

**Congress of the United States**  
**Washington, DC 20515**

April 2, 2004

The Honorable Michael O. Leavitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Leavitt:

We are writing because of our serious concern over the slowdown in cleanups at Superfund sites throughout the country and recent reports documenting insufficient funding of the Superfund program. A report released this past January by the U.S. Environmental Protection Agency's (EPA) Inspector General identifies a shortfall in fiscal year 2002 of at least \$174.9 million dollars in the Superfund Toxic Waste Clean up Program, including 29 toxic waste sites in 17 states (as listed in the attachment). According to the General Accounting Office, when adjusted for inflation, fiscal year 2004 funding for the Superfund program has declined by \$515 million (29 percent) from the fiscal year 1993 level.

This is not only terrible news for those communities but is a very disturbing trend that could affect virtually every state in the country. One in four Americans lives within four miles of a Superfund site. These sites contain hazardous pollutants such as arsenic, cyanide, tetrachloroethelene, and Agent Orange. There is no excuse for delay when it comes to this kind of toxic threat to American families.

We ask that you provide the following information:

1. If the Administration does not currently plan to fully fund the EPA Regional Office requests for the 29 sites noted in the Inspector General's January 2004 report, please confirm this and describe what work will be delayed at each site.
2. Please provide us a list of all sites that were considered for proposed listing on the National Priorities List for fiscal years 2001, 2002, 2003, and 2004. Please attach a copy of all Governors' concurrence letters submitted since October 1, 2001. In addition, please identify all sites that the regions have recommended for listing in fiscal years 2003, 2004, or 2005.
3. Please provide a timeline indicating when EPA will submit its annual reports to Congress on the progress in implementing Superfund for fiscal years 2002 and 2003, as required by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §301(h)(1).

4. Please provide the annual and cumulative total Superfund appropriated obligations for final and deleted National Priorities List Superfund sites for fiscal years 1980 through 2004.
5. Please provide the annual and cumulative total amounts spent by Responsible Parties for final and deleted National Priorities List Superfund sites for fiscal years 1980 through 2004.
6. In February 2002, Members of Congress expressed their concern to then EPA Administrator Whitman about the fact that Region II had by far the highest number of Superfund NPL sites that were listed prior to 1988 and are not yet cleaned up. We understand that you conducted an internal study to evaluate why more progress had not been made at so-called "teenager sites." Please provide us with a copy of the study and its findings.
7. On May 30, 2002, the EPA announced the formation of a National Advisory Council on Environmental Policy and Technology (NACEPT) to consider and make recommendations on the role Superfund should play in addressing the Nation's most polluted and costly hazardous waste sites. We understand that the NACEPT is scheduled to complete its work and issue a report this April. Please provide the total appropriated dollars that the EPA has spent on NACEPT to date.
8. Please provide the Site Priority Characterization Summaries dated November 14, 2002, and any such summaries prepared in 2003 and 2004.
9. Please provide a document regarding the Priority Setting for the Next "NPL Update" dated December 2, 2002, which outlines recommendations for whether to proceed with listing, and subsequent priority setting documents for 2003 and 2004.
10. Please provide a document described as "Options for the Next NPL Update" dated January 23, 2003.
11. EPA's projected cost recoveries under Superfund for fiscal year 2004 and fiscal year 2005 are \$125 million each year. This is a ten-year low in recovering money from responsible parties and represents a serious and continuing decline. Please explain the reason why cost recoveries from responsible parties are declining so significantly.
12. Please identify the percent of Department of Defense sites where records of decision were selected that result in contaminants left on site above unrestricted use. Is it correct that EPA has increasingly allowed the Department of Defense to leave contaminants onsite at levels that prohibit unrestricted access to and use of the property? What are comparable percentages for non-federal Superfund sites?
13. For each fiscal year from 2001-2004, how much money was allocated for the Removal Advice of Allowance? Can you confirm that the historic norm for this account was approximately \$200 million? Has EPA instituted a policy of limiting the funds in this account?

14. For each fiscal year from 2001-2004, how much money was allocated for the Pipeline Operations Advice of Allowance? Has EPA instituted a policy of limiting the funds in this account? Has the redistribution of funds from the Pipeline Operations to Remedial Actions in fiscal year 2003 been repeated in fiscal year 2004, and is it anticipated for fiscal year 2005?
15. For each fiscal year from 2001-2004, how much money was allocated to the Remedial Action Advice of Allowance? How much of these funds are available for new starts?

