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CleanupNews is a monthly newsletter highlighting hazardous waste cleanup cases, policies, settlements and technologies.

cleanupnews

EPA Proposes Agreement for Chem-Wood Treatment

EPA is proposing to enter into a Prospective Purchaser Agreement (PPA) with Kanani, L.L.C. for the purchase of the Chem-Wood Treatment Company facility in Campbell Industrial Park, Ewa Beach, Hawaii. The property is a RCRA Corrective Action site, and the agreement includes covenants not to sue under both RCRA and CERCLA. EPA believes this agreement represents a substantial benefit to EPA and the local community because the current and previous owners are out of business and financially unable to address contamination at the site. Kanani plans to use the 2.6-acre site on Oahu Island for supplies and vehicle storage. The agreement will not be finalized until after a 30-day public comment period and EPA's consideration of any comments received.

Under the agreement, Kanani will implement all cleanup actions including capping contaminated soils and monitoring the natural attenuation of groundwater contamination. Kanani will also record use restrictions and other institutional controls to help ensure that future use of the site does not compromise the integrity of the protective cap and other corrective actions. Improved site security will also alleviate concerns of unauthorized public access to the site. All of Kanani's actions

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Los Angeles Man Sentenced for Dry Cleaning Waste Scheme

On January 25, 2006, Behzad Kahoolyadeh was sentenced in district court to 37 months in jail and ordered to pay \$1.29 million in cleanup costs for his involvement in the illegal transport and storage of dry cleaning chemicals. Kahoolyadeh, who is also known as Behzad Cohen and David Cohen, pleaded guilty on March 4, 2004 to five felony counts: 1) unlawful storage of hazardous wastes in violation of a permit; 2) unlawful storage of hazardous wastes without a permit; 3) unlawful transportation of hazardous wastes to an unper

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Construction Completed at Sealand Restoration Superfund Site

A group of responsible parties has completed construction of a subsurface barrier system that will treat ground water contamination at the Sealand Restoration Superfund site near Lisbon, New York. This marks the end of the major work to be done at the site to address volatile organic compound (VOC) ground water contamination.

Sealand Restoration, Inc. was issued a permit by the New York Department of Environmental Conservation (NYSDEC) to landfill petroleum wastes on the site in 1979. NYSDEC discovered that Sealand Restoration was accepting waste not included in the permit and ordered the company to stop operations. NYSDEC shut down the landfill in 1980 after nearby wells showed low levels of cadmium contamination. Additional sampling from on-site monitoring wells revealed ground water contamination from heavy metals and VOCs, including



The biopolymer slurry is pumped via a hose into the trench during excavation.

benzene, trichloroethene, 1,1,1-trichloroethane, toluene, and acetone. The State of New York and St. Lawrence County removed drums and excavated contaminated soil, and the area was filled with clean fill and capped. The site was added to the NPL in August 1990.

A remedial investigation and feasibility study to determine the nature

and extent of on-site ground water, surface water, and sediment contamination and to evaluate remedial alternatives was completed by the responsible parties in August 1995. A remedy calling for ground water extraction and treatment was selected by EPA in September 1995. In 2001, EPA modified its original plan for ground water remediation after further testing showed that the original remedy would not satisfactorily address the contamination. Instead, EPA chose a permeable reactive barrier which will remove contaminants from the water as it flows through the barrier. Under the modified plan, some contamination will be allowed to attenuate naturally, as well. Although the major work is completed, EPA will continue to oversee the cleanup to make sure that the responsible parties maintain the system properly.

For additional information, contact Robert Nunes, EPA Region 2, (212) 637-4254.

Settlement Reached for Harbor Island

On January 31, 2006, RSR Corporation and its subsidiaries Quemetco, Inc. and QRI, Inc. (RSR) agreed to pay \$8.5 million for lead contamination at the Harbor Island Superfund site in Seattle, Washington. The settlement will resolve RSR's liability. In a 1996 consent decree, other businesses that contributed to the contamination of Harbor Island agreed to complete cleanup work worth approximately \$32 million. RSR Corporation was not a party to the consent decree, and the U.S. brought a lawsuit against RSR to recover costs not included in the earlier settlement.

Harbor Island, located at the mouth of the Duwamish River near downtown Seattle, is a man-made island that has been used by various industries for over a century. RSR operated a lead smelting operation on the island from 1972 to 1983. Lead in air emissions and fugitive lead dust emissions from its smelting operation contaminated surface soils. In addition to the soil contamination resulting from RSR's operations, marine sediments and ground water were contaminated with heavy metals, volatile organic compounds (VOCs), pesticides, and other contaminants from other industrial processes. Surface cleanup has been completed, but some subsurface areas and the groundwater still require cleanup and further investigation.

