

SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEARS 1998 AND 1999

EXECUTIVE SUMMARY

On December 11, 1980, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as CERCLA or Superfund) was signed into law. CERCLA provides for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and uncontrolled and abandoned hazardous waste sites. Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for the conduct and control of all CERCLA litigation, which is conducted by the Environment and Natural Resources Division (ENRD). In accordance with the legislation, the Environmental Protection Agency (EPA) issues interagency agreements to the ENRD to reimburse it for costs incurred in performing such litigation. The agreements also require the ENRD to maintain a system that documents the cost of the litigation. To this end the ENRD uses a cost distribution process designed and maintained by a private contractor.

In March 1998, the ENRD modified its case and time data system to a direct entry process by staff. The system served as the basis to distribute labor costs and indirect costs to cases. We reviewed the system to assess the allocability of such costs to Superfund and non-Superfund cases during FY 1998 and FY 1999. We reviewed other direct costs based on supporting documentation for the costs and the applicable cases. In addition to this audit, the Office of the Inspector General performed a separate audit of the internal controls and computer security controls of the information systems within the ENRD. We determined that the internal controls in place for the case and time data entry system were adequate. Accordingly, we relied on the results of that audit to accept the automated case and time data for purposes of this review of the distribution of costs in FY 1998 and FY 1999. Based on the results of the audits, in our judgment the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 1998 and FY 1999.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
AUDIT RESULTS	2
SUPERFUND COSTS FOR FY 1998 AND 1999	2
APPENDIX I - OBJECTIVES AND SCOPE	12
APPENDIX II - CASES IN SAMPLE REVIEW	13
APPENDIX III – FY 1998 ACCOUNTING SCHEDULES & SUMMARIES	14
APPENDIX IV – FY 1999 ACCOUNTING SCHEDULES & SUMMARIES	22
APPENDIX V – ENRD COMMENTS ON THE AUDIT RECOMMENDATIONS	30
APPENDIX VI – ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT	31

INTRODUCTION

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as CERCLA or Superfund)¹ provides for liability, compensation, cleanup, and emergency response for: (1) hazardous substances released into the environment, and (2) uncontrolled and abandoned hazardous waste sites. Executive Order 12580, issued January 23, 1987, provides that the Attorney General is responsible for the conduct and control of all litigation arising under Superfund. The Order also requires the Administrator of the Environmental Protection Agency (EPA) to transfer from the Hazardous Substance Response Trust Fund resources to support Superfund activities.

In FY 1987, under the statutory authority of 31 U.S.C. 1535, the EPA began transferring appropriated funds to the Department of Justice through interagency agreements. These agreements authorized the Environment and Natural Resources Division (ENRD) to be reimbursed for costs incurred in performing Superfund activities. EPA authorized the ENRD reimbursements of \$29.6 million for FY 1998 and \$30 million for FY 1999 in accordance with EPA Interagency Agreements DW15937968-01-1 and DW15937968-01-2, respectively.

The initial agreements in FY 1987 also required accounting and reporting of recoverable case-related costs. Accordingly, at that time the ENRD instituted a system designed by Rubino & McGeehin, Chartered, Certified Public Accountants and Consultants (contractor). The system was designed to process financial data from Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case, broken down between direct labor costs and all other direct costs²; (2) non-Superfund direct costs; and (3) allocable indirect costs. We reviewed this process and a sample of transactions of other direct costs to assess the allocability of such costs to Superfund and non-Superfund cases during FY 1998 and FY 1999.

¹ Amended by the Superfund Amendments and Reauthorization Act of 1986.

² Other direct costs charged to individual cases include: personnel, special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, judicial subpoena, graphics, and noncapital equipment.

AUDIT RESULTS

Superfund Costs For FY 1998 And 1999

We reviewed financial activities and procedures used by the ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases. We found that adequate internal controls existed to ensure equitable distribution of costs incurred for Superfund cases from October 1, 1997 through September 30, 1999.

We designed the audit to compare reported costs on the contractor developed Accounting Schedules and Summaries for FY 1998 and FY 1999 (Appendix III and Appendix IV) to that recorded on Department of Justice accounting records, and to review the cost distribution system used by the ENRD to allocate incurred costs to Superfund and non-Superfund cases. To accomplish this we performed the following steps:

- Compared total costs recorded as paid on the E&A Reports to the amounts reported as Total Amounts Paid on the year end Accounting Schedules and Summaries, and traced such costs to the reported cost distribution to Superfund cases.
- Reviewed the ENRD's methodology for identifying Superfund cases on its Superfund case list by comparing a select number of cases against the ENRD case assignment criteria.
- Reviewed direct labor costs and indirect costs distributed to Superfund against the contractor developed methodology.
- Compared Other Direct Costs to source documents to validate their allocability.

By performing these steps we wanted to assure ourselves that costs distributed to Superfund and non-Superfund cases were based on the total of actual costs for each fiscal year, that the distribution methodology used and accepted in prior years remained viable, and that selected costs were supported by documentation that evidenced their allocability to Superfund and non-Superfund cases. This would permit us to determine if the ENRD provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FY 1998 and FY 1999. Following are the results of our review against our audit steps.

