



EPA Pledges over \$75 Million for Brownfields

On June 15, 2004, EPA Administrator Mike Leavitt promised a record \$75.4 million to communities working to cleanup and redevelop abandoned and underused properties. The recipient communities and five tribal nations will use the grant money to plan cleanups and conduct cleanup activities. The Administrator made the announcement on the grounds of the former Ampco Metal Inc. facility in Milwaukee, an area once used as a foundry that is being redeveloped as a business park.

In total, 265 grants will go to communities in 42 states and Puerto Rico. The grant money will be distributed as 155 assessment grants, 92 cleanup grants, and 18 revolving loan grants. The recipients will use the grant money for a wide range of purposes. Toa Baja, a municipality in Puerto Rico with an unemployment rate of 41 percent, will use an assessment grant to perform assessments and create plans for cleaning up potential contamination and redeveloping land around the La Plata River. In the past, the La Plata had frequently flooded, forcing businesses to relocate; the U.S. Army Corps of Engineers will be channeling the river, which will allow businesses to return. The Gila River Indian Community in Arizona has received a cleanup grant to remediate contamination from a leaking underground storage tank and redevelop the site as a Diabetes Education and Resource Center. The center will be a true resource for a community where nearly half of the residents suffer from diabetes. And the Richmond Redevelopment Agency of Richmond, California received a \$1 million revolving loan which it will use to redevelop sites across the city. Nearly 700 acres of brownfields have been identified within the city.

Additional information about the grant recipients is available at:
<http://www.epa.gov/brownfields>.

Florence Township Superfund Site Removed from NPL

In a May 13, 2004 Federal Register notice, EPA announced the deletion of the Florence Land Recontouring Landfill Site from the National Priorities List (NPL). The 60-acre former municipal solid waste disposal facility, located in a residential and mixed agriculture area of Florence Township in New Jersey, was originally placed on the NPL in September 1984. After a nearly \$20 million cleanup effort, the site no longer poses a threat to human health or the environment.

Two lagoons, a pond, two tanks, and a 29-acre landfill make up the site. The landfill accepted sanitary and non-chemical wastes from 1973 to 1981. In 1975, the New Jersey Department of Environmental Protection investigated the site and discovered 95 tons of illegally-disposed chemical waste, including volatile organic compounds, heavy metals,

and polycyclic aromatic hydrocarbons. Testing of groundwater, leachate from the landfill, and soil revealed elevated levels of the hazardous substances. The landfill was officially closed when the State issued an Administrative Order on Consent requiring its closure and denying its application for expansion.

A Record of Decision declaring the selected remedy for the site was issued in 1986. The remedy included construction of a cap over the landfill, a containment wall surrounding the landfill, and a groundwater interceptor and stormwater management system. The remedy also required the treatment and disposal of contaminated leachate, collection and treatment of landfill gas, removal and disposal of lagoon liquids and sediments, and removal and disposal of surface debris.

Site remediation activities were completed in 1994. A permanent leachate disposal system was selected and implemented in 1998. EPA proposed the deletion of the site in February 2004, and the first five-year review was conducted in March 2004. Under the National Contingency Plan, deletion of sites from the NPL does not exempt responsible parties from liability nor does it prevent EPA from recovering response costs associated with the site. In addition, if conditions at the site require any further remedial action, NPL deletion does not preclude taking remedial action.

For additional information, contact Jim Haklar, EPA Region 2, (212) 637-3677.

Former Quarry Replaced by Manufacturing Facility

A new manufacturing plant recently opened on a former Superfund site, the 20-acre Western Sand and Gravel quarry in Burrillville, Rhode Island. The 20,000-ft. Supreme Mid-Atlantic facility produces truck body parts and currently employs roughly 30 people from the community and may eventually employ as many as 300. The property has been redeveloped thanks to the efforts of state and local officials and Supreme Mid-Atlantic.

Years after the former quarry had been capped and the land was fenced and unused, Supreme Mid-Atlantic considered purchasing the property. In 2001, Supreme Mid-Atlantic entered into a prospective purchaser agreement with EPA to purchase the site. As part of the agreement, the company paid EPA \$25,000 and agreed to provide EPA access to the site, file a deed notifying potential future owners of the site of the site remedy, and comply with the institutional controls. EPA made a covenant not to sue Supreme Mid-Atlantic for contamination that existed prior to its purchase of the property.

