



\$100 Million Settlement Announced for Milltown Reservoir

On August 2, 2005, the Department of Justice (DOJ) and EPA announced that Atlantic Richfield Company and NorthWestern Corporation have agreed to cleanup and restore the Milltown Reservoir Superfund site in Montana. The settlement is valued at over \$100 million. The negotiations involved the State of Montana and the Confederated Salish and Kootenai Tribes, as well as EPA, DOJ, and the two corporations. The planned cleanup will restore local drinking water, improve conditions in the Clark Fork and Blackfoot Rivers, and improve local fishing.

The Milltown Reservoir remediation and restoration is expected to take place over the next six to seven years. The settlers have agreed to remove nearly 2.5 million cubic yards of contaminated sediments from the Clark Fork and Blackfoot Rivers and remove the Milltown Dam to prevent recontamination. They will also provide funds for additional activities, including historic preservation and the removal of the nearby Stimson Dam, and will reimburse past and future federal response costs. After remediation is complete, the State of Montana will implement the restoration plan for the Clark Fork and Blackfoot Rivers, including reconfiguring and revegetating the channel and floodplain to return the rivers to their original free-flowing conditions. Once the remediation and restoration are complete, a local community group called the Milltown Redevelopment Working Group will oversee the implementation of the redevelopment plan it created for the area.

The Milltown Reservoir site was added to the National Priorities List in September 1983 after Missoula County health officials identified arsenic contamination in the drinking water supply. Residents were provided with an alternative water supply. A hundred years of mining activities upstream contaminated approximately 6.6 million cubic yards of sediments; the resulting groundwater arsenic plume impacted local drinking water and fishing. Multiple environmental investigations were performed in the Milltown Reservoir between 1982 and 1992 to determine the source and scope of the contamination. EPA and the Montana Department of Environmental Quality issued their cleanup plans for the site in a December 2004 Record of Decision.

The 30-day public comment period for the Consent Decree began August 18, 2005 and ends September 19, 2005.

For additional information, contact Diana Hammer, EPA Region 8 Community Involvement Coordinator, (406) 457-5040.

New OECA Assistant Administrator Sworn In

On August 16, 2005, Granta Nakayama was sworn in as Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance (OECA). He had been confirmed by a Senate voice vote on July 29, 2005. In a statement before the Senate Committee on the Environment and Public Works during his confirmation hearings, Nakayama praised the "very dedicated, extremely capable staff in the enforcement and compliance assurance office." He also noted that he had "personally worked with many of them over the last decade" as a lawyer with the firm Kirkland & Ellis LLP and was "uniformly impressed by their dedication and professionalism."

Nakayama joined the Kirkland firm, where he was a partner, in 1994. Before joining Kirkland, he served in the U.S. Navy's nuclear submarine service. He holds a bachelor's and master's degree in nuclear engineering from MIT and was valedictorian of his graduating class at George Mason University School of Law.

Nakayama fills the vacancy left by John Peter Suarez, who resigned January 5, 2004. Thomas Skinner has served as Acting Assistant Administrator since April 2004.

For additional information, contact Pat Reilly, OECA, (202) 564-8684.

Long-Time EPA Employee Finishes Montclair Site

Following assessment and cleanup efforts that lasted approximately two decades, EPA has determined that the remediation of the Montclair/West Orange and Glen Ridge Radium Superfund sites in Essex County, New Jersey is complete. The determination was made after EPA conducted a study that showed that groundwater at the sites did not require remediation. This final step in the cleanup process was reached after almost 15 years of removing radium-contaminated soil at the sites. The EPA completed its soil removal activities in December 2004, having excavated over 220,000 cubic yards (300,000 tons) of contaminated soil and debris.

In 1983, the New Jersey Department of Environmental Protection discovered that numerous area homes contained high levels of radon gas and gamma radiation. EPA took emergency action and began installing radon ventilation systems and gamma radiation shielding in the affected residences. The Montclair/West Orange and Glen Ridge Radium sites were added to the National Priorities List in February 1985. It is suspected that the sites were contaminated by discarded materials from a nearby radium processing plant that operated in the early 1900s. After performing in-depth assessments of the type and scope of the contamination as well as an evaluation of different remedial approaches, EPA began removing the contaminated soil and backfilling the excavated areas with clean soil. Of the 897 residential and 24 municipal properties evaluated, cleanup was needed at 340 residential and 16 municipal properties, all of which were remediated and restored. The study of groundwater at the sites revealed that it meets

standards for drinking water and contains radon levels that are consistent with other area background levels.

