

ENFORCEMENT ANNUAL REPORT
Fiscal Year 2003

EPA New England
Office of Environmental Stewardship
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FY03 Annual Enforcement Report

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INTRODUCTION

This report was compiled to supplement the FY03 Annual Report of the Office of Environmental Stewardship. It contains more detailed information on the Region's enforcement programs, including highlights of achievements over the past fiscal year, summaries of important cases, enforcement statistics and contact information.

ACHIEVEMENTS

Over the past fiscal year (October 1, 2002 - September 30, 2003), the Enforcement Office within EPA's New England Regional Office achieved strong results, including a record year in negotiating innovative environmental projects in settling enforcement cases.

For the second consecutive year, the amount paid by violators to settle enforcement cases was near an all-time high. In fact, fiscal years '02 and '03 are the two highest totals in the past 10 years. Violators paid more than \$12.24 million in the most recent fiscal year, including a record \$8.7 million spent on so-called Supplemental Environmental Projects (SEPs) that focused on such problems as skyrocketing asthma rates, diesel air pollution and loss of wetlands.

Among the SEPs funded: building a new garbage transfer station with stringent air quality controls in Boston's Roxbury neighborhood; providing hazardous materials training to fire departments in Connecticut; installing diesel particulate filters on all of Rhode Island's public transit buses; and restoring 54 acres of freshwater wetlands in southern Maine. The remaining \$3.55 million of settlement money was paid in civil penalties to the US Treasury.

The Enforcement Office also carried out nearly 700 inspections last year, a 33 percent increase from the previous year. One of the areas with an increased emphasis was compliance with federal lead paint disclosure laws. EPA staff carried out more than 100 inspections affecting more than 40,000 housing units to ensure that property owners and property managers were notifying tenants and prospective buyers of potential lead paint threats. Many of the inspections were done at the request of state environmental and public health agencies. Several significant enforcement actions were taken as a result of those inspections.

EPA and state environmental agencies are jointly responsible for the enforcement of environmental laws, and work closely together to ensure an effective enforcement presence in New England. Many of the cases are a result of close collaboration and coordination with the states. Also gratifying, many cases are leading to projects that are improving public health and environmental quality in the communities where the violations took place. These projects reflect a smart, strategic enforcement program that is achieving broader compliance and more environmental and public health benefits at less cost.

Among the highlights of EPA New England's enforcement program for the fiscal year that ended September 30, 2003:

Strong overall enforcement: EPA NE's overall enforcement presence remained strong in 2003. The agency's enforcement presence was enhanced by a 33 percent increase in inspections over the previous year. The region settled 29 judicial cases in fiscal year 2003 – an all-time record. There were also 45 settlements of administrative penalty cases and 54 non-penalty compliance orders. Together, these cases required \$87 million in expenditures by violators to come into compliance, and will require the reduction, treatment, or proper management of 14.3 million pounds of pollution in New England.

Focus on Urban Environmental Problems: Much of EPA NE's enforcement activity is

targeted on the region's urban areas where serious environmental problems affect larger populations. In addition to the record number of lead paint inspections which resulted in enforcement actions in Manchester, NH, Portland, ME and Providence, RI, the agency focused major attention on pollution sources that contribute to the region's skyrocketing asthma rates. In addition to continuing inspections to curb excessive idling by diesel buses, the agency negotiated a SEP with the Rhode Island Public Transit Authority that requires the transit agency to install diesel particulate filters on all 156 of its diesel buses. The agreement also requires RIPTA to operate the buses with ultra-low sulfur fuel. The changes in the bus fleet will reduce air pollutant emissions by 90 percent.

Supplemental Environmental Projects: EPA NE has been a national leader in the use of SEPs, which make environmental improvements in areas where violations occurred. With only 6 percent of the agency's regional enforcement staff, EPA's New England office produced \$8.7 million of projects – or 19 percent of total SEP value across the country. Among the largest of the 10 SEPs negotiated last year was an agreement by the owner/operator of the Central Landfill in Johnston, RI to spend more than \$5 million on air pollution control measures at the 190-acre landfill. The second largest SEP was an agreement by a Boston trash hauler, Allied Waste Systems, to spend \$2.3 million to build a new transfer station in Roxbury which will include state-of-the-art pollution controls that will substantially reduce dust, odors and volatile organic compounds.

Using Enforcement to Pay for Superfund Cleanups: Superfund enforcement actions jumped by 39 percent, reflecting the region's aggressive pursuit of site cleanups and recovery of costs associated with those cleanups. The region carried out 57 enforcement actions last year, compared to 41 the prior year. As a result of these actions, parties responsible for improper waste disposal pledged to perform cleanup work valued at \$21.1 million at 11 sites, including \$8 million in investigation work at the Nuclear Metals site in Concord, MA, \$3.5 million at the Oak Street site in Taunton, MA and \$2.1 million at the Picillo Farm in Coventry, RI where work was completed last year. EPA NE also received \$21.2 million in cash to help refund EPA for previous cleanup costs and future cleanup costs at 19 sites, including the Johns Manville site in Nashua, NH, the Re-Solve site in Dartmouth, MA and the Stamina Mills property in North Smithfield, RI.

Achieving Compliance Through Self Audits: Another major focus last year was using EPA's self audit policy to improve compliance in specific sectors – in particular, colleges and universities and municipal public works facilities. The audit policy is designed to encourage facilities to find and correct environmental problems themselves, so EPA can focus its limited enforcement resources elsewhere. Under EPA's audit policy, if a facility finds an environmental violation and immediately corrects it and discloses the violation to EPA, penalties can be reduced or eliminated. Last year the region had 115 disclosures of environmental problems that were found and fixed. More than 60 of the disclosures were at municipal facilities and college/university facilities. The agency also confirmed that thousands of corrective actions were taken at more than 200 municipal and college/university facilities last year.