The public comment period for the proposed consent decree ended March 10, 2006.

For additional information, contact Bob Hartman, ORC, (206) 553-0029, hartman.bob@epa.gov; Neil Thompson, EPA Region 10, (206) 553-7177; or Cynthia Magnuson, USDOJ, (202) 514-2007, cynthia.magnuson@usdoj.gov.

Advisory Board Recommends Changes to Financial Test

by Greg Madden, OSRE

The Environmental Financial Advisory Board (EFAB or Board)—which advises EPA on financial matters—has been charged with addressing a number of issues related to financial assurance for closure and cleanup liabilities. The first issue EFAB took up was the use of the “financial test” mechanism as financial assurance for an entity’s closure and/or cleanup obligations. The financial test mechanism assesses the regulated entity’s present financial viability. The financial test is used by many entities to provide financial assurance.

EFAB has held discussions about the financial test in the RCRA closure/post-closure financial assurance regulations over the past year and a half. EPA uses these regulations as guidance on financial assurance for CERCLA cleanups and RCRA corrective action activities. The Board completed their review of the regulations and provided their recommendations for changes to the financial test in a January 11, 2006 letter to Administrator Johnson.

One key element of the recommen-

dation was EFAB’s belief that “the Agency and its State counterparts should view themselves as *potential creditors* with respect to the financial assurance requirements.” (emphasis added). Another key element of the EFAB recommendation was recognition that the financial test mechanism needed to consider the “limited capacity” of EPA and State environmental agencies to undertake “extensive credit analysis” in implementing a financial test regulation.

The Board found that credit rating agencies methodologies provide reliable credit quality assessments. In its current form the RCRA closure/post-closure requirements have two financial test alternatives, only one of which requires independent third party credit analysis (i.e., credit ratings). EFAB expressed concern that this alternative “does not provide the same level of scrutiny offered by a credit rating.”

In light of the belief that environmental regulatory agencies should consider themselves “potential creditor,” along with concerns about those agency’s limited financial analysis capacity and the reliability of credit rating agency meth-

odologies, the Board recommended:

“the Agency consider that all companies using the Alternative I test to meet their obligations receive an independent third party assessment of their credit position using methodologies currently employed by the credit rating services and other financial institutions.”

EPA has already responded to the EFAB letter with a February 21, 2006 letter from Office of Solid Waste and Emergency Response, Assistant Administrator Susan Bodine. In its response, explained that the recommendations would be considered in any actions taken to upgrade financial assurance requirements. EPA noted that the Agency was “particularly interested in the Board’s advice that EPA and the States should consider the financial assurance requirements from the view of a potential creditor when evaluating financial assurance.”

EFAB will continue its work by next taking up the issue of “captive insurance” as a financial assurance mechanism.

For additional information, contact Greg Madden, OSRE, (202) 564-4229.

\$11 Million Settlement Reached for North Ridge Estates Superfund Site

On January 20, 2006, EPA and the Department of Justice announced that a settlement has been reached resolving a dispute over an asbestos contaminated property known as the North Ridge Estates Superfund Site in Klamath Falls, Oregon. In a related lawsuit filed in early 2003, 13 of

the 22 homeowners who purchased homes in the North Ridge Subdivision argued that the real estate developers known as MBK Partnership contaminated the property by illegally spreading and burying asbestos containing materials (ACM). According to the consent decree, MBK and other parties associated with MBK agreed to pay \$11

million to reimburse EPA for costs and to compensate affected families and help them move into new homes. EPA’s costs included paying to relocate homeowners during the summer of 2005 due to dry conditions and the danger of exposure to friable asbestos material.

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Triad Speeds Cleanup of Lead-Contaminated Firing Range Soil

by Deana Crumbling, OSRTI

The former Evergreen Infiltration Range is part of Fort Lewis in Washington state. The area was target for cleanup to allow fast-track construction of additional base housing. The impact berm (300 feet long and 40 feet high) still contained lead fragments from slugs and some soil was contaminated with high lead concentrations. The Fort Lewis Directorate of Public Works and the U.S. Army Corps of Engineers worked together to implement the Triad approach (intensive systematic planning, adaptive decision-making, and tools supporting real-time decision-making; see www.triadcentral.org) in spring 2003 to meet the aggressive time schedule and conserve restoration resources.