The completion of work at the Montclair/West Orange and Glen Ridge Radium sites closes a significant chapter in the career of John Frisco, Superfund Remedial Program Manager for EPA Region 2. Frisco has been involved with the site for the duration of EPA's cleanup efforts, nearly twenty years. Frisco's dedication to thorough site cleanup was evident in an interview with *Newark Star-Ledger* reporter, Philip Read: "What I don't want to do is pack up and leave town and say, 'Gee, we left this whole pocket (of contaminated dirt) here. . . . Let's err on the side of taking too much out'" ("An EPA Man's Work Nears an End," *Newark Star-Ledger*, July 14, 2005). Earlier this year, EPA recognized his accomplishments at the 2005 National Notable Achievement Awards, where he was honored with the Superfund Program's Leader/Mentor of the Year Award. Throughout his career at EPA, Frisco has been searching for new innovative remediation technologies and helping EPA reach settlements and recuperate cleanup costs. He selflessly holds the attainment of Superfund program goals as a priority over personal recognition and is a valued leader within the program.

For additional information about the completion of site cleanup, contact John Frisco, EPA Region 2 Superfund Remedial Program Manager, frisco.john@epa.gov, or (212) 637-4400.

EPA Orders Cleanup of Hazardous Materials at Abandoned Long Beach Metal Plating Shop

Two companies and one individual must address the improper storage of dangerous chemicals, including solvents and sludge contaminated with chromium, arsenic and cyanide, at Industrial Zinc Plating, Inc, a former metal plating facility in Long Beach, California. EPA issued a cleanup order after a referral by the Los Angeles County Sanitation District. On June 21, 2005, EPA began an emergency removal action to address the immediate threat to human health posed by the contaminated solvents and sludge.

The potentially responsible parties (PRPs) include Industrial Zinc Platers, Inc., Islander Extremes, Inc., and Raymond Ball. EPA estimates that it could cost the Agency \$1 million to complete cleanup actions at the site if the PRPs do not comply with the order. As part of the cleanup, EPA will investigate the building and surrounding grounds for additional contamination.

Chromium is a possible carcinogen that can irritate the skin, lungs and mucous membranes. Arsenic is a toxic chemical compound that may be ingested orally or inhaled; both types of exposure can cause cancer as well as skin disease or irritation and affect the gastrointestinal tract, central nervous system as well as the kidneys and liver. Acute inhalation exposure to cyanide, which is commonly used in the electroplating

industry, can be deadly. Cyanide affects the central nervous system as well as the respiratory and cardiovascular systems and is easily absorbed through the skin.

For additional information, contact Francisco Arcaute, EPA Region 9, arcaute.francisco@epa.gov.

Successful “eCycling” Pilot Shows Electronics Recycling Can Be Achieved at Low Costs

Recycling of consumer electronics such as lap tops and monitors can be accomplished efficiently and at low cost to both consumers and retailers, according to the findings of a pilot project in New England. The project partners included EPA, Staples, Inc. and Product Stewardship Institute, Inc. (PSI) and focused on using a company’s existing distribution infrastructure to collect and recycle electronic wastes. The pilot was implemented at 27 Staples stores throughout New England and 14 commercial customers located in Connecticut, Massachusetts and New Hampshire; the company’s delivery trucks and other elements of its distribution system collected 57 tons of electronic waste from both consumers at retail stores and the company’s commercial customers. The pilot was supported by an EPA grant of more than \$46,000. PSI, a national non-profit organization based in Boston that promotes sustainable resource use, managed the grant. PSI collected and evaluated data about Staples’ business model to help determine the feasibility of expanding the program nationally and published their findings in a final report.

Used consumer electronics can contain cadmium, lead, mercury, and other harmful constituents that can be released into the environment when traditional disposal methods are used. The New England pilot program demonstrates that the high cost of transportation, one of the common problems faced by electronics recycling programs, can be abated through partnerships with retailers willing to use their existing infrastructure to support eCycling initiatives.

