

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

Oct. 24, 2002

THE INSPECTOR GENERAL

The Honorable Wayne Allard  
United States Senate  
Washington, D.C. 20510-0606

Dear Senator Allard:

Your letter dated February 2, 1999, (Enclosure 1) requested Robert Martin, the former Ombudsman for the Environmental Protection Agency's (EPA's) Office of Solid Waste and Emergency Response, to assess EPA Region 8 activities at the Denver Radium Site where Shattuck Chemical Company was located. The local community and the City of Denver were concerned that public health may have been at risk because hazardous material was solidified and left at the site under a cap. This remedy was recommended by EPA and completed by the Shattuck Chemical Company in 1999.

As you are aware, the Ombudsman function was transferred to the Office of Inspector General in April 2002. As part of our effort to complete open Ombudsman cases, we reviewed the work performed by Mr. Martin's office on the Shattuck site and the status of your request. This letter communicates the results of our review.

Mr. Martin and his staff began work on this case in June 1999. In October 1999, he recommended that EPA Region 8 adequately characterize and remove the waste at the site to appropriate sites based on the characterization. About the same time, Region 8 completed a 5-year review of the site remedy and concluded the cap could not assure long-term protection. Region 8 amended its remedial decision in June 2000 to excavate and move the waste off-site, an action advocated by your constituents.

In March 2002, Mr. Martin issued three findings and an additional recommendation about the site. Mr. Martin's first finding alleged that the Agency Administrator had a conflict of interest because of financial interest in Shattuck Chemical Company's parent company, Citigroup. Our Office of Investigations conducted an independent investigation which did not substantiate this allegation. Mr. Martin's second finding was that Shattuck/Citigroup would only pay a small fraction of the total clean up costs under the proposed consent decree. EPA Region 8 and the Department of Justice (DOJ) negotiated a settlement with Shattuck Chemical Company and Citigroup under which they would pay \$7.2 of the estimated \$21.5 million cost to excavate and move the waste off site. They considered the amount the companies had already paid for the prior \$26 million capping remedy. The federal court approved this negotiated settlement in August 2002.

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Mr. Martin's third finding was that, instead of the promised protective dome, dust from the site would be suppressed with water, which would expose residents and workers to more risk. Region 8 informed us that the proposed protective dome will not be used and instead EPA will purchase and install small metal buildings to control the dust at the site. Mr. Martin also recommended that Region 8 withdraw the proposed consent decree but continue work to prepare for removal until such time as he could conduct a hearing to obtain public comments. Region 8 did not concur and we agree. Region 8 held a 45-day public comment period ending March 4, 2002, and received substantial input. Mr. Martin had the opportunity but did not conduct hearings to obtain additional public comment during that period.

We believe the matters you raised have been resolved and, therefore, we plan no further work on your request. We also plan to publicly release this letter in 30 days unless you formally object. If you have additional questions, please call Mary M. Boyer, Acting Ombudsman, at 202-566-1507 or Eileen McMahon, Congressional Liaison, at 202-566-2546.

Sincerely,

/s/

Nikki L. Tinsley

Enclosure

cc: Regional Administrator, Region 8