CASE SUMMARIES

RHODE ISLAND RESOURCE RECOVERY CORPORATION

On July 24, 2003, a Consent Decree was entered in U.S. District Court in Providence, Rhode Island for the State of Rhode Island's Central Landfill. The Rhode Island Resource Recovery Corporation, owner/operator of Central Landfill, the largest landfill in the state, will pay a \$321,000 penalty and will spend more than \$5 million on air pollution control measures as part of its settlement for Clean Air Act violations. Central Landfill, located in Johnston, RI, is a 190-acre landfill which handles most of the state's household and commercial waste. Noxious odors from the landfill gas have been a long-standing source of complaints among residents living near the landfill, and controlling and capturing landfill gas at this site is a complex challenge.

As part of its settlement, the Rhode Island Resource Recovery Corp. will install new pollution control systems that will capture and control over 30,000 tons of methane (a global warming pollutant), 215 tons of volatile organic compounds (VOCs) (a contributor to smog air pollution), and 175 tons of nitrogen oxides between now and 2010. Also, the corporation will boost the facility's overall capture/control efficiency of landfill gas to 90 percent or better and will retire 175 tons of emission credits (allowances to emit smog-causing pollutants). This case represents one of the first enforcement actions in the country taken against a solid waste landfill for violations of the Clean Air Act's New Source Review requirements and should lead to significant improvements in air quality for Rhode Islanders living in close proximity to the facility.

MACDERMID GRAPHIC ARTS, INC.

On February 25, 2003, Region I settled an administrative penalty action against MacDermid Graphic Arts, Inc. of Waterbury, CT. MacDermid agreed to pay a penalty of \$230,000 and to permanently retire as much as 150 tons of VOC emission credits per year in order to settle the enforcement case regarding alleged Clean Air Act violations at its former manufacturing plant in Adams, MA. Between 1997 and 2001, MacDermid exceeded allowable emission limits for VOCs at its plant, which manufactured rubber products for the commercial graphic arts industry. The agreement ensures that these VOC credits will never be available to be used by other sources.

ALLIED WASTE SYSTEMS, INC.

Allied Waste Systems, Inc., a Boston, MA trash hauler, agreed to pay a penalty of over \$780,000 and will spend \$2.3 million on an environmental project to improve Boston's air quality surrounding its transfer station in Roxbury, MA. The settlement stems from the company's alleged violations of Clean Air Act rules intended to protect the stratospheric ozone layer from harmful effects of certain chemicals known as chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). These chemicals, commonly found in refrigerants, are known to cause the depletion of the stratospheric ozone layer that protects the earth's surface from harmful ultraviolet radiation. Under EPA regulations, waste haulers who dispose of household appliances containing CFCs or HCFCs, such as refrigerators, freezers and air

conditioners, must take steps to ensure that these chemicals are not released into the atmosphere.

Between July 1997 and August 1998, the company allegedly compacted or crushed discarded appliances picked up in Boston's neighborhoods without recovering remaining refrigerants from the appliances or verifying that the refrigerants were already removed. Allied's environmental project involves constructing a new building at its Roxbury transfer station and installing state-of-the-art emissions control technology capable of reducing dust, odors and VOCs. This will not only improve the aesthetics of the station and provide for more efficient waste transfer operations, but more importantly, it will improve the quality of the air in the surrounding neighborhoods.

PRATT & WHITNEY

On September 16, 2003, EPA issued an Administrative Compliance Order and Reporting Requirement to Pratt & Whitney (P&W) of East Hartford, CT. Both the compliance order and the reporting requirement related to P&W's management of ozone-depleting substances (CFCs and HCFCs) at the Andrew Willgoos Turbine Laboratory in East Hartford. The compliance order directed P&W to adopt a more accurate method for calculating the leak rates of its refrigeration equipment and the reporting requirement sought information about the recovery and disposition of roughly 50,000 pounds of CFCs and HCFCs previously used at the facility.

The Andrew Willgoos Turbine Laboratory is used to test commercial and military gas turbine engines at conditions encountered in flight. In order to simulate the low temperatures encountered at high altitudes, P&W uses a refrigeration system consisting of three units. The refrigeration units are extremely large. Whereas the average unit of industrial process refrigeration equipment contains 2,200 pounds of refrigerant, P&W's units contain 8,990; 9,000 and 33,000 pounds of refrigerant. Constructed in 1950, 1954 and 1966, the units are also relatively old. P&W retired the 1950 and 1954 units from service in November of 2002 and announced its intention to retire the 1966 unit in March of 2004 as part of larger plans to close the entire Willgoos facility.

ETHAN ALLEN, INC.

In a Clean Air Act settlement filed on January 3, 2003, Ethan Allen, Inc., a wood furniture manufacturer and retailer, agreed to pay a \$73,852 penalty for particulate emissions violations at its manufacturing facility in Orleans, VT. The violations were of special concern to EPA since particulate pollution can cause a variety of respiratory and other health effects. The Orleans facility has three wood-fired boilers that are subject to particulate emission limits in a federally-enforceable state air permit. In May 2001, two of the boilers failed an EPA-ordered particulate test. One boiler's emissions were more than twice its allowable emissions rate – approximately 16 pounds of excess particulate emissions per hour. Ethan Allen promptly shut down the boilers and performed remedial work on their particulate controls (cyclone collectors). Both boilers were re-tested and demonstrated to be back in compliance.