EPA’s “Plug-in to eCycling” program builds partnerships between government agencies and private business to address the need for eWaste recycling. Since the program was initiated in 2003, 45 million pounds of used electronics have been recycled and partnerships have been formed with various retailers including Best Buy and Dell Computers. “Plug-in to eCycling” is part of EPA’s Resource Conservation Challenge, a national effort to find ways to conserve resources and energy.

The final report on the pilot project is available on PSI’s Web site at: http://www.productstewardship.us/pilot_takeback_staples.html.

Additional information on the “Plug-in to eCycling” program is available on the “Plug-in to eCycling” Web site at: <http://www.epa.gov/epaoswer/osw/consERVE/plugin/index.htm>. Information on eCycling efforts in New England is available at: <http://www.epa.gov/region1/solidwaste/electronic/index.html>.

For additional information on New England's "Plug-in to eCycling" program, contact Christine Beling, EPA Region 1, beling.christine@epa.gov.

Triad Saves \$109K on Three Petroleum Sites

by Deana Crumbling, Office of Superfund Remediation Technology Innovation, Technology Integration and Information Branch

During the fall of 2004, the South Dakota Petroleum Release Compensation Fund (PRCF, a division of the SD Department of Revenue and Regulations) sponsored a study evaluating whether the Triad approach could significantly improve management of petroleum release sites. The study was organized by SD officials funding Risk-Based Cleanup Actions (RBCA) since 1995. These state officials were concerned that conventional assessment programs were providing inadequate understanding of contaminant sources and extent, which in turn led to inappropriately designed remediation systems—all of which were driving up costs to the Fund.

The SD PRCF officials were aware that the Triad approach was formulated to produce highly reliable "pictures" of contaminant locations and concentrations, efficient remedial actions, and lower costs. They wanted to evaluate Triad's effectiveness on their own challenging petroleum sites. Five legacy sites (those in the PRCF program between 5 to 13 years) were selected for the study: four gas stations (one closed and three active) and a railroad fueling site. The sites were located over the eastern half of the state: two in Pierre, one in Platte, one in Woonsocket, and one in Watertown, SD. The study team and equipment moved from site to site sequentially over a total period of 3 weeks for all 5 sites.

The primary on-site technology was the direct-push membrane interface probe (DP-MIP). This tool pushes, rather than drills, into the ground making it more rapid and economical than standard drill rigs. Sensors incorporated into the probe are capable of measuring geological and contaminant parameters every two inches in the vertical dimension, capturing the subsurface heterogeneities that can cause conventional characterizations to give misleading results. Samples of high information value are verified by laboratory quality analyses.

Over the 5 sites, a total of 133 subsurface pushes were advanced and 349,500 data points were collected from the probe's sensors in real-time. The PRCF reports that this data density is 250 times the number of data points routinely collected during conventional characterization. The benefits of rapidly generating this high data density are:

- much greater confidence that the source and extent of contamination have been accurately determined *before* the field team leaves the site, and
- single field mobilizations greatly cut the time frame for deciding and implementing corrective action.

Three of the sites had previous conventional investigations, but uncertainties remained to hamper corrective action decision-making. However, these sites did provide a means of cost comparison for judging Triad cost savings. The 3 conventional assessments cost \$35K, \$63K, and \$103K. The respective Triad assessments cost \$30K (14% savings), \$31K (51% savings), and \$31K (70% savings), with all site questions resolved. For the two sites that did not have previous investigations, the Triad costs were \$25K and \$32K.

By the end of the study, even those who were initially skeptical were impressed by Triad's ability to bring stakeholders to consensus while saving time and Fund resources. The PRCF is now strongly encouraging project implementers to use the Triad approach on SD petroleum release sites. As the report states: "[T]he level of communication between the State and environmental consultants provided for a certain level of trust that usually does not exist during conventional site investigations...The cost [savings] associated with utilizing the Triad approach in comparison to conventional site investigations was astonishing."

Source: Report entitled "A Study of Managing Uncertainties Using the Triad Approach" by the SD Petroleum Release Compensation Fund (PRCF). July 2005. Contact: Ryan Collins, SD PRCF, (605) 773-3769.