Remediation to Washington state clean-up levels for unrestricted (residential) use was required. During systematic planning an interdisciplinary project team developed the decision logic that guided real-time field work. A field-portable X-ray fluorescence (XRF) instrument (see <http://fate.cluin.org/xrf.asp?techtpeid=49>) reported quantitative soil lead concentrations within 5-10 minutes of obtaining the sample. Lead contamination was present in highly heterogeneous patterns which could cause misleading data results; however, real-time, adaptive, high-density sampling and analysis monitored and managed the effects of heterogeneity and avoided erroneous decisions. The project team designed strict quality

control measures and used software to visually display concentration patterns in real-time.

Approximately 5,000 cubic yards of soil were removed. Lead fragments were screened out and sent to a recycling facility. If treated with phosphate amendments, the RCRA regulator allowed the remaining soil to be reused to build new berms on an active range. Reuse had several benefits. 1) The costs of landfill dis-



View of the impact berm and sampling. Berm vegetation had been growing undisturbed for 41 years.

posal for the old berms were not incurred. 2) Slugs fired into the new berms would be “treated” upon deposition. 3) Creation of new volumes of contaminated soil requiring treatment and disposal in the future was avoided by not using clean soil to construct the new berms. Compared to a more standard dig and haul, time savings were estimated at several months and cost savings at approximately \$1 million.

For additional information, contact Kym Takasaki, US Army Corps of Engineers, (206) 764-3322, kymberly.c.takasaki@usace.army.mil.

PPA, continued from page 1

will help prevent contamination from migrating offsite.

From 1973 to 1988, Chem-Wood Treatment Co. ran a wood treatment facility on the site. Post-treatment dripping, accidents and mismanagement of waste allowed the treatment mixture, which included formulations of pentachlorophenol diluted with mineral spirits and containing dioxin, to contaminate the soil and groundwater. In response to a RCRA Section 3008(h) Corrective Action Order issued by EPA in 1988, Chem-Wood halted its wood treatment activities at the site and began to address the soil and groundwater contamination. Chem-Wood capped most of the property and created a Corrective Action Trust Fund which currently contains \$292,000. In return for an unpaid loan, ownership of the site was transferred from Chem-Wood Treatment Co. to the now bankrupt SOGO Hawaii, Inc.

Kanani estimates that it will cost over \$1.6 million to complete the corrective actions outlined by the PPA, which is more than the \$1.3 million the the property is worth. After factoring in the Corrective Action Trust Fund set up by Chem-Wood, Kanani expects to spend \$90,000 in cleanup costs above the site’s property value.

This agreement and EPA’s covenant not to sue only cover existing contamination at the time of sale. In order to maintain EPA’s covenant, Kanani must take care not to worsen existing contamination and must not cause additional contamination at the site.

For additional information, contact Helen Keplinger, Attorney-Advisor, OECA/OSRE/RSD, (301) 229-5526.



Michigan Man Pleads Guilty to Abandoning Chemicals

On December 19, 2005, James A. Vaandering, who pleaded guilty to abandoning chemicals at an electroplating facility, was sentenced to 13 months in prison, 300 hours of community service, and 3 years of supervised release by the District Court for the Western District of Michigan. Vaandering was also ordered to pay \$1,000 in fines and \$151,000 to EPA for cleanup costs.

Vaandering was a supervisor at Sealmore Corporation in Muskegon, Michigan, which was condemned in late 2000. Among the chemicals left at the facility were acid solutions containing hexavalent chromium and hydrofluoric acid. Hexavalent chromium and hydrofluoric acid are chemicals that can cause serious health problems if individuals are improperly exposed to them.

For additional information contact Peter Rosenberg, Office of Criminal Enforcement, Forensics and Training, (202) 564-2611.

Defendants Sentenced in International Hazardous Waste Prosecution

On February 14, 2006, U.S. District Court Judge Bruce W. Kauffman, Eastern District of Pennsylvania, sentenced three defendants for mishandling hazardous waste stored at a warehouse in Pottstown, Pennsylvania between 1998 and 2000 and transported in 2000 to the port of Rotterdam, the Netherlands. The de-

endants—Joel D. Udell, 65, and his two companies, Pyramid Chemical Sales Co. and Nittany Warehouse LP—ran a chemical brokerage business in Pottstown and Ambler in Pennsylvania. They had previously pleaded guilty to unpermitted hazardous waste storage, transportation of hazardous waste without manifests and to unpermitted facilities, and exporting hazardous waste outside the United States without the consent of the receiving county. The defendants collectively must pay more approximately \$ 1.8 million in restitution to the Dutch government, Rotterdam port operator and EPA for disposal, storage and clean up costs, and pay \$200,000 in fines. Udell, who now lives in Boca Raton, Florida, was also sentenced to home confinement for six months back in Montgomery County, Pennsylvania where Pottstown and Ambler are located and to perform 500 hours of community service in Pottstown. The defendants will also serve five years of probation.

