work Plan
  - Work Plan Development
- Quality Assurance Project Plan (QAPP)
  - Purpose
  - Elements of QAPP
  - QAPP Development

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### How to Fund the Work Through an IAG

- Funding
  - Interagency Agreement (IAG)
  - Request for Funding Form
- Budget
  - Approval
  - Allocation

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### Lessons Learned

- Contract vs. IAG
- Timeframe for Sampling
- Benefits for Enforcement and Remedial

Contract vs IAG  
Benefits for R is  
quicker  
IAG - 100+ w much oversight  
Cheaper

### **Site Specific Examples**

- **Gulfoo**
- **Donna Reservoir and Canal System**
- **Midessa Ground Water Plume**

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## NOTES





## Mercury Sites

## **MERCURY RELEASES**

(IN RESIDENCES AND PUBLIC BUILDINGS)

**Wilda Cobb - Region 4**

**Herb Miller - Region 4**

**Carol Ropski – Region 5**

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## **Mercury-specific Laws**

- **Mercury-Containing and Rechargeable Battery Management Act of 1996**
- **Clean Air Act**
- **Clean Water Act**
- **RCRA**
- **Safe Drinking Water Act**

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## **Three forms of Mercury**

- **Elemental Mercury**
- **Inorganic Mercury**
- **Organic Mercury**

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## **SPECIFIC ISSUES**

- Under what circumstances should EPA pursue cost recovery from Schools and home owners.
- Use of federal dollars to cleanup and restore private property—(especially when the property owner is a PRP)
- These are generally releases that are indoor.
- The cleanup may include disposal of personal property.
- Cleanups may require relocation of residents
- Medical issues concerning residents

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## **WHERE IS THIS MERCURY**

- People keep jars of mercury in their homes
- Blood Pressure devices and other medical instruments,
- Barometers and manometers
- Industrial sites
- Dental offices
- Schools labs
- Antique Grandfather clock
- Thermometers

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## **Contd.**

- Use in folk medicine and religious purposes
- Power Companies' and other industries that use mercury switches, etc.
- Gas Company Regulators
- Furnaces

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### WHERE ARE THESE RELEASES OCCURING

- Hospitals
- Doctor and dental offices
- Non-profit clinics
- Schools and school buses
- Private Residences and cars

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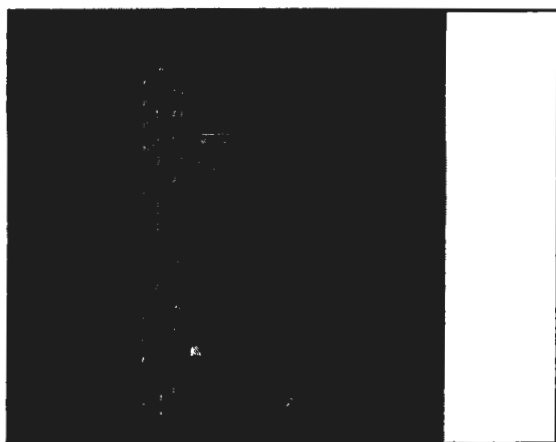
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### WHY WORRY ABOUT SUCH A SMALL RELEASE

- Relatively small amounts can result in dangerous levels of mercury vapor.
- Exposure to mercury vapor can affect brain and central nervous system
- Low levels of mercury exposure have been associated with learning problems in children.
- Mercury can be absorbed through the skin and accumulate in the kidneys.

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**Man dies from mercury poisoning after trying to extract gold**

SENIOR Staff Writer

Published:

Tuesday, April 1, 2008 11:45 AM CDT

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## PRPS

- Owners of the property that is subject to the cleanup
- Owner of the mercury/or generator
- Who caused the release

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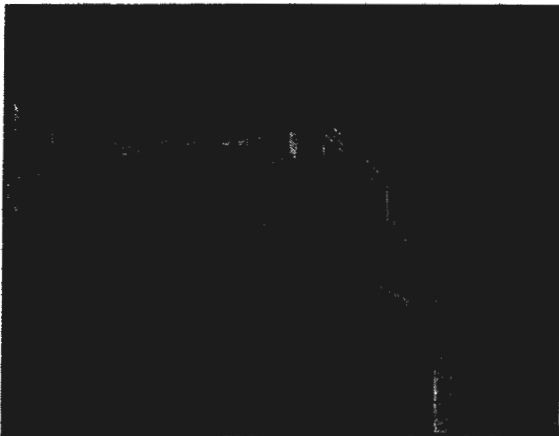
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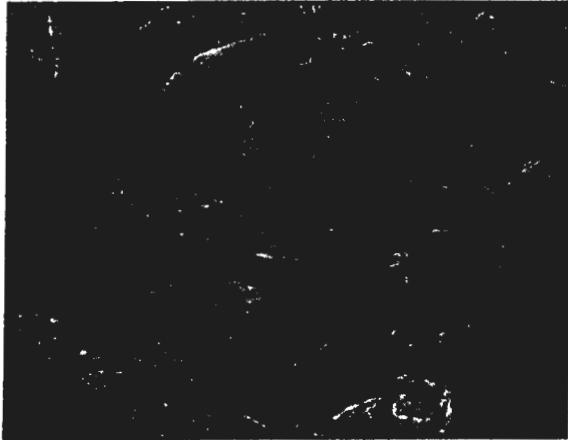
## REPLACEMENT & RELOCATION COSTS

Temporary relocation of the residents may be required during the cleanup for their health/safety.

In some cases permanent relocations are required.

Private/personal property may be contaminated and need to be disposed of





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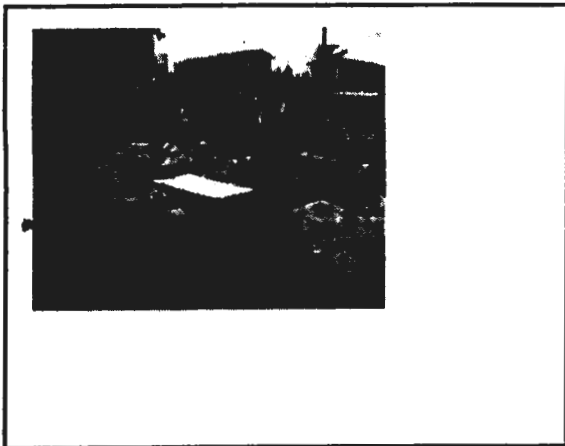
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## LIABILITY

- Strict liability v. Negligence
- 107(b) Defenses
- Enforcement discretion

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## Insurance

- Ask for all Insurance policies
- There may be may be more than one policy
- Mortgage Insurance
- Get Assignments signed

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## ABILITY TO PAY

- Along with Insurance policies you will need to get all the financial information.

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## QUESTIONS

- Where did the mercury come from?
- How did the release occur?
- Were responsible actions taken to contain the release?
- Was an adult (over 18 years old) involved in the acquisition, ownership, storage, or release of the mercury?

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## EDUCATIONAL INSTITUTIONS

- Did the mercury come from the school?
- How was it stored?
- Why did the School have the mercury?

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**DRAFT**

# **GUIDELINES FOR RESPONDING TO MERCURY SPILLS & RELEASES IN SCHOOLS AND RESIDENCES**

## **REGION 5 US EPA**

### **INTRODUCTION:**

Over the past several years, the number of mercury releases in Region 5 involving schools and private residences have increased. In many of these incidents, children obtained unsecured elemental (metallic) mercury and contaminated schools, their own residences and the residences of others. The Superfund Emergency Response Branch responds to releases of mercury into the environment, and a number of funding and enforcement issues have been raised regarding federal responses at educational institutions and private residences where spilled mercury constitutes a threat to public health, welfare or the environment. Specific issues center around the use of federal dollars to clean up and restore private property contaminated during the release, particularly if a school or property owner is fully or partially responsible for the incident. Associated with this issue is whether, and under what circumstances, the Region should pursue cost recovery from educational institutions and home or property owners for federal expenditures incurred during cleanups.

### **EXPOSURE TO MERCURY:**

Mercury is found in several chemical forms, such as: elemental, inorganic, and organic.

**Elemental Mercury:** Elemental mercury, also referred to as metallic mercury, is a shiny, silver-white, odorless liquid, that is used in thermometers, dental fillings, and batteries and is also used industrially to produce chlorine gas and caustic soda. Elemental mercury readily evaporates at room temperature to form a colorless, odorless gas. In an enclosed space, even a relatively small amount of mercury can result in the accumulation of a very high level of mercury vapor in indoor air. Therefore, exposure via inhalation of elemental mercury is a particular concern when mercury is spilled in homes or in other enclosed areas.

**Inorganic Mercury:** Mercury combines with other elements, such as chlorine, sulfur, or oxygen, to form inorganic mercury compounds or "salts," which are usually in the form of white powders or crystals. Mercury salts are used in skin-lightening creams and in antiseptic creams and ointments. Inorganic mercury does not readily evaporate and is not easily inhaled; however, inorganic mercury can be absorbed across the gastrointestinal tract and the surface of the skin. Therefore, ingestion and skin contact are the likely routes of exposure.

**Organic Mercury:** Mercury also combines with carbon to make organic mercury compounds. The most common form is methyl mercury, which is produced mainly by small organisms in the water, soil, and sediment. Increasing emissions of mercury into the environment can increase the levels of methyl mercury that these small organisms make. The most significant source of human exposure to organic mercury is through diet, particularly from fish products. Since organic mercury is easily absorbed through the gastrointestinal tract and through the skin, ingestion and skin contact can result in exposure.

## **HUMAN HEALTH EFFECTS:**

The nervous system is extremely sensitive to the toxic effects of all forms of mercury. Exposure to high levels of elemental, inorganic, or organic mercury can permanently damage the brain, kidneys, and the developing fetus. Effects on brain functioning may result in irritability, shyness, tremors, changes in vision or hearing, and memory problems.

Short-term exposure to high levels of metallic mercury vapors also may cause effects on other organ systems, including lung damage, nausea, vomiting, diarrhea, increases in blood pressure or heart rate, skin rashes, and eye irritation.

Mercury absorbed through the lungs, gastrointestinal tract or the skin can accumulate in the brain and kidney, and is slowly excreted from the body through the urine. Exposure to mercury can be verified by testing blood, urine, or hair samples. Individuals who have elevated levels of mercury in their body can be treated with "chelating agents" to increase the rate of excretion of mercury from their body.

## **NOTIFICATION AND RESPONSE:**

Telephone Duty Officers or other Response personnel receiving notification of a spill or release of mercury in a home or school should assess the seriousness of the incident before dispatching a Response On-Scene Coordinator (OSC) to investigate (Appendix A provides a list of questions to help screen mercury notifications). Small spills (e.g. broken thermometers, etc) may be addressed through verbal advice to the homeowner. Many pharmacies carry cleanup kits for small residential mercury spills. The Telephone Duty Officer or Response OSC should also provide the homeowner with information about the proper disposal of mercury and mercury contaminated materials from the cleanup. In other incidences (e.g. a recent spill which has been contained), local responders may be able to provide technical assistance regarding the cleanup and disposal of mercury and mercury contaminated materials. In incidents where public health, welfare or the environment has the potential to be impacted, or mercury has been spread throughout a residence, a school or a neighborhood, or where the extent of contamination is not certain, an OSC should be dispatched to investigate.

After the OSC has investigated the incident and a decision has been made to perform an emergency removal action, the OSC will contact a member of the Mercury Enforcement Team (Enforcement Team) as soon as reasonably possible. The Enforcement Team consists of an Enforcement Specialist, an ORC Attorney and a Civil Investigator. The Enforcement Team will be the same for all mercury sites to provide for consistency in the enforcement approach. The OSC, Enforcement Specialist and/or ORC attorney will decide if a situation warrants further

investigation. If further investigation is needed, the Mercury Civil Investigator will be dispatched as soon as possible after the response action is initiated. As outlined in this document and the U.S. EPA Region 5 Mercury Response Guidebook, the OSC will also contact health officials to assist with the cleanup effort.

## **ENFORCEMENT:**

### **PRP LEAD**

The Response OSC and the Enforcement Team should reach a timely consensus concerning the willingness and ability of a PRP to undertake the required response action. With the possible exception of small, contained spills, homeowners generally do not have the technical expertise to conduct a mercury removal on their own, or with contractor assistance. Because of the potential harm that mercury presents to public health, welfare or the environment, the Response OSC will ensure that PRP lead removal actions are conducted in a safe and timely manner, including the proper transportation, storage and disposal of contaminated materials. Inappropriate cleanup techniques and/or disposal options can result in wide-spread mercury contamination, additional risk to public health, welfare, or the environment and greater cost to the government.

### **FUND LEAD**

**Insurance Indemnification:** When the Team determines that it is neither practical, efficient nor effective to have the PRP undertake the required response, then the site owner or operator will be required to reveal information about his/her insurance coverages with an aim of assisting the Agency in making a determination about insurance coverages. In some instances, the proceeds of insurance policies could be available to help indemnify Agency response costs. More often, insurance policies may allow the site owner or operator to claim reimbursement for personal property or use losses resulting from mercury contamination such as replacing the contents of a home, institution or facility or for down-time, loss of rental income or costs incurred to replace structural damage. Such portions of an insurance benefit must be segregated from that portion attributable to the mercury removal. Another situation which requires a differentiation as to the loss that is being paid is that sometimes more than one insurance policy may exist which covers a multitude of losses or multiple insureds. Most often, such a scenario exists when a site is owned by one party and leased to another or when separate entities are involved in the management and ownership of facilities.

To help assure that Agency response costs only are paid under the provisions of one or more insurance policy and to facilitate the Agency's claim to such insurance, efforts must be made by the Response OSC at having the site owner, operator or both sign the "Assignment" attachment. Once signed, a copy should be given to those that signed it.

**Third Party Reimbursement:** Often the negligent conduct of non-owners and non-occupants of a site substantially facilitates the release of mercury into the environment by others. Illustratively, schools which fail to lock chemical storage cabinets or to have policies or procedures precluding a student from easily removing mercury from school grounds or businesses which haphazardly abandon facilities containing mercury where children can easily

gain access are examples of such negligent conduct. In such cases, the conduct of such parties contributes, aids or assists in the eventual release of mercury. Although such party may not have caused the actual release of mercury to the environment, their neglect in precluding access to or safeguards against its possession by the person that caused the release can result in the imposition of civil liability against such party.

In circumstances where a third party may appear to have such civil liability, the Response OSC will endeavor to have the site owner or occupants execute the "Assignment" permitting the Agency to recover response costs, and only response costs, against such party. Once signed, a copy should be given to all that signed it.

#### **MERCURY RESPONSE AND CLEANUPS:**

EPA's response to mercury spills in homes has included relocating residents, gathering visible mercury using a variety of techniques, and heating and ventilating houses to drive off the harmful mercury vapors. In some instances, walls, carpeting, and floors have had to be removed because of mercury contamination. Contaminated personal possessions that are porous (ie. clothing, bedding, furniture) have been properly disposed of when mercury could not be removed. Specific technical and administrative guidance for conducting a mercury response are provided in the "U.S. EPA Region 5 Mercury Response Guidebook."

#### **ELIGIBLE RELOCATION AND REPLACEMENT COSTS:**

**Relocation Costs:** A CERCLA response action may require that U.S. EPA relocate persons temporarily for their health and/or safety, or to allow U.S. EPA to conduct the necessary clean up activities. Temporary relocations are carried out under removal and remedial authorities and may occur as part of an emergency response or a cleanup with a longer planning period. Each type of assistance or procedure described in the "Guidance on Temporary Relocations During Superfund Response Actions" (Temporary Relocation Guidebook) and the "Region 5 Mercury Response Guidebook" will not apply to every site or affected individual because the range of response actions that may involve temporary relocation are so broad, and because other site specific factors must be considered. Due to the inherent constraints present with the emergency responses, OSCs, where possible, should implement the portions of the Temporary Relocation Guidebook in such a way that they do not impede the emergency response actions. Specific policies and implementation of relocation operations during removal actions, as well as the parameters and the administration of temporary relocation assistance, are provided in the Temporary Relocation Guidebook.

**Replacement Costs:** Hazardous substance releases can also damage or contaminate private property, or property may be damaged in the response effort. In these circumstances, EPA may consider compensating private citizens for such property. Most losses suffered by private citizens should be compensated by the party or parties responsible for the contamination; however, if a PRP cannot be identified or is not viable, EPA may elect to compensate for property loss due to a hazardous substance release or the resulting response effort, although some circumstances may limit eligibility for compensation under Superfund. Superfund may not cover losses due to the negligence of contractors; the contractors themselves would be responsible for

such losses. Also, citizens that have been found to be PRPs at a site are generally not eligible for compensation. Additional information on the eligibility of replacement costs may be found in the U.S. EPA draft document "Guidance on Compensation for Property Loss in Removal Actions" (May 1995).

The following considerations should be taken into account in determining whether a homeowner or educational institution is a potentially responsible party:

- \* Where did the mercury come from (industry, school, private residence)?
- \* How did the release occur?
- \* Who reported the release, and to whom was it reported?
- \* Were responsible actions taken to contain or limit the spread of the contamination?
- \* Was adult (over 18 years old) negligence involved in the acquisition, ownership, storage or release of the mercury?
  - inadequately secured mercury probably constitutes negligence.
  - storage of mercury in a privately owned residence, garage or shed, probably constitutes negligence.
- \* If adult negligence was involved, is the PRP viable? To what extent?
- \* In general, U.S. EPA Region 5 considers educational institutions to be PRPs, when the source of the mercury contamination came from their facilities (science laboratories, etc.) or activities. If the mercury contamination came from an outside source (industry, private residence, etc), in general, the educational institution would not be considered a PRP.

Finally, if an educational institution or homeowner is determined to be responsible for the release, but not a viable PRP (i.e. cannot pay cleanup costs), EPA may fund costs associated with the cleanup and basic restoration of the PRP's building or residence, but not costs associated with the PRP's furnishings or property (furniture, appliances, clothing, toys, etc.). The building or residence may be cleaned or restored only to the extent that it does not present a health threat to the residents or occupants, and the building is habitable. EPA will not compensate for losses associated with moveable furnishings and private property. In general, this would include area carpeting, and/or wall-to-wall carpeting placed over a finished floor (hardwood, tile, linoleum). Wall-to-wall carpeting placed over plywood flooring would be considered part of the building, and could be replaced to make the residence "habitable."

At the discretion of the OSC, EPA may provide compensation through three methods: 1) restoring property to its original condition; 2) providing replacement property of similar value, or 3) reimbursing owners in cash for the value of lost property. In general, restoration should be the first option considered, followed by replacement.

## **LEGAL AUTHORITIES and CONSIDERATIONS:**

Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9604, authorizes EPA to remove or arrange for the removal of any hazardous substance, pollutant or contaminant if it is deemed necessary to protect the public health, welfare or the environment. Mercury is a characteristic waste under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, as amended, and 40 C.F.R. § 261.24. Mercury exhibits the characteristics of toxicity D009, and is therefore a hazardous substance under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). Therefore, EPA has the legal authority to respond to mercury releases.

Section 300.415(a)(2) of the NCP requires the lead agency, to the extent practicable, to search for Potentially Responsible Parties (PRPs) and attempt to have them perform the necessary removal action. PRPs are past and present owners and operators of a facility, people who arranged for disposal or treatment of hazardous substances, and anyone who accepts or accepted hazardous substances for transport to disposal or treatment facilities and selected the site from which there is an actual or threatened release. It should be noted that homeowners or educational institutions are not excluded from the definition of PRPs.

Section 106 of CERCLA, 42 U.S.C. § 9606, authorizes EPA to issue administrative orders to compel PRP response, and authorizes EPA to enforce the terms of the administrative orders and compel noncomplying PRPs to respond through judicial action. If a PRP does not conduct the cleanup, EPA may initiate a Fund-financed removal action and seek reimbursement from PRPs for all response costs incurred by EPA not inconsistent with the NCP. See Section 107 of CERCLA, 42 U.S.C. § 9607. Section 107 of CERCLA, 42 U.S.C. § 9607, imposes strict liability upon PRPs and has been interpreted by the courts to impose joint and several liability upon all PRPs involved at a site where harm is not divisible. Decisions to pursue or not to pursue legal remedies and/or cost recovery from PRPs for the release will be made by the Mercury Enforcement Team.

Section 122 of CERCLA, 42 U.S.C. § 9622, authorizes EPA to enter into agreements with PRPs to perform response actions. If the threat posed by the mercury release is serious and/or immediate enough to warrant an emergency federal-lead response, the OSC should not "compel" a homeowner to perform a mercury cleanup; however, if the threat is not serious and/or immediate and if the homeowner volunteers to hire a qualified contractor to conduct the cleanup, under EPA oversight, the OSC may consider this as a viable option.

Section 111(a) of CERCLA, 42 U.S.C. § 9611(a), authorizes EPA the authority and discretion to appropriate monies from the Hazardous Substance Superfund for "[p]ayment of any claim for necessary response costs incurred by any other person as a result of carrying out the national contingency plan established under Section 1321(c) of Title 33 and amended by section 9605 of this title..." Therefore, damage or contamination to land or property incurred during a response action may be compensable by EPA, particularly where the release was on the property of an innocent party. See Superfund Removal Procedures Manual, Office of Solid Waste and Emergency Response (OSWER) Directive 9360.0-03B (February 1988). If this situation occurs, the OSC should immediately consult with the Office of Regional Counsel.



The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), 42 U.S.C. § 4601, ensures uniform and equitable treatment of persons who may be displaced from their homes and businesses during federal programs, such as disaster relief or national emergencies, or as a result of projects involving acquisition of a private property. URA provides for the issuance of relocation benefits to persons displaced by such actions. When an OSC determines that activities at a response action will affect local residents, U.S. EPA is authorized under Executive Order 12580, Superfund Implementation, to temporarily relocate threatened individuals as part of the removal action. According to URA, the U.S. EPA OSC makes the determination of the need for relocations that are carried out in conjunction with Superfund removal activities. PRPs are generally not eligible to receive any relocation benefits; therefore, OSCs should consult with the Office of Regional Counsel and EPA's Office of Enforcement before making any benefits available to PRPs (OSWER Directive 9360.3-09, January 1998).

Approved:

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William E. Muno, Director  
Superfund Division

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Date

**APPENDIX A**  
**ASSESSING MERCURY NOTIFICATIONS**

***A Guide for OSCs***

The Telephone Duty Officer or OSC receiving a mercury spill notification should attempt to obtain the following information:

1. What was the source and amount of the mercury that was spilled?
  - A. If mercury was spilled from a small broken thermometer, ask where the thermometer was obtained, using a checklist that includes hospital/physician. (This information may be needed to target other preventative actions.) End questioning and send a "Healthcare Without Harm" brochure.
  - B. If the mercury was from a source other than a thermometer, continue with the questions.
2. Where was the mercury spilled?
3. When was the mercury spilled?
4. Does anyone who may have been exposed have any physical symptoms or has anyone been seen by a physician?
5. What is the name, age, sex of each resident or individual who may have been exposed to the mercury? Is it possible that any of these individuals are pregnant?

If the spill is larger than an amount spilled from a thermometer, refer to an OSC and form a team which includes the OSC, a representative from the Enforcement Team, and a representative for health issues.

**Roles and Responsibilities of Team Members:**

**OSC**

- team leader - establishes task force, consults Enforcement Team Members, develops plans;
- oversees cleanups conducted by schools and their contractors or state/local environmental agencies;
- conducts or oversees residential cleanups;
- speaks with the media;
- determines need for community contact/public meetings;
- writes POLREPs; and
- writes START activity reports.

#### **Enforcement Team**

- determines whether PRP or fund lead; and
- informs team of information needed to make decision regarding PRP.

#### **Health Team**

- determines need for relocation;
- determines need for medical testing;
- assists in obtaining biological or medical testing;
- interprets and notifies residents of biological or medical testing results;
- helps set protective (analytical) cleanup levels;
- conducts health education and outreach, and
- works with state and local health representatives (determining their roles in above tasks as well as establishing legal authority for action when needed, issuing alerts, serving as contacts for community, etc.).



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590**

**MAY 18 2004**

**ATTORNEY WORK PRODUCT**  
**FOIA EXEMPT**

**REPLY TO THE ATTENTION OF:  
C-14J**

**MEMORANDUM**

**SUBJECT: CERCLA Cost Recovery at Residential Mercury Sites**

**FROM: T. Leverett Nelson, Chief**

**Multi-Media Branch I**  
**Office of Regional Counsel**

A handwritten signature in black ink, appearing to read "T. Leverett Nelson", written over a horizontal line.

**TO: Jason H. El-Zein, Acting Chief**

**Emergency Response Branch  
Superfund Division**

**Thomas Geishecker, Deputy Chief**

**Emergency Response Branch  
Superfund Division**

Over the past four years, the Superfund Emergency Response Branch has responded to approximately 145 releases of mercury. Many of these releases are from private residences. Approximately 53 of these 145 response actions have been fund-lead. Fund-lead mercury response actions typically are in the \$10,000-\$40,000 range, plus indirect costs. While small by Superfund standards, these removals, when conducted in private residences, are often beyond the means of the homeowner to reimburse the fund for the costs of the response action.

To date, of the 53 fund-lead mercury removal sites, the Region has been reimbursed for its response costs at only one site; that site involved a small business. Efforts to develop further financial information using enforcement tools has not been productive or cost-effective. Typically, once the response action is completed, homeowners do not respond to CERCLA §104(e) requests, and, many times, do not accept certified mail from the U.S. EPA. Thus, much time and Agency resources are devoted to educating and explaining the Superfund process to unwilling initiates—both attorneys and laypersons—even though the case team may already possess a level of information sufficient to competently exercise its enforcement discretion in closing out the Agency's response costs.

Because of the typically small amounts of money involved and the general concern that increasingly limited Agency resources be used in the most cost-efficient manner, the Office of Regional Counsel (ORC) believes that residential mercury removal sites with response costs

(direct and indirect) less than \$50,000 may be summarily closed out, as a proper use of our enforcement discretion. At these sites, a short memorialization by the On-Scene Coordinator (OSC) of his or her impressions regarding the homeowner's ability-to-pay, as well as any supporting documentary information he or she has received, will be sufficient justification for close-out. The brief discussion of the homeowner's ability-to-pay should describe any information the OSC obtained regarding the existence of possible insurance coverage. (Please note, however, that because potential adverse consequences may accrue to the homeowner by virtue of simply making a claim with his or her insurance company, the OSC need not direct the homeowner to make such a claim for response actions of this size.)

Sites meeting the above monetary criterion (i.e., less than \$50,000 in total response costs) may be grouped for close-out purposes, and "blanket" close-outs of these sites may be done once or twice per year, as appropriate. ORC, to the extent practicable, will attempt to facilitate these blanket close-outs by requiring staff-level review of the blanket close-out memorandum by one of the Removal Coordinators (i.e., not the staff-level attorney who was initially assigned the removal action). If the staff-level attorney assigned to the removal action has a site-specific reason why his or her site should not be summarily closed-out, he or she should discuss these site-specific factors with the enforcement specialist and the Removal Coordinators.

For mercury sites where response costs are greater than \$50,000, we should first look to whether adult negligence on the part of the homeowner was responsible for the release of mercury. If no adult negligence is involved, the Region's draft "Guidelines for Responding to Mercury Spills & Releases in Schools and Residences" allows the Region to take this fact into account when making its determination as to whether the homeowner should be pursued as a PRP under CERCLA. If the Region, in its enforcement discretion, concludes that the homeowner should not be pursued as a PRP under CERCLA (and no other entities exist that might be considered PRPs), then response costs associated with the site may be closed out with no further cost recovery activity necessary. Conversely, if the Region determines, in its enforcement discretion, that the homeowner should be pursued as a PRP under CERCLA, then further cost-recovery activities should be undertaken before the Region's response costs are closed out. These cost-recovery activities may include "streamlined" CERCLA §104(e) requests that will aid in documenting (1) the PRP's ability to pay, and (2) whether the PRP has made a claim under any existing property or liability insurance policy for the Region's response costs, and, if so, whether the insurance company has accepted, partially accepted, or denied such claim.

This approach to cost recovery at mercury removal sites is consistent with other Regions' approaches and will allow us to focus our cost recovery efforts on sites where CERCLA's broad liability and cost recovery provisions are more appropriately applied and more likely to successfully replenish the Superfund. Questions regarding the application of this memorandum to individual sites may be directed to Tom Krueger at 6-0562 or to Jim Morris at 6-6632.

cc: Linda Nachowicz, Superfund Enforcement Coordinator  
 Thomas J. Krueger, ORC  
 James Morris, ORC  
 Carol Ropski (SE-5J)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 11 2008

REPLY TO THE ATTENTION OF:

To:

File

Carol Ropski

Enforcement Specialist

Monesh Chabria

Office of Regional Counsel

Date:

Subject:

Final Close-Out Memorandum for Removal Actions

CERCLA Cost Recovery for Residential Mercury Sites Under \$50,000

In a Memorandum dated May 18, 2004, the United States Environmental Protection Agency (U.S. EPA) determined that residential mercury removal sites with direct and indirect response costs of less than \$50,000 may be summarily closed out as a proper use of U.S. EPA's enforcement discretion (Reference [Ref.] 1).

U.S. EPA enforcement efforts for fund-led mercury removal actions at residential sites have not been cost effective due to the low cost of residential mercury removal actions, the amount of U.S. EPA staff time spent pursuing homeowners, and the history of cost recovery at those sites. U.S. EPA has, therefore, determined that residential mercury sites whose expenditures amount to less than \$50,000 can be grouped and closed out under a "blanket" memorandum. Short memorializations by the U.S. EPA On-Scene Coordinators (OSCs) of their impressions regarding each of the homeowners' ability to pay will be sufficient to close out these sites (Ref. 1). In some instances, the OSC's impressions are recorded in the Enforcement Addendum of the Action Memo for that particular site.

Based on the foregoing, we recommend that the following residential mercury removal sites be closed out without further attempt to collect costs because they meet the criteria enumerated above:

Site Name	SSID	Removal Completion Date	Cost
Clifton Street Mercury Spill	B5FB	10/03/2006	\$23,171.10
Eastern Avenue Mercury Site	B5DB	12/21/2005	\$7,685.48
Freeman Street Mercury Spill	B5DU	04/21/2006	\$30,848.77
Miller Residence Mercury Spill	B5DW	06/13/2006	\$18,990.17

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Page 1

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<b>Site Name</b>	<b>SSID</b>	<b>Removal Completion Date</b>	<b>Cost</b>
<b>Shelby Mercury Spill</b>	<b>B5FR</b>	<b>12/06/2006</b>	<b>\$28,584.70</b>
<b>Westbrook Mercury Site</b>	<b>B5FG</b>	<b>11/19/2006</b>	<b>\$16,321.48</b>
<b>Sidney Mercury Site</b>	<b>B5GR</b>	<b>03/09/2007</b>	<b>\$24,283.65</b>
<b>Burtchville Mercury Site</b>	<b>B5GG</b>	<b>02/27/2007</b>	<b>\$8,957.90</b>

Attached hereto are the Action Memoranda, Final Pollution Reports (POLREPs), Itemized Cost Summaries, and/or short statements from the OSCs for each site (Ref. 2 through Ref. 29, inclusive).

**ENFORCEMENT CONFIDENTIAL**

**Approval:**

  
\_\_\_\_\_  
William Messenger  
EESS Section Chief

3-11-08  
Date

  
\_\_\_\_\_  
Connie Puchalski  
ORC Section Chief

march 10, 2008  
Date

**Disapproval:**

\_\_\_\_\_  
William Messenger  
EESS Section Chief

\_\_\_\_\_  
Date

\_\_\_\_\_  
Connie Puchalski  
ORC Section Chief

\_\_\_\_\_  
Date

**ENFORCEMENT CONFIDENTIAL**



## **REFERENCE DOCUMENTS**

- Reference 1 - U.S. EPA Memorandum - CERCLA Cost Recovery at Residential Mercury Sites, 05/18/04**
- Reference 2 - Action Memorandum – Request for an Emergency Removal Action at the Clifton Street Mercury Spill Site, Elgin, Kane County, Illinois; 11/22/2006**
- Reference 3 - U.S. EPA Pollution Report, POLREP No. 3; Final POLREP, Clifton Street Mercury Spill, Elgin, IL; 10/11/2006**
- Reference 4 - Itemized Cost Summary, Clifton Street Mercury Site, Elgin, IL; Costs Through 12/31/2007; Report Date: 01/07/2008**
- Reference 5 - Email from Theresa Holz; Subject: Mercury enforcement; 10/13/2006**
- Reference 6 - Action Memorandum – Request for an Emergency Removal Action at the Eastern Ave. Mercury Spill Site, Toledo, Lucas County, Ohio; 07/20/2006**
- Reference 7 - U.S. EPA Pollution Report, First and Final POLREP, Eastern Mercury Spill, 512 Eastern Avenue, Toledo, OH; 03/08/2006**
- Reference 8 - Itemized Cost Summary, Eastern Ave. HQ Spill; Costs Through 09/30/2006; Report Date: 10/16/2006**
- Reference 9 - Email from Jon Gulch; Subject: Eastern Avenue Action Memo; 06/21/2006**
- Reference 10 - Action Memorandum: Request for an Emergency Removal Action at Freeman Street Mercury Site, located in Warren, Trumble County, Ohio; 07/20/2006**
- Reference 11 - U.S. EPA Pollution Report, Initial and Final POLREP, Freeman Street Mercury Response, 339 Freeman, Warren, OH; 04/24/2006**
- Reference 12 – Itemized Cost Summary, Freeman Street Mercury Response, Warren, OH; Costs Through 12/31/2007; Report Date: 01/07/2008**
- Reference 13 - Action Memorandum: Request for an Emergency Removal Action at Miller Residence Mercury Site, located in Marinette, Wisconsin; 09/06/2006**

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- Reference 14 - U.S. EPA Pollution Report, Final POLREP, Miller Residence, 1008 Carney Blvd., Marinette, WI; 06/30/2006**
- Reference 15 - Itemized Cost Summary, Miller Residence, Marinette, WI; Costs Through 10/31/2006; Report Date: 11/09/2006**
- Reference 16 - Action Memorandum: Request for Approval of an Emergency Removal Action at Shelby Ohio Mercury Spill Site, located in Shelby, Richland County, Ohio; 02/20/2007**
- Reference 17 - U.S. EPA Pollution Report, Initial and Final POLREP, Shelby Ohio Hg Spill, 56 Grove Avenue, Shelby, OH; 11/15/2006**
- Reference 18 - Itemized Cost Summary, Shelby Mercury Spill, Shelby, OH; Costs Through 12/31/2007; Report Date 01/07/2008**
- Reference 19 - Action Memorandum: Request for an Emergency Removal Action at the Westbrook Mercury Spill Site, located in Detroit, Wayne County, Michigan; 12/20/2006**
- Reference 20 - U.S. EPA Pollution Report, First and Final, Westbrook Mercury Spill, Detroit, MI; 12/11/2006**
- Reference 21 - Itemized Cost Summary, Westbrook Mercury Spill, Detroit, MI; Costs Through 12/31/2007; Report Date: 01/07/2008**
- Reference 22 - Action Memorandum – Request for an Emergency Removal Action at the Sidney Mercury Site, Sidney, Shelby County, Ohio; 05/15/2007**
- Reference 23 - U.S. EPA Pollution Report; Initial and Final POLREP, Sidney Mercury, 631 South Ohio Avenue, Sidney, OH; 03/14/07**
- Reference 24 - U.S. EPA email from Brad Stimple, On-Scene Coordinator; Subject: Sidney Mercury; 04/17/07**
- Reference 25 - Itemized Cost Summary; Sidney Ohio Mercury Spill, Sidney, OH; Costs Through 12/31/2007; Report Date: 01/07/2008**
- Reference 26 - Action Memorandum – Request for an Emergency Removal Action at the Burtchville Mercury Site, Burtchville, St. Clair County, Michigan; 04/12/2007**
- Reference 27 - U.S. EPA Pollution Report; Final Polrep, Burtchville Mercury, 6380 Lakeshore Road, Butchville (sic), MI; 02/28/2007**

**ENFORCEMENT CONFIDENTIAL**

**Reference 28 - U.S. EPA email from Brad Stimple, On-Scene Coordinator, Subject: Burtchville Mercury; 04/05/2007**

**Reference 29 - Itemized Cost Summary; Burtchville Mercury Site, Burtchville, MI; Costs Through 12/31/2007; Report Date: 01/07/2008**

**ENFORCEMENT CONFIDENTIAL**

## NOTES



## **PRP Search Consultation Process**

## **The PRP Search Consultation Process**

**Steve Keim**  
Office of Site Remediation Enforcement  
Kelm.Stephen@epa.gov

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### **What Is the PRP Search Consultation Process?**

- ◆ A forum for a PRP searcher to consult with experienced colleagues about how to proceed with a PRP search that presents difficult issues or appears to have reached a dead end
- ◆ Panel of consultants chosen for experience with the issues or type of site to be addressed
- ◆ Small panel (2 or 3 members) conducive to substantial discussion

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### **How Does It Work?**

- ◆ Presenting PRP searcher provides background materials in advance
  - Brief description of site and its history
  - Maps showing locations of facilities and contamination
  - Questions or goals for consultation
  - Can be reviewed in about an hour
- ◆ Consulting panelists review materials, become familiar with site, and formulate questions

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### How Does It Work? (cont.)

- ◆ Conference call scheduled
- ◆ Presenting PRP searcher frames issues and asks for input
- ◆ Panelists ask questions, discuss issues, and make suggestions
- ◆ Attempt to reach consensus on PRP search priorities
- ◆ Presenter does follow-up work
- ◆ Panelists may continue to consult

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### When Is Process Used?

- ◆ At request of PRP searcher
- ◆ Referral from National Prioritization Panel (NPP) enforcement screening
  - Mike Northridge (OSRE), enforcement advisor to NPP, reviews the enforcement status of fund-lead remedial action funding candidate sites
  - Refers sites he believes may benefit from further PRP search work
  - Mike will sit in on consultations he refers

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### How Does the Consultation Process Relate to NPP Screening?

- ◆ Consultation process operates in parallel with NPP oversight process
  - Consultation meant as a collegial forum for seeking advice, not an oversight tool
  - Anticipate that PRP searchers will usually agree with panel consensus
  - Presenting PRP searcher not obligated to take every suggestion made by panel
  - Good faith effort to further PRP search likely to satisfy NPP oversight process
  - Everyone's goal is to identify viable PRPs or establish that such PRPs likely do not exist

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### **PRP Search Consultation #1: Fruit Avenue Plume**

- ◆ Recently conducted first consultation
  - Presenting PRP searcher: Courtney Kudla
  - Panelists: Linda Ketellapper (R9), Carlyn Prisk (R3), and Grechen Schmidt (R10)
  - Albuquerque, NM: state investigated, handed over to EPA; chlorinated solvent plume; defunct dry cleaner; other sources?
  - Discussed interpretation of data, possible research tasks, and prioritization

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### **Reflections on First Consultation**

- ◆ Initial sense: a productive session
- ◆ Forward-looking focus; not "you should have done this"
- ◆ Panelists expressed desire to hear results of further research and willingness to provide further support
- ◆ Tentative plans for follow-up call
- ◆ Consider including hydros or other personnel with technical expertise

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### **What's Next?**

- ◆ Want to make use of consultation process? Contact any PRP Search Enhancement Team member. Team will ask for panelist volunteers in monthly call.
- ◆ Referrals from NPP enforcement screening process
- ◆ Gather feedback and gauge value
- ◆ Revise and continue if worth it; discontinue if not

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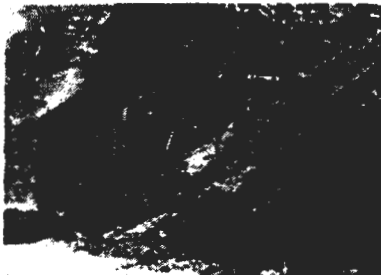
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# NOTES



## Mining Sites

## MINING SITES



2008 PRP SEARCH CONFERENCE

## MINING SITES

200,000+ ABANDONED MINING SITES IN US

1997 ESTIMATE BY EPA NATIONAL HARDROCK MINING FRAMEWORK

\$22 M AVG. COSTS FOR SUPERFUND MINING SITE

2001 STUDY BY RESOURCES FOR THE FUTURE

\$7.8 B NEEDED TO CLEAN UP 63 NPL SITES

2004 ESTIMATE BY EPA IG

1998 - 2007: US GOVT HAS SPENT \$2.6 B TO CLEANUP ABANDONED MINE SITES IN WEST

\$2.2 B OF THIS SPENT BY EPA UNDER SUPERFUND

3/12/2008 GAO TESTIMONY TO CONGRESS

2

## MINING SITE PRP SEARCHES

### CHALLENGING

- LARGE AREA 100s - 1,000s OF ACRES
- LONG TIME PERIOD 100+ YEARS
- COMPLEX TITLE ISSUES 1872 MINING LAW PROPERTY LAW
- MANY PRPS NOT AROUND OR IN DIFFERENT FORM

3

**THE PROJECT**

**IDENTIFY PRPS AT  
BELDEN CRIBBING SITE**

- PROVIDE EPA MGMT. WITH LIABILITY ASSESSMENT
- DETERMINE STRENGTH OF EVIDENCE
- DETERMINE PRP VIABILITY

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## Mine waste above river poses pollution hazard

Tuesday, September 13th 2005  
By Alex Miller

**MINTURN** - Hundreds of tons of contaminated waste rock from an old zinc mine are perched above the Eagle River below the old town of Gilman. Rotting railroad-tie fences known as "cribbings" are the only thing holding them back, and experts say it's only a matter of time before it all comes tumbling down.



"Those wooden cribbings are getting pretty old and rotten," said Hays Griswold with the Environmental Protection Agency. "If they were to fail, there could be a significant amount of that rock going into the river, and it contains acid-generating material and certain toxic metals." Griswold inspected the site Thursday with other experts studying the situation and how to address it, he said.

"It's not a matter of 'if' but 'when,'" said Caroline Bradford, executive director of the Eagle River Watershed Council, an environmental watchdog group based in Avon that identified the problem.

A study commissioned by the Watershed Council last year demonstrated the rocks being held back by the cribbings are polluted. The waste rock comes from a zinc mine abandoned in the late 1800s. Photos of the area, with the railroad tracks and Eagle River just below it, show the cribbings in place more than a century ago.

It doesn't take an expert to look at the structures and imagine them falling down before long. Much of the old timber is obviously rotted, and many of the

### STAGE 1: OVERVIEW

#### 1) UNDERSTAND

- THE MINING PROCESS  
METHOD USED TO EXTRACT / CONCENTRATE ORES



POTENTIAL IMPACT

TERMINOLOGY

- THE PROBLEM AT THE SITE  
CAUSE OF CONTAMINATION...OR THREAT  
STAGE OF INVESTIGATION AND RESPONSE
- IDENTIFY KNOWN INFORMATION,  
SOURCES, CONTACTS  
STATE AND LOCAL OFFICIALS  
COMMUNITY GROUPS  
EPA STAFF / RECORDS CENTER

6

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### STAGE 1: OVERVIEW

#### 2) DEFINE

- THE SITE  
WHERE ARE THE COSTS BEING INCURRED?
- THE SCOPE ...AND MAKE A PLAN

**FOLLOW LEADS      EXPECT ISSUES**

7

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### STAGE 1: UNDERSTAND

- HISTORIC MINING SITE IN EAGLE COUNTY
- OLD CRIBBINGS COULD COLLAPSE, CAUSING CONTAMINATION OF RIVER
- ADJACENT TO EAGLE MINE NPL SITE WHERE EPA HAS PERFORMED EXTENSIVE CLEANUP
- SURROUNDING PROPERTY TO BE DEVELOPED - PRIVATE CLUB

8

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Head Rock  
metals  
— Gold

**STAGE 1: UNDERSTAND**

- ACTION MEMO PROPOSES TIME CRITICAL REMOVAL ACTION
- THREAT TO PUBLIC HEALTH AND ENVIRONMENT FROM:
  - POTENTIAL COLLAPSE OF CRIBBINGS
  - SIGNIFICANT WASTE ROCK SLIDING
  - SURFACE FLOW FROM CONTAMINATED WATER FROM SEEP

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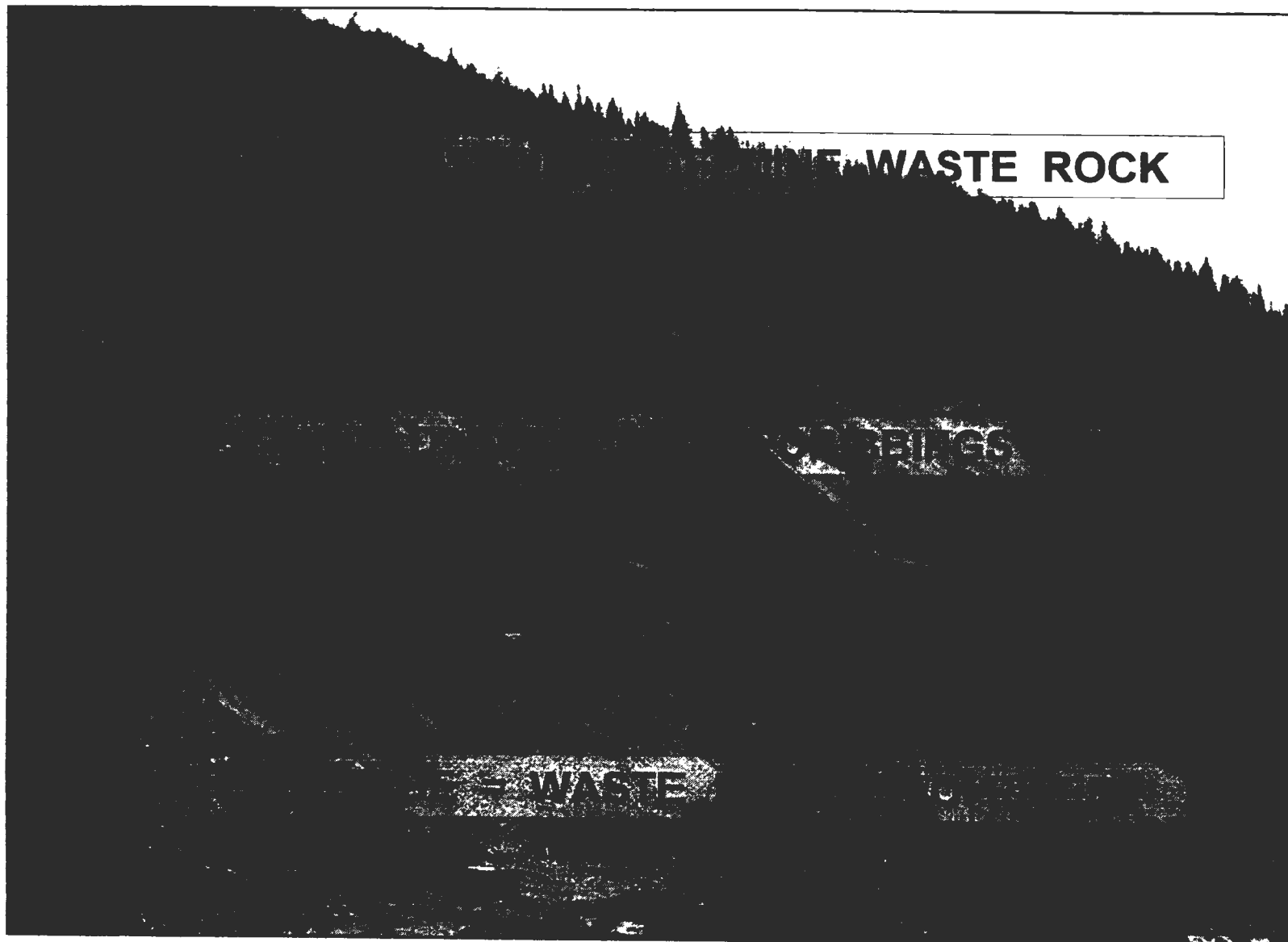
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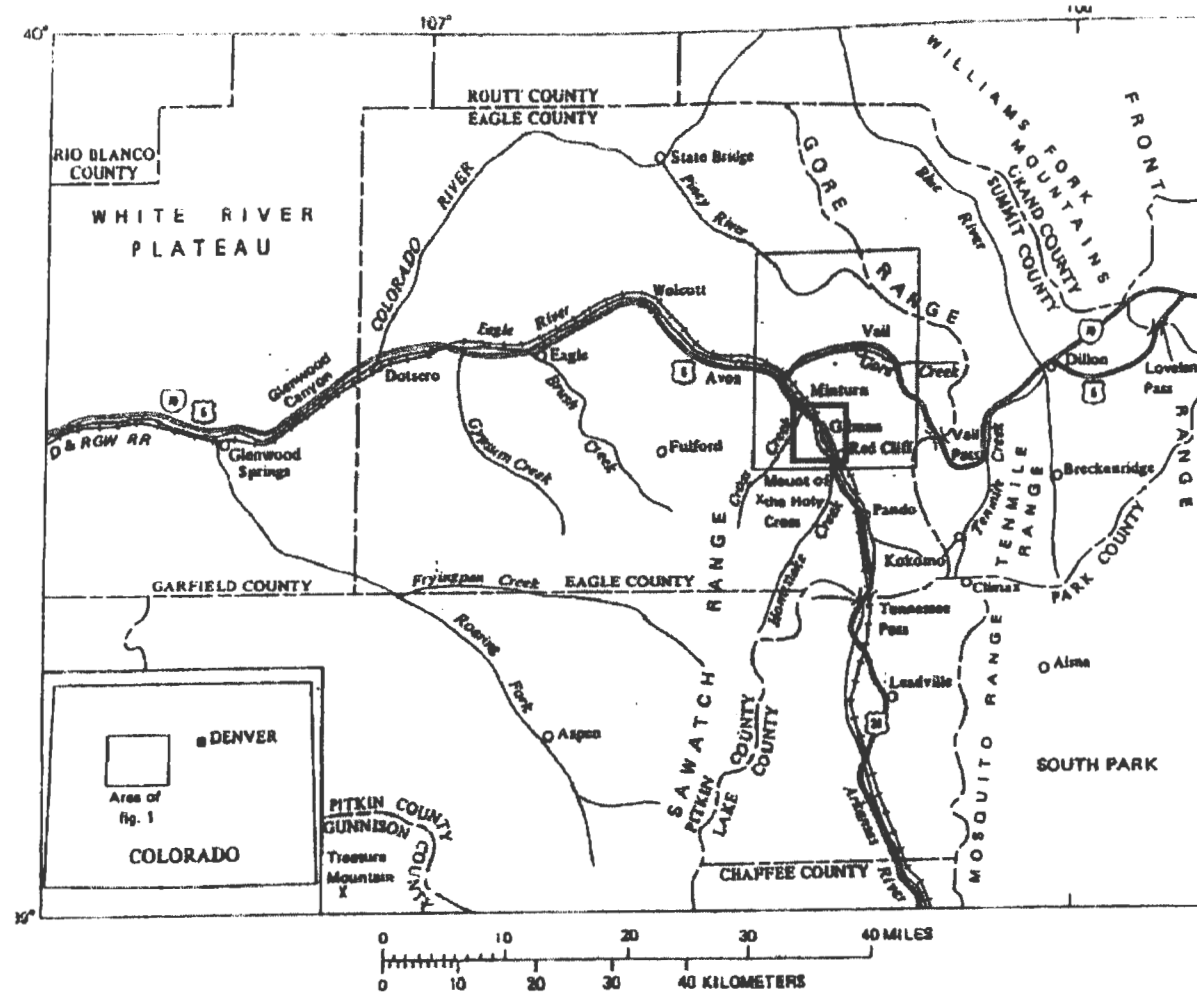
WASTE ROCK

BEINGS

WASTE



# STAGE 1: SITE LOCATION



**STAGE 1: DEFINE SITE**

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- **DELINEATE AREA TO RESEARCH**

**SITE VISIT**

**AERIALS / MAPS**

**REPORTS**

- **LOCATE MINE STRUCTURES, CRIBBINGS,  
ROCK PILES, SEEP**
- **IDENTIFY MINING CLAIMS / PARCELS**

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# STAGE 1: DEFINE SITE

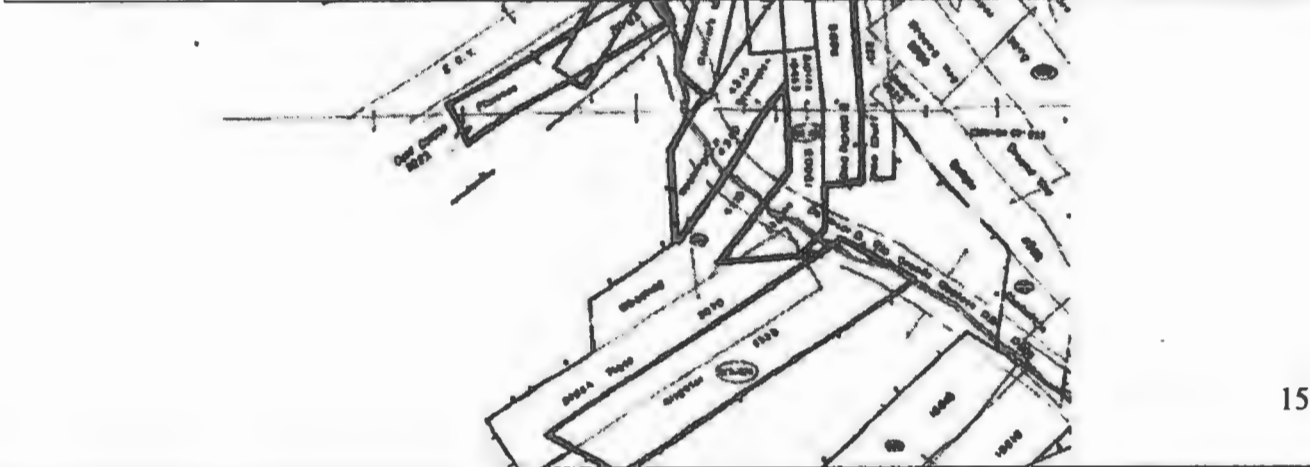
This topographic map illustrates the initial site definition stage, featuring a grid of numbered boxes (13-30) overlaid on terrain contours. The map includes various geographical features such as creeks (Cottonwood Creek, Willow Creek), mountains (Bachel Mountain, Mount), and roads (Solomon Rd). Numerous small labels identify specific points of interest, including 'Pine Ridge Mine', 'Happy Thought', 'Campbell's Mountain', 'Outer Mt.', 'Hickory Mountain Tunnel', 'Mammoth Tunnel', 'Crossed by Interstate', 'Bull Dog Fire', 'Water Tank', and 'Mining Site'. A legend in the upper left corner identifies symbols for 'RWSE-11' and 'RWSE-12'. An 'INSERT' box in the top left corner shows a larger-scale view of the area.

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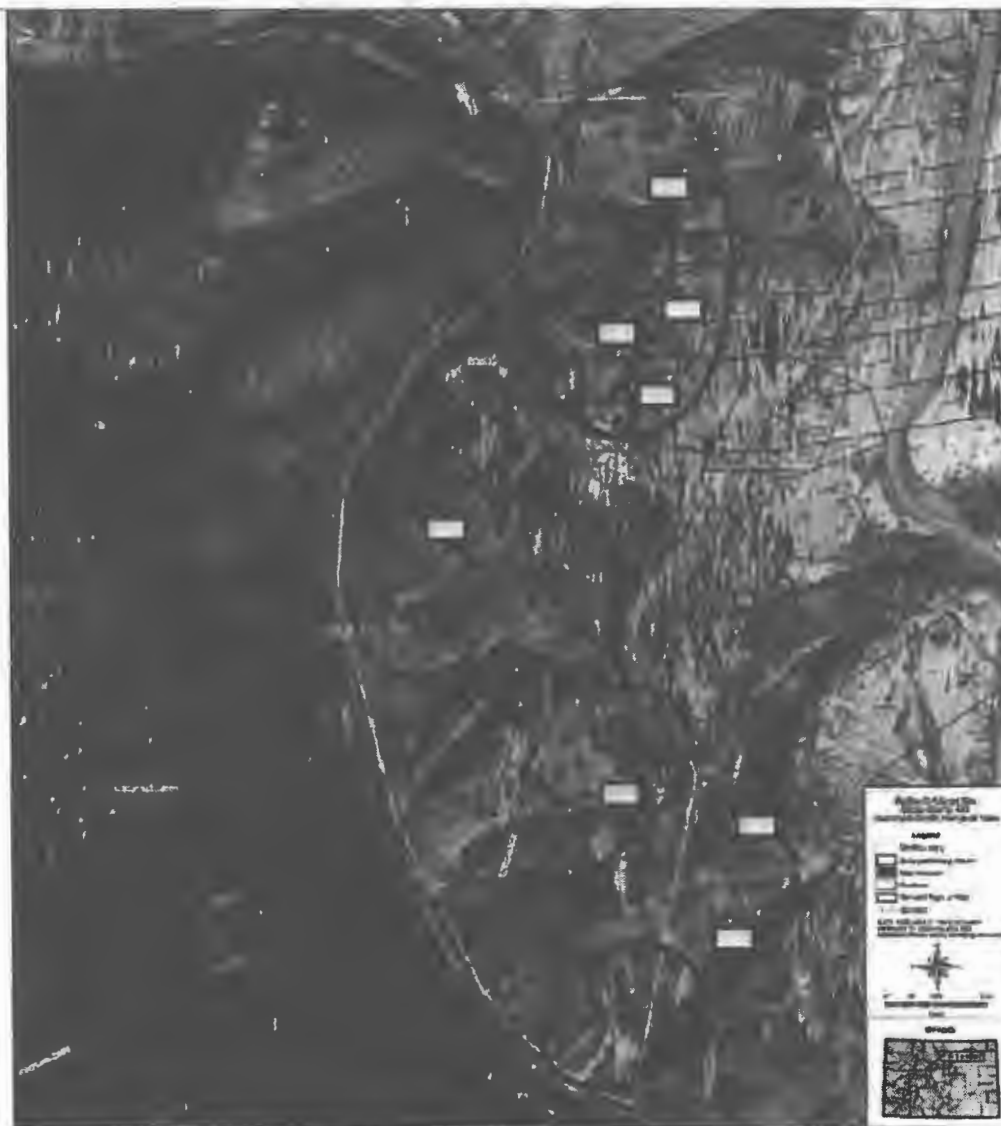
## STAGE 1: DEFINE SITE



## 40 MINING CLAIMS & MILL SITES



## STAGE 1: DEFINE SITE





*Barite  
Navaho  
Gold fields*

#### STAGE 1: KNOWN INFORMATION

- MINING COMPANY DOMINATED MINING OPERATIONS IN THE AREA FOR 50+ YEARS
- EAGLE MINE SITE RECORDS
- CURRENT OWNERSHIP IN DISPUTE
- PROPERTIES MAY BE HELD BY BANKRUPTCY ESTATE

17

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#### STAGE 2: RESEARCH

- OPERATIONS
- OWNERSHIP

START OF MINING THRU PRESENT

1876	-	2008
132 YEARS		

18

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#### STAGE 2: RESEARCH - OPERATIONS

INFO	DOCS	SOURCES
HISTORY	MINERAL YEARBOOKS	USGS, BLM
	USGS PAPERS	STATE AGENCIES/ARCHIVES
OPERATIONS	PROOF OF LABOR	HISTORICAL SOCIETIES
PRODUCTION	MINE INSPECTION REPORTS	LOCAL LIBRARIES/REPOSITORIES
GEOLOGY	MINING JOURNALS	FRPS
	CORPORATE REPORTS	RESIDENTS AND FORMER WORKERS

19

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**STAGE 2: RESEARCH - OPERATIONS**

- SEVERAL MINES EXISTED IN SITE AREA AND PRODUCED GOLD AND SILVER
- MINING AT THE SITE BEGAN IN 1876 AND CONTINUED THRU 1945, MAYBE LONGER
- MINES IN SITE AREA NOT AS PRODUCTIVE AS ADJACENT EAGLE MINE

COLORADO GEOLOGICAL SURVEY (1925)	E2
USGS PAPERS (1947, 1968, 1978)	E3
MINERAL YEARBOOKS	E4
STATE MINE REPORTS	E5

2

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**STAGE 2: RESEARCH - OPERATIONS**

- HISTORIC PHOTOS SHOW CRIBBINGS AND SEEP EXISTING IN 1900  
RR MUSEUM - RR PHOTOGRAPHER, DENVER PUBLIC LIBRARY
- A MAJOR MINING COMPANY OWNED AND OPERATED MANY OF THE MINES IN THE AREA  
MINERAL YEARBOOKS, COMPANY REPORTS
- RAILROAD TRACKS LAID IN 1871

RR MUSEUM, 104(E) IN EAGLE MINE SITE FILE

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**STAGE 2: RESEARCH - OWNERSHIP**

INFO	SOURCES
HISTORY	BLM
OWNERS	COUNTY CLERK AND RECORDER
OPERATORS (LESSEES)	COUNTY ASSESSOR
ENCUMBRANCES	MINES HANDBOOK
RIGHTS-OF-WAY	PRP (PROPERTY REPORTS)

23

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**STAGE 2: RESEARCH - OWNERSHIP**

**TITLE ISSUES**

Availability of Local Title Cos.  
Quality of County Records  
Location of Mining Claim Boundaries  
Intersecting Mining Claims  
Severed Rights

24

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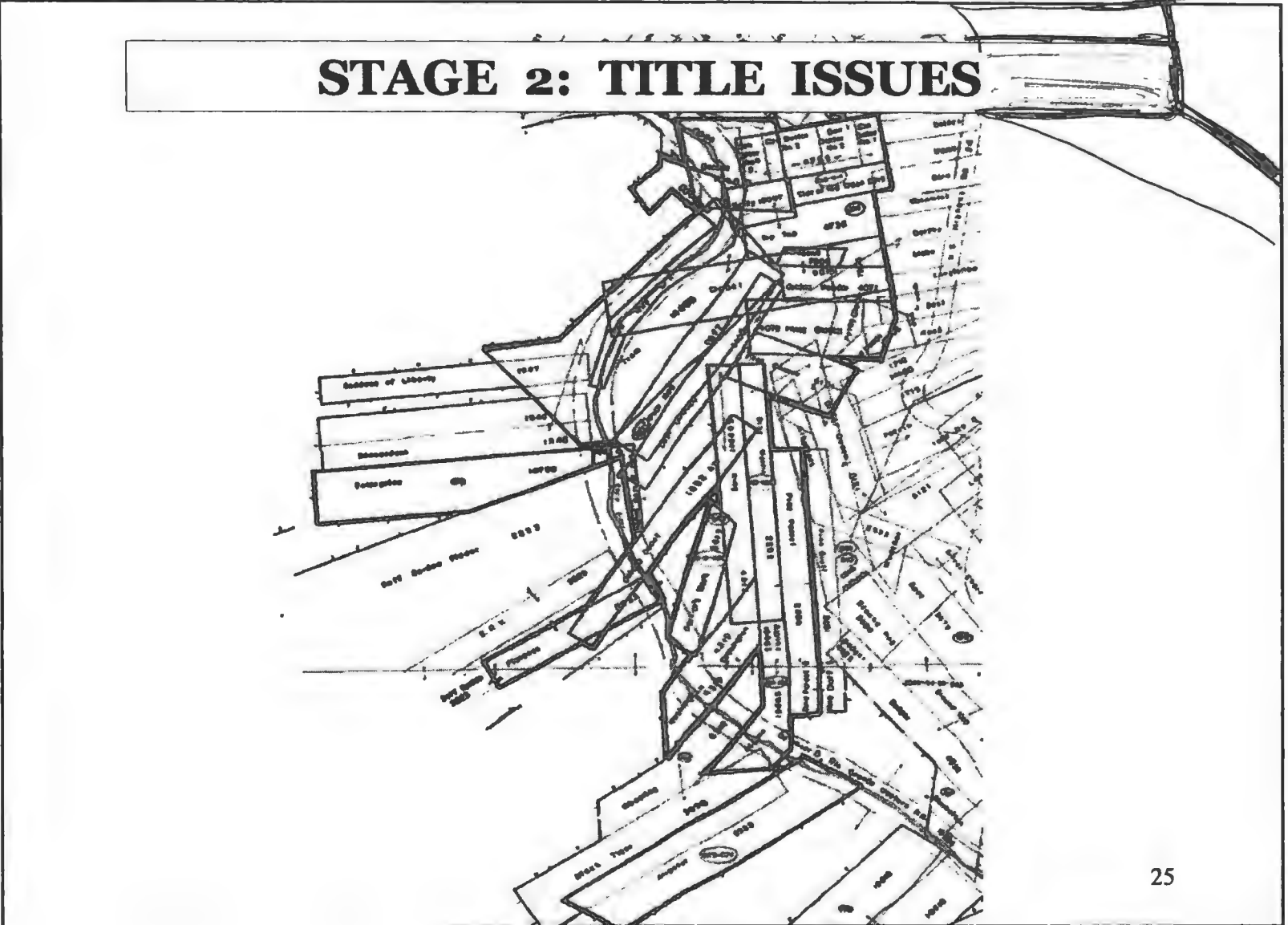
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## STAGE 2: TITLE ISSUES



**STAGE 2: RESEARCH - OWNERSHIP**

- MINING CLAIMS PATENTED BETWEEN 1876 - 1894  
BLM
- THE RAILROAD POSSESSES A 100-FOOT RIGHT-OF-WAY  
RR MUSEUM, 104(E) IN EAGLE MINE FILE
- A MAJOR MINING CO. AND ITS SUCCESSORS OWNED 22 OF 40 MINING CLAIMS  
CLERK AND RECORDER, COMPANY RECORDS / REPORTS

26

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**STAGE 2: RESEARCH - OWNERSHIP**

- FIVE OTHER MINING COMPANIES OWNED OR LEASED SITE MINES/ PROPERTY DURING PERIOD OF MINING
- CURRENT TITLE TO OVER ¾ OF SITE PROPERTY IS CLOUDED - MAY BE HELD BY BANKRUPTCY ESTATE
- CURRENT OWNERS OF REMAINING SITE PROPERTY ARE INDIVIDUALS  
CLERK AND RECORDER, ASSESSORS

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**STAGE 2: RESEARCH - PRELIM. FINDINGS**

- NAMES OF THE CLAIMS WHERE THE CRIBBINGS, WASTE ROCK, AND SEEP LIE
- NAMES OF ENTITIES THAT OWNED CLAIMS AND OPERATED SITE MINES
- SITE MINES WERE PRODUCING THROUGH AT LEAST THE MID-1940s
- ONE COMPANY OWNED OVER ¾ OF SITE PROPERTY FOR 50+ YEARS
  - SUCCESSOR IS MAJOR CORPORATION

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**STAGE 2: RESEARCH - PRELIM. FINDINGS**

- CRIBBINGS LIE ON RR RIGHT-OF-WAY
  - OWNED BY RAILROAD COMPANY
- CURRENT TITLE TO OVER ½ OF SITE IS CLOUDED

DEVELOPER IS BEING ASSESSED  
TAXES, BUT STATES IT DOES NOT OWN

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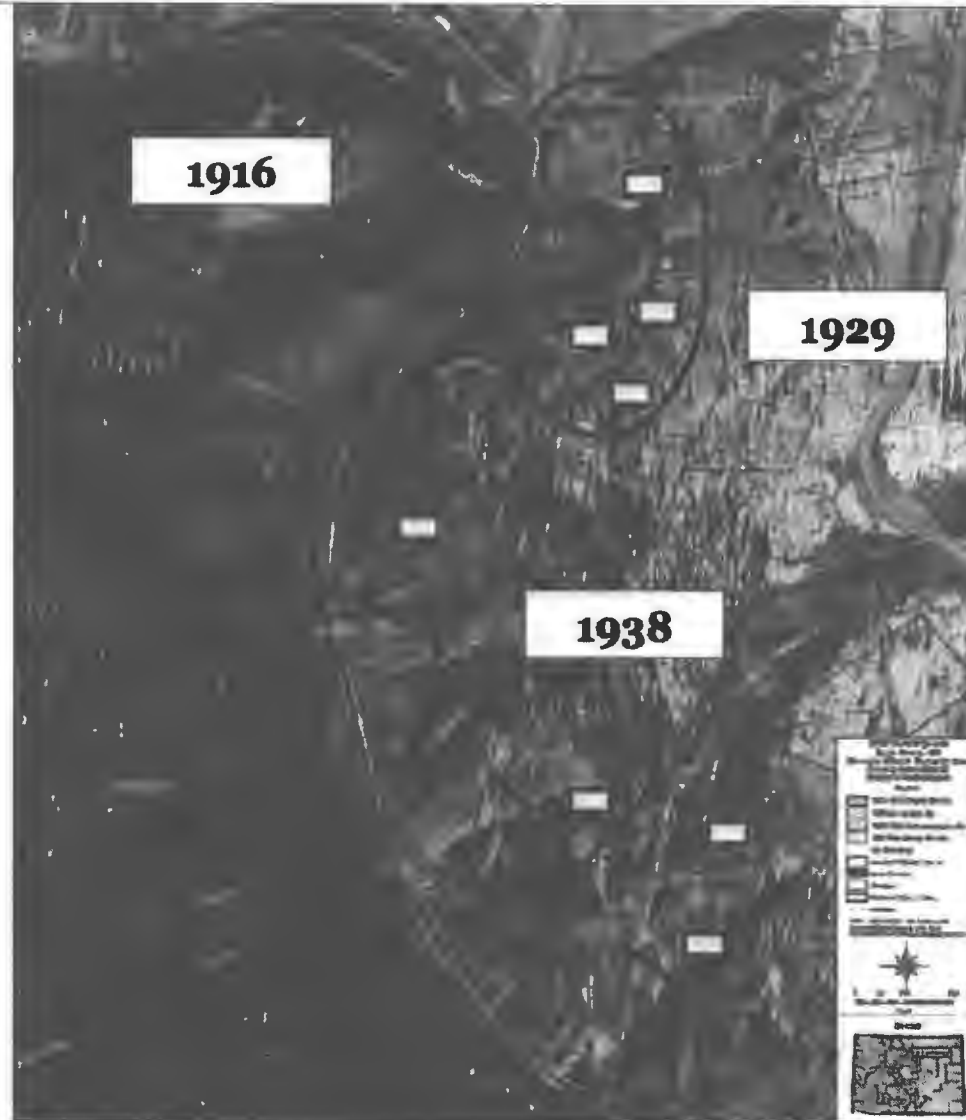
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## PRELIMINARY FINDINGS





## STAGE 2: RESEARCH - NEXT STEPS

### CORPORATE RESEARCH

- CURRENT STATUS?
- SUCCESSORS?
- VIABLE?

### DETERMINE CURRENT OWNER

- BANKRUPTCY COURT RECORDS

31

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## STAGE 2: RESEARCH - CORPORATE

INFO	SOURCES
CORPORATE HISTORY	PUBLIC OR PRIVATE or FOREIGN?
SUCCESSORS	SECRETARY OF STATE STATE ARCHIVES SEC
CURRENT STATUS	MINES HANDBOOK <b>E6</b> COMPANY RECORDS/REPORTS - 104(E) RESPONSES
VIABILITY	JOURNALS, NEWSPAPERS, TRADE MAGAZINES
OPERATIONAL CONTROL BY PARENT	OTHER SITE FILES BUSINESS DATABASES

32

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## STAGE 3: CONCLUSIONS

### IDENTIFY PRPS AT BELDEN CRIBBING SITE

- PROVIDE EPA MGMT. WITH LIABILITY  
ASSESSMENT
- DETERMINE STRENGTH OF EVIDENCE
- DETERMINE PRP VIABILITY

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**STAGE 3: CONCLUSIONS**

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- **QUALITY INFORMATION ON OWNERSHIP AND OPERATIONAL HISTORY**
- **TWO VIABLE PRPS**
- **ABLE TO PRESENT ASSESSMENT / EXPLANATION OF ISSUES**

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**STAGE 3: CONCLUSIONS**

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- **EXTENSIVE RESEARCH REQUIRED**
- **KNOW THE SOURCES**
- **KNOW THE MINING TERMINOLOGY AND PROCESS**
- **OFTEN THE DATA IS LIMITED**

**FOLLOW LEADS    EXPECT ISSUES**

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# THE DURANGO HERALD

Since 1881

## Mine waste above river poses pollution hazard

Tuesday, September 13th 2005

By Alex Miller

**MINTURN** - Hundreds of tons of contaminated waste rock from an old zinc mine are perched above the Eagle River below the old town of Gilman. Rotting railroad-tie fences known as "cribbings" are the only thing holding them back, and experts say it's only a matter of time before it all comes tumbling down.



BRET HARTMAN/Vail Daily

The Eagle River runs through the abandoned Eagle Mine near Minturn on April 2, 2004. Hundreds of tons of contaminated waste rock from an old zinc mine are perched above the river below the old town of Gilman. Rotting railroad-tie fences known as 'cribbings' are the only things holding back the rock.

cribbings is on land of uncertain ownership.

"It's old mining claims," Griswold said. "We don't know who owns them." He said that part of the study of the site would include an attempt to identify a "potentially responsible party." That means finding an individual or corporation who currently or at one time was an owner of the land.

More likely, Griswold said, the cost would fall to the EPA, which has an emergency response program for such situations.

"Those wooden cribbings are getting pretty old and rotten," said Hays Griswold with the Environmental Protection Agency. "If they were to fail, there could be a significant amount of that rock going into the river, and it contains acid-generating material and certain toxic metals." Griswold inspected the site Thursday with other experts studying the situation and how to address it, he said.

"It's not a matter of 'if' but 'when,'" said Caroline Bradford, executive director of the Eagle River Watershed Council, an environmental watchdog group based in Avon that identified the problem.

A study commissioned by the Watershed Council last year demonstrated the rocks being held back by the cribbings are polluted. The waste rock comes from a zinc mine abandoned in the late 1800s. Photos of the area, with the railroad tracks and Eagle River just below it, show the cribbings in place more than a century ago.

It doesn't take an expert to look at the structures and imagine them falling down before long. Much of the old timber is obviously rotted, and many of the timbers are bent and compressed from the years and the weight of the rock.

The rocks contain sulfides, which, when exposed to water and oxygen, form an acid that dissolves the metals in the rock, allowing them to leach out, Griswold said.

The questions now are what to do with it and who pays. The site of the cribbings lies just outside the old Eagle Mine Superfund site, which has been the target of a massive cleanup and reclamation over the last two decades.

The slope in question is just above the Eagle Mine's Belden entrance, where miners entered tunnels into the mountain.

But while the Eagle Mine has had the benefit of a responsible party to pay for cleanup – Viacom Inc., which owned the land before selling it to the Ginn Cos., now developing it as a private ski and golf resort – the

Early estimates put the cleanup cost for the cribbings at \$1.2 million to \$2 million, Bradford said. Before anything can happen, though, more study is required, and the Watershed Council is trying to raise an additional \$20,000 for that.

"We don't know yet what to do with it," Bradford said. "It's no easy thing."