The Triad Resource Center Web site at: <http://www.triadcentral.org> also contains detailed information about the Triad approach and the interagency Triad initiative. See profiles of other Triad projects on the Web site at: <http://www.triadcentral.org/user>. Information is also available through the Technology Innovation Program's Hazardous Waste Clean-up Information Web site at: <http://clu.in.org> or by contacting the USEPA/OSWER/OSRTI Technology Innovation and Field Services Division at (703) 603-9910.

In The Courts

US Requests Dismissal of Capital Tax Corporation's Challenge to EPA's Use of UAOs

On July 22, 2005, the United States filed a motion in U.S. District Court to dismiss Capital Tax Corporation's amended counter-claim in *U.S. v. Capital Tax Corporation*, Civ. Action No. 1:04cu4138 (D.N.D. Ill). Capital Tax's original counter-claim—which was rejected by the Court—offered a facial challenge (a claim that a statute is unconstitutional as written) to certain provisions of CERCLA. In the revised counter-claim, Capital Tax offered an as-applied challenge (a claim that the statute is administered in an unconstitutional manner), arguing that EPA's use of unilateral administrative orders (UAOs) under Section 106(a) of CERCLA is in pattern and practice unconstitutional in this and other cases.

Capital Tax purchased parts of the former National Lacquer and Paint Co. site in southwest Chicago, Illinois in a 2001 tax auction. Capital Tax claims that it first

discovered stored paint and other materials after purchasing the property and gaining access to it. In August 2003, EPA issued a UAO to Capital Tax; EPA's site inspection revealed 500 drums, 7,000 buckets, over 2,000 laboratory jars/bottles, and other abandoned materials at the site. Some materials were determined to be flammable, and EPA had reports from area residents that children had been playing with fireworks on the site. In October 2003, EPA conducted a time critical removal action to address the immediate threat to human health and the environment. When Capital Tax did not comply with the terms of the UAO by June 2004, EPA initiated site cleanup. EPA is now seeking to recover cleanup costs.

*For additional information, contact Clarence Featherson, OSRE,
featherson.clarence@epa.gov.*

Settlement Will Ensure Former Mining Sites Are Cleaned Up and Converted to Open Space

After several years of negotiations, EPA and the State of Colorado have announced a settlement with B&B Mines, Inc. for the Wellington-Oro Superfund site in Summit County, Colorado. B&B Mines, Inc. has agreed to sell the site and some adjacent land to two bona fide prospective purchasers and to reimburse EPA over \$700,000 for past response costs. The consent decree, which was lodged in the U.S. District Court for the District of Colorado on May 31, 2005, is valued at over \$7 million and will resolve B&B Mines' Superfund liability at the site. Through a prospective purchaser agreement (PPA), the Town of Breckenridge and Summit County have agreed to purchase the Wellington-Oro Mine and to implement the site remedy outlined in an Action Memorandum and amendments. The remedy includes constructing and operating a water treatment plant to address the primary source of acid mine drainage from Wellington-Oro Mine; the goal is to restore the water quality of the Blue River. The town and county will also purchase the Jessie Mine and Mill and IXL/Royal Tiger Mine and complete the cleanups outlined in the sites' respective Voluntary Cleanup Plans. B&B Mines, the town, and the county will pay EPA for future response costs and the Department of the Interior for natural resource damages. The buyers will preserve all 1,800 acres of land purchased through the PPA as open space.

Underground mining operations at the site began in the 1850s and continued for more than a century. B&B Mines, Inc. purchased the Wellington-Oro Mine and adjacent properties in the 1940s and leased it to other mining companies until 1973. When mining activities ended, heavy metals—primarily zinc and cadmium—seeped from the tunnels into surface water, decimating fish populations in both French Creek and the downstream portion of the Blue River.

*For additional information, contact Andrea Madigan, EPA Region 8,
madigan.andrea@epa.gov.*

Tidbits

EPA Designates Mercury-Containing Equipment as Universal Waste

Effective August 5, 2005, mercury-containing equipment is considered universal waste under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Under this rule, handlers of mercury-containing equipment are required to place mercury in specific containers to prevent releases; they must also dispose of or recycle the waste through an approved hazardous waste facility. EPA estimates that this rule will impact 1,877 generators who collectively handle 550 tons of mercury-containing equipment. Mercury is found in commonly used devices such as barometers, temperature gauges, pressure gauges, and automobile light switches.