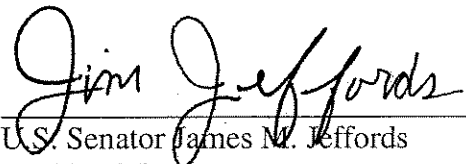
We are concerned that listing and cleanup delays may create new threats to public health and drive up the cost of clean up. Thus, it is critical that we identify and summarize the funding needs of each non-federal fund-lead Superfund National Priority List site to aid in assessing where clean-up activities could be initiated, continued, or expedited.

Given the time sensitive nature of these issues, we ask that we receive a response no later than Monday, April 19, 2004.

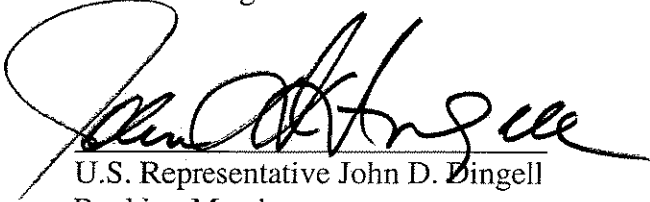
Sincerely,



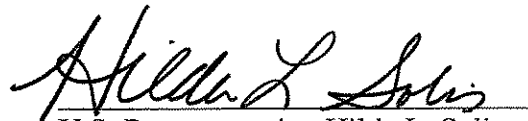
U.S. Senator Barbara Boxer  
Ranking Member  
Senate Subcommittee on Superfund  
Waste Management



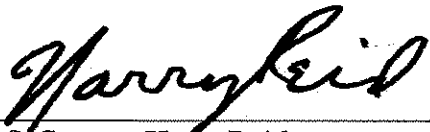
U.S. Senator James M. Jeffords  
Ranking Member  
Senate Committee on Environment  
and Public Works



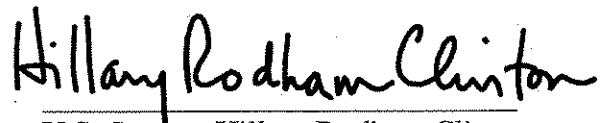
U.S. Representative John D. Dingell  
Ranking Member  
House Committee on Energy and Commerce



U.S. Representative Hilda L. Solis  
Ranking Member  
House Subcommittee on Environment  
and Hazardous Materials



U.S. Senator Harry Reid



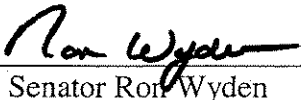
U.S. Senator Hillary Rodham Clinton



U.S. Senator Max Baucus



U.S. Senator Joseph I. Lieberman



U.S. Senator Ron Wyden

**SITES INADEQUATELY OR NOT FUNDED IN FY 2003  
EPA INSPECTOR GENERAL REPORT - JANUARY 2004**

Remedial Projects Where Construction Activities Were Ready to Begin But No Funding Was Available		
Atlas Tack	MA	\$13,100,000
Mohawk Torsney	NH	\$ 6,000,000
Elizabeth Mine	VT	\$ 8,000,000
New Hampshire Plating	NJ	\$ 3,500,000
Continental Steel	IN	\$39,100,000
Jennison Wright	IL	\$12,500,000
Marion Pressure Treating	LA	\$ 9,000,000
N. Railroad Ave. Plume	NM	\$ 6,500,000
Hart Creosoting	TX	\$ 9,900,000
Jasper Creosoting	TX	\$ 6,200,000
McCormick & Baxter	OR	\$ 4,700,000

\$118.5 million shortfall

Remedial Projects Not Sufficiently Funded		
Roebing Steel	NJ	\$ 5,000,000
Welsbach	NJ	\$ 7,000,000
Kriger Battery	LA	\$ 400,000
Point Coupe	LA	\$ 300,000
S & K Industries	OK	\$ 400,000
Libby	MT	\$ 3,700,000
Upper Ten Mile Creek	MT	\$ 1,300,000
Bunker Hill	ID	\$22,729,781

\$40.8 million shortfall

Removal Projects		
Inter Royal Corp.	CT	\$ 1,500,000
Circle Smelting	IL	\$ 6,748,423
Hog Hollow	IN	\$ 143,000
Kip Nelson Properties	WI	\$ 1,004,384

\$9.4 million shortfall

Remedial Investigations (Pipeline Operations)		
Annapolis Lead	MO	\$ 400,000
Union Electric	MO	\$ 50,000
Omaha Lead	NE	\$1,500,000
Barker Hughesville Mining District	MT	\$ 200,000
Libby Asbestos Site	MT	\$ 740,000
Bunker Hill Mining and Metallurgical	ID	\$3,189,699

\$6.1 million shortfall

**TOTAL SHORTFALL: \$174.9 million**