Reconciliation of Accounting Schedules and Summaries to E&A Reports

The E&A Reports for FY 1998 and 1999 provided the following amounts paid for total the ENRD expenses:

ENRD Payments By Fiscal Year (in thousands)

Description	1998	1999
Salaries	\$48,845	\$51,011
Benefits	9,987	10,619
Travel	2,966	2,929
Freight	346	411
Rent	10,103	10,981
Printing	350	395
Services	10,723	10,372
Supplies	845	765
Equipment	778	1,717
Total	\$84,943	\$89,200

Source: E&A Reports for FY Ending 09/30/98 and 09/30/99

We compared these E&A amounts to those in Schedule 6, Reconciliation of Total ENRD Expenses, of the Accounting Schedules and Summaries for each fiscal year to ensure that the distribution of costs to Superfund and non-Superfund cases was limited to total costs incurred. We found that the Schedule 6 amounts reconciled to the E&A Reports. We then reconciled these amounts to the distributions to Superfund on Schedule 5, Superfund Costs by Object Classification, and Schedule 2, Superfund Obligation and Payment Activity During FY 1998 (*and FY 1999*) By Fiscal Year of Obligation. We also found that the amounts on these schedules reconciled through Schedule 6 to the E&A Reports.

Our review then focused on determining that the summary amounts on Schedule 2 represented an equitable distribution of costs to Superfund. The Superfund costs in Schedule 2 of the Accounting Schedules and Summaries for FY 1998 and FY 1999 reported the following:

Superfund Distributed Costs By Fiscal Year

Cost Categories	1998	1999
Labor	\$ 6,985,929	\$ 7,161,567
Other Direct Costs	5,025,661	5,717,355
Indirect Costs	13,441,690	14,381,734
Program Expenses	140,420	225,171
Unliquidated Obligations ³	4,368,504	3,018,594
Totals	\$29,962,204	\$30,504,421

Source: Schedule 2 of Accounting Schedules and Summaries

Our starting point for reviewing the distribution system was to be able to identify and reconcile the ENRD cases as Superfund or non-Superfund. This would enable us to extract only Superfund data from the ENRD data to compare to the Accounting Schedules and Summaries.

Superfund Case Reconciliation

ENRD litigates non-Superfund and Superfund cases, which have unique identifying numbers in order to control the processing of cases. The ENRD maintains electronic listings of all Superfund cases, which identified 4,661 cases in FY 1998 and 4,997 cases in FY 1999. We reviewed the listings to establish how the ENRD identified Superfund cases, and if the cases were identified in accordance with established ENRD criteria for case identification. We requested the ENRD to provide the criteria used to identify Superfund cases in each litigation section. Although the ENRD did not have formal procedures to do so, the ENRD provided us with information regarding how each section head identified Superfund cases. In our judgment the ENRD would benefit by formalizing a policy that documents how each section identifies a Superfund case.

We randomly selected 20 cases in FY 1998 and 20 cases in FY 1999 (Appendix II) to test if the ENRD sections adhered to the procedures and identified the cases properly. For our purposes we reviewed the cases against the ENRD case data entering forms (point sheets) and case pleading information⁴. The ENRD used the point sheets to record summary information from the case. The information referred to laws, regulations, or

³ Amounts are accounted for against Other Direct Costs, Indirect Costs, and Superfund Program Expenses.

⁴ If a case was dismissed, the file may not include a case pleading document but may include a summary document indicating the type of case and reason for dismissal.

other language that established the cases as either Superfund or non-Superfund for tracking purposes. The case pleading documents were contained in the case records and included the laws, regulations, or other documents that supported the case being designated as a Superfund litigation. We found that all 40 cases reviewed contained proper referencing documentation on the point sheets. We also verified 9 of the 20 cases in FY 1998 and 13 of the 20 cases in FY 1999 against the case pleading documents, where used. Accordingly, in our judgment we could rely on the ENRD furnished Superfund case lists for FY 1998 and FY 1999 to review Superfund allocated costs from the Accounting Schedules and Summaries and records supporting them.

Superfund Cost Distribution

Since we assured ourselves that the ENRD's case identification system adequately listed Superfund cases, we next reviewed: (1) the system used by the contractor to distribute direct labor and indirect costs, and (2) other direct costs charged to Superfund. Following are the results of our review of the cost categories.

Labor

The contractor continued using the labor distribution system from prior years, which we had reviewed and accepted in prior audits. The ENRD provided the contractor with electronic files that included employee time reporting information and biweekly salary information downloaded from the National Finance Center, who processes biweekly salaries for the ENRD employees. The contractor uses the information to calculate effective hourly rates to apply to reported case hours by employee by month. The contractor uses the following formula to distribute labor costs monthly.

Salary Starting Point:	Employee Monthly Salary ⁵
Divided by:	Employee Reported Monthly Hours
Equals:	Monthly Hourly Labor Rate
Multiplied Against:	Employee Reported Monthly Superfund and Non-Superfund Case Hours
Results In:	Distributed Individual Monthly Labor Case Cost

Prior to March 1998 each ENRD attorney and paralegal employee manually documented on a time sheet the time expended on assigned cases.