The land was used as a quarry from 1953 to 1975. From 1975 to 1979, liquid wastes, including chemicals and septic waste, were dumped in unlined pits. As a result, the soil and groundwater were contaminated with volatile organic compounds (VOC), including trichloroethylene and toluene. EPA pumped 60,000 gallons of VOC-contaminated liquid from the ponds in 1980. The quarry was among the 406 sites added to the National Priorities List when it was first promulgated in September 1983. Through a 1987

Consent Decree, 45 potentially responsible parties agreed to install a 2-acre cap over the contaminated soil and sludge and to reimburse EPA for its response costs. The potentially responsible parties completed the remedy outlined in three Records of Decision and some are responsible for overseeing the ongoing natural attenuation of groundwater at the site.

For additional information, contact Dave Deegan, EPA Region 1, (617) 918-1017.

EPA Awards Community Involvement

At the annual Community Involvement Conference in Denver, Colorado, EPA presented the 2004 Citizen Excellence in Community Involvement Award to the members of Colorado Citizens Against Toxic Waste (CCAT) on June 17, 2004. The award recognizes CCAT's efforts to inform and educate the people of Fremont County, Colorado about toxic and radioactive waste in their community.

CCAT's goal is to learn about industrial processes that threaten natural resources and the health of their citizens and to convey this information to the public. CCAT began as a group of citizens concerned that Cotter Uranium Mill, operated by Cotter Corporation since 1958, wanted to change from processing to direct disposal of radioactive waste without proper licensing. The mill is part of a Superfund site, Lincoln Park Superfund Site; over the years, tailings from Cotter's ore mining operations contaminated the soil and groundwater with molybdenum and uranium. Members of the community were outraged that Cotter was attempting to receive waste without a license and formed CCAT to raise awareness of Cotter's plans. CCAT informed the public and elected officials of the state's re-licensing process and asked that citizens' concerns be heard in a public forum. Through CCAT's public awareness campaign, the Colorado State House passed two bills that ensure public involvement in the health department's licensing process when a facility wants to accept waste.

CCAT conducts regular community meetings to update citizens about the Lincoln Park Superfund Site. The group also submits material to the media, distributes flyers, and encourages citizens to make informed choices during election years. Most people involved in CCAT have other full-time jobs and voluntarily dedicate personal time to CCAT's goals.

With a \$50,000 Technical Assistance Grant from EPA, CCAT was able to hire technical advisors to inform them about the scientific aspects of Lincoln Park. Through collaboration with CCAT, EPA has developed open public meetings in Canon City, Colorado that allow local residents to ask questions of EPA officials. In addition, the EPA Community Involvement Coordinator is working with CCAT to launch videoconferencing between citizens and EPA experts to facilitate communication without travel costs.

Additional information about CCAT is available on their website:

<http://www.ccatoxicwaste.org/index.html>.

Demolition to Begin at Atlas Tack Superfund Site

On May 21, 2004, EPA Administrator Mike Leavitt visited the Atlas Tack Superfund Site in Fairhaven, Massachusetts. During the visit, Leavitt announced \$1.8 million in funding to begin Phase I of the site's \$18 million cleanup plan.

Phase I of the cleanup plan involves demolishing two buildings and the power plant located at the site. EPA removed asbestos from the buildings in 2000. Demolition will begin this August and is expected to be complete by this December. Once Phase I is complete, Phase II, which consists of removing and disposing of contaminated soil, debris, and sediments, can begin. Phase II will be followed by Phase III, the excavation of marsh soils and creek bed sediments. Phytoremediation will be used to prevent the spread of residual contaminated groundwater from the site.

Since the Atlas Tack site appeared on the National Priorities List in 1990, EPA has spent approximately \$6 million on site investigations and cleanup plan development. In March 2004, EPA and Hathaway-Brawley (one of several potentially responsible parties) entered into a consent decree that requires Hathaway-Brawley to reimburse EPA, the Commonwealth of Massachusetts, the Department of the Interior, and the National Oceanic and Atmospheric Administration for past and future response costs and damage assessment costs. An article about the Atlas Tack consent decree appeared in the *CleanupNews II* - May 2004 issue, available online at: <http://www.epa.gov/compliance/resources/newsletters/cleanup/cleanup16s.pdf>.

This coming September, EPA's suit against Atlas Tack Corporation and its President, M. Leonard Lewis, which was filed last year, is expected to go to trial. EPA is seeking reimbursement for past and future response costs at the site.

For additional information, contact Dave Deegan, EPA Region 1, (617) 918-1017.

Oregon Announces Economic Development Initiatives

On May 13, 2004, Oregon Governor Ted Kulongoski announced that 11 industrial sites had been designed "project ready." The "project ready" program streamlines the permitting process and makes it easier for companies to purchase and begin redeveloping available industrial sites. Sites certified as "project ready" have been reviewed by a third party verifier and are guaranteed ready for construction in six months or less. The basis for certification is 16 site requirements including the size, physical topography, and zoning of the site; the availability of transportation infrastructure; the availability of utilities such as water and electricity; and the availability of a local labor force. Participation in the Industrial Site Certification Program is voluntary, and the State's Economic and Community Development Department processes the certification requests.