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COLORADO GEOLOGICAL SURVEY  
BOULDER

R. D. GEORGE, State Geologist

BULLETIN 30

GEOLOGY AND ORE DEPOSITS  
OF THE  
RED CLIFF DISTRICT  
COLORADO



LIBRARY OF  
COLORADO SCHOOL OF MINES  
GOLDEN, COLORADO

By  
R. D. CRAWFORD and RUSSELL GIBSON

BOULDER, COLORADO  
CAMERA PRINT  
1925

CO4-001

some sinking and tunneling have been done. Ore bodies have been discovered at shallow depth on Turkey Creek, but in most or all of the other places workings have not gone through the jasperoid. To be of greatest value work should be done at or beyond the northeast border of the jasperoid, preferably by crosscutting the northeast-striking faults. This position, in part of the localities named, can be determined only by extensive prospecting. If the solutions came from the northeast the chances for finding large bodies of sulphide would seem to be better than if the solutions came from any other direction. Even then the ratio between possible metallic sulphides and non-metallic minerals is probably very small, and there may be faults entirely free from sulphides.

In Chapter V mention was made of faults in the quartzite, traceable only short distances. Between Coal Creek and Turkey Creek are several of these faults and fault zones in which erosion has cut to considerable depth; some of these are covered by soil and grass or timber. Where erosion has cut to greater depth the faults are covered by landslides. Whether erosion cut deep into rock weakened only by faulting or by faulting and subsequent mineralisation only prospecting can determine. Several of these places may be seen east of Eagle River between Turkey and Coal creeks. None has been seriously prospected, though many shallow prospects are seen in the quartzite farther west where considerable iron and manganese are found. To reach the Leadville limestone under or east of the loose rock covering would entail less expense than to drill through the large bodies of jasperoid.

## CHAPTER VII

### DESCRIPTIONS OF MINES

In this chapter no attempt is made to describe fully all the mines of the district. Many are closed or caved; some are filled or partly filled with water; and the known ore bodies of others have been nearly or quite exhausted. A fairly thorough study was made of the geology of the Mabel mine in the granite, the Ground Hog mine in the Sawatch quartzite, and the newer workings of the Eagle mines in the Leadville limestone. The geology of these mines well represents the geology of the productive area, and the three are described below in considerable detail. Many mines in the oxide zone are briefly described, but some of the largest former producers are passed with scant notice and without description. Among these—part in quartzite and part in the limestone—are the Black Iron, Cleveland, Belden, Iron Mtn, Little Chief, Bleak House, and Rocky Point mines. The old workings are still accessible in many places, and the great size of some of the former ore bodies is made evident by stopes and drifts still open. Because the Ground Hog mine is the most easily accessible of all the larger mines in the quartzite a detailed study of structure and ore occurrence was made in the Ground Hog, though larger ore bodies may have been found in the quartzite in other mines.

In the descriptions that follow the term granite is used for both granite and related quartz monzonite, and the term limestone is used for the calcareous rock of the Leadville formation which is in part true dolomite.

#### MABEL MINE

By RUSSELL GIBSON

The Mabel mine was opened by E. A. Hart in 1900, and was still producing ore in the summer of 1923. It is one of the largest mines in the district in the granite, and has, according to Mr. Hart, produced \$325,000 worth of ore which has averaged 3 to 4 ounces gold and 5 to 15 ounces silver per ton. In addition to gold and silver, the ore carries 3 to 10 per cent lead, and copper up to 3 per cent. One shoot is reported to have produced \$40,000 worth of ore that averaged \$275 per ton.

The Mabel mine has 3,600 feet of development on five levels which are connected by an inclined shaft 264 feet deep on the pitch. (See figs. 13 and 14.) The shaft follows the dip of the Mabel vein which increases from 56° at the collar of the shaft to 66° below the second level. Most of the ore comes from two fissure veins: the Mable vein which strikes N. 30° to 40° E., and a cross vein striking N. 55° to 65° E. In general the veins dip southeast. Observations on the first level indicate that the Mabel vein occupies a fissure along which there was faulting prior to ore deposition. The fault is normal, the hanging wall apparently having moved down a distance which could not be determined. The cross vein, which strikes N. 55° to 65° E., is intersected 180 feet northeast of the shaft on the first level, and at shorter distances in the same direction from the shaft on each succeeding lower level. Like the Mabel this vein increases

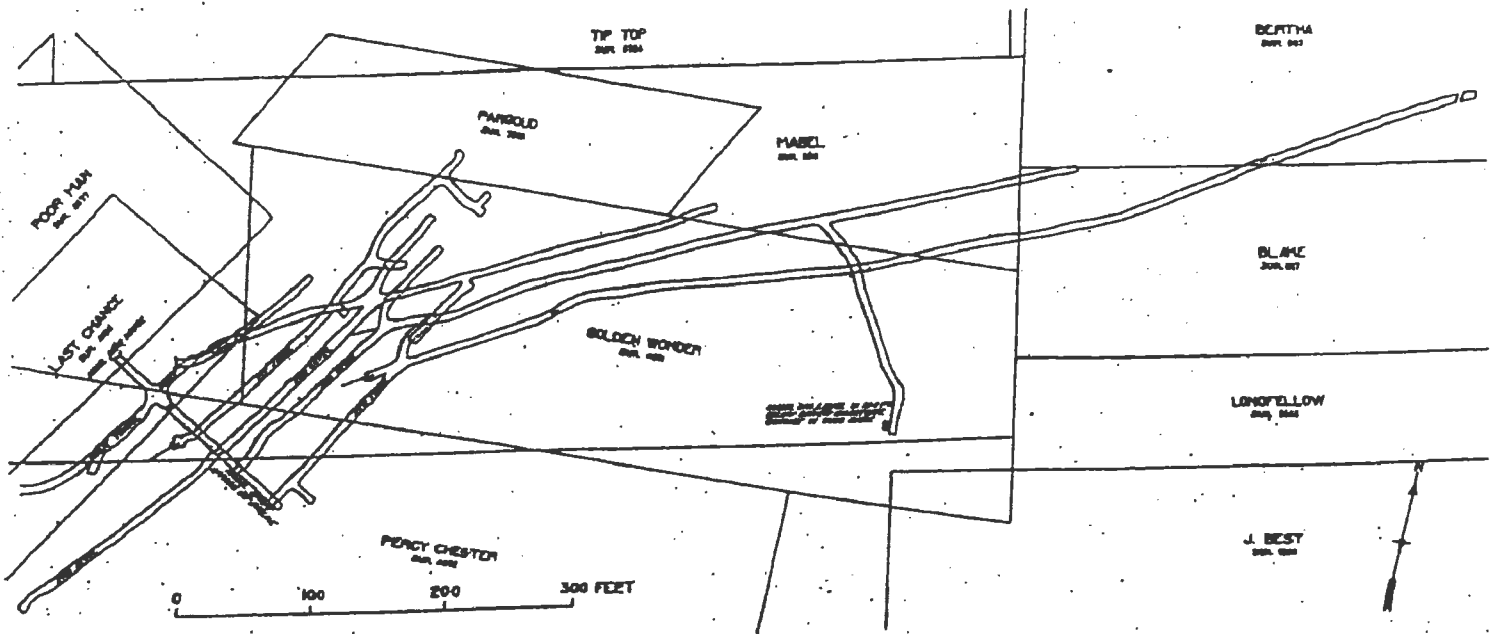


Figure 12. Plan of the Metal mine, reduced from map furnished by J. M. Dismant

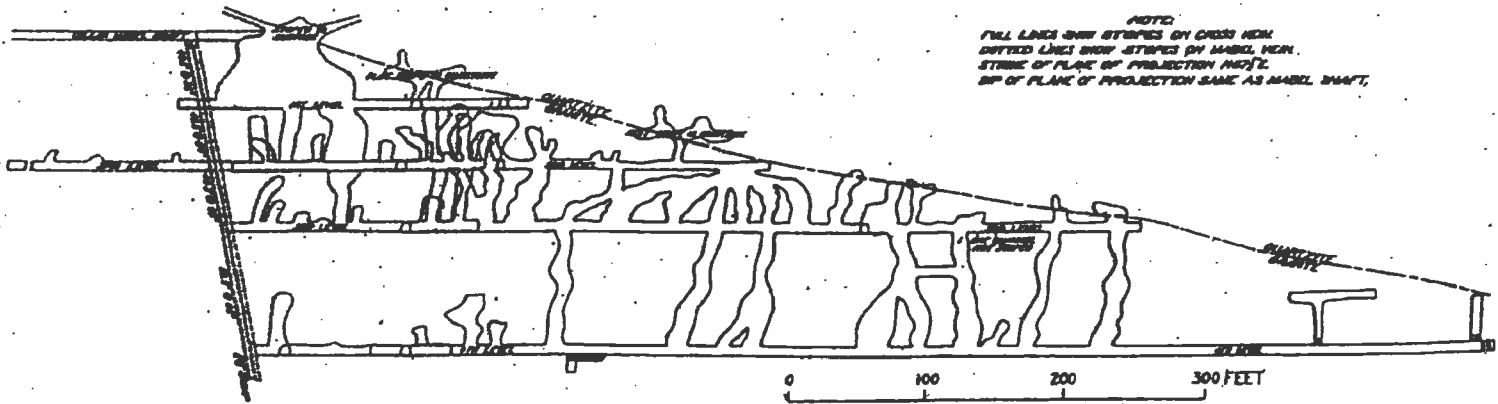


Figure 14. Section through the Mabel vein, reduced from drawing furnished by J. M. Dismant

in dip with depth, from 56° on the first level to 76° on the lowest drift. Where the Mabel vein intersects the cross vein on the first and fourth levels relationships indicate that the Mabel is the older. Elsewhere the level relationships indicate that the Mabel is the older. Elsewhere the evidence is more obscure. But in these two places the Mabel vein is offset by the cross vein, and hence may have been mineralized before the movement took place along the cross fissure.

The amount and character of the mineralization in the two veins is similar. The chief minerals are pyrite, copper-bearing pyrite, sphalerite, galena, and quartz. The order of deposition, so far as could be determined from remnants of ore, is not regular; but pyrite, the most abundant mineral, seems to be one of the first minerals deposited and quartz one of the last. These minerals occur in streaks from less than 1 inch to 10 inches thick, and less commonly in vugs. The wall rock is sparingly replaced close to the vein.

In most places the fissured zone varies in width from 2 to 6 feet, and is made up of parallel cracks, not all of which are filled with sulphide. Commonly one thick vein splits into two veins or fingers into several, some of which coalesce farther on. The associated decomposed wall rock and gouge contain more or less disseminated pyrite in good cubes and pyritohedrons. According to Mr. Hart, richer ore was found near the intersections of veins. The fissures are tighter and the veins grow thinner and leaner with depth, especially toward the northeast extremities of the lower levels. Here the stipes are smaller and the average length of the spalls does not exceed 2 feet, whereas elsewhere many stipes are connected through several levels, and are in places 8 feet wide. Where the drifts intersect the lower Sawatch quartzite contact the veins run up into the quartzite but this rapidly at the contact, in places almost disappearing. The contact, however, and the bedding planes above show good mineralization; and the quartzite is partly replaced by pyrite.

The mine is equipped with a steam hoist and skip, and electric lights. An aerial tram connects the head-house with the Mabel-Pursey Chester mines switch.

#### GROUND HOG MINE

By E. A. HALL

The workings of the Ground Hog mine extend down the dip of the quartzite in a general direction of N. 45° E. for a distance of 1,500 feet. (See fig 15.) The dip of the quartzite is 15° to 16° N. 40° to 45° E., and as the inclines go into the side of Battle Mountain the deepest workings are about 800 feet below the surface. The workings extend about 1,400 feet in width in a northwest direction. The mine has been worked from twelve main inclines and several minor ones. At the present time not all of the inclines open at the surface. However, they are connected underground. Once inside the mine it is possible to go through the entire workings, with the exception of a few drifts filled with water or waste and a few minor drifts from the surface not joined with the main workings. The mine was also formerly connected with the surface by several shafts, all of which have fallen into disuse and have become partly filled or destroyed. In many places the side drifts become very small, usually

about 2.5 to 3 feet high, with scarcely enough room for a man to crawl through, though they extend several hundred feet in length. The main inclines and crosscuts are sufficiently high to allow a man to walk erect, except in a few places where the quartzite is particularly hard and where tracks have taken up some of the space.

At the present time five of the inclines and the Nottingham crosscut are tracked and others are partly tracked; only two inclines, the Doddridge and Nottingham, and the main crosscut are used for haulage purposes. There are two head-houses in repair at the openings of the Nottingham and Doddridge inclines, and bear their respective names. Mine and buildings are not wired for electricity, hence gasoline and steam are used for hoisting. At one time a considerable part of the mine was piped so that air could be used for drilling, but the air system was out of repair at the time of our examination.

#### PRODUCTION

Although a great part of the production of the Ground Hog mine was from rich shoots or pockets for which records of approximate production have been kept, it is next to impossible to make an estimate of the total production of the mine. The Forge "bullion hole," located in the Nottingham (right) incline about 225 feet above the main crosscut, produced about \$37,000 worth of ore. The Doddridge winze, in the Nottingham incline 100 feet below the main crosscut, produced about \$50,000 worth of ore. A small stope on No. 4 South drift produced about \$4,000 worth of ore carrying \$15.00 in gold and 15 ounces of silver per ton. No. 5 South produced about \$47,000 worth of ore. The Baldwin and Oneal "bullion place," 300 feet down the Doddridge incline, produced \$12,000 worth of oxide ore. The Woods and Henderson "bullion shoot," 200 feet down the same incline, produced \$10,000 in oxidized ore. The total production in the Doddridge incline area below the main crosscut is said to have been about \$500,000.

The above figures were supplied by Dismant Brothers of Red Cliff, and represent the production of only a few of the richest shoots or "bullion" pockets in the mine. However, from these figures (\$680,000) it can be seen that the mine produced much ore.

#### FAULTING

The fissures and faults apparently trend in two general directions. Those of the first group strike about N. 35° W., and compose the minor system. Those of the second group strike N. 40° to 45° E., and compose the major system.

The breaks of the minor group are nearly vertical, and each forms a single sharp and almost straight fissure. None of the northwest-striking fissures shows evidence of faulting, but all seem to have originated from a common cause. These fissures occur very regularly, and often not more than 10 feet apart. Hence a considerable amount of displacement or adjustment could have taken place, and yet when distributed among so many breaks the chances are that there would be no perceptible evidence of movement in any single fissure. This group of fissures very closely resembles jointing in igneous rock.



has intruded granite. This mine is said to have produced gold, silver, copper, and lead.

#### BEN BUTLER MINE

The Ben Butler mine has been worked through two inclines in the quartzite and a tunnel in the pre-Cambrian rocks below. The mine has 1,100 feet of development on the tunnel level. At least four fissure veins striking northeast were prospected. One of the largest is at the contact between granite and quartz diorite. The fissured zones vary in width from 1 to 7 feet, and contain streaks of pyrite which carries gold and silver; they also contain streaks of vein quartz. There is little replacement of the wall rock. Most of the ore on this level came from three fissures which were cut by the main tunnel between 660 and 720 feet from the portal. Some good ore was produced in a raise to the quartzite 440 feet from the portal of the tunnel.

The upper and lower inclines have a total of 2,500 feet of workings in the quartzite. They trend northeast, and follow two similarly mineralized beds where the ore is the result of replacement of quartzite by pyrite and, to a less extent, by other sulphides. Near the surface the ore has been oxidized. In places only a few inches of quartzite has been replaced; elsewhere there has been partial replacement to a thickness of 6 feet. Most of the fissures are small and show little movement; in most places they strike northeast. The mineralization in the fissures is thin and unimportant.

It is estimated that the total production of the mine has been about \$250,000 worth of ore. The mine has not been worked for many years, but in 1923 Messrs. Henry and Frank Martin were cleaning out the tunnel for a haulage way for ore mined in the inclines.

#### TIP TOP TUNNEL

The Tip Top tunnel, which trends northeast for 1,400 feet in the pre-Cambrian rocks, reaches the quartzite at its face. The tunnel intersects 11 small fissures, which are mineralized, some of which have been prospected by drifts and raises. With one exception these fissures strike northeast, and seemingly more or less movement has taken place along most of them. The vein material consists of pyrite, sphalerite, and quartz; the vein is rarely wide. Pyrite is disseminated through gouge and fault breccia which may be from one-half inch to 12 inches wide. The same mineral also replaces the granite wall rock to a slight extent a few inches from the fissure proper. A flat-lying fissure vein between the granite and quartzite shows an inch of sulphide, and the quartzite 6 inches from the contact contains disseminated pyrite.

#### STAR OF THE WEST INCLINE

The Star of the West is opened by an incline which trends northeast in the quartzite. The chief ore mineral is pyrite, and it occurs as replacement bodies in the quartzite. A few tight, scantily mineralized fissures were seen which are, in most places, approximately vertical and strike northeast. The mine has not been worked for some time, and the production is not known to the writer.

#### PURSEY CHESTER MINE

Mr. B. A. Hart, one of the owners of the Pursey Chester, has kindly furnished much of the following information concerning the early history, tenor of the ore, and production of the mine. The mine was opened in 1883 by A. H. Fulkford and Judge Ackley. In 1885 J. T. Hart bought the property. The oxidized ores, which were produced in the beginning and which ran higher in gold than in silver, averaged \$150 per ton. Rarely ore worth \$2,000 per ton was produced. Later the sulphide zone was reached where silver was more abundant than gold. Returns have always been made for 4 to 5 per cent copper, but generally not for lead. In 1923 the ore averaged .41 ounces gold and 12 ounces silver per ton. Mr. Hart states that the total gross value of the ore produced to date is a million dollars.

The mine is opened by an incline which trends northeast in the quartzite. The wall rock shows numerous fissures almost all of which strike northeast; and, although they are fairly tight and only thinly mineralized, it is observed that drifts follow them and that ore has been produced near them. Almost all the ore is the result of replacement of two beds or small groups of beds of quartzite which are separated by barren rock. In places these beds are partly replaced to a thickness of 4 or 5 feet, though the average is probably less than 4 feet. The chief mineral is pyrite; much of it is copper-bearing. Small amounts of chalcopyrite and sphalerite were seen by the writer. There has been little oxidation in the deeper workings of the mine, but nearer the portal of the incline remnants of limonite and altered pyrite may be seen. The stopes are not high, but are very wide and long; they pitch with the dip of the beds. The great size of the stopes indicates that thousands of tons of ore have been shipped.

The mine is equipped with an electric hoist and electric lights. The ore is trammed out through the Mabel whence it is delivered to the Mabel-Pursey Chester mines switch by an aerial tram.

#### POTVIN MINE AND F. C. GARBUTT MINE

These mines are opened by inclines which trend northeast, and seemingly follow a fault zone in the limestone. The workings converge and break through in several places. Although there is evidence of much disturbance in both mines, the fault or faults can not be described because many of the crosscuts and stopes are badly caved. In places the limestone is broken and brecciated from floor to back. The ore was evidently in pocketed replacement bodies of irregular dimensions and in fissures. Remnants of the ore indicate that oxidation has been pretty thorough. At the time of the examination 900 feet of underground workings could be seen in the Garbutt mine and 1,000 feet in the Potvin.

In 1923 a shaft was sunk to open the Potvin incline, but no ore was shipped. In the summer of 1923 work had been discontinued.

#### ALPINE MINE

The Alpine has about 700 feet of development along fissures in the granite. The fissures strike northeast, dip steeply or are vertical, and contain as much as a few inches of pyrite. There has been a little re-

placement of the granite wall rock immediately adjacent to the fissures. The largest stope is about 100 feet long and 25 feet high.

A good blacksmith shop houses an air compressor, and a small mill has been erected.

#### PINE MARTIN MINE

The Pine Martin has at least five openings in the quartzite and thousands of feet of development, but the mine has not been worked for several years and is partly filled with water.

The ore occurs as irregular replacement bodies in the quartzite. In the lower workings the chief mineral is pyrite; nearer the surface are large masses of brown, earthy, limonitic material which, according to Mr. Smith, who was in charge of the property in 1921, carries both gold and silver, but is low grade and difficult to treat. Some of the pyrite is cupriferous; manganese oxides are found in some places with the limonite. Two groups of thin, closely spaced, vertical fissures containing scant mineralization, were seen. One group strikes northeast, the other northwest.

According to the reports of the Director of the Mint the Pine Martin produced ore to the value of \$204,328 in the years 1887-1890 and 1892 (gold and silver taken at coinage value).

The mine is equipped with electric lights. A mill building is connected with the main incline by a snow shed.

#### CHAMPION MINE

The Champion is opened by an incline in the quartzite which trends N. 51° E. When the mine was examined in 1922 over half of the workings were under water and could not be seen. The mine has not been operated since 1916.

Most of the ore was found in beds of quartzite more easily replaced than beds above and below; fissure filling is of minor importance. The ore bodies were very irregular in size and shape. Ore was cleaned out of pockets only 2 inches across in some parts of the mine; elsewhere there are wide stopes 5 feet high. The chief minerals are pyrite (in part cupriferous) and iron oxides; small amounts of siderite and manganese oxides were seen. The fissures in the accessible workings strike northeast or northwest, and are nearly vertical.

The total production of the Champion is not known to the writer. According to the Mint reports the mine produced gold and silver having a coinage value of \$100,859 during the years 1887-1892.

The mine is equipped with electric lights, a steam hoist, and an electrically driven air compressor.

#### BODY MINE

The Body mine is developed by two tunnels driven on fault fissures in the granite. Most of the ore has come from one fissure vein which strikes southwest and dips southeast or is vertical. The upper tunnel is 495 feet long, and the lower, from which little ore was taken, is 480 feet. Two stopes in the upper tunnel are approximately 35 feet high, and a third stope is 20 feet high. The fissured zone is rarely 36 inches wide; the maximum width of mineralization is 13 inches. The ore seen consists chiefly

of sphalerite, pyrite, and galena, in streaks from a fraction of an inch to 3 inches thick, frozen to fissure walls; less commonly small amounts of sulphides are mixed with gouge and decomposed wall rock.

#### SILURIAN AND OVEE MINES

These two mines connect and are conveniently described together. The Silurian is opened by two tunnels in the limestone, one of which is short and caved at the portal. The other, about parallel to the first, trends N. 27° W. for 45 feet, then N. 10° W. for 235 feet. In addition to these two tunnels, 370 feet of crosscuts and drifts could be seen in the summer of 1922. The Ovee tunnel is in the limestone and trends N. 17° W. for 80 feet, thence N. 15° E. 35 feet, thence N. 5° W. 230 feet, at which point it is caved. An old map shows 300 feet of development beyond this point. At the time of examination about 275 feet of short crosscuts from the main tunnel were accessible, most of which ended in caved stopes or raises, or were filled to the back.

The wall rock is "zebra" limestone. It is dolomitic and somewhat siliceous. In places it is altered to gray or brown jasperoid. The limestone is broken and faulted in both mines, but the larger faults are not well defined and can not be described. There appears to have been much shearing and brecciation with little net displacement. Most of the small faults strike northwest, and dip 15° to 24° northeast. A few strike northeast, and have high dips to the northwest or southeast. Remnants of ore occur irregularly in patches, vugs, and streaks, replacing the limestone in or near fault zones; the ore shows fairly thorough oxidation. In places the mineralization is scanty, and oxides of manganese or iron are mixed with much calcite, dolomite, quartz, and, rarely, barite.

Small shipments of high-grade ore, made between 1916 and 1919 by George E. Bowland, one of the owners, ran 217 to 361 ounces silver per ton. In 1923 Frank Tetreault, a lessee, was shipping ore that ran 91 to 141 ounces silver per ton. Gold in the ore is rare and in very small amount.

#### HENRIETTA MINE

This mine is opened by a tunnel trending N. 5° E. for at least 260 feet in the upper part of the limestone. At the time of examination 460 feet of crosscuts could be seen, but the more remote workings were caved.

The ore was found near fault zones where there is evidence of considerable shearing, but where the net displacement could not be measured. The faults strike between north and northeast, and dip from 30° to 90°. In general the direction of dip is southeast. Remnants of ore in streaks and patches replacing the limestone show nearly thorough oxidation. No large stopes were seen in the workings that were still accessible. The wall rock is dolomitic "zebra" limestone containing a little siderite and vugs with quartz crystals. In places the limestone is very friable and breaks down to "dolomite sand."

#### LITTLE MAY MINE

The Little May is opened by a tunnel which trends N. 7° W. at least 165 feet in the limestone. At this point it is caved; consequently most of the mine could not be seen.

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# Ore Deposits of the United States, 1933-1967

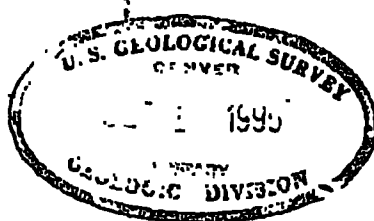
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# 30. Geology and Ore Deposits of the Gilman (Red Cliff, Battle Mountain) District, Eagle County, Colorado

R. E. RADABAUGH,\* J. S. MERCHANT,† J. M. BROWN,†

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\* The New Jersey Zinc Co., Tucson, Arizona.

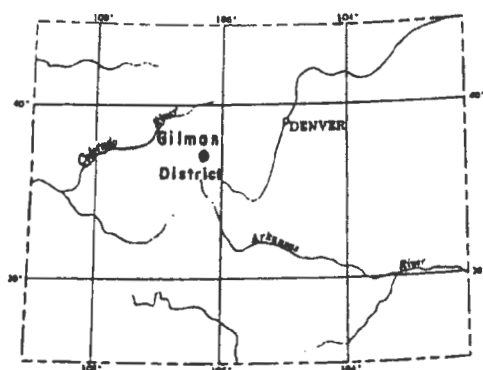
† The New Jersey Zinc Co., Gilman, Colorado.

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## ABSTRACT

The Gilman district is on the northeast flank of the Sawatch Range in central Colorado. It has yielded a total of 10,000,000 tons of ore having a value of over \$250,000,000. Paleozoic sediments intruded by a Tertiary quartz latite sill and unconformably overlying Precambrian intrusives and metasediments comprise the country rock of the area.

The sediments strike northwesterly and dip 8° to 12° northeasterly. Structures in the Precambrian are related to the Homestake shear zone of the Colorado mineral belt. Only minor folding and faulting occur in the sediments.

The principal ore bodies are massive sulfide replacement deposits in carbonate rocks. They consist of long, pipe-like mantos in the completely dolomitized Mississippian Leadville Limestone and funnel-shaped chimneys of copper-silver ore cutting across the Mississippian

and Devonian strata. Mineralization is continuous from the chimneys into the mantos. The principal ore bodies are roughly in the shape of a four-tined fork which points up dip. Smaller manto deposits occur in the Cambrian Sawatch Quartzite, and fissure veins are present in the Precambrian rocks.

The principal minerals in the mantos are marmatite and galena in a gangue of pyrite and manganosiderite. The chimneys consist of a central core of pyrite with erratically distributed chalcopyrite, tetrahedrite, freibergite, and occasional galena with a shell of zinc ore on the outer margin. Both the chimneys and the mantos are surrounded by imperfect shells of manganosiderite and sanded dolomite. The mineralization is of Laramide age.

Hydrothermal alteration affects all rock units to varying degrees. Clay mineral alteration halos occur around the ore bodies. Hydrothermal solutions have developed sanded rock, rubble filled channels, and banded zebra textures, principally in the Leadville Limestone.

Structural control of the ore bodies is not well defined. Both the location of the district and the chimneys are probably related to basement structures. The mantos are largely controlled by stratigraphic factors and a pre-Pennsylvanian karst topography in the Leadville Limestone, which were modified by hydrothermal activity, and by weak zones of northeasterly trending faults.

## INTRODUCTION

The Gilman district, also known as the Red Cliff or Battle Mountain district, is in central

Colorado approximately 75 miles west-southwest of Denver and about 20 miles north-northwest of Leadville. The town of Red Cliff is near the southern end of the district, and Gilman, the present-day center of mining activity, is near the middle at an elevation of 9,000 feet.

L. C. Graton (4, 6, 7) made one of the early geologic studies of the Eagle mine. He recognized the potential of the area and worked out many of the basic geologic features which have withstood the test of time with remarkable accuracy.

A. W. Pinger, one of Graton's assistants, was employed by The New Jersey Zinc Company and made many important contributions to the knowledge and understanding of the ore deposits. Over the years, a number of other geologists working for The New Jersey Zinc Company have also made significant contributions, and unpublished reports by Adams (10), W. H. Brown (14, 15), Callahan (17), Jerome (18), O'Neill (30), and Snively (33) have been particularly helpful. It is not feasible to acknowledge each individual contribution, but data compiled by many workers have been freely drawn upon in the preparation of this paper. Published reports on the geology of the Gilman district include those by Means (2), Crawford and Gibson (9), Lovering and Behre (13), Lovering and Tweto (20, 23), and Tweto (24, 26).

In addition, other investigators have made studies of particular phases of the geology in the Gilman district, and The New Jersey Zinc Company has made detailed investigations of certain features to gain a better understanding of the deposits and to assist with exploration. T. G. Lovering (38) investigated the temperatures and depth of formation of the deposits, and Silverman (45) has recently published a study of base metal diffusion at Gilman. Davidson (28) studied hydrothermal dolomitization and other alteration effects and their relation to metallization.

Roach (40) made a study of thermoluminescence and porosity of the host rocks in the Eagle mine. The results of the preliminary investigation suggested that thermoluminescence might be a useful exploration tool. Additional work was done by The New Jersey Zinc Company, and glow curves were made of a large number of samples from a variety of geologic environments. It was determined that thermoluminescence is highly erratic and is strongly influenced by many factors not related to mineralization.

Several studies have been made of the trace

metal distribution in the district and in the surrounding area. The New Jersey Zinc Company investigated the distribution of copper, lead, zinc, and mercury. The trace metal halos are erratic and narrowly restricted.

A wide variety of geophysical methods have been tested. These include magnetics, applied potential, electromagnetic surveys, and gravity. Underground torsion balance surveys, because of the geometry of mine workings with respect to the favorable horizons, have some promise of being a useful exploration tool, although the range is very limited. None of the other geophysical techniques are applicable under the existing conditions.

The writers are grateful to The New Jersey Zinc Company for permission to prepare and publish this paper and in particular to S. S. Goodwin, Vice President, W. H. Callahan, Manager of Exploration, and W. L. Jude, Superintendent of the Eagle Mine. J. W. Johnson prepared many of the maps and illustrations used in the paper.

Much of the following discussion pertains principally to the Eagle mine of The New Jersey Zinc Company at Gilman. This mine has the most extensive workings and has been studied in the most detail. Many of the smaller mines are inaccessible in whole or in part, and the available information on them is sparse.

## HISTORICAL INFORMATION

### History

Ore was discovered in the Gilman-Red Cliff area in late 1878 or early 1879 by prospectors from Leadville who recognized the significance of the iron stained cliffs along the Eagle River and certain other similarities in the geology of the two districts. A rush ensued, and a number of discoveries were soon made resulting in the organization of the Battle Mountain district in June 1879. Construction of a smelter was started in the fall of 1879 and was completed in 1880. However, it was abandoned about a year later when the Denver and Rio Grande Railway reached Red Cliff permitting the ore to be shipped to the smelters at Leadville.

The first production consisted of silver-bearing lead-carbonate ores from the Leadville Limestone. The fissure vein deposits in the Precambrian rocks were discovered shortly thereafter, but the high grade gold ores in the quartzite were not recognized until several years later. As the mines reached greater

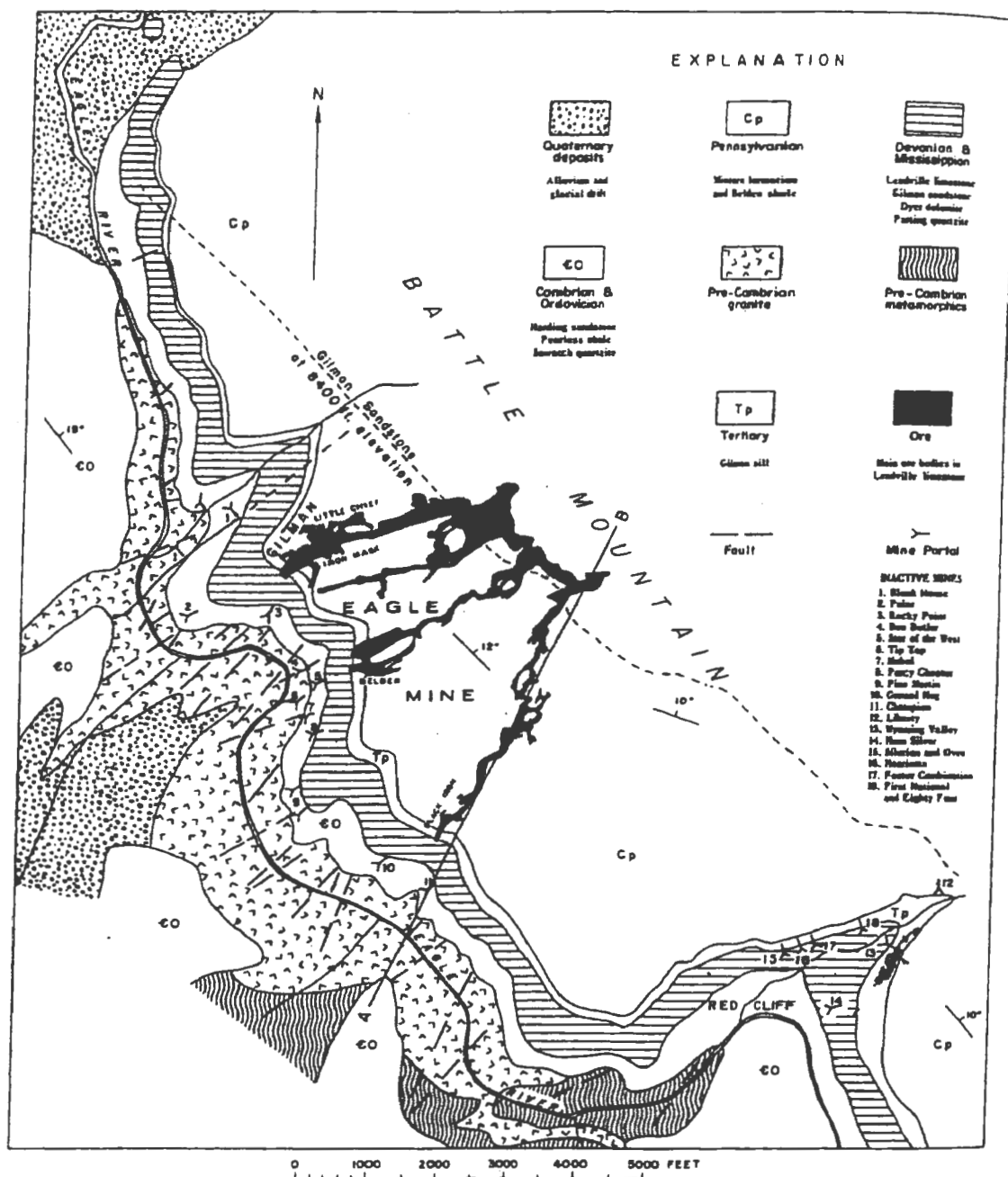


FIG. 1. Geologic Map of the Gilman District, Eagle County, Colorado, showing location of principal ore bodies. Compiled from maps by The New Jersey Zinc Company and Lovering and Tweto (20).

shipped from the Lucky Boy group by the Rico Consolidated Mining Co. Other producing mines were the Argentine, Aztec, Carbonate, Forest Payroll, Iron Cap, and Nora Lilly.

## DOUGLAS COUNTY.

There seems to have been no placer gold recovered by sluicing in Newlins Gulch, near Parker, and other localities of Cherry Creek in Douglas County, from which for many years there has been a nominal quantity produced each year.

## EAGLE COUNTY.

*Mine production in Eagle County, Colo., in 1915 and 1916.*

Year.	Number of producing mines.	Ore.	Gold.	Silver.	Copper.	Lead.	Zinc.	Total value.
		Short tons.		Fine oz.	Pounds.	Pounds.	Pounds.	
1915.....	21	74,197	\$95,426	177,550	60,699	1,391,043	11,141,760	\$1,613,856
1916.....	28	103,709	\$98,038	222,136	112,610	1,817,343	28,433,052	\$4,145,324
Increase, 1916.....	+7	+29,512	+2,612	+44,586	+51,911	+426,300	+17,291,292	+2,531,468

\* Includes small placer production.

The total value of the output of Eagle County in 1915 was by far the largest since the discovery of gold at Red Cliff in 1879, but the total value was two and one-half times as great in 1916 as in 1915. The greater part of the production of Eagle County came from the Battle Mountain (Red Cliff) district, although there was a considerably increased yield of silver from the Brush Creek district, also several small lots of ore from the Edwards district and one small lot of copper ore from the Fulford district. The value of the output of zinc for 1916 was \$3,810,609, an increase of \$2,499,122. The county continued to maintain second place to Lake County in the yield of zinc.

**Battle Mountain (Red Cliff)<sup>1</sup> district.**—The Red Cliff district in 1916 produced 103,709 tons of ore, yielding \$95,378 in gold, 112,120 ounces of silver, 110,732 pounds of copper, 1,515,580 pounds of lead, and 28,433,052 pounds of zinc, the total value being \$4,112,325, as compared with \$1,630,781 in 1915. The Iron Mask mill was continuously operated on lead-zinc ore from the Iron Mask mine, with product in zinc, lead, and iron manganese concentrates. In addition, a considerable quantity of zinc carbonate ore was shipped from the Iron Mask mine and smaller quantities of zinc carbonate ore from other properties in the district. A very large quantity of zinc-lead sulphide ores was shipped from the Black Iron and Ground Hog mines to various mills and smelters. Other producing mines of importance were the Ben Butler, Foster-Combination, Mabel, Pursey Chester, Star of the West, Tip-Top, Tram, and Wyoming Valley.

<sup>1</sup> For discussion of geology see Means, A. R., *Geology and ore deposits of Red Cliff, Colo.*; *Econ. Geology*, vol. 10, no. 3, pp. 1-27, January, 1915; also Arnold, Philip, *Siderite and sulphides in Leadville ore deposits*; *Min. and Sci. Press*, July 11, 1914, p. 52 (siderite at Red Cliff.)



STATE OF COLORADO  
BUREAU OF MINES  
INSPECTOR'S REPORT

TO  
JOHN T. JOYCE  
COMMISSIONER OF MINES

Pennsylvania Mine  
Name of Mine or Plant

Summit

County

September 17th, 1929

PENNSYLVANIA MINE, operated by the CONSOLIDATED PENNSYLVANIA MINES, INC., P. Matuschka, Secy., 1301 A Street, Lincoln, Nebr. (Closed down in April last)

Four miles NE Montezuma, Peru mining district. Fair auto road - ore trucked to Keystone, and shipped via C. & S. R. R.

4 men - 3 underground - 1 on surface - Have compensation ins.

The safety and sanitary conditions are good.

There are 7000 ft. of crosscuts, drifts and raises, showing fissure vein 6 to 8 ft. wide. Filled stope and mill hole system used. Connected with the surface for ventilation and exit other than the working portals.

Gold, silver, lead, zinc. Not producing.

Blacksmith and machine shop, flotation mill with 150-ton daily capacity, built of frame, all under the same roof - connected with the mine by a 1000-ft. aerial tram. Change room at the portal of the working tunnel. Water for fire.

Mule and hand power for haulage.

Ground stands well - Timbering is in fair condition and seems safe.

The rules are complied with.

Electric power for mill, compressor and machine shop.

Fire doors were ordered installed last January - the frames have been put in place, but the doors have not been hung.

*E. Becker*

Inspector, District No. 1.

Enacted by the General Assembly of the State of Colorado, Approved April 10, 1899.

Section 20. Twenty-second.—That any person or persons operating any metalliferous mine or mill and employing five or more men, shall report the same to the Bureau of Mines and state when work is commenced and when stopped, and mines working continuously shall report on or before December 1, of each year, together with the names of the owners and managers or lessee in charge of said work, together with the postoffice address, the name of the claim or claims to be operated, the name of the county and mining district, together with the number of men employed, directly or indirectly, the same being classified into miners, trammers, timbermen, ore sorters, mill men, teamsters, etc. The necessary blanks to carry out the provisions of this section shall be furnished upon application by the Commissioner of Mines.

Twenty-seventh.—Any person, owner, agent, manager or lessee operating a metalliferous mine or mill in this state, who fails to comply with the provisions herein set forth, shall be deemed guilty of a misdemeanor against this act, and, when not otherwise provided, shall be liable to the penalty prescribed in section 15 of this act, or to a fine of not less than twenty-five dollars (\$25.00), nor more than three hundred dollars (\$300.00), for each and every provision not complied with, or both, at the discretion of the court.

## MINE REPORT.

Denver Colo. Oct 13 1900.

BUREAU OF MINES, STATE OF COLORADO.

HARRY A. LEE, Commissioner of Mines.

Denver, Colo.

Sir: In accordance with the above section, I submit report as follows:

Name of claim or claims The Pennsylvania and Fortson  
Other Lode Claims.  
The Col. Isabel and Five other Millsites  
Location Penn. & Grand River  
Mining District Summit County Colorado  
Owner or owners and address The Pennsylvania Mines Company  
419 Taylor Opera House Bldg.  
Name of Company The Pennsylvania Mines Company  
(If incorporated) Yes  
Capital stock 250,000 shares, at \$ 1.00 per share.  
Eugene L. Mearns, Fortson President, 419 Taylor Opera House Bldg  
(P. O. Address.)  
William Whitcomb Secretary, "  
Eugene L. Mearns, Fortson Manager, "  
Francis Graham Superintendent, Montezuma, Colo.  
Lensed to "  
Work in charge of Francis Graham, Supr.  
Montezuma, Summit Co. Colo.  
(P. O. Address.)  
Is property worked continuously? Yes  
Commenced work 1900.  
Stopped work 1900.

### MEN EMPLOYED.

NO. EMPLOYED.	NO. EMPLOYED.
Machine Drillmen, 8 for hour shift.	Engineers, 3 for hour shift.
Machine Helpers, 8 for hour shift.	Pumpmen, 3 for hour shift.
10 Miners, 82 for 9 hour shift.	Firemen, 3 for hour shift.
1 Timbermen, 82 for 9 hour shift.	Blacksmiths, 5 for hour shift.
1 Trammers, 82 for 9 hour shift.	Teamsters, 3 for hour shift.
1 Ore Sorters, 82 for 9 hour shift.	1 Foreman, 84 for hour shift.
Topmen, 3 for hour shift.	1 Superintendent, 36 for hour shift.
Laborers, 3 for hour shift.	Office Help, 3 for hour shift.
Assayers, 3 for hour shift.	15 Millmen, 82 for 9 hour shift.
3 for hour shift.	3 for hour shift.

Average number of men employed for the year 1900 20

Character and value of ore Argentiferous - Galena  
50 lb silver 93.25 fine 30 lb Lead

Name of mill (if any), character and capacity Pennsylvania Mill  
concentrating - 50 tons per day of  
24 hours

Character of surface improvements Power House Mill  
Remaking House Office & Super. dwelling  
Stables etc

Amount and character of under-ground development 737 Leased Sub. tunnels  
and levels

Signed

Wm. W. W. W.

Secretary

F-004

SUMMIT

METAL MINES AND MILLS

County SUMMIT, Post Office Montezuma, District .....Name of Mine or Plant Penney's Llama

## REPORT TO BUREAU OF MINES

STATE OF COLORADO

FOR THE YEAR 1923

Name of Company or Title of Partnership Liberty Mining & Reduction Company  
 Address of Principal Office % Ernest Le Rive Foster 502 Masonic Temple Durango Colo

Names, titles and addresses of officers, partners or owners

Not knownNames and numbers of patented claims Not known

If names of claims have been listed in previous reports, only changes, if any, need be given.

Penney's Llama & alTotal acreage 9.0Names of unpatented claims NoneTotal acreage .....Do you own these claims, or do you operate them under lease? Leased

If you operate under lease, give name and address of company or person from whom leased.

Ernest Le Rive Foster President Liberty M. & R. Co address above

If you have given a lease to others for all or part of the property, state the names of the leasing companies, partnerships or individuals:

Name ..... Manager ..... P.O. Address .....Is the work done by your lessees included in this report? This is a Lessee ReportHave you any or reduction works? yes If so, what is its character and capacity? 150 tonConcentrating plant (not operated)

Average contents of products sold. (If both crude ore and concentrates are sold give average contents of each)

Gold 0.2 oz. Copper 2.0 % Iron ..... % Tungstic acid ..... %Silver 2.0 oz. Zinc ..... % Sulphur ..... % Uranium oxide ..... %Lead 14.6 % Manganese ..... % Insoluble ..... % Vanadium oxide ..... %Molybdenum ..... % Fluorspar ..... %Crude ore sold 92,483 tons Concentrates sold 0 tons Milling ore produced 0 tonsGold or silver bullion produced, value NoneList of buildings, tramways, and other surface improvements made during the year None

Amount and character of underground development during year:

Shafts None ftWinzes None ft Drifts 50 ftCrosscuts None ft

C-010

**LABOR DATA**  
**UNDERGROUND MINES**

Name of Mine or Plant	County	Post Office	Shipping Point	No. of Days Operated	Average Number of Men Employed	
					Underground	Surface
<i>Pennsylvania</i>	<i>Summit</i>	<i>Montezuma</i>	<i>Keystone</i>	<i>192</i>	<i>4</i>	<i>1</i>

**ORE DRESSING PLANTS AND MILLS**

**At Mill**

**CLASSIFICATION OF LABOR UNDERGROUND AND ON SURFACE ABOUT METAL MINES**

	Total 8 hr. Shifts	Wage per Shift		Total 8 hr. Shifts	Wage per Shift
Miners	<i>237</i>	<i>\$4.50</i>	Nippers		
Machine Runners	<i>195</i>	<i>\$4.50</i>	Other Underg'nd Labor		
Machine Helpers			Topmen		
Trammers	<i>120</i>	<i>\$4.50</i>	Engineers	<i>29</i>	<i>\$4.50</i>
Muckers	<i>102</i>	<i>\$4.50</i>	Firemen		
Cagers			Machinists		
Timbermen	<i>53</i>	<i>\$4.50</i>	Blacksmiths	<i>53</i>	<i>\$4.50</i>
Timberman Helpers			Blacksmith's Helpers	<i>60</i>	<i>\$4.50</i>
Pumpmen			Carpenters		
Pipemen			Superintendents		
Electricians			Foremen		
Motorman			Shift Bosses		

Total number of shifts performed by all men employed underground *707*

Total number of shifts performed by all men employed on surface *182*

**CLASSIFICATION OF LABOR IN ORE DRESSING PLANTS, MILLS AND OTHER SURFACE OCCUPATIONS**

	Total 8 hr. Shifts	Wage per Shift		Total 8 hr. Shifts	Wage per Shift
Mill Superintendents			Ore Sorters <i>at mine</i>	<i>40</i>	<i>\$4.50</i>
Mill Foreman			Tram Men		
Mill Shift Bosses			Teamsters		
Millmen			Timekeepers		
Roustabouts			Bookkeepers		
Machinists			Storekeepers		
Electricians			Cooks		
Carpenters			Waiters		

Total number of shifts performed by all men employed in mills, etc. *883*

Remarks

Dated at *Boulder Colorado*  
*March 29*, 1924.

Signed *J. L. Pouchart & Co.*  
By *Jesse*  
Title

**NOTE: PLEASE FILL OUT THIS REPORT COMPLETELY. DO NOT NEGLECT TO GIVE NUMBER OF DAYS OPERATED AND AVERAGE NUMBER OF MEN EMPLOYED. BE SURE TO DATE THE REPORT, AND SIGN IT.**

(which see), near Eldora, Boulder county. A 25-ton mill was erected late in 1919.

# **CONSOLIDATED MINES DEVELOPMENT CO. COLORADO**

Office: 717 Majestic Bldg., Oklahoma City, Okla. Mine at Alice, Colo. Officers: L. T. Samuelson, pres.; J. A. Best, v. p.; W. C. Bickford, sec-treas., with W. G. Harper and W. G. Luckenga, directors. W. G. Harper, mgr. Inc. in Colorado. Cap., \$1,500,000; \$1 par; 850,000 outstanding. Annual meeting, second Monday in October.

Property: 10 claims, 2 patented, 102 acres, in Upper Clear Creek and Argentine districts, Clear Creek county, said to show a quartz vein in granite, 6' wide, running N. E.-S. W. and to assay \$18 in gold, silver, and copper.

Development: by tunnels, 1,100' and 400' long, said to prove 200,000 tons of ore.

Equipment: 7-drill compressor, electric power and a flotation unit. A 100-ton mill was planned. No recent reports.

# **CONSOLIDATED REALTY & INVESTMENT CO. COLORADO**

Office: Boulder, Colo.

Officers: T. V. Wilson, pres.; D. A. Degge, sec., with M. Maury and J. A. Webber, directors; W. W. Degge, mgr. Transfer office: Boulder.

Inc. Dec., 1909, in Colorado. Cap., \$1,000,000; \$1 par; 866,700 outstanding.

Financial statement to December, 1916, showed total receipts of \$25,672, with disbursements of \$25,336.

Reported to have a blanket deposit of gold running about \$18 per ton.

No recent record of operations.

# **CONSOLIDATED SPECIE PAYMENT MINING CO. COLORADO**

See Specie Payment Gold Mining Co.

# **CONTINENTAL MINES, POWER & REDUCTION CO. COLORADO**

Office: 919 Equitable Bldg., Denver, Colo. Mine office: Lombard, Clear Creek county, Colo.

Officers: Henry I. Seemann, pres.-gen. mgr.; Cyrus Locker, v. p.; Wm. H. Warinner, 2nd v. p.; A. W. Craig, sec.-treas.

Inc. Nov. 7, 1905, in Colorado. Cap., \$5,000,000; \$1 par; issued \$4,370,761. Annual meeting, first Wednesday in November.

Property: 182 claims, 70 patented, 2,000 acres, in the Lincoln mining district, said to show 75 fissure veins and contact deposits, ranging in width from 2' to 75'. Country rock is gneiss, schist and granite, with porphyry dikes. Vein system claimed to be proved to depth of 1,000' and traceable 4 miles. Ores are sulphides, reported by management to carry 1 to 7% copper, 1 to 35% lead, from a trace to 6% zinc, 1 to 200 oz. silver and \$5 to \$500 gold per ton.

Development: by shafts of 135', 150' and 200' and a number of tunnels of 100' to 2,000'. The Seemann tunnel, now idle, is about 4,000' long. The mine has approximately 4 miles of workings, with about 1 mile in ore, estimated by management to show 300,000 tons of ore in sight. Most of the work is now being done on the Lombard vein and through 4 tunnels, 800', 1,500', 1,600' and 3,800' long.

Equipment: includes electric power, 150-h. p. at mine and 150-h. p. at mill, 25-h. p. hoist and 7-drill air-compressor. There are about 20 buildings.

The mill has 20 stamps, one 8x12" crusher, 3 Card tables, 3 Wilfley tables and 2 sizers, capacity 100 tons per day. Company planned continuous development and was to add an oil flotation plant to the mill, increasing its capacity to 200 tons per day, and selling commercial current. In July, 1919, the president reports that nothing was being done on account of the lack of money.

# **CONTINENTAL MINING CO. COLORADO**

Office: Silverton, Colo.

Officers: Jos. Bordenau, pres.-treas.-mgr.; F. B. Brown, v. p.; W. A. Way, sec., with M. J. Heller, supt. and J. H. Slattery, directors.

Inc. in Colorado. Cap., \$1,500,000; at \$1 par; 23,000 shares in treasury. Transfer office: Silverton. Annual meeting in December.

Property: 18 claims, about 150 acres, located in the Eureka mining dis-

trict, San Juan county, said to show quartz vein in fissure carrying gold and silver. Company spent \$8,000 on development work in 1916.

Development: by vertical shaft and tunnels. Tunnels are 3,000' long with 4,000' of development, having a depth of 500'. Ore-shoot said to be 1,500' by 350' and 200,000 tons blocked out. Average assays were reported to be \$18.

Equipment: electric hoist and electric pump.

No recent returns.

# **COPPER CREEK MINING CO. COLORADO**

Office: 1723 Champa St., Denver, Colo.

Cap., \$100,000, divided into 1,000,000 shares at 10c par; 500,000 shares to be left in treasury.

Property: said to consist of 560 acres, 26 miles from Denver. Reported developed by vertical 354' shaft, cutting a copper bearing dike.

# **COPPER KING MINES PRODUCTS CO. COLORADO**

Mail returned June, 1919, from former address, Copperbow, via McCoy, Eagle county, Colo.

Officers: Wm. Kelly, pres., Hutchinson, Kan.; Andrew B. Crichton, v. p., Johnstown, Pa.; J. R. Wood, sec.-treas., 2140 S. University Ave., Denver, Colo., with E. R. Lloyd and J. N. Wyman, directors; W. H. Wagner, mgr.

Inc. in 1914.

At last reports company was using a 50-ton electrolytic mill to experiment on a 50,000 ton deposit of copper oxide ore. Believed to be idle.

# **CORRY CITY MINES COLORADO**

Mine office: Silver Plume, Clear Creek county, Colo. William Copper, mgr.

Early in 1919, it was reported that operations would be started driving the Desch tunnel 100' and operating the Nesbota mill.

# **CRAWFORD MINING CO. COLORADO**

Address: Warren Prosser, supt. Mine located in Red Mountain district, Ouray county. In 1918, several large bodies of silver, lead and copper ores were reported opened. Shipments were expected as soon as the Red mountain branch of Silverton Northern R. R. was opened.

Property: known as the Genessee mine, and formerly leased by James M. Hyde of San Francisco.

# **CREEDE EXPLORATION CO. COLORADO**

Address: J. Gordon Hardy, mgr., Creede, Mineral county, Colo.

Company holds a lease on most of the Amethyst vein below the Nelson tunnel. The Commodore, Reno, White Star and Consolidated mines are all on this Amethyst vein and company is reported to have unwatered the Berkshire shaft and to be unwatering the Commodore. Vein carries "liberal" values in gold with silver and lead.

# **CREEDE UNITED CO. COLORADO**

Address: Creede, Mineral county, Colo.

Reported in 1918 that company was extracting a small amount of milling ore from the Happy Thought mine and treating it at the Humphreys mill.

# **CROWN PRINCE CONSOLIDATED MINING CO. COLORADO**

Office: 934 Gas & Electric Bldg., Denver, Colo. Mine office: Empire, Clear Creek county, Colo.

Officers: M. H. Block, pres.; J. E. Rinehart, v. p.; Thos. Williams, sec.; Wm. G. Krape, mgr. and treas., with Daniel Erickson, directors.

Inc. June 9, 1910, in Arizona. Cap., \$3,500,000; shares \$1 par; outstanding, 3,433,014.

Property: the Mint mine, 17 claims, 85 acres, near Empire. Gold-silver ore occurs in veins and is claimed to average from \$6 to \$12 per ton.

Development: by 75' shaft and tunnels, longest 1,025', with total underground workings of 7,000'. Equipment includes electric hoist.

Production claimed to have been \$200,000 in the past. Operations in 1918 reported to consist of drifts on veins in which only low values were found as levels had not yet reached ore-shoot.

\$27,735 with net receipts of \$5,281. Operated during 1919 and 1920, but no shipments.

**BACHELOR MINE** COLORADO

Creede, Mineral county, Colo. Operated 1920 by Norman G. Corson of Creede.

**BACKBONE MINE** COLORADO

Operated 1920 by M. Rosenburg of Silver Plume, Clear Creek county, Colo.

**BACKOFF LEASING CO.** COLORADO

See Keystone Cons. Mines Co. Described in Vol. XIV.

**BALD EAGLE MINING & MILLING CO.** COLORADO

Probably dead. Mail returned from former address: 307 Guardian Trust Co., Denver, Colo. Fully described in Vol. XIV of The Mines Handbook.

**BALD MOUNTAIN MINES CO.** COLORADO

Probably defunct. Mail returned from former office: Breckenridge, Summit Co., Colo. Fully described in Vol. XIV.

**BANKOK-CORA BELL MINING CO.** COLORADO

Probably defunct. See Vol. XIV. for full description.

**BANNER GOLD MINING CO.** COLORADO

Address: 317 Exchange National Bank Bldg., Colorado Springs, Colo.

Officers: J. T. Hawkins, pres.; J. R. McKinnie, v. p.; E. C. Sharer, sec.-treas.; A. D. Aitken, asst. sec.-asst. treas.

Cap. \$2,000,000; \$1 par. Treasurer's statement, Jan 1, 1916, showed 11,000 shares in treasury, and \$185 cash on hand. At last accounts taxes paid to 1915: liabilities, \$490. Last stockholders' meeting June, 1903. Listed on Denver and Colorado Springs exchanges.

Property: 7 claims, patented, 68 acres, on Beacon hill, Cripple Creek, Teller county, shows 3' fissure vein, containing gold and silver, and the C. K. & N. vein, 3' wide where cut.

Development: by 90' 110' and 400' shafts, with prospecting on 3 levels. Worked through the 700' level of the Henry Adney shaft on adjoining property.

No recent information.

**BANNER STATE GOLD, SILVER & COPPER M. CO.** COLORADO

Office: 367 Fulton St., Brooklyn, New York. A. G. Sullivan, pres.

Inc. 1908, in Colorado. Cap. \$500,000; \$1 par: none outstanding.

Property: one patented claim in Bobtail Hill, Lake district, Gilpin county. Not operating, but has 300' vertical shaft. - Idle, 1919-'21.

**BARON MINE** COLORADO

Operated 1920 by Charles Garfield of 205 South La Salle St., Chicago, Ill. Mine is at Salina, Boulder county.

**BARSTOW LEASING CO.** COLORADO

Address: Lundberg & Johnson, Ouray, Ouray Co., Colo. Works at Iron-ton, Ouray Co., Colo. J. H. Fennessy, trustee. Property formerly owned by the Barstow Mining & Milling Co., is held under bond and lease by C. R. Wilfley and subleased to Lundberg & Johnson.

Property: 27 claims, patented, 199 acres, with 5-acre mill site, in Red Mountain district, Ouray county, 11 miles from D. & G. R. R. The Silver-ton R. R., operating in the summer, is 1 mile away. Ore, found in fissure vein in andesite with N. W. strike and dipping 75°, is reported as 8' wide and carrying 0.75% copper, 2.5% lead, 4% zinc.

Developed: by 2 shafts, 425' and 145' deep, and 2 tunnels, 3,200' and 3,300' long. Total length of workings, 10,300', reported to have developed 17,000 tons of ore with 8,000 tons in sight. High-grade gold ore was found.

Equipped: with 2 hoists, electric compressor, 6-drill compressor, and mill comprising 2 Blake crushers, 9x15", 40 stamps, 20 Wilfley tables, 2 slime tables and buddles.

The spar vein of this property was leased September, 1916, to Engineers Corporation, of Boulder, Colo., who work it for fluorspar. This vein, carrying

3' of fluorspar, cuts across the Barstow vein. The deposit was struck at 1,100' in depth and was reported to widen out to nearly 10' of almost pure grade.

The mine and mill were operated during 1919 and 1920. In December, 1920, the Lundberg-Wilfley lease had opened a good body of gold-bearing quartz, also some sulphide ore, and shipments in 1921 exceeded 15 cars of \$8,000 each, or better.

**BASSICK MINING & REDUCTION CO.** COLORADO

Fully described in Volume XIV. Property leased to Querida Gold Mines Co., which see.

**BATES LEASING CO.** COLORADO

Company dissolved. Described in Vol. XIV.

**BEACON MINES CO.** COLORADO

Address: J. S. Anderson, supt., Cripple Creek, Colo.

Property: company has a lease on part of the El Paso Extension ground, Gold Hill, Teller county, and in August, 1919, found a rich shoot of gold ore on the 400' level. The deposit was opened for 300', and shipments realized \$200 per ton. No news since.

**BECKY SHARP MINE** COLORADO

See Old Town M., M. & Transportation Co.

**BELL BOY GOLD MINING & MILLING CO.** COLORADO

Address: Chas. L. Tilton, pres.-treas., 332 Kittredge Bldg., Denver, Colo. Mines at Apex, Gilpin Co., Colo.

Officers: C. L. Tilton, pres.; Harland L. Percy, v. p.; I. V. Shell, sec., with P. R. Anderson, all of Denver and M. B. Wolfe of Loma, Colo., directors. Inc. 1920, in Colo. Cap. \$99,000; 20¢ par: 300,000 shares in treasury; shares offered at 50¢ in 1921.

Property: the Mackey mine, 17 claims, 5 patented, in Pine district, Gilpin county.

Geology: fissure veins, 4'-6' wide, in granitic gneiss near monzonite mass, carry pay streaks 1/2'-2' wide, of bornite, chalcocopyrite, covellite and pyrite with copper and precious metals. Eighty-three samples cut throughout workings averaged \$14.54 per ton; 15 cars of ore shipped averaged \$23.73 per ton. Three ore shoots aggregating 250' along vein, carry 10,000 tons of \$20 ore according to report. Orebody blocked out on 4 sides is said to contain \$100,000. Shipments, 1920, averaged \$34.11 per ton, largely in gold.

Development: by 300' shaft with 4 levels at 30, 140, 180 and 220' on Mackey vein. Other veins also show ore, especially the Cronje, but lack deep development. Mine unwatered 1921, after several years idleness.

Equipment: complete and includes 30-ton concentration mill, hoist, compressor, tramway, etc.

**BELLEVIEW-CHAMPION MINING & POWER CO.** COLORADO

Office: 517 Cooper Bldg., Denver, Colo.

Property: the Champion-Trio mine in upper Clear Creek county. Ore carries gold, silver, lead and copper.

Early in 1919, it was reported that the production during the previous year averaged \$2,500 a month. Three groups of lodes are mining silver ores that average \$100 per ton. Main tunnel is 1,200' long. Mine was operated part of 1919.

**BELLEVIEW-HUDSON MINING & TUNNEL CO.** COLORADO

Address: 402 Mining Exchange Bldg., Denver, Colo.

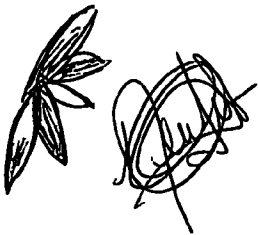
Property: the Belleview silver-lead-zinc mine, at Empire, Clear Creek county.

Operated during 1919, but produced no ore.

**BELL MINE** COLORADO

Address: George H. Short, 1424 Emerson Ave., Salt Lake City, Utah. Mine at Montezuma, Colo.

Property: the Bell silver mine, 5 claims, 9 miles from Keystone on the Colo. Southern R. R., in Summit county. Mine idle for 20 years, was re-opened 1921. The vein in granite, averages 3' in width, with stopes 15' wide.



Stephen Hoffman

Do they

## Hard Rock Mining Team Support to Mining PRP Searches

Stephen Hoffman  
OSW  
May 2008

### Who are the Hardrock Mining Team and What Can they do to help PRP Searches

- The Hard Rock Mining Team was formed by senior mining staff in the regions and program offices in 1998. The team has about 40 members.
- The purpose of this team is to leverage Agency resources dealing with mine sites.
- The Abandoned Mines Team was formed in 2001 to focus efforts on cleaning up AMLs. Its web page is found at <http://www.epa.gov/superfund/programs/aml/index.htm>
- The Mining Team holds monthly conference calls where requests for assistance in PRP searches can be made.
- Most members of the Team have direct PRP search experience.

Hard rock mining  
team -

Petty M<sup>rs</sup> Grash

### AML Reference Documents

- The AML team has issued 2 reference documents:
- The Abandoned Mine Site Characterization and Cleanup Handbook <http://www.epa.gov/superfund/policy/remedy/pdfs/amscch.pdf>
- AML Team Reference Notebook <http://www.epa.gov/superfund/programs/aml/tech/refntbk.htm>

go here



#### Other Team Resources

- Basic 1894 and 1898 texts on how mining for copper, gold, lead, uranium is conducted is found at:
- <http://www.epa.gov/superfund/programs/aml/mineral/index.htm>
- Updated information on uranium mining prepared by ORIA is found at <http://www.epa.gov/radiation/docs/tenorm/402-r-05-007-v1.pdf>
- Updated information on the location of abandoned uranium mines <http://www.epa.gov/radiation/docs/tenorm/volume-II/402-r-05-007-v2.pdf>

#### Unconventional Sources of Information on Mining PRP Searches

- Mining stock certificates-big trade on the Internet now-gives you a start with corporate names and officers
- Private and public mining museums--Is the Stibee Mining Museum's Shaftuck Memorial Research Library
- History of an individual mine--Is Doctor Jack Pol [http://www.cripplecreekhistory.com/doctor\\_history.htm](http://www.cripplecreekhistory.com/doctor_history.htm)
- State Historical Museum guides for Colorado museums see <http://www.cripplecreekhistory.com/colorado-historical-museum.htm>
- Colorado School of Mines Russell and Lyn Wood Mining History Archive <http://www.mines.edu/russellwood/mininghistory.htm>
- Historic state tax revenue and incorporation files
- US Land Office Records--often held in land records offices--formerly claims offices

#### PRP searches and DOJ in DC

- Referrals to DOJ are administratively complex.
- DOJ HQ attorneys generally do not have strong mining backgrounds and are leery of taking on cases with complicated ownership histories.
- Early on hold introductory teleconferences with DOJ staff after the Regional Counsel clears it.
- Prepare short easy to understand ownership diagrams and share with DOJ staff to build confidence that the case is strong.
- Use the HQ Mining Team as backup with DOJ since we routinely interact with them.



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## **Insurance Issues**

## Insurance and the PRP Search

**Steve Keim**

Office of Site Remediation Enforcement  
Keim.Stephen@epa.gov

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### Presentation Overview

- ◆ When does EPA care about insurance?
- ◆ Locating policies and evidence of policies
- ◆ Developing evidence to support an insurance coverage claim
- ◆ Paths to insurance recovery
- ◆ Coordination of multiple claims
- ◆ EPA insurance resources

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### When Does EPA Care About Insurance?

- ◆ PRP lacks the ability to pay for its share of response costs
  - PRP claims limited ability to pay; is in bankruptcy; or is defunct
  - "General Policy on Superfund Ability to Pay Determinations" (OSRE, 9/30/97)
  - An ATP settlement should consider funds available from insurance recoveries and "the settlement agreement should provide for payment of a percentage of recovered expenses to the United States."

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### When Does EPA Care About Insurance? (cont.)

- ◆ PRP can pay its share
  - EPA has limited interest in a contractual dispute between a PRP and its insurer that does not affect EPA's ability to accomplish a response and recover its costs
  - EPA personnel may want to encourage a PRP to give notice to its insurers and look into possible coverage, especially if the PRP is unsophisticated as to Superfund and insurance.

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### Locating Evidence of Insurance

- ◆ Use of 104(e) information requests
  - To PRPs
  - To Insurers
  - To brokers/agents
- ◆ Sample 104(e) Language: "CERCLA 104(e) Requests for Information on Insurance Coverage" (OSRE, 2/28/07)
- ◆ ATP candidate has incentive to cooperate with EPA

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### Types of Evidence of Insurance

- ◆ Policy/declaration page
  - Use of standard forms
- ◆ Secondary evidence
  - Insurance invoices
  - PRP accounting records, e.g., accounts payable, canceled checks
  - Claims correspondence
  - Litigation records
  - Certificates of insurance
  - Transactions requiring evidence of insurance, e.g., leases, govt. contracts

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### Sources of Evidence of Insurance

- ◆ PRP files and personnel
- ◆ Broker/agent files and personnel
- ◆ Insurance companies
- ◆ Government agencies
- ◆ Court records
- ◆ Financial institutions
- ◆ Outside counsel

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### Liability: CERCLA vs. Insurance

#### Source of Law?

- ◆ CERCLA: Statute
- ◆ Insurance: Contract

#### Federal or State Law?

- |  |                                       |
|--|---------------------------------------|
| ◆ CERCLA: Federal                                  | ◆ Insurance: State                    |
| - Only federal courts have jurisdiction            | - 50 states, 50 sets of insurance law |
| - Some variation by Circuit, but mostly consistent | - Choice of law can decide case       |

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### Liability: CERCLA vs. Insurance

- ◆ Insurance coverage analysis requires evidence of timing, knowledge, intent, and extent of contamination not required for CERCLA liability analysis
- ◆ Need additional evidence of operational history
- ◆ Coordinate closely with case attorney
- ◆ Insurance support resources available

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### General Liability (CGL) Policies

- ◆ Insuring Language: "The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage to which this insurance applies, caused by an occurrence"
- ◆ Other types of insurance policies

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### Insurance Coverage Evidence: Trigger of Coverage

- ◆ PRPs often have a long string of insurance policies, sometimes with different insurers
- ◆ Need evidence of property damage during the policy period for each policy
- ◆ Requires more specific timing evidence than for CERCLA liability
- ◆ Trigger of coverage theories:
  - Exposure theory
  - Injury-in-fact theory
  - Manifestation theory
  - Continuous theory

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### Insurance Coverage Evidence: Pollution Exclusions

- ◆ Timeline: Pollution Liability & Insurance
  - 1940s: CGL policies introduced without pollution-specific terms
  - 1960s: Expansion of nuisance law to include pollution liability
  - 1973: "Sudden and accidental" pollution exclusion added to most CGL policies
  - 1980: CERCLA passed
  - 1986: "Absolute" pollution exclusion added to CGL policies

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**Insurance Coverage Evidence:  
Pollution Exclusions (cont.)**

- ◆ Sudden and accidental pollution exclusion:  
no coverage for property damage "arising out of the discharge, dispersal, release or escape of . . . pollutants . . . but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental"
- ◆ Majority rule: "sudden" has a temporal meaning; no coverage for gradual pollution
- ◆ Minority rule: "sudden and accidental" should be interpreted to mean "neither expected nor intended"
- ◆ Was the release abrupt or gradual?

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**Insurance Coverage Evidence:  
Owned Property Exclusion**

- ◆ No coverage for property damage to "property owned or occupied by or rented to the insured"
- ◆ In most states, groundwater is not the property of the insured, so groundwater cleanup costs are covered
- ◆ Source control on the insured's property may be covered to prevent imminent harm to third-party property
- ◆ What is the extent of contamination?
- ◆ Is there third-party property damage?

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**Insurance Coverage Evidence:  
Expected or Intended**

- ◆ Occurrence Definition: "an accident, including continuous or repeated exposure to conditions, which results in . . . property damage neither expected nor intended from the standpoint of the insured"
- ◆ Is there evidence that a PRP knew its operations were causing environmental harm and failed to change?
- ◆ Courts typically deny coverage only for relatively egregious failures to meet the prevailing standards of environmental conduct

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### **Insurance Coverage Evidence: Known Loss Doctrine**

- ◆ Fortuity requirement: Insurance is meant to cover contingent events, i.e., risks, not known losses
- ◆ Application to CERCLA liability can be difficult, as a PRP may become aware of potential CERCLA liability gradually
- ◆ Where is the line between a known risk and a known loss?
- ◆ When did the PRP know that it faced CERCLA liability?

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### **Paths to Insurance Recovery**

- ◆ ATP PRP pursues coverage
  - EPA's preferred path; relatively efficient
  - PRP requests information from insurers, brokers, and others as needed
  - EPA assists PRP if needed
  - Contractor support available for analysis or insurance archeology
  - Timing relative to settlement with EPA
- ◆ PRP assigns claim to a private party, e.g., a trust or PRP group, which pursues coverage.
  - EPA receives portion of proceeds

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### **Paths to Insurance Recovery**

- ◆ United States takes assignment of the PRP's claim and pursues coverage
  - Resource intensive; balance against potential recovery
  - Still requires PRP assistance
  - Generally do not want to take assignment without plans to pursue coverage
- ◆ United States pursues direct action against insurer
  - Few states have direct action statutes
  - Resource intensive

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## Coordination of Multiple Claims

- ◆ Insurers may want to buy back policy as part of settlement, preventing future claims on policy
  - A PRP may have CERCLA liability at several sites
  - Several agencies may have claims, at the same site or at other sites, to which a PRP's policy may respond
  - Consider possible claims by other federal agencies, states, and tribes, including NRD trustees
  - Best to assert all available claims at once
  - Want to avoid PRP consenting to policy buyback before U.S. presents all potential claims

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## EPA Insurance Resources

- ◆ Documents on EPA Intranet
  - <http://intranet.epa.gov/oeca/osre/project/insur.html>
  - Sample 104(e) requests
  - "Tools for Analyzing Comprehensive General Liability Insurance Policies in Conjunction with Superfund Ability to Pay Determinations" (OSRE, 10/26/05)
- ◆ Regional Insurance Points of Contact
- ◆ OSRE Insurance Points of Contact
- ◆ Contract for expert insurance support (Eisenstein Malanchuk)
  - Contract administered by OSRE Insurance POCs

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## Insurance Research Resources

- ◆ *Handbook on Insurance Coverage Disputes* (14<sup>th</sup> Ed., 2008), Barry Ostrager and Thomas Newman
- ◆ *Insurance Coverage Litigation* (2<sup>nd</sup> Ed., 2000), Eugene Anderson, Jordan Stanzler, and Lorelle Masters
- ◆ *Environmental Coverage Case Law* (18<sup>th</sup> Ed., 2007), Munich Reinsurance America, Inc. ([www.amre.com](http://www.amre.com); go to Reference Library)

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EPA Insurance Points of Contact

*Prepared By  
Loretta Natter*

<u>EPA Region</u>	<u>Contact</u>	<u>Phone/Email Information</u>
Region 1	Ronald Gonzalez	617 918-1786 - <a href="mailto:gonzalez.ronald@epa.gov">gonzalez.ronald@epa.gov</a>
Region 2	Muthu Sundram	212 637-3148 - <a href="mailto:sundram.muthu@epa.gov">sundram.muthu@epa.gov</a>
	Frances Zizila	212 637-3135 - <a href="mailto:zizila.frances@epa.gov">zizila.frances@epa.gov</a>
Region 3	Mary Rugala	215 814-2686 - <a href="mailto:rugala.mary@epa.gov">rugala.mary@epa.gov</a>
Region 4	Karen Singer	404 562-9540 - <a href="mailto:singer.karen@epa.gov">singer.karen@epa.gov</a>
	Ray Strickland	404 562-8890 - <a href="mailto:strickland.ray@epa.gov">strickland.ray@epa.gov</a>
	Cathy Winokur (RCRA)	404 562-9569 - <a href="mailto:winokur.cathy@epa.gov">winokur.cathy@epa.gov</a>
Region 5	Susan Prout	312 353-1029 - <a href="mailto:prout.susan@epa.gov">prout.susan@epa.gov</a>
	Luis Oviedo	312 353-9538 - <a href="mailto:oviedo.luis@epa.gov">oviedo.luis@epa.gov</a>
	Sally Jansen	312 353-9046 - <a href="mailto:jansen.sally@epa.gov">jansen.sally@epa.gov</a>
Region 6	Barbara Nann	214 665-2157 - <a href="mailto:nann.barbara@epa.gov">nann.barbara@epa.gov</a>
Region 7	Audrey Asher	913 551-7255 - <a href="mailto:asher.audrey@epa.gov">asher.audrey@epa.gov</a>
Region 8	Richard Sisk	303 312-6638 - <a href="mailto:sisk.richard@epa.gov">sisk.richard@epa.gov</a>
	Andrea Madigan	303 312-6904 - <a href="mailto:madigan.andrea@epa.gov">madigan.andrea@epa.gov</a>
Region 9	Jim Collins	415 972-3894 - <a href="mailto:collins.jim@epa.gov">collins.jim@epa.gov</a>
Region 10	Jennifer Byrne	206 553-0050 - <a href="mailto:byrne.jennifer@epa.gov">byrne.jennifer@epa.gov</a>
Headquarters	Clara Beitin	202 564-4795 - <a href="mailto:beitin.clara@epa.gov">beitin.clara@epa.gov</a>
	Tim Dicintio	202 564-4790 - <a href="mailto:dicintio.tim@epa.gov">dicintio.tim@epa.gov</a>
	Deniz Ergener	202 564-4233 - <a href="mailto:ergener.deniz@epa.gov">ergener.deniz@epa.gov</a>
	Steve Keim	202 564-6073 - <a href="mailto:keim.stephen@epa.gov">keim.stephen@epa.gov</a>
	Manuel Ronquillo	202 564-6065 - <a href="mailto:ronquillo.manuel@epa.gov">ronquillo.manuel@epa.gov</a>

## The Pursuit of Insurance Proceeds: A Case Study

Andrea Madigan  
US EPA Region 8  
madigan.andrea@epa.gov

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## The Standard Mine



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## Gathering Evidence of Insurance

- ☐ copies of insurance policies
- ☐ Secondary evidence of insurance coverage
- ☐ Burden of proof
- ☐ Standard of proof

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### **Sources of Insurance Information**

- ☐ Insured/PRP
- ☐ Books & records of insured/PRP
- ☐ Insurance Company
- ☐ Brokers
- ☐ Mortgage Lenders
- ☐ Lessors
- ☐ Regulatory Agencies
- ☐ Insurance Archeologists

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### **Evidence of Insurance**

- ☐ Declaration pages
- ☐ Cancelled checks for policy premiums
- ☐ Business records of insured
- ☐ References in other insurance
- ☐ Testimony
- ☐ Experts

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### **Analyzing Potential Insurance Coverage**

- ☐ If you have a copy of the policy, what does it say?
- ☐ When was the policy issued?
- ☐ What time period does the policy cover?