⁵ The ENRD provides the contractor with the effective annual salary during the paid biweekly pay period. The contractor converts the salary data on a monthly basis.

A data clerk then input this data to the ENRD electronic Case Management System (CMS). In March 1998 the ENRD implemented an operational change to the system, permitting employees to input their time distribution directly to the system.⁶ The system still provided the information for the contractor to accumulate and distribute Superfund costs by specific case, but eliminated the work of the data clerk.

Since CMS was designed to be a direct input system, the OIG audited the system controls and security in a separate review. The audit report explained that the OIG reviewed CMS security settings and the ENRD's procedures for maintaining the accuracy and timeliness of CMS data to determine whether the ENRD's practice was consistent with policy.⁷ The review also included a comparison of the ENRD's internal controls over CMS with the Control Activities Specific for Information Systems section of GAO's Standards for Internal Control in the Federal Government. According to the resultant report, the ENRD:

- Assigned CMS user access levels properly and in accordance with established procedures.
- Properly performed and monitored the CMS Data Quality Assurance.
- Maintained adequate internal controls over the CMS environment.

Based on the results of our system audit, we accepted the CMS data from March 1998 through September 1999. We did not review individual timesheets prepared for the months of October 1997 through February 1998 since the ENRD replaced the manual system. Therefore, our review focused on verifying the contractor's accumulation and distribution of the labor costs to Superfund and non-Superfund cases based on the agreed upon methodology.

For purposes of our review, we:

⁶ Administrative and management personnel do not complete time data. Their salaries become part of the indirect cost pool.

⁷ OIG Audit Report entitled Environmental and Natural Resources Division Network Computer Security and Case Management System Internal Control Audit, August 2001. According to the report, CMS is an application on the ENRD's Justice Consolidated Office Network 2 (JCON2), which is the primary automation information system of ENRD allowing users access to office automation applications through independent personal computer workstations. Although we reported certain security weaknesses in JCON2, we did not report application weaknesses for the CMS.

- Matched the total Superfund and non-Superfund labor costs to that reported on the E&A reports for FY 1998 and FY 1999.
- Acquired and reviewed electronic CMS files and selected salary files that the ENRD provided to the contractor and the resultant electronic files prepared by the contractor to summarize costs by employee and case.
- Extracted and reconciled Superfund case costs from the contractor files by using the validated case numbers discussed earlier in this report.

Since the E&A and Accounting Schedules and Summaries amounts matched, this assured us that the distribution method, which parallels a management information system and not an accounting system, was limited to allocating just the total of costs paid for each fiscal year. We traced the Direct Labor for Superfund cases (\$6,985,929 in FY 1998, and \$7,161,567 in FY 1999) from the E&A Reports through the schedules of the Accounting Schedules and Summaries. We found that the contractor's distribution was limited to the total costs in the E&A reports.

In the next phase of the audit, we performed selected database matches to compare the employee time and case data against the contractor's schedules used to prepare the Accounting Schedules and Summaries, and to identify Superfund case data. As previously mentioned, we verified the case database, so we were able to match the ENRD case list to the contractor's completed schedules. We then compared the raw time data, which included 335,672 transactions in FY 1998 and 327,987 transactions in FY 1999, against the summary time schedules prepared by the contractor. We compiled the individual transactions into monthly totals by employee to match against the contractor's summaries, which included 5,951 monthly employee summary records in FY 1998 and 5,939 records in FY 1999. We found no reportable differences in the total employee monthly hours that the contractor used as the base for calculating the effective monthly hourly labor rates. Further, we summarized Superfund direct labor by case and fiscal year by performing a database match of the labor costs against the Superfund case list and also found no discrepancies.

The contractor developed the hourly labor rates within a specific month by applying salary data provided by the ENRD against the total hours reported monthly by employee. We selected randomly one month in each fiscal year (December 1997 and January 1999) to review the effective monthly salaries by employee developed by the contractor. We found no reportable differences. The contractor converted the biweekly salaries in each month into hourly rates, applied them to reported hours by employee and case, and extracted amounts by Superfund and non-Superfund cases.

Overall, we were able to verify the accumulation of reported hours, the development and application of hourly rates, and the extraction of the labor costs to Superfund cases. Therefore, in our judgment this process provided for an equitable distribution of direct labor costs to the ENRD cases.

Indirect Costs

In addition to direct costs incurred against specific cases, the ENRD also incurs indirect costs that it allocates to all cases. These include salaries, benefits, travel, freight, rent, printing, services, supplies, and equipment. The contractor distributes indirect costs to individual cases using an indirect cost rate that is calculated on a fiscal year basis.

According to its indirect cost methodology, the contractor uses actual payments by the ENRD as the basis for the indirect cost base and expense pool for calculation of the indirect cost rate. The base is comprised of total direct labor. The contractor extracts indirect costs from the E&A report and removes all direct costs incurred to arrive at net indirect costs. The contractor divides this amount by total direct labor for the period to calculate the ENRD indirect cost percentage. Additionally, the contractor identifies indirect costs that support only Superfund activities and uses these costs to develop a separate Superfund specific indirect rate, which is calculated by dividing these costs by Superfund direct labor. The rates for FY 1998 and FY 1999 follow.