BROX INDUSTRIES

On September 30, 2003, EPA issued six separate Consent Agreements and Final Orders (CAFOs) alleging violations of the Clean Water Act by Brox Industries, Incorporated (Brox). All of the CAFOs contained allegations that for certain periods of time, Brox failed to obtain permit coverage for storm water discharges from six asphalt manufacturing and mineral mining sites that it owns and operates. Additionally, EPA alleged that when Brox was properly covered under the applicable Multi-Sector General Permits, it failed to properly implement its Stormwater Pollution Prevention Plans, and otherwise failed to comply with its permit. At its Dracut, MA and Hudson, NH sites, Brox failed to obtain NPDES individual permits for discharges of its process wastewater from its sand and stone-washing operations. The total penalty for all six CAFOs is \$260,400. Brox also agreed to spend at least \$138,000 to perform a supplemental environmental project designed to recycle wash water at its Hudson, NH facility

Brox is a privately held for-profit Massachusetts corporation that employs approximately 100 people during its operating seasons. Brox owns and operates eight separate facilities in Massachusetts and New Hampshire. Brox's facilities range in size from 5 acres to several hundred acres. The six CAFOs are for alleged violations at sites in Dracut, Merrimac, Marlborough, and Ipswich, MA and in Hudson and Rochester, NH.

TUCKAHOE TURF

On September 2, 2003, the U.S. District Court in Maine entered a Consent Decree finalizing a settlement in United States v. Tuckahoe Turf Farm, et al, a civil enforcement case involving the illegal discharge of dredged and fill material into wetlands at two sites in Berwick, ME. The defendants are the owner and operator of a farm that produces sod for commercial and residential use. Between 1986 and 1999, the defendants engaged in mechanized land-clearing, placed stumps in windrows, and installed drainage lines embedded in sand to prepare wetland areas for farming. These activities impacted approximately 54.5 acres of wetlands which provided habitat for state-listed threatened and endangered species. At one site, the impacted wetlands were adjacent to the Salmon Falls River, the boundary between New Hampshire and Maine. At the second site, the wetlands were adjacent to intermittent, non-navigable tributaries of the Salmon Falls River.

Under the Consent Decree, Tuckahoe Turf Farms and Tuckahoe Land Investment Company will restore the 54.5 acres of wetlands, will pay a civil penalty of \$27,500, and will donate a conservation easement to a local land trust to preserve 108 acres of ecologically valuable wetland/upland habitat, including habitat for the state-listed species. The easement will also protect one mile of land along the Salmon Falls River, in an area subject to suburban sprawl. The easement is valued in excess of \$150,000.

HOOSAC WATER QUALITY DISTRICT

On August 13, 2003, EPA filed a proposed judicial Consent Decree with the federal District Court to settle long-standing Clean Water Act permit limit violations of the Hoosac Water Quality District, the City of North Adams, and the Town of Williamstown, Massachusetts

(together, the Hoosac Parties). The Decree requires that the Hoosac Parties perform corrective measures to prevent future permit violations. The corrective measures consist of a combination of wastewater plant improvements and municipal programs to reduce leaks of non-wastewater into the sewer collection systems. North Adams will pay a civil penalty of \$70,000. Williamstown will pay a civil penalty of \$30,000 and perform an SEP that will cost at least \$168,400. The SEP consists of the creation of a computerized map of Williamstown's storm water systems, which are separate from the sewer drains, in a GIS database format. The map will allow for a more rapid response to releases of pollutants from the storm water system and will improve storm water system maintenance and management. The Decree in this case was entered on October 30, 2003.

LOWE'S HOME CENTERS

On February 10, 2003, Lowe's Home Centers, the world's second largest home improvement retailer, agreed to pay a penalty of \$137,500 to settle claims by Region I that the company failed to obtain necessary permits for storm water discharges at four construction sites in Massachusetts and failed to adequately control storm water runoff at its construction site in Woburn, MA. The claims against the company stem from violations at construction sites in Woburn, Danvers, Brockton and East Springfield. Although Lowe's obtained necessary state and local permits at these locations, the company failed to seek necessary federal discharge permits. Lowe's also failed to prepare required storm water pollution prevention plans for the four sites.

The Woburn site was inspected in August 2001 and found to lack adequate storm water controls. EPA inspectors found silt-laden water discharging into a storm drain leading to the Aberjona River. Storm water runoff from a construction site can present a significant threat to water quality, carrying sediment and other pollutants. Lowe's responded quickly to address its violation by seeking general permit coverage and preparing storm water plans.

Following EPA's initial communications with the company regarding site compliance, Lowe's embarked on a comprehensive nationwide plan to improve its storm water management program. Lowe's program has been fully revised to address storm water management during site planning and through all stages of development. The company set up new criteria and staff training to ensure that its sites meet or exceed EPA's criteria.

ROGERS CORPORATION

On January 17, 2003, EPA settled a long-running case against the Rogers Corporation for PCB violations at its facility in East Woodstock, CT. The Region filed its administrative complaint under the Toxic Substances Control Act in 1994, charging that Rogers, a foam products manufacturer, improperly disposed of PCBs by allowing PCB-contaminated oil to accumulate under manufacturing equipment over the course of a year.

In the initial phase of this proceeding, the Administrative Law Judge found the company liable and assessed a penalty of \$281,400. On appeal, the Environmental Appeals Board affirmed the decision. The company then appealed to the D.C. Circuit Court of Appeals. The D.C. Circuit

found that the ALJ had made a procedural error in finding for EPA on accelerated decision and remanded the case to EPA for further proceedings.