In May 1998, Pottstown officials attempted to get Udell to improve hazardous waste handling and storage at the Nittany Warehouse in Pottstown where he stored his chemicals awaiting sale. When Udell failed to comply, Pottstown sued in state court and obtained a clean up order in April, 2000. EPA required the defendants to perform a Superfund cleanup at the warehouse beginning in July 2000. Around that same time, the defendants shipped 29 forty-foot containers of chemicals, including hazardous waste, to Rotterdam. The wastes remained for three years in Rotterdam despite Dutch and EPA orders to the defendants to return the chemicals to the U.S. or dispose of them. Eventually the Dutch government paid to have the nearly 300 tons of waste incinerated.

For additional information, contact Martin Harrell, EPA Region 3, (215) 814-2638.

District Court Finds ASARCO Does Not Have Contribution Rights

On January 24, 2006, the District Court for the District of Arizona ruled that ASARCO could not claim contribution rights under CERCLA Section 113. ASARCO had entered into a settlement with the State of Nebraska through which it agreed to voluntarily clean up a 22-acre parcel in Omaha, Nebraska. After incurring cleanup costs, ASARCO claimed contribution rights under Section 113 and sought \$30 million in costs from Union Pacific.

The Court found that the Memorandum of Agreement (MOA) ASARCO entered into with the State of Nebraska did not resolve ASARCO's CERCLA liability under Section 113(f)(3)(B). The state settlement was not authorized by EPA, and there was no agree-

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mitted facility; 4) unlawful transportation of hazardous wastes without a manifest; and 5) conspiracy to commit those offenses.

Kahoolyadeh was connected with a dry cleaning waste handler—AAD Distribution and Dry Cleaning Services, Inc. of Vernon, California—which collected, treated, and managed the disposal of perchloroethylene (PERC). Kahoolyadeh and others hid drums on trucks prior to inspections so that permit violations would not be identified; the drums were then shipped off-site and stored at an unpermitted facility.

For additional information, contact Erica Martin, ORC, (626) 583-6746; William W. Carter, United States Attorney's Office for the Central District of California, (213) 894-3547, william.carter@usdoj.gov; or David P. Kehoe, DOJ, Environmental Crimes Section, david.kehoe@usdoj.gov.

Earth Day 2006 is April 22

EPA and other federal agencies, state and local governments, and organizations are gearing up for Earth Day 2006. The federal government's Earth Day Web site at: <http://www.earthday.gov> provides a wealth of information about environmentally-friendly practices for work and home. There is also a link to the Earth Day Network, which provides a list of international and U.S. Earth Day activities and volunteer opportunities.

EPA Region 2 will celebrate Earth Day by presenting its annual Environmental Quality Awards; details are provided on the award Web site at: <http://www.epa.gov/region2/eqa/>. The District of Columbia is planning Green DC Week (April 17-23, 2006) with educational activities scheduled around the city. For additional information, see the Green DC Week Web site at: <http://www.greendcweek.net>.

Remediation Technology Assessment Reports: Summary of Selected Documents

This new factsheet, published by the Federal Remediation Technologies Roundtable (FRTR), identifies and summarizes selected reports prepared by federal and state agencies to assist project managers in selecting and designing remediation technologies. Remediation Technology Assessment Reports are based on practical field experience with either specific technologies (such as permeable reactive barriers) or, in a few instances, specific contaminants (such as arsenic). As of February 2006, the

website <http://costperformance.org/remediation> provides access to 70 of these reports. The new factsheet highlights the Remediation Technology Assessment Reports that may be among the most useful to project managers.

For additional information, contact Marti Otto, OSRTI, otto.martha@epa.gov, (703) 603-8853.