The universal waste management system promotes recycling of mercury-containing products by providing more streamlined, less stringent requirements for collecting, storing, and transporting certain wastes (e.g., batteries, thermostats, pesticides, and lamps). The decreased regulatory burden also encourages waste handlers to dispose of these wastes properly. Overall, compliance with hazardous waste regulations is made easier by the flexibility of the universal waste standards. For instance, handlers of universal waste are allowed to collect these wastes on site for a longer period of time and are not required to use a hazardous waste transporter when transporting the wastes.

For additional information on the “Discarded Mercury-Containing Equipment Rule” see: <http://www.epa.gov/epaoswer/hazwaste/recycle/electron/crt.htm> or submit a question to the OSW “answer” database at: <http://waste.custhelp.com>.

Abbreviated Permit Will Reduce Paperwork Burden While Maintaining Safe Hazardous Waste Management Standards

As of July 29, 2005, eligible hazardous waste facilities can submit an abbreviated permit application to regulatory authorities for review. The new rule applies to facilities that 1) generate waste or receive waste generated off-site by a generator under the same ownership and 2) subsequently store or non-thermally treat the waste in on-site tanks, containers, and containment buildings.

Under the new rule, the detailed facility information typically provided with the Part B application will be stored on-site at the facility for review, if necessary, and the applicants will provide more facility details and waste content with the submitted application. Facilities will still be required to hold a pre-application public meeting, and then submit a

Notice of Intent and supporting information. EPA has determined that the Notice of Intent and supporting materials typically provide enough information to allow for a draft permit determination. The standardized permit issued by EPA or the state permitting agency will consist of a uniform portion and when necessary a supplemental portion with conditions unique to the facility.

EPA anticipates that this rule will impact between 870 and 1,130 eligible private sector and federal facilities. The annual cost savings from the reduced paperwork burden is estimated at between \$2 and \$4 million.

The abbreviated permit resulted from the findings of an EPA special task force, the Permits Improvement Team (PIT); over several years, PIT worked with stakeholders from EPA, state permitting agencies, the regulated community, and the general public to review the permitting process and determine if improvements could be made. An EPA workgroup developed the standardized permit based on PIT's findings.

Additional information on this rule is available on the "Standardized Permit Rule" Web site at: <http://www.epa.gov/epaoswer/hazwaste/permit/std-perm.htm> or submit a question to the OSW "answer" database at: <http://waste.custhelp.com>.

Calendar

September 18-23, 2005

North American Hazardous Materials Management Association 2005 Conference
<http://www.nahmma.org/>
Tacoma, WA

September 26-30, 2005

Contaminated and Hazardous Waste Management—Theory, Practice, and Outdoor Field Demonstrations
<http://www.contaminatedsite.com/>
Toronto, Canada

October 13-14, 2005

Canadian Brownfields 2005: Developing Livable Communities
http://www.canurb.com/events/event_details.php?id=105
Ottawa, Canada

October 17-19, 2005

Symposium on Contaminated Property Transactions: Navigating the Deals
http://www.rtmcomm.com/rtmcomm/conference_detail.php?ConfID=17
Cambridge, MA

November 2-4, 2005

Brownfields 2005

<http://www.brownfields2005.org/en/index.aspx>

Denver, CO

Glossary

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
DOJ	Department of Justice
DP-MIP	Direct-push membrane interface probe
EPA	Environmental Protection Agency
OECA	Office of Enforcement and Compliance Assurance
OSRE	Office of Site Remediation Enforcement
OSRTI	Office of Superfund Remediation Technology Innovation
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
PIT	Permits Improvement Team
PPA	Prospective purchaser agreement
PRCF	Petroleum Release Compensation Fund
PRP	Potentially responsible party
PSI	Product Stewardship Institute, Inc.
RBCA	Risk-Based Cleanup Actions
RCRA	Resource Conservation and Recovery Act
UAO	Unilateral administrative order

Subscription Information

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