Under this settlement, Rogers will pay a \$45,000 penalty and spend \$269,000 to perform three SEPs. Rogers will install photovoltaic lighting at its parking lot, donate HAZMAT equipment and training to the local fire department, and burn 0.5 percent sulfur fuel oil in lieu of 1.0 percent sulfur for a period of four years.

MORGAN ADVANCED CERAMICS, INC.

On July 23 and September 15, 2003, respectively, Region I filed and settled an administrative complaint under the Clean Air Act against Morgan Advanced Ceramics, Inc. (Morgan) of Hudson, NH for \$44,317. The complaint alleged that Morgan failed to timely submit a Risk Management Plan (RMP) as required by section 112(r) of the Clean Air Act and 40 C.F.R. § 68.150. EPA directly administers the 112(r) program which is designed to ensure that facilities which store hazardous materials above certain thresholds have implemented procedures to minimize the adverse effects from any accidental release of these materials. As part of its ceramics manufacturing process, Morgan stored borontrichloride and methyltrichlorosilane above the quantities requiring the facility to submit an RMP. However, at the time that Morgan experienced a chemical emergency response on June 13, 2001, the company had not submitted an RMP to EPA.

SCOVILL INDUSTRIAL LANDFILL SUPERFUND SITE

On March 12, 2003, Region I issued an Administrative Order to Saltire Industrial, Inc. (Saltire), Joseph Calabrese, Calabrese Construction Company and Store Avenue Associates, LLC (the Calabrese parties) requiring the completion of the Scovill Industrial Landfill Superfund Site Remedial Investigation/Feasibility Study (RI/FS). The 30-acre Site, contaminated with polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and metals, was used as a waste dump by Scovill Manufacturing Company of Waterbury, CT from the early 1900's until the 1970s. It was then subdivided and 23 acres were developed. The Site was listed on the National Priorities List in August 2000 and EPA has performed the first phase of the RI/FS for the Site. The Order sought to compel Saltire Industrial, Inc. the successor to Scovill Manufacturing, Inc., and the Calabrese parties, which presently own or owned and/or operated a portion of the Site when disposal took place, to complete the RI/FS. EPA expects that the RI/FS can be completed within the next three years. Because the Site is heavily developed and is the location of numerous residences and a day care facility, it is crucial that the full scope of the risk posed by the hazardous substances present at the Site be characterized.

VINAGRO GREEN HILL ROAD PROPERTY

In response to a Complaint and Motion filed by Department of Justice, on August 4, 2003, the U.S. District Court for the District of Rhode Island granted the U.S.' Motion for Order in Aid of Immediate Access relating to the above-referenced site. The Complaint and Motion sought court-authorized access at the site through March of 2004 for completion of removal activities

and continued monitoring. EPA's court-authorized access was to expire on August 15, 2003, under a previously issued warrant for entry and access pursuant to Section 104(e) of CERCLA. The Complaint and Motion were necessary because the removal action was not yet complete.

The property in question is located in Johnston, RI and is owned by Louis Vinagro, Jr., who has denied EPA access to his property. The property contains more than 1 million cubic yards of unpermitted construction and demolition debris which has been smoldering below the surface and which periodically breaks out into surface fires. The smoke emanating from the burning waste contains CERCLA hazardous substances, some of which are known or suspected carcinogens. Region I has signed an Action Memorandum detailing a plan to remedy the smoldering and burning waste.

Earlier efforts undertaken by the Rhode Island Department of Environmental Management were not completely successful in extinguishing the subsurface smoldering. The state asked for EPA's assistance at this site because it had exhausted its emergency response funding.

NUCLEAR METALS SUPERFUND SITE

On June 13, 2003, Region I signed an Administrative Order By Consent for remedial investigation/feasibility study (RI/FS) with the following potentially responsible parties (PRPs) at the Nuclear Metals Superfund Site in Concord, MA: U.S. Army, U.S. Department of Energy (as successor to the U.S. Atomic Energy Commission), Whittaker Corporation, MONY Life Insurance Company, and Textron Inc. From 1958 to 1985, site owners/operators disposed of wastes containing depleted uranium to an unlined holding basin at the site. Current and former owners/operators of the site manufactured depleted uranium munitions or other products under contract with the U.S. Army or the U.S. Atomic Energy Commission. The settlement requires the two federal PRPs to pay 98 percent of the expected costs of the RI/FS, as well as any engineering evaluations/cost analyses. The three private party PRPs will pay two percent of the expected costs of these studies, and will also perform the studies. Under the agreement, the expected cost of the work is \$8 million, which can be increased to a cap of \$10 million. In the event that the cost of the work, including payment of 100 percent of EPA's oversight costs, exceeds \$10 million, further negotiations are anticipated.

RE-SOLVE SUPERFUND SITE

On July 31, 2003, Region I reached settlement pursuant to Section 122 of CERCLA with Vulcan International, Inc. (Vulcan), the last viable defendant in United States v. Resolve Inc. et al., a Superfund case. The Re-Solve Superfund Site, located in South Dartmouth, MA, was operated from 1956-1980 as a waste chemical reclamation facility. A variety of hazardous materials were handled at the site including solvents, waste oils, organic liquids and solids, acids, alkalies, inorganic liquids and solids, and PCBs. Residues from the distillation process were disposed of in four unlined lagoons on-site and oil waste from the bottom of the degreaser still was spread throughout the site. Both soils and groundwater were contaminated from these activities.

Under the Consent Decree, Vulcan agreed to pay \$3.8 million plus interest accruing from November 1, 2002. In exchange for this payment, the United States will give Vulcan a release

under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, with respect to the site, including a release for natural resource damages.