Currently, there is no application fee for willing participants and once granted, certification expires 2 years later, with an option for renewal.

The governor also announced the launch of the Oregon Prospector website, <http://www.oregonprospector.com>, a resource for developers considering Oregon properties. The website lists all properties that have been certified or are being considered for certification. A site profile is provided for each property including a detailed site description, site certification status, landowner contact information, and site photographs. Industry relocation and expansion decision-makers can use these profiles when considering where to locate. The website provides other tools, including “community resumes,” that allow prospective developers to consider all aspects of an area.

The “project ready” certification program and Oregon Prospector website are a joint marketing effort by private sector partners, Pacific Power, the Oregon Economic Development Association, and the state to increase economic development. To date only New York and Pennsylvania have launched similar industrial development programs.

Oregon economic development officials expect to announce additional site certifications this fall.

For additional information, contact Gabrielle Schiffer, Special Projects Coordinator, gabrielle.schiffer@state.or.us.

City of Los Angeles Publishes Guide for Abandoned Gas Stations

In February 2004, the City of Los Angeles Brownfields Program published a redevelopment guide entitled *Guide to Resolving Environmental and Legal Issues at Abandoned and Underutilized Gas Station Sites*. The guide provides information and resources for all aspects of rehabilitating former gas station sites including gathering site information, resolving site status issues, conducting site investigations, paying for site activities, and gaining site access. The City of Los Angeles developed the guide as a resource for public agencies but recognized that the information would have value for other local governments, developers, and concerned citizens as well. In addition to city-specific information about abandoned gas stations, the guide also provides an appendix with general resources and information about relevant federal and state regulations.

Los Angeles recently expanded its Brownfields Program to include redevelopment of abandoned gas stations. As part of this program expansion, the City investigated former gas station sites and found that most are still occupied by active businesses such as automotive repair shops and used car sales. After reviewing the site search results, Gas Station Program personnel decided to focus on redeveloping abandoned sites to avoid the complications of dealing with current landowners and business owners. The guide’s

main focus is redeveloping abandoned sites, however, the practices and resources are also applicable to former gas station sites with active business operations.

The guide is available online at:

<http://www.lacity.org/EAD/labf/Gas%20Station%20Guide.htm>.

For additional information, contact Craig Tranby, City of Los Angeles, ctranby@mailbox.lacity.org.

In The Courts

Court Finds Earlier Settlement Does Not Bar Cost Recovery Claim

By David Dowton, Office of Site Remediation Enforcement

On June 3, 2004, the Eleventh Circuit Court of Appeals held in *Norfolk Southern Corp. v. Chevron* (2004 U.S. App. LEXIS 10945) that a settlement between two companies may not preclude a subsequent suit to recover the costs of cleaning up additional contamination at the same site.

Norfolk's predecessor company, St. Johns River Terminal Co., leased land to Chevron's predecessor, Gulf Oil, for the construction of above-ground tanks to store fuel and oil. In 1977, the Coast Guard discovered that oil was leaking from the site and contaminating a nearby creek. St. Johns cleaned the site and sued Gulf for reimbursement of the cleanup costs. The two parties ultimately settled with Gulf paying a portion of the costs, and in return, St. Johns released Gulf and its successors from liability for future oil contamination.

Twenty-two years later, Norfolk discovered that contaminated sludge from the storage tanks had spread from the tanks to a salt marsh. Norfolk sued Chevron seeking reimbursement of the costs associated with cleaning up the contaminated sludge. Chevron moved for summary judgment arguing that the settlement entered into in 1977 precluded Norfolk for bringing suit for contamination related to the leased property. The district court granted Chevron's motion noting that Norfolk's claim was barred under res judicata because the settlement failed to expressly permit any future claims based on contamination from the site.

The Eleventh Circuit reversed, holding that the district court erred in assuming that all subsequent claims were barred under the terms of the 1977 settlement. The court reasoned that the release contained in the settlement does not cover non-oil contamination. Despite the fact that the sludge came from the storage tanks, the court found that the contaminated sludge was sufficiently different from oil so that it fell outside the scope of the settlement and therefore, Norfolk's suit against Chevron could proceed.

For additional information, contact David Dowton, OSRE, (202) 564-4228.

