



Minnesota Pollution Control Agency

MINNESOTA ENVIRONMENT SPECIAL REPORT



April 2003

Use of the Minnesota Environmental Response, Compensation and Compliance Account (Superfund)

The Minnesota Environmental Response and Liability Act (MERLA) of 1983 established the Environmental Response, Compensation, and Compliance Account (Account) and authorized the Minnesota Pollution Control Agency (MPCA) to spend funds from the Account to investigate and clean up releases of hazardous substances or contaminants.

The Minnesota Comprehensive Ground Water Protection Act of 1989 amended MERLA to authorize the Minnesota Department of Agriculture (MDA) access to the Account and the authority to investigate and clean up agricultural chemicals. The Account is established in the environmental fund in the state treasury and administered by the Minnesota Department of Finance.

The MPCA and MDA use the authorities granted under state and federal Superfund laws to identify, evaluate and clean up or direct the cleanup of sites which pose hazards to public health, welfare and the environment. As required by M.S. 115B.20, Subd. 6, this report details activities for which Account dollars have been spent during Fiscal Year 2002 (FY02) (July 1, 2001 – June 30, 2002) by the MPCA and the MDA. The table on this page details actual expenditures and income under MERLA for FY02, through year-end close.

The MPCA's and MDA's administrative costs represented salaries for 38 full-time equivalent positions (34 MPCA and 4 MDA), as well as for travel, equipment, non-site-specific legal costs and supply expenditures associated with responding to emergencies and implementing site cleanups.

MERLA Account Expenditures and Income for FY 2002

Balance Forward 7-1-01	\$10,649,000
Plus Prior Year Adjustment	240,000
Adjusted Balance Forward	10,889,000

Income to the Fund (FY02)	
Transfer from Motor Vehicle Transfer Account	3,101,000
Transfer from Solid Waste Fund (Natural Resource Damages)	2,311,000
Hazardous Waste Generator Tax	1,544,000
VIC/Property Transfer	886,000
Superfund Reimbursement	504,000
Investment Income	501,000
Transfer from Drycleaner Account	262,000
Penalties	6,000
Other	106,000
Less Revenue Refund	(94,000)
Total	\$20,016,000

Expenditures from the Fund (FY02)	
Oversight/Administrative (MDA = \$347,000)	\$4,945,000
Site-specific and Support Costs (MDA = \$255,656)	3,712,000
Trade and Economic Development	700,000
Transfer for Basin Monitoring	665,000
Department of Revenue (Processing Charge)	63,000
Natural Resource Damages	26,000
Total Expenditures and Obligations	\$10,110,000

Account Balance 9-6-02	\$9,905,000
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Staff costs to research, write, print and review this report totaled approximately \$2,000.

This report can be made available in other formats, including large type, Braille, audiotape or digital formats, upon request.

For more information on Superfund, visit the MPCA Web site, www.pca.state.mn.us

**Exhibit
2761**

State of Minnesota v. 3M Co.,
Court File No. 27-CV-10-28862

MERLA Responsibilities

The MPCA/MDA Superfund programs fulfill functions specified in MERLA for the 92 remaining sites currently on the state's Permanent List of Priorities (PLP, the state Superfund list), as well as for more than 599 MPCA projects and 90 MDA projects addressed under voluntary investigation and cleanup programs governed by the Land Recycling Act of 1992. MPCA/MDA Superfund responsibilities fall into three main categories: emergency response, investigation and cleanup, and working with voluntary parties.



Responding to Emergencies and Spills

Emergency response teams at the MPCA and MDA are on call 24 hours a day throughout the year. The MPCA received 1,979 reports of emergencies and spills in FY02. The MDA received an additional 161 incident reports.

In most cases, the state's role in spill situations is to provide advice and oversight to responsible parties as they clean up the spills. In some cases, however, Superfund Account dollars are used to respond to high-priority emergency situations for which no responsible persons are able or willing to respond. Examples include contaminated drinking-water supplies, abandoned chemical wastes, landfill fires, abandoned fuel spills, natural disasters, or other situations which the commissioners of either the MPCA or the MDA have declared emergencies or which have been determined by the Minnesota Department of Health to be imminent health hazards.

In FY02, 59 emergencies were declared under MERLA authorities. The MPCA spent \$489,710 from the Superfund Account to respond to these emergencies. The MDA spent an additional \$71,660 from the Account in responding to pesticide- or fertilizer-related emergencies.

Abandonment of waste oil and chemicals continues to be a problem. About one-fifth of the incidents for which the MPCA takes direct emergency action using MERLA authorities involve the classic

abandoned barrels or "orphan spills" for which no responsible parties are immediately identifiable. Oil and paint-related liquid wastes contained in 55-gallon drums and gallon jugs are the most commonly abandoned materials.

The MPCA investigates reports of such abandonments in partnership with local officials. Some of these wastes are cleaned up by MPCA contractors using Superfund Account funds, some are handled by county hazardous waste programs, and others are tested and recycled by municipalities. The MPCA's Emergency Response Team also works with state and local law-enforcement personnel to apprehend and prosecute perpetrators who abandon wastes. The MPCA and its local partners continue to work to streamline and coordinate local and state responses to abandonments and to improve the rate of apprehension and prosecution of those abandoning the wastes.