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### Analyzing Potential Insurance Coverage

- Is there a pollution exclusion?
  - Policies issued prior to 1973
  - Policies issued between 1973 and 1986
    - sudden and accidental
  - Policies issued after 1986
    - Absolute pollution exclusions
- Is there an "owned property" exclusion?

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### If you find coverage

- What is an occurrence?
- How are proceeds allocated?
- Notice to insurer

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### Choice of Law Issues

- Law of the state in which policy was issued
  - where was policy delivered?
  - where was premium paid?
  - where did negotiations occur?
  - where is insured located?
  - where is insurer located?
  - where is broker located?

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### Choice of Law Issues

- Law of the state that has the most substantial interest in the outcome of the dispute
- Restatement (Second) Conflict of Laws Section 188
  - Location where policy was issued
  - Location of subject matter of the contract
  - Location of cleanup
  - Needs of Interstate system
  - Relevant policies of forum and other forums

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### Hot Pursuit

- Assignment of insurance proceeds
  - Must be in writing
  - Variations by State
  - Assignee steps into shoes of assignor

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### Hot Pursuit

- Direct actions against insurer
  - Generally prohibited
- Exceptions
  - State variations
  - Bankruptcy
    - Default judgment

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### Settlements

- PRP pursues insurance claim
- Government negotiates with PRP and insurer
- PRP assigns insurance claim to government or a trust and negotiates directly with insurance company
- Claims package

34 years

~~Not used~~

173/

## NOTES



## **Managing Your Interviewee**

## Interviews

*Another PRP Search Tool*



- *Panel Presentation*  
*2008 PRP Search Conference*

-Andrew Taylor, R9  
-Barbara Aldridge, R6  
-Bob Werner, R6  
-Herb Miller, R4

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## Interviews

- Why do Interviews?
- Who is a good candidate?
- Interview vs. Interrogate
- Phone vs. In Person



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## Planning Interviews

- Questions: What do you need to know?
  - What
  - How
  - Where
  - Who
  - Which



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## Question Format

Avoid leading questions  
Use focused questions  
Be specific  
Use open ended for eliciting  
Close ended to clarify

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## The Interviewer



- Good Listener
- Non-Judgmental
- Adaptable
- Receptive
- Respectful
- Courteous
- Appropriate Appearance

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## Documenting the Interview

- Tape it or take notes?
- Transcribing
- Standards of evidence
- Affidavits
- Follow-up
- On-the-spot



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### Some Other Points

- Timing considerations
- Early Use of Interviews
- Partnering

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### Regional Discussion

- Results of Interview Survey
- Regional Best Practices
- Other tips

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### Panel Members

- *Andrew Taylor, R9, Case Development, (415) 264-9376*
- *Barbara Aldridge, R6, Enforcement Assessment, (214) 665-2712*
- *Bob Werner, R6, Enforcement Assessment, (214) 665-6724*
- *Harb Miller, R4, Superfund Enforcement & Information Mgmt., (404) 562-8860*

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## NOTES





## **Statute of Limitations (SOLs)**

## Statute of Limitations for CERCLA Actions

Cheryle Midnski  
Chief, Superfund Branch  
Office of Regional Counsel  
Region 7

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## Statute of Limitations in CERCLA

- Section 113(g)(2) sets the SOL for removal actions and for remedial actions
- Any action that is not a remedial action is a removal action for purposes of the SOL
  - RI/FS is a removal action
  - RD is a removal action

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## Statute of Limitations

- Removal Actions—general rules
  - SOL is three years from the completion of the removal
  - Six years after the grant of a waiver under Section 104(c)(1)(C); that section refers to a waiver on the basis of consistency with the remedial action at the site (*U.S. v. Ambroid*)
  - However, if remedial action is initiated within three years after completion of a removal action, costs incurred during the removal action may be recovered in the cost recovery action for the remedial action

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## SOL for Removals--Issues

- What is "completion" of the removal action?
- What if there are 2 removal actions?
- How does initiation of the RI affect the SOL?
- What is completion of the RI/FS for SOL purposes?

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## Statute of Limitations

- Remedial Actions
  - Initial action: within six years of the initiation of physical on-site construction of the remedial action
    - *U.S. v. Navistar* (153 F.3d 702 (1998)), missed SOL by 1 day)
  - Subsequent action: any time during the response action but no later than 3 years after the completion of all response action
    - *U.S. v. Findett*, 8<sup>th</sup> Circuit, August, 2000

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## SOL for Remedial Action--Issues

- What is initiation of physical on-site construction?
- Documentation-what you might need
- Different SOLs for each OU

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**And I should care about this because.....**

- Every region has a SCAP commitment for meeting SOLs.
- Cost recovery actions replenish the trust fund.
- The goal of CERCLA is that the "Polluter Pays"
- You may have to do a PRP search to support the cost recovery action

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## **SOLs for RPMs**

***Presentation by Barbara Aldridge***

***Region 6 Enforcement Assessment***

***PRP Search Conference***

***Portland 2008***

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### **Introduction**

➤ Data Quality in WasteLan/Cerclis

➤ Impacts the bottom line – getting dollars back in a timely fashion



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### **Issue**

➤ Dates in Cerclis are used by HQ and the Regions to calculate the cost recovery statute of limitations (SOL).

➤ RPMs have a responsibility for remedial data which can affect this date.



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## Who needs to be aware of SOLs?

- RPMs
- OSCs
- Attorneys
- Enforcement Officers
- Civil Investigators
- Managers
- DOJ
- **Basically Everybody!**



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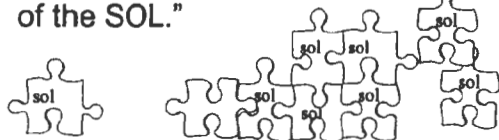
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## Favorite quote

- "It is vital to the management of the cost recovery program that sites with upcoming SOLs be addressed prior to the expiration of the SOL."



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## Accurate SOL calculation

- Depends on RPM-owned data
- Understanding definitions
- Involves the site team



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#### REMEDIAL ACTION (RA) START

- Definition: The RA is the implementation of the remedy selected in the ROD.
- Getting credit for an RA start. "priceless."
- On-site construction entered into Cerclis as the "RA On-Site Construction Sub-action actual completion date."

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#### Data Details

RA Start vs. RA On-Site Construction: They are not the same date.

- RA Start: Is basically a paperwork date - something is signed.



- RA On-Site Construction start: Is physical, on-site and construction.

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#### Data details, cont'd

**DECLARATION:** Regions will receive credit in the management of the Superfund program for "start" of a remedial action even though "initiation of physical on-site construction" may not have occurred for purposes of calculating a cost recovery statute of limitations. The date found in the remedial action actual start column of a CERCLIS report is a programmatic measure only...

—SPRM, 9-30

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### Court Case

- > **Court Ruling:** US v. Atlantic Richfield re: Sikes Superfund Site (January 2001).
- > PRPs tried to argue that on-site construction began earlier than EPA said it did.
- > Judge ruled in EPA's favor.

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### Four Part Test

Activity must be:

- > Physical
- > On-site
- > Part of the remedial action
- > Initiation of the remedial action
  - Excludes on-site activities that are not part of the RA construction



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### Cost Recovery Targeting Report

- > The report logic looks to the "On-Site Construction" sub-action complete date and adds 6 years to calculate the SOL.
- > If there is no data for On Site Construction, the report looks to the "RA Start" date, and calculates 6 years from that date.

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### Summary

- RPM-owned data affects SOL calcs
- RA Start and On-Site Construction are not the same
- Good data will assure accurate SOL dates



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### References

- United States of America v. Atlantic Richfield Company, et al., 4:98-cv-00408
- SPIM and Coding Guides found on EPA intranet.epa.gov/osrti/rmd/bpeb/spim
- Cost Recovery Targeting Report ENF-17
- Cost Recovery Tracking Report (ReportLink)

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US EPA, SUPERFUND PROGRAM  
COST RECOVERY TRACKING

SOURCE: CERCLIS  
CONFIDENTIAL, FOR INTERNAL USE ONLY

06 / DOUBLE EAGLE REFINERY CO. / OKD007188717 / 06B1 / Currently on the Final NPL / / 6SF-RL / Bart Canellas / (214) 665-6662

<u>Operable Unit</u>	<u>ActID</u>	<u>Action</u>	<u>Ld</u>	<u>SCAP Note</u>	<u>SOL Trigger</u>	<u>Date</u>	<u>SOL Date</u>	<u>Toll Ends</u>	<u>Net Obs (Extr)</u>
00-SITEWIDE	RV001	REMOVAL	F		RV Complete	4/3/1994	4/2/1997		\$50,000
<u>ActID</u>	<u>Action</u>	<u>Date</u>	<u>Status</u>	<u>SCAP Note</u>	<u>CR Amount</u>	<u>Cashout</u>	<u>Special Account</u>		
SV001	SECTION 107 LITIGATION	12/3/2001	Litigation Started						
		12/31/2008	Planned Lit Completion						
AC002	ADMIN ORDER ON CONSENT	9/24/2001	AOC Signed	deminimis candidate		\$731,207	\$2,592,460	\$3,323,666	
<u>Operable Unit</u>	<u>ActID</u>	<u>Action</u>	<u>Ld</u>	<u>SCAP Note</u>	<u>SOL Trigger</u>	<u>Date</u>	<u>SOL Date</u>	<u>Toll Ends</u>	<u>Net Obs (Extr)</u>
01-	RA001	REMEDIAL ACTION	F	SOURCE CONTROL	Constr Start	3/16/1998	3/15/2004		\$12,446,925
<u>ActID</u>	<u>Action</u>	<u>Date</u>	<u>Status</u>	<u>SCAP Note</u>	<u>CR Amount</u>	<u>Cashout</u>	<u>Special Account</u>		
SV001	SECTION 107 LITIGATION	12/3/2001	Litigation Started						
		12/31/2008	Planned Lit Completion						
AC002	ADMIN ORDER ON CONSENT	9/24/2001	AOC Signed	deminimis candidate		\$731,207	\$2,592,460	\$3,323,666	
<u>Operable Unit</u>	<u>ActID</u>	<u>Action</u>	<u>Ld</u>	<u>SCAP Note</u>	<u>SOL Trigger</u>	<u>Date</u>	<u>SOL Date</u>	<u>Toll Ends</u>	<u>Net Obs (Extr)</u>
01-	RD001	REMEDIAL DESIGN	F	DSGN DLYD-DLSTNG PI	RD Complete	4/30/1997	4/29/2000		\$700,000
<u>ActID</u>	<u>Action</u>	<u>Date</u>	<u>Status</u>	<u>SCAP Note</u>	<u>CR Amount</u>	<u>Cashout</u>	<u>Special Account</u>		
SV001	SECTION 107 LITIGATION	12/3/2001	Litigation Started						
		12/31/2008	Planned Lit Completion						
AC002	ADMIN ORDER ON CONSENT	9/24/2001	AOC Signed	deminimis candidate		\$731,207	\$2,592,460	\$3,323,666	
<u>Operable Unit</u>	<u>ActID</u>	<u>Action</u>	<u>Ld</u>	<u>SCAP Note</u>	<u>SOL Trigger</u>	<u>Date</u>	<u>SOL Date</u>	<u>Toll Ends</u>	<u>Net Obs (Extr)</u>
02-	RA003	REMEDIAL ACTION	F	GW RA	Constr Start	1/12/1998	1/11/2002		
<u>ActID</u>	<u>Action</u>	<u>Date</u>	<u>Status</u>	<u>SCAP Note</u>	<u>CR Amount</u>	<u>Cashout</u>	<u>Special Account</u>		
SV001	SECTION 107 LITIGATION	12/3/2001	Litigation Started						
		12/31/2008	Planned Lit Completion						
AC002	ADMIN ORDER ON CONSENT	9/24/2001	AOC Signed	deminimis candidate		\$731,207	\$2,592,460	\$3,323,666	
<u>Operable Unit</u>	<u>ActID</u>	<u>Action</u>	<u>Ld</u>	<u>SCAP Note</u>	<u>SOL Trigger</u>	<u>Date</u>	<u>SOL Date</u>	<u>Toll Ends</u>	<u>Net Obs (Extr)</u>
02-	RD002	REMEDIAL DESIGN	F	GROUNDWATER	RD Complete	3/17/1995	3/16/1998		\$100,000
<u>ActID</u>	<u>Action</u>	<u>Date</u>	<u>Status</u>	<u>SCAP Note</u>	<u>CR Amount</u>	<u>Cashout</u>	<u>Special Account</u>		
SV001	SECTION 107 LITIGATION	12/3/2001	Litigation Started						
		12/31/2008	Planned Lit Completion						
AC002	ADMIN ORDER ON CONSENT	9/24/2001	AOC Signed	deminimis candidate		\$731,207	\$2,592,460	\$3,323,666	

RUN DATE: 04 '8 14:44:09  
DATABASE DA: J4/07/08  
DATABASE TIME: 15:44:09  
VERSION: 2.07

U. S. EPA SUPERFUND PROGRAM  
CERCLIS  
ENFR-17 Cost Recovery Targeting Report  
Site = DOUBLE EAGLE REFINERY CO.  
ALL YEARS  
NPL/non-NPL  
REGION: 06

Page: 1  
ENFORCEMENT SENSITIVE INFORMATION  
\*\*\*\*\* FOR INTERNAL USE ONLY \*\*\*\*\*

EPA ID/ SPILL ID	OU/ACTION/LEAD	SITE NAME	TOTAL SITE COSTS/ OBLIGATIONS	PRIOR ACHIEVED	PRIOR WRITEOFF	FULL/ PART	CURRENT SOUGHT	UNADDRESSED COSTS	PLANNED ACTIONS OU ACTION LD DATE	AMOUNT
OKD007188717	06B1	DOUBLE EAGLE REFINERY CO.		\$1,028,707		\$0	\$19,779,517		COST RECOVERY PENDING	
00	BB001	RP 02/16/92								
01	CO001	F 09/28/95								
02	CO002	F 07/27/96								
00	PA001	S 10/16/89								
01	RA001	F 03/14/04 **								
02	RA003	F 01/10/02 **								
01	RD001	F 04/29/00								
02	RD002	F 03/16/98								
00	RV001	F 04/02/97								
00	SI001	S 10/16/89								

← you want to see stars!

Sample

\* - Date based on 104(c)(1)(C) Waiver

\*\* - Date based on Onsite Construction Starts

1 of 13 DOCUMENTS

**UNITED STATES OF AMERICA, et al. versus ATLANTIC RICH-FIELD, et al.**

**CIVIL ACTION NO. H-98-0408**

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

*147 F. Supp. 2d 614; 2001 U.S. Dist. LEXIS 2161*

**January 18, 2001, Decided**

**January 18, 2001, Entered**

**DISPOSITION:** [\*\*1] Defendants' motions for summary judgment **DENIED**. Plaintiff's cross-motion for partial summary judgment **GRANTED**.

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** In action commenced as a cost recovery suit by plaintiffs, United States and the State of Texas, under Sections 104 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.S. §§ 9604 and 9607, against defendant companies that allegedly released hazardous substances into the environment, before the court was plaintiffs' cross-motion for partial summary judgment and defendants' motions for summary judgment.

**OVERVIEW:** This action was commenced as a cost recovery suit by plaintiffs, United States and the State of Texas, under Sections 104 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.S. §§ 9604 and 9607, against defendants, companies that allegedly released hazardous substances into the environment. Plaintiffs

sought recovery of all response costs, including the costs of removal and remedial action, incurred by plaintiffs in response to release and threatened releases of hazardous substances from disposal site. Plaintiffs also sought a declaratory judgment that defendants were liable for any future response costs it incurs. Before the court was plaintiffs' cross-motion for partial summary judgment and defendants' motions for summary judgment. The court concluded that because the fencing, clearing, road improvement and platform and trailer placement were not initiation of physical on-site construction of the remedial action, the statute of limitations was not triggered before October 1, 1990 and this action was not time-barred. Defendants' motions for summary judgment were denied. Plaintiff's cross-motion for partial summary judgment was granted.

**OUTCOME:** Defendants' motions for summary judgment were denied. Plaintiff's cross-motion for partial summary judgment was granted. Court concluded that the action was not time-barred.

**CORE TERMS:** remedial action, site, on-site, initiation, trailer, summary judgment, removal,

contaminated, monitoring, fencing, fence, statute of limitations, clearing, surveying, genuine, air, hazardous substances, platform, onsite, temporary, cap, chemical, access road, limitations period, environmental, subcontractor, incineration, preparation, contractor, hazardous

#### **LexisNexis(R) Headnotes**

***Civil Procedure > Summary Judgment > Standards > Appropriateness***

***Civil Procedure > Summary Judgment > Standards > Genuine Disputes***

***Civil Procedure > Summary Judgment > Standards > Materiality***

[HN1] Summary judgment is appropriate if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Fed. R. Civ. P. 56*. A fact is "material" if its resolution in favor of one party might affect the outcome of the suit under governing law. An issue is "genuine" if the evidence is sufficient for a reasonable jury to return a verdict for the non-moving party. If the evidence rebutting the motion for summary judgment is only colorable or not significantly probative, summary judgment should be granted. The summary judgment procedure enables a party who believes there is no genuine issue as to a specific fact essential to the other side's case to demand at least one sworn averment of that specific fact before the lengthy process continues.

***Civil Procedure > Summary Judgment > Burdens of Production & Proof > General Overview***

[HN2] Under *Federal Rule of Civil Procedure 56(c)*, the moving party bears the initial burden of informing the district court of the basis for its belief that there is an absence of a genuine issue for trial, and for identifying those portions of the record that demonstrate such absence.

Where the moving party has met its *Rule 56(c)* burden, the nonmovant must do more than simply show that there is some metaphysical doubt as to the material facts. The nonmoving party must come forward with specific facts showing that there is a genuine issue for trial. To sustain the burden, the non-moving party must produce evidence admissible at trial.

***Civil Procedure > Summary Judgment > Burdens of Production & Proof > General Overview***

[HN3] Where the moving party has met its *Fed. R. Civ. P. 56(c)* burden, the nonmovant must do more than simply show that there is some metaphysical doubt as to the material facts. The nonmoving party must come forward with specific facts showing that there is a genuine issue for trial. To sustain the burden, the non-moving party must produce evidence admissible at trial.

***Environmental Law > Hazardous Wastes & Toxic Substances > CERCLA & Superfund > Enforcement > Cleanup Costs Governments > Legislation > Types of Statutes***

[HN4] The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) is a broad remedial statute that was designed to enhance the authority of the Environmental Protection Agency to respond effectively and promptly to toxic pollutant spills that threaten the environment and human health. As a remedial statute, CERCLA should be construed broadly in order to give effect to its purposes. In addition to facilitating efficient responses to environmental harm, holding responsible parties liable for the costs of the cleanup, and encouraging settlements, CERCLA seeks to shift the cost of environmental response from taxpayers to those entities who benefitted from the illegal release of pollutants.

***Environmental Law > Hazardous Wastes & Toxic Substances > CERCLA & Superfund > General Overview***

***Governments > Legislation > Interpretation***

***Governments > Legislation > Statutes of Limitations > Time Limitations***

[HN5] The starting point for construing a statute is the statutory language itself. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) provides that an action for response costs for a remedial action as here must be brought within six years after initiation of physical on-site construction of the remedial action. 42 U.S.C.S. § 9613(g)(2)(B). This wording is less than optimal, given that remedial actions are not necessarily constructed, and the statute does not provide a great deal of guidance. The terms "physical," "on-site," and "construction" are not defined in the statute. The regulations implementing CERCLA define construction as erection, building, alteration, repair, remodeling, improvement, or extension of buildings, structures or other property. 40 C.F.R. § 35.6015(a)(11).

***Environmental Law > Hazardous Wastes & Toxic Substances > CERCLA & Superfund > General Overview***

***Environmental Law > Solid Wastes > Resource Recovery & Recycling***

***Governments > Legislation > Statutes of Limitations > General Overview***

[HN6] The Comprehensive Environmental Response, Compensation and Liability Act defines the phrase "remedial action" to be those actions consistent with permanent remedy taken instead of or in addition to removal actions to prevent or to minimize the release of hazardous substances. 42 U.S.C.S. § 9601(24). The statute goes on to give a non-exhaustive list of remedial actions, including storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances and

associated contaminated materials, recycling or reuse, diversion, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

***Governments > Legislation > Interpretation***

***Governments > Legislation > Statutes of Limitations > General Overview***

[HN7] Statutes of limitation are to be construed strictly when applied to bar the Government from pursuing an action. While there is no bright-line rule to define what actions trigger the limitations period, courts have employed a four-part test to determine when physical on-site construction of the remedial action takes place. The activity must be "physical," in that it cannot consist of planning, meeting or merely observing the site. Second, the activity must be "on-site," as opposed to construction that takes place in a factory or other site. Third, the actions must be part of the "construction of the remedial action." Finally, the activity must be the "initiation" of the remedial action.

***Environmental Law > Hazardous Wastes & Toxic Substances > CERCLA & Superfund > General Overview***

[HN8] Actions taken to monitor, assess and evaluate the release or threat of release of hazardous substances are considered removal actions under the Comprehensive Environmental Response, Compensation and Liability Act. 42 U.S.C.S. § 9601(23).

**COUNSEL:** For UNITED STATES OF AMERICA, THE STATE OF TEXAS, plaintiffs: Richard Gladstein, DOJ, Washington, DC.

For UNITED STATES OF AMERICA, plaintiff: Robert W Darnell, Nicholas F Persampieri, U S Dept of Justice, Washington, DC.

For THE STATE OF TEXAS, plaintiff: Albert M Bronson, Asst Atty General, Austin, TX.

For THE STATE OF TEXAS, plaintiff: Pamela D Marks, Mark A Turco, Roberto N Allen, Beveridge & Diamond, Baltimore, MD.

For CHARLES GERHARDT, intervenor-plaintiff: Barry Allan Brown, Attorney at Law, Houston, TX.

For ATLANTIC RICHFIELD COMPANY, defendant: Michael O'Neal Connelly, Mayor Day Caldwell & Keeton, Houston, TX.

For ATLANTIC RICHFIELD COMPANY, defendant: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Beveridge & Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, defendant: Michael Morgan Gibson, Jones Day et al, Houston, TX.

For CROWN CENTRAL PETROLEUM CORPORATION, THE GOODYEAR TIRE AND RUBBER COMPANY, OCCIDENTAL CHEMICAL CORPORATION, ROHN AND HAAS COMPANY, SHELL OIL COMPANY, EL PASO TENNESSEE PIPELINE [\*\*2] CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE COMPANY, PETRO-TEX CHEMICAL CORPORATION, EXXON CORPORATION, PHILLIPS PETROLEUM COMPANY, defendants: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Mark A Turco, Roberto N Allen, Beveridge & Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, defendant: Michael R Dil-

lon, Morgan Lewis & Bockius, Philadelphia, PA.

For THE GOODYEAR TIRE AND RUBBER COMPANY, defendant: Tracie Jo Renfroe, Bracewell and Patterson, Houston, TX.

For OCCIDENTAL CHEMICAL CORPORATION, defendant: Paul M Bohannon, Andrews and Kurth, Houston, TX.

For OCCIDENTAL CHEMICAL CORPORATION, defendant: Thomas Starnes, Andrews & Kurth, Washington, DC.

For ROHN AND HAAS COMPANY, defendant: James E Smith, Beirne Maynard & Parsons, Houston, TX.

For SHELL OIL COMPANY, defendant: Mary Ellen Wilson, Stibbs & Burbach, The Woodlands, TX.

For SHELL OIL COMPANY, defendant: G Edward Pickle, Jr, Randall Jerry Heldt, Shell Oil Company, Houston, TX.

For EL PASO TENNESSEE PIPELINE CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE COMPANY, PETRO-TEX CHEMICAL CORPORATION, defendants: John R Eldridge, Haynes [\*\*3] & Boone, Houston, TX.

For EXXON CORPORATION, defendant: David Matthew Bates, Gardere Wynne et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, defendant: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, defendant: Anthony W Benedict, Attorney at Law, Bartlesville, OK.



For VACUUM TANKS INC, defendant: Eva Maria Fromm, Fulbright & Jaworski, Houston, TX.

For ATLANTIC RICHFIELD COMPANY, intervenor-defendant: Michael O'Neal Connelly, Mayor Day Caldwell & Keeton, Houston, TX.

For ATLANTIC RICHFIELD COMPANY, intervenor-defendant: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Beveridge & Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, intervenor-defendant: Michael Morgan Gibson, Jones Day et al, Houston, TX.

For CROWN CENTRAL PETROLEUM CORPORATION, THE GOODYEAR TIRE AND RUBBER COMPANY, ROHN AND HAAS COMPANY, SHELL OIL COMPANY, EL PASO TENNESSEE PIPELINE CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE COMPANY, PETRO-TEX CHEMICAL CORPORATION, EXXON CORPORATION, PHILLIPS PETROLEUM COMPANY, intervenors-defendants: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Mark [\*\*4] A Turco, Roberto N Allen, Beveridge and Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, intervenor-defendant: Michael R Dillon, Morgan Lewis & Bockius, Philadelphia, PA.

For THE GOODYEAR TIRE AND RUBBER COMPANY, intervenor-defendant: Tracie Jo Renfroe, Bracewell and Patterson, Houston, TX.

For OCCIDENTAL CHEMICAL CORPORATION, intervenor-defendant: Paul M Bohannon, Andrews and Kurth, Houston, TX.

For ROHN AND HAAS COMPANY, intervenor-defendant: James E Smith, Beirne Maynard & Parsons, Houston, TX.

For SHELL OIL COMPANY, intervenor-defendant: Mary Ellen Wilson, Stibbs & Burbach, The Woodlands, TX.

For SHELL OIL COMPANY, intervenor-defendant: G Edward Pickle, Jr, Randall Jerry Heldt, Shell Oil Company, Houston, TX.

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For EXXON CORPORATION, intervenor-defendant: David Matthew Bates, Gardere Wynne et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, intervenor-defendant: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

[\*\*5] For PHILLIPS PETROLEUM COMPANY, intervenor-defendant: Anthony W Benedict, Attorney at Law, Bartlesville, OK.

For VACUUM TANKS INC, intervenor-defendant: Eva Maria Fromm, Fulbright & Jaworski, Houston, TX.

For RHONE-POULENC INC, ELF ATOCHEM NORTH AMERICAN INC, ASHLAND INC, CHEVRON USA INC, EI DU PONT DE NEMOURS AND CO, third-party defendants: Charles L Berry, Vinson & Elkins, Houston, TX.

For RHONE-POULENC INC, EI DU PONT DE NEMOURS AND CO, ETHYL CORP, ETHYL CORPORATION, BEAZER EAST INC., third-party defendants: Carl B Everett, Saul Ewing et al, Philadelphia, PA.

For MONSANTO CO, third-party defendant: Edward Morgan Carstarphen, III, Woodard Hall and Primm, Houston, TX.

For MONSANTO CO, third-party defendant: Charles L Berry, McFall Glidden et al, Houston, TX.

For MONSANTO CO, third-party defendant: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

For MONSANTO CO, third-party defendant: Anthony W Benedict, Attorney at Law, Bartlesville, OK.

For GENERAL ELECTRIC COMPANY, BORG-WARNER SECURITY CORP, third-party defendants: Kenneth Steven Wall, Brown McCarroll & Oaks Hartline, Houston, TX.

For CHAMPION INTERNATIONAL CORPORATION, [\*\*6] third-party defendant: John F Cermak, Jr, Bryan P Jacobsen, Margaret Rosenthal, Jenkins and Gilchrist LLP, Los Angeles, CA.

For DOW CHEMICAL CO, third-party defendant: Robert L Soza, Jr, Jenkins & Gilchrist, San Antonio, TX.

For PPG INDUSTRIES INC, third-party defendant: George E McGrann, Schnader Harrison et al, Pittsburgh, PA.

For CHEVRON USA INC, third-party defendant: Daniel E Vineyard, Chevron Services Co, Houston, TX.

For EI DU PONT DE NEMOURS AND CO, ETHYL CORP, ETHYL CORPORATION, third-party defendants: Charles Stanton Perry, Abrams Scott et al, Houston, TX. .

For GENERAL ELECTRIC COMPANY, BORG-WARNER SECURITY CORP, third-party defendants: David J Engel, General Electric Company, Pittsfield, MA.

For OLIN CORPORATION, third-party defendant: Jerry K Ronecker, Hursch & Eppenger, Charles E Merrill, Amy E Randles, Husch & Eppenger, St Louis, MO.

For CINTAS R U S INC., A SUCCESSOR-IN-INTEREST TO INDUSTRIAL TOWEL AND UNIFORM COMPANY, third-party defendant: Cathy Raba Turcotte, Oppenheimer Blend et al, San Antonio, TX.

For GATX TERMINALS CORPORATION, third-party defendant: Robert E Morse, III, Crain Caton & James, Houston, TX.

For UNION [\*\*7] CARBIDE CORP, PRAX-AIR INC, third-party defendants: David Bruce Weinstein, Wilson Elser et al, Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

For UNION PACIFIC RAILRO, third-party defendant: Steven J Levine, Patrick O'Hara, Phelps Dunbar, Baton Rouge, LA.

For UNION PACIFIC RAILRO, third-party defendant: Deborah A Newman, Phelps Dunbar, Houston, TX.

For DIXIE CHEMICAL COMPANY INC., third-party defendant: James W Walker, Cozen & O'Connor, Dallas, TX.

For DIXIE CHEMICAL COMPANY INC., third-party defendant: Kelly D Brown, Crain Calpm and James, Houston, TX.

For GENERAL ELECTRIC COMPANY, BORG-WARNER SECURITY CORP, movants: Kenneth Steven Wall, Brown McCarroll & Oaks Hartline, Houston, TX.

For GENERAL ELECTRIC COMPANY, BORG-WARNER SECURITY CORP, movants: David J Engel, General Electric Company, Pittsfield, MA.

For ATLANTIC RICHFIELD COMPANY, third-party plaintiff: Michael O'Neal Connelly, Mayor Day Caldwell & Keeton, Houston, TX.

For ROHN AND HAAS COMPANY, third-party plaintiff: James E Smith, Beirne Maynard & Parsons, Houston, TX.

For SHELL OIL COMPANY, third-party plaintiff: G Edward Pickle, Jr, Randall Jerry Heldt, Shell Oil Company, [\*\*8] Houston, TX.

For EL PASO TENNESSEE PIPELINE CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE COMPANY, PETRO-TEX CHEMICAL CORPORATION, third-party plaintiffs: John R Eldridge, Haynes & Boone, Houston, TX.

For EXXON CORPORATION, third-party plaintiff: David Matthew Bates, Gardere Wynne et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, third-party plaintiff: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, third-party plaintiff: Anthony W Benedict, Attorney at Law, Bartlesville, OK.

For THE GOODYEAR TIRE AND RUBBER COMPANY, third-party plaintiff: Tracie Jo Renfroe, Bracewell and Patterson, Houston, TX.

For CROWN CENTRAL PETROLEUM CORPORATION, third-party plaintiff: Michael Morgan Gibson, Jones Day et al, Houston, TX.

For OCCIDENTAL CHEMICAL CORPORATION, third-party plaintiff: Paul M Bohannon, Andrews and Kurth, Houston, TX.

For VACUUM TANKS INC, third-party plaintiff: Eva Maria Fromm, Fulbright & Jaworski, Houston, TX.

For ROHN AND HAAS COMPANY, THE GOODYEAR TIRE AND RUBBER COMPANY, SHELL OIL COMPANY, EL PASO TENNESSEE PIPELINE CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE [\*\*9] COMPANY, PETRO-TEX CHEMICAL CORPORATION, EXXON CORPORATION, third-party plaintiffs: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Mark A Turco, Roberto N Allen, Beveridge and Diamond, Baltimore, MD.

For ATLANTIC RICHFIELD COMPANY, third-party plaintiff: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Beveridge & Diamond, Baltimore, MD.

For SHELL OIL COMPANY, third-party plaintiff: Mary Ellen Wilson, Stibbs & Burbach, The Woodlands, TX.

For ATLANTIC RICHFIELD COMPANY, counter-claimant: Michael O'Neal Connelly, Mayor Day Caldwell & Keeton, Houston, TX.

For ATLANTIC RICHFIELD COMPANY, counter-claimant: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Beveridge & Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, counter-claimant: Michael Morgan Gibson, Jones Day et al, Houston, TX.

For CROWN CENTRAL PETROLEUM CORPORATION, THE GOODYEAR TIRE AND RUBBER COMPANY, ROHN AND HAAS COMPANY, SHELL OIL COMPANY, EL PASO TENNESSEE PIPELINE CO, EPEC CORPORATION, EPEC POLYMERS INC, TENNESSEE GAS PIPELINE COMPANY, PETRO-TEX CHEMICAL CORPORATION, EXXON CORPORATION, PHILLIPS PETROLEUM COMPANY, counter-claimants: Robert Brager, Beveridge [\*\*10] and Diamond PC, Pamela D Marks, Mark A Turco, Roberto N Allen, Beveridge and Diamond, Baltimore, MD.

For CROWN CENTRAL PETROLEUM CORPORATION, counter-claimant: Michael R Dillon, Morgan Lewis & Bockius, Philadelphia, PA.

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For OCCIDENTAL CHEMICAL CORPORATION, counter-claimant: Paul M Bohannon, Andrews and Kurth, Houston, TX.

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For EXXON CORPORATION, counter-claimant: David Matthew Bates, Gardere Wynne et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, counter-claimant: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

[\*\*11] For PHILLIPS PETROLEUM COMPANY, counter-claimant: Anthony W Benedict, Attorney at Law, Bartlesville, OK.

For VACUUM TANKS INC, counter-claimant: Eva Maria Fromm, Fulbright & Jaworski, Houston, TX.

For UNITED STATES OF AMERICA, counter-defendant: Richard Gladstein, Robert W Darnell, Nicholas F Persampieri, U S Dept of Justice, Washington, DC.

For CHARLES GERHARDT, counter-defendant: Barry Allan Brown, Attorney at Law, Houston, TX.

For UNION CARBIDE CORP, PRAXAIR INC, cross-claimants: David Bruce Weinstein, Wilson Elser et al, Houston, TX.

For THE GOODYEAR TIRE AND RUBBER COMPANY, cross-defendant: Tracie Jo Renfroe, Bracewell and Patterson, Houston, TX.

For THE GOODYEAR TIRE AND RUBBER COMPANY, ROHN AND HAAS COMPANY, SHELL OIL COMPANY, EL PASO TENNESSEE PIPELINE CO, EXXON CORPORATION, PHILLIPS PETROLEUM COM-

PANY, cross-defendants: Robert Brager, Beveridge and Diamond PC, Pamela D Marks, Mark A Turco, Roberto N Allen, Beveridge and Diamond, Baltimore, MD.

For ROHN AND HAAS COMPANY, cross-defendant: James E Smith, Beirne Maynard & Parsons, Houston, TX.

For SHELL OIL COMPANY, cross-defendant: Mary Ellen Wilson, Stibbs & Burbach, The Woodlands, [\*\*12] TX.

For SHELL OIL COMPANY, cross-defendant: G Edward Pickle, Jr, Randall Jerry Heldt, Shell Oil Company, Houston, TX.

For EL PASO TENNESSEE PIPELINE CO, cross-defendant: John R Eldridge, Haynes & Boone, Houston, TX.

For EXXON CORPORATION, cross-defendant: David Matthew Bates, Gardere Wynne et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, cross-defendant: Craig Louis Weinstock, Locke Liddell et al, Houston, TX.

For PHILLIPS PETROLEUM COMPANY, cross-defendant: Anthony W Benedict, Attorney at Law, Bartlesville, OK.

JUDGES: VANESSA D. GILMORE, UNITED STATES DISTRICT JUDGE.

OPINION BY: VANESSA D. GILMORE

## OPINION

### [\*616] ORDER

Pending before the Court are Plaintiffs' cross-motion for partial summary judgment and Defendants' motions for summary judgment. (Instrument Nos. 332, 300, 302 and 318). Based on the submissions of the parties and the

applicable law, the Court finds that the Plaintiffs' motion should be GRANTED and Defendants' motions should be DENIED.

### I.

This action commenced as a cost recovery suit by the United States and the State of Texas (collectively, the "Government") under Sections 104 and 107 of the Comprehensive Environmental Response, [\*\*13] Compensation and Liability Act, 42 U.S.C. §§ 9604 and 9607, ("CERCLA"), against companies that allegedly released hazardous substances into the environment. The Government seeks recovery of "all response costs, including the costs of removal and remedial action, incurred by the United States and the State of Texas in response to release and threatened releases of hazardous substances from the Sikes Disposal Pits Site (located in Harris County, Texas." (Instrument No. 1, at 2). The Government also seeks a declaratory judgment that Defendants are liable for any future response costs it incurs.

1 Defendants include Atlantic Richfield Company, Crown Central Petroleum Corporation, Goodyear Tire & Rubber Company, Occidental Chemical Corporation, Rohm and Haas Company, Shell Oil Company, El Paso Tennessee Pipeline Co., EPEC Corporation, EPEC Polymers, Inc., Tennessee Gas Pipeline Company, Petro-Tex Chemical Corporation, Exxon Corporation, Phillips Petroleum Company, and Vacuum Tanks, Inc.

[\*\*14] According to the Government's allegations, the 185-acre site in question was an "unpermitted waste disposal facility" operated by the Sikes family from approximately the mid-1950's to 1968. *Id.* During this time, chemical and oil-based waste from petrochemical plants, refineries, and [\*617] other industries was deposited at the Site, which is located in Crosby, Texas in the flood plain of the San Jacinto River.

In 1980, the Environmental Protection Agency ("EPA") took samples from the site and detected the presence of organic compounds and heavy metals. Further testing in 1981 and 1982 revealed that the ground water, surface water and soil of the site was contaminated with hazardous materials. In 1982, the State of Texas joined the EPA and together initiated a remedial investigation and feasibility study, which revealed several contaminated areas. The sludge was found to be composed of a variety of substances, including lead, cadmium, chromium, mercury, benzene, trichloroethane, toluene, ethyl benzene, naphthalene, and fluorene, among others. Contamination was detected to a depth of thirty feet.

In a September 1986 Record of Decision ("ROD"), the EPA articulated the following remedy: [\*\*15]

- . Onsite incineration of sludges and contaminated soils;
- . Onsite disposal of residue ash - use as backfill;
- . Ban use of upper aquifer on-site, while naturally attenuating to 10<-5> Human Health Criteria (less than 30 years);
- . Discharge contaminated surface water to river, treat as necessary to meet discharge criteria;
- . Monitor lower aquifer and ban its use onsite if site degradation occurs. (ROD, Instrument No. 304 Exh 1 at 003412).

The Government devised plans and specifications for the site over a course of several years. During the planning phase, in March 1988, the EPA erected fencing around certain visibly contaminated portions of the Site. In 1989, the Government accepted bids for the

remedial action and awarded the contract to IT-Davy in April 1990. IT-Davy was a joint venture between International Technology Corporation and Davy-McKee Corporation. IT-Davy began working off-site in California and Oklahoma, designing and manufacturing the incinerator to be used at the Site. In July 1990, IT-Davy rented office space in Texas and began organizing the operations of the project, hiring subcontractors and finalizing work plans. The State of Texas signed the contract [\*\*16] with IT-Davy on July 27, 1990. IT-Davy began working on-site in August 1990 when it began surveying the site as called for by the remedial action. Also in August 1990, IT-Davy, through a subcontractor, performed mowing, or "bush-hogging," and clearing to prepare the site for surveying. The clearing and surveying were the only activities performed within the fenced-in area at that time. (Instrument No. 308, Gerry Darnell Dep. at 46). The subcontractor leveled and widened a pre-existing dirt road as a temporary access road to the Site and cleared a pad for the construction trailers in mid-September 1990. In late September 1990, three temporary office trailers were set up on the limestone pads outside the fence and a generator and a diesel fuel tank for the trailers were delivered to the Site and installed. Also at this time, air monitoring stations were installed on-site and full-time security commenced..

October 10, 1990 was the effective date of the State of Texas's Notice to Proceed with on-site work. The first shipment of major incinerator components arrived on-site on May 30, 1991. The remedial action was completed on January 6, 1995. The Government, through state and federal agencies, [\*\*17] spent more than \$ 125 million cleaning the site.

Plaintiffs and Defendants engaged in alternative dispute resolution beginning in [\*\*618] late 1996 and resulting in mediation in 1998. As part of the process, which was ultimately unsuccessful, the parties agreed that the statute of limitations would be tolled as of October 1,

1996. On February 12, 1998, the Government filed this action seeking reimbursement from Defendants. Defendants subsequently filed third-party actions against twenty other potentially responsible parties for contribution under 42 U.S.C. §§ 9607 and 9613, among other related actions.

In June 2000, Defendants' filed motions for summary judgment, arguing that the "initiation of physical on-site construction of the remedial action" at the Sikes Site occurred before October 1, 1990, and that this action is therefore time-barred pursuant to the six-year statute of limitations under 42 U.S.C. § 9613(g)(2)(B). (Instrument Nos. 300, 302 and 318). Defendants argue that on-site construction of the remedial action began either on March 7, 1988, when the EPA began building a fence around the Site, or on September 29, 1990, by which [\*\*18] time Plaintiffs' construction contractor had commenced a number of construction activities, including site clearing, and establishing roads, trailers and air monitoring towers.

2 While Occidental Chemical Corp. and Vacuum Tanks, Inc. filed separate motions for summary judgment, these defendants agreed in a hearing conducted August 25, 2000 that their motions were similar in substance to that of "Common Counsel Defendants" (Atlantic Richfield Company, Crown Central Petroleum Corporation, El Paso Tennessee Pipeline Co., EPEC Corp., EPEC Polymers, Inc., Petro-Tex Chemical Corp., Tennessee Gas Pipeline Co., Exxon Corp., Phillips Petroleum Co., Rohm and Haas Co., and Shell Oil Co.). Accordingly, the Court will rely upon Common Counsel Defendants' motion.

On July 3, 2000, the Government filed a cross-motion for summary judgment, arguing that no on-site construction of the remedial action took place before October 1, 1990. (Instrument No. 332). This is more properly cast

as a motion for partial summary judgment, as [\*\*19] it only deals with the issue of limitations. The Government contends that the fence erected in 1988 was part of a removal action and that its other activities prior to October 1990 were preliminary, pre-construction measures. Even if the events cited by Defendants constitute initiation of construction, the Government concludes, there is a genuine issue of fact as to whether they occurred on-site because they occurred outside the fenced-in area. Defendants did not respond to the Government's argument that the 1988 fencing was part of the removal rather than the remedial action.

In their response dated July 31, 2000, Defendants argue that the Government has improperly limited the term "remedial action" to actions itemized in the ROD. (Instrument No. 371). Defendants contend that the site clearing, surveying, and building erection activities at issue were "consistent with permanent remedy" and fall within the definition of remedial action. With respect to Plaintiffs' contention that some of the activities occurred off-site, Defendants argue that the fence did not change the size of the Sikes Site but only marked the visibly contaminated areas, meaning that just because the activities [\*\*20] occurred outside the fence does not mean that they occurred off-site. Plaintiffs and Defendants filed reply and surreply briefs, respectively. (Instrument Nos. 378 and 383).

## II.

[HN1] Summary judgment is appropriate if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *FED. R. CIV. P. 56*. A fact is "material" if its resolution in favor of one party might affect the outcome of [\*\*619] the suit under governing law. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 106 S. Ct. 2505, 2510, 91 L. Ed. 2d 202 (1986); *United States v. Arron*, 954 F.2d 249, 251 (5th Cir. 1992). An issue is "genuine" if the evidence is sufficient for a rea-

sonable jury to return a verdict for the non-moving party. See *Anderson*, 106 S. Ct. at 2510. If the evidence rebutting the motion for summary judgment is only colorable or not significantly probative, summary judgment should be granted. See *id.* at 2511; *Thomas v. Burton Lodge, Ltd.*, 174 F.3d 636, 644 (5th Cir. 1999). The summary judgment procedure enables a party "who believes there is no genuine issue as to a specific fact essential to the [\*\*21] other side's case to demand at least one sworn averment of that [specific] fact before the lengthy process continues." *Lujan v. National Wildlife Federation*, 497 U.S. 871, 110 S. Ct. 3177, 3188-89, 111 L. Ed. 2d 695 (1990).

[HN2] Under *Federal Rule of Civil Procedure 56(c)*, the moving party bears the initial burden of informing the district court of the basis for its belief that there is an absence of a genuine issue for trial, and for identifying those portions of the record that demonstrate such absence. See *Matsushita Elec. Ind. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 106 S. Ct. 1348, 1355-56, 89 L. Ed. 2d 538 (1986); *Burge v. Parish of St. Tammany*, 187 F.3d 452, 464 (5th Cir. 1999).

[HN3] Where the moving party has met its *Rule 56(c)* burden, the nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts . . . The nonmoving party must come forward with 'specific facts showing that there is a genuine issue for trial.'" *Matsushita*, 106 S. Ct. at 1356 (quoting *Fed. R. Civ. P. 56(e)*) (emphasis in original); *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 2552, 91 L. Ed. 2d 265 (1986); [\*\*22] *Engstrom v. First Nat'l Bank*, 47 F.3d 1459, 1462 (5th Cir. 1995). To sustain the burden, the non-moving party must produce evidence admissible at trial. See *Anderson*, 106 S. Ct. at 2514; see also *Thomas v. Price*, 975 F.2d 231, 235 (5th Cir. 1992) (holding that "to avoid a summary judgment, the nonmoving party must adduce admissible evidence which creates a fact issue").

### III.

The parties agree that the relevant date for the statute of limitations analysis under CERCLA is October 1, 1990. In essence, Defendants contend that setting up the construction trailers and air monitoring towers, clearing the site and improving roads, which took place in September 1990, constitutes initiation of physical on-site construction of the remedial action, triggering the six-year limitations period. The Government argues that these activities were preliminary in nature and did not all take place on-site.

[HN4] CERCLA is "a broad remedial statute that was designed to enhance the authority of the EPA to respond effectively and promptly to toxic pollutant spills that threaten[] the environment and human health." *B.F. Goodrich Co. v. Murtha*, 958 F.2d 1192, 1197 (2d Cir. 1992). [\*\*23] As a remedial statute, CERCLA should be construed broadly in order to give effect to its purposes. See *B.F. Goodrich v. Betkaski*, 99 F.3d 505, 514 (2d Cir. 1996). In addition to "facilitating efficient responses to environmental harm, holding responsible parties liable for the costs of the cleanup, and encouraging settlements", *id.*, CERCLA seeks to shift the cost of environmental response from taxpayers to those entities who benefitted from the illegal release of pollutants. *OHM Remediation Servs. v. Evans Cooperage Co.*, 116 F.3d 1574, 1578 (5th Cir. 1997). [\*620]

[HN5] The starting point for construing a statute is the statutory language itself. *Southeastern Community College v. Davis*, 442 U.S. 397, 99 S. Ct. 2361, 2366, 60 L. Ed. 2d 980 (1979). CERCLA provides that an action for response costs for a remedial action as here must be brought within six years after "initiation of physical on-site construction of the remedial action." 42 U.S.C. § 9613(g)(2)(B). This wording is less than optimal, given that remedial actions are not necessarily constructed, and the statute does not provide a great deal of



guidance. The terms [\*\*24] "physical," "on-site," and "construction" are not defined in the statute. The regulations implementing CERCLA define construction as "erection, building, alteration, repair, remodeling, improvement, or extension of buildings, structures or other property." 40 C.F.R. § 35.6015(a)(11).

[HN6] CERCLA defines the phrase "remedial action" to be "those actions consistent with permanent remedy taken instead of or in addition to removal actions . . . to prevent or to minimize the release of hazardous substances . . ." 42 U.S.C. § 9601(24). The statute goes on to give a non-exhaustive list of remedial actions, including "storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances and associated contaminated materials, recycling or reuse, diversion, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and [\*\*25] the environment . . ."

[HN7] Statutes of limitation are to be construed strictly when applied to bar the Government from pursuing an action. *Badaracco v. Commissioner*, 464 U.S. 386, 104 S. Ct. 756, 78 L. Ed. 2d 549 (1984). While there is no bright-line rule to define what actions trigger the limitations period, courts have employed a four-part test to determine when "physical on-site construction of the remedial action" takes place. *California v. Hyampom Lumber Co.*, 903 F. Supp. 1389, 1391-1392 (E.D. Cal. 1995). The activity must be "physical," in that it cannot consist of planning, meeting or merely observing the site. *See id.* Second, the activity must be "on-site," as opposed to construction that takes place in a factory or other site. *See id.* Third, the actions must be part of the "construction of the remedial action." *Id.* Finally, the ac-

tivity must be the "initiation" of the remedial action. *Id.* Case law from other district courts indicates that the term "construction" excludes preliminary and tentative physical, on-site activities that are related to the remedial action, but are not part of its construction. *Illinois v. Grigoletti Co.*, 104 F. Supp. 2d 967, 975 (E.D. Ill. 2000); [\*\*26] *Louisiana v. Braselman Corp.*, 78 F. Supp. 2d 543, 549 (E.D. La. 1999); *Hyampom Lumber*, 903 F. Supp. at 1392.

While Defendants did not respond to the Government's argument about the fencing erected around the contaminated portions of the Site in 1988, the Court will address this matter first. While fencing is clearly physical and on-site, it is not part of the construction of the remedial action and does not constitute initiation of the remedial action. First, "security fencing" is included among items relating to a removal action, rather than a remedial action. *See* 42 U.S.C. § 9601(23). The record reveals that the fencing was put up to keep nearby residents out of a hazardous area, not as part of the remedial action. (Community Relations Plan, Instrument No. 306, Exh 18 at LAN 015992); *See* [\*\*621] *Hyampom Lumber*, 903 F. Supp. at 1393 (finding security fencing to be part of removal rather than remedial action). Second, there was a lag of over two years between the fencing and even selecting IT-Davy as the contractor, let alone engaging in other on-site construction-related activities. This leads to the conclusion [\*\*27] that the fence was at best only tenuously related to construction of the remedial action and, in any case, represented a preliminary and tentative action.

Similarly, the perimeter air monitoring platforms are more consistent with a removal action than a remedial action. These platforms were erected for the purpose of obtaining baseline air quality results prior to commencement of on-site construction and to evaluate the health and safety conditions for the area the surveyors would be working. (Plaintiffs' Sup-

plemental Answers to Defendants' First Interrogatories, Instrument 304, Exh. 5 at 2; Instrument No. 308, Thomas Davis Dep. at 65). [HN8] Actions taken to "monitor, assess and evaluate the release or threat of release of hazardous substances" are considered removal actions under CERCLA. 42 U.S.C. § 9601(23). The platforms were listed under the remedial action. (Instrument No. 308, Carl Edlund Dep. at 136). However, while "monitoring reasonably required to assure that [remedial] actions protect the public health" appears in the definition of remedial actions, this would appear to refer to monitoring undertaken in the course of or after the completion of a remedial [\*\*28] action, not prior to on-site construction. See 42 U.S.C. § 9601(24). Construction undertaken to permit monitoring or assessing prior to initiation of the remedial action, therefore, is not construction of the remedial action. Accordingly, the erection of the fence and the air monitoring platforms were preliminary site preparation activities and did not represent initiation of physical on-site construction of the remedial action.

The construction-related activities that took place outside the perimeter fence present more complex issues. Road improvement for temporary access, site-clearing, electricity installation, and placement of construction trailers are clearly physical activities. Plaintiff's protestations to the contrary notwithstanding, these activities took place on-site based on the numerous descriptions of and maps of the Site. The issue is whether these actions constitute initiation of the "construction of the remedial action." Specifically, whether these activities triggered the limitations period revolves around whether these activities, while related to the remedial action, were too preliminary and tentative to be considered an initiation [\*\*29] of construction. Defendants stress that these activities were construction by the terms of the remedial action and by the EPA's definition and were "consistent with permanent remedy."

3 James Feeley, a project manager for the Texas Department of Water Resources at the Sikes Site testified that the National Contingency Plan defined the site as the extent of the release and any proximate areas needed to address the release. (Instrument No. 308 at 70-71). This definition would include the area outside the fence where the trailers were placed and the temporary access road because these areas were used to mobilize the site and address the release by preparing for the remedial action.

The Seventh Circuit has held that placing a "lift" of clay on-site for construction of a clay cap triggered the limitations period under CERCLA. *United States v. Navistar Int'l Transport. Corp.*, 152 F.3d 702, 713 (7th Cir. 1998). The court did not reach the issue of whether connection of utilities, setting up trailers; [\*\*30] constructing an access road or clearing the site to prepare for the clay cap was sufficient to [\*\*622] trigger the limitations period. *Id.* at n.19. Construction of the clay cap was specifically listed as the remedy in the remedial action for the site, as well as in the definition of "remedial action" contained in the statute. *Id.* at 711, 713. Because the remedial action called for the construction of a clay cap, the court reasoned, the initiation of that construction began with the delivery of clay to the site. *Id.* at 713.

Unlike delivery of the materials for the clay cap in *Navistar*, the remaining activities at issue are tertiary to the selected remedial action here, the incineration and on-site disposal of the hazardous wastes. The site-clearing that took place before October 1, 1990 was for the immediate purpose of surveying the Site, not for construction of the remedial action. (Instrument No. 308, Joe Adams Dep. at 67-71; Gerry Darnell Dep. at 45-46). The purpose of the clearing is underscored by the fact that it consisted largely of brush removal. If the site had been cleared for assembling the incinerator,

for example, the activity would be less removed from the goal [\*\*31] of the remedial action. However, the purpose behind the site-clearing was to allow for surveying, which is not construction. Surveying preparations cannot constitute initiation of physical on-site construction of the remedial action.

The road improvement, the placement of the trailers and the electric generator for the trailers are also too removed from the remedial action to constitute initiation of its construction. While these site preparation actions were physical, constituted construction work consistent with the permanent remedy, and occurred on-site, they were preliminary and were not critical to the incineration and backfill of hazardous wastes. By contrast, the installation of utilities were found to trigger the statute of limitations in *Hyampom Lumber*, in part because they played a "critical role" in the implementation of the permanent remedy, including fire control, dust suppression, steam cleaning, and lighting. 903 F. Supp. at 1393-1394. Here, the trailers would play a lesser, administrative role in the remedial action and the electricity would be for the trailers, not the entire site as in *Hyampom Lumber*. Road improvement for the temporary access [\*\*32] road was consistent with construction of the remedy, but such activity is tentative and preliminary and does not represent initiation of physical on-site construction of the remedial action. Installation of utilities comparable to those found to trigger the statute of limitations in *Hyampom Lumber* were not installed until March 1991.

As discussed previously, these activities occurred on-site. However, it is notable that none of them occurred in the fenced-in area where the incinerator was to be constructed and the soil incinerated and disposed of. It is difficult to imagine construction of the remedial action being initiated outside the main contaminated area.

Defendants make much of the fact that the activities at issue were considered to be con-

struction for purposes of the wages paid to workers and were construction under EPA definition.<sup>4</sup> First, it is problematic to import definitions from foreign statutory schemes, even if the EPA and the State of Texas employed these definitions in the remedial action to determine how construction workers were to be compensated. The regulations promulgated pursuant to the Davis-Bacon Act, 40 U.S.C. § 276a, which [\*\*33] provides minimum [\*\*623] wage protections under federal contracts, define "construction" as "all types of work done on a particular building or work at the site thereof by laborers and mechanics employed by a construction contractor or construction subcontractors ..." 29 C.F.R. § 5.2(j). The purpose of the statute is to "protect communities and workers from economic disruption caused by outside contractors underbidding local wage levels to obtain federal construction contracts." (EPA Memorandum, Instrument No. 307, Exh. 91 at 3). To this end, unlike the wording in CERCLA's statute of limitations, the Davis-Bacon Act defines "construction" broadly without regard to the aim of the construction. Under this definition, nearly all activity performed by workers would be considered construction, whether it was remedial or removal, critical or peripheral. Taking the word out of context by looking at the EPA's regulation's definition of "construction" of the statute is also of limited utility. For purposes of the statute of limitation, the construction must be the on-site "initiation of the remedial action." Without these modifiers, the term is again too broad, not differentiating [\*\*34] between preliminary actions and these activities that are closely tied to the remedy.

4 While the site preparation activities are labeled "construction" for wage classification purposes, (Instrument No. 307, Exh 99 at 2), the EPA considered construction to have begun as of the effective date of the notice to proceed, Octo-

ber 10, 1990. (Remedial Action Report, Instrument No. 304, Exh 6 at 003494).

Because the fencing, clearing, road improvement and platform and trailer placement were not "initiation of physical on-site construction of the remedial action," the statute of limitations was not triggered before October 1, 1990 and this action is not time-barred. Defendants' motions for summary judgment are DE-

**NIED.** Plaintiff's cross-motion for partial summary judgment is **GRANTED**.

The Clerk shall enter this order and provide a copy to all parties.

**SIGNED** on this the 18 day of January, 2001, at Houston, Texas.

**VANESSA D. GILMORE**

**UNITED STATES DISTRICT JUDGE**

U.S. ENVIRONMENTAL PROTECTION AGENCY  
CERCLIS 3  
SUPERFUND COST RECOVERY STATUTE OF LIMITATIONS REPORT

SITE NAME	OPERABLE UNIT	ACTION	STATUTE	TAKEOVER FLAG	PLAN START	ACTUAL START	ACTUAL COMPLETE
REGION:09							
SUPERFUND SITE A	00	RV001			5/6/2002	5/20/2002	5/30/2002
SUPERFUND SITE B	00	RV001			9/30/1999	3/4/1999	1/8/2001
SUPERFUND SITE C	00	BB001			1/19/1993	1/19/1993	3/16/1993
	00	RV001		T	1/14/1993	1/14/1993	1/19/1993
SUPERFUND SITE D		AC002					9/21/2005
	00	BB001			4/30/2002	4/15/2002	5/7/2002
	00	RV001		T	4/5/2002	4/2/2002	5/3/2002
SUPERFUND SITE E	00	BB001			10/14/2000	10/16/2000	10/18/2000
SUPERFUND SITE F	00	BB001				10/4/2000	10/19/2000
SUPERFUND SITE G	00	BB001				12/18/2000	1/4/2001
SUPERFUND SITE H	00	RV001				11/8/2000	11/8/2000
SUPERFUND SITE I	00	RV001			1/8/2001	1/8/2001	2/23/2001
SUPERFUND SITE J	00	RV001				9/8/2000	11/8/2000
SUPERFUND SITE K	00	RV001			9/30/1984	8/9/1984	8/22/1984
SUPERFUND SITE L	00	BB001			10/1/2006	10/11/2006	11/5/2007
SUPERFUND SITE M	00	RV001			6/30/1987	5/6/1987	11/17/1987
SUPERFUND SITE N	00	BB001				7/22/2002	8/15/2002
SUPERFUND SITE O	00	RV001			2/25/1992	3/2/1992	7/16/1992
SUPERFUND SITE P	00	BB001				1/11/2005	3/30/2005
	00	RV001			1/4/2005	1/5/2005	3/30/2005
SUPERFUND SITE Q		AV001					3/26/1992
		AV003					8/4/1997
	01	BE001			9/30/1991	9/11/1991	9/11/1991
	01	BF001			9/30/1991	9/11/1991	9/16/1993
	01	BF002			11/30/2012		
	01	RO001					9/11/1991
SUPERFUND SITE R		AV001					3/26/1992
		AV003					8/4/1997
	01	BE001			9/30/1991	8/26/1991	8/26/1991
	01	BF001			9/30/1991	8/26/1991	3/25/1992
	01	BF002			11/30/2012		
	01	RO001					8/26/1991
SUPERFUND SITE S	00	BB001			9/30/1989	8/1/1989	6/14/1990
SUPERFUND SITE T	00	BB001				7/20/2006	11/8/2006
	00	RV001		T	5/31/2006	5/1/2006	5/9/2006
SUPERFUND SITE U	00	RV001			5/18/1987	5/19/1987	7/31/1987
SUPERFUND SITE V		CD001			9/30/1988	9/8/1988	6/23/1989

ACTION: AC: Admin Order on Consent

AV: Admin/Voluntary Cost Recovery

BB: PRP Removal

BE: PRP RD

BF: PRP RA

CD: Consent Decree

CL: Section 106/107 Litigation

DD: Cost Recovery Decision Document

JG: Judicial/Civil Judgment

LT: Litigation (Generic)

LV: FF Removal

LX: FF RD

LY: FF RA

RA: Remedial Action

RG: RA On-site Construction

RD: Remedial Design

RO: Record Of Decision

RV: Removal

SV: Section 107 Litigation

Do Not Release\*

**SITES WITH FY08 AND LATER POTENTIAL SOL DATES (IN CHRONOLOGICAL ORDER):**

SITE NAME	OU	EVEI	PLAN START	ACTUAL START	ACTUAL COMPLE	POSSIBLE SOL DATES	HQ Target comments in Bold Type COMMENTS	ATTY/RPM OR ENF. OFFICER
Sloppy Housekeeping	00	RV1		03/19/04	10/08/04	10/07/07	Writeoff addresses cost recovery.	Ben Franklin/Adams
Tub 'O Oil	00	RV1		10/18/04	11/12/04	11/11/07	Writeoff addresses cost recovery.	Ben Franklin/Adams
Mining Wastes 'R Us	00	RV1		11/03/03	12/08/04	12/07/07	HQ FY07 Target. Writeoff addresses cost recovery.	Washington/Lincoln
We Recycle UR Drums	00	BB1		04/14/04	01/10/05	01/09/08	Settlement covers cost recovery.	Washington/Lincoln
Head over Tails Tailings	00	RV01		01/25/04	02/04/05	02/03/08	HQ FY07 Target. Writeoff addresses cost recovery.	Jefferson/Tolstoy
Lucky-We're-Gone Mine	01	BF7		07/30/04	02/16/05	03/31/08	HQ FY08 Target. Planned settlement.	Ben Franklin/Adams
Lucky-We're-Gone Mine	01	BB6		07/28/03	02/18/04	03/31/08	HQ FY08 Target. Planned settlement.	Ben Franklin/Adams
Lucky-We're-Gone Mine	00	BB2		07/27/01	09/30/01	03/31/08	" "	Ben Franklin/Adams
Lucky-We're-Gone Mine	00	BB4		07/05/01	11/27/02	03/31/08	" "	Ben Franklin/Adams
Lucky-We're-Gone Mine	00	BB3		07/19/00	11/01/00	03/31/08	" "	Ben Franklin/Adams
Lucky-We're-Gone Mine	00	BB5		07/11/02	02/27/03	03/31/08	" "	Ben Franklin/Adams
Oops We Spilled Acid	00	BB1		01/04/05	01/05/05	03/29/08	Writeoff addresses cost recovery.	Roosevelt/Clarke
So Sorry I Dumped, Inc.	00	RV1		04/11/05	04/15/05	04/14/08	No costs incurred so no action needed.	Checkoff/Checkmate
Mercury Disposals Cheap	00	RV1		03/28/05	04/18/05	04/17/08	Writeoff addresses cost recovery.	Periodic/Table
Dump and Run, Inc.	02	BD4		06/02/00	04/28/05	04/27/08	Prior year CD covers cost recovery	Nixon/Barnstein
'ad	01	BE1		11/14/03	04/28/05	04/27/08	HQ FY08 Target. Planned settlement	Studebaker/Edsel
Meth Lab #10,001	00	RV2		06/01/04	11/24/04	04/30/08	HQ FY08 Target. Planned settlement.	Money/Troubles
Shiny Chrome	00	BB1		02/07/05	05/02/05	05/01/08	Planned writeoff	Flintstone/Rubble

## NOTES





# PRP Search Benchmarking

## NOTES



# Property Law

**Institutional Controls at the  
Jones Sanitation Superfund  
Site, Hyde Park, New York**

**By Carol Bems, Esq.**  
**EPA, Region 2**  
bems.carol@epa.gov

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**Jones Sanitation Site**

- **United States v. Alfa Laval, et al.**
- **RD/RA CD for cap over disposal area w/  
model CD institutional controls provision**
- **CD entered February 4, 1998**
- **Environmental Easement/ restrictive  
covenant signed and filed September  
2004**

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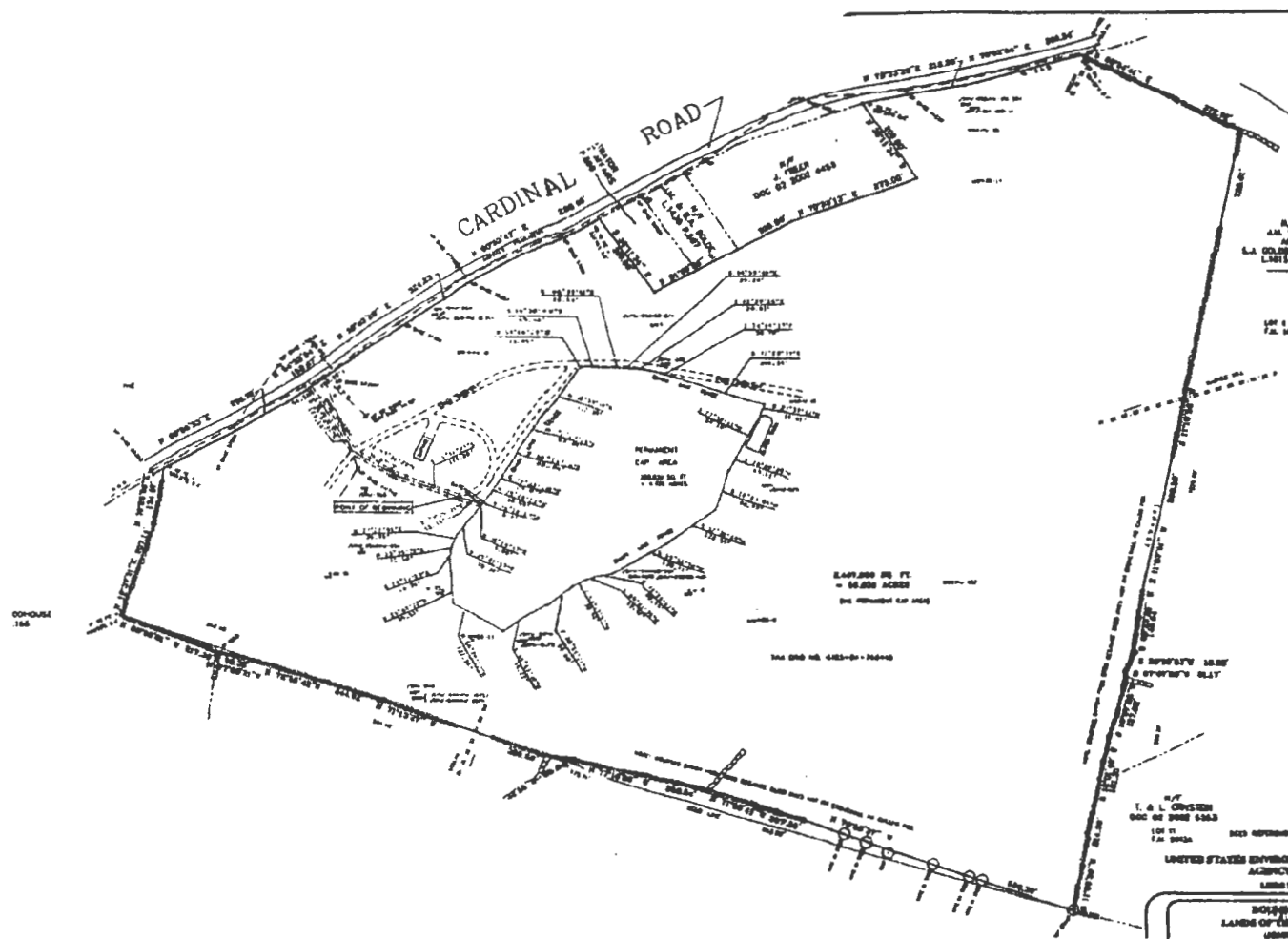
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### Problems in Finalizing the Jones Easement/Covenant



- PRPs Didn't Take ICs Seriously
- Local Counsel Unfamiliar w/EPA Model Easement
- Title Co. Balked
- Survey Incorrect
- Owner Needed Special Conditions on Future Use

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### PRPs didn't take ICs seriously

- 2 PRPs involved – owner/operator and generator - Alfa Laval
- O-O's attorney ignored numerous letters re. ICs
- Original proposed easement drafted by technical consultant

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### Local counsel unfamiliar w/ model easement

- Model easement provided as part of CD
- Numerous issues arose when PRPs tried to redraft the easement

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### **Title company balked**

- Chicago Title had insured EPA model easement in NY before
- Local broker very cautious
- Didn't think was insurable interest

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### **Survey incorrect**

- We measured out the metes and bounds description ourselves and found inaccuracies
- Need to check easement description and title insurance description

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### **Final filed easement has special conditions**

- Special conditions
- Continued uses
  - Access to road
  - House and mobile home
  - Use of septic
  - Use of common well

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### Easement conditions cont.

- Future uses
  - Additional buildings
  - New wells outside cap area – subject to EPA review and evaluation of criteria

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### Lessons Learned...



#### **PLAN AHEAD**

- GET RIGHT PEOPLE INVOLVED (Attorneys)
- BE PROACTIVE (give EPA guidance)
- SWEAT THE DETAILS - verify the property description

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## **Institutional Controls Update**

**National PRP Search Conference  
May 2008**

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### **IC's Defined**

- ◆ ICs are non-engineered administrative or legal controls that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy
  - » Limiting land or resource use
  - » Providing information to modify behavior
- ◆ Four general categories of ICs
  - » Governmental Controls
    - Zoning, building permits, GW use ordinance
  - » Proprietary Controls
    - Easements, real covenants, statutory covenants
  - » Enforcement and Permit Tools with IC Components
  - » Informational Devices
    - Deed notices, government advisory

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### **Critical IC Challenges**

- ◆ CERCLA Section 104(j) provides useful but limited acquisition authority
- ◆ State assurances required
- ◆ Real property common law – UECA
- ◆ Real property practice – recordation requirements, chain of title (priority issues), mapping (parcels vs. contaminant/cap locations)
- ◆ Role of local governments – land use decisions, permit, zoning and ordinance systems, maintain key records (e.g., recorder of deeds, survey plats)
- ◆ Enforcement - ICs themselves typically enforced by parties other than EPA (i.e., need to clarify roles and responsibilities)

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## Update on Key Efforts

- ◆ Final and Draft Policy Guidance
  - » EPA cross program guidance for IC lifecycle (evaluating, selecting, implementing, monitoring, and enforcing)
  - » Enforcement First for ICs – March 2006
  - » 3<sup>rd</sup> Party Beneficiary Rights in Proprietary Controls – April 2004
  - » Reliable and Effective ICs at RCRA Facilities – June 2007
  - » Estimating Life Cycle Costs – in progress
  - » Implementation and Assurance Plans – in progress
  - » Revisions to the model RD/RA CD – in progress
- ◆ Gathering / "Publishing" IC Data – ICTS real property and enforcement documents, management tool
- ◆ Communication/Education – IC Roundtable, BF Conference, NARPM, ASTWMO..

