



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY

WASHINGTON, DC 20310

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7 DEC 1984

MEMORANDUM FOR THE DIRECTOR OF CIVIL WORKS *John,*

SUBJECT: Corps/EPA Superfund Agreement

The subject agreement has been signed and is returned with this memorandum. I appreciate the efforts of your staff in working with us to get our concerns incorporated into this major agreement.

A handwritten signature in black ink, appearing to read "Robert K. Dawson".

Robert K. Dawson  
Acting Assistant Secretary of the Army  
(Civil Works)

Attachment

Interagency Agreement Between the U.S. Army Corps of Engineers  
and the U.S. Environmental Protection Agency in Executing  
P.L. 96-510, the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980 (CERCLA)

PURPOSE

The Environmental Protection Agency (EPA) has overall statutory responsibility for implementing the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as Superfund. This agreement defines the assistance the U.S. Army Corps of Engineers (Corps) will provide to EPA in implementing the Superfund program, for EPA Fund-lead or State Fund-lead or for EPA enforcement-lead projects.

BACKGROUND

1. CERCLA provides authority and funding to respond to releases of hazardous substances, pollutants, and contaminants into the environment. The statute and Executive Order 12316 assign primary responsibility for implementation to EPA. The Superfund program includes emergency response (removal) to hazardous substance spills and sites and longer term (remedial) action at sites. This agreement primarily addresses aspects of the remedial response program, but may involve removal response when requested by EPA and accepted by the Corps.

2. For purposes of this agreement, remedial response at uncontrolled hazardous sites consists of the following: investigation to define the problem; feasibility study to evaluate the problem and select a cost-effective remedial action; final design; implementation (construction and related tasks); orderly transfer of completed construction to the owner or other appropriate party, including any technical assistance necessary in the first year of operation and maintenance.

3. States or potentially responsible parties (PRPs) may perform all or part of the remedial response program activities at sites. EPA is responsible for remedial response where a State or PRP does not elect to so perform.

4. The authorities applicable to this agreement include the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601 et seq., as implemented by 40 CFR 300, and 10 U.S.C. 3036(d).

### EPA'S RESPONSIBILITIES UNDER THIS AGREEMENT

1. Under overall EPA program management of all CERCLA activities at a site, EPA will provide Federal project management, except for those specific CERCLA project activities performed by the Corps under this agreement.
2. EPA will provide the Corps with sufficient funding to execute the activities covered by this agreement and will provide necessary workload estimates for the Corps to plan and budget necessary resources.
3. EPA will manage relationships with States and PRPs and will have primary responsibility for liaison with other interested groups.
4. EPA will select the response actions to be performed.

### CORPS' RESPONSIBILITIES UNDER THIS AGREEMENT

1. The Corps will provide technical assistance to EPA during the remedial investigation and feasibility study (RI/FS) phases. This assistance at a minimum will involve work required to satisfy the Corps that the remedial action selected by EPA will be reasonable to design, construct and operate. The Corps, when requested, also will assist EPA in review of State-managed projects as to their suitability for bidding and construction.
2. The Corps will manage design, construction and related tasks of Federal-lead Fund-financed projects, unless EPA or the Corps determines after consultation with the other party that the Corps cannot provide necessary support due to resource, policy or programmatic constraints. In carrying out its management role, the Corps will use private contractors for all design, construction and related tasks. EPA and the Department of the Army may, with the concurrence of the Office of Management and Budget, later agree that minimal design work should be done by the Corps.
3. The Corps may provide other technical assistance to EPA in support of response actions, as agreed upon by the parties including but not limited to:
  - A. For enforcement-lead projects, as stated in inter-agency agreements (IAGs), or as mutually agreed upon.
  - B. For State Fund-lead projects: monitoring compliance and overseeing State activities during the entire remedial process, including technical assistance during negotiations with State contractors or prospective contractors, review of initial remedial actions, feasibility studies, plans, specifications, construction activities, and first year of operation and maintenance.

C. For EPA Fund-lead projects during the remedial investigation/feasibility study phases: monitoring of planning activities, reviewing feasibility studies, evaluating constructability and bidding of alternatives under consideration by EPA, and upon request and acceptance by the Corps, managing the preparation of feasibility studies.

4. The Corps will provide EPA with financial and program information consistent with, and easily integrated into, EPA's management and financial accounting systems. Such information includes site-specific cost documentation EPA determines to be necessary to support successful recovery of CERCLA funds from PRPs.

#### QUALIFICATIONS AND LIMITATIONS

1. EPA and the Corps will ensure that any remedial action selected by EPA for Corps management is reasonable to design, construct and operate. EPA will not assign a remedial action to the Corps for management of design and construction if the Corps determines that the action is not reasonable to design, construct and operate.

2. EPA maintains statutory responsibility for implementing the Superfund program. The Corps will maintain consistency with EPA's overall program requirements. The Corps will use its own internal procedures in the performance of its responsibilities under this agreement, including the use of its own procurement regulations.

3. Corps Division Engineers and EPA Regional Administrators will operate under the provisions of this agreement. There will be no separate regional agreements except implementing instructions and site-specific interagency funding agreements.

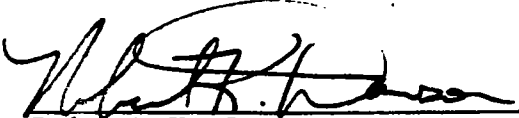
4. This agreement may be modified or extended by mutual consent of the parties and may be terminated by either party.

5. The Corps and EPA will issue instructions implementing this agreement.

#### EFFECTIVE DATE AND DURATION

This agreement will become effective upon signature by both parties, and will remain in effect until 30 days after the date either party notifies the other that it is terminated.

  
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Lee M. Thomas, Assistant Administrator  
Environmental Protection Agency

  
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Robert K. Dawson  
Acting Assistant Secretary  
of the Army (Civil Works)  
Department of the Army