CHARLES GEORGE LANDFILL SUPERFUND SITE

The final Consent Decree in the cost recovery litigation at the Charles George Landfill Superfund site was entered with the Federal District Court on March 31, 2003. Under the decree, four parties agree to pay EPA and the Commonwealth of Massachusetts the amount of \$3.8 million for response costs incurred or to be incurred at the site and for natural resource damages. This settlement is the final settlement with the last of the site owners and operators, ending 17 years of contentious cost recovery litigation at this site. Previously, EPA settled with all of the generators and transporters for the site and with some of the owners and operators.

The Charles George Landfill is an approximately 69-acre mixed industrial, municipal, and hazardous waste landfill site located approximately one mile southwest of the Town of Tyngsboro, MA. The landfill was owned and operated by Charles George, Sr., and his wife Dorothy. He purchased the landfill in 1967 and transferred it to the Charles George Land Reclamation Trust (CGLRT) in July 1971, with Charles Sr. and Dorothy George as trustees. The George parents also operated the Charles George Trucking Company (Trucking Company), a transporter of solid and hazardous wastes to the landfill. As early as 1973, their sons Charles, Jr. and James became involved in the management of the landfill and the trucking company. EPA sued each of the four George family members in this action as owners or operators of the Site and they are thus liable for response costs under CERCLA. The CGLRT disposed of commercial, municipal, and industrial wastes at the site from 1967 until 1983, and disposed of hazardous wastes at the site from 1973 to at least June 1976. At least 1,040 cubic yards and 5,509 drums of chemical waste material and over a thousand pounds of mercury were dumped at the site. It is estimated that the full 69-acre site contains about 4 million cubic yards of refuse. In response to the threats posed by the site, EPA has conducted a removal action and issued three Records of Decisions. Construction of the entire remedy has been completed.

JOHNS MANVILLE SUPERFUND SITE

On September 12, 2003, a Consent Decree was entered in the U.S. District Court for the District of New Hampshire, settling litigation concerning the Johns Manville Superfund Site in Nashua, New Hampshire. EPA filed this lawsuit on October 9, 2000, seeking cost recovery against four prior owner/operators for costs incurred during the performance of a removal action at the Site. In the settlement, the defendants agreed to pay EPA a total of \$2.5 million plus interest. Of this amount, Johns Manville agrees to pay \$1,250,000 plus interest on behalf of itself as well as on behalf of the defendant BNZ. In addition, two other defendants, Samuel A. Tamposi, Jr. and Elizabeth M. Tamposi, individually and as trustees of the Bridge Street Realty Trust, agree to pay \$1.25 million plus interest. In exchange for these payments, the United States grants a covenant not to sue or take administrative action against Settling Defendants pursuant to §§ 106 or 107(a) of CERCLA, for past and future response costs at the Site. Additionally, the United States agrees to defendants' protection from contribution actions or claims for "matters addressed" in the Decree. This settlement was reached, in large part, as a result of an alternative dispute resolution process.

ROSE HILL

On March 13, 2003, a Consent Decree was entered regarding the settlement reached among EPA, the State of Rhode Island and the Towns of South Kingstown and Narragansett, RI (Settling Defendants) for the cleanup of the Rose Hill Regional Landfill in South Kingstown, Rhode Island. The total cost of the settlement is expected to be about \$32.7 million.

Under the Consent Decree, the Settling Defendants will pay \$4 million plus interest, to a Superfund special account in settlement of past costs incurred by the United States and future costs relating to the Operable Unit One-Source Control (OU1) remedy to be incurred by the United States. The OU1 remedy provides for excavation of the bulky waste at the site and consolidation of the bulky waste onto the solid waste area, followed by capping of the waste, leachate collection, landfill gas treatment, institutional controls, and monitoring. The Consent Decree provides that the State will implement the OU1 remedy and be responsible for 50 percent of the cost of construction and 100 percent of the cost of operation and maintenance of that remedy (estimated to cost \$15.2 million). Under the Consent Decree, the towns are to eventually reimburse the State for 30 percent of the State's OU1 remedy costs through a combination of cash payments and in-kind operation and maintenance services.

Furthermore, the Consent Decree resolves the Towns' liability to the United States and the State for natural resource damages relating to the Site. The Towns will pay \$122,000 to the National Oceanic and Atmospheric Administration and \$3,000 to the Department of the Interior in settlement of Federal claims for natural resources damages and/or natural resource damage assessment costs. The Towns will also repair or replace the Indian Run Reservoir Dam and the Asa Pond Dam, both in South Kingstown in settlement of the State's claims for natural resource damages.

STAMINA MILLS

The Regional Administrator and the Department of Justice signed a Consent Decree with the Kayser-Roth Corporation settling an action that the United States filed against Kayser-Roth in March 1998 under Section 107(a) of CERCLA seeking to recover costs incurred in connection with the Stamina Mills Superfund Site located in North Smithfield, RI. The Consent Decree was entered by the Court on June 24, 2003.

The settlement recovers for the U.S. the sum of \$7,169,432 plus interest accruing from September 30, 2002, and of \$45,211 plus interest accruing from October 17, 2002. The settlement represents reimbursement of EPA cleanup and oversight costs incurred at the Stamina Mills Site in addition to EPA and DOJ enforcement costs. The settlement recovers for the United States about \$7.2 million out of a total claim of about \$9.1 million (including about \$4 million in prejudgment interest). The government first sued Kayser-Roth in May of 1988 seeking repayment of EPA removal costs and a declaratory judgment holding Kayser-Roth liable for all Site costs. The United States was successful in that litigation. The United States filed the March 1998 complaint to recover remedial, oversight, and enforcement costs (some dating to the 1980s), plus accrued interest, that Kayser-Roth had not paid despite the declaratory judgment.