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## Enforcement First for Institutional Controls - March 2006

- ◆ Reemphasizes enforcement first approach for ICs and Post Construction Completion activities
- ◆ *"EPA strives to ensure that the PRPs remain responsible for the implementation of ICs, including the identification and resolution of any issues impacting their continued effectiveness"*
- ◆ Including:
  - Studies and evaluations of ICs (e.g., current and future land uses)
  - Analyzing real property title information, and resolving issues
  - Utilizing IC tools (e.g., mapping, "one-call" system, statutory environmental covenants)
  - Assuring the long-term stewardship of ICs through updated O&M plans, IC Implementation and Assurance Plans, or other site plans
- ◆ Discusses model RD/RA CD provisions that ensure ICs and/or PCC activities are conducted

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## Implementing ICs under Model RDRA Consent Decree

Provisions for:

- ◆ Assuring the implementation of proprietary controls
- ◆ Assisting EPA's efforts to secure governmental controls
- ◆ Conducting any studies and investigations as requested by EPA – Periodic Review
- ◆ Maintenance of remedy performance standards and remedy effectiveness – Includes IC Implementation (required in original or modified SOW and/or work plans)
- ◆ Conducting further response actions / additional work

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## IC Revisions to Model RD/RA CD

Clarify Settling Defendant's responsibilities for IC implementation and assurance:

- » Defines terms: institutional controls, real property, transfer
- » Clarifies notice to successors-in-title / transfer provisions
- » Includes ICIAP requirements – incorporated into SOW
- » Includes third party beneficiary, UECA and title evidence requirements

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## Implementing the EPA IC Strategy

ICTS Information on EPA Website / SF Site Profiles (as of April 15, 2008)

888	88.0%	Sites in ICTS have been reviewed
109	10.8%	Sites in ICTS need to be reviewed
35	3.4%	Sites need data entry or more IC information
1832		Sites in CC Universe

Of the 888 sites reviewed

823	92.7%	Sites have been published and linked to site profiles
65	7.3%	Sites have been reviewed - no public information shown

Of the 823 sites published with a link to public report,

158	Institutional Controls not required
278	Institutional Controls are required for this site (link to site contact)
319	Institutional Controls are required for this site (Media & Instrument)
67	No Public Information Available for this site

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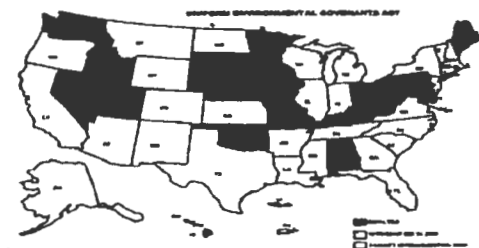
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## UECA




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**How do PRP search efforts relate to IC Implementation?**

- ◆ ICs needed at "adjacent/contiguous" property owners and scope of PRP search
- ◆ PRP search title evidence can be used as basis for future remedy decisions (e.g., easement locations)
- ◆ Sample title search SOW and regional experience
- ◆ Use of GPS / newer mapping technologies

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## **ZYKAN LANDFILL IN REM ACTION**

**Cheryle Micinski  
Chief, Superfund Branch  
Region 7**

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### **Background**

- Solid Waste Landfill ("Zykan" - unregulated) next to Hazardous Waste Landfill (RCRA Interim Status)
- Both owned by Bob and LaVerne Zykan; operated by Bob. LaVerne left as only owner after Bob's death
- No known generator or transporter PRPs at Zykan; no O & M

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### **EPA Action**

- Releases of hazardous substances occur at Zykan
- EPA conducts removal — cost = \$620,000
- EPA files Section 107(l) lien on the landfill property
- Mrs. Zykan only PRP; appears to be ATP
- SOL looming

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### Cost Recovery

- Updated PRP search reveals no PRPs other than Mrs. Zykan
- Section 104(e) request documents her inability to pay. Only asset is the property.
- EPA refers to DOJ asking for *in rem* action
- DOJ files complaint requesting
  - Judgment to US for response costs
  - Sale of property; apply proceeds to EPA's costs

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### RESULTS

- U.S. v. LaVerne Zykan and 120 Acres of Land
- Mrs. Zykan agrees to Stipulation and Order entering judgment in favor of the U.S.
- Proceeds from any sale of the property will be used to satisfy EPA's lien.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAVERNE A. ZYKAN, both as Trustee  
and in her personal capacity, and  
120 ACRES OF LAND, More or Less,  
located in Warren County, Missouri,

Defendants.

CIVIL ACTION NO.

**VERIFIED COMPLAINT**

Plaintiff United States of America, on behalf of the Administrator of the Environmental Protection Agency (EPA), alleges as follows:

**INTRODUCTION**

1. This is a civil action for:
  - a. recovery of costs, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. § 9607, that the United States has incurred in connection with the release or threatened release of hazardous substances into the environment at and from a facility owned by LaVerne A. Zykan (Zykan), located approximately three miles southwest of Wright City, Missouri (the Site); and



- b. recovery in rem of the costs, pursuant to Section 107(I) of CERCLA, 42 U.S.C. § 9607(I), constituting the Federal lien against the real property comprising the Site.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to Sections 107(a), 107(I)(4), and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a), 9607(I)(4), and 9613(b), and pursuant to 28 U.S.C. §§ 1331 and 1345. This Court has jurisdiction over the property that is the subject matter of the in rem action pursuant to Section 107(I)(4) of CERCLA, 42 U.S.C. § 9607(I)(4), 28 U.S.C. § 1655, and Federal Rule of Civil Procedure 4(n).

3. Venue is proper in this district pursuant to Sections 107(I)(4) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(I)(4) and 9613(b), and pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1395, because the releases or threatened releases of hazardous substances occurred in this district, because the removal action which led to EPA's incurrence of response costs occurred in this district, and because the Site is located in this district.

**DEFENDANTS**

4. Defendant LaVerne A. Zykan (Zykan) is a person within the meaning of Sections 101(21), 104(a) and 107(a) and (I) of CERCLA, 42 U.S.C. §§ 9601(21), 9604(a) and 9607(a) and (I), and is the owner of the Site and an owner of a facility at the time of the disposal of hazardous substances at the facility.

5. Defendant 120 Acres of Land, More or Less, located in Warren County, Missouri, is the subject of the United States' in rem claim in this action and includes the Site and adjoining property.

**THE SITE**

6. The Site is located at 1252 Muenz Road, approximately three miles southwest of Wright City, Missouri. It is commonly known as the Zykan Property, and includes the following described parcel:

Southeast quarter of the Southwest quarter, the south three-fourths of the Northeast quarter of the Southwest quarter, and the Southwest quarter of the Southeast quarter, all in section 32, Township 47 North, Range 1 West.

Also the west one-fourth of the Northwest quarter of the Southeast quarter of Section 32, Township 47 North, Range 1 West, containing 10 acres, more or less, and more particularly described as follows: Beginning at the Northwest corner of the said Northwest quarter of the Southeast quarter, thence east 111 yards; thence south the length of 40 acres, thence west 111 yards to the quarter Section corner; thence north along the east line of the Northeast quarter of the Southwest quarter to the place of beginning. Containing in the aggregate 120 acres more or less.

The Site also includes any other location at which hazardous substances have come to be located.

7. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). Zykan and her husband, now deceased, bought the real property at the Site on or about 1972. Zykan has owned the property, individually or in trust, since approximately 1982. Zykan, individually or in trust, currently owns the property.

**RESPONSE ACTION**

8. In August 1996, the Missouri Department of Natural Resources (MDNR), which had previously been monitoring the Site, conducted an integrated Preliminary Assessment/Site Investigation, under a cooperative agreement with EPA. MDNR collected samples of the

leachate, which was flowing from a central portion of the Site's southern slope, and samples from several partially exposed 55-gallon drums at the Site.

9. The majority of the containers were buried in two areas of the sanitary landfill. Many containers were in poor, deteriorated condition and had leaked their contents. Some of the drums and containers were rusted, and there had been spills of chemicals at the Site. The samples collected during the investigation were analyzed and the results indicated the presence of hazardous substances, including heavy metals, volatile organic compounds, and semi-volatile organic compounds. The material taken from samples of the drums failed flash point analysis, classifying the material as ignitable hazardous waste.

10. Leachate oozing from the sanitary landfill at the Site flowed to a creek, which flows off the Zykan property to Lake Lucern, less than a mile away.

11. EPA initiated a removal site assessment in November 1996, in which it identified the areas of suspected drum burial. EPA subsequently reviewed the health and environment risks associated with the Site, including an evaluation of the existing groundwater network.

12. Based on the site investigation, EPA determined that actual or threatened releases of hazardous substances at or from the Site presented an imminent and substantial endangerment to public health, welfare or the environment. Thereafter, EPA initiated a removal action in response to the actual or threatened releases of hazardous substances at the Site pursuant to Section 104 of CERCLA, 42 U.S. C. § 9604.

13. Chemicals present at the Site, considered hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), see 40 C.F.R. § 302.4, included

arsenic, barium, cadmium, chromium, lead, benzene, toluene, ethylbenzene, total xylenes, phenol, and the herbicide 2, 4-D.

14. EPA completed all removal activities at the Site on or after August 1999. The removal action included repair of the landfill cap, removal and disposal of several exposed drums, and stabilization of the Site to prevent erosion.

#### **FEDERAL LIEN**

15. In conducting the emergency removal activities, EPA incurred costs for which Zykan is liable. These costs constitute a lien against the real property comprising the Site because that property belongs to Zykan and is subject to or affected by a removal or remedial action.

16. On or about January 18, 2005, EPA provided written notice of the lien to Zykan and requested her to notify EPA if she believed EPA did not have a reasonable basis upon which to perfect the lien. EPA also notified Zykan that she could request a meeting with a neutral EPA official to present any information she had to indicate EPA did not have a reasonable basis upon which to perfect the lien. Zykan did not request a meeting in her response.

17. On or about March 21, 2005, EPA perfected a lien on the real property of the Site for EPA's costs in connection with the Site.

#### **STATUTORY BACKGROUND**

18. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section--

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility

at which such hazardous substances were disposed of,

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- (4) . . . shall be liable for –  
(A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan  
...

19. As of February 19, 1999, the United States has incurred at least \$619,000 in response costs, not including prejudgment interest, in connection with the Site.

20. There have been releases or a substantial threat of a release of hazardous substances at the Site, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §§ 9601(22).

21. EPA had a reasonable basis for its belief that there was a release and that there existed a threat of a release of a hazardous substance, pollutant or contaminant at the Site. The release or threatened release of hazardous substances into the environment was determined and documented by EPA.

22. Zykan is an owner of the Site within the meaning of Sections 101(20) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(20) and 9607(a). Therefore, she is in one of the liable party categories in CERCLA § 107(a).

**FIRST CLAIM FOR RELIEF**

23. Paragraphs 1 through 22 are re-alleged and incorporated herein by reference.

24. As a current owner of a facility and as an owner of a facility at the time of the disposal of hazardous substances at the facility, Zykan is within the classes of liable parties described in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

25. EPA's response action, including removal of drums, containers, related hazardous substances, and contaminated soils, and the repair and installation of a cap constitutes a "removal" and a "response action" within the meaning of Section 101(23) and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23) and 9601(25).

26. As a result of the release or threatened release of hazardous substances into the environment at and from the Site, the United States has incurred response costs of approximately \$619,000, excluding prejudgment interest and administrative and legal enforcement costs. The response costs the United States has incurred are not inconsistent with the National Contingency Plan, 40 C.F.R. § 300.

27. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), defendant Zykan is liable to the United States for all costs incurred by the United States in connection with response actions at the Site, including prejudgment interest on all such costs.

**SECOND CLAIM FOR RELIEF**

28. Paragraphs 1 through 27 are re-alleged and incorporated herein by reference.

29. Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), provides in pertinent part:

(1) In general

All costs and damages for which a person is liable to the United States under subsection (a) of this section . . . shall constitute a lien

in favor of the United States upon all real property and rights to such property which –

- (A) belong to such person; and
- (B) are subject to or affected by a removal or remedial action.

(2) Duration

The lien imposed by this subsection shall arise at the later of the following:

- (A) The time costs are first incurred by the United States with respect to a response action under this chapter.
- (B) The time that the person referred to in paragraph (1) is provided (by certified or registered mail) written notice of potential liability.

Such lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 9613 of this title.

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(4) Action in rem

The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred.

30. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Zykan is a person liable to the United States for all response costs incurred by the United States in connection with the Site, including enforcement costs and prejudgment interest on such costs. Pursuant to Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), the costs incurred by the United States in connection with the Site constitute a lien upon the real property constituting the Site.

31. Pursuant to Section 107(l)(2) of CERCLA, 42 U.S.C. § 9607(l)(2), Zykan was provided with written notice of potential liability on or about January 18, 2005, informing her that she was a potentially responsible party under Section 107(a) of CERCLA, 42 U.S.C. §

9607(a). Pursuant to Section 107(l)(2), 42 U.S.C. § 9607(l)(2), the lien upon the Site will continue until liability for the United States' unreimbursed response costs incurred in connection with the Site is satisfied.

32. Pursuant to Section 107(l)(3) of CERCLA, 42 U.S.C. § 9607(l)(3), the United States properly perfected its lien upon the Site by filing a notice in the appropriate office within the State and County in which the property is located. Pursuant to Section 107(l)(4) of CERCLA, 42 U.S.C. § 9607(l)(4), the costs constituting the lien may be recovered in an action in rem in the United States District Court for the District in which the removal or remedial action has occurred.

**REQUEST FOR RELIEF**

WHEREFORE, plaintiff United States requests that this Court:

1. Enter judgment in favor of the United States for all response costs incurred and to be incurred in connection with the Site, together with interest;
2. Order that the Property be sold and that the proceeds from such sale be paid to the United States in reimbursement of response costs covered by the lien; and
3. Award the United States such other relief as this Court may deem appropriate.

Dated October 10, 2007.

Respectfully submitted,

RONALD J. TENPAS  
Acting Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice





ELLEN M. MAHAN

Deputy Chief  
Environmental Enforcement Section  
United States Department of Justice



KATHERINE A. LOYD

Trial Attorney  
Environmental Enforcement Section  
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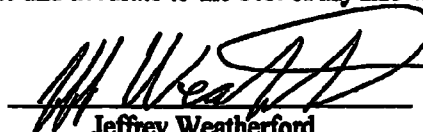
**Of Counsel:**

Barbara Peterson  
Region VII, U.S. EPA  
901 N. Fifth St.  
Kansas City, KS

**VERIFICATION OF COMPLAINT**

I, Jeffrey Weatherford, am employed by the United States Environmental Protection Agency as an On Scene Coordinator. I have been responsible for the EPA's removal action at the Zykan Landfill Superfund Site which is the subject of this Verified Complaint from 1997 to the present. I have reviewed EPA's Action Memorandum for the Removal Action and also have personal knowledge pertaining to certain of the facts addressed herein. I swear under pains of perjury that the allegations set forth above are true and accurate to the best of my knowledge.

Date: 10/26/07



Jeffrey Weatherford  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
Region VII

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

Civil Action No. 4:07-cv-01860-DJS

LAVERNE A. ZYKAN, both as Trustee )  
and in her personal capacity, and )  
120 ACRES OF LAND, More or Less, )  
located in Warren County, Missouri, )

Defendants. )

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**STIPULATION AND ORDER**

Plaintiff, United States of America, on behalf of the United States Environmental Protection Agency (EPA), commenced this action by filing its Complaint for recovery of costs, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. § 9607, that the United States has incurred in connection with the release or threatened release of hazardous substances into the environment at and from a facility, owned and controlled by LaVerne A. Zykan (Zykan), located approximately three miles southwest of Wright City, Missouri (the Site); and for recovery in rem of the costs, pursuant to Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), constituting the Federal lien against the real property comprising the Site.

The United States and Zykan agree that the Court's approval of this Stipulation and Order (Stipulation) is an appropriate means of resolving this action.

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THEREFORE, without trial of any issue of fact or law except as provided below, and upon the consent and agreement of the undersigned parties to this Stipulation, it is hereby agreed and stipulated as follows:

1. This Court has jurisdiction over this action pursuant to Sections 107(a), 107(1)(4), and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a), 9607(l)(4), and 9613(b), and pursuant to 28 U.S.C. §§ 1331 and 1345. This Court has jurisdiction over the property that is the subject matter of the in rem action pursuant to Section 107(l)(4) of CERCLA, 42 U.S.C. § 9607(l)(4), 28 U.S.C. § 1655, and Federal Rule of Civil Procedure 4(n).

2. Venue is proper in this district pursuant to Sections 107(l)(4) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(l)(4), and 9613(b), and pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1395, because the releases or threatened releases of hazardous substances occurred in this district, because the removal action which led to EPA's incurrence of response costs occurred in this district, and because the Site is located in this district.

3. Defendant Zykan is a person within the meaning of Sections 101(21), 104(a) and 107(l) of CERCLA, 42 U.S.C. §§ 9601(21), 9604(a) and 9607(a) and (l), and is an owner and trustee of the Site, as well as a former owner of a facility at the time of the disposal of hazardous substances at the facility.

4. Defendant 120 Acres of Land, More or Less, located in Warren County, Missouri, is the subject of the United States' in rem claim in this action and includes the Site and adjoining property.

5. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C.

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§ 9601(9). Zykan and her husband bought the real property at the Site on or about 1972.

Zykan's husband passed away in January 1980, making Zykan the sole owner of the real property. In January 1982, Ms. Zykan transferred the property into "Indenture of Trust of LaVerne A. Zykan," of which she is the sole trustee. Ms. Zykan has complete control over the real property, which totals approximately 158 acres.

6. As a current trustee of a trust that owns a facility, and as the owner of a facility at the time of the disposal of hazardous substances at the facility, Zykan is within the classes of liable parties described in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

7. Disposals of hazardous substances occurred at the Site from at least from 1972 to 1985, and possibly beyond 1985. EPA's response action, including removal of drums, containers, related hazardous substances, and contaminated soils, and the repair and installation of a cap constitutes a "removal" and "response action" within the meaning of Section 101(23) and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23) and 9601(25).

8. As a result of the release or threatened release of hazardous substances into the environment at and from the Site, the United States has incurred response costs of \$755,782, including prejudgment interest through January 19, 2008. The response costs the United States has incurred are not inconsistent with the National Contingency Plan, 40 C.F.R. § 300.

9. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Zykan is liable to the United States for all costs incurred by the United States in connection with response actions at the Site, and those costs total \$755,782.

10. Pursuant to Section 107(f) of CERCLA, 42 U.S.C. § 9607(f), the costs incurred by

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the United States in connection with the Site constitute a lien upon the real property constituting the Site. Moreover, once the United States obtains final judgment in this action, it will promptly file a judgment lien.

11. The United States and Zykan agree that this Stipulation is an effective method of reaching a final judgment in this proceeding, without undue cost or delay. Zykan is not represented by legal counsel and has entered into this Stipulation freely and without coercion. Zykan further acknowledges that she has read the provisions of this Stipulation and is prepared to abide by them.

The Clerk of Court is hereby ORDERED to enter judgment in accordance with the foregoing Stipulation and Order this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE  
Eastern District of Missouri

# *In Rem*

## **Actions**

Clearview Landfill  
Ordnance Products, Inc.

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# Clearview Landfill

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### **What is the Clearview Landfill?**

- Part of the Lower Darby Creek Area Superfund Site.
- 39 acre, unpermitted landfill operated from the late 1950s until the mid-1970s
- Accepted demolition, medical, and industrial waste in addition to ash and MSW-type waste from the City of Philadelphia and surrounding municipalities.

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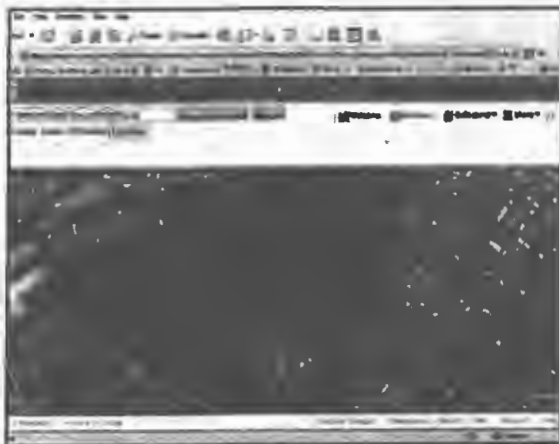
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### Who Owns the Clearview Landfill?

- Beginning in 1953, Edward I. Heller began acquiring property.
- 1958, Ed Heller incorporates the Clearview Land Development Company (CLDC) in PA to "operate a dump, trash and refuse collection, and incineration business."
- Incorporators/Directors were part of the Corporation Guarantee and Trust Company and had no affiliation with CLDC or Ed Heller.

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### Who Owns the Clearview Landfill?

- Aerial photos suggest that disposal also took place on adjacent property owned by the City of Philadelphia.
- Residential development on and adjacent to the landfill.

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### **Who Owns the Clearview Landfill?**

- Title Search indicates Clearview Land Development Company owns the majority of the Site.
- Portion owned by the City of Philadelphia.
- Philadelphia gave us access under AOC.

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### **Who Owns the Clearview Landfill?**

- 1964, Betty Heller, VP, Ed Heller, Secretary, and Richard Heller, Treasurer of CLDC.
- 1965, Richard Heller, President, Betty Heller, Secretary/Treasurer.
- 1973, Richard Heller, President.
- 1988, Richard Heller, President.
- 1989, Richard Heller, President

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### **Who Owns the Clearview Landfill?**

- 1990, Richie Heller grants access to PADEP and EPA for Site Inspection.
- 2001, Listed on NPL.
- Investigator assigned to Site.
- 2001 104(e) letters to Richie Heller.
- Initial response – "invoke 5<sup>th</sup> amendment."

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### Who Owns the Clearview Landfill?

- Supplemental responses –
  - CLDC owns the Site;
  - Mom owned CLDC;
  - I lease a portion of it from CLDC under arrangement with Mom and Dad;
  - Dad handled all operations; and
  - I was just an employee.
- Ethel Heller deceased, 1995.
- Edward Heller deceased, 2000.

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### Who Owns CLDC?

- Ethel Heller allegedly owned majority of stock.
- Died intestate 1995.
- Edward Heller would have inherited the stock.
- Edward Heller died 2000, Richie and his two sisters executors of the estate and heirs.
- Estate attorney and all three heirs deny knowing anything about the stock.

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### Who Owns CLDC?

- Remaining stock (35%) owned by Samuel Dickey as of 1962.
- Dickey died 1980 and will placed CLDC stock into trust for his step-daughters.
- Executors of the Dickey estate determined the stock to be worthless and never transferred ownership.

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### **Who Owns the Clearview Landfill?**

- April 2002 – Richie Heller gives RPM verbal access to sample.
- June 2002 – Heller atty says Heller is not a representative of CLDC and will not sign an agreement or AOC.
- Lien filed 2002.

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### **Who Owns the Clearview Landfill?**

- Sufficient evidence to issue GNL to Richie Heller, individually, under 107(a)(2) and to Richie Heller as President of CLDC, under 107(a)(1) and (a)(2).

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### **Who Owns the Clearview Landfill?**

- Heller has no involvement BUT...
  - Filed objection to lien on behalf of CLDC;
  - Requested tax exempt status from County on behalf of CLDC;
  - Collecting rents from up to a dozen tenants;
  - Appealed PADEP fine on behalf of CLDC.

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### Now What?

- Referral to DOJ for *In Rem* action.
- *In Rem* means, literally, "against the thing." In this case, against the property.
- CERCLA 104(e)(5).
- Referred 03/30/2004.
- Complaint filed by AUSA 03/02/2005

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### Now What?

- Notification:
  - published in four local newspapers;
  - posted on the property;
  - mailed to the business on the property;
  - mailed to Heller; and
  - submitted to PA SOS.
- No response.
- Access granted by Court order 10/25/2005.

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### Now what?

- RI/FS ongoing – planned end date 12/30/08.
- ROD planned for FY2011.

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# Ordnance Products, Inc. Site

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## Ordnance Products, Inc.

- Superfund Site in Northeast, Maryland.
- Former munitions contractor, 1953-1973.
- Height of operations during Vietnam war.
- Manufactured and tested grenade fuses for U.S. Army.

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### **Who Owns OPI?**

- Mechanics Valley Trade Center, Inc. (MVTC)
- Maryland Corporation, formed 04/28/1986.
- Officer/Director – William V. Frederick.
- MVTC forfeited corporate charter 1993.

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### **Who Owns OPI?**

- MVTC stock owned by Marine Tech, Inc.
- Maryland corporation formed 10/12/1989.
- Officer/Director/Shareholder of Marine Tech, Inc.  
William V. Frederick.
- Marine Tech, Inc. forfeited corporate charter 1991.

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### **Who Owns OPI?**

- William V. Frederick.
- UAOs to MVTC for access and security.
- Completed removal 1997, completed RI/FS  
2005.
- ROD 09/29/2006.

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### Who Owns OPI?

- Frederick was a "developer" in Florida – left Site in care of tenant, Dale, who interacted with EPA when necessary.
- Several other tenants – mechanic, propane storage, marine motor refurbisher.

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### Who Owns OPI?

- Dale died, Nick Fafalos owner/operator of the marine motor business becomes care taker.
- Nick begins taking over the Site.
  - Constructed large office trailer;
  - Evicts Dale's wife from the Site;
  - Rents portion of the Site to "Trash Company" out of north Jersey;
  - Puts 4 trailer homes and rents Site to residents

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### Who Owns OPI?

- February 2007- EPA contacted Nick Fafalos, as caretaker, to discuss access.
- Informed that in 2002, William Frederick had sold the Site to Nick, his wife Ava, and their attorney, William Riddle.
- Updated title search indicates MVTC, Inc. still owns the Site.

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### Who Owns OPI?

- March 2007 - EPA counsel contacted Riddle for access and details on sale. Riddle claimed legal authority to grant access.
- Access letters sent to Nick and Ava Fafalios and Riddle.
- April 2007 – signed access agreement submitted by Riddle.

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### Who Owns OPI?

- August 2007 – meeting at Site b/t EPA, Cecil County officials, and Fafalios. Riddle failed to show up.
- Nick Fafalios no longer claims ownership of Site – actual owner is MVIC Associates, LLC – the “successor” to MVTC, Inc.
- Advised EPA talk to Riddle.
- MVIC Associates, LLC is a Maryland limited liability company formed 05/13/2004 by William Riddle and Ava Fafalios.

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### Who Owns OPI?

- August/September Riddle fails to return phone calls or answer e-mails.
- September 2007 - 104(c) letters sent to Riddle, Frederick, and both Fafalios.
- Riddle responded – no ownership interest in the property, no authority to grant access. Option to purchase never exercised.
- Fafalios failed to respond; Frederick's RTS.

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### Who Owns OPI?

- October/November 2007 – tracked and located Mr. Frederick near Orlando, FL. Spoke to his companion who denied that Mr. Frederick had anything to do with the Site.
- December 2007 – traveled to Orlando to interview Mr. Frederick and deliver 104(e) and access agreement.

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### Who Owns OPI?

- December 2007 – Frederick responds to 104(e) with documents related to 2005 sale of MVTC, Inc., not the property, to MVIC Associates, LLC.
- MVIC Associates, LLC purchased all of the stock in MVTC, Inc. for \$35,000.

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### Who Owns OPI?

- Mechanics Valley Trade Center, Inc.

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### Now What?

- Frederick refused to give access,
- Riddle refused to give access,
- Nick Fafalos refused to respond to either access or 104(e);
- Ava Fafalos refused to respond to either access or 104(e)
- Proceed *in Rem* to obtain access for RD/RA

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### Now What?

- March 2008 - Referred to DOJ for action under 104(e), including access and a penalty count for failure to respond to EPA's information requests.
- Stay tuned.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA  
Plaintiff

V.

Civil Action No. 05-0993

CLEARVIEW LAND DEVELOPMENT  
COMPANY, *in personam*,

and

39 ACRES OF LAND, MORE OR LESS,  
A/K/A CLEARVIEW LANDFILL  
SECTION OF THE LOWER DARBY  
CREEK AREA SUPERFUND SITE  
IN DARBY, DELAWARE COUNTY,  
PENNSYLVANIA, *in rem*,  
Defendants

**FILED**

OCT 25 2005

MICHAEL E. KUNZ, Clerk  
By                      Dep. Clerk

**ORDER**

The United States has moved for default judgment against the Defendants pursuant to Federal Rule of Civil Procedure 55(b)(2) for Defendants' failure to answer the Complaint filed by the United States on March 2, 2005. No other interested person has responded to notices of this pending action published in four local newspapers (two in Delaware County, Pennsylvania and two in Philadelphia County, Pennsylvania) and posted at the subject property. The United States, having served Defendant Clearview Land Development Company (Clearview) by service at its last registered address and through the Pennsylvania Department of State, having published notice of the filing of the Complaint and the need for access to the Site in four local newspapers, having posted the subject Property with copies of the Summons and Complaint and Notice about this action, has effectively served Defendant Clearview and has provided reasonable notice to persons who may have an interest in the subject Property. As of

VRJ.AFFIRMATIVE.CLEARVIEW.MOTION.DEFAULT..WFD

October 24, 2005, no answer has been filed by any party. The last date of service of Clearview at its registered address and upon its last known officer having been March 4, 2005 and publication having been made in the Legal Intelligencer on July 26, 2005, in the Philadelphia Inquirer on July 25, 2005, in the Delaware County Legal Journal on August 5 and 12, 2005, and in the Delaware County Daily Times on July 25 and August 1, 2005, and posting of a notice and copies of the Summons and Complaint having been commenced on August 12, 2005, and the Pennsylvania Department of State, c/o Secretary of State, Corporate Division having been served on August 12, 2005, and no response having been filed, the Defendants are in default. The Court has considered the United States' Motion for Default Judgment and its accompanying Memorandum of Law in Support and concludes that the relief requested in the Complaint should be granted.

IT IS HEREBY ORDERED that the United States Motion for Default Judgment is GRANTED, and that the following judgment in favor of the United States shall be entered:

1. As authorized under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e), the Court grants the Environmental Protection Agency ("EPA"), its employees, representatives and contractors, immediate and unconditional access to and through all portions of the 39 Acres of Land, More or Less, owned by Defendant Clearview and which constitutes a substantial portion of the Lower Darby Creek Area Superfund Site in Darby Township, Delaware County, Pennsylvania ("the Site").
2. Access is granted for such duration as is necessary to complete all activities necessary to conduct a Remedial Investigation and Feasibility Study, design, implement, operate and maintain appropriate remedial actions at the Site, conduct reviews as necessary and to

VRP.AFFIRMATIVE.CLEARVIEW.MOTION.DEFAULT.WPD

otherwise address the release or threat of release of hazardous substances at or from the Site and otherwise protect the public health and welfare and environment from actual or threatened releases of hazardous substances, pollutants and contaminants from or at the Site pursuant to CERCLA, 42 U.S.C. §§ 9601-9675.

3. Defendant Clearview is HEREBY ENJOINED from taking any actions that obstruct, impede or otherwise interfere with EPA's entry and access to the Property for the purposes of conducting a Remedial Investigation and Feasibility Study, designing, implementing, operating and maintaining appropriate remedial actions at the Site.

This case shall be removed from the Court's active docket and shall be placed on the inactive docket, subject to the United States having the right to reopen this case by filing an appropriate motion for further relief consistent with the implementation and subsequent operation and maintenance of the selected remedial actions.

BY THE COURT:

  
 HONORABLE ROBERT F. KELLY  
 Senior Judge, United States District Court

MAILED

10-25-05

P. MEEHAN

R. BROOK

FAXED

~~EMERGENCY~~

10-25-05

V. POWELL

V. GIBSON

## Access to Private Property under CERCLA

National PRP Search Conference  
May 13 - 16, 2008 - Portland

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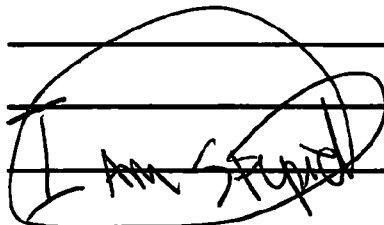
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### CERCLA 104(e)

- o (3) Entry. Any officer, employee, or representative is authorized to enter at reasonable times any of the following (A) Any vessel, facility, establishment, or other place or property where any hazardous substance or pollutant or contaminant may be or has been generated, stored, treated, disposed of, or transported from. (B) Any vessel, facility, establishment, or other place or property from which or to which a hazardous substance or pollutant or contaminant has been or may have been released. (C) Any vessel, facility, establishment, or other place or property where such release is or may be threatened. (D) Any vessel, facility, establishment, or other place or property where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this subchapter.



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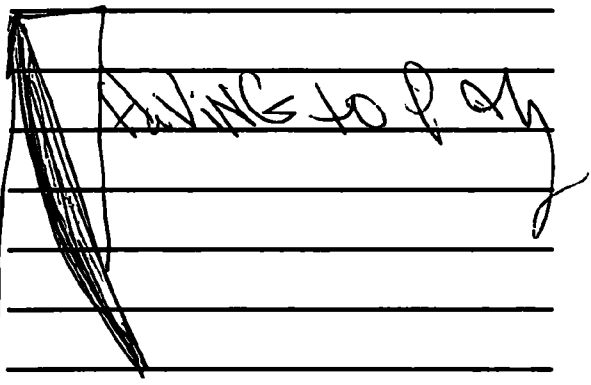
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### EPA Property Access

- o Scenarios for ICs:
  - Non-Settling PRP may refuse best efforts of Settling PRPs to restrict non-settling PRP's land.
  - PRP may refuse EPA/State's efforts to restrict PRP's land in a fed-lead/state-lead enforcement action.
  - Adjacent property owners may reject PRP's best efforts to restrict the use of non-settling party property.
  - Subsequent property owners of source property may reject efforts of PRP (owner of site when CD was signed) to restrict the use of the source property.



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## Constitutional Law and CERCLA Access

- Fifth Amendment prohibits taking private property for public use without "just compensation."
- A taking can either result from physical occupation or restricting the use of one's property.

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## Liability

- Under CERCLA, current owners and operators are liable for hazardous substance contamination on property.
- Current property owners are liable even if they did not cause the contamination.  
(42 USC s. 107(a)(1))

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## Statutory Liability Protection

- Landowners may claim certain statutory defenses and exemptions:
  - Bona Fide Prospective Purchaser Exemption  
(42 USC s. 107(r) and 101 (40))
  - Contiguous Property Owner Exemption  
(42 USC s. 107(q))
  - Innocent Landowner Defense  
(42 USC s. 107(b)(3) and 101(35))

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## EPA Policy Liability Protection

o U.S. EPA excludes property owners in certain circumstances:

- Residential Homeowners
- Owners of Property above Contaminated Aquifers

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## Owner Responsibilities

- o In order to be protected, an owner must perform "all appropriate inquiry"
- o The owner must also meet "continuing obligations," which includes:
  - Complying with existing land use restrictions
  - Not impeding the effectiveness or integrity of ICs
  - Providing cooperation, assistance and access
  - Complying with all information requests
  - Providing legally required notices
  - Taking "reasonable steps"

CERCLA §§ 101(40)(F), 107(q)(1)(A)(V), 101(35)(A)

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## What if the Owner Impedes Access?

o Enforcement Tools

- Include PRP in the enforcement action
- Issue Unilateral Administrative Order (UAO)
- Use 104(j) to negotiate/condemn the required property interest

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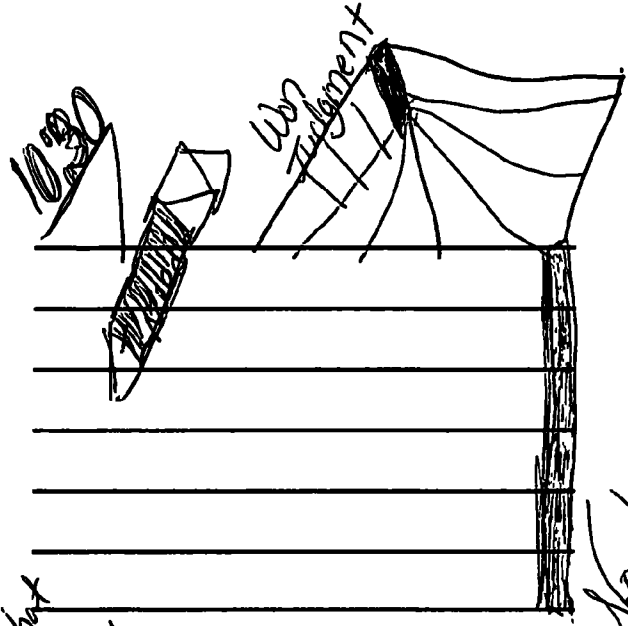
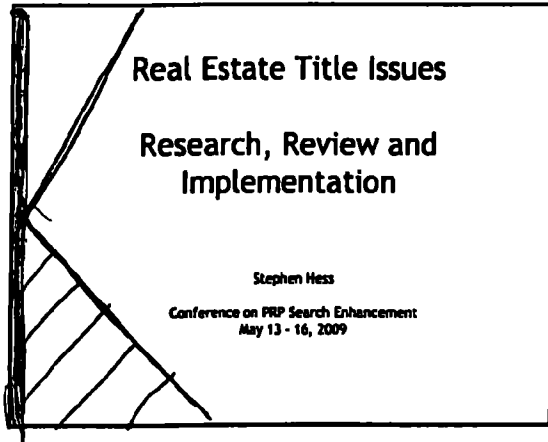
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*Traditional*



#### Historical Chain of Title Information

Used for PRP Searches - Liability

Historical chain of title information must identify:

Current parcel number.

Current parcel address.

Chain of title ownership from 19\_\_? to present.

*You got what  
Not what  
but  
what you  
choose to  
use -*

*Keep to*

#### Current Condition of Title [Title Commitment or Title Abstract]

• Identify all matters of public record which currently affect the title. All matters of public record which currently affect the title - the abstractor must review and identify, at least, the following:

- Parcel number.
- Parcel address.
- Name of current property owner.
- Property legal description.

**Current condition of title (cont.)**

- All unreleased mortgages, liens, judgments, pending cases.
- Real estate tax amounts, paid or unpaid.
- Easements, covenants, restrictions, and all other matters that *currently* affect, or may currently affect, the title.
- Oil, gas, and mineral rights.
- A notation of the timeframe searched.
- Legible copies of all documents reviewed.

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[Mock-up Sample for Demonstration Purposes Only]

## ***Real Estate Title Insurance Company***

### **INFORMATION**

The title insurance commitment is a legal contract between you and the company. It is issued to show the basis on which we will issue a title insurance policy to you. The policy will insure you against certain risks to the land title, subject to the limitations shown in the policy.

The company will give you a sample of the policy form, if you ask.

The commitment is based on the land title as of the commitment date. Any changes in the land title or the transaction may affect the commitment and the policy.

The commitment is subject to its requirements, exceptions and conditions.

**This information is not part of the title insurance commitment.**

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### **Table of Contents**

	<b>Page</b>
<b>Agreement to Issue Policy</b>	<b>2</b>
<b>Schedule A</b>	
1.    Commitment date	3
2.    Policies to be issued, amounts and proposed insured	3
3.    Interest in the land and owner	3
4.    Description of the land	3
<b>Schedule B-1 – Requirements</b>	<b>4</b>
<b>Schedule B-2 – Exceptions</b>	<b>5</b>
<b>Conditions</b>	

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**YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.**  
If you have any questions about the commitment, please contact the issuing office.

**COMMITMENT FOR TITLE INSURANCE**

**issued by**

***Real Estate Title Insurance Company***

**Agreement to Issue Policy**

We agree to issue a policy to you according to the terms of this commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this commitment becomes effective as of the commitment date shown in Schedule A.

If the requirements shown in this commitment have not been met within six months after the commitment date, our obligation under the commitment will end. Also, our obligation under the commitment will end when the policy is issued and then our obligation to you will be under the policy.

Our obligation under this commitment is limited by the following:

The Provisions in Schedule A.

The Requirements in Schedule B-1.

The Exceptions in Schedule B-2.

The Conditions on page 3.

This commitment is not valid without Schedule A and Sections 1 and 2 of Schedule B.

***REAL ESTATE TITLE INSURANCE COMPANY***

by \_\_\_\_\_  
Authorized Signature

## SCHEDULE A

**Owners:** ABC Corporation

**Buyer:**

**Loan No.:**

1. Commitment Date: May 22, 2002 at 7:30 AM

2. Policy or policies to be issued: Policy Amount

(a) Owners Policy: \$  
Proposed Insured:

(b) Loan Policy  
Proposed Insured: \$

— (c) ALTA U.S. Policy (Revised 9-28-91) \$ To Be Determined  
Proposed Insured: United States of America

3. A fee interest in the land described in this commitment is owned, at the commitment date, by  
**ABC Corporation, A California Corporation**

4. The land referred to in this commitment is described as follows:

That certain real property situated in the State of California, County of Sacramento, Unincorporated Area,  
described as follows:

Lots 1 through 18, in Americanos Subdivision, as dedicated, platted and recorded in the Office of the  
Recorder of Sacramento County in Book 162 of Surveys at Page 4.

**[or metes and bounds legal description - based on a new or pre-existing survey, also could  
reference a description from a recorded deed with deedbook and page numbers, rather than a  
reference to recorded surveys]**

## **SCHEDULE B - SECTION 1**

### **Requirements**

1. The following requirements must be met:
2. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
3. Pay us the premiums, fees and charges for the policy.
4. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
5. You must tell us in writing the name of anyone not referred to in this commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
6. Release(s) or reconveyance(s) of item(s) NONE.
7. Other:
  - A. With respect to ABC Corporation:
    - a. A certificate of good standing of recent date issued by the Secretary of State of the corporation's state of domicile.
    - b. A certified copy of a resolution of the Board of Directors authorizing the contemplated transaction and designating which corporate officers shall have the power to execute on behalf of the corporation.
    - c. Other requirements which the Company may impose following its review of the material required herein and other information which the Company may require.

## **SCHEDULE B - SECTION 2**

### **Exceptions**

#### **[Standard Exceptions]**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

#### **Part 1:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Unpatented mining claims: reservations or exceptions in patents or in acts authorizing the issuance thereof: water rights, claims, or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Any covenants, conditions and restrictions, whether or not appearing in the public records.



**Part 2: [Property-specific exceptions based on a search of the grantor-grantee index]**

1. The lien of supplemental taxes assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
2. Rights of the public in and to that portion of the land lying within Prairie City Road.
3. An easement for electrical facilities and incidental purposes, in favor of Western States Gas and Electric Company, recorded September 22, 1931 in book 360, page 423, of Official Records.
4. Abutter's rights of ingress and egress to or from Highway 50 have been relinquished in the document recorded July 17, 1948 in book 1518, page 199, of Official Records.
5. An easement for utilities and incidental purposes, in favor of County of Sacramento, recorded February 15, 1951 in book 1992, page 115, of Official Records.
6. An easement in favor of Sky King Enterprises, Inc., recorded July 16, 1958, in book 3547, page 414 of Official Records.
7. Any and all easements, offers of dedication, conditions, restrictions, notes and/or provisions, or any fence lines or other boundary discrepancies which may be shown on or delineated by the Survey filed for record August 7, 1961, in book 18 of Surveys, at page 4.
8. An easement for ingress, egress and utilities and incidental purposes, in favor of the New Heights Church, recorded December 31, 1971 in book 7112-31, page 81, of Official Records.

[illegible]



# **Brownfields Amendments: How They Have Affected Current Owners and Other Liable Parties**

## **Brownfields Amendments**

### **How They Have Affected Current Owners and Other Liable Parties**

**Kelly Cole, Region 10  
Barbara Nann, Region 6**

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## **Background**

- **January 11, 2002, Congress enacted the Small Business Liability Relief and Brownfields Revitalization Act, which amended CERCLA (Brownfields Act)**
- **The Brownfields Act focuses on the reuse and revitalization of contaminated sites through liability relief, liability clarifications, and grants**

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## **Before the Amendments**

- **"Traditional" CERCLA defenses were available, such as the third-party defense**
- **Current owners and prospective purchasers needed to rely primarily on the innocent landowner (ILO) defense**
- **But...ILOs can't purchase property with knowledge of contamination (after conducting all appropriate inquiries)**

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### **Before the Amendments (cont.)**

- EPA enforcement discretion guidance for some owners of contaminated property to alleviate some concerns about liability
- Examples include the contaminated aquifer policy and residential homeowner policy
- These policies don't necessarily offer protection from third-party lawsuits

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### **Brownfields Amendments...What They Did**

- Created the bona fide prospective purchaser (BFPP) liability protection and associated windfall lien
- Created the contiguous property owner (CPO) liability protection
- Amended the innocent landowner (ILO) liability protection

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### **The Brownfields Amendments Also...**

- Codified the brownfield grant program for the assessment and cleanup of brownfield sites and created a grant program for state response programs
- De Micromis Exemption
- Municipal Solid Waste Exemption

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**Bona Fide Prospective Purchasers  
CERCLA 107(r) & 101(40)**

- Purchasers of property after January 11, 2002
- Can buy with knowledge of contamination
- Must satisfy certain requirements prior to purchase (all appropriate inquiries and “no affiliation” with a liable party)
- Must satisfy certain requirements after purchase (e.g., compliance with ICs)

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**EPA Guidance on BFPPs**

- *Bona Fide Prospective Purchasers and the New Amendments to CERCLA (2002)*
- *Common Elements Guidance (2003)*
- *Issuance of CERCLA Model Agreement and Order on Consent for Removal Action by Bona Fide Prospective Purchaser (2006)*

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**Windfall Liens**

- Purpose: That a BFPP not be unjustly enriched (by an increase in property value) where taxpayer money is spent cleaning up a site
- Applies where
  - the U.S. has conducted a response action and has unrecovered costs
  - The response action increases the FMV of the property
- Lien is for the unrecovered costs, but it can't exceed the increase in the FMV of the property attributable to the cleanup

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### Windfall Liens (cont.)

- EPA guidance on windfall liens:
  - *Interim Enforcement Discretion Policy Concerning Windfall Liens under Section 107(r) of CERCLA* (2003)
  - *Windfall Lien Guidance, Frequently Asked Questions* (2003)
  - *Windfall Lien Administrative Procedures/Model Notice of Intent to File a Windfall Lien Letter* (2008)

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### Contiguous Property Owners CERCLA 107(q)

- Liability protection for owners of property that has groundwater contaminated from an offsite source
- *Like* BFPPs, owner has certain pre- and post-purchaser obligations (AAI, no affiliation, ongoing obligations)
- *Unlike* BFPPs, CPOs cannot have had knowledge of the contamination prior to purchase

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### EPA Guidance for CPOs

- *Common Elements Guidance* (2003)
- *Interim Enforcement Discretion Guidance Regarding Contiguous Property Owners and associated reference sheet* (2004)

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**Innocent Landowners  
CERCLA 107(b)(3) & 101(35)(B)**

- Like BFPPs and CPOs, ILOs have pre- and post-purchase obligations
- Brownfields Amendments clarified AAI, which applies to ILOs
- ILOs can't purchase property with knowledge of contamination.
- No date restriction

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**EPA Guidance for ILOs Post-Amendments**

- *Common Elements Guidance* (2003)

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**Pre-Purchase Obligations**

- All appropriate inquiries (BFPP, CPO, ILO)
  - EPA rule became effective on November 1, 2006 and compliance with the Rule or ASTM E 1527-05 satisfies AAI
  - Residential AAI
- "No affiliation" for BFPPs - Section 101(40)(H)
  - Direct or indirect familial relationships
  - Contractual, corporate or financial relationships (except those created by the instruments by which title is conveyed or financed or for the sale of goods or services)
  - Reorganization of a business entity that was liable
  - Standard for CPOs – Section 107(q)(A)(ii)
  - Standard for ILOs – Section 107(b)(3) & 101(35)(A)

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### What is AAI?

- All Appropriate Inquiries, environmental site assessment (ESA) standards, or environmental due diligence, is the process of evaluating a property for potential environmental contamination and assessing potential liability for any contamination present at the property.

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### What AAI is Not

- AAI or a Phase I ESA does NOT delineate the contamination or quantify the risk, it just identifies the potential presence of contamination on the property
- A "clean" Phase I does NOT guarantee the site free of environmental liability, or that a purchaser has a defense against future environmental liability
- A Phase I will NOT reveal every possible environmental problem
- A Phase I is NOT a compliance audit

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### Phase I ESA – Components

- Historical sources
- Government record review
- Interviews
- Site reconnaissance
- Review user provided information
- Report preparation

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### Historical Sources Aerial Photographs

- Property use changes over time
- 10 year intervals
- 1956 photo



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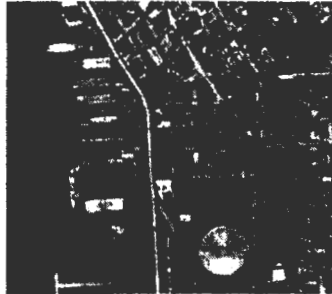
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### Historical Sources Aerial Photographs

- Property use changes over time
- 10 year intervals
- 1977 photo



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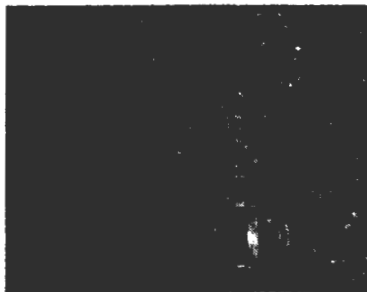
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### Historical Sources Aerial Photographs

- Property use changes over time
- 10 year intervals
- 2002 photo



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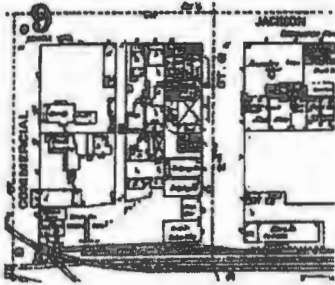
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### Historical Sources Fire Insurance Maps

- Property use changes over time
- Mainly available for older cities
- 1888 Sanborn map




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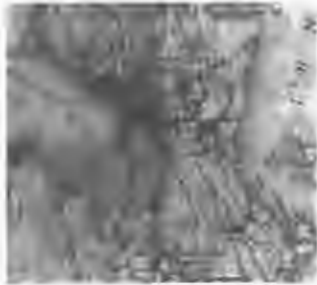
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### Historical Sources Topographic Maps

- Property use changes over time
- Can identify areas historically filled and structures
- 1897 map




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### Historical Sources Topographic Maps

- Property use changes over time
- Can identify areas historically filled and structures
- 1983 map




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### Other Historical Sources

- Property tax files
- Land title records
- Historical city directories
- Building department records
- Zoning department records

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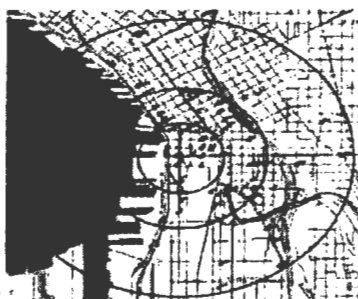
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### Government Record Review

- EDR report searches:

- Federal sites
- State sites
- Tribal sites
- Local sites



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### Interviews

- Owner and occupant
- Past owners and occupants
- Agencies
- Additional sources (?)

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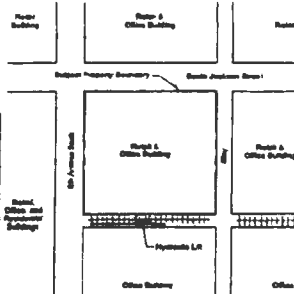
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### Site Reconnaissance

- Interior
- Exterior
- Adjacent properties




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### User Provided Information

- Chain of title records
- Environmental liens
- Specialized knowledge
- Reduced purchase price
- Common knowledge

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### The Report Preparation

- Report must include EP's opinion as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances
- Identification of data gaps
- Qualifications of the EP(s)
- Signature of the EP(s)

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### Helpful Link

EPA Brownfields Cleanup & Redevelopment – AAI

<http://www.epa.gov/brownfields/regneg.htm>

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### Post-Purchase Obligations

- Legally-required notices
- Appropriate care to stop continuing releases, prevent future releases, prevent or limit exposure
- Cooperation, assistance, and access
- Institutional controls
- Requests and subpoenas

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### Brownfields Grant Programs

- Site-specific assessment and cleanup grants
- Grants for building state cleanup programs
- Targeted brownfields assessments
- To receive a brownfield grant, a grantee cannot be liable under CERCLA for response costs at the site.

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### ER3

- Goal is to encourage sustainable cleanups and reuse/redevelopment
- Some entities may be willing to incorporate sustainability principles into a project in exchange for enforcement incentives (e.g., PPAs)

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### Hot Topics

- New ASTM vapor intrusion standard (e.g., does it impact AAI?)
- ASTM effort to define ongoing obligations
- Tenants issues

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### Example—MDI Site

- Background
- Potential hurdles (e.g., liability concerns)
- Solutions

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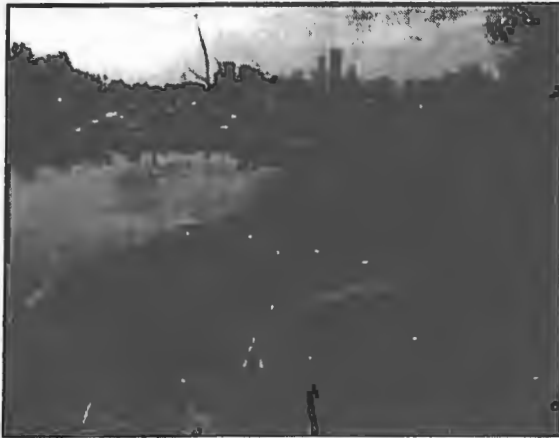
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#### **Background - Agreed Order**

- Several meetings with Prospective Purchasers to discuss:
  - The Selected Remedy in the Record of Decision for OU 1.
  - Remedial Design and Remedial Action for OU 1.
  - EPA's oversight responsibilities.
- Auction held on March 22, 2005, by the bankruptcy trustee, for the 36-acre site; total sale price of \$7,897,539.
- Agreed Order became final on September 29, 2006.

#### **Agreed Order on Consent and Covenant Not to Sue**

- Authority
  - Superfund - entered into by U.S. EPA and Purchaser with concurrence from the U.S. Department of Justice.
- Respondent's (Purchaser's) Certification
  - Certifies that it has not caused or contributed to a release of contaminants at the Site.

**Agreed Order on Consent  
and Covenant Not to Sue (Contd.)**

- **Work to be Performed**
  - Purchaser agrees to perform the remedy selected by the EPA in the ROD and in accordance with the Statement of Work.
- **Reimbursement of Overnight Costs**
  - \$216,000
- **Stipulated Penalties**
  - The Purchaser is liable for stipulated penalties for failure to comply with the requirements of the Agreed Order.

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## NOTES



## **Using Bankruptcy to Gather Information**

## Using Bankruptcy to Gather Information

Presented by:  
Andrea Madigan  
US EPA Region 8  
May 2008



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## A Bankruptcy Overview

- Bankruptcy is a federal statutory process that provides debt relief to individuals and businesses.
- 11 U.S.C. Section 101 et. seq.

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## Guiding Principles

- Fresh Start for the Honest Debtor
- Maintenance of Status Quo
- Orderly Liquidation or Distribution to Creditors
- Fair & Equitable Treatment of Similarly Situated Creditors

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## **Types of Bankruptcy Cases**

- Chapter 7
  - Liquidation
- Chapter 9
  - Municipalities
- Chapter 11
  - Reorganization
- Chapter 12
  - Family Farmer
- Chapter 13
  - Wage Earner

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## **Common Elements**

- Commencement of a case
- Creation of the bankruptcy estate
- Automatic Stay
- Processing of Claims
- Discharge of Claims

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## **The Commencement of the Case**

- The Petition
  - Voluntary or Involuntary
    - Exhibit C
- The Schedules
- The Statement of Affairs
  - Question 17

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### **The Bankruptcy Estate - §541**

- Created upon filing of bankruptcy case
- Includes all legal or equitable interests of the debtor in property as of the commencement of the case
- Exemptions for individual debtors

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### **The Automatic Stay - §362(a)**

- Prohibits:
  - Commencement or continuation of action that was or could have been brought pre-petition;
  - enforcement of pre-petition judgment;
  - any act to obtain possession or exercise control over property of estate

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### **The Automatic Stay - §362(a)**

- Prohibits:
  - Any act to create, perfect, or enforce lien against property of estate;
  - Any act to create, enforce, or perfect lien securing pre-petition debt;
  - Any act to collect, access, or recover pre-petition claim;
  - set-off of pre-petition debt

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### **Automatic Stay Important Exceptions**

- Section 362 (b)
  - Criminal actions
  - Government exercise of police & regulatory authority
- Motion of Lift Stay

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### **A Bankruptcy Claim**

- Right to Payment or Equitable Remedy that Gives Rise to Right to Payment
  - need not be reduced to judgment
  - liquidated or unliquidated
  - fixed or contingent
  - mature or unmature
  - disputed or undisputed
  - legal or equitable
  - secured or unsecured

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### **Bankruptcy Claims & CERCLA**

- When do CERCLA claims arise and become subject to discharge?
  - Disposal?
  - Release or threat of Release?
  - Discovery?
  - Incurrence of response cost?

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## Priorities

- Types of Claims
  - Secured
  - Priority
  - General Unsecured
  - Debtor or Equity

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## Treatment of Claims

- Priority claims must be paid in full before any claims of a lower priority are paid
- Claims of equal priority are paid pro rata

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## Priority Claims

- Some Examples
  - Administrative Expenses
  - Wages
  - Certain Tax Claims
- CERCLA Priority Claims
  - Response costs incurred post-petition for cleanup of property of the estate
  - Post-petition penalty claims

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## Claims Process

- Proof of Claim
- Bar Date
- Objections to Claims
- Referral to DOJ

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## Discharge

- Discharge
  - §727(b)
  - §1141(d)(1)(A)
- What does this mean?
- What gets discharged?
- Chapter 7 & Chapter 11

Chap 7 - plan  
Certs of Discharge  
Re bankruptcy -  
Chap 11 - reorg.

## Exceptions to Discharge

- §523 and §727
- Individuals who engaged in certain types of fraudulent conduct
- Certain types of claims are non-dischargeable due to the nature of the claim (i.e. alimony & child support, certain tax claims, penalty claims)

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Steve Hoffman  
→ mining dept

### Chapter 7 Liquidation

- Identification and preservation of assets in the estate;
- Sale or other liquidation of assets;
- Evaluation of claims of creditors and object when appropriate;
- Distribution of assets in accordance with priority scheme;
- Discharge for individual debtors

Trustee who you go  
to.  
do what they recover

### Chapter 7 The Liquidation Chapter

- Chapter 7 Trustee
  - One appointed in every Chapter 7 case
  - Authority over assets of the estate
    - Including books and records of the debtor

Property that is Abode

### Chapter 11 Reorganization

- Debtor's Goal: Formulate a plan of reorganization acceptable to creditors and the bankruptcy court that restructures the debtor's liabilities and provides a solution to its financial problems

## Chapter 11 Process

- First day survival
- Proposal of Plan
- Disclosure Statement
- Solicitation of Votes
- Plan Confirmation
- Objections to or Allowance of Claims

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## Small Business Debtor

- Must file with petition most recent balance sheet, statement of operations, cash-flow statement and tax returns or statement under oath that such documents have not been prepared or filed
- Attend meetings scheduled by Court or U.S. Trustee
- Timely file Schedules and Statement of Financial Affairs
- File post-petition reports required under rules
- Maintain insurance appropriate to the industry
- Timely file tax returns and other required filings
- Timely pay administrative expense taxes
- Allow U.S. Trustee to inspect premises, books, records

## Post-Petition Operations

- Post-Petition Credit
  - Section 364
- Sale & Use of Property
  - Section 363
- Executory Contracts
  - Section 365
- Compliance with Other Laws
  - 28 U.S.C. Section 959(b)

## **The Plan**

- No statutorily prescribed form
- Allocates the value of the debtor to all parties in interest
  - may pay claims a fraction of their allowed amounts
  - may issue stock in reorganized debtor to satisfy claims
  - may involve corporate merger of debtor or sale of assets

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## **Plan Solicitation and the Disclosure Statement**

- No one may solicit votes on a plan until a disclosure statement, describing the plan, has been approved by the bankruptcy court §1125
- Disclosure statement must contain adequate information to allow creditor to make an informed decision about the plan §1126

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## **Classifying Claims & Voting**

- The plan must classify claims and interests §1122
- Each class of claims that are impaired vote on the plan §1124
- Acceptance of plan is determined by whether the class accepts, not by how individual creditors vote §1126

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### **Confirmation Requirements §1129**

- Plan must be proposed in good faith
- Each creditor under plan must receive at least as much as it would under Chapter 7 (best interests test)
- All administrative claims paid
- Not likely to be followed by further reorganization (feasibility test)

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### **Cram Down**

- Plan may be confirmed over the objection of a class of impaired creditors if:
  - Meets all requirements except for creditor acceptance
  - does not violate absolute priorities rule
  - does not unfairly discriminate

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### **Consequences of Confirmation §1141**

- Binds all parties to the terms of the plan regardless of how they voted;
- Reverts property from the estate to the debtor;
- Discharges the debtor from all claims arising prior to confirmation

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### **Liquidating Plan**

- When a plan of liquidation plan is confirmed and the debtor does not continue in business, there is no discharge

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### **Abandonment of Property**

- Section 554 allows trustee to abandon property
  - Burdensome or of Inconsequential value
- Right to abandon not absolute
  - Cannot be in contravention of laws designed to protect public health and safety from identifiable hazards
  - Narrow exception

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### **Avoidance Powers**

- Strong Arm Powers - §544
- Statutory Liens - §545
- Unauthorized Post-petition Transfers - §549
- Preferences - §547
- Fraudulent Transfers - §548

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## **Summary of Information Sources**

- In all cases:
  - Petition
  - Schedules
  - Statement of Affairs
  - Examination of Debtor
    - Section 341 Meeting
    - Rule 2004 Examination

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## **Information Sources**

- In a Chapter 7 Case:
  - Books and records of the debtor obtained through the trustee
  - Section 363 Motion
  - Abandonment Motion

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## **Information Sources**

- In a Chapter 11
  - Plan
  - Disclosure Statement
  - Post-Petition Financing Documents
  - Operating Reports
  - Fee Applications
  - Section 363 Motions
  - Settlement Notice

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*Data Base*

**www.uscourts.gov**

- Links to every federal court in the country
- PACER - Access to case dockets, and court papers
- Bankruptcy Basics
- Bankruptcy Official Forms
- Lexis Courtlinks

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## This image shows a single sheet of white paper with horizontal black ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's part of a bound notebook or folder.



## **Current Developments in Liability Law**

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## Case Law Update for PRP Search Conference, 2008

Cheryle Micinski  
Chief, Superfund Branch  
Office of Regional Counsel, Region 7

### Useful Product

California Department of Toxic Substances Control v. Alco Pacific, Inc., 508 F.3d 930, (9th Cir., 2007)

Alco operated a lead processing facility on the site for 40 years, refining and reclaiming lead from raw materials. During operations, slag and other materials were spilled or otherwise deposited on the site. The court began by citing U.S. v. Burlington Northern and Santa Fe Ry. Co., 479 F.3d 1113, (9th Cir, 2007) for the principle that arranger liability may attach for transactions in which disposal is a part of but not the focus of the transaction. The case then contains a very good analysis of the case law concerning the useful product defense to arranger liability and set forth several factors to guide the application of the defense:

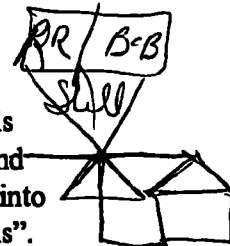
1. the commercial reality and value of the product in question;
2. a factual inquiry into the actions of the seller in order to determine the intent underlying the transaction;
3. whether the material in question was a principal product or by-product of the seller;
4. the intent of the seller;
5. whether in light of all the circumstances the transaction involved an arrangement for disposal or treatment of hazardous waste.

This opinion by the 9th Circuit confirms that courts will engage in a fact-intensive inquiry when deciding whether the useful product defense applies.

*Brown & Bryant Case*

U.S. v. Burlington Northern and Santa Fe Ry. Co., 479 F.3d 1113, (9th Cir, 2007); amended March 25, 2008, 2008 U.S. App. LEXIS 6135

This case involves the Brown & Bryant (B & B) Superfund site. B & B owned and operated a facility at which toxic chemicals were stored and distributed. For purposes of this discussion the relevant facts are that some of the chemicals used by B & B were supplied and delivered to the facility by Shell Oil Company, in bulk using trucks and were then pumped into large tanks by hoses. The court notes that "the process was quite messy, with frequent spills".



The court began its analysis noting that successful useful product cases generally involved only the normal use of chemicals and that courts have not held liable as arrangers manufacturers that sell a useful product containing or generating hazardous substances that later were disposed. In analyzing Shell's liability, the court found that the useful product defense cannot succeed where, as at B & B, the sale of a useful product necessarily and immediately results in the leakage of hazardous substances as the leaked portions were never used for their intended purpose. Leakage was inherent in and contemporaneous with the transfer process between Shell and B & B. Shell participated in the transfer agreements and understood that

*Not final Word - Sent back for more proceeding*

*Talk to Johnson about Chevron*

leaking would occur. Therefore, Shell was held liable.

U.S. v. B & D Electric, et al., E. D. MO, 2007 (unpublished opinion) *PCBs*

*Equipment for non-Settlers*  
This case involved the Missouri Electric Works Site in Missouri which operated a business that purchased, sold, and repaired electrical equipment. The defendants sold electrical transformers to a third party broker who resold them to MEW. Some of the oil in the transformers contained PCBs.

Two defendants filed motions for summary judgment which were granted by the court on the grounds that they were selling useful products. The court began its analysis by noting that the 8<sup>th</sup> Circuit applies a "totality of the circumstances" test for determining arranger liability. Some of the factors cited in using this approach include: control of the hazardous substance, ownership or possession of the substance, knowledge of the disposal site, specific intent to dispose, and a primary motivation to dispose. Courts in other circuits have looked at other factors such as the usefulness of the substance, the condition of the substance at the time of transfer and consumer demand for the substance. Defendants alleged that they were selling a useful product (the transformer) and that the sale represented participation in a nationwide resale market without any intent to dispose of them. The government argued that there was intent to dispose of the oil contained in the equipment but the court, after a factual analysis of the repairs and sales, stated that there was no evidence indicating that the disposal of potentially contaminated oil was inherent in every repair performed.

### Joint and Several Liability

U.S. v. Burlington Northern and Santa Fe Ry. Co., 479 F.3d 1113, (9<sup>th</sup> Cir, 2007); amended March 25, 2008, 2008 U.S. App. LEXIS 6135

*look at the totality of circumstances*  
*Control Ownership Possession Specific Intent*  
Same case as cited above. In addition, B & B is defunct. Part of the land on which the chemical operation was located was owned by two railroad companies. The district court held the Railroads (and Shell) were liable for only a minor portion of the total cleanup costs and thus as the appeals court stated "the agencies were thus left holding the bag for a great deal of money". The lower court was troubled by imposing joint and several liability since the most culpable party, B & B, was no longer in business and could not contribute to the costs. Although the District Court admitted that the defendants did not present enough evidence to support a divisibility theory, the Judge tried to piece together the evidence to create what he called "equitable apportionment", basically dividing up the liability in a way he thought fair under the circumstances and the evidence. Equitable factors are commonly only used in contribution cases among PRPs, not in cost recovery cases. The Circuit Court reversed this decision, saying that a Section 107 case under the "super strict" liability of CERCLA does not allow for equitable apportionment and the facts did not support divisibility of harm, which requires an analysis of objective considerations. There is a good and lengthy discussion in the opinion regarding the apportionment issue, citing back to the Chem Dyne (U.S. v. Chem-Dyne, 572 F. Supp. 802, (S.D. Ohio, 1983), a case which holds that courts should look to the Restatement (Second) of Torts and analyzing the principles established by subsequent case law on this issue.

U.S. v. Capital Tax Corporation, et al. 2007 U.S. Dist.Lexis 56243, N.D. Ill. 2007

# Oil/Equitable Defendants

## Restatement of Torts

This is a decision on a summary judgment motion brought by the U.S. in a cost recovery case against Capital Tax and two individuals. Capital Tax had obtained the tax deeds to several parcels on which the site was located. The individuals were the owners/operators. The court begins its analysis of joint and several liability by noting that once a party is found to be liable, the party is jointly and severally liable for *all* costs regardless of the party's relative fault. The court states that while this may seem harsh, Congress had to choose between unfairly burdening the taxpayers or the PRPs and it chose the PRPs. The court also points out that the harshness is tempered by the fact that CERCLA allows liable parties to seek contribution from other liable parties and to then use equitable principles to allocate costs.

The court then proceeds to its analysis of the one judicially recognized exception to joint and several liability: divisibility of harm. This analysis proceeds in the context of the Restatement (Second) of Torts, which the majority of courts have looked to for guidance and points out that there are difficulties applying the Restatement to CERCLA because liability is strict regardless of causation, a factor used in the Restatement. The court then discusses a CERCLA consistent way that a landowner could potentially establish divisibility—by establishing that response costs are geographically divisible. Capital Tax tried to make its case for divisibility by showing where the hazardous materials sat on the day they were removed but the court rejected this theory saying that the question is whether portions of the hazardous waste were in no way traceable to the parcels it owned—in other words, Capital Tax had the burden of proving that the hazardous waste neither originated from the parcels it did not own nor commingled with the hazardous waste on the parcels it did own.



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## **Superfund Frequent Questions – Aviall and Atlantic Research**

### **1. What is "*Aviall*"? And where can I find the Supreme Court's decision?**

Aviall Services, Inc. is a party in a case that reached the U.S. Supreme Court. The case concerned Aviall's ability to get a share of its costs - known as "contribution"- for hazardous site cleanup from another company.

The official name and citation of the case is Cooper Industries, Inc. v. Aviall Services, Inc., 125 S.Ct. 577 (2004); the case is often referred to as "*Aviall*." The U.S. Supreme Court issued its decision [<http://a257.g.akamaitech.net/7/257/2422/13dec20041215/www.supremecourtus.gov/opinions/04pdf/02-1192.pdf>] on December 13, 2004.

### **2. What are the facts and procedural history of the case?**

Cooper Industries, Inc. owned and operated four aircraft engine maintenance sites in Texas for a number of years before it sold the sites to Aviall. Aviall continued to operate at the sites and ultimately, discovered that both it and Cooper had contaminated the facilities. After undertaking a cleanup, Aviall sued Cooper for contribution toward the cleanup costs.

On summary judgment, the U.S. District Court for the Northern District of Texas held that Aviall could not obtain contribution from Cooper under section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) because Aviall had not been sued under CERCLA §§ 106 or 107. A divided panel of the Court of Appeals for the Fifth Circuit affirmed, but on rehearing en banc, the entire Fifth Circuit, by a divided vote, reversed the panel. The case then reached the U.S. Supreme Court.

### **3. What did the U.S. Supreme Court hold in *Aviall*?**

The issue before the Supreme Court in *Aviall* was whether "a private party who has not been sued under section 106 or section 107 of CERCLA may nevertheless obtain contribution under section 113(f)(1) [of CERCLA] from other liable parties." CERCLA § 113(f)(1) provides, in part: "Any person may seek contribution from any other person who is liable or potentially liable under section 9607(a) of this title, during or following any civil action under section 9606 of this title or under section 9607(a) of this title."

The Supreme Court held that the plain language of CERCLA § 113(f)(1) allows a "potentially responsible party" (PRP) to seek contribution only "during or following" a "civil action" under CERCLA §§ 106 or 107(a). In other words, because Aviall had not

**Superfund Frequent Questions: Aviall and Atlantic Research  
December 26, 2007**

previously been sued for clean up of the site or for cost recovery under CERCLA, Aviall cannot sue for contribution under section 113(f)(1).

The Supreme Court declined to decide whether a PRP may recover costs under CERCLA § 107(a)(4)(B), which provides for recovery "of any other necessary costs of response incurred by any other person consistent with the national contingency plan." The Court remanded the case to the U.S. Court of Appeals for the Fifth Circuit.

On February 15, 2005, the Fifth Circuit remanded the case to the U.S. District Court for the Northern District of Texas with instructions to permit Aviall to amend its complaint to bring whatever statutory claims it believes necessary in light of the Supreme Court's decision. In a subsequent petition for a writ of mandamus from the Supreme Court, Cooper argued that the Fifth Circuit's remand instructions were inconsistent with the Supreme Court's decision.

**4. Did the *Aviall* decision address contribution rights under section 113(f)(3)(B) of CERCLA?**

No. While the Court noted that CERCLA § 113(f) provides another avenue for contribution under section 113(f)(3)(b), the Court did not address that subsection because it was not at issue in the case. That section provides that a potentially responsible party (PRP) "who has resolved its liability to the United States or a State for some or all of a response action or for some or all of the costs of such action in an administrative or judicially approved settlement" may seek contribution from non-settling PRPs.

The United States acknowledged at oral argument before the Supreme Court that if a party enters into an administrative order on consent or a judicial settlement that resolves liability for response costs or response actions, that would entitle the party to seek contribution. Thus, for example, a remedial design/remedial action consent decree with the United States, or an administrative order on consent with EPA for remedial investigation/feasibility study, removal action, or reimbursement of response costs should give rise to a right of contribution pursuant to section 113(f)(3)(B). In order to clarify this issue, EPA and the U.S. Department of Justice signed "Interim Revisions to CERCLA Removal, RI/FS and RD AOC Models to Clarify Contribution Rights and Protection Under Section 113(f)"

[<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/interim-rev-aoc-mod-mem.pdf>] on August 3, 2005.

**5. Is EPA named as a party in the *Aviall* litigation?**

No, EPA is not named as a party in the *Aviall* litigation. However, on February 23, 2004, the United States filed an amicus brief [<http://www.usdoj.gov/osg/briefs/2003/3mer/1ami/2002-1192.mer.ami.pdf>] on the merits of this case.

**6. What positions did the United States take in its amicus brief on *Aviall*?**

Among other things, the United States took the position that, based on the plain language of CERCLA § 113(f)(1), a party that is itself liable or potentially liable may seek contribution under that section only during or following a civil action under section 106 or section 107, and conversely, that section 113(f)(1) does not authorize a contribution action in the absence of an ongoing or completed section 106 or section 107(a) civil action. The United States also stated that a liable party is limited to seeking contribution in the manner authorized by section 113(f), and that CERCLA § 107(a) does not provide an independent basis for a liable person to recover response costs from another liable person. The United States also stated that a "civil action" is "commonly understood to mean a judicial proceeding," and that "EPA's issuance of a section 106(a) administrative order does not generally entitle the recipient to seek contribution under section 113(f)(1)."

**7. Did the *Aviall* decision address whether a party that voluntarily incurs cleanup costs may recover those costs under state law?**

No. The opinion addressed recovery under federal law, specifically, CERCLA § 113(f)(1).

**8. Did the *Aviall* decision address the right of non-labile parties to sue for costs?**

No. The Supreme Court's opinion does not address the right of non-labile parties to sue for costs under section 107(a). Persons who clean up Brownfields sites may qualify as non-labile parties through the bona fide prospective purchaser exemption under CERCLA § 107(r).

**9. Does EPA have a position on possible legislative changes in light of the *Aviall* decision?**

EPA does not have a position on this issue.

**10. Have there been any major court decisions regarding contribution and cost recovery rights since *Aviall*?**

Yes. Since the Supreme Court's 2004 decision, there has been significant new case law regarding the scope of private parties' CERCLA contribution and cost recovery rights. EPA has compiled a list of some of the most significant cases. (Attachment) [NOTE: The list is not an exhaustive list of all cases that cite to *Aviall* and/or all cases that discuss the scope of cost recovery and contribution rights under CERCLA §§ 107(a) or 113.]

**11. What was the Supreme Court's holding in *Atlantic Research Corp. v. United States*, 127 S. Ct. 2331 (2007) ("ARC")?**

On June 11, 2007, the Supreme Court affirmed the Eighth Circuit's decision and held that under the plain terms of CERCLA § 107, a potentially responsible party (PRP) in Atlantic Research's situation can recover incurred cleanup costs from other PRPs where there is no corresponding legal action (suit or settlement) by EPA or a state under CERCLA §§ 106 or 107.

**12. How can I find out more information about Atlantic Research decision?**

For more information see the Supreme Court's decision, *Atlantic Research Corp. v. United States*, available on the Internet at <http://www.supremecourtus.gov/opinions/06pdf/06-562.pdf>, along with the following documents:

- Brief for the Petitioner United States  
[[http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562\\_Petitioner.pdf](http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562_Petitioner.pdf)]
- Brief for the Respondent  
[[http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562\\_Respondent.pdf](http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562_Respondent.pdf)], and
- Reply Brief for the Petitioner United States  
[[http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562\\_reply.pdf](http://www.abanet.org/publiced/preview/briefs/pdfs/06-07/06-562_reply.pdf)]

In several post-*Atlantic Research* cases, the United States filed briefs that discuss *Atlantic Research*-related issues. These statements represent the current views of the United States only and have not yet been accepted or rejected by the court.