Indirect Cost Rates By Fiscal Year

Category	1998	1999
ENRD Indirect	189%	194%
Superfund Specific	39%	35%
Combined Rate	228%	229%

Source: Schedule 4 of Accounting Schedules and Summaries.
Percentages rounded to nearest whole percent.

We reconciled the total E&A amounts to the Accounting Schedules and Summaries, Schedule 4 to ensure that the contractor used only paid costs to accumulate the expense pool. Costs used by the contractor were extracted properly from the E&As. The contractor then calculated the rates accurately by dividing the indirect expenses by applicable direct labor costs.

Other Direct Costs

The amounts of other direct costs incurred by the ENRD and distributed to Superfund during FY 1998 and FY 1999 are provided in the following table.

Superfund Other Direct Costs By Fiscal Year⁸

Subsubject Code	1998	1999
1153-Special Masters Compensation	\$ 178,112	\$ 160,788
1157-Expert Witness Fees	3,854,692	3,908,314
1162-Interest Penalties-Personal Services	79	
2100-Travel and Transportation	783,507	814,405
2411-Printing and Reproduction, Court Instruments	73,848	85,575
2499-Printing and Reproduction, All Other		9,316
2501-Filing and Recording Fees	10	
2508-Reporting and Transcripts- Deposition	189,236	194,809
2509-Reporting and Transcripts- Grand Jury	80	(80)
2510-Reporting and Transcripts- Court	7,605	16,577
2529-Litigation Support	4,744,003	2,587,924
2557-Litigation Graphics	3,999	46,938
2563-Interest Penalties-Government	802	399
2591-Audiovisual Services via Working Capital Fund	50	
2598-Miscellaneous Litigation Expenses	3,991	7,343
2599-Other Services		380
3129-Non-Capitalized Automated Litigation Support Equipment	139,888	2,102
Totals	\$9,979,902	\$7,834,790

Source: Extracted from the ENRD electronic files of FY 1998 and FY 1999 other direct costs.

We designed our review of other direct costs to determine if the selected transactions included adequate supporting documents and were recorded to the correct subobject and case classifications. To accomplish this we reviewed selected transactions from case transactions in FY 1998 and FY 1999. We combined the two years into a universe of 24,740 transactions.

⁸ The amounts included distributed unliquidated obligations of approximately \$4.9 million in FY 1998 and \$2.2 million in FY 1999. We included these in our tests.

We selected four subobject codes to review: 1157, 2100, 2529, and 2599⁹. These four comprised 73 percent of the total number of the transaction universe and 85 percent of the dollar universe. We stratified and reviewed 100 percent of the high dollar transactions from each of the four subobject codes, and we reviewed other transactions based on a statistical sample.

The following table shows the total number of transactions and associated dollar value in the four subobject codes, as well as the sample number of transactions we selected from each of these four subobject codes for review.

Transaction by Subobject Code and Dollar Amount

Subobject Code	Total Number of Transactions	Dollar Amount of All Transactions	High Dollar Judgmentally Selected Sample Transactions for Review		Randomly Selected Sample Transactions for Review	
			Size	Dollar Value	Size	Dollar Value
1157	1,145	\$ 8,410,351	23	\$1,711,927	47	\$341,775
2100	12,285	6,448,993	18	113,737	156	86,402
2529	3,133	30,441,022	28	5,336,028	98	837,765
2599	1,462	10,425,260	19	1,280,265	63	324,257
Totals	18,025	\$55,725,626	88	\$8,441,957	364	\$1,590,199

In the four subobject codes, we found that:

- Supporting documents (travel vouchers and authorizations, contracts, agreements, purchase orders, and similar documents) existed for each randomly sampled transaction;
- The sampled transactions were recorded to the correct subobject codes; and
- Case classifications were accurate.

Based on our stratified random sampling methodology, we are 95 percent confident that few, if any, of the total transactions in these four subobject codes have exceptions. Our statistical sampling results apply to the transactions in the four above mentioned subobject codes only, and cannot be projected to the transactions in all subobject codes.

⁹ We selected subobject code 2599 for audit based on the total charges for all cases, not the distributive share to Superfund, which was immaterial.

Overall Summary

Based on our review, the cost distribution methodology used by the ENRD to allocate incurred costs to Superfund cases provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FY 1998 and FY 1999. In our judgment, the ENRD should formalize the process the litigating sections use to identify Superfund cases. This would benefit the ENRD by providing the documentary evidence needed to support its identification of Superfund cases in applicable databases.

Views of Officials

During the exit conference the ENRD representative agreed that it would benefit the ENRD to formalize the Superfund case identification process. The ENRD does not maintain its own operating procedures, so he offered that this will most likely be addressed through the issuance of a formal advisory to section heads.

Recommendation

We recommend that the Assistant Attorney General, ENRD:

1. Formalize the process each litigating section in ENRD uses to identify which cases are treated as Superfund cases.

OBJECTIVES AND SCOPE

The purpose of the audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FY 1998 and FY 1999. To accomplish the overall objective of the audit, we assessed whether: (1) the ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs incurred in E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases. As an essential element of our review, we assessed the Superfund cost accumulation system designed and operated by the ENRD contractor.