ATLAS TACK

On August 27, 2003, the Department of Justice, on behalf of EPA, filed a cost recovery action under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), against Atlas Tack Corporation (Atlas Tack) as an owner and operator of the Atlas Tack Corporation Superfund site in Fairhaven, MA. The Complaint also names M. Leonard Lewis, the president and sole director of Atlas Tack, individually, as an operator at the Site. This action will seek recovery of past costs incurred by EPA in conducting the Remedial Investigation/ Feasibility Study and a 1999 removal action at the site. The action will also seek a declaration that Atlas Tack and M. Leonard Lewis are liable to EPA for the future cost of implementing the Remedial Design/Remedial Action (RD/RA) activities.

From approximately 1901 to 1985, Atlas Tack manufactured numerous varieties of tacks, nails, shoe eyelets, rivets, bolts and similar items at its Fairhaven facility. The manufacturing operations included electroplating, acid-washing, machining, annealing, pickling, enameling, and painting. In the course of these operations, process wastes containing acids, cyanide, metals such as copper and nickel, and solvents were discharged into drains in the floor of the main building. As a result, toxic chemicals permeated the floors and timbers of the building and migrated to the soils below and adjacent to the manufacturing buildings, and ultimately to the groundwater. Process wastes were also discharged to an unlined lagoon on site and the adjacent wetlands. It is estimated that this approximately 10,000 square foot lagoon contained more than 350,000 gallons of hazardous liquid waste and sludge prior to closure in 1985 when it was partially remediated by the state. Additionally, extensive portions of the wetland to the south and east of the Atlas Tack facility are filled with wastes from the former manufacturing operations.

GE-HOUSATONIC RIVER SUPERFUND SITE

During fiscal year 2003, the Region continued its multi-faceted approach to PCB contamination at this Site, with the Enforcement Office undertaking the following activities to address past contamination, and to eliminate the potential for future contamination. On August 22, 2003, the General Electric Company (GE) paid \$2,328,792 to EPA for costs incurred by EPA in implementation of the comprehensive Consent Decree governing remediation, natural resource restoration, and redevelopment of the General Electric-Pittsfield/Housatonic River Site. The costs include costs of overseeing GE's investigative and cleanup work, specific additional sampling EPA performed in areas to be cleaned up, and other overall costs of responding to the Site's environmental threats. The significance of the action is that these monies recovered from GE are placed in a site-specific fund for future funding of EPA activities under the Decree. Since Decree entry in October 2000, the Region has recovered over \$30 million from GE of costs incurred in connection with the Decree.

Additionally, the Regional Judicial Officer, on May 28, 2003, issued a Consent Agreement and Order pursuant to the Toxic Substances Control Act requiring GE to pay \$94,380 in civil penalties, and to address and pay stipulated penalties regarding any future discoveries of PCB-laden equipment at its Pittsfield facility. The Region brought this action against GE in response to GE's discovery in 2002-03 of many pieces of equipment containing PCBs which had been

improperly stored. The consent agreement minimizes the potential for future PCB releases from GE's equipment, and demonstrates to the community EPA's commitment not only to cleaning up past PCB releases, but also preventing future spills.

ENFORCEMENT STATISTICS

Number of Regional Inspections

	FY 99	FY 00	FY 01	FY 02	FY03
CAA Stationary	108	116	92	33	41
CAA CFCs	55	21	7	0	16
CAA Mobile Sources	39	34	8	6	3
Asbestos D& R	0	0	3	0	1
NPDES Minors	26	30	37	58	50
NPDES Majors	60	59	76	38	49
Pretreatment IUs	NR	59	41	24	21
Pretreat. POTWs	NR	16	17	17	13
CWA 311	92	68	67	55	68
CWA 404	46	22	16	7	6
EPCRA 313	40	12	26	8	9
EPCRA non-313	28	9	25	9	29
FIFRA	0	2	0	0	19
RCRA	73	71	26	17	71
UST	122	161	142	175	176
SDWA-PWSS	1	1	0	0	0
SDWA-UIC	0	0	0	0	0
TSCA	35	22	43	80	122
Total	725	723	626	527	694

NR - not reported

Number of Cases Referred to the Department of Justice

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	6	4	2	5	2
CERCLA	14	13	20	20	16
CWA-NPDES	8	6	3	2	7
CWA-311	2	6	0	0	0
CWA-404	2	0	1	3	0
EPCRA	0	0	0	0	0
FIFRA	0	0	0	0	0

RCRA	1	0	0	1	0
SDWA-PWSS	0	0	0	0	0
SDWA-UIC	0	0	0	0	0
TSCA	0	1	3	3	0
Total	33	30	29	34	25

Number of Administrative Penalty Order Complaints

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	11	5	16	13	5
CERCLA	0	N/A	0	0	0
CWA- NPDES	20	1	3	7	10
CWA-311	11	5	2	20	4
CWA-404	0	0	0	1	1
EPCRA	10	5	26	3	1
FIFRA	4	1	5	1	11
RCRA	32	7	12	13	9
SDWA- PWSS	0	0	1	0	0
SDWA-UIC	0	0	0	0	0
TSCA	2	9	6	5	12
Multi- Program	-	-	-	-	1
Total	90	33	71	63	54

Number of Administrative Compliance Orders

		FY 99	FY 00	FY 01	FY 02	FY03
CAA		13	12	4	5	7
CERCLA		16	20	21	12	18
CWA-NPDES		13	6	14	24	24
CWA-311		1	0	0	1	0
CWA-404		3	3	1	1	1
EPCRA		0	0	0	0	0
FIFRA		1	0	0	0	1
RCRA		3	0	1	0	1
SDWA-PWSS*		0	91	32	1	2

SDWA-UIC		0	0	0	0	0
TSCA		0	0	0	0	0
Total		50	132	73	44	54

* In FY00, Consumer Confidence Rule accounted for surge in PWSS ACOs.