- *Solutia, Inc. and Pharmacia v. McWane, Inc., et al.*, United States Supplemental Amicus Curiae, July 27, 2007  
[<http://www.epa.gov/compliance/resources/faqs/cleanup/superfund/aviall-docs/anniston-amicus-mem.pdf>]. ("[A] person who has a contribution claim under Section 113 must use it, and cannot choose to use Section 107 instead.")
- *United States v. Industrial Excess Landfill*, United States' Response to Bridgestone/Firestone's Surreply in Opposition to the United States' Motion for Entry of *De Minimis* Partial Consent Decrees, September 28, 2007  
[<http://www.epa.gov/compliance/resources/faqs/cleanup/aviall-docs/iel-response-surreply.pdf>]. ("Any interpretation that allowed *de minimis* settlors to be dragged into additional litigation would be contrary to Congressional intent as set forth in Section 122(g).")
- *City of Colton v. American Promotional Events*, Response Brief for Third-Party Defendant-Appellee the United States Department of Defense, November 14, 2007 [http://www.epa.gov/compliance/resources/faqs/cleanup/aviall-docs/colton-brief.pdf]. ("Since the decision in *Atlantic Research* . . . the United States has argued that parties who incur costs in carrying out obligations under a CERCLA

**Superfund Frequent Questions: Aviall and Atlantic Research  
December 26, 2007**

consent decree have a claim under Section 113(f) for those costs, and cannot choose to sue under Section 107(a)(4)(B) instead.”)

For more information, you may also contact EPA’s Office of Site Remediation Enforcement at (202) 564-4200.

**13. What impact will *Aviall* and *Atlantic Research* have on EPA’s enforcement and brownfields programs?**

Currently, EPA is evaluating the potential impacts of these Supreme Court decisions on enforcement and brownfields programs and considering whether any actions are necessary. EPA also anticipates working in close coordination with state governments and organizations and the U.S. Department of Justice on issues related to these decisions.



December 26, 2007

## ATTACHMENT

### CERCLA COST RECOVERY AND CONTRIBUTION RIGHTS: SIGNIFICANT CASE LAW DECISIONS POST-*AVIALL* (As of August 1, 2007)

NOTE: This list is not an exhaustive list of all cases that cite to *Aviall* and/or all cases that discuss the scope of cost recovery and contribution rights under CERCLA §§ 107(a) or 113.<sup>1</sup>

#### SUPREME COURT

*Cooper Indus., Inc. v. Aviall Servs., Inc.*, 543 U.S. 157 (2004). Private party who incurs response costs in cleaning up contaminated property, but has not been sued under sections 106 or 107, cannot bring a contribution action under section 113(f)(1) against other liable parties.

*Atlantic Research Corp. v. United States*, 172 S.Ct. 2331 (2007). CERCLA § 107(a) allows potentially responsible parties (PRPs) in Atlantic Research's position to recover cleanup costs from other PRPs where there is no corresponding legal action (suit or settlement) by EPA or a state under CERCLA §§ 106 or 107.

#### SECOND CIRCUIT:

*Consol. Edison Co. of NY. v. UGI Utils., Inc.*, 423 F.3d 90 (2d Cir. 2005) ("Con Ed").

"[S]ection 107(a) permits a party that has not been sued or made to participate in an administrative proceeding, but that, if sued, would be held liable under section 107(a), to recover necessary response costs incurred voluntarily, not under a court or administrative order or judgment."

*Seneca Meadows, Inc., v. ECI Liquidating, Inc.*, 427 F. Supp. 2d 279 (W.D.N.Y. 2006). State consent orders qualify as contribution-conferring agreements for purposes of CERCLA § 113(f)(3)(B).)

#### THIRD CIRCUIT:

*E.I. DuPont de Nemours and Co. v. United States*, 460 F.3d 515 (3rd Cir. 2006) PRPs cannot seek contribution under CERCLA § 107.)

#### FIFTH CIRCUIT:

*Vine Street LLC v. Keeling*, 362 F. Supp. 2d 754 (E.D. Tex. 2005). PRP could bring CERCLA § 107 cost recovery claim for voluntary cleanup costs.)

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<sup>1</sup> Cases that were effectively overturned by the Supreme Court's holding in *Atlantic Research Corp. v. United States*, 127 S.Ct. 2331 (2007) are not included within this list.

**SIXTH CIRCUIT:**

***Carrier Corp. v. Piper*, 460 F. Supp. 2d 827 (W.D. Tenn. 2006).** Unilateral administrative order (UAO) qualifies as a civil action for purposes of a PRP's contribution claim under CERCLA § 113(f)(1) and PRP can also seek cost recovery under section 107.

***ITT Indus., Inc. v. Borgwarner, Inc.*, 2006 U.S. Dist. LEXIS 59877 (W.D. Mich. Aug. 23, 2006).** Administrative order on consent (AOC) at issue was an "interim" agreement that did not resolve plaintiff's liability and did not fall within description of agreements in section 113(g)(3)(B) and thus did not confer contribution rights under section 113(f)(3)(B).

**SEVENTH CIRCUIT:**

***Metro. Water Reclamation Dist. v. N. Am. Galvanizing & Coatings*, 473 F.3d 824 (7th Cir. 2007).** PRP has right of cost recovery under CERCLA § 107 for voluntary cleanup costs.

***Pharmacia Corp. v. Clayton Chem. Acquisition*, 382 F. Supp. 2d 1079 (S.D. Ill. 2005).** AOC with EPA was an "order" not a settlement that would confer contribution rights under CERCLA § 113(f)(3)(B) and EPA-issued UAO was not a civil action that would confer contribution under section 113(f)(1).

**NINTH CIRCUIT:**

***ASARCO Inc. v. Union Pacific R.R. Co.*, 2006 U.S. Dist. LEXIS 2626 (D. Ariz. Jan. 24, 2006).** A memorandum of agreement between PRP and state did not give rise to a right of contribution under section 113(f)(3)(B).

***City of Rialto v. United States Dept. of Defense*, 2005 U.S. Dist. LEXIS 25179 (C.D. Cal. Sept. 23, 2005) (Rialto II).** Plaintiffs were eligible for entry of a separate judgment on their CERCLA § 107 contribution claim, which had been dismissed previously by the court.

**D.C. CIRCUIT:**

***Viacom, Inc. v. United States*, 404 F. Supp. 2d 3 (D.D.C. 2005).** A PRP that cannot bring a contribution claim under section 113 may bring a claim to recover cleanup costs under section 107.

# NOTES

Samuel Os - Burlington - (S02 for money from Bank)  
old Republic Insurance Company - 2 years for  
disability (State law (umps CERCLA))  
Operator - CERCLA -

Corporate law case saying union State law

Software Co Puerto Rico 2008

Agency Criminal → Not off hook for Civil  
Criminal - admitted they Contaminated property  
Statement - was Not enough Had HAD Not HS  
Did Not print

Ba B15

ED NY

NY v. Hamber Corp

Sept 30 2007

02 CV 1358 - 2007 US Dist Lexis 74456

NY Spent 1 M. ill. - wood heater - went after  
Shareholder - daily management  
environmental was emergency - Not environmental  
Had Nothing to do with environmental  
EAMS Environmental Management Systems





**Piercing the Corporate Veil:  
Issues to Consider and  
Ways to Present the Information**

**PIERCING THE CORPORATE VEIL:  
ISSUES TO CONSIDER  
WAYS TO PRESENT THE INFORMATION**



**SIXTH NATIONAL TRAINING  
CONFERENCE ON PRP SEARCH  
ENHANCEMENT  
MAY 13-16, 2008  
PORTLAND, OREGON**

**Leo J. Mullin  
EPA Region III  
215 634-3172  
Mullin.Leo@epa.gov**

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**Basic Outline**

**Evolution of Business**

**Assumptions for Corporations**

**Relevance to CERCLA Liability**

**Tools that are available**

**Presenting the Evidence**

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**Evolution of Business**



**Original Form  
of a Business**

**Sole Proprietor  
Full Share of Earnings**

**Sole Proprietor  
Business Lasts for the life  
of the Sole Proprietor**



**If the Business Fails, all assets  
Of the business are at risk and**

**All Assets of the  
Sole Proprietor can be lost**




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## Evolution of Business

### Second Stage of Business General Partnership

Two or more persons organized for a common business purpose.



General Partnerships allow assets and efforts to be combined.  
Greater Capitalization – Greater Efforts – Bigger Profits



Creditors can pursue all the assets of the General Partnership and

All the assets of every general partner!!!

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## Evolution of Business



### Corporation

an entity formed under the laws of a specific state. It has a separate existence from that of its founders or owners.



Corporation allow for the accumulation of significant capital

Corporation can in theory last forever!!!

The Presumption is the liability of shareholders is limited to the investment.



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## Evolution of Business Corporations

As Corporations grew, they created additional corporations that are known as corporate subsidiaries and affiliates.

Each of subsidiary has standing as a person that is independent of the related corporations



In the 21<sup>st</sup> Century, it is common for a corporation to own hundreds of other corporations

Standing as a person is no longer limited to Corporations, LLCs, LLP, and other limited liability entities now exist.

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## Assumptions for Corporations

Corporate Procedures as defined by the State of Incorporation must be followed.

It is a general principle of corporate law that a parent corporation . . . is not liable for the acts of its subsidiaries.

It is hombook law that "the exercise of the 'control' which stock ownership gives to the stockholders . . . will not create liability beyond the assets of the subsidiary.

The Corporate Shield

Both Quotations are from the Best Foods Decision



Delaware  
of the  
Corporation

Histor  
Subsidiarys

## Assumptions for Corporations

### But

there is an equally fundamental principle of corporate law, . . . that the corporate veil may be pierced and the shareholder held liable . . . when, the corporate form would otherwise be misused to accomplish certain wrongful purposes, most notably fraud, on the shareholder's behalf.

No patty-fingers, if you please.  
The proprieties at all times.



## Assumptions for Corporations

("there are occasions when the limited liability sought to be obtained through the corporation will be qualified or denied");

*Chicago, M. & St. P. R. Co. v.*

*Minneapolis Civic and Commerce Assn.,*

247 U.S. 490, 501, 62 L. Ed. 1229, 38 S. Ct. 553

Often known as Piercing the Corporate Veil



## Relevance to CERCLA

If you intend to pierce the corporate veil . . .



You have picked  
a difficult hill to climb!

Difficult but  
Not Impossible  
Due to CERCLA's  
Liability Scheme.

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## Relevance to CERCLA

CERCLA's Liable Parties include . . .

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who . . . arranged for disposal or treatment, . . . of hazardous substances . . . , and
- (4) any person who accepts or accepted any hazardous substances for transport . . .

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## Relevance to CERCLA

The Bad news . . .

Nothing in CERCLA purports to rewrite this well-settled rule . . . CERCLA is thus like many another congressional enactment in giving no indication "that the entire corpus of state corporation law is to be replaced simply because a plaintiff's cause of action is based upon a federal statute," *Burks v. Lasker*, 441 U.S. 471, 478, 60 L. Ed. 2d 404, 99 S. Ct. 1831 (1979),

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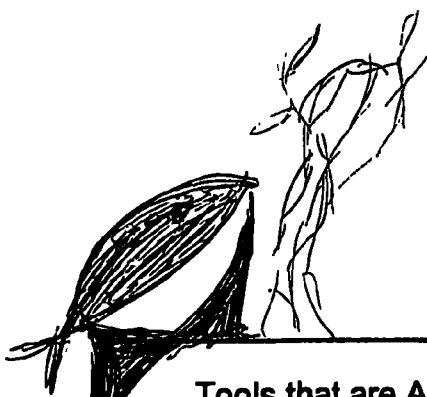
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## Tools that are Available

Key Terms in Liability Definitions

"Operator" and "arranged for disposal"

Key Supreme Court Case:

UNITED STATES v. BESTFOODS, ET AL. No. 97-454

Cues from Bestfoods

nothing in the statute's terms bars a parent corporation from direct liability for its own actions in operating a facility owned by its subsidiary.

☐ Get Shane to call Paul...

## Tools that are Available

Cues from Bestfoods

"The question is not whether the parent operates the subsidiary, but rather whether it operates the facility, and that operation is evidenced by participation in the activities of the facility, not the subsidiary.

What does the clue want you to do?

Use 104(e) and other investigative authorities To identify decisions that contributed to the disposal of hazardous substances.

## Tools that are Available

Cues from Bestfoods

It is prudent to say only that the presumption that an act is taken on behalf of the corporation for whom the officer claims to act is strongest when the act is perfectly consistent with the norms of corporate behavior,

[It] wanes as the distance from those accepted norms approaches the point of action by a dual officer plainly contrary to the interests of the subsidiary yet nonetheless advantageous to the parent.

What does the clue want you to do?

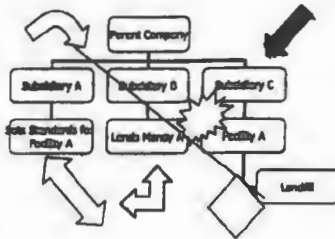
Identify decisions that negatively impacted the facility.

Identify who benefited from these decisions.

## Presenting the Evidence

What to avoid!!!

Too Much Information  
Confuses the Issue!




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Monet Textiles, Ltd

Silver Way, LLC

Home Realty LLC

### The Monet Site

Skyline Vista, LP

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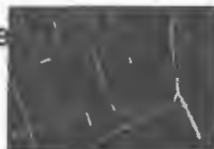
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### The Monet Mills Site



- Former Textile Operation
- Fire at the Site in 2005 created a release of hazardous substances.
- EPA Response Action cost \$400,000
- At the Time of the Response Action a \$2,000,000 mortgage existed.
- Fair market value of the Site \$40,000
- Initial Determination – do not pursue for cost recovery

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## The Players




**Monet Textiles, Ltd.**

Former Operator of a textile mill,  
believed to be insolvent.



**Skyline Vista, LP**

Current Owner of the Site  
Claims to be a Bona Fide Prospective Purchaser.



**Silver Ring, LLC**

Former holder of an unpaid  
\$2,880,000 mortgage.

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## The Players




**Home Realty LLC.**

Current owner of the \$2,000,000 mortgage.  
Claims status as a lender and  
claims status as the prime lien holder.



**Empire Reclamation LLC**

Current Owner of 11 tax parcels  
That were previously part of the Site.  
Lots were subdivided after the fire.  
Claims no liability since it does not own the Site.



**Former President of Monet Textiles,**  
claims he has had no involvement  
With the Site.

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## Monet Textiles Ltd.

111 South 6<sup>th</sup> Street  
Anytown, PA

Jon Stewart, President  
Steven Colbert, Treasurer

**Monet Textiles, Ltd**  
Former Owner of the Site

An entity created in Delaware on March 16, 1991.  
Certificate of Authority filed in Pennsylvania on March 29, 1991.  
No record of corporate filings in New Jersey or New York

Numerous judgments filed in Pennsylvania and New York  
One judgment filed in New Jersey

Involvement  
Owner and Operator of the facility as of 1991.  
Insured the Debt Owed to South Park  
During 1994 Bankruptcy agreed to mortgage owed to South Park  
2001 discontinued operations  
September 2002 transferred ownership to Skyline Vista

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**Monet Textiles, Ltd**  
Former Owner of the Site

**Monet Textiles Ltd.**

111 South 8<sup>th</sup> Street  
Anytown, PA

Jon Stewart, President  
Steven Colbert, Treasurer

Links to CERCLA Liability  
Prior owner of the Site  
Owner at the Time of a Fire  
Abandoned Chemicals at the Site

Current Status - Insolvent

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**Skyline Vista, LP**

Current Owner of 1 tax parcel

An entity created in New York on October 28, 2000  
Dissolved by Proclamation on June 30, 2004  
No record of corporate filings in Delaware,  
New Jersey or Pennsylvania

UCC Filings by Commodore Factors Corp  
on November 18, 2001 (Albany)  
and December 5, 2001 (Manhattan)

Judgment filed by Waste Management of PA on January 19, 2006 in NY  
Numerous judgments filed in Pennsylvania  
Bankruptcy filing (Chapters 7 and 11) on November 10, 2002  
Discharged on August 2, 2003

Purchased all 12 tax parcels from Monet Textiles Ltd. in September 2001,  
sold 11 of these parcels to Anytown Redevelopment in September 2004

104(e) Response says Stan  
Marsh was the President  
and then he transferred  
the books and seal to  
Steven Colbert.

**Skyline Vista LP**

Stanley Marsh  
South Park, CO

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**Skyline Vista, LP**

**Skyline Vista LP**

Stanley Marsh  
South Park, CO

Links to CERCLA Liability  
Claims no relationship to former owner.  
But 104(e) response indicated the President of the  
Monet Textiles now possesses the corporate seal.

Conclusion: This company does not meet  
the "No Affiliation requirements for BFPF"

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**Home Realty LLC. Home Realty LLC.**

**Purchased Debt from Silver Ring**

**1600 Pennsylvania Ave  
Washington, DC**

**An entity created in Kentucky on May 18, 2004**

**No Officers are listed in the corporate filings but Jon Stewart's response says that he has undertaken all of Home Realty's activities.**

**Certificate of Authority filed in New York on May 5, 2005  
No record of corporate filings in New Jersey or Pennsylvania**

**Listed as a creditor in a Lehigh County Judgment filing dated August 8, 2004 against Skyline Vista and Monet Textiles Ltd.  
Listed as a debtor in several judgments in New York**

**Involvement - On May 20, 2004 acquired the mortgage on the property from Silver Ring**

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**Home Realty LLC. Home Realty LLC.**

**1600 Pennsylvania Ave  
Washington, DC**

**Links to CERCLA Liability  
It held the mortgage against the Property  
Interviews with South Park Officers  
Indicated that Steven Colbert created  
Home Realty for the purpose of  
Purchasing the mortgage.**

**Conclusion: Although this involved Steven Colbert, this entity took no action that made it liable under CERCLA.**

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**Silver Ring, LLC.**

**Silver Ring LLC.**

**354 Happy Valley Road  
State College, PA**

**Purchased Debt that was owed to South Park**

**An entity created in New Jersey on February 1, 2001  
Registered Agent is Trey Parker**

**No public filing that discloses officers but Matt Stone lists himself as the President**

**No corporate filings in Delaware or Pennsylvania**

**Pennsylvania UCC filings identify Silver Ring as an Assignee of South Park**

**Claimed to have bought the S&B in June 2003 and sold it to Home Realty on May 20, 2004**

**Involvement: Silver Ring purchased the \$2,000,000 debt against the Property from South Park in 2003 for \$250,000 and then transferred the debt to Home Realty in 2004 for \$100,000.00**

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**Silver Ring LLC.**  
354 Happy Valley Road  
State College, PA

**Links to CERCLA Liability**  
Claimed Status as lender but zoning documents should be was not attempting to sell the property. Instead it was acting as a developer.

**Conclusion:** This company would lose its lender liability protections

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**Anytown  
Redevelopment LLC.**  
1010 Rodeo Drive  
Beverly Hills, CA 90210

**Current Owner of 11 tax parcels**

An entity created in New York on April 25, 2005

Certificate of Authority filed in Pennsylvania on March 29, 1989.

No record of corporate filings in Delaware, New Jersey or Pennsylvania

No officers listed in corporate filings

Numerous judgment filings and real property ownership filings in Pennsylvania

Purchased 11 tax parcels from Skyline Vista  
on September 11, 2005 for \$99,790

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**Anytown  
Redevelopment LLC.**  
1010 Rodeo Drive  
Beverly Hills, CA 90210

**Links to CERCLA Liability:**  
At the time of the EPA Response Action  
This was part of the Site.

**Conclusion:** Current Owner of the Site.  
Property would be subject to a 107(f) Lien.

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## The Site and Timeline

Twelve Tax Parcels  
11 owned by Anytown Redevelopment LLC  
1 owned by Skyline Vista

1994 - Monet files for Bankruptcy  
1995 - South Park obtains a secured claim against the property  
2001 - Monet ceases operations at the Site.  
2002 - Monet transfers the property to Skyline Vista  
2003 - South Park assigns its claim against the property to Silver Ring  
2004 - Silver Ring assigned its claim against the property to Home Realty LLC  
2005 - July - Fire at the Property  
2005 September - Skyline Vista transfers 11 of the 12 parcels  
to Anytown Redevelopment LLC

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## Before and After

In 2001, Steve Colbert controlled the property by way of his ownership of Monet Textiles, Ltd. but he risked losing it because of debt owed by Monet to South Park.

By 2005, Steven Colbert improved his control because he transferred ownership to a different corporate entity, Skyline Vista. And because he was able to get Jon Stewart's corporate entity, Home Realty, LLC to acquire the debt on the property.



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## Before and After Part II

Grand Jury Indictment for 104(e) Responses  
and for illegal storage of hazardous materials  
against Colbert



As part of Plea Agreement, 100% of EPA's costs were paid.



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## **Presenting the Evidence**

**Keep It Short and Simple KISS**

**Focus on the actions of each entity!!!**

**Explain how each action contributed  
to the release of hazardous substances.**

**Use Symbols/Images to help clarify the actors!**

**Link the evidence to each party.**

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4/1/89

RECEIVED  
AT CONF.  
10/17/89

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

KAYSER-ROTH CORPORATION AND  
HYDRO-MANUFACTURING, INC.,

Defendants.

Civil No. 88-0325 B

AFFIDAVIT OF GREGORY P. POLONICA

Gregory P. Polonica states that:

I. Introduction

1. I am a financial analyst for the Antitrust Division, United States Department of Justice. By request, I am available to assist other Divisions within the Department of Justice. This affidavit is prepared pursuant to a request by the Lands and Natural Resources Division of the United States Department of Justice.

2. The Lands and Natural Resources Division requested that I analyze the corporate relationships, starting in 1966, among Kayser-Roth Corporation (hereinafter referred to as Kayser-Roth), Crown Textile Mfg. Co., and Stamina Mills, Inc. (hereinafter referred to as Stamina Mills). The purpose of this examination was to determine the existence and extent of control by both Kayser-Roth and Crown Textile Mfg. Co., individually and through their management and control of the

Crown Division of Kayser-Roth (hereinafter jointly referred to as Crown Mfg.), over Stamina Mills.

## **II. Affiant's Background**

3. In my position as a Financial Analyst, I advise the Antitrust Division with respect to corporate and financial matters that arise in the course of its enforcement of Antitrust Laws. When requested, I also advise other divisions within the Department of Justice with respect to financial and corporate matters which arise in the course of their enforcement of Federal laws. I have participated in a number of matters requiring a determination of the existence of corporate control and the analysis of intercompany activities. I received a Bachelor of Arts in Business Administration from Saint Michael's College in 1972, a Master of Business Administration from Boston University in 1974, and I am a Certified Public Accountant currently licensed in Texas and Virginia.

4. From July 1974 through March 1978, I was employed as the Controller at Northern Oil Company in Burlington, Vermont, where I was responsible for all matters related to finance and accounting.

5. From April 1978 through November 1986, I was employed by the Arabian American Oil Company (Aramco) in Dhahran, Saudi Arabia. I held several different supervisory and staff positions within the Controller's organization during this time. From the start of my employment at Aramco through December 1983, I was assigned to the Financial Accounting Department.



6. Employees under my supervision were responsible for intercompany account transactions and reconciliations of account balances with subsidiaries located in The Hague, Netherlands and Houston, Texas.

7. From June 1987 through April 1988, I was employed by Litigation Systems, Inc. as a financial consultant assigned to the United States Department of Energy (DOE). I was responsible for analyzing the ability of firms to pay DOE claims resulting from federal oil price control violations. In connection with my analyses I reviewed parent and subsidiary company relationships and transactions.

8. Since May 1988, my duties with the United States Department of Justice have included providing financial analysis and advice on a broad range of topics, including the evaluation of firms' financial condition, review of settlement agreements, and the determination of the existence and extent of corporate control.

### III. Determination of the Existence of Corporate Control

9. The existence of corporate control is determinable by the ability to direct or cause a company to take or refrain from taking certain actions, and may be determined through an analysis of voting power and the financial and operational relationships between the entities, which are the mechanisms of control. The analysis encompasses the determination of ownership of securities, the exercise of voting rights, and the evaluation of the decision-making and operational hierarchy, i.e., the examination of the creation of budgets, personnel

contacts, flow of information (required or informal), commingling of funds, provision of services, and intercompany transactions, among others. In the case of Kayser-Roth, as a general practice Kayser-Roth exercised control over its subsidiaries downwards through the formation of "groups" of subsidiaries (also referred to as "divisions") which reported to a Kayser-Roth corporate executive, as well as on a direct basis with each subsidiary as determined by Kayser-Roth.

10. Examples of the types of information required for an analysis of corporate control include the following: (1) stock ownership data; (2) identification by name, title and duties of directors, officers and executive management, including a description of the personnel selection process and compensation program; (3) identification and description of the administrative and other services provided, such as bookkeeping and accounting services, legal representation, management of retirement plans, assistance in the preparation of federal income tax returns, and assistance regarding compliance with regulatory requirements; (4) identification and description of the financial services provided such as lending or investing funds, guaranteeing commercial bank loans, and developing or approving capital expenditures and budgets; (5) identification by name, title and duties of the key personnel who attend meetings (such as individuals who attend both parent corporation and subsidiary company meetings); (6) identification by title, purpose, frequency and extent of the distribution, of the reports and information sent between

entities (such as between a parent corporation and its subsidiary companies), including manuals and guidelines; and (7) identification by name, location, title and duties of individuals or groups (such as a board of directors) in the approval or authorization chain for capital expenditures and operating levels.

11. In examining the corporate relationships among Kayser-Roth, Crown Textile Mfg. Co. and Stamina Mills, I have reviewed documents made available to the Department of Justice by Kayser-Roth and Crown Textile Company, a corporation which acquired certain assets of Crown Textile Mfg. Co., and which was in possession of documents prepared by Crown Textile Mfg. Co. and Stamina Mills which are relevant to this case. I also attended depositions of various corporate officials and I reviewed the transcripts of the depositions.

12. The remainder of this affidavit is intended to facilitate the understanding of the integration and relationships of and among Kayser-Roth, Crown Mfg. and Stamina Mills. Part IV describes the historical background of Kayser-Roth and establishes the interrelationships among Kayser-Roth, Crown Textile Mfg. Co. and Stamina Mills from the time the latter two were acquired by Kayser-Roth. Part V describes the control relationships and methods exerted by Kayser-Roth and/or Crown Mfg. over Stamina Mills. Part VI is my conclusion that Kayser-Roth and Crown Mfg., individually and jointly, both directly and indirectly controlled Stamina Mills from its acquisition in 1966 until its dissolution in December 1977.

RESEARCH

#### IV. Corporate Historical Background

##### A. Kayser-Roth Corporation

13. The Julius Kayser Company was incorporated in New York on December 2, 1911. In 1958, Julius Kayser and Company <sup>DEFINITIONS</sup> acquired Chester Roth and Company, and the name of Julius Kayser and Company was changed to Kayser-Roth Corporation. It was a publicly-held corporation until 1975, with its principal address at 640 Fifth Avenue, New York, New York. [First Joint Stipulation between United States and Kayser-Roth (hereinafter "First Joint Stip."), 1].

14. In 1975, Kayser-Roth Corporation merged into a new Delaware corporation ("KR Corp."), a wholly-owned subsidiary of Gulf & Western Industries, Inc., a publicly-held corporation. Immediately after the merger, ~~KR Corp. changed its name to~~ Kayser-Roth Corporation. [First Joint Stip., 2].

##### B. Crown Textile Mfg. Co.

15. Crown Textile Manufacturing Company was a privately held New Hampshire corporation incorporated on December 30, 1959. In 1964, Crown Textile Manufacturing Company was merged into Colonial Corporation of America ("Colonial"), a New York corporation. A new subsidiary of Colonial, Crown Textile Mfg. Co., was incorporated and organized to run the business of the old Crown Textile Manufacturing Company with its principal offices located in Jenkintown, Pennsylvania. [First Joint Stip., 3, 3].

16. On April 1, 1966, Colonial merged with Kayser-Roth, and Kayser-Roth was the surviving corporation. [First Joint Stip., 10].

17. In 1978, Crown Textile Mfg. Co. was merged with Sandler of Boston, Inc. ("Sandler"), a subsidiary of Kayser-Roth Corporation. After the merger, Sandler changed its name to Kayser-Roth Industries, Inc. [First Joint Stip., 12].

18. On November 10, 1983, Kayser-Roth Industries, Inc. sold the assets of the Crown Textile Division of Kayser-Roth Industries, Inc. to Crown Textile Company, a Pennsylvania corporation. [First Joint Stip., 13].

**C. Stamina Mills, Inc.**

19. Stamina Mills, Inc. was a privately-held Rhode Island corporation incorporated on January 4, 1952. Samuel L. Stayman and Samuel Ketover were the original shareholders. The principal address of Stamina Mills was Forestdale, Rhode Island. ~~Stamina Mills also later operated a facility at~~ 308 East School Street in Woonsocket, Rhode Island, among other locations. [First Joint Stip., 4; Deposition of John Merrick, Treasurer of Crown Textile Mfg. Corp. (hereinafter "Merrick dep."), p. 749].

20. In March 1961, Crown Textile Manufacturing Company purchased 50% of the outstanding voting common stock of Stamina Mills. Samuel M. Stayman continued to own the other 50%. When Crown Textile Manufacturing Company was merged into Colonial in 1964, Colonial thereby acquired the 50% ownership in Stamina Mills previously owned by Crown Textile Manufacturing Company. On June 15, 1965, Colonial acquired Samuel M. Stayman's 50% share in Stamina Mills, which gave Colonial 100% ownership. [First Joint Stip., 7-9].

21. Kayser-Roth acquired 100% of the ownership of Stamina Mills as a result of being the surviving corporation from its merger with Colonial in 1966. [First Joint Stip., 10].

22. Stamina Mills was dissolved on December 31, 1977.

[ Upon the dissolution, the books of Stamina Mills were ]  
[ liquidated into the books of Kayser-Roth. ] Operations continued in the name of the Stamina Mills Division of Kayser-Roth until approximately August 1980. These operations were located in Woonsocket, Rhode Island. [First Joint Stip., 11; Merrick dep., p. 808; U.S. Dep. Ex. 154].

D. Crown Division and Crown Mfg.

23. Kayser-Roth was organized on a divisional basis for the purpose of streamlining reporting to the corporate office. [Deposition of Norman Hinerfeld, Executive Vice-President of Kayser-Roth Corporation (hereinafter "Hinerfeld dep."), pp. 22-23]. During the period 1966 through 1977, there were between twenty and twenty-five Kayser-Roth divisions, one of which was the Crown Division. [Hinerfeld dep., pp. 20-21; Deposition of Bernard Hibel, Vice-President and Controller of Kayser-Roth Corporation (hereinafter "Hibel dep."), p. 28]. Each division had a person who acted as the "president" who was responsible to a Kayser-Roth executive for all of the activities within the division. Each division also had a controller who was responsible for preparing and summarizing generally all financial information related to the division which was sent to the corporate office. [Hibel dep., pp. 19, 29].

24. The Crown Division, while itself not an incorporated entity, was composed of a group of incorporated entities all of which were owned directly or indirectly by Kayser-Roth. [Hinerfeld dep., pp. 99-100].

25. During the period of 1966 to 1977, Stanley Sheerr was President of Crown Textile Mfg. Co. and designated as the "president" of the Crown Division. Stanley Sheerr reported to Norman Hinerfeld, the Executive Vice-President of Kayser-Roth. During this same period, the Crown Division had its administrative headquarters in Jenkintown, Pennsylvania, where the Crown Textile Mfg. Co.'s office and Stanley Sheerr were located. The people who headed up marketing for Crown Mfg. also were located in Jenkintown, as was John Merrick who was the Chief Financial Officer (Controller) of the Crown Division. The Stamina Mills operations were based in Rhode Island, and the President of Stamina Mills reported to Stanley Sheerr. [Hinerfeld dep., pp. 26-27].

26. Stanley Sheerr and John Merrick were President and Treasurer/Chief Financial Officer, respectively, of Crown Textile Mfg. Co. and various other companies in the Crown Division. Stanley Sheerr held no office in Stamina Mills, while John Merrick was its Treasurer. [First Joint Stip., 21-22; Merrick dep., pp. 48-49].

**V. Control Mechanisms Exerted by Kayser-Roth  
and/or Crown Mfg. Over Stamina Mills**

**A. Control by Virtue of Ownership**

**27. Ownership of securities and the exercise of voting rights are two mechanisms of control used by parent corporations to direct the activities of their subsidiary companies. Control by virtue of ownership allowed Kayser-Roth to impose upon its subsidiaries stringent requirements which were non-negotiable in the areas of operations and finance. Among the major areas which Kayser-Roth controlled were the following: [approval of operating and capital budgets, which in turn controlled the purposes for which funds could be spent and the rate of growth which a subsidiary could seek to achieve; management of all subsidiary relations with governmental authorities, including those related to environmental matters; new product development; all funds, so that in general the only funds available to a subsidiary were those required to meet obligations due in accordance with its approved budget; the preparation and submission of various financial and operating reports; and the required use by a subsidiary of various services provided by Kayser-Roth including legal, tax, and insurance.]**

**1. Acquisition**

**28. Kayser-Roth's control of Stamina Mills came about as a result of its merger with Colonial on April 1, 1966. [First Joint Stip., 10]. At the time of the merger, Stamina Mills was a wholly-owned subsidiary of Colonial. It became a wholly-owned subsidiary of Kayser-Roth because Kayser-Roth was**



the surviving corporation as a result of the Colonial merger.  
[First Joint Stip., 10].

29. Following the Kayser-Roth merger with Colonial, a new Crown Division was established by Kayser-Roth. [Hinerfeld dep., pp. 20-21]. Crown Textile Mfg. Co. was the subsidiary in the Crown Division which served as the primary liaison with Kayser-Roth, and Stamina Mills was one of the other subsidiaries included in the Crown Division. [Hinerfeld dep., pp. 26-27]. [The assets of Stamina Mills remained a part of the Crown Division even after the dissolution of Stamina Mills on December 31, 1977. Operations thereafter continued as the Stamina Mills Division of Kayser-Roth.]

## 2. Voting Rights

30. [Kayser-Roth's ownership of all of the Stamina Mills common stock meant that it also controlled the voting rights of this stock.] This gave Kayser-Roth the power to elect the directors of Stamina Mills, who in turn appointed the corporate officers of Stamina Mills.

## B. Control Through Directors

### 1. Selection of Directors

[31. Through the selection and election of subsidiary companies' directors, parent companies are able to participate in the decision-making processes of their subsidiaries. By electing board members of its choice, all of whom are parent company employees, a parent can establish direct access to its subsidiary companies, and thereby ensure that its proposals are implemented.]

32. [The Stamina Mills By-Laws empowered the stockholders to elect a board of four directors, and the directors in turn were empowered to elect a president and appoint other officers of the corporation.] Since Kayser-Roth controlled all of the stock of Stamina Mills from 1966 until its dissolution on December 31, 1977, Kayser-Roth elected both the Board of Directors and the officers of Stamina Mills. [Stamina Mills By-Laws, Articles I: III;].

33. Kayser-Roth and its subsidiaries including Stamina Mills had common directors. Each of the directors of Stamina Mills was also an officer of Kayser-Roth. [First Joint Stip., 15, 16].

2. Directors Meetings and Participation in Business Operations

34. Even though the Stamina Mills By-Laws required the president, or in his absence, the vice-president, to preside at all board meetings, the Stamina Mills presidents generally were unaware even of who was included on the board. [Stamina Mills By-Laws, Article IV, Section 1; Deposition of Walter Eastman, President of Stamina Mills, Inc., 1971-1972 (hereinafter "Eastman dep."), p. 34; Deposition of Sidney Stayman, President of Stamina Mills, Inc., 1968-1971 (hereinafter "Stayman dep."), p. 38].

35. Another indication of the lack of corporate formalities with respect to Stamina Mills relates to Board of Directors meetings. In fact, no board meetings were held from 1973 through the dissolution of Stamina Mills on December 31, 1977. [Deposition of Jerome Perlmutter on behalf of the

Kayser-Roth Corporation pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure (hereinafter "Perlmutter dep."), p. 223]. [Since the content and form of the board minutes from 1966 through 1972 is generally the same as those from 1973 onward when no meetings were held, it does not appear that any board meetings were held from 1966 through 1972. From at least 1973 through 1977, the Kayser-Roth Corporate Law Department prepared the minutes to reflect transactions that had to be recorded in the minutes book. The Board of Directors meetings, as well as the annual meetings, were done on unanimous written consent. Minutes were generated only for situations where they were legally required, or where they were requested by a third party.] [Perlmutter dep., pp. 222-223].

36. The Stamina Mills Board of Directors did not actually participate in overseeing the business operations of Stamina Mills. [Hinerfeld dep., p. 160]. Under these circumstances, the officers of Stamina Mills would be assumed to have greater authority.

37. Another example of the disregard of corporate formalities relates to the office of Treasurer. The By-Laws for Stamina Mills gave the Treasurer the authority to arrange for loans. [Stamina Mills By-Laws, Article V, Section 2]. However, Merrick as Treasurer of Stamina Mills was precluded by Kayser-Roth from borrowing from third parties such as banks. [Merrick dep., p. 648].

38. Instead of the officers of Stamina Mills assuming greater responsibility for decisions relating to the company

based on the noninvolvement of the Stamina Mills Board, a large degree of decision-making was carried out by Stanley Sheerr of Crown Mfg. and Norman Hinerfeld of Kayser-Roth.

**C. Control Through Officers**

**1. Selection of Officers**

39. Crown Mfg. and Kayser-Roth controlled the officers of Stamina Mills through the selection process of the president as well as the reporting lines. Stayman, Eastman and Dubin were each selected as Presidents of Stamina Mills by Sheerr and Hinerfeld. [Hinerfeld dep., pp. 53-58].

**2. Termination of Officers**

40. Just as Crown Mfg. and Kayser-Roth exercised control by hiring the presidents of Stamina Mills, they also exercised similar control by terminating the employment of Stamina Mills' presidents whenever they saw fit. There are several examples of this. The earliest involves the removal of Sidney Stayman as President.

A. ....I was called down to Philadelphia one day out of the blue and they -- Stanley Sheerr told me [Eastman] that they were going to drop Sidney unless they could make a deal with Sam Stayman that he would pay Sidney's salary out of the money that he was getting from Kayser-Roth as part of his termination payoff. Sam refused to do it, so they let Sidney go. And sometime later I was informed that I was president.

[Eastman dep., p. 40 (bracketed material supplied)].

41. Walter Eastman's removal also was implemented without warning by Crown Mfg. and Kayser-Roth.

A. .... [Dubin had] been there a few months, and anyway, they came up to me one day and informed me that they were going to make [Dubin] president of the company and keep me on as an advisor or some cockamamie thing, I don't know just what.

Q. Who came up to you?

A. Stanley Sheerr. Well, as a matter of fact, he brought his whole crew up with him, he brought John Merrick and Prooslin [of Crown Mfg.] and I think maybe he thought they were going to have trouble with me or something.

[Eastman dep., pp. 140-1 (bracketed material supplied)].

42. Finally, the removal of Paul Dubin as president in 1977 provides perhaps the best example of the roles of Crown Mfg. and Kayser-Roth in the removal of a president of Stamina Mills.

A. . . . [T]here was a decision made by me, and acquiesced to by my father [Stanley Sheerr], and supported by John Merrick and Frank Engels [of Crown Mfg.] -- [to remove Paul Dubin as President].

Q. The initiation of the action that Mr. Dubin should be relieved of his duties was yours?

A. It was mine, absolutely.

[Deposition of Richard Sheerr, President of Stamina Mills, Inc. 1977, later President of Crown Textile Mfg. Co. (hereinafter "Sheerr dep."), pp. 31-32 (bracketed material supplied)]

43. At the time of Dubin's termination, Richard Sheerr was Executive Vice-President of Crown Textile Mfg. Co., but was not an officer or employee of Stamina Mills. [First Joint Stip., 21, 22].

### 3. Reporting Relationships

44. During the period 1966 through 1977, the officers of Stamina Mills included both active and inactive members. Norman Jackson (the Financial Vice-President) and Harold L.

Glasser (the Vice-President and Secretary), both of whom were employed by Kayser-Roth, were for most purposes inactive as officers of Stamina Mills. In fact, Jackson and Glasser were only officers of Stamina Mills as a result of a Kayser-Roth policy that certain individuals be officers primarily for ease of access in New York to sign corporate documents. [Perlmutter dep., pp. 33, 41-42].

45. The President of Stamina Mills reported directly to Stanley Sheerr who was the President of Crown Textile Mfg. Co. and the "president" of the Crown Division. [Stayman dep., p. 18]. Sidney Stayman, who was President of Stamina Mills from 1968 to 1971 described the relationship as follows:

A. I would say that in general Stamina Mills operated almost as a division of Crown Textile Manufacturing Corporation in that in New York we shared the same offices with Crown Textile. The accounting controls were managed by John Merrick from the Crown Mfg. organization in Philadelphia. The major decisions for the mill were made by Mr. Stanley Sheerr, who was president or head of Crown Textile.

[Stayman dep., p. 14].

46. Stayman would speak to Sheerr about Stamina Mills matters as often as two or three times per week and would also have personal meetings with him in New York as much as once per week. These communications were largely confined to Stamina Mills' sales matters for which Stayman was primarily responsible. [Stayman dep., pp. 20-21].

47. Although Eastman as Vice-President of Stamina Mills reported to Stayman on many matters and received instructions from him, he indicated that "Sidney [Stayman, the President of Stamina Mills] didn't tell me anything that Stanley didn't tell

him to tell me." [Eastman dep., p. 20]. In addition, on some matters Eastman, as Vice President of Stamina Mills during Stayman's Presidency, would report directly to Sheerr and not through Stayman. [Stayman dep., pp. 18-19]. For example, when the manufacturing plan for Stamina Mills was established any financial matters that involved purchase of new material or new machinery or anything like that, that all had to be cleared with Stanley [Sheerr] . . . . [Eastman dep., pp. 21-22].

Eastman, as Vice President, met with Sheerr, Merrick and Stayman approximately three times per month on, among other things, matters relating to the budget, sales projections, hiring of management consultants, and union negotiations. [Eastman dep., pp. 36-37].

48. During Eastman's Presidency of Stamina Mills from 1971 to 1972, he continued to report to Sheerr, Merrick and other Crown Mfg. employees. He met with Sheerr at least every Monday in New York and was in more frequent telephone contact with him and with John Merrick. [Eastman dep., pp. 45, 52-53].

49. During their presidencies, neither Eastman nor Stayman had any dealings with the Board of Directors of Stamina Mills. Their ordinary reporting channel was exclusively to Sheerr of Crown Mfg. [Eastman dep., pp. 45, 54; Stayman dep., pp. 18, 38].

50. During Paul Dubin's Presidency of Stamina Mills from 1972 to 1975, he also reported to Sheerr and Merrick of Crown Mfg. [Deposition of Paul Dubin, President of Stamina Mills, Inc., 1972-1977, (hereinafter "Dubin dep."), pp. 18-20]. Dubin generally spoke to Sheerr every day he was in and met with him

twice per month about Stamina Mills' matters. [Dubin dep., pp. 20-22].

51. John Merrick, the Treasurer and Chief Financial Officer of Stamina Mills, was also the Treasurer and Chief Financial Officer of Crown Textile Mfg. Co. and functioned as the Controller of the Crown Division. Merrick did not report to, nor was he supervised by, the President of Stamina Mills. He was supervised by and reported to Stanley Sheerr, the President of Crown Textile Mfg. Co. and the Crown Division. [Stayman dep., pp. 39-40].

**D. Control Over Financial and Administrative Matters**

**1. Financial Support**

52. The provision of financial assistance allows the parent corporation to establish, determine and regulate the amount of planned growth and the areas of growth or activity of its subsidiary corporations. In this way, resources are managed in accordance with the goals of the parent.

53. The following examples demonstrate Kayser-Roth's control over Stamina Mills through the use of financial support.

**2. Borrowings and Guarantees**

54. A parent corporation can control a subsidiary by providing funds while limiting or prohibiting the subsidiary from obtaining outside loans. A parent corporation can also increase a subsidiary's dependence upon the parent by guaranteeing obligations of the subsidiary. In fact, Kayser-Roth prohibited outside borrowings by any of its subsidiaries, while it also at times guaranteed obligations of



its subsidiaries.

55. In July 1966, only three months after Kayser-Roth acquired both Crown Textile Mfg. Co. and Stamina Mills, it guaranteed payment to the Girard Trust Bank of Philadelphia of all sums owed by either Crown Textile Mfg. Co. or Stamina Mills. This guarantee applied to the opening of Letters of Credit and the creation of Trade Acceptances by Stamina Mills or Crown Textile Mfg. Co. [U.S. Dep. Ex. 132A]. Notification to Girard Trust was given by Norman Jackson, who was the Financial Vice-President of Kayser-Roth, Crown Textile Mfg. Co. and Stamina Mills at that time. [First Joint Stip, 21, 22; U.S. Dep. Ex. 132A]. While Kayser-Roth never was required to pay any amounts covered by the guarantee, the guarantee nevertheless remained in force until the Gulf & Western Industries, Inc. takeover of Kayser-Roth in 1975. [Merrick dep., pp. 644-647].

56. Another instance of Kayser-Roth entering into a guarantee on behalf of Stamina Mills occurred in September 1966. Kayser-Roth guaranteed the obligations of Stamina Mills under Stamina Mills' factoring agreement with Textile Banking Company, Inc. (A factoring agreement is an agreement in which a bank or factoring company agrees to buy a company's receivables as of the date of sale, and pay proceeds to the selling company on a prearranged formula. For example, if a company sells on a 60 day basis, the company would be paid in 60 days by the factor. The factor charges a fee of about 1% for its services, in return for which the factor agrees to take responsibility for collecting the money from the customer. [U.S. Dep. Ex.

132B; Merrick dep., pp. 598-599].

57. A third example of how Kayser-Roth controlled Stamina Mills through what is essentially a guarantee relates to the lease of the property located at 308 East School Street in Woonsocket, Rhode Island. The property was used exclusively by Stamina Mills; however, the lessee was Kayser-Roth. The inclusion of Kayser-Roth as a lessee for a property in which it had no direct involvement can be construed as being for the purpose of providing additional assurance to the lessor that it will receive its payments under the terms of the lease. [U.S. Dep. Ex. 107].

### 3. Financial Restrictions

58. Another method used by Kayser-Roth to control Stamina Mills was through the imposition of financial restrictions. Various restrictions were imposed by Kayser-Roth upon Stamina Mills, including: a prohibition against incurring any external debt [Merrick dep., p. 648]; restrictions against acquiring any capital assets in excess of very minimal dollar amounts (as low as \$500) without prior approval [Merrick dep., pp. 376-377]; the need to obtain Kayser-Roth approval for hiring officers of Stamina Mills or granting pay increases when the salary or percentage increase exceeded certain Kayser-Roth defined limits [U.S. Dep. Ex. 76; Merrick dep., pp. 335-336]; making charitable contributions where the amount exceeded Kayser-Roth specified dollar minimums [U.S. Dep. Ex. 129; Merrick dep. pp. 628-629]; and opening new bank accounts [Merrick dep., p. 336]. These restrictions stripped Stamina Mills management of much of the financial

decision-making typically available to an independent company. It made the financial success of Stamina Mills largely dependent upon the largesse and decisions made by Kayser-Roth personnel whose interests might not coincide with those of Stamina Mills' management.

#### **4. Central Cash Management System**

59. Kayser-Roth exercised control over its subsidiaries through its central cash management system. This control was exercised in two ways: (1) subsidiary companies maintained no cash in excess of their immediate operating needs in their own name; and (2) restraints were placed upon the ability of subsidiaries to handle their own banking relationships, including the authority to borrow funds or to open new bank accounts.

60. The Kayser-Roth central cash management system evolved from a functional but basic system into an increasingly more sophisticated system during the period 1966 through 1977.

61. The system first affected Stamina Mills through the factoring agreement with Textile Banking Company, Inc. Stamina Mills authorized and directed Textile Banking to remit to Kayser-Roth all funds available to Stamina Mills under the factoring agreement. At this time, Stamina Mills was factoring essentially all of its receivables, so that the impact of this arrangement was that Kayser-Roth was receiving all of Stamina Mills' sales proceeds, and Stamina Mills was obtaining funds from Kayser-Roth as needed to meet its expenses. [U.S. Dep. Ex. 122C; Merrick dep., pp. 601-602].

62. From at least April 1968, funds required by Stamina Mills were requested from Kayser-Roth by a Crown Mfg. employee, since all of the accounting people in the administrative area of the Crown Division were on the Crown Textile Mfg. Co. payroll and located in Jenkintown. [U.S. Dep. Ex. 121; Merrick dep., p. 597].

63. Effective September 1, 1970, new cash management procedures were instituted. The major changes resulting from these new procedures were as follows: (a) each division was to maintain a lock box in the name of Kayser-Roth in a Kayser-Roth bank; (b) the Kayser-Roth corporate accounting office was to maintain the general ledger control accounts for these lock boxes; (c) only the Kayser-Roth corporate treasurer's department was authorized to make withdrawals from these accounts; (d) each Kayser-Roth division was to maintain a "general" account at the same bank used for the lock box to be used for paying the division's bills; and (e) the Kayser-Roth Treasurer's Department transferred funds to each division's general account upon request, based upon the division's cash needs for meeting its obligations. [U.S. Dep. Ex. 120; Merrick dep., pp. 587-594].

64. Even though the sophistication and mechanics of the central cash management system continued to change over the years, the impact of the system upon Stamina Mills remained essentially the same, namely that Kayser-Roth controlled access to all funds. A

subsidiary like Stamina Mills had to obtain approval from Kayser-Roth for any funds which it requested. This precluded the management of Stamina Mills from engaging in any significant independent decision-making with respect to how funds were expended, and did not necessarily provide access to all funds generated by Stamina Mills.

#### **5. Financial Reporting Requirements**

65. Kayser-Roth played an active role in monitoring the financial results of its subsidiary companies by requiring the regular submission to it of various standard forms and reports. These reporting requirements were imposed soon after Kayser-Roth merged with Colonial in April 1966, and focused upon budgeting and cash flow projections. Some Stamina Mills financial information was reported to John Merrick by Muriel Peloquin, a bookkeeper located at the Forestdale mill. Other information for Stamina Mills was prepared by the Crown Mfg. accounting staff in Jenkintown, Pennsylvania, where it was summarized with other information for the Crown Division and then forwarded to Kayser-Roth. [Merrick dep., pp. 60-61, 64, 94-96].

66. Sales information was reported to Kayser-Roth on a weekly basis. [Merrick dep., p. 117] A monthly "flash financial report" was prepared which contained summarized financial information prepared with preliminary data. [U.S. Dep. Ex. 97; Merrick dep., pp. 676-8]. This was followed by a more formal monthly financial report. [Merrick dep., pp. 117-118]. Quarterly reports were required which were more

detailed than the monthly reports. These included, in addition to the regular financial statements, analyses of selling and administrative expenses, sales by product line, and fixed asset purchases. [Merrick dep., p. 118] All of this information was reviewed at the quarterly Crown Division meetings where the business of the Division's component companies, including Stamina Mills, was discussed. Annual reports which were required were similar to the quarterly reports. All of the reports were sent from Crown Mfg. to Norman Hinerfeld at Kayser-Roth. [Merrick dep., pp. 117-119].

**6. Financial Accounting Policies**

67. Financial accounting policies used by Stamina Mills during the period 1968 through 1977 were promulgated by Kayser-Roth. Stamina Mills never initiated or suggested any changes on its own.

Q. . . . I'm asking you whether Stamina Mills initiated any changes in financial reporting which were subsequently approved by Kayser-Roth.

" " "

A. That's not the way it worked.

Q. It was all from the top down?

A. Yes, sir.

[Merrick dep., pp. 682-683].

68. In fact, Kayser-Roth set accounting policies for the entire corporation and all of its subsidiaries, including Stamina Mills.

Q. The decision on what kind of financial record keeping should be kept and what kind of financial reporting procedures Stamina Mills would have to follow, was made by who?

A. The accounting staff at Kayser-Roth. They would set accounting policies for the corporation [including Stamina Mills].

[Perlmutter dep., p. 134 (bracketed material supplied)].

69. Even in a specific matter such as bad debt write-offs, the decisions related to Stamina Mills were made by Merrick of Crown Mfg. and approved by the Kayser-Roth credit manager if the amount exceeded several hundred dollars. [Merrick dep., p. 680; U.S. Dep. Ex. 138].

7. Support Services

a. Accounting

70. Both Crown Mfg. and Kayser-Roth provided various types of support services to Stamina Mills, which served as a way of implementing their policies and provided them with important details about Stamina Mills' operations. A prime example of this is that the books and records of Stamina Mills were kept and maintained by Crown Mfg. employees at the Crown Mfg. offices in Jenkintown, Pennsylvania. [Eastman dep., pp. 193-194; Dubin dep., p. 89] This gave Crown Mfg. complete access to Stamina Mills' financial information, which was shared with Kayser-Roth as requested. Since Crown Mfg. maintained the Stamina Mills books and records, it also prepared the Stamina Mills monthly financial statements. Stamina Mills' management, including its president, had no input into the financial information which was forwarded to Kayser-Roth by Crown Mfg. personnel. [Eastman dep., p. 194; Dubin dep., pp. 93-94].

71. Stamina Mills also had its annual financial statements audited by Ernst & Whinney, the accounting firm engaged by the Kayser-Roth Board of Directors to do the Kayser-Roth audit. Neither Stamina Mills management nor its Board of Directors had any involvement in this decision. [Merrick dep., pp. 661-663].

b. Legal and Tax

72. The Kayser-Roth corporate legal and tax departments handled all matters in their respective areas for all Kayser-Roth subsidiaries including Stamina Mills. Through involvement in these areas of subsidiaries' affairs, Kayser-Roth would obtain a wealth of information not otherwise available. Furthermore, the subsidiaries had no choice in making use of Kayser-Roth services. [Perlmutter dep., pp. 127-128].

73. Stamina Mills was required to use the Kayser-Roth legal department. The staff lawyer assigned to a particular case decided whether to engage outside counsel and, if so, who that outside counsel would be. The costs of the outside counsel would be borne by Stamina Mills, even though no Stamina Mills employee had a voice in retaining the counsel. [Perlmutter dep., pp. 128-131; Merrick dep., pp. 625-626].

74. Similarly, with respect to income tax matters, Stamina Mills had no involvement in its own affairs. The Stamina Mills tax returns were prepared in the Crown Mfg. office in Jenkintown, signed by Merrick, and forwarded to the



Kayser-Roth tax department for review and approval. Once again, the president of Stamina Mills had no choice regarding the Kayser-Roth involvement and no input into the contents of the return. [U.S. Dep. Ex. 139; Merrick dep., pp. 113-114, 686; Perlmutter dep., pp. 125-126].

#### **C. Insurance**

75. Stamina Mills, like all Kayser-Roth subsidiaries, was covered by a Kayser-Roth blanket insurance policy for such risks as fire, use and occupancy, general comprehensive and business interruption. Kayser-Roth took over the provision of insurance to Stamina Mills following the merger with Colonial in 1966. The premiums were paid by Kayser-Roth and then billed to Stamina Mills. [Hibel dep., pp. 136-137; Merrick dep., pp. 622-623].

76. While there were cost efficiencies as a result of the Kayser-Roth blanket insurance policy, this also provided Kayser-Roth with additional information regarding insurance values of its subsidiaries' properties, and allowed Kayser-Roth a voice in approving settlements resulting from major claims. [Hibel dep., pp. 139-140].

#### **d. Employee Benefits**

77. Kayser-Roth exercised control over the employees of Stamina Mills by requiring their participation in the Kayser-Roth pension plan, life insurance plan and health benefit plan. [Merrick dep., pp. 623-624]. Recommendations as to fringe benefits for Stamina Mills employees were made by Crown Mfg. and approved by

Kayser-Roth. [Hinerfeld dep., p. 288]. Stamina Mills' management was not free to enter into other independent employee benefit programs, even if the management felt it was in its employees' interest to do so. Bonuses for lower level Stamina Mills employees had to be approved by Sheerr of Crown Mfg., and bonuses for salaried employees had to be approved by Kayser-Roth. [Merrick dep., pp. 841-842].

#### E. Control Over Operations

##### 1. Overview Crown Mfg.' Control of Stamina Mills' Operations

78. There were many matters involving the operations of Stamina Mills over which the Forestdale mill manager or the President of Stamina Mills did not have final authority. For most of those matters Stamina Mills had to obtain the approval of Stanley Sheerr of Crown Mfg.. Fundamental decisions such as what quantity of a particular product Stamina Mills should manufacture were ultimately made by Sheerr. [Merrick dep., p. 836; Hinerfeld dep., pp. 286-287; Eastman dep., p. 79; Dubin dep., pp. 50-51]. Sheerr determined what kind of manufacturing methods Stamina Mills should employ; for example, making woven fabric, non-woven fabric or fusibles. [Merrick dep., p. 835; Hinerfeld dep., p. 286; Eastman dep., pp. 77-78]. Sheerr decided which types of products should be manufactured by Stamina Mills. [Merrick dep., p. 834; Hinerfeld dep., p. 44; Eastman dep., pp. 77-78; Dubin dep., p. 45]. Sheerr also decided on the marketing strategies which would be implemented to sell Stamina Mills' products. [Merrick dep., pp. 830-831;

Hinerfeld dep., p. 285; Eastman dep., p. 67]. As John Merrick put it:

A. Stanley [Sheerr] had the final authority in all things, marketing and manufacturing -- I think I've said that 12 times -- and Sidney Stayman was a part of the team.

[Merrick dep., p. 830 (bracketed material supplied)].

\* \* \*

A. . . . Walter Eastman certainly could change the assignment of personnel or shut this machine down, run that machine. Operating decisions the mill manager does in any manufacturing plant. If it involved significant change that involved money costs or affected serious operations, we had to go to Stanley [Sheerr].

[Merrick dep., p. 835 (bracketed material supplied)].

79. With the exception of the prices for baseball yarn which were set by Dubin, the pricing of products manufactured by Stamina Mills was ultimately the responsibility of Sheerr. [Merrick dep., pp. 828-829; Hinerfeld dep., p. 283; Eastman dep., pp. 66-68; Dubin dep., pp. 41-42]. Sales of Stamina Mills' products were handled out of Crown Mfg.'s New York office, in part, by employees of Crown Mfg. Sheerr would have to approve of the hiring of the Stamina Mills salesmen in the New York office. [Merrick dep., p. 822-823]. Sheerr had final authority on hiring some of the salaried employees for Stamina Mills and what their compensation levels would be. [Merrick dep., p. 821; Eastman dep., pp. 60, 85]. Personnel policies for Stamina Mills employees and approval of negotiated labor union contracts were also Sheerr's responsibility.

[Merrick dep., p. 196; Hinerfeld dep., p. 284; Eastman dep., pp. 62-63; Dubin dep. pp. 39, 45]. Finally, the retaining of consultants for Stamina Mills also had to be approved by Sheerr. [Eastman dep., pp. 68-69; Dubin dep., p. 43].

2. Reporting Relationship of Crown Mfg. to Kayser-Roth

80. Stanley Sheerr, as head of the Crown Division reported to Norman Hinerfeld, the Executive Vice President of Kayser-Roth. [Merrick dep., pp. 69-70, 312; Hinerfeld dep., p. 36].

81. Hinerfeld met with Sheerr three or four times per month and, in addition, maintained regular telephone contact. Hinerfeld also held regular quarterly budget meetings with Sheerr and Merrick. [Hinerfeld dep., pp. 205-206]. The purpose of the quarterly meetings "was to review the operations against our budget, and then to plan what was going forward with the operation based on our current knowledge." [Hinerfeld dep., p. 39]. Hinerfeld took an active role in the meetings questioning Sheerr and Merrick and satisfying himself that the budgets and corporate goals were being met. [Hinerfeld dep., p. 39].

3. Kayser-Roth's Control of Stamina Mills' Operations

a. Overview

82. Kayser-Roth, in combination with and through Crown Mfg., also played an active role in directing the operations of Stamina Mills. Kayser-Roth exerted control through the requirement at Stamina Mills, after obtaining Crown Mfg.'s

approval, had to obtain the approval of Kayser-Roth (a) to purchase or move capital assets; (b) to resolve environmental problems; (c) to make many daily operational decisions; (d) to lease, buy or sell real estate; and (e) to adopt operating and capital budgets.

**b. The Purchase or Movement of Capital Assets**

83. The purchase of any capital asset by Stamina Mills which had a value in excess of \$500 had to be approved in advance by Crown Mfg. For example, the purchase of a \$750 sewing machine by Stamina Mills had to be first approved by Merrick at Crown Mfg. [Merrick dep., pp. 361-363; U.S. Dep. Ex. 60].

84. If Stamina Mills wished to purchase a capital asset with a value in excess of \$5000, not only did Sheerr of Crown Mfg. have to approve the purchase, but so did Hinerfeld of Kayser-Roth. [Merrick dep. pp. 349, 357, 361-363, 377; U.S. Dep. Exs. 58 and 59]. In a particular year Stamina Mills would have to obtain approval from either Crown Mfg. alone or Crown Mfg. and Kayser-Roth to purchase capital assets on numerous occasions. [Merrick dep., p. 377; U.S. Dep. Ex. 62]. Even for example, if \$10,000 had to be spent by Stamina Mills to pay the labor costs of moving machinery, although no machinery was purchased, that expenditure had to be first approved by Sheerr of Crown Mfg. and ultimately approved by Hinerfeld. [Merrick dep., pp. 367-368; U.S. Dep. Ex. 61].

**c. The Resolution of Environmental Problems**

85. As early as October 20, 1967, Walter Eastman, as Vice President of Stamina Mills, notified Merrick of Crown Mfg. that

Stamina Mills had a serious water pollution problem. The State of Rhode Island was objecting to the fact that Stamina Mills was discharging contaminated waste water into the Branch River after using the water as part of its detergent based scouring system to clean newly woven textiles. [Merrick dep., pp. 382-383; U.S. Dep. Ex. 63A]. Eastman proposed two alternative solutions to the problem: (1) an activated sludge system; and (2) a system of impoundment lagoons. [U.S. Dep. Ex. 63A, p. 2].

86. Merrick notified Glasser of the Kayser-Roth Legal Department and Hinerfeld of the problem and Eastman's proposed solutions. [U.S. Dep. Ex. 63B]. Hinerfeld directed that cost studies be done to determine the best and least expensive method to resolve the problem. Hinerfeld and Chester Roth, the Chief Executive Officer of Kayser-Roth, decided that the least expensive and most effective way to deal with the pollution problem was to purchase a Derby dry cleaner unit which would clean the newly woven textile using trichloroethylene ("TCE") which could be recycled. [Hinerfeld dep., pp. 108-112, U.S. Dep. Ex. 63B]. The purchase of the dry cleaner for an amount in excess of \$100,000 was recommended by Sheerr and Merrick of Crown Mfg. and approved by Hinerfeld, Glasser and Chester Roth of Kayser-Roth. [Merrick dep., pp. 388-389; Hinerfeld dep., p. 1; Eastman dep., p. 103; U.S. Dep. Ex. 63C].

87. Kayser-Roth also exercised control over Stamina Mills in connection with other environmental matters. In 1973,

Kayser-Roth issued a directive requiring all Divisions and components of Divisions including Stamina Mills, to notify the Kayser-Roth Legal Department of any contacts from courts or governmental agencies regarding any environmental problems. [U.S. Dep. Ex. 66]. Even prior to 1973, if contact had been made with a company in the Crown Division, including Stamina Mills, about an environmental matter by a Federal, State or local agency, Merrick would be notified and he would notify Hinerfeld and the Kayser-Roth Legal Department. [Merrick dep., pp. 432-433].

88. In 1974, Stamina Mills was sued by the United States for violation of Stamina Mills' NPDES permit in that the waste water discharged by the plant into the Branch River contained pollutant in excess of the amounts authorized by the permit. Dubin as President of Stamina Mills was in direct contact with Hinerfeld on the matter. Sheerr and Merrick were involved in the decision-making process on how to resolve the dispute. The ultimate decision on how to settle the case, based upon Sheerr's recommendation, was made by Hinerfeld, Glasser and Roth of Kayser-Roth. [Merrick dep., pp. 441-442; Hinerfeld dep., pp. 127-128; U.S. Dep. Exs. 67 and 68].

d. Daily Operations of Stamina Mills

89. In a variety of ways Kayser-Roth and Crown Mfg. controlled many of Stamina Mills' daily operations. For example, whenever Stamina Mills conducted an inventory, personnel from Crown Mfg. were present to observe and to audit the accuracy of the inventory. [Merrick dep., pp. 698-699].

If Crown Mfg. determined that Stamina Mills was accumulating too much inventory, Sheerr or Merrick would direct Eastman to reduce the inventory. Indeed, Hinerfeld of Kayser-Roth also suggested that Eastman reduce excess Stamina Mills' inventory and, on at least one occasion, suggested that he utilize excess Crown Mfg. inventory. [Merrick dep., pp. 701-702; U.S. Dep. Ex. 112].

90. Kayser-Roth and Crown Mfg. also directed the development of new product lines for Stamina Mills. For example, in an effort to develop new products for Stamina Mills, Hinerfeld as well as Sheerr was actively involved in efforts to have a Czechoslovakian inventor, a Dr. Krcma, come to the United States and demonstrate techniques he was developing for the manufacture of non-woven textiles. Hinerfeld authorized Krcma's visit and obtained direct reports on the project from Stayman, the President of Stamina Mills. [U.S. Dep. Exs. 145, 114A and 114B]. Hinerfeld also obtained progress reports from Merrick on this matter. [Merrick dep., p. 716; U.S. Dep. Ex. 146].

91. Another example of Kayser-Roth's control over the production operations of Stamina Mills is Hinerfeld's authorization in 1969 for the Forestdale facility of Stamina Mills to initiate the weaving of tie lining, i.e., the lining inserted inside a man's necktie. [Hinerfeld dep., pp. 236-237; Merrick dep., p. 727]. The manufacture of tie lining was integrated between the Stamina Mills' facility at Forestdale and Crown Mfg.'s plant at Talladega, Alabama. Some of the yarn



was spun at Talladega, and shipped to Stamina Mills where it was woven into the tie lining. The woven tie lining was then sent back to Talladega for finishing. [Eastman dep., pp. 174-175]. When various problems developed in production of the tie lining, Hinerfeld monitored the activities through reports from Sheerr. [Hinerfeld dep., pp. 236-240]. Sheerr or Lester Oppenheimer of Crown Mfg. authorized the transfer to Stamina Mills of the finishing process for the tie lining in 1969. [Merrick dep. pp. 730-731; U.S. Dep. Ex. 116D; Hinerfeld dep., pp. 236-240]. Eventually, Hinerfeld and Sheerr decided to transfer all of the tie lining manufacturing from Stamina Mills to Crown Mfg. at Talladega. [Merrick dep., p. 737; Eastman dep., pp. 176-177; Hinerfeld dep., pp. 241-242]. Hinerfeld authorized the movement of some of the needed equipment to Talladega from Forestdale. In his view it was irrelevant whether the President of Stamina Mills objected to the transfer of the tie lining production to Talladega. [Hinerfeld dep., p. 242].

92. A number of other manufacturing functions were transferred from Stamina Mills to the Crown Mfg. Talladega plant such as a needle punch operation to make blankets and interlinings as well as an operation to manufacture "HC cloth" for the inside of the waistband of men's trousers. The decisions to transfer these operations were made by Hinerfeld and Sheerr. [Hinerfeld dep., pp. 242-244].

93. The manufacturing facilities of Stamina Mills in Forestdale and Woonsocket were run as part of a manufacturing operation in which decisions were made based on the needs of the whole Crown Division.

A. . . . From the Crown group's point of view, we would try to do what was most advantageous for the overall operation of Crown.

Q. Regardless of which company was incorporated or not?

A. Our responsibility was to run the Crown Division, and these [i.e., Stamina facilities and the Talladega plant] were components of it.

[Merrick dep., p. 732 (bracketed material supplied)].

94. Kayser-Roth also considered the Stamina Mills' facilities as simply part of the production facilities within the Crown Division.

A. I would say, truthfully that Mr. Sheerr or myself never considered the corporate organization because Stamina was operated as a department of Crown, even though it was separately incorporated.

Q. It was one of the Crown production facilities and that is how it was viewed in your decision-making?

A. Mine and Sheerr's, absolutely.

[Hinerfeld dep., p. 246].

95. As part of his direct participation in the operations of Stamina Mills, Hinerfeld would on occasion, such as in the summer of 1970, meet with the President of Stamina Mills and review Stamina Mills' operational problems in substantial detail. [Hinerfeld dep., pp. 247-250; U.S. Dep. Exs. 117A, 117B, 117C, 117D, 117E]. In his testimony Hinerfeld explained it as follows:

Q. You got into, in your discussions, you got into fair amount of detail about the activities of Stamina Mills?

A. Yes, because Stamina was having many problems and when you have many problems, you have many questions.

Q. That caused you to get more involved?

A. Yes.

[Hinerfeld dep., p. 250].

e. The Lease, Purchase or Sale of Real Estate

96. Crown Mfg. through Sheerr determined whether and when Stamina Mills needed to lease, sell or purchase real estate. All such transactions required the approval of Kayser-Roth through Hinerfeld and Chester Roth. The Kayser-Roth Legal Department provided any needed legal services. [Merrick dep., pp. 745-746; U.S. Dep. Ex. 147].

97. In 1969, Kayser-Roth entered into a 15-year lease for a building at 308 East School Street [the "Stevens" building] in Woonsocket, Rhode Island. The lease was executed by Chester Roth, as Chairman of the Board, on behalf of Kayser-Roth. However, the building was to be used by Stamina Mills for inventory storage and manufacturing operations. Sheerr and Hinerfeld approved the leasing of the building. [Merrick dep., pp. 749-751, U.S. Dep. Ex. 107].

98. By 1975 all manufacturing operations of the Forestdale plant of Stamina Mills ceased based upon the decision of Hinerfeld and Sheerr. [Merrick dep., pp. 146-147; Hinerfeld dep., pp. 260-261]. In 1976 all of the buildings

owned by Stamina Mills -- Forestdale, and the SMSA and Hazel Street buildings in Woonsocket, Rhode Island -- were sold. The decisions to sell these buildings were approved by Hinerfeld. [Hinerfeld dep., p. 263].

99. Stamina Mills continued to lease the Stevens building in Woonsocket. Yarn was spun at the Stevens building which was sold to baseball manufacturers and clothing manufacturers or sent for weaving into blankets to Crown Mfg.'s Tallade plant. After the operations at Forestdale were discontinued, machinery and equipment were moved from Forestdale into the Stevens building. The decision to continue Stamina Mills manufacturing at the Stevens building was made by Hinerfeld and Sheerr. [Merrick dep., pp. 761-762; Hinerfeld dep., p. 266]. The later decision to stop manufacturing yarn for woven blankets at the Stamina Mills' facility in the Stevens building was approved by Hinerfeld on the recommendation of Sheerr and Merrick. [Merrick dep., p. 774; U.S. Dep. Exs. 153A, 153B, 153C].

f. Development of Operating and Capital Budgets

100. Kayser-Roth and Crown Mfg. exercised extensive control over the operations of Stamina Mills through the review and approval of the Stamina Mills' budget each year, and through periodic modification of that budget during the year. Merrick would prepare the proposed budgets for Stamina Mills and Crown Mfg. Since the Stamina Mills' books were maintained at Crown Mfg.'s office in Jenkintown, Merrick would already have access to many of the necessary figures. He would also

have to consult with the Crown Mfg. personnel in New York about projected sales volumes and with the mill manager on labor requirements and other costs in order to develop a complete budget. [Merrick dep., pp. 93-95].

101. At an early stage in the budget process, Sheerr would meet with Hinerfeld to reach an agreement on what projected sales figures should be included in the budget. [Hinerfeld dep., p. 169]. As the budget process continued and a detailed budget for Stamina Mills was submitted to Hinerfeld he would modify it as he deemed appropriate. [Hinerfeld dep., p. 172; U.S. Dep. Exs. 173A and 173B]. As part of his review of the budget, Hinerfeld would review with Sheerr pricing issues, raw material purchase problems and various marketing strategies for Stamina Mills. The budgeting process would establish broad parameters within which decisions on those issues would ultimately be made within the Crown Division. [Hinerfeld dep., pp. 186-189]. A combined budget for all six components of the Crown Division, including Stamina Mills, would be developed. [U.S. Dep. Ex. 130]. After being approved by Sheerr the Crown Division budget would be reviewed by Hinerfeld, and the consolidated Kayser-Roth budget would be approved by Chester Roth. [Hinerfeld dep., p. 164]. Merrick described Hinerfeld's role as follows:

A. He understood the mechanics of the propositions that we'd be putting forward [in the budgeting process]. In these things you have to forecast your expectations of sales and the cost of the sales, the amount of capital expenditures that you need to make that forecast and the staffing underneath it, the people you need to sell it, how much advertising, the overhead.

So all of these details would be discussed and it would be compared with how you were actually operating now. And he invariably would say, "You're operating at too high a level now and get it the hell down." And that was the procedure that went on from the very beginning to the bitter end.

Q. With Hinerfeld?

A. Yes.

[Merrick dep., pp. 631-632 (bracketed material supplied)].

102. According to Walter Eastman, projections would be made by Crown Mfg. as to the amount of sales for certain products to be made by Stamina Mills during the next year. These projections were then used as the basis for establishing Stamina Mills' manufacturing budget. In fact, the manufacturing budget was controlled exclusively by these sales projections. [Eastman dep., pp. 190-191].

103. When problems arose as to Stamina Mills meeting its sales projections, Eastman, as Vice-President of Stamina Mills, was unable to unilaterally modify those figures.

A. . . . [W]hen the trouble started to develop around 1969, 1970, we started to get some projections that were very unrealistic and --

Q. Projections of sales?

A. Yes. And we budgeted on those sales, and as a result we ran into trouble because we didn't absorb our overhead.

Q. Did you object to the unrealistic --

A. I certainly did.

Q. -- projections at the time?

A. I certainly did.

**Q. To whom?**

**A. Well, to Stanley Sheerr, John Merrick, Prooslin [of Crown].**

**Q. What did they say? . . .**

**A. Well, they said this is it, this is the way we want the mill budgeted.**

**[Eastman dep., pp. 191-192 (bracketed material supplied)].**

**104. Once the budget was approved, Hinerfeld would periodically make inquiries to Sheerr as to why Stamina Mills was not meeting its budget and get detailed responses back from Merrick. Crown Mfg. would send a monthly report to Hinerfeld that showed the efficiency that was being achieved in every department of Stamina Mills. It was not unusual for Hinerfeld to make detailed inquiries of Crown Mfg. about Stamina Mills' progress. As Stamina Mills' woolen interlining business was dropping off in the 1969-1970 period, Hinerfeld would frequently make inquiries of Merrick about variances from the approved budget and was in constant communication by telephone with Sheerr about all aspects of Crown Mfg. operations, including Stamina Mills operations. [Merrick dep., pp. 638-644; U.S. Dep. Ex. 131].**

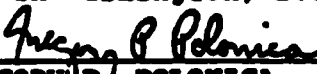
## **VI. Conclusion**

**105. In my opinion, as a result of (a) the integration of the financial and operational management of Stamina Mills with Crown Mfg. and Kayser-Roth, (b) the reporting relationships among the companies, and (c) the lack of independence given to the President of Stamina Mills in making decisions which**

affected Stamina Mills, Kayser-Roth and Crown Mfg.,  
individually and jointly, both directly and indirectly  
controlled Stamina Mills from its acquisition in 1966 through  
its dissolution in December 1977.