The audit focused on, but was not limited to, financial activities and the procedures used by the ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases from October 1, 1997 through September 30, 1999. For our assessment of internal controls over the compilation of direct labor charges, we relied on the results in OIG Audit Report 01-19, August 2001, Environmental and Natural Resources Division Network Computer Security and Case Management System Internal Control Audit.

We conducted our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We included such tests of the accounting and management records as were deemed necessary to achieve our audit objectives.

APPENDIX II**Cases in Sample Review**

FY 1998		FY 1999	
<u>Case No.</u>	<u>Section</u>	<u>Case No.</u>	<u>Section</u>
62-13-37	Criminal	62-13-36	Criminal
62-37-44	Criminal	62-36-64	Criminal
62-11E-22	Criminal	62-11E-20	Criminal
62-57-66	Criminal	62-57-64	Criminal
62-74-368	Criminal	62-74-366	Criminal
198-44-2	Criminal	90-1-23-2650	General Litigation
198-79-8	Criminal	198-50-1	Criminal
198-58-6	Criminal	198-34-1	Criminal
90-1-23-3055	General Litigation	198-15-1	Criminal
198-51-9	Criminal	198-42-6	Criminal
198-74-18	Criminal	198-57-24	Criminal
198-87-14	Criminal	198-21-6	Criminal
198-24-5	Criminal	198-62-16	Criminal
90-11-1-10	Enforcement	198-82-21	Criminal
198-65-3	Criminal	198-70-22	Criminal
198-16-00227	Criminal	198-77-12	Criminal
198--37-00260	Criminal	33-33-1071	Land Acquisitions
33-33-1081	Land Acquisitions	33-33-1093	Land Acquisitions
33-33-1103	Land Acquisitions	33-33-1125	Land Acquisitions
90-11-2-06024/2	Enforcement	90-11-06001/1	Enforcement

APPENDIX III

FY 1998 Accounting Schedules & Summaries



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April 19, 1999

Mr. Robert L. Bruffy
U.S. Department of Justice
Environment and Natural
Resources Division
801 Pennsylvania Avenue, NW
Suite 825
Washington, DC 20004

Dear Mr. Bruffy:

Enclosed please find the following final fiscal year 1998 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-6
September 30, 1998
- DOJ - Superfund Case Cost Summary (sorted by case number)
As of September 30, 1998
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 1998
- DOJ - Superfund Direct Costs
Year Ended September 30, 1998

The schedules represent the final fiscal year 1998 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 1998.

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**EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 1998**

	<u>Fiscal Years</u>				
	1998	1997	1996	1995	1993
EPA Billing Summary - Amount Paid	\$ 25,593,700 (a)	24,101,409 (b)	\$ 29,014,277 (b)	\$31,451,481 (b)	\$31,515,703 (b)
Add:					
Payments in FY 1998 for 1997 (a)		5,085,459			
Payments in FY 1998 for 1996 (a)			2,598,805		
Payments in FY 1998 for 1995 (a)				56,182	
Payments in FY 1998 for 1994 (a)					646
Payments in FY 1998 for 1993 (a)					79
Subtotal	<u>25,593,700</u>	<u>29,186,868</u>	<u>31,613,082</u>	<u>31,507,663</u>	<u>31,516,349</u>
Unliquidated Obligations (c)	<u>4,368,504</u>	<u>769,404</u>	<u>511,362</u>	<u>34,739</u>	<u>0</u>
Total	<u>\$29,962,204</u>	<u>\$29,956,272</u>	<u>\$32,124,444</u>	<u>\$31,542,402</u>	<u>\$31,516,349</u>
					<u>\$32,935,138</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 1998
 (b) See EPA Billing Summary, Schedule 1, September 30, 1997
 (c) See EPA Billing Summary, Schedule 3, September 30, 1998

EPA BILLING SUMMARY
 SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 1998
 BY FISCAL YEAR OF OBLIGATION
 September 30, 1998

	Fiscal Years							Total
	1998	1997	1996	1995	1994	1993		
<u>Amounts Paid:</u>								
Labor	\$6,985,929	-	-	-	-	-	-	\$6,985,929
Other Direct Costs	5,025,661	\$ 3,076,417	\$1,828,360	\$54,453	\$0	\$0	\$0	9,984,891
Indirect Costs	13,441,690	1,731,935	720,716	1,729	646	79	79	15,896,795
Superfund Program Expenses	140,420	277,107	49,729	-	-	-	-	467,256
Subtotal	25,593,700	5,085,459	2,598,805	56,182	646	79	79	33,334,871
Unliquidated Obligations (a)	4,368,504	769,404	511,362	34,739	0	0	0	5,684,009
Totals	\$29,962,204	\$ 5,854,863	\$3,110,167	\$90,921	\$646	\$79	\$79	\$39,018,880