Number of Civil Judicial Settlements

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	0	1	5	5	3
CERCLA	11	14	9	9	23
CWA-NPDES	0	0	2	5	1
CWA-311	0	0	0	3	0
CWA-404	0	0	0	0	1
EPCRA	0	0	0	0	0
FIFRA	0	0	0	0	0
RCRA	2	0	3	0	0
SDWA-PWSS	0	0	0	0	0
SDWA-UIC	0	0	0	0	0
TSCA	0	0	0	0	1
Total	13	15	19	22	29

Number of Administrative Penalty Settlements

		FY 99	FY 00	FY 01	FY 02	FY03
CAA		2	9	9	8	11
CERCLA		0	0	0	0	0
CWA-NPDES		10	15	3	3	5
CWA-311		6	7	0	12	7
CWA-404		1	0	0	0	1
EPCRA		9	6	24	3	0
FIFRA		5	0	5	2	7
RCRA		8	27	3	14	7
SDWA-PWSS		0	0	1	0	0
SDWA-UIC		0	0	0	0	0
TSCA		4	2	4	5	7
Total		45	66	49	47	45

Value of Administrative Penalties

		FY 99	FY 00	FY 01	FY 02	FY03
CAA		\$85,720	\$439,496	\$201,991	\$481,360	\$897,799
CERCLA		\$0	\$0	\$0	\$0	\$0
CWA		\$318,347	\$517,006	\$128,525	\$288,000	\$558,841
EPCRA		\$110,179	\$85,614	\$106,321	\$45,314	\$0
FIFRA		\$96,700	\$0	\$26,550	\$210,100	\$27,775
RCRA		\$496,958	\$515,334	\$266,669	\$721,705	\$127,288
SDWA-PWSS		\$0	\$0	\$500	\$0	\$0
TSCA		\$33,999	\$72,930	\$37,212	\$178,544	\$195,385
Total		\$1,141,903	\$1,630,380	\$767,768	\$1,925,023	\$1,807,088

EPA Field Citations

		FY 99	FY 00	FY 01	FY 02	FY03
	UST	71	24	22	19	30
Penalty Amount*		\$40,450	\$14,950	\$14,100	\$9,500	\$15,150

* This dollar amount is also included in Administrative Penalties above.

Value of Judicial Penalties

		FY 99	FY 00	FY 01	FY 02	FY03
CAA		\$0	\$40,000	\$1,090,665	\$1,287,639	\$1,103,550
CERCLA		\$0	\$125,000	\$0	\$0	\$250,000
CWA-NPDES		\$0	\$0	\$1,025,000	\$1,128,961	\$377,500
EPCRA		\$0	\$0	\$0	\$0	\$0
FIFRA		\$0	\$0	\$0	\$0	\$0
RCRA		\$700,000	\$0	\$424,000	\$0	\$0
SDWA-PWSS		\$0	\$0	\$0	\$0	\$0
TSCA		\$0	\$0	\$0	\$0	\$13,050
Total		\$700,000	\$165,000	\$2,539,665	\$2,416,600	\$1,744,100

Value of Criminal Penalties

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	\$31,100	\$941,936	\$0	\$21,700	\$4,510,178
CERCLA	\$10,840,570	\$200	\$35,000	\$3,006,287	\$0
CWA-NPDES	\$65,000	\$2,536,450	\$67,100	\$0	\$3,000
EPCRA	\$0	\$0	\$0	\$0	\$0
FIFRA	\$0	\$0	\$0	\$0	\$7,414
RCRA	\$0	\$377,749	\$0	\$100	\$0
SDWA-PWSS	\$9,300	\$33,000	\$0	\$8,000	\$0
TSCA	\$0	\$550,761	\$0	\$80,000	\$0
Title 18 & other	\$0	\$749,239	\$0	\$420,705	\$2,798,419
Total	\$10,945,970	\$5,189,335	\$102,100	\$3,536,792	\$7,319,011

Value of Injunctive Relief in Regulatory Programs

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	\$279,200	\$230,500	\$936,249	\$9,647,715	\$8,710,726
CWA	\$186,924,006	\$21,877,000	\$32,274,105	\$105,283,980	\$54,606,656
EPCRA	\$202,500	\$22,725	\$3,000	\$600	\$0
FIFRA	\$120,000	\$0	\$5,531	\$60,100	\$2,600
RCRA	\$8,609,000	\$60,992	\$2,283,500	\$428,839	\$36,949
SDWA	\$0	\$350,016,984	\$150	\$0	\$1
TSCA	\$533,079	\$203,000	\$161,605	\$111,560	\$2,915,598
Totals	\$196,667,785	\$372,411,201	\$35,664,140	\$115,532,794	\$66,272,530

Value of Supplemental Environmental Projects

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	\$91,000	\$24,000	\$162,423	\$7,010,102	\$8,141,767
CERCLA	\$0	\$700,000	\$0	\$0	\$0
CWA	\$5,660,000	\$533,800	\$1,078,000	\$533,196	\$150,000
EPCRA	\$96,309	\$72,004	\$1,330,800	\$56,524	\$0
FIFRA	\$0	\$0	\$0	\$0	\$0
RCRA	\$872,130	\$816,780	\$2,191,629	\$1,980,410	\$230,511
SDWA	\$0	\$0	\$0	\$0	\$0
TSCA	\$0	\$0	\$0	\$0	\$169,418
Totals	\$6,719,439	\$2,146,584	\$4,762,852	\$9,580,232	\$8,691,696