I declare under penalty of perjury that the foregoing is true  
and correct and within my personal knowledge.

Executed this 1<sup>st</sup> day of April in Washington, D.C.

  
\_\_\_\_\_  
GREGORY P. POLONICA  
Financial Analyst  
Antitrust Division  
United States Department of Justice  
GREGORY P. POLONICA



## NOTES



## **New Enforcement Measures**

## **Pilot Enforcement/Legal Support Measures – ICs and Revitalization**

Bruce Pumphrey,  
OECA/OSRE  
National PRP Search  
Conference  
May 13, 2008

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### **Development and Purpose of new measures**

- Developed as a result of Superfund Enforcement measures workgroup that included all 10 Regions, representatives from program and ORC as well as OSRTI
- To capture the enforcement and legal support activities for post construction enforcement and legal support work related to ICs and redevelopment/revitalization
- Developed to use existing data to the maximum extent possible and minimize new data burdens on Regions

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### **Institutional Controls Measures**

- The number of IC mechanisms/ instruments to implement ICs required in a Superfund document
- The number of sites where all ICs required by an EPA document(s) are in place

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### **Status of Implementation of Enforcement IC measures**

- Developing a pre-FY08 Baseline based on Regional information submitted to OSRTI (Q4/08)
- Develop measures reports once ICTS is deployed in Regions (Q4/08)
- Provide opportunity for regions to input FY08 data into ICTS (Q3 – Q4/08)
- Pull pilot measure results for FY08 consistent with end of year accomplishment pulls (Q1/09)

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### **Enforcement Revitalization Measures**

- Enforcement accomplishments will be based on the number of Superfund sites that are site-wide "ready for anticipated use" (RAU), and where an enforcement document(s) was involved (see below) to address/resolve liability concerns
- Number of Superfund acres at RAU sites (determined by operable unit) where an enforcement document(s) was involved (see below) to address/resolve liability concerns [The universe is identified as Superfund sites for OSWER's Cross-Program Revitalization Measure (CPRM). Proposed, final and deleted NPL sites, SA sites, NTCRA sites, sites where all cleanup goals related to land use are achieved, and sites where all ICs are in place]

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### **Which "Enforcement Documents?"**

- Comfort/status letters that address liability concerns/issues - including reasonable steps letters
- Windfall Lien resolution agreements
- Work agreements with bona fide prospective purchasers (BFPPs)
- Prospective lessee agreements (PLA)
- Prospective purchaser agreements (PPA)

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### **Status of Implementation of Revitalization Measures**

- CERCLIS Enforcement Actions are being added for Prospective Lessee Agreements and BFPP Work Orders (Completed)
- Reports to be developed by OSRE based on OSRTI Site-wide RAU and RAU across select logic to pull a subset with liability clarification actions (Q3/08)
- Regions to be given an opportunity to put FY08 liability clarification information in CERCLIS (Q3 - Q4/08)
- Pull pilot measure results for FY08 consistent with end of year accomplishment pulls (Q1/09)

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## NOTES





# **Freedom of Information Act (FOIA)**

### WHY THIS TRAINING?

-To understand that FOIA are government-wide programs under the guidance of Office of Information and Privacy (OIP), U.S. Department of Justice.

-To promote Agency-wide compliance with the FOIA

-To promote uniform application and implementation of FOIA through understanding and knowledge.

-To understand Administration policy guidance on processing FOIA.

**Statutory Authority 5 U.S.C. § 552**

**EPA Regulations 40 C.F.R. Part 2**

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The Freedom of Information Act generally provides that any person has a right, enforceable in court, to obtain access to federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions.

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### Agency Records

Two-part test for determining what constitutes "agency records" under the FOIA: "Agency records" are records that are (1) either created or obtained by an agency, and (2) under agency control at the time of the FOIA request. Relevant factors to consider when making such a determination.

- (1) Created in the course of business;
- (2) Received for action;
- (3) Documents EPA activities/actions and communicates EPA requirements;
- (4) Supports financial obligations or legal claims
- (5) Integrated into the agency's record keeping system or files
- (6) Can be in any format



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## FOIA REQUESTER

A FOIA request can be made by "any person" including.

Individuals – foreign citizens – partnerships – corporations  
– associations – foreign or domestic governments – states –  
state agencies – attorney on behalf of a client – nonprofit

**DOES NOT INCLUDE:** A fugitive from justice or other  
Federal Agencies



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**FOIA REQUEST CAN BE MADE FOR ANY REASON –  
PURPOSE FOR WHICH RECORDS ARE SOUGHT HAS NO  
BEARING UPON THE MERITS OF THE REQUEST**

FOIA requesters do not have to explain or justify their requests

"Congress granted the scholar and the scoundrel equal rights of  
access to agency records"

Argument of legitimate need for the document is superior to that  
of the general public or the press fails because identity of  
requester is irrelevant

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## PROPER FOIA REQUEST

The FOIA specifies only two requirements for an access request:  
It must "reasonably describe" the records sought and it must be  
made in accordance with the agency's published FOIA regulations.

Requester need not cite FOIA

FOIA was not intended to make government agencies full-time  
investigators on behalf of requesters or to allow requesters conduct  
fishing expeditions through agency files.

**Test is:** Does the request describe the record/records sought with  
so that a professional agency employee familiar with the subject  
area be able to locate the record with a "reasonable amount of  
effort"

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### OVERLY BURDENSOME – Take care

While courts have held that agencies need not conduct wide-ranging “unreasonably burdensome” searches for records – processor must be sure that the search would in fact be overly burdensome. How many records must be searched?

Cut-off date



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In responding to FOIA requests, agencies are not required—

- To answer questions
- To create records
- To make automatic releases – tickler system

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### TIME LIMITS

Time does not begin to run on improper FOIA request

Until an agency properly receives a FOIA request, it is not obligated to search for responsive records, meet time deadlines, or release any records

Time does not begin to run until requesters agree to pay all estimated fees or a fee waiver has been granted



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**TWENTY DAYS**



Once an agency properly receives a FOIA request, it has twenty working days in which to make a determination on a request.

**UNUSUAL CIRCUMSTANCES – MAY JUSTIFY AN EXTENSION OF TIME TO RESPOND**



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**FOIA Defines Unusual Circumstances as**

1. The need to search for and collect records from separate offices
2. The need to examine a voluminous amount of records required by the request, and
3. The need to consult with another agency or agency component

If extension needs to exceed 10 days, agency MUST allow requester an opportunity to modify his request

First In – First Out and Multi-Tracking

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**EXPEDITED TREATMENT**

- compelling need
- failure to get the records quickly could pose an imminent threat to the life or safety of an individual OR the requester is a person primarily engaged in disseminating information
- must decide to expedite or not within 10 calendar days

**CONSTRUCTIVE DENIAL**

If an agency fails to comply with the time limits for either an initial request or an administrative appeal it may be considered a constructive denial and the requester may immediately seek judicial review

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## **SEARCHING FOR RECORDS**

The adequacy of an agency's records under the FOIA is determined by a test of **REASONABLENESS**, which may vary from case to case.

Who looked?

Where did they look?

What did the search entail? Was the search reasonable?

Were records claimed to be personally reviewed?

Since E-FOIA was passed, agencies are required to make reasonable efforts to search for requested records in electronic form or format except when such efforts would significantly interfere with the operation of the agency's automatic information system.



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## **REASONABLY SEGREGABLE OBLIGATION**

The FOIA requires that any reasonably segregable portion of a record must be released after appropriate application of the Act's nine exemptions.

**EXCEPTION:** When non-exempt information is so inextricably intertwined that disclosure of it would leave only essentially meaningless words and phrases, the entire record may be withheld.

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## **Referrals and Consultations**

When an agency locates records responsive to a FOIA request, it should determine whether any of those records, or information contained in those records, originated with another agency or agency component.

Refer record for direct response by another agency BUT call first - then notify requester what you are doing.

**NOTE** If an agency determines that it does not maintain any record responsive to a particular FOIA request, that agency is under no obligation to refer that request to any other federal agency where such records may be located. The agency may, however, advise the requester of the name and address of such other agency.

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There are three distinct jurisdictional prerequisites to the initiation of a Special Counsel investigation under the FOIA:

- the court must order the production of agency records found to be improperly withheld,
- it must award attorney fees and litigation cost; and
- it must issue a specific "written finding" of suspected arbitrary or capricious conduct.



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A provision of the Whistleblower Protection Act of 1989 authorizes the Office of Special Counsel to investigate allegations concerning arbitrary or capricious withholding of information requested under the FOIA.



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## I. Fees under FOIA

Each agency shall promulgate regulations "specifying the schedule of fees applicable to the processing" of FOIA requests. The schedule shall conform to OMB's Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10012 (March 27, 1987). An agency's fee schedule may recover only the direct costs of search, review and duplication.

— Direct costs are those expenditures which an agency incurs in searching for, reviewing, and duplicating records. OMB Guidelines, Section 6c



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go to Fee Schedule presentation

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## **B. CATEGORIES OF REQUESTERS**

### **1. Commercial Use Request**

a request from one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester



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## **A. TYPES OF FEES**

### **1. Search**

All time spent looking for material that is responsive to a request. Searches may be done manually or by computer; by EPA staff, SEE or contractor.

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**2. Review**

**Determining whether the material is responsive to the request, determine whether records are exempt from disclosure. OMB guidelines provide that review includes "doing all that is necessary to excise [the records] and otherwise prepare them for release."**

**Only EPA staff can make disclosure determinations.**

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**3. Duplication**

**The process of making a copy of the document. Agencies "shall establish an average agency-wide per page charge for paper copy reproduction of documents. For other methods of duplication, "agencies should charge the actual direct costs of producing the documents."**

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**"Favored" requester**

**1. Educational Institutions**

**a school which operates a program of scholarly research**

**2. Non-commercial scientific institutions**

**institutions not operated on a commercial bases, operated for the purpose of conducting scientific research that does not promote a particular product; "hard" or "soft" sciences, e.g., Brookings Institute**

**3. Representatives of the news media**

**person actively gathering news for an entity that is organized and operated to public or broadcast news; freelancers.**

**4. All other requesters**

**requests for records for non-commercial use**



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## **Overview of 2007 FOIA Amendments**

**Alan D. Margolis  
Attorney-Advisor  
Office of General Counsel**

**Sixth National Training Conference on PRP Search  
Enhancement  
Portland, Oregon  
May 15, 2008**

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### **Purpose**

To answer the following questions:

- What are the new FOIA Amendments?
- How do they affect us?
- What changes can we expect under the new amendments?

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### **What are the new amendments?**

**S. 2488 – "Openness Promotes  
Effectiveness in our National  
Government Act of 2007," or the  
"OPEN Government Act of 2007," was  
signed into law by the President on  
December 31, 2007.**

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### **Sec. 3. Protection of Fee Status for News Media**

**Effective 12/31/07**

Section 3 amends

- 5 U.S.C. § 552(a)(4)(A)(ii) of the FOIA by including at the end a definition of "a representative of the news media."

- Defines the term "news"



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### **Sec. 3. Protection of Fee Status for News Media**

- Gives example of news-media entities
- Recognizes the evolution of methods of news delivery
- Includes provisions for a "freelance journalist" (bloggers may argue that they should be included in this category)

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### **Sec. 3. Protection of Fee Status for News Media**

Agencies should consult their existing fee regulations and practices to ensure compliance with this new provision.

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**Sec. 4. Recovery of Attorney Fees & Litigation Costs**

Effective 12/31/07

Section 4 amends Section 552 (a)(4)(e) by adding two new elements to the Attorney fees provision.



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**Sec. 4. Recovery of Attorney Fees & Litigation Costs**

First, section 4 defines "substantially prevailed":

"(I) a judicial order, or an enforceable written agreement or consent decree;

or

(II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial."

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**Sec. 4. Recovery of Attorney Fees & Litigation Costs**

Second, section 4 changes the method by which attorney fees and costs are paid to FOIA plaintiffs. Such amounts will no longer be paid by the Claims and Judgment Fund of the United States Treasury.

Attorney Fees and Costs will now be paid directly by the agency, using funds "annually appropriated for any authorized purpose."

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**Sec. 4. Recovery of Attorney Fees  
& Litigation Costs**

- Office of Chief Financial Officer (OCFO) is developing guidance on handling of payments within the Agency
- Increased emphasis on doing it right the first time
- Question of retroactivity



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**Sec. 5. Disciplinary Actions for  
Arbitrary and Capricious  
Rejections of Requests**

Section 5 amends § 552(a)(4)(F) of the FOIA by adding new reporting requirements for the Attorney General and the Special Counsel.

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**Sec. 5. Disciplinary Actions for  
Arbitrary and Capricious  
Rejections of Requests**

The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under this provision.

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**Sec. 5. Disciplinary Actions for  
Arbitrary and Capricious  
Rejections of Requests**

- The Attorney General shall notify the Special Counsel of each civil action described under this provision.



- The Attorney General shall annually submit a report to Congress on the number of such civil actions in the preceding year.

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**Sec. 6. Time Limits for Agencies to Act  
on Requests**  
(Effective 12/31/08)

First, section 6(a) amends  
§552(a)(6)(A) by stating that:

The 20-day period commences "on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency" designated in the agency's regulations to receive FOIA requests."

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**Sec. 6. Time Limits for Agencies to  
Act on Requests**

Reminder, an acknowledgment letter does not constitute an agency "determination" as described in § 552(a)(6)(A)(i) of the FOIA.



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**Sec. 6. Time Limits for Agencies to Act on Requests**

Section 6(a) also provides the instances when an agency may toll the 20-day period:

- The agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information
- The agency may toll the 20-day period, "if necessary to clarify with the requester issues regarding fee assessment."

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**Sec. 6. Time Limits for Agencies to Act on Requests**

Second, section 6(b) amends §552(a)(4)(A), the fee provision, by adding that:

"[a]n agency shall not assess search fees . . . if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of (6)(B) and (C), respectively) apply to the processing of the request."

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**Sec. 6. Time Limits for Agencies to Act on Requests**

"Unusual circumstances" occur when:

- There is a need to search or collect records from field offices, or other establishments;
- There is a need to search for and examine a voluminous amount of records; or
- There is a need for consultation with another agency, or with more than two components within the same agency.

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### **Sec. 6. Time Limits for Agencies to Act on Requests**

Excludes "a delay that results from a predictable agency workload of requests . . . unless the agency demonstrates reasonable progress in reducing its backlog of pending requests."

"Refusal by a person to reasonably modify the scope of a request, or arrange an alternative time frame for processing the request . . . shall be considered as a factor in determining whether exceptional circumstances exist."

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### **Sec. 8. Prohibition on Charging Fees** (EFFECTIVE 12/31/08)

- Penalizes Agency for noncompliance with Section 6 (time limit compliance)
- Penalty is no search fees for all requestors (including commercial; no duplication fees for all others)

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### **Sec. 9. Openness of Agency Records Maintained by a Private Entity** (Effective 12/31/07)

Section 9 amends § 552(f) of the FOIA, the definition provision of the FOIA, by including in the definition of "record" any information "maintained for an agency by an entity under Government contract, for the purposes of records management."

- Amendment contained within FOIA's definition of "record."

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**Sec. 9. Openness of Agency  
Records Maintained by a  
Private Entity**

Effective 12/31/07

- Is this provision limited to records management contracts?
- Pre-amendment FOIA case law concerns whether FOIA applies to records that are either generated or maintained by a government contractor.

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**Sec. 10. Office of Government  
Information Services**

Section 10 contains four organizational elements:

1. The Office of Government Information Services (NARA) with two main functions:
  - To review agency FOIA activities and recommend changes to Congress and the President; and
  - To offer mediation services to FOIA requesters as a "non-exclusive alternative to litigation" and "issue advisory opinions if mediation has not resolved the dispute."

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**Sec. 10. Office of Government  
Information Services**

2. The Government Accountability Office (GAO) conducts audits on the implementation of the FOIA and issues reports.
3. Section 10 codifies key provisions of the E.O. pertaining to Chief FOIA Officers
  - Charged with agency-wide responsibility for efficient and appropriate compliance with the FOIA;
  - Monitor implementation of the FOIA and recommend to the agency head any necessary implementations;

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**Sec. 10. Office of Government  
Information Services**

- The Attorney General, in turn, has authority to direct Chief FOIA Officers to submit reports on their agency's performance.
- Report to the Attorney General, through the head of the agency; and

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**Sec. 10. Office of Government  
Information Services**

4. Section 10 codifies key provisions of the E.O. pertaining to FOIA Public Liaisons:

- Assist in reducing delays, increasing transparency; and
- Assist in resolving disputes.

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**Sec. 12. Requirement to Describe  
Exemptions Authorizing Deletions  
of Material Provided Under FOIA**

Effective 12/31/97

Section 12 amends § 552(b) of the FOIA, the provision listing exemptions, and requires agencies to indicate directly "on the released portion of the record" the amount of information deleted by adding the additional requirement that agencies also indicate "the exemption under which the deletion is made."

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**Sec. 12. Requirement to Describe  
Exemptions Authorizing  
Deletions of Material Provided  
Under FOIA**

- Requires the Agency to specify what particular exemption was relied upon at the place where each deletion is made
- FOIA statute already required the Agency to specify the information withheld on documents (by handwritten bracket)

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### Sources of Authority/Guidance

- Statutory Authority - 5 U.S.C. § 552(a)(4)(A)
- EPA Regulations - 40 C.F.R. § 2.107
- OMB Guidelines - 52 Fed. Reg. 10012 (March 27, 1987)
- DOJ Guide to the FOIA

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### Types of Fees

1. Search
2. Review
3. Duplication
4. Other Direct Costs

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### Search Fees

- Includes all time spent looking for material that is responsive to a request.
- Searches may be done manually or by computer.
- Charge according to FOIA Fee Schedule the cost Agency incurs in the search for records

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### Search Fees

- EPA Employee Conducted Searches\*
  - Clerical Personnel - \$4.00/ 15 minutes
  - Professional Personnel - \$7.00/ 15 minutes
  - Managerial Personnel - \$10.25/ 15 minutes
- Contractor Conducted Searches
  - The actual cost of the search up to but not exceeding the cost had an EPA employee conducted the search.

\*Search fees are not assessed unless over half of the quarter hour is spent searching for responsive records

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### Review Fees

- Time spent determining whether the material is exempt from disclosure.
- OMB guidelines provide that review includes "doing all that is necessary to excise [the records] and otherwise prepare them for release."
- Does not include time spent resolving general legal or policy issues regarding the applicability of particular exemptions or reviewing on appeal exemptions that are applied.
- Only 'Commercial' requesters are charged a Review fee.

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### Duplication Fees

- The process of making a copy of the document.
- Photocopies – 15 cents/ page
- Computer Printout – 15 cents/ page
- Other Electronic Duplicates – Direct Cost

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### Other Charges

- Charges for "special" services done at the discretion of the Agency.
- Special Handling or Delivery – Direct Cost
  - First Class Mail is only obligation
- Certifying Records – Direct Cost

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### Assurance of Payment

Before you commence work on a request, try to estimate the amount of search time, review time and number of pages that may be responsive to the request. If the cost is going to exceed \$25,

**GET THE REQUESTER'S ASSURANCE OF PAYMENT FOR THE ESTIMATE COST.**

Do no work on the request until you've received a written assurance of payment for the estimate cost.

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### Fee Categories

- Commercial Use Fee Category
- "Favored" Fee Category
  - Educational Institutions
  - Non-commercial Scientific Institutions
  - Representatives of the News Media
- All Other Fee Category

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## Commercial Use Fee Category

- **Commercial Use Requester**
  - A requester who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester, or the person on whose behalf the request is being made, which can include furthering those interests through litigation.
- **Use of the requested records – not the identity of the requester – controls the determination**
  - **Example:** A non-profit organization seeking records concerning an EPA enforcement action at the organization's facility.
- **Assess all search, review and duplication charges, even if no responsive records are found or released.**

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## Frequently Asked Questions

**Q:** Into which fee category should a request submitted by an attorney be placed?

**A:** It depends. If the attorney is making a request on behalf of another, look to the client to determine the fee category. If the attorney is making the request for him/herself, it depends on the "use" to which the requested records will be put.

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## "Favored" Fee Category: Educational Institution

- **Educational Institution Requester**
  - School which operates a program of scholarly research.
- **Requester must be made on behalf of the educational institution itself.**
- **The first 100 pages of duplication are free. No charge for search time and review time.**

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## Frequently Asked Questions

**Q** In which fee category should a request from a student be placed?

**A:** Proper fee category for requests from students is generally the "other" fee category. A student who makes a request in furtherance of the completion of a course of instruction is carrying out an individual research goal and not a scholarly research goal of an institution. If, however, the student was making the request on behalf of the institution; such that the request was made on university stationery and for an official university purpose, then the request would appropriately be placed in the Educational Institution fee category.

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## "Favored" Fee Category: Representative of the News Media

- Representative of the News Media Requester
  - Any persons actively gathering news for entities that are organized and operated to publish or broadcast news to the public.
- "News" means information about current events or information that would be of current interest to the public.
- The first 100 pages of duplication, search time, and review time are free.

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## Frequently Asked Questions

**Q:** Can public interest groups qualify for placement in the representative of the news media category?

**A:** It depends. You should look at the mission of the organization and consider whether the mission of the organization is primarily to gather information of potential interest to a segment of the public, use its editorial skills to turn the raw material into a distinct work, and distribute that work to an audience.

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### All Other Fee Category

- Requesters who do not fit within the Commercial Fee Category or the "Favored" Fee Category are placed in the 'OTHER' Fee Category.
- The first 100 pages of duplication and the first 2 hours of search time is free. No charge for review time.

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### Assessing FOIA Fees By Requester Fee Category

	Commercial	Favored	Other
Search	YES	NO	YES*
Review	YES	NO	NO
Duplication	YES	YES	YES
Deductions 100 pages free	NO	YES	YES

FAVORED = Media, Educational/Scientific Institutions Requesters

\*OTHER requesters are NOT charged for the first 2 hours of search time and first 100 pages. Charge for any remaining search time and page count balance

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### No Fees

- Total fee is \$14 or less
- Records about one's self in a Privacy Act System of Records
- Preparing/reviewing appeal response
- Resolving legal or policy issues related to exemptions
- Official request from Congress
- Requests from another federal agency
  - Not FOIA request
- EPA contractor or grantee, if required for performance

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### Other Fee Issues

- **Assurance of Payment**
  - Do not process FOIA request if estimated fee exceeds \$25 until requester gives assurance of payment.
- **Advance Payments**
  - May not require advance payment unless
    - Requester has previously failed to pay a properly assessed fee in a timely manner (i.e. within 30 days of billing), or
    - Estimated fee exceeds \$250 and the requester does not have a history of timely payment.
- **Aggregating Requests**
  - If EPA reasonably believes that a requester or a group of requesters acting together divided a request into a series of requests to avoid fees, EPA may aggregate request and charge fees accordingly

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### Fee Waiver Statutory Standard

Documents shall be furnished without any charge [or at a reduced rate] . . . If disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. 40 C.F.R. § 2.107(l)(1).

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### Fee Waiver Factors

- Disclosure of the responsive documents must:
  - be in the public interest, and
  - not be primarily in the requester's commercial interest.
- The requester bears the burden of showing that these requirements are met.

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### Identification of the Public Interest

1. Does the subject of the request concern the operations or activities of the federal government?
2. Are the records to be disclosed meaningfully informative of the subject matter of the request?
3. Will disclosure contribute to public understanding?
4. Will disclosure contribute significantly to public understanding?

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### Frequently Asked Questions

- Q:** Does a requester's intent to place the documents on the requester's website satisfy the public dissemination requirement?
- A:** No. Placement of a document on a website is passive dissemination. To satisfy this requirement, the requester must express its intention to actively disseminate the information through, for example, press releases, its contacts with the media, and newsletters.

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### Measurement of the Commercial Interest, If Any

1. Does the requester have a commercial interest, i.e., one that furthers the commercial, trade, or profit motive of the requester?
2. If yes, which is greater, the identified public interest or the identified commercial interest?

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### Frequently Asked Questions

**Q:** Do public interest groups automatically qualify for a fee waiver?

**A:** No. Public interest groups, just like all other requesters, must demonstrate that their request is in the public interest, and not primarily in its commercial interest.

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### Frequently Asked Questions

**Q:** If a person/entity has previously received a fee waiver are they automatically entitled to a future fee waiver?

**A:** No. All decisions to grant fee waivers are made on a case-by-case basis, regardless of whether this agency or another agency has granted the requester a similar fee waiver in the past.

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### Fee Schedules & Fee Waivers

EPA FOIA Conference  
Washington, DC  
October 18, 2005

Sara E. McGraw  
Attorney-Advisor  
EPA Office of General Counsel  
202-564-2565

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## NOTES



## **Electronic PRP Search Resources**

## Electronic Sources of Information

Carlyn Winter Prisk, R3  
Herb Miller, R4  
Lance Vicek and Margaret Herring, R5  
Courtney Kudla, R6  
Eric French, HQ

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### Why Use Electronic Sources of Information?

- Limited funding.
- Limited time and manpower.
- Deadlines.
- Efficiency.
- Economy.

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### What Information is available Electronically?

- Information on assets.
- Financial information on public companies.
- Information on personal property.
- Corporate information
  - Information on corporate officers and directors
  - History
  - Status.

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### **What Information is available Electronically?**

- Information on individuals.
- Information on liabilities (liens, judgments, mortgages, UCC filings, law suits, etc.).
- Deeds and title information.
- PRPs' involvement at other Superfund Sites (CERCLIS and List 11).

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### **PRPIIS**

- Potentially Responsible Party Internet Information Sources
- Created Summer 2007 and updated as often as necessary.
- Compilation of Sites used by the PRP Search Enhancement team and their co-workers.
- 28 pages, divided into categories and hotlinked.
- Other sites you like? Let one of the team members know and we'll add it.

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Edit View Document Tools Window Help	
1 / 27 79.1% F1	
<b>Potentially Responsible Party Internet Information Sources (PRPIIS)</b>	
<b>Table of Contents</b>	
<b>Business Information .....</b>	<b>2</b>
<b>EPA Resources - Public .....</b>	<b>7</b>
<b>EPA Resources - Internal .....</b>	<b>9</b>
<b>Directories .....</b>	<b>10</b>
<b>Financial Information .....</b>	<b>13</b>
<b>Government Agencies .....</b>	<b>14</b>
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<b>Maps and Aerial Photos .....</b>	<b>23</b>
<b>Real Property .....</b>	<b>25</b>
<b>Technical Information .....</b>	<b>26</b>
<b>* Denotes a fee for service</b>	
<b>Page 1</b>	

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2 / 27 79.1% Find			
Potentially Responsible Party Internet Information Sources (PRPIIS)			
Business Information			
Annual Reports and SEC filings	Annual Report Service*	<a href="http://www.annualreportservice.com/">http://www.annualreportservice.com/</a>	Free directory of online annual reports.
	Report Gallery	<a href="http://www.reportgallery.com/">http://www.reportgallery.com/</a>	Search and browse reports.
	10K Wizard*	<a href="http://www.10KWizard.com">http://www.10KWizard.com</a>	Search for company SEC filings. Subscription required.
	U.S. Securities and Exchange Commission	<a href="http://www.sec.gov/edgar/searchedgar/webusers.htm">http://www.sec.gov/edgar/searchedgar/webusers.htm</a>	Company information, shareholder information, and SEC filings including annual reports.
Bankruptcy	American Bankruptcy Institute*	<a href="http://www.abiworld.org/">http://www.abiworld.org/</a>	Numerous online resources including headlines, news, meeting information, court opinions and other bankruptcy info. Subscription is required.
	Public Access to Court Electronic Records (PACER)*	<a href="http://pacer.psc.uscourts.gov/">http://pacer.psc.uscourts.gov/</a>	Access to federal court documents. Registration is required. Fees are generally \$.08 a page.
* Denotes a fee for service		Page 2	

## **Business Information**

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## **U.S. Securities and Exchange Commission**

- Locate historical and real time information on publicly traded corporation.
- Edgar.
- <http://www.sec.gov/edgar/searchedgar/webusers.htm>.

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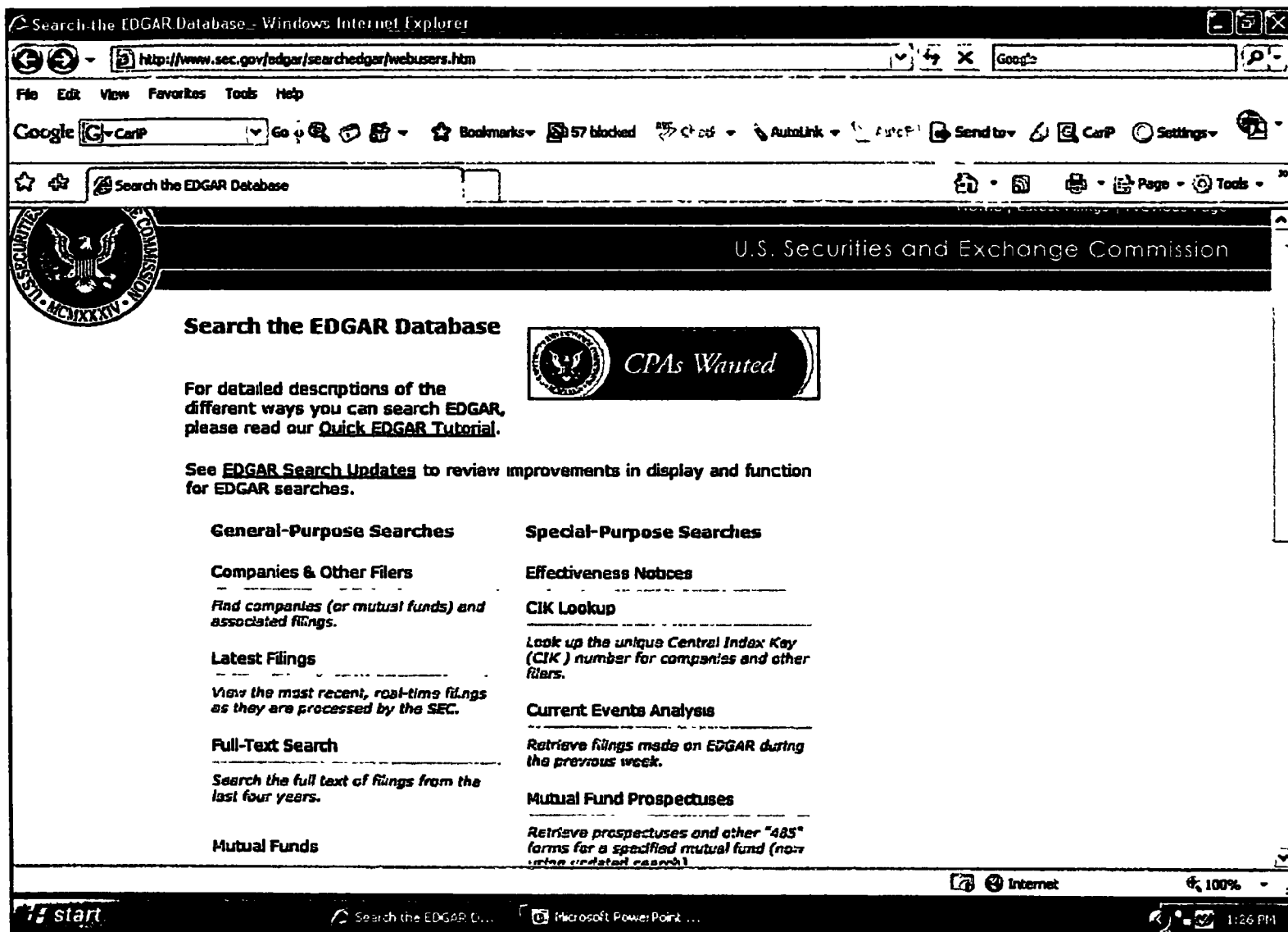
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http://www.sec.gov/edgar/searchedgar/companysearch.html

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EDGAR Company Search

Page

Tools



## EDGAR Company Search

From this page, you can search the EDGAR database for company information, including real-time filings. If more than one company name matches your search keyword(s), you will be presented with a list of possible matches from which to pick. Company filings are available from 1994. See also our [EDGAR Full-Text Search](#).

Enter your search information:

Company name:

or CIK or Ticker Symbol:

(Tickers for 10000 largest publicly traded companies)

(Central Index Key)

or File Number:

or State/Country:

(two-letter abbreviation)

and/or SIC:

and Ownership Forms 3, 4, and 5?

☒ Include ☐ Exclude ☐ Only

Find Companies

Notes

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Home | EDGAR Search Home | Latest Filings | Previous Page

U.S. Securities and Exchange Commission

**HONEYWELL INTERNATIONAL INC (0000773840)**  
 C: 3714 - MOTOR VEHICLE PARTS & ACCESSORIES  
 State location: NJ | State of Inc.: DE | Fiscal Year End: 1231  
 Primary: ALLIED SIGNAL INC (filings through 1994-08-15)  
 Primary: ALLIEDSIGNAL INC (filings through 1999-11-12)

To limit filing results, enter  
 form type or data (as 2002/05/23).  
  
 Form Type   
 Prior to   
 Ownership? ☒ Include ☐ Exclude ☐ Only  
 40 Entries

Business Address: 101 COLUMBIA RD  
 PO BOX 4000  
 MORRISTOWN NJ 07962  
 9734552000  
 Mailing Address: 101 COLUMBIA RD P O BOX 4000  
 101 COLUMBIA RD P O BOX 4000  
 MORRISTOWN NJ 07962

y to Descriptions  
 Paper] Paper filings are available by film number.  
 Cover] Filing contains an SEC-released cover letter or correspondence.

ns 1 - 40 ☒ XML

Form	Formats	Description	Filing Date	File/Film N
	<a href="#">[html][text]</a> 6 KB	Statement of changes in beneficial ownership of securities Acc-no: 0000930117-08-000395	2008-03-31	
	<a href="#">[html][text]</a> 5 KB	Statement of changes in beneficial ownership of securities Acc-no: 0000930117-08-000394	2008-03-31	
	<a href="#">[html][text]</a> 6 KB	Statement of changes in beneficial ownership of securities Acc-no: 0000930117-08-000393	2008-03-31	
	<a href="#">[html][text]</a> 5 KB	Statement of changes in beneficial ownership of securities Acc-no: 0000930117-08-000392	2008-03-31	

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Internet Explorer browser window showing the URL <http://www.sec.gov/cgi-bin/srch-edgar>. The browser's address bar, menu bar (File, View, Favorites, Tools, Help), and toolbar are visible. The page title is "Search Historical SEC EDGAR Archives".

The page header includes the U.S. Securities and Exchange Commission logo and the text "U.S. Securities and Exchange Commission". Navigation links for "Home" and "Previous Page" are present.

The main content area contains a welcome message:

Welcome to the archive of historical EDGAR documents. This search allows you to enter complex queries to retrieve all but the most recent day's EDGAR filings (from 1994 through 2008). If a simple search will suffice or if you need real-time, up-to-the-minute filings, please visit the [main EDGAR Search page](#) for other choices.

Below the welcome message is a search form labeled "EDGAR Search: Enter a Search String". The form includes a "Search" button and two dropdown menus for "Start" and "End" dates, both set to "2008".

Below the search form, there is a link to "Search Help" and a paragraph explaining the index:

The index is a full-text index of the [header information](#) contained in each document. Please enter your [query](#) in the search dialog box (above).


Below this paragraph, the word "YES" is displayed.

A list of bullet points provides additional information:

- The SEC does not require companies that are raising less than \$1 million under Rule 504 of Regulation D to be "registered" with the SEC, but these companies are required to file a "Form D" with the SEC. The Form D serves as a brief notice that provides information about the company and the offering. To determine whether Form D has been filed or to obtain a copy, please refer to our Fast Answer: [How to Request Public Documents](#).
- [Here](#) is a sample header file.
- [General information about EDGAR](#) is available.
- [An introduction to EDGAR search options and techniques](#) is also available.
- For detailed information on formulating searches, look [here](#).

The footer of the page shows the Internet Explorer status bar with "Internet" and "100%" zoom level.























http://www.sec.gov/cgi-bin/srch-edgar


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 Search Historical SEC EDGAR Archives

    Page  Tools



Home | Previous Page

## U.S. Securities and Exchange Commission

Welcome to the archive of historical EDGAR documents. This search allows you to enter complex queries to retrieve all but the most recent day's EDGAR filings (from 1994 through 2008). If a simple search will suffice or if you need real-time, up-to-the-minute filings, please visit the [main EDGAR Search page](#) for other choices.


EDGAR Search: Enter a Search String  Start:  End:

... "health and life") See [Search Help](#)

index is a full-text index of the [header information](#) contained in each document. Please enter your [query](#) in the search dialog box (above).





































### NOTES

- The SEC does not require companies that are raising less than \$1 million under Rule 504 of Regulation D to be "registered" with the SEC, but these companies are required to file a "Form D" with the SEC. The Form D serves as a brief notice that provides information about the company and the offering. To determine whether Form D has been filed or to obtain a copy, please refer to our Fast Answer: [How to Request Public Documents](#).
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- [An introduction to EDGAR search options](#) and techniques is also available.
- For detailed information on formulating searches, look [here](#).

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http://www.sec.gov/cgi-bin/srch-edgar?text=Honeywell+International&first=2006&last=2008

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## Dun and Bradstreet Reports

☐ <http://www.dnb.com/us/>

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http://www.dnb.com/us/

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Government Professionals		> Learning Center	> Alliances

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**Company Search Results**

Don't see the company you are looking for? Try an [advanced search](#).  
Looking for your own company and it is not listed? You may need to [Get a D-U-N-S number](#).

< Previous	Showing 1 of 1	Sort by: <b>Relevance</b>	Sort	Next >
BR	<b>HONEYWELL INTERNATIONAL INC</b> Also Traded as HONEYWELL	278 QUIGLEY BLVD, NEW CASTLE, DE	[Select]	
BR	<b>HONEYWELL INTERNATIONAL INC</b> Also Traded as HONEYWELL	6100 PHILADELPHIA PIKE, CLAYMONT, DE	[Select]	
	<b>HONEYWELL INC.</b>	1110 DRUMMOND PLZ, NEWARK, DE	[Select]	
	<b>HONEYWELL INC.</b>	1409 FOULK RD STE 102, WILMINGTON, DE	[Select]	
	<b>HONEYWELL ADVANCED COMPOSITES INC</b> Also Traded as HONEYWELL	400 BELLEVUE RD, NEWARK, DE	[Select]	
	<b>HONEYS</b>	824 N MARKET ST, WILMINGTON, DE	[Select]	



## Dun & Bradstreet Reports

- Dun & Bradstreet (D&B) Reports are accessible through direct purchase from D&B or through contract data bases such as AutoTrak (formerly Choicepoint) and Lexis-Nexis
- D&B is a private firm that collects and organizes information about public and privately held businesses
- Sources include public records and self-reporting.
- D&B does some verification of self reported information.

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## Dun & Bradstreet Reports

- D&B Reports include –
  - Business addresses, offices and facilities;
  - Officers and Number of employees;
  - Type of business and SIC code;
  - Gross sales;
  - Payment history compared to other firms in industry;
  - Relationships to parent and subsidiary co.,
  - Each company is assigned a unique Duns #

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## Dun & Bradstreet Reports

- Exercise caution in use of D&B reports.
- Information provided through self-reporting may be incorrect, misrepresented or out-of-date.
- A caution flag is sporadic filing or minimal information.

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## Hoovers.com

- ▣ A Dun and Bradstreet company.
- ▣ Provides information on many companies, including website, contact, officers, and some financials.
- ▣ Good starting point.
- ▣ Can order D & B reports as well.

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Honeywell Companies Search

## Search Results

Our search for "Honeywell" returned these results:

10 Hoover's company name matches

New! Hoover's offers free information about:

26 D&B In-Depth North American matches

129 D&B International matches

Hoover's subscribers can also access:

731 D&B Basic North American matches

### Hoover's Company Name Matches

Company Name	Location	Sales (\$mil)	Company Type	Hoover's Reports
<u>Honeywell International Inc.</u>	Morristown, NJ, United States	\$34,589	Public (NYSE: HON)	<a href="#">Buy Report</a>
<u>Honeywell Inc.</u>	Business Boneyard   Subscribers Only			<a href="#">Buy Report</a>
<u>Honeywell Aerospace</u>	Phoenix, AZ, United States	-	Business Segment	<a href="#">Buy Report</a>
<u>DEMCO</u>	Business Boneyard   Subscribers Only			<a href="#">Buy Report</a>
<u>Honeywell Specialty Materials</u>	Morristown, NJ, United States	-	Business Segment	<a href="#">Buy Report</a>
<u>Honeywell Electronic Materials</u>	Sunnyvale, CA, United States	-	Business	

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Honeywell International - Company Overview - Hoover's Page Tools

## Honeywell International Inc. • Morristown, NJ, United States • (NYSE: HON) Print E-Mail

### 360° Company Information

Company Overview	Jobs
Company Description	Competition ▾
Locations	News & Press Releases
Executives	Industry Videos
Financials ▾	more pages ▾

### Tools:

- Download Company Data
- Watch This Company
- Find Similar Companies
- Build Custom Report
- more tools ▾

### What Additional Honeywell International Information Is Available From Hoover's?

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### Company Description

Hoover's coverage by [James Bryant](#)

Jet engines and thermostats seem worlds apart, but they're Honeywell International's bread and butter. The company's largest [business](#) segment,...

[Full Company Description for Honeywell International](#)

[Headquarters:](#)  
101 Columbia Rd.  
Morristown, NJ 07962-1219  
United States [\(Map\)](#)

[More Honeywell International Locations & Contact Info](#)

### Key Honeywell International Financials

Company Type	Public - NYSE: <a href="#">HON</a>
	Main Headquarters
Fiscal Year-End	December
2007 Sales (mil.)	\$34,589.0
2007 Employees	122,000

### Honeywell International Executives

sponsored by [genius.com](#)

Title	Name & Bio	Contact
Chairman and CEO	<a href="#">David M. Cote</a>	<a href="#">Network</a>   <a href="#">E-mail</a>
SVP and CFO	<a href="#">David J. (Dave) Anderson</a>	<a href="#">Network</a>   <a href="#">E-mail</a>
SVP Technology and Operations	<a href="#">Larry E. Kittelberger</a>	<a href="#">Network</a>   <a href="#">E-mail</a>

[More Honeywell International Executives](#)

### Are You Listed On Hoover's?

Hoover's subscribers also get access to information on people who have self-listed with this company. Subscribers also have the option to add themselves to this company record.

[Network With People At Honeywell International](#)

Tools from our advertising partners:

[world trade PA](#)

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## **Mergent Online**

- U.S. Company Data.
- International Company Data.
- U.S. and International Annual Reports.
- Expanded, in-depth, and detailed descriptions of public companies as they appear in the Mergent Manuals (fka Moody's Manuals), which were first published in 1918.

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Subscription is needed to view this new and powerful module

- Search and generate specific list of targeted individuals with company name and address using various search criteria such as age, salary, education, current title and more.
- Ability to create individual or multiple executive reports

**Corporate Calendar**

- Data points include Board Meeting Announcements, Earning Announcements and Conference Calls
- Ability to view all data or at a company level. Information can be filtered by various data points
- View mission critical global equity pricing data in bold charts that show vital facts and figures in a powerful manner

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An Internet-accessible subscription service covering 10,000 public companies and their SEC filings

**International Company Data**  
More companies from more countries than any other international database, with global searching across databases

**U.S. Annual Reports**  
Easy-to-access current and historical annual reports on 10,000 U.S. public companies, all in PDF image format that provides faster download and allows viewing the document

**International Annual Reports**  
Hard-to-get, timely annual reports on all companies in our International Company Data database, available in PDF image formats

**Corporate Visibility**  
Expanded, in-depth, and detailed descriptions of public companies as they appear in the Mergent Manuals (aka Moody's Manuals), which were first published in 1918.

Internet

## **National Association of Secretaries of State**

■ Information about corporations and  
business filings is accessible through the  
web page of the National Association of  
Secretaries of State.

■ <http://www.nass.org/busreg/busreg.html>

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http://nass.org/index.php?option=com\_content&task=blogcategory&id=32&Itemid=241

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NASS will not share your information with any other organization. Click [here](#) to see our privacy policy.

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COMPANY FORMATION TASK FORCE




[NASS Company Task Force Report & Recommendations \(July 2007\)](#)

[Letter from Senator Levin to NASS regarding Task Force Recommendations \(11/13/2007\)](#)

[Here](#)

CORPORATE REGISTRATION




Most NASS member offices handle the registration of domestic and/or foreign corporations (profit and non-profit). Transactions include filings of incorporation, partnerships (including limited partnerships), articles of merger/consolidation, and articles of dissolution. Fees vary from state to state.

View state business registration pages and corporate name databases by selecting a desired state/territory from the drop down menu below.


Choose Your State

UCC FILINGS



Uniform Commercial Code (UCC) filings allow creditors to notify other creditors about a debtor's assets used as collateral for a secured transaction. UCC liens filed with secretary of state offices act as a public notice by the "creditor" of the creditor's


NOTARY SERVICES



Nearly all secretaries of state oversee the registration of notaries public. NASS also has its own [Notary Public Administrator \(NPA\) Section](#).

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National  
Association of  
Secretaries of  
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CONTACT ROSTER

To view more information, please click on the state below. Click [2008 Membership Roster](#) (71.77 KB) to download a pdf file of the NASS secretary of state contact sheet.

<b>ALABAMA (R)*</b> <a href="#">Hon. Reth Chapman</a> Secretary of State - E	<b>ALASKA (R)*</b> <a href="#">Hon. Sean Parnell</a> Lieutenant Governor - E	<b>ARIZONA (R)*</b> <a href="#">Hon. Jan Brewer</a> Secretary of State - E	<div>Legend</div> <p>A= Appointed 10, including DC (+1 w/ Puerto Rico)</p> <p>E= Elected 38 (+3 w/ Guam, USVI &amp; Am Samoa)</p> <p>LEG= Selected by Legislature 3</p> <p>Republicans= 24 Democrats= 27</p> <p>Men= 33 Women= 18</p> <p>*= Chief Election Official (38 total)</p> <p>Appointed Secretary CEOs= 4</p>
<b>ARKANSAS (D)*</b> <a href="#">Hon. Charlie Danclon</a> Secretary of State - E	<b>CALIFORNIA (D)*</b> <a href="#">Hon. Debra Bowen</a> Secretary of State - E	<b>COLORADO (R)*</b> <a href="#">Hon. Mike Coffman</a> Secretary of State - E	
<b>CONNECTICUT (D)*</b> <a href="#">Hon. Susan Bysiewicz</a> Secretary of State - E	<b>DELAWARE (D)</b> <a href="#">Hon. Harriet Smith Windsor</a> Secretary of State - A	<b>FLORIDA (R)*</b> <a href="#">Hon. Mark Browning</a> Secretary of State - A	
<b>GEORGIA (R)*</b> <a href="#">Hon. Karen Handel</a> Secretary of State - E	<b>HAWAII (R)</b> <a href="#">Hon. James "Duke" Aiona</a> Lieutenant Governor - E	<b>IDAH0 (R)*</b> <a href="#">Hon. Ben Ysursa</a> Secretary of State - E	
<b>ILLINOIS (D)</b>	<b>INDIANA (R)*</b>	<b>IOWA (D)*</b>	


Internet

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## Coordinated Legal.com

■ Similar to NASS, provides a link to the Secretary of State in each State as well as information about the cost.

■ <http://www.coordinatedlegal.com/SecretaryOfState.html>

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http://www.coordinatedlegal.com/SecretaryOfState.html

Google

FileEditViewFavoritesToolsHelp

GoogleGoBookmarks57 blockedCheckAutoLinkAutoLSend toSettings

Secretaries of State - Corporate Information - All StatesPageTools



# COORDINATED LEGAL TECHNOLOGIES

## SECRETARIES OF STATE

Find Corporate Information and Online Searchable Databases


[LINKS TO OTHER RESOURCES](#) | [DISCLAIMER](#) |

### About This Site

If you need to do corporate searches, you've come to the right place. Coordinated Legal Technologies has compiled these links for legal professionals and others who are looking for quick access to the corporate information available in online searchable databases maintained by the Secretary of State for any given state.

The extent of information available in these online databases varies from state to state. In addition to corporate status and names of designated agents for service, the state may also offer searches by officer and director names, and UCC filing information. The data may also encompass limited partnerships or limited liability companies. Please be sure to check the hosting state entity for the specifics of the type of content offered and the time periods covered.

STATE WEB SITES	SECRETARY OF STATE WEB SITES	ON-LINE CORPORATE INFO SEARCHES
		<a href="#">Imaging System</a>

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<a href="#">COLORADO</a>	<a href="#">CO Secretary of State</a>	<a href="#">Open Tradenames</a> UPDATED <a href="#">UCC Search</a> UPDATED
<a href="#">CONNECTICUT</a>	<a href="#">CT Secretary of State</a> UPDATED	<a href="#">UCC &amp; Corporations Data</a>
<a href="#">DELAWARE</a>	<a href="#">DE Secretary of State</a> <a href="#">Div of Corporations</a>	<a href="#">General Information Name Search</a> Free <a href="#">DirectWeb Corporate Information</a> SS Fee based
<a href="#">FLORIDA</a>	<a href="#">FL Department of State</a>	<a href="#">Corporate/LP/LLC Inquiry</a> <a href="#">More DB Links</a> <a href="#">UCC Search</a>
<a href="#">GEORGIA</a>	<a href="#">GA Secretary of State</a> <a href="#">Corporation Div.</a>	<a href="#">Search Corporations By Entity or Agent</a> UPDATED <a href="#">Search the Corporations by Officer</a> UPDATED <a href="#">Search the Corporations by Reg Agent</a> NEW <a href="#">Trademarks and Service Marks</a>
<a href="#">HAWAII</a> UPDATED	<a href="#">HI Dept of Commerce &amp; Consumer Affairs</a> UPDATED	<a href="#">Business Registration Online Services</a> including <a href="#">Searches</a> UPDATED
<a href="#">IDAHO</a>	<a href="#">ID Secretary of State</a>	<a href="#">Business Entity Status Search</a> <a href="#">UCC/Lien Search</a>
<a href="#">ILLINOIS</a>	<a href="#">IL Secretary of State</a> <a href="#">Business Services</a> Updated	<a href="#">Search Corporate/LLC Database</a> Updated <a href="#">UCC/Lien Search</a> Added
<a href="#">INDIANA</a>	<a href="#">IN Secretary of State</a>	<a href="#">Business Entity Name Search</a> <a href="#">Name Availability</a> <a href="#">Fee-based Special Searches</a> SS Fee <a href="#">UCC</a> (Search/Browse UCC database)
<a href="#">IOWA</a>	<a href="#">IA Secretary of State</a> <a href="#">Business Services</a>	<a href="#">Search Databases</a> (includes links for corporate, UCC, Notary & Financial Disclosure)
<a href="#">KANSAS</a>	<a href="#">KS Secretary of State</a> <a href="#">Business Services</a>	<a href="#">Business Entity Search</a> <a href="#">UCC Secured Party Search</a> SS Fee

- Most, but not all, states maintain records of corporations, business organizations and UCC filings in the Office of the Secretary of State.
- Different states provide more or less information - some states provide only extracts.
- Some states have scanned records and they can be downloaded, sometimes for nothing, sometimes at a modest cost.

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- The Delaware Secretary of State now posts some information on its web page.
- Additional information can be ordered for cost from the SOS or from Autotrack.

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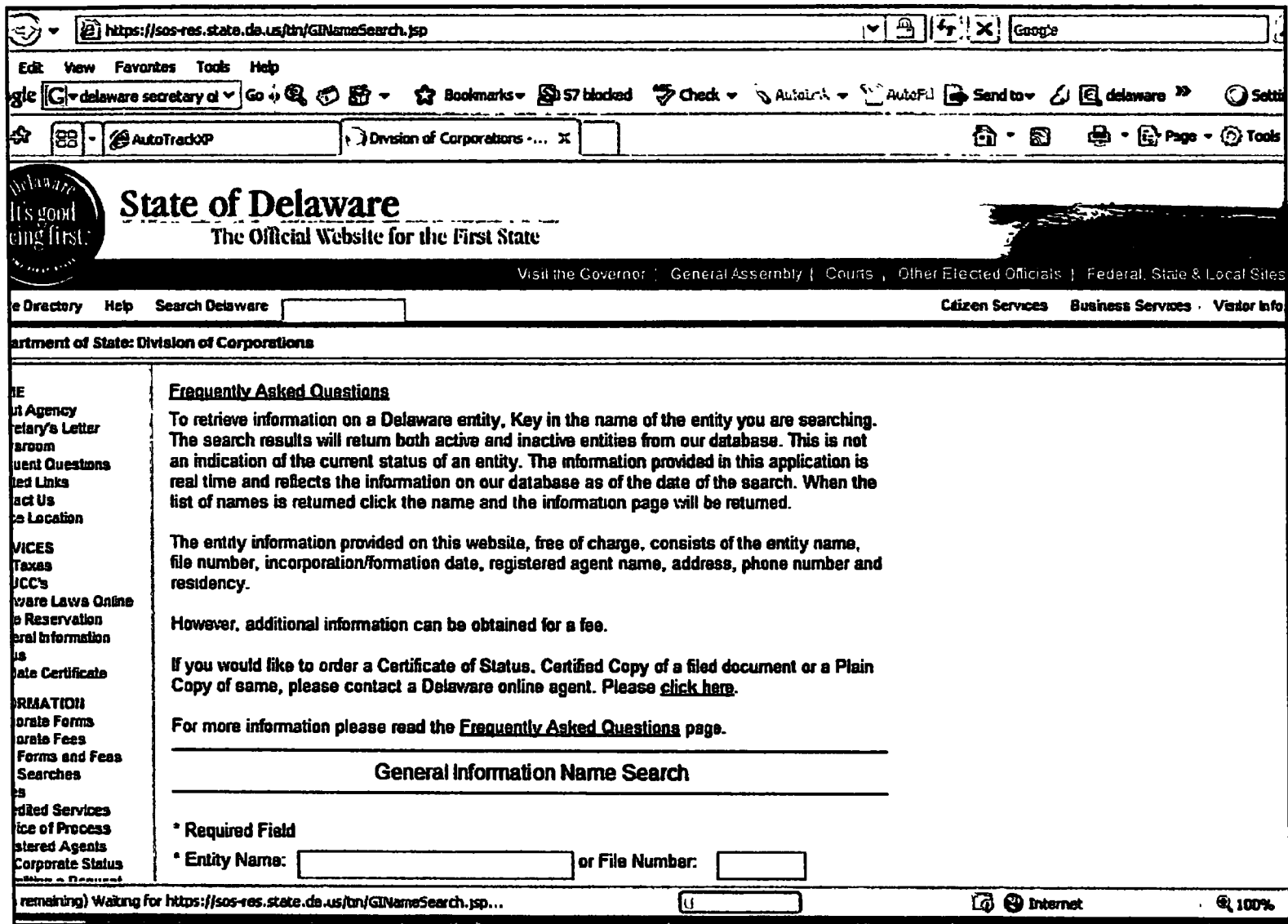
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Browser address bar: <https://sos-res.state.de.us/dm/controller>

Navigation bar: Edit View Favorites Tools Help


Search bar:  Go

Bookmarks: 57 blocked Check AutoLink AutoFL Send to delaware

AutoTrackOP Division of Corporations - ... X

Page: Page Tools

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# State of Delaware

The Official Website for the First State

Visit the Governor | General Assembly | Courts | Other Elected Officials | Federal, State & Local Sites

Directory Help Search Delaware

Citizen Services Business Services Visitor Info

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Department of State: Division of Corporations

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Location

VICES

Taxes

JCC's

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RIATION

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Forms and Fees

Searches

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Corporate Status

Division of Corporations

## Frequently Asked Questions

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### General Information Name Search

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5 Matches found

\* Required Field

\* Entity Name:  or File Number:

This field is not case sensitive.

FILE NUMBER	ENTITY NAME
0800769	<u>HONEYWELL INTERNATIONAL ASIA PACIFIC INC.</u>
2139127	<u>HONEYWELL INTERNATIONAL FINANCE CORPORATION</u>
0925677	<u>HONEYWELL INTERNATIONAL INC.</u>
2051772	<u>HONEYWELL INTERNATIONAL INC.</u>
3108076	<u>HONEYWELL INTERNATIONAL INC.</u>

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https://sos-res.state.de.us/fm/controller

Google

Edit View Favorites Tools Help

Google [G] delaware secretary of state Go [Q] [S] Bookmarks [S] 57 blocked [C] Check [A] AutoLink [A] AutoFill [S] Send to [S] delaware [S] Settings

[S] [S] AutoTrack [S] Division of Corporations [X] [S] [S] [S] [S] Page [S] Tools

Division of Corporations

[Frequently Asked Questions](#) [View Search Results](#)

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### Entity Details

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**THIS IS NOT A STATEMENT OF GOOD STANDING**

<u>File Number:</u>	0925677	<u>Incorporation Date / Formation Date:</u>	11/04/1981 (mm/dd/yyyy)
<u>Entity Name:</u>	HONEYWELL INTERNATIONAL INC.		
<u>Entity Kind:</u>	CORPORATION	<u>Entity Type:</u>	GENERAL
<u>Residency:</u>	DOMESTIC	<u>State:</u>	DE

### REGISTERED AGENT INFORMATION

<u>Name:</u>	THE CORPORATION TRUST COMPANY		
<u>Address:</u>	CORPORATION TRUST CENTER 1209 ORANGE STREET		
<u>City:</u>	WILMINGTON	<u>County:</u>	NEW CASTLE
<u>State:</u>	DE	<u>Postal Code:</u>	19801
<u>Phone:</u>	(302)658-7581		

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

[Submit]

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https://atxp.choicepoint.com/at/DECorps/s\_Decorps.asp?UserChoice=1

Edit View Favorites Tools Help

Google [C] de Go [57 blocked] Check AutoLink AutoFD Send to de Settings

Delaware Corporations S... X Division of Corporations - Onl...

**AutoTrackXP®** Logged In: CARLYN PRISK Log Out

Home | Results Manager | Search Catalog | Training | Help | My Account Reference: None Entered

# Delaware Corporations

Search Methods

Business Name, Search Type, File Number

Search Fields

Business Name:  Example: ChoicePoint Inc.

Search Type:  Example: Axtiva Delaware Companies

File Number:  Example: 0000000

Search S

Home | Results Manager | Search Catalog

Session Log | Permissible Use | Live Chat | Product Feedback | Contact Us

Privacy Policy | Legal | User Access Policy

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## Foreign Corporation

- Occasionally need to obtain information about non-American based companies as well.
- More difficult to find info, but still out there.
- <http://www.mergentonline.com/>.

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## Canadian Companies

- Incorporation info (similar to SOS data)
- [http://strategis.ic.gc.ca/epic/site/cd-dgc.nsf/en/h\\_cs03750e.html?OpenDocument](http://strategis.ic.gc.ca/epic/site/cd-dgc.nsf/en/h_cs03750e.html?OpenDocument)

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http://stratexis.ca/epic/2e/cd-dgc.nsf/enh\_cs03750e.html?OpenDocument

Google

Edit View Favorites Tools Help

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Bookmarks 57 blocked Check AutoLink Auto Send to Settings

Corporations Canada - Search For a Federal Corporat...

Page Tools

Online Filing

Choosing A Name

Search for a Federal Corporation

Forms, Policies, Fees and Legislation

General Information

FAQ

Other Related Sites

Corporations Canada allows users to search the federal corporations database free of cost. Searches can be performed by Corporation Number, Corporate Name, Creation Date, City, Province, Corporation Status or Act. Please note that, if you just completed a transaction with Corporations Canada, it may take several hours to update the database.

Please select one or more fields below to search and press submit:

Search Tips

Corporation Number:

Corporate Name:

Search Options: ☒ All words ☐ Any words ☐ This phrase

Refined Search: ☒ Word variation ☐ Exact word match

City:

Province:

Corporation Status:

Corporation Act:

Sort Results By: ☒ Relevance  
☐ Corporation Number  
☐ Corporate Name

Creation Date is   YYYY/MM/DD

and is   YYYY/MM/DD

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## Canadian Companies

■ Business info (similar to Hoover data).

■ <http://www.ic.gc.ca/app/ccc/srch/cccBscSrch.do?lang=eng&prt=1>.

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Internet Explorer browser window showing the Industry Canada website.

Address bar: <http://www.ic.gc.ca/ccc/srch/ccc/srch.do?lang=eng&ortl=1>

Search bar:  (Contains: lawrence county, pa)

Navigation bar: Canadian Company Capabilities Search

Language: Français | Home | Contact Us | Help | Search | canada.gc.ca

Industry Canada > Company Directories > Canadian Company Capabilities

**Industry Canada**  
Programs and Services

**CCC**  
Home  
Search  
Browse  
Register  
Update  
Learn More  
Registration Policy  
No Endorsement  
Disclaimer  
Terms of Use  
Help

**Canadian Company Capabilities (CCC)**

**Company Search**

Find companies that can supply your organization with the goods, services and technology it needs.

Quick Search:

 Search For:

- ☒ All of these words
- ☐ Any of these words
- ☐ Look for this phrase

Look In:

- ☒ All text
- ☐ Company name
- ☐ Product description

**Specialized Directories**

**Aboriginal Businesses**

- [All Aboriginal Businesses](#)

**Information & Communication Technologies**

- [All ICT Directories](#)

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**EPA Resources  
- Public**

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ng PRPs | Compliance and Enforcement | U.S. EPA Windows Internet Explorer

http://www.epa.gov/compliance/cleanup/superfund/find.html

View Favorites Tools Help

Go Bookmarks Check Autolink Send to Settings

US EPA Finding PRPs | Compliance and Enforcement | U.S. EPA

U.S. ENVIRONMENTAL PROTECTION AGENCY

## Cleanup Enforcement

Recent Additions | Contact Us Search: ☐ All EPA ☒ Compliance and Enforcement

You are here: EPA Home > Compliance and Enforcement > Enforcement > Cleanup Enforcement > Superfund > Finding Potentially Responsible Parties

### Finding Potentially Responsible Parties

Early in the cleanup process, EPA conducts a search to find all of the potentially responsible parties (PRPs).

Under EPA's "Enforcement First" policy (PDF) (2pp, 121K, about PDF), EPA will usually ask PRPs to conduct the investigation and to perform the cleanup before using Superfund money.

EPA looks for evidence to determine liability by matching wastes found at the site with parties that may have contributed wastes to the site. EPA uses many approaches to do this research, including:

- Reviewing documents,
- Site investigation,
- Interviews,
- Using "information request letters" to gather information,
- Title searches, and
- Internet research, libraries, courthouses, and state offices.

In addition to identifying PRPs, EPA tries to determine early on:

- The nature of a party's involvement (e.g., owner, generator),
- A party's potential defenses (e.g., 3rd party defense),
- Any applicable exemptions or exclusions,
- The amount of waste a party contributed, and
- Whether the party can pay only very little or nothing at all toward the cleanup.

Guidance on EPA's information gathering authorities is available in the "Guidance on Use and Enforcement of CERCLA Information Requests and Administrative Subpoenas" (PDF) (51pp, 2.026K, about PDF) (8/25/88).

EPA's "PRP Search Manual" provides guidance on how to search for PRPs that may be liable for cleanup at a Superfund site.

#### Superfund Enforcement Topics

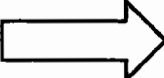
- Enforcement Authorities
- Liability
- Finding Potentially Responsible Parties
- Notice Letters
- Negotiating Settlements
- Unilateral Orders
- Compliance/Penalties
- Recovering Cleanup Costs

#### Finding PRPs Popular Resources

- PRP Search Manual
- Superfund Enforcement Directory

#### Acronym Tips

- PRP - Potentially Responsible Party
- EPA's Terms of the Environment



PRP Site - Macros... 9:51 AM

Adobe Acrobat Professional - [111\_r0.pdf]

File Edit View Document Tools Advanced Window Help

Open Print Email Search Create PDF Review & Comment Secure Sign Advanced Editing

Select Text 95% How To...

Options

Region 1  
Region 2  
Region 3  
Region 4  
Region 5  
Region 6  
Region 7  
Region 8  
Region 9  
Region 10  
Alaska  
Idaho  
Oregon  
Washington  
Exit

Signatures  
Layers  
Pages  
Comments

RUN DATE: 02/15/2007 16:23:31  
CERCLIS DATABASE DATE: 02/15/2007  
CERCLIS DATABASE TIME: 16:17:42  
VERSION: 1.02

PRODUCTION VERSION  
U.S. EPA SUPERFUND PROGRAM  
CERCLIS  
Notified Parties at CERCLIS Sites  
Region 10

PAGE: 1 of 162  
PUBLIC INFORMATION  
RELEASE THROUGH FOIA

SITE NAME, EPA ID	PARTY NAME	STREET ADDR1	STREET ADDR2	CITY	ST	ZIP
State: Alaska						
ALASKA BATTERY ENTERPRISES	AKD0048904215	RPL STATUS: Deleted from the Final RPL		NON-RPL STATUS:		
ALASCOM, INC.	GENERAL NOTICE: 03/16/1990	ALASCOM, INC.	P.O. BOX 165607	ANCHORAGE,	AK	99519
ALASCOM, INC.	SETTLEMENT DATE: 07/14/1992	ALASCOM, INC.	NJ001 Notice Letters Issued			
ALASCOM, INCORPORATED	GENERAL NOTICE: 03/16/1990	ALASCOM, INCORPORATED	AC002 ADMIN ORDER ON CONSENT			
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	825 BROADWAY	P.O. BOX 8301	VANCOUVER,	WA 98668
ALASKA BATTERY ENTERPRISES	GENERAL NOTICE: 03/16/1990	ALASKA BATTERY ENTERPRISES	NJ001 Notice Letters Issued			
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	167 OLD RICHARDSON HWY.	FAIRBANKS,	AK	99701
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	NJ001 Notice Letters Issued			
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	CO001 CONSENT DECREE			
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	CO002 CONSENT DECREE			
ALASKA BATTERY ENTERPRISES	SETTLEMENT DATE: 03/16/1993	ALASKA BATTERY ENTERPRISES	CO003 CONSENT DECREE			
ALASKA DEPARTMENT OF TRANSPORTATION	GENERAL NOTICE: 03/23/1990	ALASKA DEPARTMENT OF TRANSPORTATION	1031 W 4TH AVE STE 280	ANCHORAGE	AK	99501
ALASKA DEPARTMENT OF TRANSPORTATION	SETTLEMENT DATE: 03/23/1993	ALASKA DEPARTMENT OF TRANSPORTATION	NJ003 Notice Letters Issued			
ALASKA DEPARTMENT OF TRANSPORTATION	SETTLEMENT DATE: 03/23/1993	ALASKA DEPARTMENT OF TRANSPORTATION	CO001 CONSENT DECREE			
ALASKA DEPARTMENT OF TRANSPORTATION	SETTLEMENT DATE: 03/23/1993	ALASKA DEPARTMENT OF TRANSPORTATION	CO002 CONSENT DECREE			
ALASKA DEPARTMENT OF TRANSPORTATION	SETTLEMENT DATE: 03/23/1993	ALASKA DEPARTMENT OF TRANSPORTATION	CO003 CONSENT DECREE			
BRICE INCORPORATED	GENERAL NOTICE: 03/16/1990	BRICE INCORPORATED	P.O. BOX 668	FAIRBANKS,	AK	99701
BRICE, DEC.	SETTLEMENT DATE: 07/14/1992	BRICE, DEC.	AC002 ADMIN ORDER ON CONSENT			
BROWN & SONS AUTO PARTS	GENERAL NOTICE: 03/16/1990	BROWN & SONS AUTO PARTS	1001 COLLEGE ROAD	FAIRBANKS,	AK	99701
BROWN & SONS AUTO PARTS	SETTLEMENT DATE: 03/16/1993	BROWN & SONS AUTO PARTS	NJ001 Notice Letters Issued			
BROWN & SONS AUTO PARTS	SETTLEMENT DATE: 03/16/1993	BROWN & SONS AUTO PARTS	CO001 CONSENT DECREE			
BROWN & SONS AUTO PARTS	SETTLEMENT DATE: 03/16/1993	BROWN & SONS AUTO PARTS	CO002 CONSENT DECREE			
BROWN & SONS AUTO PARTS	SETTLEMENT DATE: 03/16/1993	BROWN & SONS AUTO PARTS	CO003 CONSENT DECREE			
CATERPILLAR, INC.	SETTLEMENT DATE: 07/14/1992	CATERPILLAR, INC.	AC002 ADMIN ORDER ON CONSENT			
CITY OF FAIRBANKS	GENERAL NOTICE: 03/16/1990	CITY OF FAIRBANKS	410 CUSHMAN ST	FAIRBANKS	AK	99701
CITY OF FAIRBANKS	SETTLEMENT DATE: 03/16/1993	CITY OF FAIRBANKS	NJ001 Notice Letters Issued			
CITY OF FAIRBANKS	SETTLEMENT DATE: 03/16/1993	CITY OF FAIRBANKS	CO001 CONSENT DECREE			
CITY OF FAIRBANKS	SETTLEMENT DATE: 03/16/1993	CITY OF FAIRBANKS	CO002 CONSENT DECREE			
CITY OF FAIRBANKS	SETTLEMENT DATE: 03/16/1993	CITY OF FAIRBANKS	CO003 CONSENT DECREE			
CONOCO INC	GENERAL NOTICE: 01/02/1992	CONOCO INC	STE 200	3201 C ST	ANCHORAGE	AK 99503
CONOCO INC	SETTLEMENT DATE: 01/02/1992	CONOCO INC	NJ002 Notice Letters Issued			

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1 of 162

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Superfund Product Order Form | Superfund Information Systems | US EPA - Windows Internet Explorer

US EPA <http://www.epa.gov/superfund/sites/phonefaxorder.htm>

File Edit View Favorites Tools Help

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US EPA Superfund Product Order Form | Superfund Informa...

U.S. ENVIRONMENTAL PROTECTION AGENCY

Superfund Information Systems

Recent Additions | Contact Us Search: ☐ All EPA ☒ Superfund

You are here: [EPA Home](#) > [Superfund](#) > [Sites](#) > [Superfund Information Systems](#) > [Superfund Order and Information Line](#) > [Superfund Product Order Form](#)

## Superfund Product Order Form

Please complete the order form by checking the box(es) to indicate which product(s) you would like to receive or order a customized report for a specific site or search across the CERCLIS or RODS databases. Include as much information as possible in order to receive your product(s) in a timely manner. Click "Submit" when you have completed the form.

*The following products are available on CD. Please click on the appropriate product name for a description of each product.*

☐ List 8T - Archived Sites

☐ List 9 - Active CERCLIS Sites

☐ List 10 - Contaminants at CERCLIS Sites

☐ List 11 - Responsible Parties at CERCLIS Sites

☐ SCAP 12 - NPL Sites

☐ SCAP 12 - Non-NPL Sites

**Related Topics**

- Superfund Info. Line
- Product Descriptions
- Order CERCLIS/RODS Reports
- Order Superfund Products
- FAQs

First Name:

Last Name:

Company/  
Organization:

Street Address:

City:

State:

ZIP Code:  -

Daytime Phone:  -  -

Fax:  -  -

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U.S. EPA

http://www.epa.gov/superfund/sites/phonefax/descript/list11.htm

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AutoLink


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Settings

US EPA

List 11 - Responsible Parties at CERCLIS Sites | Super...

Page



Superfund Site Information  
Site Documents  
Data Element Dictionary (DED)  
Order Superfund Products

U.S. ENVIRONMENTAL PROTECTION AGENCY

Superfund Information Systems

Recent Additions | Contact Us Search: ☐ All EPA ☒ Superfund

You are here: [EPA Home](#) > [Superfund](#) > [Sites](#) > [Superfund Information Systems](#) > [Superfund Order and Information Line](#) > [Report A Product Description](#) > [List 11 - Responsible Parties at CERCLIS Sites](#)

## List 11 - Responsible Parties at CERCLIS Sites

**Description:** The List 11 lists responsible parties at Superfund sites that have received Special or General Notice letters from EPA. It displays the party name and address, and data on selected enforcement actions, if present, at the associated sites, as well as basic site information for each site.

[Order](#) > [Other Product Descriptions](#)

[OSWER Home](#) | [Superfund Home](#)

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[EPA Home](#) | [Privacy and Security Notice](#) | [Contact Us](#)

Last updated on Wednesday, April 11th, 2007.  
<http://www.epa.gov/superfund/sites/phonefax/descript/list11.htm>  
[Print As-Is](#)

start

Microsoft Po...

Adobe Acro...

List 11 - Pri...

PRP Site - N...

List 11 Orde...

List 11 - Res...

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## **EPA Resources - Internal**

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### **CERCLIS**

- Don't reinvent the wheel.
- Search to determine a PRP's involvement at other Sites around the country and look for information there first.

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Site Name	Spill ID	County	EPA ID	Site ID	Archive Ind	FUDS
LIMEPORT PIKE SITE						
REPORT PIKE SITE	A3DC	LEHIGH	PAN000306154	0306154		
ERICK ACID DUMP		MONTGOMERY	PAD987277142	0303732	Archived	
ERICK-ROYERSFORD AMUSEMENT		MONTGOMERY	PAD987285269	0304138	Archived	
ESTONE ROAD	0383	ALLEGANY	MDD880691688	0300282		
ELECTRIC COMPANY	A3CH	MERCER	WMN000308141	0306141		
LEIGH INC.		SUSSEX	DED984066639	0303685	Archived	
COLN HIGHWAY FLOOD INCIDENT	0381	BUCKS	PASFN0305513	0305513		
COLN METAL SITE		ERIE	PAD041399551	0309909	Archived	
COLN UNIVERSITY DUMP	C318	CHESTER	PASFN0305438	0305438	Archived	
DANE DUMP	0393	ALLEGHENY	PAD980712798	0301544		

There are 6140 sites

A Site ID: PAN000306154

Site Name: LIMEPORT PIKE SITE

City, ST, Zip: LIMEPORT PA 18060

PL Status: Not on the NPL

Federal Facility: ☐

Contact(s):

Site Section:

Unassigned

Site Information

Site Assessment

Site Comments

Federal Facilities

Enforcement

Removal

Community Involvement

Remedy Selection

Project Management

Program Management

Party Search...

Correspondence Tracking...