(a) See Schedule 3

EPA BILLING SUMMARY
 FISCAL YEARS 1998, 1997, 1996, 1995 AND 1994 UNLIQUIDATED OBLIGATIONS
 September 30, 1998

	Fiscal Years				
	1998	1997	1996	1995	1994
ENRD unliquidated obligations at September 30, 1998	\$ 27,763,263	\$ 4,633,746	\$ 1,094,569	\$ 266,929	\$ 93,917
Less: unliquidated obligations:					
Section 1595 (a)	16,249,625	2,375,024	435,476	165,621	93,917
Section 1596 (b)	1,720,000	1,058,628	75,957	-	0
Section 1598 (c)	2,233,930	596,004	482,627	9,328	0
Subtotal	<u>20,203,555</u>	<u>4,029,656</u>	<u>994,060</u>	<u>174,949</u>	<u>93,917</u>
Net unliquidated obligations - ENRD	7,559,708	604,090	100,509	91,980	0
Superfund percentage (d)	<u>28.2362%</u>	<u>28.7043%</u>	<u>28.5894%</u>	<u>27.6270%</u>	<u>28.8774%</u>
Superfund portion of unliquidated obligations	2,134,574	173,400	28,735	25,411	0
Add - Section 1598 unliquidated obligations	<u>2,233,930</u>	<u>596,004</u>	<u>482,627</u>	<u>9,328</u>	<u>0</u>
Total Superfund unliquidated obligations (e)	<u>\$ 4,368,504</u>	<u>\$ 769,404</u>	<u>\$ 511,362</u>	<u>\$ 34,739</u>	<u>\$ 0</u>

- (a) Section 1595 relates to reimbursable amounts from agencies other than EPA.
 (b) Section 1596 relates to non-Superfund charges.
 (c) Section 1598 relates to charges that are Superfund specific.
 (d) Superfund percentage of unliquidated obligations was calculated by dividing year-to date Superfund direct labor by the total direct labor for each of the fiscal years.
 (e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION**

September 30, 1998

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$20,514,666
Fringes	9,987,001
Indirect travel	371,099
Freight	345,876
Office space and utilities	10,102,983
Printing(forms, etc.)	105,048
Training and other services	3,802,514
Supplies	832,169
Non-capitalized equipment and miscellaneous	<u>694,611</u>
Subtotal	46,755,967
Total Direct Labor	24,740,997
ENRD Indirect Costs Rate - F/Y 1997 Obligations	188.9817%
 Plus: Superfund Indirect Costs for Prior Year Obligations(c) and Superfund Specific Costs (d)	
1998	\$ 239,582
1997	1,731,935
1996	720,716
1995	1,729
1994	646
1993	<u>79</u>
Total	<u>2,694,687</u>
Superfund Direct Labor	6,985,929
Superfund Indirect Rate	<u>38.5731%</u>
Total Indirect Rate	<u>227.5548%</u>

(a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596 have been removed.)

(b) Indirect labor and fringes include certain month-end obligation accruals.

(c) Indirect cost payments for the prior year obligations included in the totals presented are as follows; \$1,678,340, \$ 190,785, \$1,729, \$646 and \$79 for F/Y 1997 through 1993 respectively.

(d) The balance of the charges in the totals presented were paid during fiscal year 1997 to maintain Superfund case information or perform other Superfund Specific activities. In that these charges were initiated as a result of Superfund, and are of benefit only to the Superfund Program, they have been allocated only to Superfund cases through this separate indirect approach. The charges are \$239,582 \$53,595, and \$529,931 for Fiscal years 1998 through 1996 respectively.

EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION

September 30, 1998

Object Class.	Description	Direct Expenses	Superfund Program Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries	\$10,185,401 (a) \$	-	\$5,931,442	\$2,048,185	\$18,165,028
12	Benefits	-	-	2,819,951	156,353	2,976,304
21	Travel	687,803	-	104,783	116,219	908,805
22	Freight	-	-	97,662	14,309	111,971
23	Rent	-	-	2,852,699	53,696	2,906,395
24	Printing	53,770	-	29,663	31,554	114,987
25	Services	991,859	84,109	1,152,228	1,702,384	3,930,580
26	Supplies	-	5,972	237,324	57,262	300,558
31	Equipment	92,757	50,339	215,938	188,542	547,576
	Total	<u>\$12,011,590</u>	<u>\$ 140,420</u>	<u>\$13,441,690</u>	<u>\$4,368,504</u>	<u>\$29,962,204</u>

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated damages.

EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES

September 30, 1998

Object Class.	Description	--Superfund--		--Non-Superfund--		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$10,185,401	\$5,931,442	\$17,959,275	\$14,722,105	\$46,395	\$48,844,618
12	Benefits	-	2,819,951	-	7,167,050	-	9,987,001
21	Travel	687,803	104,783	1,906,965	266,316	-	2,965,867
22	Freight	-	97,662	-	248,214	-	345,876
23	Rent	-	2,852,699	-	7,250,284	-	10,102,983
24	Printing	53,770	29,663	191,440	75,385	-	350,258
25	Services	1,075,968	1,152,228	1,785,744	2,728,830	3,984,219	10,726,989
26	Supplies	5,972	237,324	-	597,195	4,198	844,689
31	Equipment	143,096	215,938	560	498,479	14,754	872,827
Total		\$12,152,010	\$13,441,690	\$21,843,984	\$33,553,858	\$4,049,566	\$85,041,108

FY 1999 Accounting Schedules & Summaries

RUBINO & MCGEEHIN CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS

June 30, 2000

RUBINO & MCGEEHIN,
CHARTERED

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Mr. Robert L. Bruffy
U.S. Department of Justice
Environment and Natural
Resources Division
Suite 825
Washington, DC. 20004

Dear Mr. Bruffy:

Enclosed please find the following final fiscal year 1999 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-6
September 30, 1999
- DOJ - Superfund Case Cost Summary (sorted by case number)
As of September 30, 1999
- DOJ - Superfund Case Cost Summary (sorted by SSID number)
As of September 30, 1999
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 1999
- DOJ - Superfund Direct Costs
Year Ended September 30, 1999

The schedules represent the final fiscal year 1999 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 1999.

Mr. Robert L. Bruffy
June 30, 2000
Page Two

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours from time reports completed by the employees) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 1999, which are not identified on time sheets as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours,



Rubino & McGeehin, Chartered

Enclosures

EPA BILLING SUMMARY
 SUMMARY OF AMOUNTS DUE
 BY INTERAGENCY AGREEMENT
 September 30, 1999

	Fiscal Years			
	1999	1998	1997	1996
EPA Billing Summary - Amount Paid	\$ 27,485,827 (a)	\$ 25,593,700 (b)	29,186,868 (b)	\$ 31,613,082 (b)
				1995
				\$ 31,507,663 (b)
Add:				
Payments in FY 1999 for 1998 (a)	3,579,173			
Payments in FY 1999 for 1997 (a)			560,358	
Payments in FY 1999 for 1996 (a)				183,148
Payments in FY 1999 for 1995 (a)				790
Payments in FY 1999 for 1994 (a)				
Subtotal	27,485,827	29,172,873	29,747,226	31,796,230
Unliquidated Obligations (c)	3,018,594	628,067	44,160	288,149
Total	<u>\$30,504,421</u>	<u>\$29,800,940</u>	<u>\$29,791,386</u>	<u>\$32,084,379</u>
				<u>\$31,508,453</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 1999
 (b) See EPA Billing Summary, Schedule 1, September 30, 1998
 (c) See EPA Billing Summary, Schedule 3, September 30, 1999

EPA BILLING SUMMARY
 SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 1999
 BY FISCAL YEAR OF OBLIGATION
 September 30, 1999

	<u>Fiscal Years</u>					<u>Total</u>
	<u>1999</u>	<u>1998</u>	<u>1997</u>	<u>1996</u>	<u>1995</u>	
<u>Amounts Paid:</u>						
Labor	\$ 7,161,567	-	-	-	-	\$ 7,161,567
Other Direct Costs	5,717,355	1,740,881	\$ 349,352	\$77,099	-	7,884,687
Indirect Costs	14,381,734	1,711,727	211,006	94,148	\$ 790	16,399,405
Superfund Program Expenses	<u>225,171</u>	<u>126,565</u>	<u>-</u>	<u>11,901</u>	<u>-</u>	<u>363,637</u>
Subtotal	<u>27,485,827</u>	<u>3,579,173</u>	<u>560,358</u>	<u>183,148</u>	<u>790</u>	<u>31,809,296</u>
Unliquidated Obligations (a)	<u>3,018,594</u>	<u>628,067</u>	<u>44,160</u>	<u>288,149</u>	<u>-</u>	<u>3,978,970</u>
Totals	<u>\$30,504,421</u>	<u>\$4,207,240</u>	<u>\$ 604,518</u>	<u>\$471,297</u>	<u>\$790</u>	<u>\$35,788,266</u>

(a) See Schedule 3

EPA BILLING SUMMARY
 FISCAL YEARS 1999, 1998, 1997, 1996 AND 1995 UNLIQUIDATED OBLIGATIONS
 September 30, 1999

	Fiscal Years				
	1999	1998	1997	1996	1995
ENRD unliquidated obligations at September 30, 1999	\$ 22,022,004	6,971,153	\$833,793	\$414,813	\$90,163
Less: unliquidated obligations:					
Section 1595 (a)	13,064,656	4,873,679	742,872	125,589	90,163
Section 1596 (b)	1,420,000	412,657	9,977	549	-
Section 1598 (c)	1,252,476	212,278	29,350	287,939	-
Subtotal	15,737,132	5,498,614	782,199	414,077	90,163
Net unliquidated obligations - ENRD	6,284,872	1,472,539	51,594	736	-
Superfund percentage (d)	28.1011%	28.2362%	28.7043%	28.5894%	27.6270%
Superfund portion of unliquidated obligations	1,766,118	415,789	14,810	210	-
Add - Section 1598 unliquidated obligations	1,252,476	212,278	29,350	287,939	-
Total Superfund unliquidated obligations (e)	\$3,018,594	\$628,067	\$44,160	\$288,149	\$0