EPA Reaches Agreement to Fund Study of Lower Passaic River

EPA recently announced that 31 parties would contribute \$10 million to the Remedial Investigation/Feasibility Study (RI/FS) of the Lower Passaic River Superfund Site. EPA Regional Administrator, Jane M. Kenny, praised the parties' commitment. Alcan Corporation, BASF Corporation, E.I. du Pont de Nemours and Company, Lucent Technologies, Inc., and Pfizer Corporation are among the settling parties entering into the Administrative Order on Consent (AOC). The total estimated cost of the Lower Passaic Restoration Project, which includes the RI/FS, is \$19 million, and the contribution by the parties will pay EPA's response costs.

In an interagency agreement, EPA, the U.S. Army Corps of Engineers (USACE), and the New Jersey Department of Transportation (NJDOT) have partnered on an integrated watershed plan to restore ecological health, improve water quality, and manage contaminated sediments. USACE and NJDOT are joining their authority under the Water Resources Development Act with EPA's authorities through the Superfund program to remediate and restore the 17-mile affected area of the Lower Passaic River. Over the course of the project, EPA, USACE, and NJDOT will team with other federal and state agencies, including the U.S. Fish and Wildlife Service, the New Jersey Department of Environmental Protection, and the National Oceanographic and Atmospheric Administration.

In the early 1980s, EPA conducted an initial study and cleanup of dioxin-contaminated soil at the Diamond Alkali manufacturing site along the Passaic River in Newark, NJ. The site was added to the National Priorities List in 1984. During studies of the adjacent Passaic River, EPA identified more contaminants, including persistent organic compounds, pesticides, and metals. An interim remedy was put in place to prevent further contaminant migration from the site and begin treating the groundwater. The remedy included building slurry and flood walls around the property, constructing a pump and treat system for groundwater, and capping the contaminated soil.

EPA submitted the AOC for a 30-day public comment period, which ended June 18, 2004.

For additional information, contact Alice Yeh, EPA Region 2, (212) 637-4427.

Tidbits

Revised SAS Guidance Issued

EPA recently issued a revised version of the guidance titled "Revised Response Selection and Settlement Approach for Superfund Alternative Sites Guidance" (Revised SAS

Guidance), which supersedes the original June 24, 2002 SAS Guidance. The guidance can be found at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/rev-sas-04.pdf>.

For additional information, contact Anne Berube, OSRE, (202) 564-6065.

New Brownfields Web-Based Tools

EPA has announced two new web-based tools for identifying brownfields that have been grant recipients. The Brownfields “Envirofacts” tool allows users to identify brownfields by searching by area served or jurisdiction, type of grant, geographic information, or property. The search will return a list of all grants matching the user’s search criteria from the Brownfields Management System database. The system allows users to access the Grants Information and Control System and view contact information for a grant.

The second tool, “EnviroMapper” for Brownfields, enables users to search by Brownfields grant type (i.e., assessment, revolving loan, job training, and showcase) for a selected area and view the results on an interactive map. Users also have the option of viewing all Brownfields grant sites in the entire United States.

Both tools can be accessed through the Brownfields program’s “Find EPA Brownfields Projects Where You Live” website at: <http://epa.gov/brownfields/bfwhere.htm>.

Calendar

August 1-4, 2004

ACHMM 2004 annual conference – “Managing Your Odds for Success”

Las Vegas, NV

Contact: Hillary Zelnick, (703) 610-1271

http://www.meetingsmanagementgroup.com/achmm/lasvegas_2004/index.htm

August 16-18, 2004

ASTSWMO 2004 Superfund Program Managers Symposium

Phoenix, AZ

Contact: Jocelyn Scott, (202) 564-4795

September 13-15, 2004

2004 Fractured Rock Conference: State of the Science and Measuring Success in Remediation

Portland, ME

<http://www.ngwa.org/e/conf/0409135017.shtml>

September 20-22, 2004

Brownfields 2004: “Gateway to Revitalization”

St. Louis, MO

<http://www.brownfields2004.org>

October 24-27, 2004

First Biennial Central & Eastern European Environmental Health Conference

International Health Sciences Solving Common Problems

Prague, Czech Republic

Contact: Ms. Nancy White, (979) 845-0203

<http://tti.tamu.edu/conferences/ceehc/>

Glossary

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| AOC | Administrative Order on Consent |
| CCAT | Colorado Citizens Against Toxic Waste |
| EPA | Environmental Protection Agency |
| NJDOT | New Jersey Department of Transportation |
| NPL | National Priorities List |
| OSRE | Office of Site Remediation Enforcement |
| OSWER | Office of Solid Waste and Emergency Response |
| PRPs | Potentially responsible parties |
| RI/FS | Remedial Investigation/Feasibility Study |
| SAS | Superfund Alternative Sites |
| USACE | U.S. Army Corps of Engineers |
| VOCs | Volatile organic compounds |

Subscription Information

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Past issues can be found at:

<http://www.epa.gov/compliance/resources/newsletters/cleanup/cleanupnews.html>

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