Party Search/Information

Enforcement Actions

Cost Recovery

Select Site List From:

☐ My Sites
 ☐ Searched
 ☐ All
 ☐ Active
 ☐ FUDS
 ☐ FF Pocket

Custom Site Search

Search

(LIMEPORT PIKE SITE) 4/09/2008 1



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<b>Party Name:</b>  <b>Alias:</b>  <b>Site:</b>	<div style="border: 1px solid black; padding: 2px;">honeywell</div> <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div>	<b>Party ID:</b>  <b>Notice/End Action:</b>  <b>Region:</b>  <b>State:</b>	<div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 20px;"></div>																														
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Party Name:

honeywell

Party ID:

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Party Information

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Party Name:

HONEYWELL

Party ID:

5285561

Originating Region:

05

Summary

Party Details

Associated Sites

Involvement

Substance

Enf. History

Contacts

Comments

Contacts and Actions are displayed only for sites within your region.

Name:

HONEYWELL

Facility Name:

Address:

1985 DOUGLAS DRIVE NORTH

City, ST:

GOLDEN VALLEY

State:

CO

ZIP Code:

80422

Country:

UNITED STATES

Dun & Bradstreet #:

Type:

Sites:

Contacts:

Actions:

OK

Cancel

Party

HONEYWELL

HONEYWELL

HONEYWELL

HONEYWELL CORPORA

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HONEYWELL INTERNATIONAL, INC.

Add Party

Info

OK

Cancel

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**Office of Site Remediation  
Enforcement (ORSE) Intranet**

- Internal EPA resource.
- Includes OSRE contacts, resources, training, and guidance as well as model language and sample documents.
- Much of the info is also available on the EPA's public website:  
<http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>

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29 blocked
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OECA Employees
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Office of Site Remediation Enforcement

ender | OECA Weekly Report | Policy & Guidance | IO | ARHSS | FFO | OC | OCE | OCEFT | OEJ | OFA | OPPAC | OSRE

OSRE Links
OSRE Home
Office Structures
OSRE Contacts
Initiatives/Projects
Workgroups/Teams
Documents
Site Specific Charging
OSRE Training
Travel Info
OSRE Matters

Quick Links
PeoplePlus
Level Manager
Pay
sp
EoForms
A Locator
Customize Links

EPA/OSRE > Intranet OECA > Office of Site Remediation Enforcement

OSRE's Intranet contains remediation enforcement information that is not available elsewhere on EPA web pages. The OSRE Matters section has information relevant to OSRE staff. Please contact us with your comments and suggestions.

Announcements

- OCG-450 Form is due to Karen Morley February 15, 2008. See OSRE's Ethics page for more information.
- OGC's annual ethics training (2007) is online. "Outside Activities: Your Life Outside EPA" should be completed by year's end.

Office Structure
OSRE organizational structure and personnel lists and links to other organizational charts.
OSRE | PPED | POS | RSD | Tips & Links to Org. Charts

OSRE Contacts
Regional Liaisons | Subject Matter Contacts | Managers

Initiatives/Special Projects
Information sharing, access to pertinent documents, updates, and action items.
Aviall | E-Discovery | Financial Assurance | Insurance | Superfund Alternative Approach

Workgroups/Teams
Information on meetings, minutes, action items, and projects.

OSRE Databases
OSRE data systems only available only on the Intranet.
Judicial and Administrative Caselaw (JAC) Database | Institutional Controls Enforcement Management (ICEM) System

Site Specific Charging
Information on how and why to site specific charge your time.
Quarterly/Annual Accomplishments | Particulars About SSC | Help with PPL & SSC

OSRE Training
OSRE-developed training courses and materials.
Superfund | Institutional Controls | Quality System Training | Self-Directed | Career Development

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# Office of Site Remediation Enforcement

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## OSRE Model Language and Sample Documents (In WordPerfect and Word format)

<a href="#">Ability to Pay</a>	<a href="#">Good Samaritan Initiative</a>	<a href="#">Notice of 2003 Covenant</a>
<a href="#">Access &amp; Information Gathering</a>	<a href="#">Judicial Cost Recovery/Cashout</a>	<a href="#">Orphan Share</a>
<a href="#">Administrative Cost Recovery/Cashout</a>	<a href="#">Landowner</a>	<a href="#">RCRA AOCs</a>
<a href="#">Contribution Protection</a>	<a href="#">Liens</a>	<a href="#">RD/RA</a>
<a href="#">De Minimis/De Micromis</a>	<a href="#">MSW/MSS</a>	<a href="#">Removal</a>
<a href="#">Financial Assurance</a>	<a href="#">Notice/Demand</a>	<a href="#">RIFS</a>

Unless otherwise indicated, documents listed below are available for download in WordPerfect format. If you have questions about how to open or download these files, go to our [help page](#).

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**Ability to Pay**

- [Interim Revisions to CERCLA 122\(h\) Past Cost Recovery and Peripheral Party Cashout Model Agreements to Clarify Contribution Rights and Protection Arising Under Section 113\(f\) \(September 21, 2006\)](#)
- [Section 122\(h\): Model Cashout Agreement for Ability to Pay Peripheral Parties \(January 8, 2004\) \(supersedes Appendix B to](#)

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http://intranet.epa.gov/oeca/foia/documents/internal.html#104

104(e)

[Disk Repository of 104\(e\) Questions - Cover Memorandum to 104\(e\) index \(2/29/96\)](#)

[Index of 104\(e\) topical questions \("Tailoring 104\(e\) Questions - Categorical Concept"\)](#)

[CERCLA Section 104\(e\) Requests for Information on Insurance Coverage \(Jan. 8, 2004\) \(wpd\)](#)

[Transmittal of Sample 104\(e\) Information Request Questions for Use When the Superfund Recycling Act \(SREA\) May Apply to an Enforcement Case and Guidance on Issuance of CERCLA Section 104\(e\) Information Request Letters and Documenting Decisions Not to Pursue a Potential Responsible Party - \(Breen 7/26/02\) \(pdf\)](#)

[Transmittal of Guidance on Issuing CERCLA Section 104\(e\)\(2\) Information Requests to Federal Agencies at Privately-Owned Superfund Sites \(June 14, 2004\) \(pdf\)](#)

[Attachment A: FPRPs Points of Contact for CERCLA Section 104\(e\) Information Requests \(October 2003\) \(pdf\)](#)

[CERCLA Section 104\(e\) Requests for Information on Insurance Coverage \(transmittal memorandum and four attachments\) \(Word\) \(Feb. 28, 2007\)](#)

Attachment A: List of Insurance Policy Evidence Sources  
Attachment B: Sample 104(e) Requests for Information about Insurance Coverage for Ability to Pay PRP's  
Attachment C: Sample 104(e) Request for Information About Insurance Coverage for Insurers  
Attachment D: Sample 104(e) Request for Information About Insurance Coverage for Brokers

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106(b)

[Impact of Reimbursement Petitions under Section 106\(b\) of CERCLA on the Superfund Enforcement Effort- \(Patterson, 2/24/04\) \(pdf\)](#)

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[Brownfields Grants](#)

[Best Practices for Ensuring that Eligibility Determinations Under the CERCLA 104\(k\) Grant Program are Well-Documented and Comply with the Statute \(11/18/2005\) \(pdf\)](#)

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## **Comprehensive Directories**

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### **Autotrack XP (ChoicePoint)**

- Information on individuals as well as corporations, assets, etc.
- <http://atxp.choicepoint.com/>

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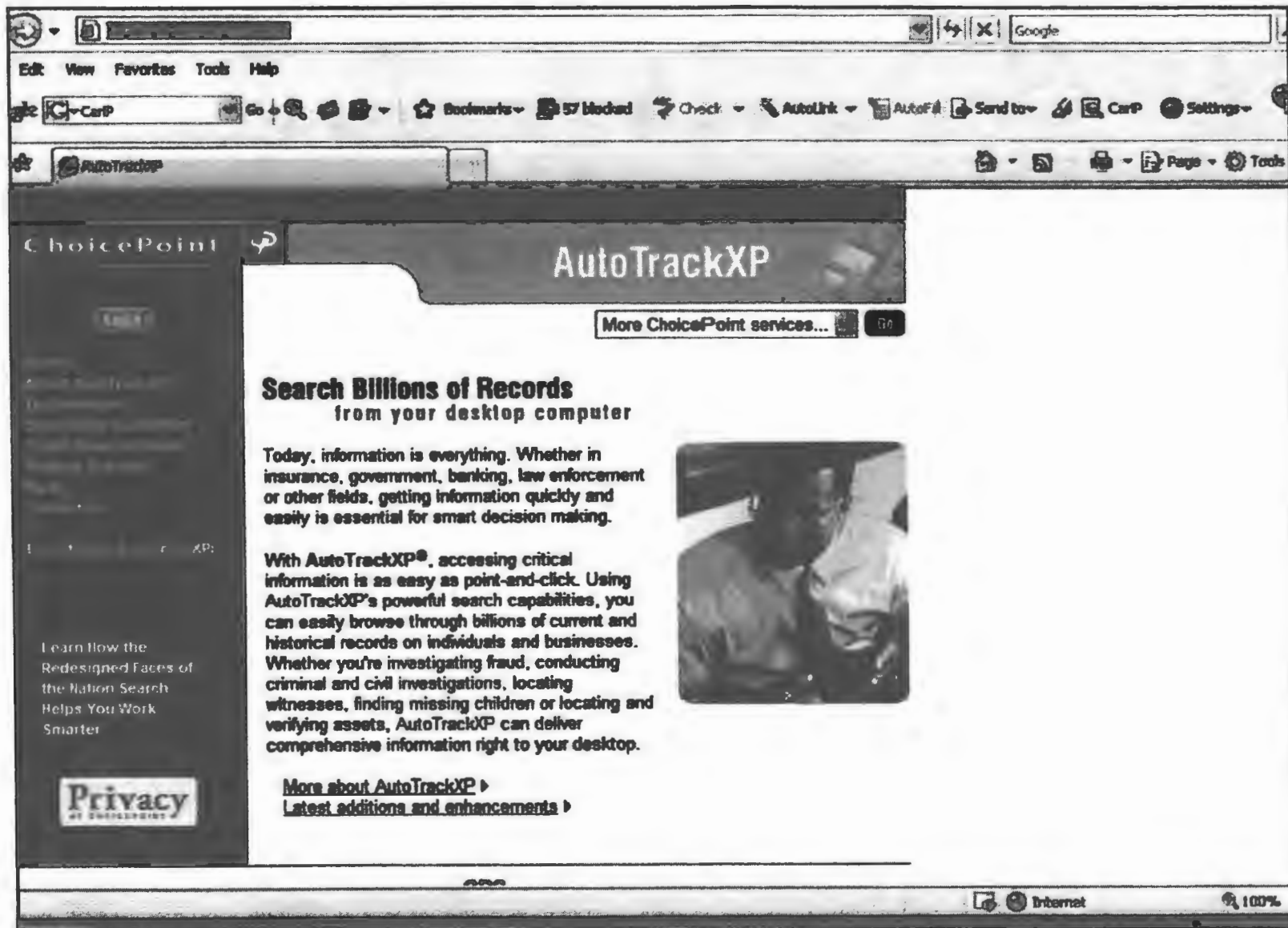
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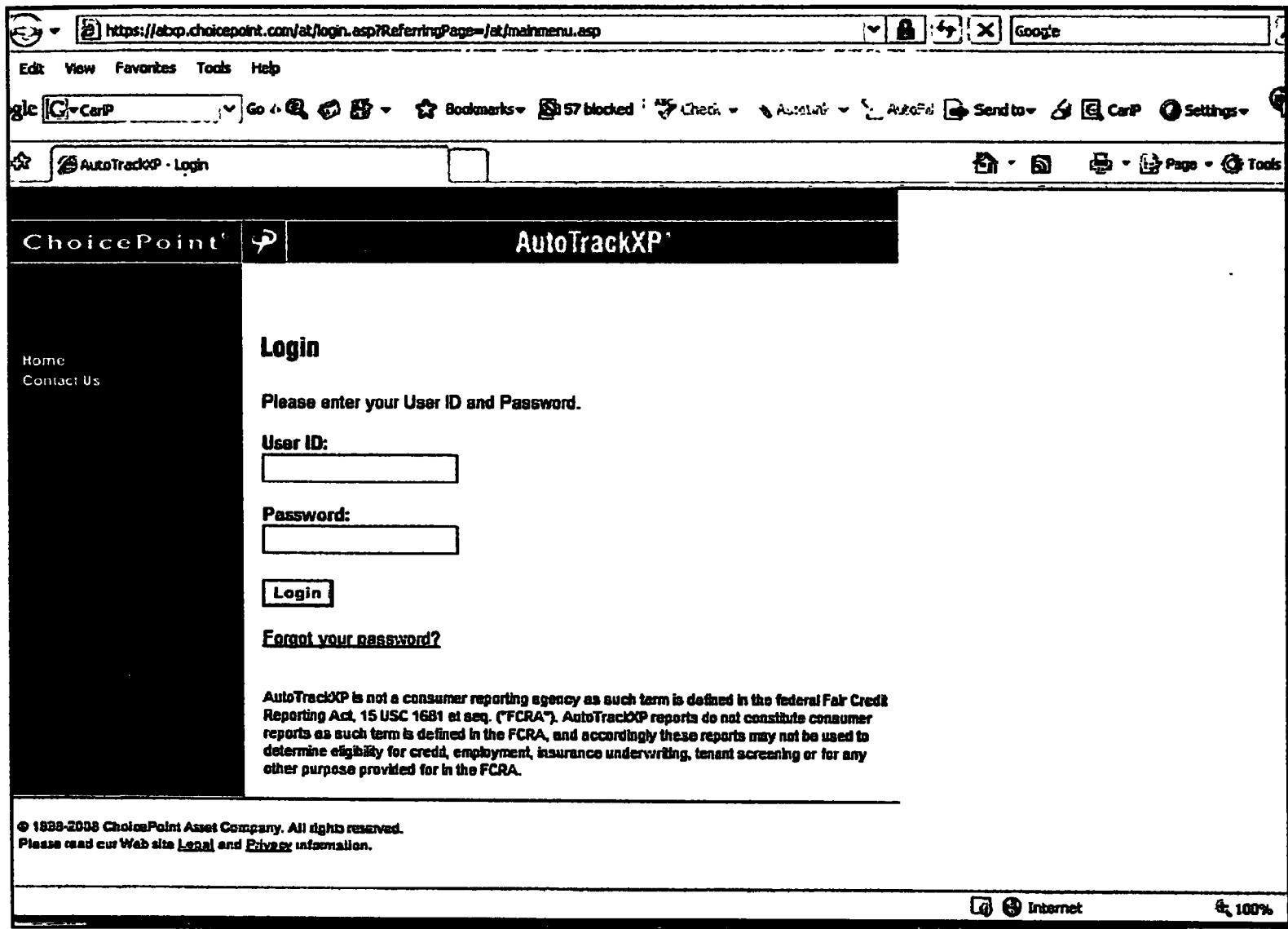
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### Permissible Purpose

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**Please select a permissible purpose for your searches in this session (required by the federal Gramm-Leach-Bliley Act ("GLB")). You will be able to change this after completing the login.**

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- ☐ For use to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.
- ☐ For use by any Law Enforcement Agency, or any officer, employee, or agent of such agency in carrying out its official duties.
- ☐ For use in complying with federal, state, or local laws, rules, and other applicable legal requirements.
- ☐ For any other use permitted or otherwise not restricted by law and which may reasonably be expected to be part of the normal course and scope of your business or profession.

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- Drivers of the Nation
- FL Driver Licenses
- SuperPhones
- Criminal Offenders & Court Records
- Global Search
- Professional Licenses of the Nation
- Canadian Phones
- Direct-to-Report Individual
- More Searches...

### Business Searches

- Corporate Records
- SuperPhones
- Business Directory
- Global Search
- Federal Employer ID Numbers (FEIN)
- Fictitious Business Names (DBA)
- Professional Licenses of the Nation
- UCC Filings
- Canadian Phones
- More Searches...

### Asset Searches

- Vehicles of the Nation
- Real Property Ownership & Deed Transfers
- FL Vehicle Registrations
- Global Search
- Bankruptcies, Liens & Judgments
- Significant Shareholders
- Comparable Sales
- Watercraft - State Registrations
- Watercraft - USCG Documented Vessels
- More Searches...

### Specialty Searches

- Online Batch
- Dun & Bradstreet Reports
- Dun & Bradstreet Business Suits, Liens & Judgments
- On Demand Business Searches
- On Demand Individual Searches
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First Name ☐ Begins With

Middle Initial

SSN

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City [Lookup](#)

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State/Territory

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[Corporation State, Name](#)

▶ [Street address, Zip](#)

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[Name \("As Is"\)](#)

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[New Jersey Corporations Gateway](#)

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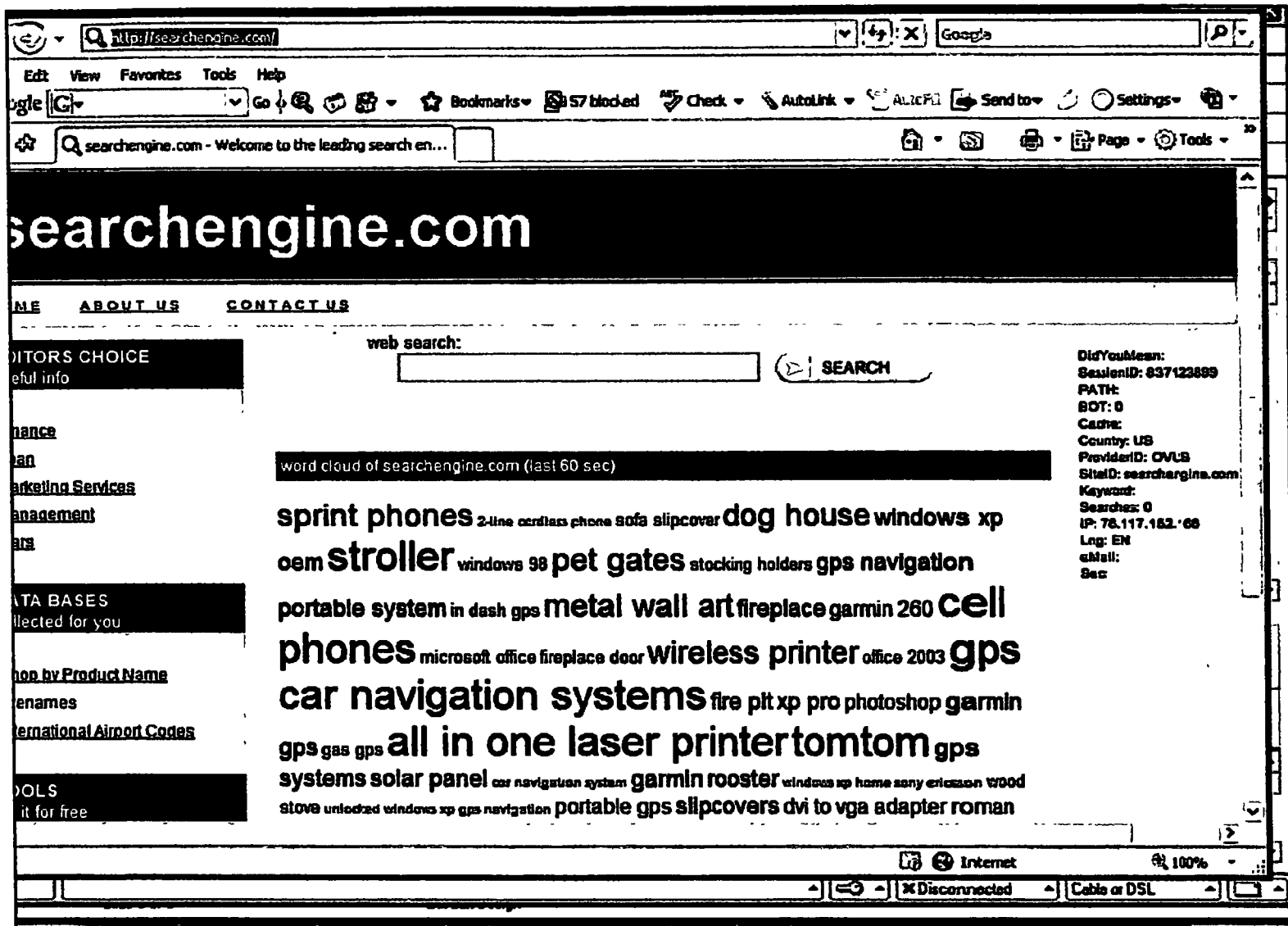
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## **Government Agencies**

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### **U.S. Marshals Service**

- U.S. Marshals Office can assist EPA by serving notices and may accompany EPA staff in questionable locations.
- Find out whether an individual is a fugitive/wanted by the U.S. Marshals.
- <http://www.usdoj.gov/marshals/>

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<http://www.usdoj.gov/marshals/profiled.htm>

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**United States Marshals Service**  
*Justice Integrity Service*

[Home >> Profiled Fugitives](#)

**Profiled Fugitives** E-Mail: [usms.wanted@usdoj.gov](mailto:usms.wanted@usdoj.gov)

The following is a consolidated listing of the fugitives which are profiled on the U.S. Marshals Service website. The list includes 15 Most Wanted fugitives, Major Case fugitives and local fugitives wanted by U.S. Marshal District offices. It does not represent all fugitives wanted by the U.S. Marshals Service.

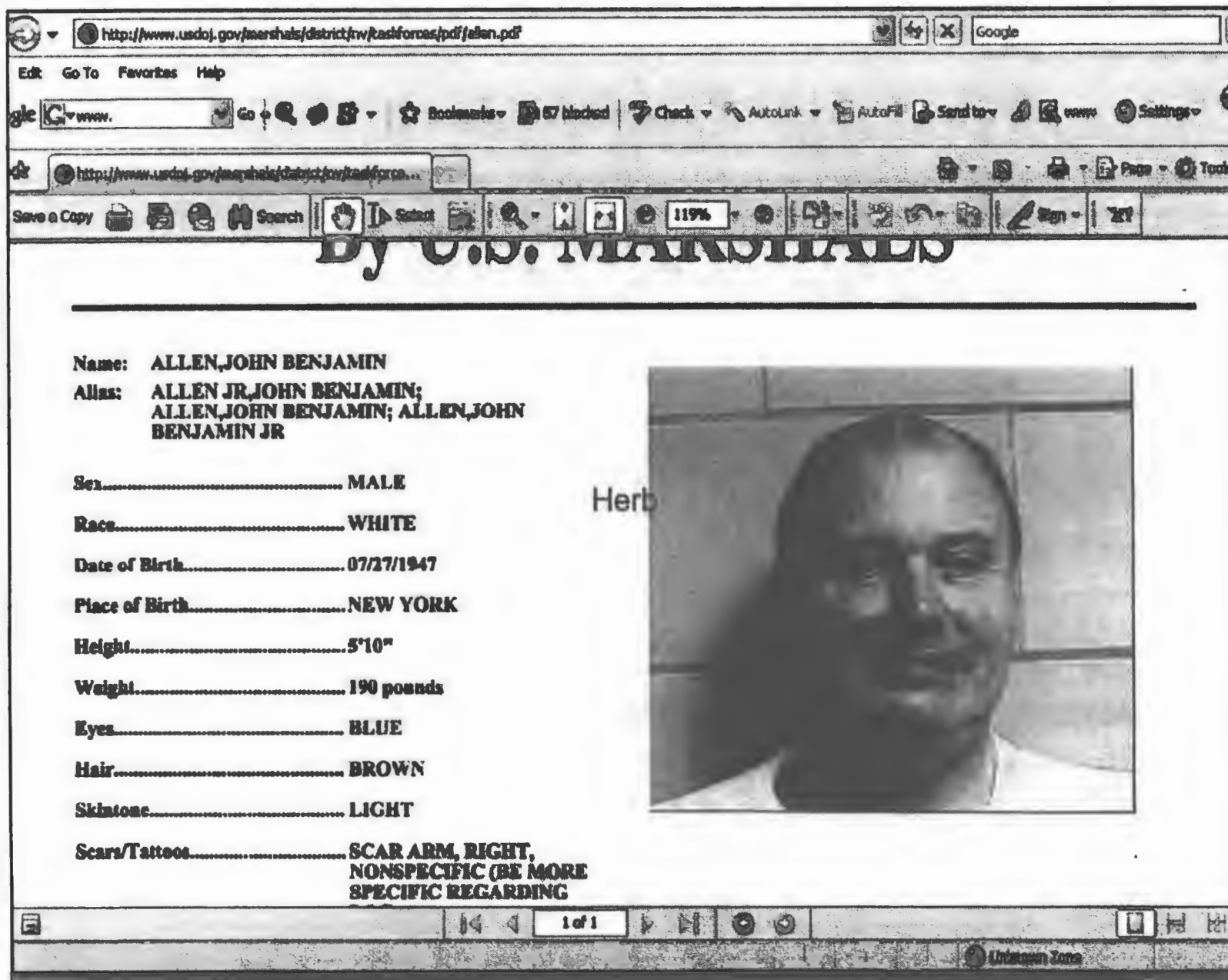
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A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Dated 03-28-08

FUGITIVE	PROFILED BY
<u>ABBOTT-BAERGA, Raymond</u> (15 Most Wanted)	<u>District of Puerto Rico</u>
<u>ABDELHADI, Ihsan</u>	<u>Central District of California</u>
<u>ACEVEDO, Gilbert</u>	<u>Northern District of Ohio</u>
<u>ACOSTA, Luis Raul</u> (Major Case)	<u>Southern District of New York</u>
<u>ACOSTA-RODRIGUEZ, Jorge</u> (Major Case)	<u>Eastern District of California</u>
<u>ADAME, Fernando</u>	<u>Eastern District of Wisconsin</u>
<u>ADHAMES, Albert</u>	<u>District of Vermont</u>
<u>AGUIAR, Maria</u>	<u>Eastern District of Tennessee</u>

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**Name:** ALLEN,JOHN BENJAMIN  
**Alias:** ALLEN JR,JOHN BENJAMIN;  
ALLEN,JOHN BENJAMIN; ALLEN,JOHN  
BENJAMIN JR

**Sex:**..... MALE  
**Race:**..... WHITE  
**Date of Birth:**..... 07/27/1947  
**Place of Birth:**..... NEW YORK  
**Height:**..... 5'10"  
**Weight:**..... 190 pounds  
**Eyes:**..... BLUE  
**Hair:**..... BROWN  
**Skintone:**..... LIGHT  
**Scars/Tattoos:**..... SCAR ARM, RIGHT,  
NONSPECIFIC (BE MORE  
SPECIFIC REGARDING

Herb




Internet Explorer

www.usmarshals.gov

District Office Structure

Test Search of Marshals Service Districts | Quick Links for U.S. Marshals Information: [Site Map](#) | [Contact Us](#) | [Exhibits](#) | [Assets](#) | [Contact](#)

District Offices


America's Star

[U.S. Marshals Service](#) >> Local District Offices

Search

geographical structure of the U.S. Marshals Service mirrors the structure of United States district courts. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia, the Commonwealth of Puerto Rico and three territories of the United States -- the Virgin Islands, Guam, and the Northern Mariana Islands.

on map or select location by county or state in the pull out menus below.



Internet 100%

http://www.usmarshals.gov/district/navigation/fl.htm

Edit View Favorites Tools Help

Go www. 57 blocked Check AutoLink AutoFill Send to www Settings

Florida

Marshals Service >> Local District Offices >> Florida

S. Marshals Service offices are based on the organizational structure of the Federal District Court system. Florida is divided into three judicial districts that are referred to as the Northern, Middle and Southern districts of Florida.

**Northern District of Florida:**

The Northern District comprises the counties of Alachua, Bay, Calhoun, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington.

Court for the Northern District is held in Tallahassee, Gainesville, Marianna, Panama City and Pensacola.

**Middle District of Florida:**

The Middle District comprises the counties of Baker, Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Glades, Hamilton, Hardee, Hendry, Hernando, Hillsborough, Lake, Lee, Manatee, Marion, Nassau, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, St. Johns, Sarasota, Seminole, Sumter, Suwannee, Union, and Volusia.

**U.S. Bureau of Prisons**

■ **Locate PRP or witness who  
may be in a Federal Prison**

■ **<http://www.bop.gov/iloc2/LocateInmate.jsp>**

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http://www.bop.gov/loc2/inmateFinderServlet?Transaction=NameSearch&needngMoreList=false&lastName=Miller&middle=...  
Edit View Favorites Tools Help  
Go | loc2/locateinmate.jsp | Bookmarks | 57 blocked | Check | AutoLink | AutoF | Send to | Settings  
BOP Federal Bureau of Prisons  
FEDERAL BUREAU OF PRISONS  
www.bop.gov  
AN AGENCY OF THE U.S. DEPARTMENT OF JUSTICE  
HOME  
ABOUT INMATE LOCATOR PRISON FACILITIES CAREERS INMATE MATTERS POLICY / FORMS DOING BUSINESS NEWS / INFORMATION Site Map  
Inmate Locator  
Locate a Federal Inmate  
(includes all inmates from 1982 to present)  
Inmate Locator  
Visiting - General Info  
Visiting Hours  
Who Can Visit?  
Background Checks  
Business Visits  
Special Circumstances  
Visiting Room Procedures  
Conjugal Visits  
Locate Inmates Released Before 1982  
Who is a "Federal" Inmate?  
Printer Friendly Version  
Related Documents  
Admission & Orientation Program  
Inmate Legal Activities Policy  
Release of Information Policy  
Name  
Register Number Age Race Sex Release Date Actual / Projected Location  
1 H J MILLER 17073-001 51 Black M 07-16-1939 RELEASED  
New Search FAQs Privacy Results 1 - 1 of 1  
Home | About | Inmate Locator | Prison Facilities | Careers  
Inmate Matters | Policy / Forms | Doing Business | News / Information  
Accessibility | Browser Requirements | Disclaimer | DOJ Legal Policies  
Privacy Policy | Search | Site Map  
Internet 100%



# Investigative Tools

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## Locating Public Records

- <http://www.publicdata.com/>
- Search criminal, motor vehicle, drivers' license, sex offenders, voter, property tax, federal, Secretary of State, and professional license from select states.

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ss

http://www.publicdata.com/

Go

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C-public data

Go

Bookmarks

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29 blocked

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# PUBLICDATA.com

[Click here for a demonstration](#)

[Click here for FREE SexOffender searches](#)

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of information contained herein must be done in  
ordance with the agreed upon terms and conditions.  
ase be aware that many US lawmakers have made  
ain access to Public Records illegal and it is your  
onsibility to be aware of which Public Records you  
view legally.

Questions? Comments? Feedback? - E-mail us at  
[support@publicdata.com](mailto:support@publicdata.com)

Login

Driver's License #:

DL State or Corporate:

Password:

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[http://www.publicdata.com/cgi-win/login.exe?Process=tacChooseDB&tabCtrl=E&idnumber=DEMO&idstate=DEMO&id=DEMO](#) [Go](#) [List](#)  
[Google](#) [public data](#) [Go](#) [Bookmarks](#) [PageRank](#) [29 blocked](#) [Check](#) [AutoLink](#) [AutoF](#) [Send to](#) [Settings](#)

# PUBLICDATA.com Demo

Search Selection

**Criminal**  
[by Name](#) [by DOB](#) [by ZIP](#)

**Sex Offenders**  
[by Name](#) [by DOB](#) [by ZIP](#)

**Civil Court**  
[by Name](#)

**Voter**  
[by Name](#) [by DOB](#)

**Federal**  
[Bureau of Tobacco Alcohol and Firearms](#), [FAA](#), [Federal Election Commission](#), [SSA Death Master File](#), [U.S. Treasury Specially Designated Persons](#)

**Driver's License**  
[by Name](#) [by DOB](#) [by DL Number](#)

**DMV**  
[by License Plate](#) [by VIN](#)

**Professional License**  
[by Name](#) [by DOB](#) [by License](#) [by ZIP](#)

**Property Tax**  
[by Name](#) [by ZIP](#)

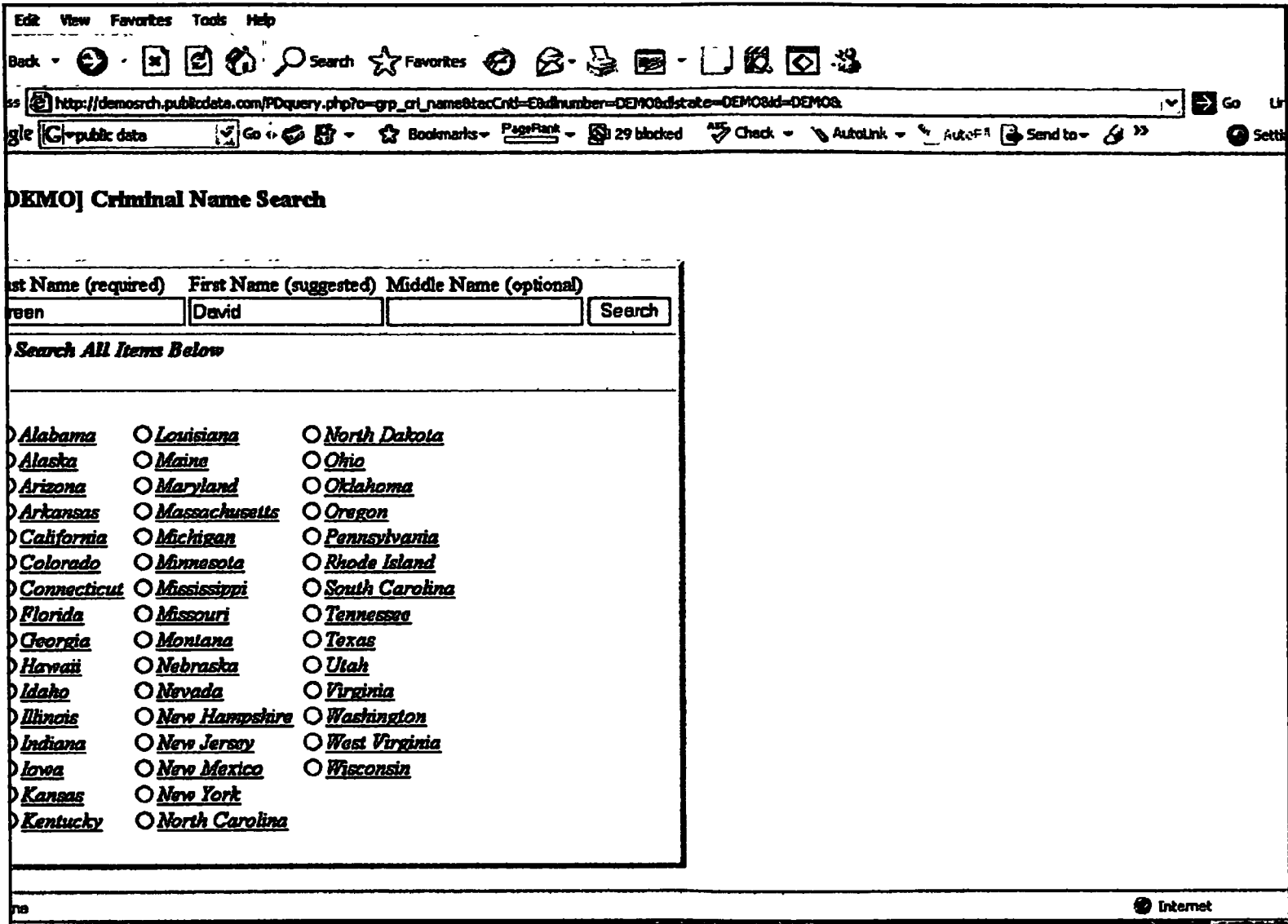
**Secretary of State**  
[by Name](#) [by ZIP](#)

Member Services

- [Terms and Conditions](#)
- [How to Contact Us](#)
- [Plans and Pricing](#)

**State and Area Searches**  
[Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

Internet



Internet Explorer interface showing search results for "http://demosrch.publicdata.com/cgi-win/pd.exe/Search". The browser address bar displays the URL, and the search results are presented in a table format.

**Demo Search Results**

Name	Birth Date	Source
<u>Demo Name1</u>	Demo Birth Date1	Alabama DOC
<u>Demo Name2</u>	Demo Birth Date2	AL Baldwin Sheriff's Department
<u>Demo Name3</u>	Demo Birth Date3	AL Calhoun Sheriff Department
<u>Demo Name4</u>	Demo Birth Date4	AL Houston Sheriff Department
<u>Demo Name5</u>	Demo Birth Date5	AL Jefferson Sheriff Department
<u>Demo Name6</u>	Demo Birth Date6	AL Mobile Sheriff Department
<u>Demo Name7</u>	Demo Birth Date7	AL Shelby Sheriff Department
<u>Demo Name8</u>	Demo Birth Date8	AL Tuscaloosa Sheriff Department
<u>Demo Name9</u>	Demo Birth Date9	Alaska Criminal Courts
<u>Demo Name10</u>	Demo Birth Date10	Arizona DOC
<u>Demo Name11</u>	Demo Birth Date11	Arizona DOC (Alias)
<u>Demo Name12</u>	Demo Birth Date12	AZ Maricopa Sheriff Department
<u>Demo Name13</u>	Demo Birth Date13	AZ Pima Criminal
<u>Demo Name14</u>	Demo Birth Date14	AZ Pima Sheriff Department
<u>Demo Name15</u>	Demo Birth Date15	Arkansas Criminal
<u>Demo Name16</u>	Demo Birth Date16	Arkansas DOC
<u>Demo Name17</u>	Demo Birth Date17	AR Benton Sheriff Department
<u>Demo Name18</u>	Demo Birth Date18	AR Union Sheriff's Department

ns Internet

EditViewFavoritesToolsHelp

BackSearchFavorites29 blockedCheckAutolinkAutofillSend toSettings

sshttp://demosrch.publicdata.com/cgi-win/pd.exe/Detail?db=al\_hou\_schbed=388rec=08dnumber=DEMO&state=DEMO&id=DEMO

gleGpublic dataGoBookmarksPageRank29 blockedCheckAutolinkAutofillSend toSettings

PublicData.com

Demo] AL Houston Sheriff Department Detail

Actual Data Not Displayed During DEMO

Name *****	Date Booked **/**/****	Time Booked **:**	Address *** **
City/State *****			
Offenses			
Offense ***			
Offense *****			
Offense *****			

detail view of this record will be recorded as one Detail Look-up

Internet

Edit View Favorites Tools Help Back     Search  Favorites		
http://demosrch.publicdata.com/PDquery.php?o=grp_dmv_plate&acCnId=E&dnnumber=DEMO&idstate=DEMO&id=DEMO&		
Go		
Google  public data  Go		
Bookmarks PageRank 29 blocked Check Autolink AutoF Send to Settings		
<h1>PublicData.com</h1>		
<h2>DEMO] DMV License Plate Search</h2>		
License Plate Number 23456 <input type="button" value="Search &amp; Affirm"/>		
<p><b>Search All Items Below</b></p> <p>I certify, and affirm, under penalty of perjury that the below identified DPPA exemption applies to this search and its follow-on displays. Further unauthorized disclosure of this information may result in penalties imposed under Title 18 U.S.C. Section 2721 et. seq., and applicable federal and state law.</p>		
<input type="checkbox"/> Colorado DMV <input type="checkbox"/> <input type="checkbox"/> Florida DMV <input type="checkbox"/> <input type="checkbox"/> Idaho DMV [old] <input type="checkbox"/> <input type="checkbox"/> Maine DMV [old] <input type="checkbox"/> <input type="checkbox"/> Minnesota DMV <input type="checkbox"/> <input type="checkbox"/> Mississippi DMV <input type="checkbox"/> <input type="checkbox"/> Missouri DMV <input type="checkbox"/> <input type="checkbox"/> North Carolina DMV <input type="checkbox"/> <input type="checkbox"/> Ohio DMV <input type="checkbox"/>	<input type="checkbox"/> Oregon DMV [old] <input type="checkbox"/> <input type="checkbox"/> South Dakota DMV [old] <input type="checkbox"/> <input type="checkbox"/> Tennessee DMV <input type="checkbox"/> <input type="checkbox"/> Texas DMV <input type="checkbox"/> <input type="checkbox"/> Utah DMV [old] <input type="checkbox"/> <input type="checkbox"/> West Virginia DMV <input type="checkbox"/> <input type="checkbox"/> Wisconsin DMV <input type="checkbox"/> <input type="checkbox"/> Wisconsin DMV [Used] <input type="checkbox"/>	<input type="checkbox"/> For any use in the normal course of business... <input type="checkbox"/> Have subject's written consent for search... <input type="checkbox"/> For research or statistical activities... <input type="checkbox"/> For insurance support activity... <input type="checkbox"/> For towing and impound operators... <input type="checkbox"/> By a licensed private investigative agency... <input type="checkbox"/> For employer CDL verification... <input type="checkbox"/> For private tollway operation... <input type="checkbox"/> For government agency use... <input type="checkbox"/> For Court or arbitral proceeding... <input type="checkbox"/> For any use pursuant to an order of a court... <input type="checkbox"/> Use related to public safety...
Internet		

Edit View Favorites Tools Help  
 Back Search Favorites

http://demosrch.publicdata.com/cgi-win/pd.exe/Search

glc [C]-public data Go Bookmarks PageRank 29 blocked Check Autolink Send to Settings

# PUBLICDATA.com

## Demo] Search Results

Owner Name	Plate	Source
<u>Demo Name1</u>	Demo Number1	Colorado DMV
<u>Demo Name2</u>	Demo Number2	Florida DMV
<u>Demo Name3</u>	Demo Number3	Idaho DMV [old]
<u>Demo Name4</u>	Demo Number4	Maine DMV [old]
<u>Demo Name5</u>	Demo Number5	Minnesota DMV
<u>Demo Name6</u>	Demo Number6	Mississippi DMV
<u>Demo Name7</u>	Demo Number7	Missouri DMV
<u>Demo Name8</u>	Demo Number8	North Carolina DMV
<u>Demo Name9</u>	Demo Number9	Ohio DMV
<u>Demo Name10</u>	Demo Number10	Oregon DMV [old]
<u>Demo Name11</u>	Demo Number11	South Dakota DMV [old]
<u>Demo Name12</u>	Demo Number12	Tennessee DMV
<u>Demo Name13</u>	Demo Number13	Texas DMV
<u>Demo Name14</u>	Demo Number14	Utah DMV [old]
<u>Demo Name15</u>	Demo Number15	West Virginia DMV

Internet



Edit View Favorites Tools Help  
 Back Search

http://demoarch.publicdata.com/cgi-bin/pd.exe/Detail?db=COOMV&cd=338rec=08&number=DEMO6&state=DEMO6&id=DEMO6

style public data Go 29 blocked Check AutoLink Send to Settings

<b>Owner 1</b> *****	<b>Owner 2</b> *****	<b>Owner 3</b>	<b>Driver 1</b>
<b>Legal Address</b> *****	<b>Legal City</b> *****	<b>Legal State</b> **	<b>Legal ZIP Code</b> *****
<b>Mail Address</b> *****	<b>Mail City</b> *****	<b>Mail State</b> **	<b>Mail ZIP Code</b> *****
<b>TMail Address</b> *****	<b>TMail City</b> *****	<b>TMail State</b> **	<b>TMail ZIP Code</b> *****
<b>Lic. Vehicle</b>	<b>Lic. Plate</b>	<b>License Number</b>	<b>Title Co.</b> **
<b>Title A</b> *	<b>Title Number</b> *****	<b>Tab Co</b> **	<b>Tab Num</b>
<b>Tab_A</b>	<b>VIN</b> *****	<b>Bus Date</b> *****	<b>History Date</b> *****
<b>Trans Time</b> *****	<b>Oper. Init.</b> ***	<b>Trans Date</b> *****	<b>Previous Lic. Co.</b> **
<b>Previous Lic. Vehicle</b> ***	<b>Previous License Plate</b> ***	<b>Previous License Plate No.</b> *****	<b>Previous Title</b> *****
<b>Vehicle Year</b> ****	<b>Make</b> ***	<b>Model</b>	<b>Body</b> **
<b>Series</b>	<b>Fuel</b> *	<b>Own. Tax Class</b> *	<b>Emission</b> *
<b>Urban/Rural Code</b> *	<b>City Code</b> *****	<b>Prev. Trans. County</b> **	<b>Trans. County</b> **
<b>Branch Office</b> **	<b>Term ID</b> ****	<b>Transaction</b> *** ***/***** **	<b>Previous Transaction</b> **** **
<b>Title Vehicle Type</b>	<b>Dealer</b>	<b>Unit No.</b>	<b>JTWROS</b>

Internet

## **Legal Resources**

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### **Lexis/Nexis**

- <http://www.lexis.com/>
- Comprehensive database of law, business, public records and news.
- Your legal offices may already have an account.

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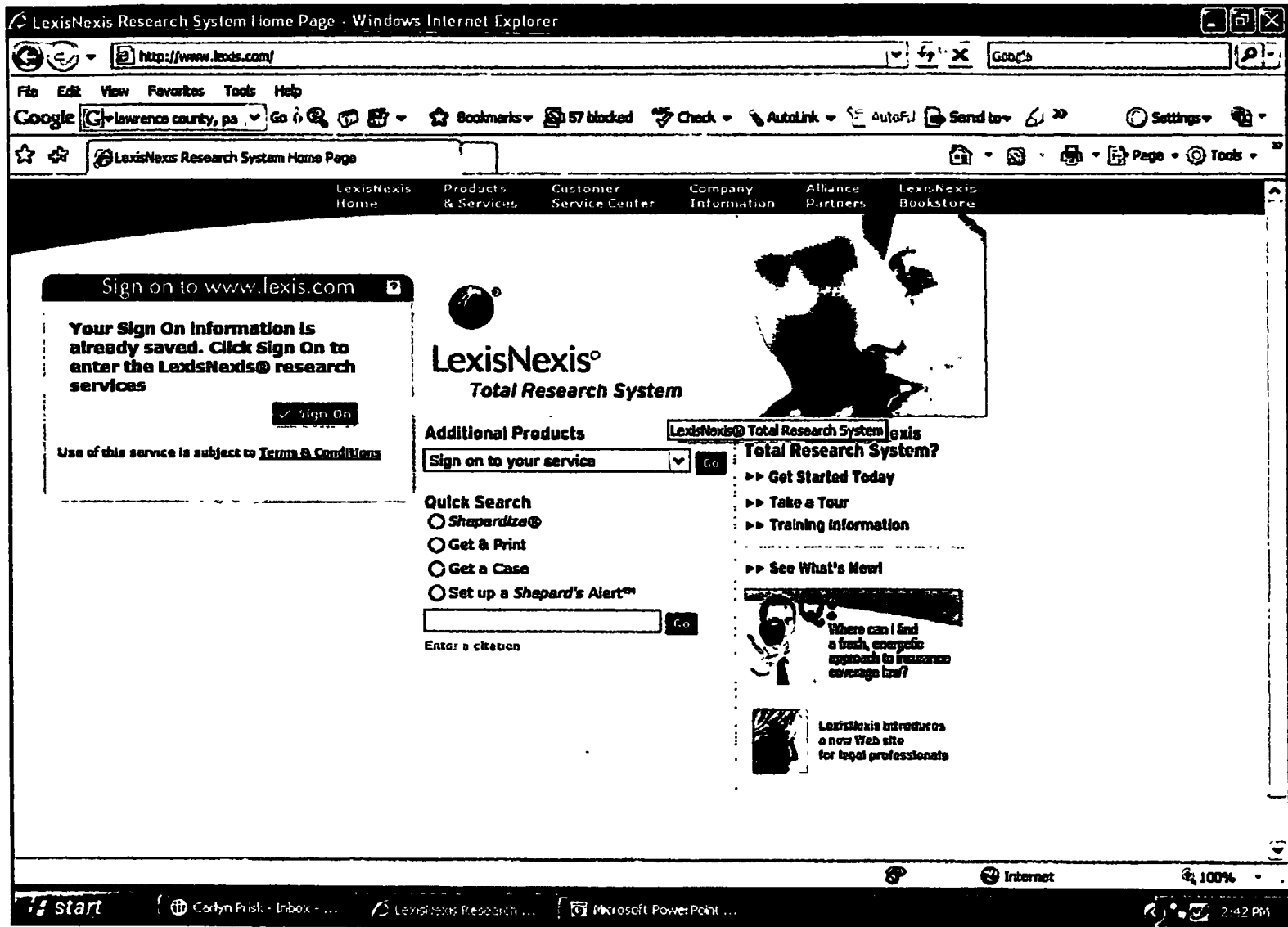
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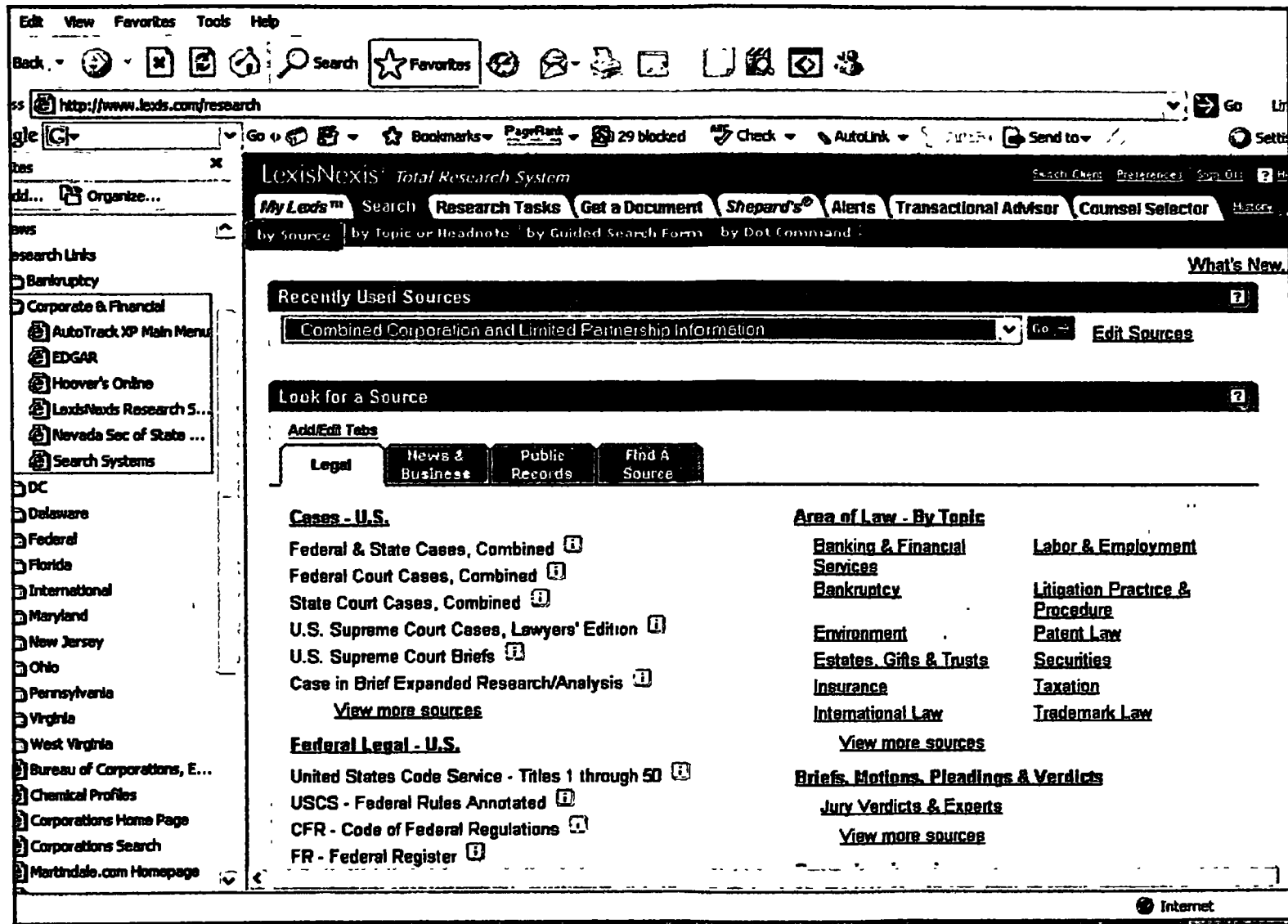
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## Litigation

- The business or individual may have been in court in recent years.
- Search the web pages of both the state court (usually accessible through the county web page) and federal court for the firm or individual
- Search both as plaintiff and as defendant.
- Searches can be done through Lexis-Nexis, but that costs money and many state courts post the docket on-line at no cost.

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## Bankruptcy

- Bankruptcies are filed in federal bankruptcy courts.
- Most often filed in the District in which the firm's headquarters are located or the State in which the company is incorporated.

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## PACER

- Public Access to Court Electronic Records.
- <http://pacer.psc.uscourts.gov/>.
- Registration required and \$.08 per "page" fee.
- Check with your Regional bankruptcy contact person first.

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## Public Access to Court Electronic Records

### PACER Web Links


[Appeals](#)[District](#)[Bankruptcy](#)[Court Home Pages](#)

#### BILLING NOTICE

An access fee of \$0.08 per page, as approved by the Judicial Conference of the United States, will be assessed for access to PACER service on the Internet. A login and password, issued by the PACER Service Center, is required for access to PACER. If you do not already have a PACER account, you may [register](#) online at this web site.

If you have comments, suggestions, or questions, please send email to the PACER Service Center at [pacer@psc.uscourts.gov](mailto:pacer@psc.uscourts.gov). If your comment(s) pertain to a specific court, please include the name of that court in your email.

If the court you would like to access does not appear on this list, the court does not provide case information on the Internet supported by the PACER Service Center. Some courts provide case information on the Internet without support by the PACER Service Center. Check the respective [court's homepage](#) for this service.



#### Supreme Court

- [Supreme Court Home Page](#)

#### National Index

Internet100%

https://ecf.pseb.uscourts.gov/cgi-bin/login.pl

Google

File Edit View Favorites Tools Help

Google www.hoovers.com Go

Bookmarks 57 blocked

Check

Advanced

AutoFill

Send to

Settings

Live Database Area - login

Page Tools

## CM/ECF Filer or PACER Login

**Notice**  
This is a **Restricted Web Site** for Official Court Business only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

**Instructions for viewing filed documents and case information:**  
If you do not need filing capabilities, enter your PACER login and password. If you do not have a PACER login, you may register online at <http://pacer.psc.uscourts.gov>.

**Instructions for filing:**  
Enter your CM/ECF filer login and password if you are electronically filing something with the court.

Authentication

login: ue0011

password:

event code: PRP Search Enhancement

login

Clear

**NOTICE:** An access fee of \$.08 per page, as approved by the Judicial Conference of the United States, will be assessed for access to this service. For more information about CM/ECF, [click here](#) or contact the PACER Service Center at (800) 676-6856.

*CM/ECF has been tested successfully using Internet Explorer 6.0 and Mozilla Firefox as representative browsers. Other browsers and browser versions may work as well.*

Internet 100%

Internet Explorer address bar: [https://ecf.pasb.uscourts.gov/cgi-bin/login.pl?342578955798008-L\\_565\\_0-1](https://ecf.pasb.uscourts.gov/cgi-bin/login.pl?342578955798008-L_565_0-1)

Navigation bar: Edit View Favorites Tools Help

Search bar:  www.hoovers.com

Buttons: Go, Bookmarks, 57 blocked, Check, AutoLink, AutoFill, Send to, Settings, Page, Tools

Live Database Area: ☐

# ECF

Query · Reports · Utilities · Logout ?

## Search Clues

Phone Number	<input type="text"/>	(Example: 99-80013)
Company/Business Name	<input type="text"/>	(Examples: Desoto, Des't)
Last Name	<input type="text"/>	Middle Name <input type="text"/>
First Name	<input type="text"/>	Tax ID <input type="text"/>
Address	<input type="text"/>	

Internet 100%



# Real Property

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## Real Property

- From Black's Law Dictionary –
- Real Property: Land and anything growing on, attached to, erected on it, excluding anything that may be severed without injury to the land. Real property can be corporeal (soil and buildings) or incorporeal (easements).

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## Real Property Title Documents

- Deeds.
- Easements
- Mortgages.
- Liens (mechanics, tax, etc.).
- Releases of Mortgages and Liens.
- Leases.
- Right of Way.
- Partition Proceedings
- An extended list is in the supplemental materials.

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## Locating Property Records

- Records are maintained at the county level, the Office of the Recorder of Deeds.
- Many counties maintain a web site and post the title records.
- Some only have extracts of information; others post the scanned documents.
- Access may require registration and sometimes a fee.
- Go first to the county web page.

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- Counties may utilize an outside service to provide electronic access to deed and tax records.
- Eg. Landex Remote, Xspand, Record Fusion.

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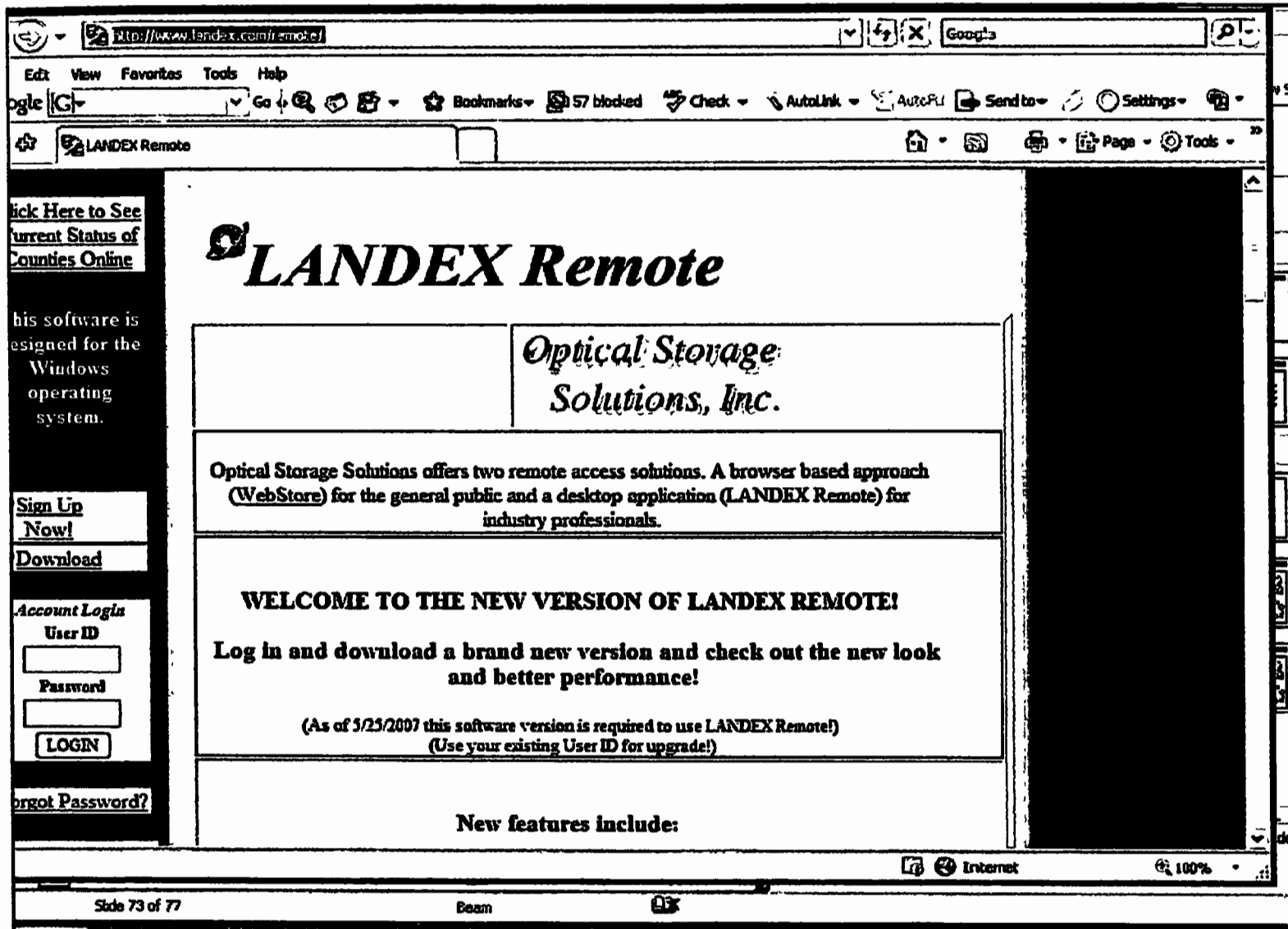
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


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

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<http://www.lawrencecountyrecordspa.us/countyweb/main.jsp?countyname=Lawrence>

FileEditViewFavoritesToolsHelp

Google GoBookmarks57 blockedCheckAutoLinkSend toSettings

main.jspPageTools

*Janet L. Kalajainen*  
**REGISTER AND RECORDER**  
Lawrence County, Pennsylvania

Home | Search Public Records | Start New Transaction | My Transactions | Search Guide | Preferences | Contact Us | Log Out

## Welcome Carlyn Prisk to Lawrence County Online Services

### What would you like to do today?

- Search Public Records
- Start a New Transaction Help?
- Retrieve an Existing Transaction
- Search My Transactions
- Modify My User Preferences
- How Do I...
- Back to Lawrence County Web Site

### Announcements

The new Realty Transfer Tax Regulations have been posted on the PA CODE website. The regulations can be accessed following internet link:  
<http://www.pacode.com/secure/data/061/chapter91/ch>

### Cover Page Changes


You may have noticed that the Cover Page looks different. We have made some changes to improve the efficiency of the recording process.


We really appreciate everyone who has been creating the cover page prior to recording and welcome your comments! Please email us during the free trial period. Information on paid subscriptions available soon.


**DISCLAIMER**



The Lawrence County Recorder of Deeds Office is providing the information on this web site as a service to the public. We have made every effort to ensure that the information contained in this electronic search system is accurate. However, the Recorder of Deeds Office, the County of Lawrence, and RecordFusion make no warranty or guarantee concerning the accuracy or reliability of the content of this site or at other sites to which we link. The user is advised to search on all possible spelling variations of names in order to maximize search results. The Recorder of Deeds Office, County of Lawrence, and RecordFusion shall not be held liable for errors contained herein or for any damages as a result of the information contained herein.

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














Powered By  RecordFusion








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 Internet 100%

<http://rodviewer.montcopa.org/countyweb/disclaimer.do>

Edit View Favorites Tools Help

gle  Go          Bookmarks  57 blocked  Check  Look for Map  Account  Send to   Settings 

  man.jsp     Page  Tools



# Nancy J. Becker ~ Recorder of Deeds

Home | [Search Public Records](#) | [Search Guide](#) | [Preferences](#) | [Contact Us](#) Log Out

## Welcome Carlyn Prisk to Montgomery County Online Services

### What would you like to do today?

- [Search Public Records](#)
- [eCertified Documents](#)
- [Modify My User Preferences](#)
- [How Do I...](#)
- [Disclaimer and Refund/Return Policy](#)
- [Log out](#)


### Announcements


Please note: National Deed Service has written to many residents offering to sell them a copy of their deed for \$69.50. Please tell anyone who asks, they can get a copy of their deed for \$.50 a page in our office, certified would be an additional \$1.50, or \$5.00 by mail for a copy, or \$10 by mail for a certified copy (self-addressed stamped envelope required).

### UPDATED E-RECORDING GUIDELINES:

Montgomery County wants to continue to improve your e-Recording experience and ensure quality assurance as well as the integrity of the documents. As a reminder, in order to ensure that your documents are processed quddy and returned to you efficiently, we are asking you to follow these guidelines.

**- Please limit your transactions to a total of '6 DOCUMENTS OR A MAXIMUM OF 60 PAGES FOR ALL DOCUMENTS SUBMITTED'.**

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 Internet 100%

## Real Property Records

- Other internet sources include the county tax assessor and clerk of court.
- Useful to have name of title holder, property address and property identification number. Often information can be located by any one of these three.
- Electronic availability usually limited to mid 1990s or later.
- Secure tax records as well as title documents.

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## Real Property Records

- If a tax sale has occurred, the Office of the Clerk of Court may have the most recent information.
- When a tax sale occurs, there is a period within which the title holder can reclaim the property by payment of the back taxes and a fee. Possibly interest as well.
- Tax sales are governed by state law and records are organized at the local level.

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## Real Property Records in Contract Data Bases

- Contract data bases such as AutoTrak and Lexis-Nexis also provide information about real property.
- The profiles of individuals will include the real property to which they now hold or recently held title.

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**Demonstration of  
our favorite sites.**

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**Questions?**

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# Potentially Responsible Party Internet Information Sources (PRPIIS)

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## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Business Information

<b>Annual Reports and SEC filings</b>	<b>Annual Report Service*</b>	<a href="http://www.annualreportservice.com/">http://www.annualreportservice.com/</a>	Free directory of online annual reports.
	<b>Report Gallery</b>	<a href="http://www.reportgallery.com/">http://www.reportgallery.com/</a>	Search and browse reports.
	<b>10K Wizard*</b>	<a href="http://www.10KWizard.com">http://www.10KWizard.com</a>	Search for company SEC filings. Subscription required.
	<b>U.S. Securities and Exchange Commission</b>	<a href="http://www.sec.gov/edgar/searchedgar/webusers.htm">http://www.sec.gov/edgar/searchedgar/webusers.htm</a>	Company information, shareholder information, and SEC filings including annual reports.
<b>Bankruptcy</b>	<b>American Bankruptcy Institute*</b>	<a href="http://www.abiworld.org/">http://www.abiworld.org/</a>	Numerous online resources including headlines, news, meeting information, court opinions and other bankruptcy info. Subscription is required.
	<b>Public Access to Court Electronic Records (PACER)*</b>	<a href="http://pacer.psc.uscourts.gov/">http://pacer.psc.uscourts.gov/</a>	Access to federal court documents. Registration is required. Fees are generally \$.08 a page.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Compliance Information</b>	Occu. Safety and Health Admin. (OSHA)	<a href="http://www.osha.gov/cgi-bin/est/est1">www.osha.gov/cgi-bin/est/est1</a>	Search for information on OSHA inspections and violations.
<b>Company Profiles and Information</b>	American Business Directory	<a href="http://library.dialog.com/bluesheets/html/bl0531.html">http://library.dialog.com/bluesheets/html/bl0531.html</a>	Contains company contact, SIC, financial, and linkages on over 12 million U.S. business establishments.
	Corporate Information	<a href="http://www.corporateinformation.com/">http://www.corporateinformation.com/</a>	Information on companies in 55 different countries. Free snapshots reports as well as more comprehensive reports for a fee.
	Dun and Bradstreet*	<a href="http://www.dnb.com">http://www.dnb.com</a>	Search for business and financial information on companies. Certain D & B information is available through Lexis. Your region may already have a subscription to access D & B reports.
	Hoovers Online	<a href="http://www.hoovers.com">http://www.hoovers.com</a>	Excellent source of company information, including financials and links to websites. Free snapshot reports and more comprehensive reports available for a fee.
<b>Corporate Affiliates</b>	Dun and Bradstreet*	<a href="http://www.dnb.com">http://www.dnb.com</a>	Financial information on many companies.
	Lexis Corporate Affiliations*	<a href="http://www.corporateaffiliations.com/">http://www.corporateaffiliations.com/</a>	Database of relationships between companies.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Corporate Financial Information</b>	Hoovers Online	<a href="http://www.hoovers.com">http://www.hoovers.com</a>	Financial information on many companies.
	Motley Fool	<a href="http://www.fool.com/">http://www.fool.com/</a>	A variety of financial information.
	Mergent	<a href="http://www.mergentonline.com">http://www.mergentonline.com</a>	A variety of tools available.
	Yahoo! Finance	<a href="http://finance.yahoo.com/">http://finance.yahoo.com/</a>	Financial news and information.
<b>Corporate Records</b>	Government Files Online*	<a href="http://www.governmentfilesonline.com/search/">http://www.governmentfilesonline.com/search/</a>	This site provides links to Secretary of State's Offices. It offers a "free one day membership" but otherwise charges a hefty fee.
	National Association of Secretaries of State	<a href="http://www.nass.org/sos/sos.html">http://www.nass.org/sos/sos.html</a>	National SOS organization. Provides links to every State.
	Search Systems	<a href="http://www.searchsystems.net/list.php?nid=11">http://www.searchsystems.net/list.php?nid=11</a>	Free link to public records by state, county, or city.
<b>International Business</b>	British Columbia Assessment	<a href="http://www.bcassessment.bc.ca/">http://www.bcassessment.bc.ca/</a>	Property ownership in British Columbia.
	Canadian government	<a href="http://www.canada.gc.ca/main_e.html">http://www.canada.gc.ca/main_e.html</a>	Information on the Canadian government.
	Canadian Stock Exchange	<a href="http://www.sedar.com/">http://www.sedar.com/</a>	Access to most public securities documents and information filed by public companies in Canada.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

	Corporate Information	<a href="http://www.corporateinformation.com/">http://www.corporateinformation.com/</a>	Search for information about companies in 55 different countries.
	Industry Canada	<a href="http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/dataOnline/search.cgi?lang=e">http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/dataOnline/search.cgi?lang=e</a>	Search for information about Canadian companies.
	Kompass	<a href="http://www.kompass.com">http://www.kompass.com</a>	Search for information about companies from 70 different countries.
	Mergent Online*	<a href="http://www.mergentonline.com/">http://www.mergentonline.com/</a>	Obtain information on international companies, including annual reports.
	Ministry of Mining	<a href="http://www.em.gov.bc.ca/Mining/Geolsurv/Publications/catalog/cat_arpts.htm">http://www.em.gov.bc.ca/Mining/Geolsurv/Publications/catalog/cat_arpts.htm</a>	Mining reports from the British Columbia Ministry of Mining.
	Oncorp Direct	<a href="http://www.oncorp.com/">http://www.oncorp.com/</a>	Search for information about Canadian companies.
	UK Business and Finance	<a href="http://www.news-review.co.uk/">http://www.news-review.co.uk/</a>	Information on British based companies. Registration is required but free.
Manufacturing Information	Industry guide	<a href="http://www.thomasregister.com/">http://www.thomasregister.com/</a>	Search by product service, company name, brand name or industry.
News	Business Week	<a href="http://www.businessweek.com">http://www.businessweek.com</a>	A weekly business news magazine that has an online issue with the information more frequently updated.
	Journal of Business	<a href="http://www.bizjournals.com/">http://www.bizjournals.com/</a>	This is nation's largest publisher of metropolitan business journals and updates websites for 41 print business journals.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

	Local business news	<a href="http://www.dbusiness.com/">http://www.dbusiness.com/</a>	Covers business news and information for 50 local markets nationally.
	TheStreet	<a href="http://www.thestreet.com">http://www.thestreet.com</a>	Investment news.
	Wall Street Journal	<a href="http://www.wsj.com">http://www.wsj.com</a>	International market and economic news.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### EPA Resources - Public

<b>"Administrative Record on the Web"</b>	<a href="http://loggerhead.epa.gov/arweb/public/advanced_search.jsp">http://loggerhead.epa.gov/arweb/public/advanced_search.jsp</a>	EPA's Superfund Administrative Record Database.
<b>Compliance and Enforcement</b>	<a href="http://www.epa.gov/compliance/">http://www.epa.gov/compliance/</a>	EPA's Compliance and Enforcement website.
<b>Computer Models</b>	<a href="http://www.epa.gov/epahome/models.htm">http://www.epa.gov/epahome/models.htm</a>	EPA's link to all financial computer models, which evaluate a PRP's ability to pay clean up costs.
<b>Environmental Response Team</b>	<a href="http://www.ert.org/">http://www.ert.org/</a>	EPA's Environmental Response Team's website.
<b>Environmental Terms</b>	<a href="http://www.epa.gov/OCEPAterms/">http://www.epa.gov/OCEPAterms/</a>	A glossary of environmental terms, abbreviations and acronyms.
<b>Hazardous Waste Clean Up Information</b>	<a href="http://www.clu-in.org/">http://www.clu-in.org/</a>	Provides information about innovative treatment and site characterization technologies to the hazardous waste remediation community.
<b>EPA Libraries</b>	<a href="http://www.epa.gov/natlibra/ols.htm">http://www.epa.gov/natlibra/ols.htm</a>	Provides the ability to search EPA libraries for specific information and/or publications.
<b>Links to State Environmental Agencies</b>	<a href="http://www.epa.gov/epahome/state.htm">http://www.epa.gov/epahome/state.htm</a>	EPA's web link to state environmental Agencies.
<b>National Enforcement Training Institute (NETI)</b>	<a href="http://www.netionline.com/">http://www.netionline.com/</a>	Listing of classes that are provided by EPA's enforcement training institute.
<b>National Locator</b>	<a href="http://cfint.rtpnc.epa.gov/locator/extended_search.cfm">http://cfint.rtpnc.epa.gov/locator/extended_search.cfm</a>	EPA's electronic phone book.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>National Priority List</b>	<a href="http://www.epa.gov/superfund/sites/npl/frlist.htm">http://www.epa.gov/superfund/sites/npl/frlist.htm</a>	Provides information concerning sites that are proposed, listed and/or deleted from the National Priorities List.
<b>OSC website</b>	<a href="http://www.epaosc.org">http://www.epaosc.org</a>	EPA's web site for Removal Actions.
<b>PRP Search Manual</b>	<a href="http://www.epa.gov/compliance/cleanup/superfund/prpmanual.html">http://www.epa.gov/compliance/cleanup/superfund/prpmanual.html</a>	Link to EPA's PRP Search Manual.
<b>Superfund Enforcement Directory (SFED)</b>	<a href="http://cfpub.epa.gov/compliance/sfed/">http://cfpub.epa.gov/compliance/sfed/</a>	EPA Superfund Enforcement Directory. It can be searched by Region or by area of expertise.
<b>Superfund Enforcement Documents</b>	<a href="http://cfpub.epa.gov/compliance/sfed/">http://cfpub.epa.gov/compliance/sfed/</a>	Link to Superfund guidance documents.
<b>Superfund Information System (CERCLIS)</b>	<a href="http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm">http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm</a>	Publicly available access to EPA's Superfund Information System.
<b>"Where You Live" Site</b>	<a href="http://www.epa.gov/epahome/whereyoulive.htm">http://www.epa.gov/epahome/whereyoulive.htm</a>	Link to various web locations that provide information concerning the location of hazardous substances within a community.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### EPA Resources - Internal

<b>Office of Site Remediation Enforcement</b>	<a href="http://intranet.epa.gov/oeca/osre/index.html">http://intranet.epa.gov/oeca/osre/index.html</a>	Internal list of Superfund Enforcement subject matter contacts.
<b>Office of Site Remediation Enforcement</b>	<a href="http://intranet.epa.gov/oeca/osre/">http://intranet.epa.gov/oeca/osre/</a>	Primary link to EPA's Office of Site Remediation Enforcement.
<b>Office of Superfund Remediation and Technology Innovation</b>	<a href="http://intranet.epa.gov/oerrinet/">http://intranet.epa.gov/oerrinet/</a>	Office of Superfund Remediation and Technology Innovation main website.
<b>CERCLA Enforcement Project Manager Handbook</b>	<a href="http://intranet.epa.gov/oeca/osre/documents/hbk-pdf/">http://intranet.epa.gov/oeca/osre/documents/hbk-pdf/</a>	The link provides an overview of the roles and responsibilities of the remedial project manager and the on-scene coordinator (RPM/OSC) in identifying and communicating with PRPs; coordinating with communities, states, tribes, and natural resource trustees; negotiating agreements for site cleanup; initiating administrative and judicial enforcement actions; selecting site remedies; recovering EPA's response costs; and overseeing PRP-lead response actions.
<b>Office of Site Remediation Enforcement</b>	<a href="http://intranet.epa.gov/oeca/osre/documents/internal.html#104">http://intranet.epa.gov/oeca/osre/documents/internal.html#104</a>	Links to EPA Information request letters and standard questions.