Number of Cases with Supplemental Environmental Projects

	FY 99	FY 00	FY 01	FY 02	FY03
CAA	1	1	4	9	4
CERCLA	0	1	0	0	0
CWA	2	2	3	3	1
EPCRA	2	2	1	1	0
FIFRA	0	0	0	0	0
RCRA	5	5	3	9	2
SDWA	0	0	0	0	0
TSCA	0	0	0		1
Totals	10	11	11	22	8

Voluntary Disclosure Program

	FY 99	FY 00	FY 01	FY 02	FY03
Facilities Disclosures	N/A	25	24	377	115
Company Disclosures	N/A	N/A	N/A	284	78
NODs	N/A	0	3	16	210

CONTACTS

Office of Environmental Stewardship

Director: Stephen Perkins, 617-918-1700

Deputy Director: Sam Silverman, 617-918-1731

Enforcement Immediate Office

Manager: Ken Moraff, 617-918-1721

Senior Staff:

Enforcement managers: see individual office contact information

ADR specialist: Ellie Tonkin, 617-918-1726

Municipal Coordinator: Nancy Barmakian, 617-918-1016

Wetland Senior Staff: Denise Leonard, 617-918-1719

Dan Arsenault, 617-918-1562

Programs Covered:

Overall program direction for the Enforcement Office

Liaison with EPA Headquarters, other regional enforcement programs, state partners, and external stakeholders

Wetlands Enforcement (Clean Water Act Section 404 Program)

Criminal Enforcement

OES Attorneys:

Peter Kenyon, 617-918-1723

Dianne Chabot, 617-918-1868

Andy Lauterback, 617-918-1724

Air Enforcement Office

Manager: Fred Weeks, 617-918-1855

Senior Enforcement Coordinator: Denny Dart, 617-918-1850

Programs Covered:

New Source Performance Standards (NSPS)

National Emission Standards for Hazardous Air Pollutants (NESHAPs and "MACT" standards)

Stratospheric Ozone Protection ("CFC program")

State implementation plan (SIP) sources

Section 183(e) Consumer Product Rules

Acid Rain

Title V Operating Permits
New Source Review (PSD and NSR) programs

RCRA Enforcement Office

Manager: Ken Rota, 617-918-1751

Senior Staff:

Lisa Papetti, 617-918-1756
Drew Meyer, 617-918-1755
Rich Piligian, 617-918-1757
Mel Cheeks, 617-918-1752

Programs Covered:

RCRA Program Compliance
RCRA Authorization & Permits located in OEP (Stephen Yee, Acting Chief, 617-918-1197)
RCRA Corrective Action located in OSRR (Matt Hoagland, Chief, 617-918-1361)

Water Enforcement Office

Manager (Acting): Karen McGuire, 617-918-1711

Senior Staff:

Drinking Water and Pretreatment: Beth Deabay, 617-918-1793
NPDES: Mike Fedak, 617-918-1766

Programs Covered:

Drinking Water Enforcement
NPDES Enforcement
Direct Discharge
Storm Water
Combined sewer overflow (CSO)/ sanitary sewer overflow (SSO)
Concentrated Animal Feeding Operation (CAFO)
Pretreatment Enforcement
Oil Spill Enforcement
NPDES Data Management

Toxics, Pesticides and Federal Programs Office

Manager: Deborah Brown, 617-918-1706

Senior Staff:

Federal Facilities: Anne Fenn, 617-918-1805

TRI, Small Business Ombudsman, and OES PBT contact: Dwight Peavey, 617-918-1829
TSCA PCB: Marianne Milette, 617-918-1854
Core TSCA: Rose Toscano, 617-918-1861
FIFRA, Asbestos and AHERA, Wayne Toland, 617-918-1852
CAA 112(r): Ray DiNardo, 617-918-1804
Security: Jim Gaffey, 617-918-1753

List of Programs Covered:

TSCA (Core, PCB, Asbestos, and Lead)
Emergency Planning and Community Right-to-Know (EPCRA 313 and Non313)
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
Asbestos Hazard Emergency Response Act of 1986 (AHERA), as amended by the
Asbestos School Hazard Abatement Reauthorization Act of 1990 (ASHARA)
Clean Air Act 112(r) – Risk Management Plans
Federal Facilities (Enforcement and Assistance)
Tribal (Assistance, capacity building, and enforcement)
Security

Regulatory Legal Office

Manager: Joel Blumstein, 617-918-1771

Senior Staff:

Water – Edith Goldman, 617-918-1866
RCRA – Andrea Simpson, 617-918-1738
Air – Thomas Olivier, 617-918-1737
Toxics – Catherine Smith, 617-918-1777

Programs Covered:

Provide legal support for all administrative and civil judicial enforcement matters in all EPA regulatory programs (CAA, CWA, SDWA, RCRA [except corrective action], TSCA, FIFRA, EPCRA).
Oversee implementation of EPA Audit Policy.

Superfund Legal Office

Manager: Joanna Jerison, 617-918-1781

Senior Staff:

Cindy Catri, 617-918-1888
Gretchen Muench, 617-918-1896
RuthAnn Sherman, 617-918-1886
Audrey Zucker, 617-918-1788

Programs Covered:

Superfund - Enforcement, Legal Review of Remedies, Brownfields and
Superfund Redevelopment
RCRA Corrective Action Enforcement