DOD Announces Local Redevelopment Authorities

On February 7, 2006, the DOD's Office of Economic Adjustment (OEA) published a Federal Register notice (71 FR 6274) that includes a listing of recognized Local Redevelopment Authorities (LRAs), their contact information and associated military installations that are closing or realigning as a result of the 2005 Defense Base Closure and Realignment (BRAC) report. Anyone interested in redevelopment activities at the installations listed should contact the LRA point of contact for information. Additional LRAs will be announced in the Federal Register when they are officially recognized by the DoD.

For additional information, contact Tracey Seymour, FFRRO, (703) 603-8712.

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The North Ridge Estates site was purchased in 1977 by Melvin Stewart, Maurice Bercot, and Kenneth Tuttle, the original MBK partners. Prior to the MBK purchase, the site had served as the campus of the Oregon Technical Institute. The existing buildings dated back to the 1940s and were constructed with asbestos containing materials. Although MBK responded to a 1979 EPA administrative order by removing some ACM from the site, the partnership did not record a restriction on using the land for residential develop-

ment. In 1993, the site was developed for private housing.

For additional information, contact Cliff Villa, EPA Region 10, (206) 553-1185.

Escambia Final Cleanup Plan Approved

EPA has signed the Record of Decision outlining the cleanup strategy for soil contamination at Escambia Wood Treating Company Superfund Site in Pensacola, Florida. The cleanup plan includes excavating both on-site and off-site soils; permanently relocating residents in the Clarinda triangle neighborhood; soil containment and capping; and institutional controls. EPA modified the initial cleanup plan based on a re-evaluation of the original remedy and community concerns.

The Escambia Wood Treating Company treated utility poles, foundation pilings, and lumber on the site from 1942 to 1982. To date, EPA has excavated and covered 255,000 cubic yards of contaminated material on-site and permanently relocated 358 households.

For additional information, contact Laura Niles, EPA Region 4, (404) 562-8353, niles.laura@epa.gov.

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ment between EPA and the state that the settlement would resolve ASARCO's CERCLA liability. In fact, the MOA did not mention federal authority, EPA, or CERCLA. The MOA also did not contain a covenant not to sue; CERCLA Section 122(c)(1) requires that agreements contain covenants not to sue in order for there to be a resolution of liability.

For additional information, contact Josh Epstein, OSRE, (202) 564-6009.

March 29-31, 2006
 Conference on Contaminated
 Property Transactions: Deal
 Making and Redevelopments
 Washington, DC
[http://www.rtmcomm.com/
 rtmcomm/
 conference_detail.php?ConfID=20](http://www.rtmcomm.com/rtmcomm/conference_detail.php?ConfID=20)

April 4-6, 2006
 WasteExpo
 Las Vegas, NV
<http://www.wasteexpo.com/>

May 15-19, 2006
 IT3 Conference
 Savannah, GA
[http://www.awma.org/events/it3/
 2006/ConferenceInfo.asp](http://www.awma.org/events/it3/2006/ConferenceInfo.asp)

May 16-17, 2006
 Restoration 2006
 New Orleans, LA
[http://www.restoration2006.org/
 en/index.aspx](http://www.restoration2006.org/en/index.aspx)

June 20-23, 2006
 A&WMA's 2006 Annual
 Conference & Exhibition
 New Orleans, LA
<http://www.awma.org/ACE2006/>

June 21-23, 2006
 Waste Management 2006
 Malta
[http://www.wessex.ac.uk/
 conferences/2006/waste06/](http://www.wessex.ac.uk/conferences/2006/waste06/)

August 19-22, 2006
 2nd International Conference on
 Environmental Science and
 Technology
 Houston, TX
[http://www.aasci.org/
 conference/env/2006/index.html](http://www.aasci.org/conference/env/2006/index.html)

Glossary

ACM	Asbestos containing material	NYSDEC	New York State Department of Environmental Conservation
BRAC	Base Closure and Realignment	OECA	Office of Enforcement Compliance and Assurance
CD	Consent decree	OSRE	Office of Site Remediation Enforcement
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	OSRTI	Office of Superfund Remediation Technology Innovations
EFAB	Environmental Financial Advisory Board	OSWER	Office of Solid Waste and Emergency Response
EPA	Environmental Protection Agency	PPA	Prospective purchaser agreement
LRA's	Local Redevelopment Authorities	RCRA	Resource Conservation and Recovery Act
MOA	Memorandum of Agreement	VOC	Volatile organic compounds
NPL	National Priorities List	XRF	X-ray fluorescence

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 resources/newsletters/cleanup
 cleanupnews.html](http://www.epa.gov/compliance/resources/newsletters/cleanupcleanupnews.html)

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