\* Denotes a fee for service



## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Directories

<b>All-purpose directories</b>	Bigfoot	<a href="http://www.bigfoot.com/">http://www.bigfoot.com/</a>	Email, white pages, yellow pages and reverse searches are available.
	Freeality	<a href="http://www.freeality.com/findc.htm">http://www.freeality.com/findc.htm</a>	Search public records by category or state or nationwide.
	Infobel	<a href="http://www.infobel.com/teldir/">http://www.infobel.com/teldir/</a>	Find anyone anywhere in the world.
	Search Systems	<a href="http://www.searchsystems.net/freepub.php">http://www.searchsystems.net/freepub.php</a>	General Information Search (i.e. zip code, area code).
	Starting Page	<a href="http://www.startingpage.com/html/lookup.html">http://www.startingpage.com/html/lookup.html</a>	Lists categories of searches, then it lists websites of where to conduct those types of searches. Lists links to search websites for various types of information.
	Superpages	<a href="http://yp10.superpages.com/">http://yp10.superpages.com/</a>	Business Directory
	Switchboard	<a href="http://www.switchboard.com">http://www.switchboard.com</a>	Personal and Business Directory.
	Whowhere	<a href="http://www.whowhere.com">http://www.whowhere.com</a>	White and yellow pages.
<b>Credit Reports</b>	Experian	<a href="https://www.infolookup.experian.com/metronet*">https://www.infolookup.experian.com/metronet*</a>	Credit Reports, business searches, and personal searches.
<b>Email addresses Search Tips Directory</b>		<a href="http://my.email.address.is/">http://my.email.address.is/</a>	Searches Yahoo!, Switchboard, W.E.D, InfoSpace, and Look4U, as well as reverse email address search and tips on finding email addresses.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Find people-general</b>	Yahoo	<a href="http://www.yahoo.com/search/people/email.html">http://www.yahoo.com/search/people/email.html</a>	Search for people and businesses information.
	Semaphore	<a href="http://www.semaphorecorp.com/default.html">http://www.semaphorecorp.com/default.html</a>	Software development company with a few free search programs.
	Searchbug	<a href="http://www.searchbug.com/peoplefinder/">http://www.searchbug.com/peoplefinder/</a>	Personal and Business directory with additional services if you submit an email address in which the information can be sent.
<b>Find people comprehensive</b>	Westlaw*	<a href="http://www.westlaw.com">http://www.westlaw.com</a>	Search for legal information, as well as parties to lawsuits. Your legal office may have an account.
	AutoTrak XP*	<a href="http://atxp.choicepoint.com/">http://atxp.choicepoint.com/</a>	Search for business or personal information with an address or name. This service was previously known as ChoicePoint.
	Dialog*	<a href="http://www.dialog.com">http://www.dialog.com</a>	Search for business information.
	Public Data*	<a href="http://www.publicdata.com">http://www.publicdata.com</a>	Search criminal, motor vehicle, drivers' license, sex offenders, voter, property tax, federal, Secretary of State, and professional license from select states.
<b>Reverse Directories</b>	Anywho	<a href="http://www.anywho.com/rl.html">http://www.anywho.com/rl.html</a>	Reverse phone.
	Reverse address directory	<a href="http://www.reverseaddressdirectory.com">http://www.reverseaddressdirectory.com</a>	Reverse address, phone.
	Reverse phone directory	<a href="http://www.reversephonedirectory.com/">http://www.reversephonedirectory.com/</a>	Reverse address, phone.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Toll free numbers</b>	AT & T	<a href="http://www.tollfree.att.net/tf.html">http://www.tollfree.att.net/tf.html</a>	Toll free number directory.
<b>Zip codes</b>	USPS	<a href="http://www.usps.com/zip4/">http://www.usps.com/zip4/</a>	Find zip code for an address.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Financial Information

<b>Calculators</b>	Commerce Bank	<a href="http://www.commerceonline.com/financial_calculators.cfm">http://www.commerceonline.com/financial_calculators.cfm</a>	A variety of financial calculators.
<b>Financial Models</b>	EPA Enforcement Models	<a href="http://www.epa.gov/compliance/civil/econmodels/index.html">http://www.epa.gov/compliance/civil/econmodels/index.html</a>	Download BEN, ABLE, INDIPAY, MUNIPAY, and PROJECT.
<b>Interest rates; industry discount rates</b>	Federal Reserve	<a href="http://www.federalreserve.gov/releases">http://www.federalreserve.gov/releases</a>	Current and historical information on interest rates, industry discount rate, etc.
<b>Investment Information</b>	MorningStar*	<a href="http://www.morningstar.com/?pgid=hetabhome">http://www.morningstar.com/?pgid=hetabhome</a>	Investment news, information, tools and calculators. Registration (free regular membership required to use portfolio feature. Premium (fee) membership for access to analyst research and stock reports.
<b>Loan rates</b>	Bankrate.com	<a href="http://www.bankrate.com/brm/default.asp">http://www.bankrate.com/brm/default.asp</a>	Current mortgage and other loan rates.
	Bestrate.com	<a href="http://www.bestrates.com/">http://www.bestrates.com/</a>	Current mortgage and other loan rates.
	Quicken loans	<a href="http://www.quickenloans.com">http://www.quickenloans.com</a>	Current mortgage and other loan rates.
<b>Salary.com</b>		<a href="http://www.salary.com">http://www.salary.com</a>	Salary comparisons by profession and location.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Government Agencies

<b>Bureau of Economic Analysis</b>	<a href="http://www.bea.gov/">http://www.bea.gov/</a>	Link to various economic indicators.
<b>Bureau of Prisons</b>	<a href="http://bop.gov/">http://bop.gov/</a>	Link to the Bureau of Prisons. It includes the ability to search for inmates who have been located in federal prisons.
<b>Census Bureau</b>	<a href="http://www.factfinder.census.gov">http://www.factfinder.census.gov</a>	Link to United States census information.
<b>Census Bureau (Pre-set profiles of communities)</b>	<a href="http://censtats.census.gov/pub/Profiles.shtml">http://censtats.census.gov/pub/Profiles.shtml</a>	Link to pre-established sets of census information for communities in the United States.
<b>County Courthouses</b>	<a href="http://www.genealogy.com/00000229.html?Welcome=1085073621">http://www.genealogy.com/00000229.html?Welcome=1085073621</a>	Link to county websites.
<b>Courts (district, appeals, bankruptcy)</b>	<a href="http://www.uscourts.gov/links.html">http://www.uscourts.gov/links.html</a>	Link to federal court information.
<b>Department of Justice (attorneys)</b>	<a href="http://www.usdoj.gov/usao/">http://www.usdoj.gov/usao/</a>	Link to information on the United States Attorney's Office.
<b>Department of Labor</b>	<a href="http://www.bls.gov/">http://www.bls.gov/</a>	Link to the Department of Labor. Provides information concerning various economic indicators.
<b>Federal Election Commission</b>	<a href="http://www.fec.gov/finance/disclosure/norindsea.shtml">http://www.fec.gov/finance/disclosure/norindsea.shtml</a>	Individual contributions.
<b>Federal Reserve Board</b>	<a href="http://www.federalreserve.gov/rnd.htm">http://www.federalreserve.gov/rnd.htm</a>	Link to the Federal Reserve Board's economic research information.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Financial Crimes Enforcement Network</b>		<a href="http://www.fincen.gov">http://www.fincen.gov</a>	Main web link to the Department of Treasury's Financial Crimes Enforcement Network.
<b>Government Phone Numbers</b>		<a href="http://www.info.gov/phone.htm">http://www.info.gov/phone.htm</a>	Listing of federal state and local government phone numbers.
<b>Government Printing Office</b>		<a href="http://www.gpoaccess.gov">http://www.gpoaccess.gov</a>	Main link to the Government Printing Office. Useful access portal to all U.S. government publications.
<b>Internal Revenue Service</b>		<a href="http://www.irs.gov">http://www.irs.gov</a>	Main access point for information provided by the Internal Revenue Service.
<b>Money Service Business</b>		<a href="http://www.msb.gov">http://www.msb.gov</a>	Money Services Business link from the Financial Crimes Enforcement Network.
<b>National Archives</b>		<a href="http://archives.gov/">http://archives.gov/</a>	Main link to the National Archives.
<b>Occupational Safety &amp; Health Administration</b>	Index to site	<a href="http://www.osha.gov">http://www.osha.gov</a>	Main link to the Office of Safety and Health Administration.
	Inspection Information	<a href="http://www.osha.gov/oshstats/index.html">http://www.osha.gov/oshstats/index.html</a>	Link to OSHA inspection information.
<b>Office of Patents &amp; Trademarks</b>		<a href="http://www.uspto.gov/main/trademarks.htm">http://www.uspto.gov/main/trademarks.htm</a>	Main link to information concerning patents and trademarks.
<b>Securities and Exchange Commission (EDGAR)</b>		<a href="http://www.sec.gov/edgar/searchedgar/companysearch.html">http://www.sec.gov/edgar/searchedgar/companysearch.html</a>	Link to the Securities and Exchange Commission's ("SEC") Electronic Data Gathering, Analysis, and Retrieval System (EDGAR). This database allows the ability to research company filings with the SEC.
<b>State &amp; Local Government links</b>		<a href="http://www.statelocalgov.net">http://www.statelocalgov.net</a>	Link to state and local government Internet sites.
<b>US, State &amp; Local Government</b>		<a href="http://www.usa.gov/Topics/Reference_Shelf.shtml">http://www.usa.gov/Topics/Reference_Shelf.shtml</a>	Link to federal, state and local websites.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Government Directories

<b>Federal Government</b>	FedStats	<a href="http://www.fedstats.gov/">http://www.fedstats.gov/</a>	Statistics from 100 government agencies.
	Louisiana State University Libraries	<a href="http://www.lib.lsu.edu/gov/fedgov.html">http://www.lib.lsu.edu/gov/fedgov.html</a>	Federal agency directory.
<b>State and local government</b>	GovEngine.com	<a href="http://www.govengine.com/">http://www.govengine.com/</a>	Federal, state and local government information.
	State and Local Government on the Net	<a href="http://www.statelocalgov.net/index.cfm">http://www.statelocalgov.net/index.cfm</a>	Directory of state, county, city government websites.
	USA.gov	<a href="http://www.firstgov.gov">http://www.firstgov.gov</a>	"Government made easy."

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Investigative Tools

<b>Bureau of Justice Statistics</b>		<a href="http://www.ojp.usdoj.gov/bjs/welcome.html">http://www.ojp.usdoj.gov/bjs/welcome.html</a>	Crime statistics and court statistic information; no individual or company information.
<b>Investigators Guide to Sources of Information (GAO)</b>		<a href="http://www.fas.org/irp/gao/osi-97-2/soi_ch4.htm">http://www.fas.org/irp/gao/osi-97-2/soi_ch4.htm</a>	Lists and describes investigator and law enforcement databases; no links to databases; can be found by using Google.
<b>National Criminal Justice Reference Service</b>		<a href="http://www.ncjrs.gov">http://www.ncjrs.gov</a>	Federally funded resource offering justice and substance abuse information.
<b>Personal Property</b>	<b>Collect.com</b>	<a href="http://www.collect.com/">http://www.collect.com/</a>	Antiques, collectibles values. Registration required.
	<b>EBay</b>	<a href="http://www.ebay.com/">http://www.ebay.com/</a>	Online auction.
	<b>Kelley Blue Book</b>	<a href="http://www.kbb.com/">http://www.kbb.com/</a>	Car values.
	<b>Kovels.com</b>	<a href="http://www.kovels.com/">http://www.kovels.com/</a>	Antiques, collectibles values. Registration required.
	<b>Nada Guides</b>	<a href="http://www.nadaguides.com/">http://www.nadaguides.com/</a>	Car, boat, RV, motorcycle, mobile home values.
<b>Public records directory</b>	<b>Search Systems*</b>	<a href="http://www.searchsystems.net">http://www.searchsystems.net</a>	Lists 38,541 searchable public record databases; no direct link unless a paying member, but will show which databases are free or charge.

\* Denotes a fee for service



## Potentially Responsible Party Internet Information Sources (PRPIIS)

Regional Information Sharing Systems*	<a href="http://www.ii9r.com/riss/">http://www.ii9r.com/riss/</a>	National program of regionally oriented services designed to enhance the ability of criminal justice agencies to share information; membership required.
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\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Law, Legal Sites

<b>Code of Federal Regulations</b>		<a href="http://www.access.gpo.gov/nara/cfr/cfr-table-search.html">http://www.access.gpo.gov/nara/cfr/cfr-table-search.html</a>	Searchable CFR database from 1996.
<b>Code of Federal Regulations, Federal Register, and more</b>		<a href="http://www.heinonline.org/HOL/Welcome?collection=fedreg">http://www.heinonline.org/HOL/Welcome?collection=fedreg</a>	ABA journals, most cited journals, criminal justice journals, intellectual property library, CFR from 1938, FR from 1936, U.S. Attorney General opinions, legislative history, Presidential and Supreme Court libraries, statutes.
<b>Federal Acquisition Regulation</b>		<a href="http://www.arnet.gov/far">http://www.arnet.gov/far</a>	FAR regulations and GSA forms library.
<b>Federal Register</b>		<a href="http://www.gpoaccess.gov/fr/index.html">http://www.gpoaccess.gov/fr/index.html</a>	Federal Register from 1994 with links to libraries for FRs prior to 1994.
<b>Law library</b>		<a href="http://www.law.indiana.edu/v-lib/index.html">http://www.law.indiana.edu/v-lib/index.html</a>	Undergoing major design; check later.
<b>Lawyers</b>	<b>Martindale locator</b>	<a href="http://www.martindale.com">http://www.martindale.com</a>	Find a lawyer.
	<b>Find a lawyer</b>	<a href="http://www.findlaw.com">http://www.findlaw.com</a>	Find a lawyer.
	<b>Bar associations</b>	<a href="http://www.bestcase.com/statebar.htm">http://www.bestcase.com/statebar.htm</a>	State bar association links.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>Legal research pages</b>	<b>Find Law</b>	<a href="http://www.findlaw.com">http://www.findlaw.com</a>	General law information for public, case law, statutes, rules and regulations for lawyer.
	<b>Lexis</b>	<a href="http://www.lexis.com">http://www.lexis.com</a>	Comprehensive databases of law, business, public records and news. Your legal office may already have an account.*
<b>Legislation pending in Congress; votes, bills, laws</b>	<b>Senate</b>	<a href="http://www.senate.gov">http://www.senate.gov</a>	U.S. Senate.
	<b>House</b>	<a href="http://www.house.gov">http://www.house.gov</a>	U.S. House of Representatives.
<b>Legislative information</b>		<a href="http://thomas.loc.gov">http://thomas.loc.gov</a>	Bills, resolutions, congressional record, committee reports, searchable by bill text.
<b>Supreme Court Decisions</b>		<a href="http://supct.law.cornell.edu/supct/index.html">http://supct.law.cornell.edu/supct/index.html</a>	Supreme Court decisions, briefs, links to briefs, oral argument recordings 1990 – present.
<b>U.S. Code</b>	<b>U.S. House</b>	<a href="http://uscode.house.gov">http://uscode.house.gov</a>	U.S. House of Rep.; searchable code from 1988; link to Federal Register.
	<b>Cornell University</b>	<a href="http://www.law.cornell.edu/uscode/">http://www.law.cornell.edu/uscode/</a>	Searchable U.S. Code.
<b>U.S. Courts</b>		<a href="http://www.uscourts.gov/courtlinks/">http://www.uscourts.gov/courtlinks/</a>	Links to all U.S. Courts. Documents are available using PACER.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Libraries and Public Information

<b>Almanacs</b>		<a href="http://www.infoplease.com/index.html">http://www.infoplease.com/index.html</a>	Miscellaneous information.
<b>Environmental News</b>		<a href="http://www.earthvision.net/">http://www.earthvision.net/</a>	Contains information resources on environmental news, innovative environmental technologies, government environmental technology programs, contracting opportunities, market assessments, market information, current events and other material of interest to the environmental technology community.
<b>Environmental Research Foundation</b>		<a href="http://www.rachel.org/home_eng.htm">http://www.rachel.org/home_eng.htm</a>	Web site under repair as of 5/15/07.
<b>Library of Congress</b>		<a href="http://lcweb.loc.gov">http://lcweb.loc.gov</a>	Largest library in the work; services include Ask a Librarian, photo duplication; see FAQs.
<b>Linda Hall Library</b>		<a href="http://www.lindahall.org">http://www.lindahall.org</a>	Library of science, engineering and technology; document delivery services; searchable catalog; reference and search services.
<b>News-papers</b>	<b>News Choice</b>	<a href="http://www.newschoice.com">http://www.newschoice.com</a>	Selected newspaper links in selected states.
	<b>Newspaper Link</b>	<a href="http://www.newspaperlinks.com">http://www.newspaperlinks.com</a>	Links to all major newspapers; search by state, no logins.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>National Archives</b>		<a href="http://www.nara.gov">http://www.nara.gov</a>	Searchable databases of historical information.
<b>Non-Profit Entities</b>		<a href="http://www.guidestar.org/">http://www.guidestar.org/</a>	Web link that provides information concerning non-profit entities.
<b>Public Records Search</b>		<a href="http://www.brbpub.com/pubrecsites.asp">http://www.brbpub.com/pubrecsites.asp</a>	Public records databases by state; links to free databases (similar to Search Systems before it became a pay service).
<b>U.S. Geological Survey</b>	<b>Earth Sciences Library</b>	<a href="http://library.usgs.gov/">http://library.usgs.gov/</a>	The largest earth science library in the world.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Maps and Aerial Photos

<b>Enviromapper</b>		<a href="http://www.epa.gov/enviro/emef/">http://www.epa.gov/enviro/emef/</a>	U.S. EPA's interactive maps and aerial photography to display facility-based information from the Envirofacts Warehouse.
<b>Freeality.com</b>		<a href="http://www.freeality.com/maps.htm">http://www.freeality.com/maps.htm</a>	Directory of map-related sites.
<b>Geography network</b>		<a href="http://www.geographynetwork.com/maps/index.html">http://www.geographynetwork.com/maps/index.html</a>	Static, browser and GIS-access maps.
<b>Google Earth</b>		<a href="http://earth.google.com/">http://earth.google.com/</a>	Satellite imagery, maps, terrain and 3D buildings. Free service but requires a software download.
<b>Google Maps</b>		<a href="http://maps.google.com/maps">http://maps.google.com/maps</a>	Maps and directions. Limited aerial photos.
<b>Mapquest</b>		<a href="http://www.mapquest.com/">http://www.mapquest.com/</a>	Maps and directions.
<b>Microsoft Maps Live</b>		<a href="http://maps.live.com/">http://maps.live.com/</a>	Similar to Google Earth. View 3d aerial photos, maps, and more. Free service but requires a software download.
<b>NationalAtlas.gov</b>		<a href="http://nationalatlas.gov/">http://nationalatlas.gov/</a>	Maps of North America.
<b>Terraserver.com</b>		<a href="http://terraserver.microsoft.com/">http://terraserver.microsoft.com/</a>	Aerial photos - Search by address or longitude & latitude.
<b>U.S. Geological Survey</b>	National Geologic Map Database.	<a href="http://ngmdb.usgs.gov/ngmdb/ngm_catalog.ora.html">http://ngmdb.usgs.gov/ngmdb/ngm_catalog.ora.html</a>	National Geologic Map Database. Search USGS maps.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

	National Map	<a href="http://nationalmap.gov/">http://nationalmap.gov/</a>	Information on the USGS National Map.
	USGS national map viewer -	<a href="http://nmviewogc.cr.usgs.gov/viewer.htm">http://nmviewogc.cr.usgs.gov/viewer.htm</a>	View the USGS National Map.

**\* Denotes a fee for service**

## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Real Property

<b>ABC's of Real Estate</b>	<a href="http://www.realestateabc.com/"><u>http://www.realestateabc.com/</u></a>	Real estate and mortgage resources.
<b>Acxiom/Dataquick*</b>	<a href="http://products.dataquick.com/consumer/"><u>http://products.dataquick.com/consumer/</u></a>	Real property ownership, appraisal information.
<b>HomeSeekers.com</b>	<a href="http://www.homeseekers.com/"><u>http://www.homeseekers.com/</u></a>	Residential property sales and value information.
<b>Netronline.com</b>	<a href="http://www.netronline.com/"><u>http://www.netronline.com/</u></a>	Real estate information and public records search.
<b>RealEstate.com</b>	<a href="http://dowjones.homepricecheck.com/"><u>http://dowjones.homepricecheck.com/</u></a>	Residential property sales and value information.
<b>Rent-O-Meter</b>	<a href="http://www.rentometer.com"><u>http://www.rentometer.com</u></a>	Residential rental comparison.
<b>ZWillow</b>	<a href="http://www.zillow.com/?kwd=zwillow"><u>http://www.zillow.com/?kwd=zwillow</u></a>	Real estate information and property values. The information available varies by region searched.

**\* Denotes a fee for service**



## Potentially Responsible Party Internet Information Sources (PRPIIS)

### Technical Information

<b>Agency for Toxic Substances and Disease Registry (ATSDR)</b>	<b>CERCLA Hazardous Substances</b>	<a href="http://www.atsdr.cdc.gov/cercla/">http://www.atsdr.cdc.gov/cercla/</a>	Hazardous substance and toxicological information.
	<b>Hazardous Substances</b>	<a href="http://www.atsdr.cdc.gov/toxfaq.html">http://www.atsdr.cdc.gov/toxfaq.html</a>	ToxFaq: Frequently asked questions about contaminants found at hazardous waste sites.
<b>Cleaner Solutions Database</b>		<a href="http://www.cleanersolutions.org/?action=vendor_search&amp;page=0&amp;submit=Submit&amp;sortby=product&amp;sortasc=1">http://www.cleanersolutions.org/?action=vendor_search&amp;page=0&amp;submit=Submit&amp;sortby=product&amp;sortasc=1</a>	Search for products based on vendor-recommended contaminant, substrate and equipment information.
<b>Efunda (Engineering Fundamentals)</b>		<a href="http://www.efunda.com/processes/processes_home/process.cfm">http://www.efunda.com/processes/processes_home/process.cfm</a>	Descriptions of industrial processes.
<b>Envirofacts Master Chemical Integrator</b>		<a href="http://www.epa.gov/enviro/html/emci/chemref/">http://www.epa.gov/enviro/html/emci/chemref/</a>	Search the EMCI Chemical References Web Pages.
<b>Material Safety Data Sheets (MSDS)</b>	<b>Product Name</b>	<a href="http://www.setonresourcecenter.com/MSDS/search.html">http://www.setonresourcecenter.com/MSDS/search.html</a>	MSDS search by chemical, product name.
	<b>Manufacturer</b>	<a href="http://www.setonresourcecenter.com/msds/docs/wcd00000/wcd00014.htm">http://www.setonresourcecenter.com/msds/docs/wcd00000/wcd00014.htm</a>	MSDS search by manufacturer name.
<b>Military specification lubricant products</b>		<a href="http://www.mtpinc-xporter.com/chemicals/chem_mil_spec.htm">http://www.mtpinc-xporter.com/chemicals/chem_mil_spec.htm</a>	Listing by specification number and title of specification.

\* Denotes a fee for service

## Potentially Responsible Party Internet Information Sources (PRPIIS)

<b>National Library of Medicine</b>	<a href="http://sis.nlm.nih.gov/enviro.html">http://sis.nlm.nih.gov/enviro.html</a>	Environmental health and toxicology information. Also, access to TOXNET, a collection of databases on hazardous chemicals, toxic releases, and environmental health.
<b>Radiochemistry Society</b>	<a href="http://www.radiochemistry.org/periodictable/">http://www.radiochemistry.org/periodictable/</a>	Periodic table.
<b>Toxnet- Toxicology Data Network</b>	<a href="http://toxnet.nlm.nih.gov/">http://toxnet.nlm.nih.gov/</a>	Data on toxicology, hazardous chemicals, environmental health, toxic releases.
<b>US Metric Association</b>	<a href="http://lamar.colostate.edu/~hillger/everyday.htm">http://lamar.colostate.edu/~hillger/everyday.htm</a>	Metric conversions.

**\* Denotes a fee for service**

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# **Portland Harbor Site History**



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Portland Harbor was added to the National Priorities List in December 2000

Before that time cleanup was proceeding on a site by site basis

McCormick and Baxter SF Site - now construction complete

Gould SF Site - now completed and deleted



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Portland Harbor Superfund Site

- Study area from RM 1-12
- EPA lead for in-water investigation/cleanup
- DEQ lead for upland investigation/source control
- State/federal trustees plus 6 Indian Tribes collaborating
- 10 PRPs in LWG conducting RI/FS



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### RI/FS Status

- Draft RI – December 2008
- Draft BRA – December 2008
- Draft FS - 2009
- Working toward 2010 ROD



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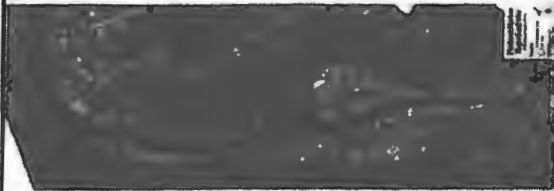
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### PRP Search Investigation Area



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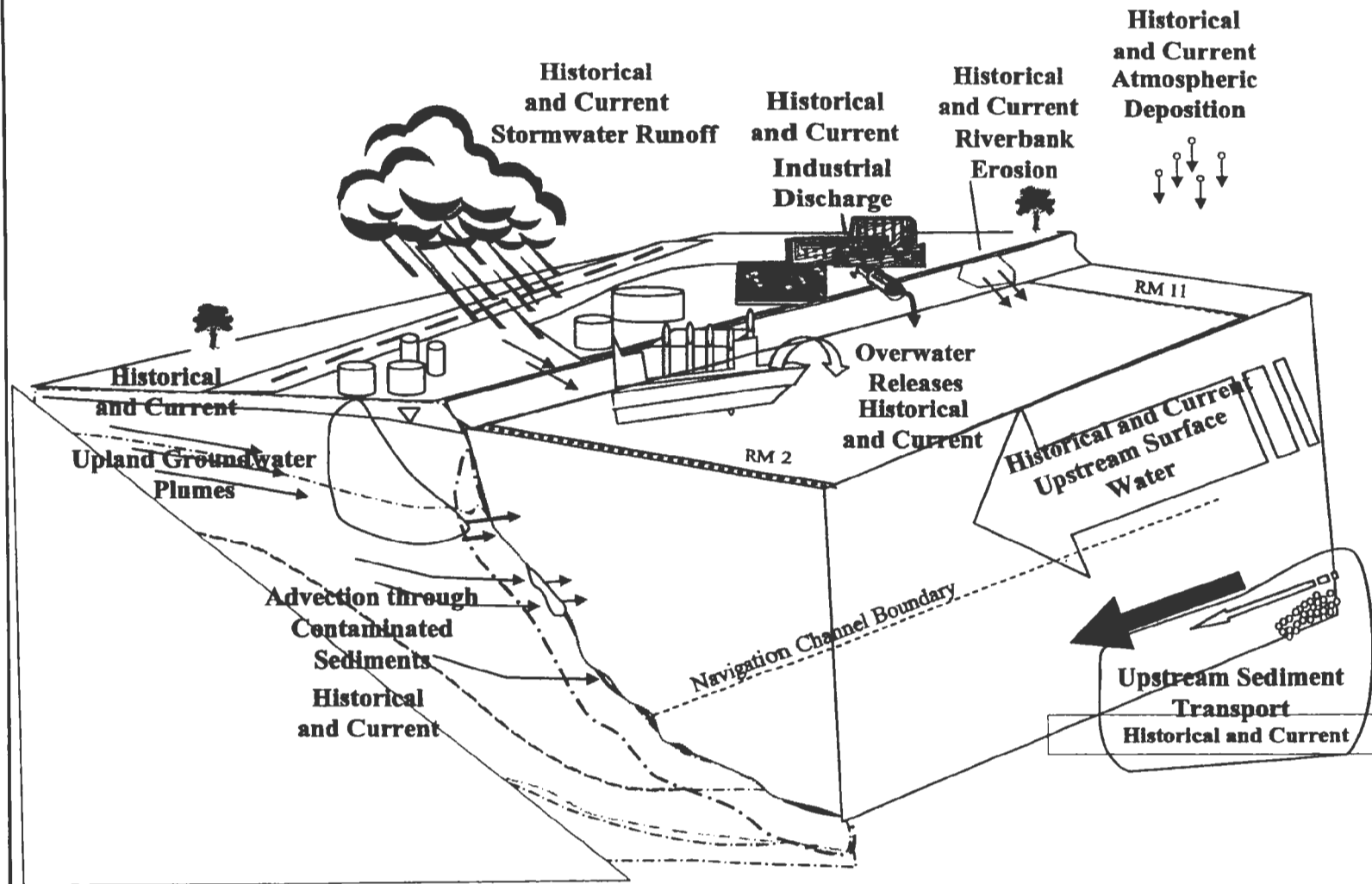
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# Conceptual Site Model



## Sediment Contaminants

- Metals
- Pesticides/herbicides
- PAHs
- PCBs
- SVOCs
- Dioxins/furans

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## Types of Industries

- |                                       |                          |
|---------------------------------------|--------------------------|
| ■ Boat/ship repair                    | ■ Port Terminals         |
| ■ Bulk fuel storage                   | ■ Electrical Substations |
| ■ Chemical manufacturing              | ■ Storm water/CSOs       |
| ■ Wood Preservative/Croosote          | ■ Plating shops          |
| ■ Lumber Mills                        | ■ Painting               |
| ■ Manufactured Gas Plants             | ■ Tank car cleaning      |
| ■ Steel Manufacturing                 | ■ Rail yards             |
| ■ Electrical transformer refurbishing | ■ Incinerator facilities |
| ■ Woolen Mill                         | ■ Landfills              |
| ■ Metal Recyclers                     | ■ Battery recyclers      |
|                                       | ■ Storage/warehouse      |

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## PRP Search Status

- Currently 83 PRPs sent GNLs
  - December 2000 – 69 GNLs
  - April 2006 - 25 GNLs
- January 2008 - 267 104(e) letters

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### Factors for 104(e) Questionnaires

- Previously Identified PRPs;
- Past owner/operators/tenants on PRP properties;
- Commercial/Industrial properties adjacent to river;
- DEQ cleanup sites with pathway to river;
- Facilities which may have releases or potential threats of a release;
- Considered LWG/City candidates.

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### Challenges for PRP Search at a Large Sediment Site

- Team Coordination
- Resources
- Complexity
- Integrating w/ source control
- 104(e) extension requests
- Reviewing 267 responses

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### Contact Information

- Kristine Koch – PRP Search/Source Control
  - [koch.kristina@epa.gov](mailto:koch.kristina@epa.gov)
  - 206-553-6705
- Chip Humphrey – RI/FS
  - [humphrey.chip@epa.gov](mailto:humphrey.chip@epa.gov)
  - 503-326-2678
- Eric Bilischke – RI/FS
  - [blischke.eric@epa.gov](mailto:blischke.eric@epa.gov)
  - 503-326-4006
- Sean Sheldrake – Early Actions
  - [sheldrake.sean@epa.gov](mailto:sheldrake.sean@epa.gov)
  - 206-553-1220

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## NOTES



## **Miscellaneous Resource Information**



# Understanding the Superfund Alternative Approach

Office of Site Remediation Enforcement

Office of Superfund Remediation and Technology Innovation

## Introduction

Superfund sites are places where EPA has determined that a hazardous substance, pollutant or contaminant is located. These areas are entered in EPA's official site inventory. There are many pathways available to getting a Superfund site cleaned up. Among the best known pathways, for sites that need long-term cleanup, is to list the site on the National Priorities List (NPL). Sites on the NPL are eligible for federal remedial (long-term) cleanup funds.<sup>1</sup>

EPA may also clean up sites eligible for the NPL using other Superfund and non-Superfund authorities, or States may use their authorities to clean up these sites. Which cleanup pathway is chosen depends on many variables, such as the complexity of the cleanup, the availability of funds (private or public) for the cleanup, and the nature (e.g., private, governmental, tribal), number and experience of the parties involved at the site.

One of EPA's non-NPL Superfund pathways is referred to as the Superfund Alternative (SA) approach. The SA approach uses the same process and standards for investigation and cleanup as sites on the NPL. Sites using the SA approach are not eligible for federal remedial cleanup funds. Cleanup funding for sites with SA agreements is provided by the potentially responsible parties (PRPs).

As long as a PRP enters into an SA agreement with EPA and stays in compliance with that

agreement, there is no need for EPA to list the site on the NPL. If a PRP fails to meet the obligations of the agreement, EPA may reconsider putting the site on the NPL. Currently, sites using the SA approach are a small percentage of all cleanup agreements.

## Threshold Criteria for Using the SA Approach

Eligibility for this approach is based on the following three criteria:

1. Site contamination is significant enough that the site would be eligible for listing on the NPL (*i.e.*, the site would have a Hazard Ranking System (HRS) score of 28.5 or greater;
2. A long-term response (*i.e.*, a remedial action) is anticipated at the site; and
3. There is at least one willing, capable party (*e.g.*, a company or person) that has responsibility under Superfund, who will negotiate and sign an agreement with EPA to perform the investigation and cleanup.

## Getting Started with the SA Approach

EPA has discretion to determine if the SA approach is appropriate at a particular site. If a site meets criteria 1 and 2 above, EPA may approach a PRP, or a PRP may approach EPA, to negotiate an SA agreement. The SA agreement is equivalent to an agreement negotiated at an NPL site. For example, the same investigation and cleanup will be done as if the site were listed on the NPL.

<sup>1</sup> For more information on the NPL listing process, see [www.epa.gov/superfund/sites/npl/index.htm](http://www.epa.gov/superfund/sites/npl/index.htm).

PRPs may choose not to negotiate an SA agreement. In that case, the site would proceed to cleanup using a different path (e.g., NPL listing, State cleanup program).

## State Role

EPA will consult with the state in which the site is located on whether to attempt the SA approach, settlement negotiations and remedy selection. Throughout the process, the state will have the same opportunities for involvement as at an NPL site.

## Cleanup Agreements

EPA will negotiate agreements with PRPs for site investigation and site cleanup. The agreement for investigation is usually in the form of an Administrative Order on Consent (AOC). The agreement for remedial action is always in the form of a judicial Consent Decree (CD).

Both the AOC and the CD should include language specific to the SA approach that keeps sites using the SA approach in an equivalent position to sites listed on the NPL. EPA has model language for SA provisions that address NPL listing after partial cleanup, technical assistance for communities, financial assurance and natural resource damage claims. The provisions needed depend on the work being performed.

## Investigation & Remedy Selection

Once the site studies are complete and the hazards are identified, EPA will select a site remedy the same way it selects a remedy for sites listed on the NPL.

## Community Participation

At sites listed on, or proposed to be listed on the NPL, a qualified community group may apply for a technical assistance grant (TAG) to hire an independent technical advisor. In SA agreements, EPA negotiates a technical assistance provision for the PRP to provide

funds should a qualified community group apply for such an advisor.

## EPA's Role During and After Cleanup

EPA will oversee the investigation and cleanup just as it would at a site listed on the NPL. When the cleanup is completed, EPA will ensure the remedy continues to work as intended by monitoring the site and performing the same reviews it conducts for sites listed on the NPL.

## Potential Benefits of the SA Approach

The benefits of the SA approach will vary depending on the site circumstances. A benefit that accrues at most sites is the resource savings of not formally proposing and listing a site on the NPL. Other benefits may include a community's good will at not having the site listed on the NPL, a PRP's willingness to negotiate a good-faith agreement, and the opportunity to start cleanup work more quickly than waiting for listing on the NPL. Overall, the cleanup process is as protective as at NPL sites.

**Further Information.** If you have questions regarding this fact sheet, please contact Nancy Browne, Office of Site Remediation Enforcement, at (202) 564-4219, [browne.nancy@epa.gov](mailto:browne.nancy@epa.gov); or Robert Myers, Office of Superfund Remediation and Technology Innovation, (703) 603-8851, [myers.robert@epa.gov](mailto:myers.robert@epa.gov).

For more information on the SA approach, including links to the guidance and a list of sites that have SA approach agreements, please go to: <http://epa.gov/compliance/cleanup/superfund/saa.html>

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## NOTES



## **Acronyms & Abbreviations**

## **Acronyms and Abbreviations**

### **A**

AA	Assistant Administrator
AAG	Assistant Attorney General
AAI	All Appropriate Inquiries
ACL	Alternate Concentration Limit
ADR	Alternative Dispute Resolution
AM	Action Memorandum
AO	Administrative Order
AOA	Advice of Allowance
AOC	Administrative Order on Consent
AOC	Area of Contamination
AR	Administrative Record
ARARs	Applicable or Relevant and Appropriate Requirements
ARCS	Alternative Remedial Contracts Strategy
ASTSWMO	Association of State and Tribal Solid Waste Management Organizations
ATP	Ability to Pay

### **B**

BFPP	Bona Fide Prospective Purchaser
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BPA	Blanket Purchase Agreement
BRAC	Base Realignment and Closure
BUREC	Bureau of Reclamation

### **C**

CA	Cooperative Agreement
CAA	Clean Air Act
CAG	Community Advisory Group
CBI	Confidential Business Information
CD	Consent Decree
CD ROM	Compact Disk Read-Only Memory
CEC	CERCLA Education Center (OSWER)
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act of 1980
CERCLIS	CERCLA Information System
CFR	Code of Federal Regulations
CI	Civil Investigator
CIC	Community Involvement Coordinator
CLP	Contract Laboratory Program
CO	Contracting Officer
COI	Conflict of Interest
COR	Contracting Officer's Representative
CPO	Contiguous Property Owner
CR	Community Relations
CR	Cost Recovery
CRC	Community Relations Coordinator
CRC	Cost Recovery Coordinator
CRP	Community Relations Plan
CWA	Clean Water Act

### **D**

DA	Deputy Administrator
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DAA	Deputy Assistant Administrator
D&B	Dunn and Bradstreet
DCN	Document Control Number
DD	Division Director
DFO	Designated Federal Official
DOD	Deputy Office Director
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of Interior
DOJ	Department of Justice
DOT	Department of Transportation
DPO	Deputy Project Officer
DQO	Data Quality Objective

## **E**

EDGAR	Electronic Data Gathering, Analysis, and Retrieval
EE/CA	Engineering Evaluation/Cost Analysis
EJ	Environmental Justice
EMSL	Environmental Monitoring and Systems Laboratory
ENRD	Environment and Natural Resources Division (DOJ)
EPA	Environmental Protection Agency
EPAAR	EPA Acquisition Regulation (Manual)
EPCRA	Emergency Planning and Community Right-to-Know Act
EPIC	Environmental Photographic and Investigation Center
EPM	Enforcement Project Manager
EPS	Environmental Protection Specialist
ERCS	Emergency Response Cleanup Services
ERNS	Emergency Response Notification System
ERS	Environmental Response Services
ERT	Environmental Response Team
ESAT	Emergency Services Assistance Team
ESD	Environmental Services Division
ESD	Explanation of Significant Difference
ESI	Expanded Site Investigation
ESS	Enforcement Support Services

## **F**

FACA	Federal Advisory Committee Act
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
FFA	Federal Facility Agreement
FFEO	Federal Facilities Enforcement Office (OECA)
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FINDS	Facility Index System
FMD	Financial Management Division
FOIA	Freedom of Information Act
FR	<i>Federal Register</i>
FRC	Federal Records Center
FS	Feasibility Study
FSAP	Field Sampling and Analysis Plan
FTE	Full-Time Equivalent
FUDS	Formerly Used Defense Sites
FWPCA	Federal Water Pollution Control Act
FY	Fiscal Year

## **G**

<b>GAAPs</b>	<b>Generally Accepted Accounting Principles</b>
<b>GAAS</b>	<b>Generally Accepted Accounting Standard</b>
<b>GAO</b>	<b>General Accounting Office</b>
<b>GFO</b>	<b>Good Faith Offer</b>
<b>GIS</b>	<b>Geographic Information System</b>
<b>GNL</b>	<b>General Notice Letter</b>
<b>GPRA</b>	<b>Government Performance and Results Act</b>
<b>GSA</b>	<b>General Services Administration</b>

## **H**

<b>HASP</b>	<b>Health and Safety Plan</b>
<b>HAZWOPER</b>	<b>Hazardous Waste Operations and Emergency Response</b>
<b>HQ</b>	<b>Headquarters</b>
<b>HRS</b>	<b>Hazard Ranking System</b>
<b>HSWA</b>	<b>Hazardous and Solid Waste Amendments (RCRA)</b>

## **I**

<b>IAG</b>	<b>Interagency Agreement</b>
<b>ICs</b>	<b>Institutional Controls</b>
<b>IFMS</b>	<b>Integrated Financial Management System</b>
<b>IG</b>	<b>Inspector General</b>
<b>IGCE</b>	<b>Independent Government Cost Estimate</b>
<b>ILO</b>	<b>Independent Land Owner</b>
<b>IMC</b>	<b>Information Management Coordinator</b>

## **L**

<b>LAN</b>	<b>Local Area Network</b>
<b>LDR</b>	<b>Land Disposal Restrictions</b>
<b>LOE</b>	<b>Level of Effort</b>
<b>LSI</b>	<b>Listing Site Inspection</b>
<b>LTRA</b>	<b>Long-Term Response Action</b>
<b>LUST</b>	<b>Leaking Underground Storage Tank</b>

## **M**

<b>MARS</b>	<b>Management and Accounting Reporting System</b>
<b>MCL</b>	<b>Maximum Contaminant Level</b>
<b>MCLG</b>	<b>Maximum Contaminant Level Goal</b>
<b>MOA</b>	<b>Memorandum of Agreement</b>
<b>MOU</b>	<b>Memorandum of Understanding</b>
<b>MSDSs</b>	<b>Material Safety Data Sheets</b>
<b>MSCA</b>	<b>Multi-Site Cooperative Agreement</b>
<b>MSW</b>	<b>Municipal Solid Waste</b>
<b>MUNIS</b>	<b>Municipalities</b>

## **N**

<b>NAAG</b>	<b>National Association of Attorneys General</b>
<b>NARPM</b>	<b>National Association of Remedial Project Managers</b>
<b>NBAR</b>	<b>Non-Binding (Preliminary) Allocation of Responsibility</b>
<b>NCLP</b>	<b>National Contract Laboratory Program</b>
<b>NCP</b>	<b>National Contingency Plan</b>
<b>NEIC</b>	<b>National Enforcement Investigations Center</b>
<b>NEJAC</b>	<b>National Environmental Justice Advisory Council</b>

NEPA	National Environmental Policy Act
NESHAPS	National Emissions Standards for Hazardous Air Pollutants
NETI	National Enforcement Training Institute (OECA)
NFRAP	No Further Remedial Action Planned
NOAA	National Oceanic and Atmospheric Administration
NOSC	National Association of OSCs
NOV	Notice of Violation
NPDES	National Pollution Discharge Elimination System
NPL	National Priorities List
NRC	National Response Center
NRC	Nuclear Regulatory Commission
NRD	Natural Resource Damages
NRT	National Response Team
NTC	Non-Time-Critical (Removal)
NTIS	National Technical Information Service

## O

O&F	Operational and Functional
O&M	Operation and Maintenance
OAM	Office of Acquisition Management
OARM	Office of Administration and Resources Management
OD	Office Director
ODCs	Other Direct Costs
OECA	Office of Enforcement and Compliance Assurance
OEJ	Office of Environmental Justice
OERR	Office of Emergency and Remedial Response (now known as OSRTI)
OGC	Office of General Counsel
OIA	Office of International Activities
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPA	Oil Pollution Act of 1990
ORC	Office of Regional Counsel
ORD	Office of Research and Development
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
OSRE	Office of Site Remediation Enforcement (OECA)
OSRTI	Office of Superfund Remediation and Technology Innovation (formerly known as OERR)
OSW	Office of Solid Waste (OSWER)
OSWER	Office of Solid Waste and Emergency Response
OTIS	On-Line Targeting Information System
OU	Operable Unit

## P

PA	Preliminary Assessment
PA/SI	Preliminary Assessment/Site Investigation
PCB	Polychlorinated Biphenyl
PCOR	Preliminary Close-Out Report
PNRS	Preliminary Natural Resources Survey
PO	Project Officer
POLREP	Pollution Report
POTW	Publicly-Owned Treatment Works
PPA	Prospective Purchaser Agreement
PPB	Parts per Billion
PPED	Policy and Program Evaluation Division (OSRE)
PPM	Parts per Million
PR	Procurement Request
PRP	Potentially Responsible Party

**PRSC** Post-Removal Site Control

## **Q**

**QA** Quality Assurance  
**QA/QC** Quality Assurance/Quality Control  
**QAPP** Quality Assurance Project Plan  
**QC** Quality Control

## **R**

**R&D** Research and Development  
**RA** Remedial Action  
**RA** Regional Administrator  
**RAC** Response Action Contractor  
**RACS** Response Action Contracting Strategy  
**RCMS** Removal Cost Management System  
**RCRA** Resource Conservation and Recovery Act  
**RCRAInfo** Resource Conservation and Recovery Act Information  
**RD** Remedial Design  
**RD/RA** Remedial Design/Remedial Action  
**RDT** Regional Decision Team  
**RI** Remedial Investigation  
**RI/FS** Remedial Investigation/Feasibility Study  
**ROD** Record of Decision  
**RODS** Record of Decision System  
**RP** Responsible Party  
**RPM** Remedial Project Manager  
**RPO** Regional Project Officer  
**RQ** Reportable Quantity  
**RRT** Regional Response Team  
**RSD** Regional Support Division (OSRE)  
**RSE** Removal Site Evaluation  
**RSI** Removal Site Inspection  
**RTP** Research Triangle Park, North Carolina

## **S**

**SACM** Superfund Accelerated Cleanup Model  
**SAM** Site Assessment Manager  
**SAP** Sampling and Analysis Plan  
**SARA** Superfund Amendments and Reauthorization Act of 1986  
**SAS** Special Analytical Services  
**SAS** Superfund Alternative Site  
**SBA** Small Business Administration  
**SBLR&BRA** Small Business Liability Relief and Brownfields Revitalization Act (commonly referred to as the "Brownfields Amendments")  
**SBREFA** Small Business Regulatory Enforcement Flexibility Act  
**SCA** State Cooperative Agreement  
**SCAP** Superfund Comprehensive Accomplishments Plan  
**SCORE\$** Superfund Cost Organization and Recovery Enhancement System  
**SDWA** Safe Drinking Water Act  
**SEE** Senior Environmental Employee  
**SEPs** Supplemental Environmental Projects  
**SESS** Superfund Enforcement Support Service  
**SETS** Superfund Enforcement Tracking System  
**SF** Superfund  
**SI** Site Inspection  
**SMOA** State Memorandum of Agreement



<b>SNL</b>	<b>Special Notice Letter</b>
<b>SOL</b>	<b>Statute of Limitations</b>
<b>SOP</b>	<b>Standard Operating Procedure</b>
<b>SOW</b>	<b>Scope of Work</b>
<b>SOW</b>	<b>Statement of Work</b>
<b>SREA</b>	<b>Superfund Recycling Equity Act</b>
<b>SSC</b>	<b>Superfund State Contract</b>
<b>SSI</b>	<b>Screening Site Investigation</b>
<b>STARS</b>	<b>Strategic Targeting Activities Reporting System</b>
<b>START</b>	<b>Superfund Technical Assessment and Response Team</b>
<b>SWDA</b>	<b>Solid Waste Disposal Act</b>

## **T**

<b>TAG</b>	<b>Technical Assistance Grant</b>
<b>TAT</b>	<b>Technical Assistance Team</b>
<b>TBC</b>	<b>To Be Considered (Material)</b>
<b>TBD</b>	<b>To Be Determined</b>
<b>TC</b>	<b>Time-Critical (Removal)</b>
<b>TCLP</b>	<b>Toxicity Characteristic Leaching Procedure</b>
<b>TDD</b>	<b>Technical Directive Document</b>
<b>TDD</b>	<b>Telecommunications Device for the Deaf</b>
<b>TDM</b>	<b>Technical Direction Memorandum</b>
<b>TIO</b>	<b>Technology Innovation Office (OSWER) (now known as TIP)</b>
<b>TIP</b>	<b>Technology Innovation Program (OSWER) (formerly know as TIO)</b>
<b>TRI</b>	<b>Toxic Release Inventory</b>
<b>TSCA</b>	<b>Toxic Substances Control Act</b>
<b>TSDF</b>	<b>Treatment, Storage and Disposal Facility</b>

## **U**

<b>UAO</b>	<b>Unilateral Administrative Order</b>
<b>UCC</b>	<b>Uniform Commercial Code</b>
<b>USACE</b>	<b>U.S. Army Corps of Engineers</b>
<b>USC</b>	<b>U S Code</b>
<b>USCG</b>	<b>U.S Coast Guard</b>
<b>USDA</b>	<b>U.S. Department of Agriculture</b>
<b>USFWS</b>	<b>U S. Fish and Wildlife Service</b>
<b>USGS</b>	<b>U.S Geological Survey</b>
<b>UST</b>	<b>Underground Storage Tank</b>

## **W**

<b>WA</b>	<b>Work Assignment</b>
<b>WACR</b>	<b>Work Assignment Completion Report</b>
<b>WAF</b>	<b>Work Assignment Form</b>
<b>WAM</b>	<b>Work Assignment Manager</b>
<b>WasteLAN</b>	<b>Waste Local Area Network</b>



## Glossary

## **Glossary**

**Administrative Order on Consent (AOC):** A legal agreement signed by EPA and an individual, business, or other entity through which the entity agrees to take an action, refrain from an activity, or pay certain costs. It describes the actions to be taken, may be subject to a public comment period, applies to civil actions, and can be enforced in court. AOCs are most commonly used for removal actions and RI/FSs, but may be used for de minimis and cost recovery settlements.

**Administrative Record (AR):** The body of documents that "forms the basis" for the selection of a particular response at a site. For example, the AR for remedy selection includes all documents that were "considered or relied upon" to select the response action. An AR must be available at or near every site to permit interested individuals to review the documents and to allow meaningful public participation in the remedy selection process. This requirement does not apply to other ARs, such as those for deletion.

**Administrative Subpoena:** A command issued by EPA requiring testimony and, if necessary, the production of documents deemed necessary to the administrative investigation of a site. CERCLA section 122(e)(3)(B) authorizes the issuance of administrative subpoenas as is "necessary and appropriate" to gather information to perform a non-binding preliminary allocation of responsibility or "for otherwise implementing CERCLA section 122." No legal mandate prohibits the use of an administrative subpoena as an initial information gathering tool; however, the Agency prefers using 104(e) requests before issuing administrative subpoenas.

**All Appropriate Inquiries:** The inquiries that a landowner must make into the previous ownership and uses of a facility in order to claim the innocent landowner, contiguous landowner, or bona fide prospective purchaser defense to CERCLA liability. Standards and practices for conducting all appropriate inquiries were published in the Federal Register (70 Fed. Reg. 66069-66113) on November 5, 2005 as 40 CFR Part 312. These standards and practices also apply to persons conducting site characterization and assessments with the use of grants awarded under CERCLA section 104(k)(2)(B).

**Alternative Dispute Resolution (ADR):** A process that allows parties to resolve their disputes without litigating them in court. ADR involves the use of neutral third parties to aid in the resolution of disputes through methods that include arbitration, mediation, mini-trials, and fact finding.

**Arbitrary and Capricious:** Characterization of a decision or action taken by an administrative agency or inferior court meaning willful and unreasonable action without consideration or in disregard of facts or without determining principle. Under CERCLA section 130(j)(2), a court ruling on a challenge to a response action decision will apply the arbitrary and capricious standard of review.

**Arbitration:** An alternative dispute resolution technique that involves the use of a neutral third party to hear stipulated issues pursuant to procedures specified by the parties. Depending upon the agreement of the parties and any legal constraints against entering into binding arbitration, the decision of the arbitrator may or may not be binding.

**Brownfields:** CERCLA section 101(39), as amended by the Small Business Liability Relief and Brownfields Revitalization Act, defines “brownfield site” in general as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” The term does not include:

- ▶ a facility that is the subject of a planned or ongoing removal action under CERCLA;
- ▶ a facility that is listed or proposed for listing on the National Priorities List (NPL);
- ▶ a facility that is the subject of a unilateral administrative order, a court order, an order of consent or judicial consent decree that has been issued to or entered into by the parties under CERCLA, the Solid Waste Disposal Act (SWDA), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SDWA);
- ▶ a facility that is subject to corrective action under SWDA section 3004(u) or 3008(h), and to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;
- ▶ a facility that is a land disposal unit with respect to which a closure notification under Subtitle C of the SWDA has been submitted, and closure requirements have been specified in a closure plan or permit;
- ▶ a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States for an Indian tribe;
- ▶ a portion of a facility at which there has been a release of polychlorinated biphenyls (PCBs), and that is subject to remediation under the TSCA; or
- ▶ a portion of a facility, for which portion, assistance for response activity has been obtained under Subtitle I of SWDA from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

**Cash Out:** A settlement that requires PRPs to provide up-front financing for a portion of the response action, rather than performing the work themselves. There are several types of cash-out settlement. A mixed-funding cash-out settlement requires the settling PRP to provide a substantial portion of the total response costs whereas a de minimis cash-out settlement requires a minor portion of the response costs to be paid by the settling PRPs.

**CERCLA 106(b) Reimbursement Petition:** Petition by an entity, which has complied with a unilateral administrative order, requesting reimbursement from EPA for reasonable costs plus interest of conducting a response action. A person may be entitled to reimbursement if the person can establish that he or she is not liable for response costs under CERCLA section 107(a) or if the person can demonstrate that the Agency's selection of the response action was arbitrary and capricious or was otherwise not in accordance with law.

**CERCLIS:** The acronym for the Comprehensive Enforcement Response, Compensation, and Liability Information System; a national information management system for the CERCLA program. CERCLIS inventories and tracks releases, accomplishments, expenditures, and planned actions at potential and actual Superfund sites.

**Cleanup Activities:** Actions taken to deal with a release or threatened release of a hazardous substance that could affect humans or the environment. The term “cleanup” is sometimes used interchangeably with the terms remedial action, removal action, response, or corrective action.

**Comment Period:** Period provided for public to review and comment on a proposed EPA action, rulemaking, or settlement.

**Community Relations (Involvement):** EPA's program to inform and encourage public participation in the Superfund process and to respond to community concerns and incorporate them into the Agency decision-making process.

**Community Relations (Involvement) Coordinator (CRC or CIC):** Lead Agency staff who works to involve and inform the public about the Superfund process and cleanup actions.

**Community Relations Plan (CRP):** A document that identifies techniques used by EPA to communicate effectively with the public during the Superfund cleanup process at a specific site. This plan describes the site history, the nature and history of community involvement, and concerns expressed during community interviews. Additionally, the plan outlines methodologies and timing for continued interaction between the Agency and the public at the site.

**Consent Decree (CD):** A legal document, approved by a judge, that formalizes an agreement reached between EPA and one or more potentially responsible parties (PRPs) outlining the terms under which that PRP(s) will conduct all or part of a response action, pay past costs, cease or correct actions or processes that are polluting the environment, or comply with regulations where failure to comply caused EPA to initiate regulatory enforcement actions. The CD describes the actions PRPs will take, is subject to a public comment period prior to its approval by a judge, and is enforceable as a final judgment by a court.

**Contribution:** A legal principle according to which an entity can seek to recover some of the response costs for which it has already resolved liability with the United States. For example, when several PRPs are liable for a hazardous substance release, EPA is not required to pursue all of the PRPs. If EPA settles with or wins its case against a subset of PRPs, then the right of contribution enables the PRPs (i.e., the settling PRPs or those against whom a judgment is rendered) to seek recovery of a proportional share from other PRPs who were not named as defendants in EPA's suit or settlement, but who nonetheless contributed to the release.

**Contribution Protection:** A statutory provision that provides that any PRP who resolved its liability to the United States in an administrative or judicially approved settlement is not liable to other PRPs for claims of contribution regarding matters addressed in the settlement.

**Cooperative Agreement (CA):** Mechanism used by EPA to provide Fund money to States, political subdivisions, or Indian tribes to conduct or support the conduct of response activities. Subpart O of the NCP, 40 CAR Part 35, outlines specific response actions that may be conducted using CA funds.

**Cost Recovery:** A process by which the U.S. government seeks to recover money previously expended in performing any response action from parties liable under CERCLA section 107(a). Recoverable response costs include both direct and indirect costs.

**Covenants Not to Sue:** A contractual agreement, such as those authorized by CERCLA section 122(f) and embodied in a consent decree or administrative order on consent, in which the Agency agrees not to sue settling PRPs for matters addressed in the settlement. EPA's covenant not to sue is given in exchange for the PRPs' agreement to perform the response action or to pay for cleanup by the Agency, and does not take effect until PRPs have completed all actions required by the consent decree and administrative order on consent.

Covenants not to sue are generally given in either consent decrees or administrative orders. Under CERCLA, the use of covenants not to sue is discretionary. In effect, the Agency is authorized to agree to such a release of future liability only if the terms of the covenant include "reopeners."

**Declaratory Judgment:** A binding adjudication of rights and status of litigants. Within the context of CERCLA, the United States may file a claim seeking declaratory judgment on liability for past and future response costs at the site. If declaratory judgment on liability is granted, the United States does not have to prove liability in any future action with the defendant.

**Defendant:** A person against whom a claim or charge is brought in a court of law.

**Demand Letter:** A written demand for recovery of costs incurred under CERCLA. The primary purposes of written demands are to formalize the demand for payment of incurred costs plus future expenditures, inform potential defendants of the dollar amount of those costs, and establish that interest begins to accrue on expenditures. A demand letter may be incorporated into the special notice letter.

**De Micromis Exemption:** CERCLA section 107(o), as amended by the Small Business Liability Relief and Brownfields Revitalization Act, provides that in general, a party shall not be liable under CERCLA section 107 if it can demonstrate that the total amount of the material containing hazardous substances that it generated and arranged for disposal at, or accepted for transport to, an NPL site was less than 110 gallons of liquid materials or less than 200 pounds of solid materials, unless those substances contributed significantly to the cost of the response action or natural resource restoration with respect to the facility; or the party has been uncooperative with EPA's response actions at the site; or the party has been convicted of a criminal violation for the conduct to which the exemption would apply.

**De Minimis Contributor:** PRPs who are deemed by the settlement agreement to be responsible for only a minor portion of the response costs at a particular facility. A determination of a PRP's responsibility is made based on the volume, toxicity, or other hazardous effects in comparison with other wastes at the facility. CERCLA section 122(g)(1)(A) expressly defines de minimis contributor.

**De Minimis Landowner:** PRPs who are deemed by the settlement agreement to be past or present owners of the real property at which the facility is located who did not conduct or permit the generation, transportation, storage, treatment or disposal of any hazardous substance at the facility, did not contribute to the release or threat of release of a hazardous substance at the facility through any act or omission, and had no actual or constructive knowledge that the property was used for the generation, transportation, storage, treatment, or disposal of any hazardous substance at the time of purchase. CERCLA section 122(g)(1)(B) expressly defines de minimis landowner.

**De Minimis Settlement:** An agreement, either administrative or judicial, authorized by CERCLA section 122(g), between EPA and PRPs for a minor portion of response costs.

**De Novo:** Generally, a new hearing or a hearing for the second time. At a de novo hearing, the court hears the case as the court of original and not appellate jurisdiction. Under CERCLA, for example, a judge may hear a case de novo if the administrative record is found to be incomplete or inaccurate. Such a hearing would allow judicial review that is not limited to the administrative record. A potential result of a de novo trial could be the court selecting the remedy.

**Discovery:** A pre-trial procedure that enables parties to learn the relevant facts about the case. The Federal Rules of Evidence provide for extremely broad discovery. The basic tools of discovery are depositions, interrogatories, and requests for production of documents. One of the few limitations on the scope of discovery is that the material sought must be relevant to the subject matter of the pending suit, or likely to lead to the production of relevant material.

**Easement:** A right afforded to an entity to make limited use of another's real property. An easement is one form of institutional control that may be required at a Superfund site if all the hazardous substances cannot be removed from the site. Easements may include limiting access or control of surface activities.

**Eminent Domain:** The power to take private property for public use. Under the U.S. Constitution, there must be just compensation paid to the owners of this property. EPA exercises its power of eminent domain through the process of condemnation.

**Enforcement Actions:** EPA, state, or local legal actions to obtain compliance with environmental laws, rules, regulations, or agreements, or to obtain penalties or criminal sanctions for violations.

**Environmental Justice (EJ):** The fair treatment of people of all races, incomes, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.

**Explanation of Significant Difference (ESD):** A document regarding a significant change to the record of decision when new information is discovered about a site or difficulties are encountered during the remedial design/remedial action phase of cleanup. An ESD is appended to the administrative record to inform the public of any significant changes that are being made to the selected remedy.

**Extraordinary Circumstances:** Situations that justify the deletion of a standard reopener in a consent decree. This release is granted infrequently and is given in response to unusual conditions related to liability, viability, or physical circumstances.

**Federal Lien:** A lien in favor of the United States authorized by CERCLA section 107(l) that may be imposed upon a PRP's property subject to a response action. The lien arises when the PRP receives written notice of its potential liability for response costs under CERCLA, or the Agency actually incurs response costs at a particular site. The lien continues until the PRP's liability is fully satisfied or the claim becomes unenforceable by operation of the statute of limitations.



**Federal Register:** A federal government publication that includes proposed regulations, responses to public comments received regarding proposed regulations, and final regulations. The Federal Register is published every working day by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408. The Federal Register publishes regulations and legal notices issued by federal agencies. These include presidential proclamations and executive orders, federal agency documents required by Congress to be published, and other federal agency documents of public interest. The Federal Register is available to the public through public libraries that are federal depositories, law libraries, and large university libraries.

***Force Majeure:*** A clause common to construction contracts which protects the parties in the event that a portion of the contract cannot be performed due to causes that are outside of the parties' control (i.e., problems that could not be avoided by the exercise of due care, such as an act of God). These causes are known as *force majeure* events. *Force majeure* provisions are included in administrative orders on consent and consent decrees. These provisions stipulate that the PRPs shall notify EPA of any event that occurs that may delay or prevent work and that is due to *force majeure*. Two examples of *force majeure* may be raised as defenses to liability. CERCLA section 107(b) releases from liability any person who can establish by a preponderance of the evidence that the release or threat of release of a hazardous substance was caused solely by an act of God or an act of war (i.e., *force majeure*.)

**Full Release:** An agreement by EPA to release a PRP from any further liability for response costs. Under CERCLA section 122(j)(2), natural resource trustees may grant full releases of liability for damages to natural resources.

**Fund (Hazardous Substance Superfund or Superfund Trust Fund):** A fund set up under CERCLA to help pay for cleanup of hazardous waste sites and for legal action to force cleanup actions on those responsible for the sites. The fund is financed primarily with a tax on crude oil and specified commercially used chemicals.

**General Notice Letter (GNL):** A notice to inform PRPs of their potential liability for past and future response costs and the possible future use of CERCLA section 122(e) special notice procedures and the subsequent moratorium and formal negotiation period.

**Generator:** Any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment of hazardous substances owned or possessed by such a person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances.

**Good Faith Offer (GFO):** A written proposal submitted by a PRP to the EPA to perform or pay for a response action. PRPs are given 60 days from the special notice to provide EPA a written GFO. The GFO must be specific, consistent with the ROD or proposed plan, and indicate the PRPs' technical, financial, and management ability to implement the remedy.

**Hazard Ranking System (HRS):** The principal screening tool used by EPA to evaluate risks to public health and the environment associated with abandoned or uncontrolled hazardous waste sites. The HRS calculates a score based on the potential for hazardous substances spreading from the site through the air, surface water, or ground water, and on other factors such as nearby population. This score is the primary factor in deciding if the site should be on the NPL and, if so, what ranking it

should have compared to other sites on the list. A site must score 28.5 or higher to be placed on the NPL.

**Indian Tribe:** As defined by CERCLA section 101(36), any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**Information Repository:** Where the administrative record, current information, technical reports, and reference materials regarding a Superfund site are stored. EPA or the State establishes the repository in the community as soon as a site is discovered. It provides the public with easily accessible information. Repositories are established for all sites where cleanup activities are expected to last for more than 45 days. Typical community repository locations include public libraries and municipal offices.

**Information Request Letter:** Formal written requests for information, authorized by CERCLA section 104(e)(2)(A) through (C), issued during an administrative investigation. EPA is authorized to request information from any person who has or may have information relevant to any of the following:

- ▶ the kind and quantity of materials that have been or are being generated, treated, disposed of, stored at, or transported to a vessel or facility;
- ▶ the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a vessel or facility; and
- ▶ the ability of a person to pay for or perform a cleanup.

Failure to respond to or incomplete response to an informational request is subject to statutory penalties.

**Innocent Landowner:** A person who purchased or acquired real property without actual or constructive knowledge that the property was used for the generation, transportation, storage, treatment, or disposal of any hazardous substances. PRPs may assert this claim as part of their defense, but only the court may make this determination based on CERCLA sections 107(b) and 101(35).

**Institutional Controls:** Non-engineered instruments such as administrative or legal controls that minimize the potential for human exposure to contamination or protect the integrity of a remedy by limiting land or resource use or providing information that helps modify or guide human behavior. ICs are generally used in conjunction with rather than in lieu of engineering measures such as waste treatment or containment. Some common examples of ICs are zoning restrictions, building or excavation permits, well drilling prohibitions, easements and covenants.

**Joint and Several Liability:** A legal doctrine defining the scope of a defendant's liability. When more than one PRP is involved at a site and the harm is indivisible, the court may impose joint and several liability upon all parties involved at the site. In this instance, each PRP involved at the site may be held individually liable for the cost of the entire response action.

**Judicial Review:** The court's review of a decision rendered by a federal agency or department or a court's review of an appeal challenging either a finding of fact or finding of law. Under CERCLA, for example, the court provides judicial review prior to entry of the consent decree. In addition, the court would provide judicial review of an EPA decision if a PRP submitted a "petition to review" to a federal court of appeals. The jurisdiction of the court and the scope of its review are defined by CERCLA section 113(h) and the Judicial Review Act, 28 U.S.C. §§2341-2351.

**Lead Agency:** The agency that primarily plans and implements cleanup actions. This could be EPA, State, or political subdivisions, other federal agencies, or Indian tribes. Other agencies may be extensively involved in the process, but the lead agency directs and facilitates activities related to a site, often including enforcement actions.

**Mixed Funding:** Settlements whereby EPA settles with fewer than all PRPs for less than 100 percent of the response costs. The settlement must provide a substantial portion, greater than 50 percent of the total response costs, and there must be viable non-settlers from which remaining response costs may be pursued. The three types of mixed funding settlement are preauthorization, cash-out, and mixed work.

**Mixed Work:** A type of mixed funding settlement whereby EPA and the PRPs agree to conduct discrete portions of the response action. Often EPA's portion of the work is paid for or performed by other PRPs as a result of subsequent settlements or unilateral administrative orders.

**Moratorium:** The period of time after special notice letters are issued during which the Fund will not be used to begin work at the site on the RI/FS or RA. EPA also will not seek to compel PRP action at the site during the moratorium.

**Municipal Solid Waste (MSW):** CERCLA section 107(p), as amended by the Small Business Liability Relief and Brownfields Revitalization Act, defines MSW as waste material generated by a household; and waste material generated by a commercial, industrial, or institutional entity, to the extent that the waste material:

- ▶ is essentially the same as waste normally generated by a household;
- ▶ is collected and disposed of with other MSW as part of normal MSW collection; and
- ▶ contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste generated by a typical single family household.

**National Oil and Hazardous Substances Pollution Contingency Plan (NCP):** The NCP is the major framework regulation for the federal hazardous substances response program. The NCP sets forth procedures and standards for how EPA, other federal agencies, States, and private parties respond under CERCLA to releases or threats of releases of hazardous substances, and under Clean Water Act section 311, as amended by the Oil Pollution Act of 1990, to discharges of oil.

**Natural Resources:** Land, fish, wildlife, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, or controlled by the United States, state or local government, any foreign government, any Indian tribe, or any member of an Indian tribe.

**Natural Resource Damages:** Damages for injury or loss of natural resources as set forth in CERCLA sections 107(1) and 111(b) and NCP section 300.615.

**Non-Binding Preliminary Allocation of Responsibility (NBAR):** An allocation of the total cost of response among PRPs at a facility. CERCLA section 122(e)(3) allows EPA to provide NBARs to PRPs to facilitate settlement. An NBAR is not binding on the United States or the PRPs and cannot be admitted as evidence in court.

**Orphan Share:** A portion of cleanup costs that cannot be assessed to a PRP as a result of either the PRP's insolvency or EPA's inability to identify PRP(s).

**Owner or Operator:** Any person owning or operating a vessel or facility, or in the case of a hazardous substance being accepted for transportation, the common or contract carrier. It does not include a unit of state or local government that acquired ownership or control involuntarily through bankruptcy, tax delinquency, or abandonment.

**Performance Bond:** A guarantee given by a contractor that a work assignment will be completed according to its terms and within the agreed time.

**Performance Standards:** Provisions in consent decrees and administrative orders specifying specific levels of performance that site activities must achieve; often incorporated by reference into the record decision. The inclusion of such performance standards enables the Agency to assure measurable levels of cleanup that provide the protection desired.

**Person:** An individual, firm, corporation, association, partnership, joint venture, commercial entity, U.S. government, State, municipality, or any interstate body.

**Plaintiff:** A party who brings a legal action; the party who complains or sues in a civil action and is so named on the record.

**Potentially Responsible Party (PRP):** Any individual or entity including owners, operators, transporters, or generators who may be liable under CERCLA section 107(a).

**Preauthorization:** A type of mixed funding settlement whereby EPA preauthorizes a claim against the Fund by the PRPs for a portion of costs of conducting a response action. Once the preauthorization agreement is finalized, the PRPs conduct the response action, as outlined in settlement agreement, petition non-settling PRPs for reimbursement, and, if necessary, seek reimbursement from the Fund for the preauthorized amount not received from non-settling PRPs.

**Premium:** A sum paid or agreed to be paid by a PRP to cover risks associated with settlement. This sum represents an amount in addition to the cost of the response action. For example, a premium may be part of an early de minimis settlement due to potential inaccuracy of total response cost estimates or remedy failure.

**Record of Decision (ROD):** The official Agency document that explains which remedial cleanup alternatives have been considered, the selected remedy, technical background relative to the decision, and how the decision complies with the law.

**Recalcitrant:** A PRP that is persistently uninterested in or refuses to reach settlement or that fails to comply with a settlement or order.

**Recusal:** The voluntary or involuntary removal of a government official from any involvement in a specific matter. Recusal is used to preserve the ethical standards of public service. Recusal generally occurs when there is an appearance of a conflict between governmental responsibilities and private interest. Once a person is removed through recusal, she cannot participate in any activity relating to the matter; specifically, she cannot see any correspondence or participate in any meetings or negotiations related to the issue.

**Remand:** A legal term used when a court sends a case back to either a lower court or an administrative agency for further action. For example, under CERCLA, if an administrative record is found to be incomplete or inaccurate, one option of the reviewing court is to remand the case to EPA with instructions to compile an accurate and complete administrative record.

**Remedial:** CERCLA section 101(24) defines a remedial action as one that is “consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment.” Generally, response actions that take longer than a non-time-critical removal and are more complex than removals.

**Removal:** CERCLA section 101(23) defines a removal as “the cleanup or removal of released hazardous substances from the environment, such actions as may be necessary taken in the event of the threat of release...[and] such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances...” Such evaluations include RI/FS. Removals are classified according to urgency as “emergency,” for those requiring immediate response; “time-critical,” for those that take no more than six months; and “non-time-critical” for removals that need up to a year or more.

**Reopeners:** Contractual provisions that preserve the Agency's right to compel the PRPs to undertake additional response actions or to pay costs for Agency response actions in addition to those agreed to in the settlement. Reopeners to liability are triggered when previously unknown conditions at the site are discovered, or information previously unknown to EPA is received, that indicates the remedial action is not sufficiently protective. Reopener provisions restrict the covenant not to sue by defining the conditions under which the settlement may be re-examined.

**Remedial Investigation/Feasibility Study (RI/FS):** The remedial investigation and feasibility study are conducted at an NPL site by EPA, or a PRP acting under an administrative order on consent (AOC) or (rarely) a unilateral administrative order (UAO), to assess site conditions and evaluate alternatives to the extent necessary to select a remedy, described in the record of decision (ROD), that will clean up the site in accordance with CERCLA section 121.

**Remedial Design/Remedial Action (RD/RA):** The remedial design and remedial action are conducted at an NPL site by EPA or a PRP under a consent decree (CD) approved and entered by a federal court. RD is the engineered design of the selected remedy; RA is the construction and continuing operation and maintenance of the remedy.

**Settlement:** Resolution of a claim. Settlement occurs when a federal or state agency has a written agreement with PRPs regarding payment for and conduct of specified response actions. Settlements may be achieved administratively through an administrative order on consent or judicially through a consent decree.

**Special Account:** A sub-account of the Fund in which cash-out settlement funds may be deposited to segregate the funds and ensure that they are readily accessible for work at the site covered by the settlement.

**Special Master:** A court-appointed individual who oversees the progress of a complex case before it goes to trial. The scope of the special master's authority is set forth in an order of reference. Special masters are appointed only under exceptional conditions. For example, special masters may be appointed in cases requiring the interpretation of complicated technical data or voluminous information.

**Special Notice Letter (SNL):** A written notice to a PRP providing information on potential liability, conditions of the negotiation moratorium, future response actions, and demand for past costs. The SNL is authorized under CERCLA section 122(e)(1) and triggers the start of the negotiation moratorium.

**Statute of Limitations (SOL):** The statutorily defined period of time within which the United States, on behalf of EPA, must file a claim for cost recovery. If the United States does not file a case within the SOL, it may not be able to recover its costs from the PRPs.

**Stipulated Penalties:** Fixed sums of money that a defendant agrees to pay for violating the terms of a settlement. Procedures for invoking and appealing stipulated penalties and penalty amounts are agreed to in the administrative order on consent or the consent decrees.

**Strict Liability:** Legal responsibility for damages without regard to fault or diligence. The strict liability concept in CERCLA means that the federal government can hold PRPs liable without regard to a PRP's fault, diligence, negligence, or motive.

**Transporter:** CERCLA section 107(a) defines a transporter as a person who “accepts or accepted any hazardous substances for transport for disposal” to any site selected by such person, “from which there is a release or threatened release which causes the incurrence of response costs, of a hazardous substance...”

**WasteLAN:** The acronym for Waste Local Area Network. For historical reasons, EPA’s Regions use it when referring to CERCLIS.