- (a) Section 1595 relates to reimbursable amounts from agencies other than EPA.
- (b) Section 1596 relates to non-Superfund charges.
- (c) Section 1598 relates to charges that are Superfund specific.
- (d) Superfund percentage of unliquidated obligations was calculated by dividing year-to date Superfund direct labor by the total direct labor for each of the fiscal years.
- (e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION**

September 30, 1999

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$21,723,970
Fringes	10,618,927
Indirect travel	351,611
Freight	401,813
Office space and utilities	10,828,223
Printing(forms, etc.)	67,555
Training and other services	3,888,622
Supplies	764,911
Non-capitalized equipment and miscellaneous	<u>692,605</u>
Subtotal	49,338,237
Total Direct Labor	25,484,990
ENRD Indirect Costs Rate - F/Y 1999 Obligations	193.5972%
Plus: Superfund Indirect Costs for Prior Year Obligations(c) and Superfund Specific Costs (d)	
1999	\$ 517,144
1998	1,711,727
1997	211,006
1996	94,148
1995	790
Total	<u>2,534,815</u>
Superfund Direct Labor	7,161,567
Superfund Indirect Rate	<u>35.3947%</u>
Total Indirect Rate	<u>228.9919%</u>

- (a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596 have been removed.)
- (b) Indirect labor and fringes include certain month-end obligation accruals.
- (c) Indirect cost payments for the prior year obligations included in the totals presented are as follows; \$1,415,255, \$ 73,223, \$819, and \$790 for F/Y 1998 through 1995 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 1999 to maintain Superfund case information or perform other Superfund Specific activities. In that these charges were initiated as a result of Superfund, and are of benefit only to the Superfund Program, they have been allocated only to Superfund cases through this separate indirect approach. The charges are \$517,144 \$296,472, \$137,783 and \$93,329 for Fiscal years 1999 through 1996 respectively.

EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION

September 30, 1999

Object Class	Description	Direct Expenses	Superfund Program Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries	\$10,100,816 (a)	\$ 115,073	\$6,315,176	\$1,707,129	\$18,238,194
12	Benefits	-	-	2,984,036	173,851	3,157,887
21	Travel	746,075	495	99,001	107,779	953,350
22	Freight	-	-	112,914	15,905	128,819
23	Rent	-	109,603	3,085,687	92,409	3,287,699
24	Printing	84,359	-	18,984	35,413	138,756
25	Services	1,947,672	-	1,356,358	830,564	4,134,594
26	Supplies	-	-	214,949	13,676	228,625
31	Equipment	-	-	194,629	41,868	236,497
	Total	\$12,878,922	\$ 225,171	\$14,381,734	\$3,018,594	\$30,504,421

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated damages.

EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES

September 30, 1999

Object Class	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$10,215,889	\$6,315,177	\$18,859,163	\$15,619,296	\$1,500	\$51,011,025
12	Benefits	-	2,984,036	-	7,634,891	-	10,618,927
21	Travel	746,570	99,001	1,830,836	252,805	-	2,929,212
22	Freight	-	112,914	-	288,899	9,390	411,203
23	Rent	109,603	3,085,687	-	7,785,373	-	10,980,663
24	Printing	84,359	18,984	242,959	48,571	-	394,873
25	Services	1,947,672	1,356,358	2,119,114	2,795,874	2,747,235	10,966,253
26	Supplies	-	214,948	-	549,962	-	764,910
31	Equipment	-	194,629	-	497,976	1,039,191	1,731,796
Total		\$13,104,093	\$14,381,734	\$23,052,072	\$35,473,647	\$3,797,316	\$89,808,862

APPENDIX V

ENRD COMMENTS ON THE AUDIT RECOMMENDATIONS



U.S. Department of Justice


Environment and Natural Resources Division

*Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001*

*Telephone (202) 514-2701
Facsimile (202) 514-0557*

October 30, 2001

MEMORANDUM FOR GUY K. ZIMMERMAN
Assistant Inspector General for Audit

FROM:  John C. Cruden
Acting Assistant Attorney General
Environment and Natural Resources Division

SUBJECT: Audit of 1998 and 1999 Superfund Activities

I am writing to respond to, and to thank you and your staff for performing, the audit of Superfund Activities in the Environment and Natural Resources Division for Fiscal Years 1998 and 1999. Annual audits of our Superfund program have served an important purpose in the government's Superfund enforcement and cost recovery programs, and we depend on them to support cost documentation in litigation.

This audit report is the first to review our new timekeeping system, and we are pleased that it determined that adequate internal controls exist over the recording of direct labor time to cases. Additionally we are pleased that your review determined that the cost distribution methodology used to allocate incurred costs to Superfund cases provides an equitable distribution of total labor, other direct costs, and indirect costs.

The Environment Division agrees with the audit's recommendation that we formalize the process each litigating section uses to identify cases that are chargeable to the Superfund. Within the next 30 days I intend to issue a memorandum to Division managers with specific guidance on this topic. I will forward a copy of that memorandum to you when it is issued.

APPENDIX VI

ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE REPORT

1. **Resolved.** This recommendation may be closed after we receive and review the case identification advisory memorandum to be issued by the Assistant Attorney General.