Voluntary Investigation and Cleanup

Minnesota has long been at the forefront of the national movement to return property with known or suspected environmental problems to productive use. The voluntary cleanup programs of the MPCA and the MDA are involved to varying degrees in most of Minnesota's redevelopment projects on "brownfield" properties. Under the Land Recycling Act, these programs offer a menu of assurances regarding potential liability under MERLA, which responsible and/or voluntary parties may obtain after investigating and, if necessary, cleaning up sites.

Since 1988, the MPCA's Voluntary Investigation and Cleanup (VIC) Program has overseen 2008 projects. Of those, 1409 have been either cleaned up, found acceptable for purchase, refinancing or redevelopment, or have been transferred to other regulatory programs for appropriate decision-making and actions. The recent experience (200-300 new projects per year) leads the MPCA to expect continued strong demand for VIC assistance in the coming year.

Last year, 25 new sites entered the MDA's Agricultural Voluntary Investigation and Cleanup Program (AgVIC), begun in 1993. Currently, 90 sites remain "open" cases. The AgVIC has closed a total of 103 sites to date, of which 32 were closed in FY02. The combination of releases from liability under MERLA and eligibility for partial reimbursement of corrective-action costs from the Agricultural Chemical Response and Reimbursement Account (ACRRA) combine to form a strongly incentive-driven program, which has been positively received by MDA clientele.



Superfund Investigation and Cleanup

Potential Superfund sites identified by or reported to the MPCA or the MDA, and which property owners do not volunteer to investigate or clean up, enter a formal assessment process for possible addition to the MPCA's Permanent List of Priorities (PLP) and/or the U.S. Environmental Protection Agency's National Priorities List (NPL, the federal Superfund list).

At sites contaminated with agricultural chemicals, responsible parties who choose not to voluntarily conduct response actions may be requested by the MDA to conduct cleanups under MDA oversight. Responsible parties usually qualify for partial reimbursement of cleanup costs from the ACRRA. If responsible parties are unwilling or unable to clean up, the MDA may also assess the site for listing on the PLP and/or NPL.

At the close of FY02, 24 Minnesota sites were listed on the NPL, with no sites added to or removed from the list during the fiscal year. There were 92 sites on the PLP at the end of 2002; 13 sites were taken off the PLP during the fiscal year, and 2 sites were added. (Listing a site on the PLP does not automatically qualify it for listing on the federal Superfund list.) A list of sites removed from the PLP is available from the MPCA.

After listing a site, and if a responsible party either cannot be identified or is unable or unwilling to take appropriate action, the MPCA/MDA is able to use funds from the Account to safeguard public health and the environment. A remedial investigation/feasibility study is conducted to determine the extent of contamination and evaluate cleanup alternatives. Following a decision on the needed activities, a plan for remedial design/remedial action is developed and implemented. If financially viable responsible parties are identified at any point during investigation or cleanup, the state may attempt to secure their cooperation and recover costs.

Site-specific Use of MERLA Fund Dollars in FY02

Arrowhead Refining	\$63,901
Baytown Township Ground Water	33,986
Blaine Municipal Wellfield	46,392
Castle Rock (MDA)	49,300
Dufours Cleaners	17,908
Farmington	60,067
Interlake Iron/Duluth Tar	593,019
LeHillier	9,777
Littlefork	22,844
Long Prairie	21,081
MacGillis and Gibbs	91,737
MacGillis and Gibbs State Match	176,770
Perham	164,696
Pilgrim Cleaners	26,131
Red Hanson	261
Ritari State Match	51,388
Schloff Chemical and Supply	176
U.S. Steel	424
Whiteway Cleaners	123,274
Winona Ground Water	56,285
Preliminary Assessment (MDA)	97,453
Preliminary Assessment (MPCA)	16,203
Emergency Response	489,710
Monitoring Well Abandonment	0
Harmful Substance Compensation	0
Subtotal (Site Specific)	\$2,284,443
Site-specific Legal Expenses (MPCA)	130,735
Site-specific Lab Analytical Services (MPCA)	69,825
Site-specific Legal Expenses (MDA)	0
Site-specific Lab Analytical Services (MDA)	32,980
Subtotal (Site Specific Support)	\$233,540
Total FY02 Site-specific Expenditures	\$2,517,983

After cleanup is complete, or when a site no longer poses risks to public health or the environment, the site is delisted from the PLP or the NPL. Some sites need continued monitoring or maintenance to ensure that risks have been eliminated or controlled.

Minnesota's 24 NPL sites are eligible for federal funding for cleanup activities based on national priority. But, in return for access to these funds, the Comprehensive Environmental Response, Compensation, and Liability Act (the federal Superfund law) requires states to match either 10 percent of the cost of site-specific remedial actions (when no state or local government has been identified as a responsible party), or 50 percent (if the site was owned or operated by a state or local governmental entity). During FY02, \$228,158 was spent on state-match requirements for site cleanup.

Most of the worst Superfund sites in Minnesota have already been listed on the PLP, and many have been cleaned up or are currently undergoing response actions. Overall, Minnesota Superfund sites are now being delisted from the NPL and PLP faster than they are being added. The figure below shows the number of sites delisted from the PLP each year since the beginning of the Superfund program and the cumulative number of deletions over time.

Nevertheless, the Superfund program remains responsible for identifying and addressing problems which continue to pose threats to the health and

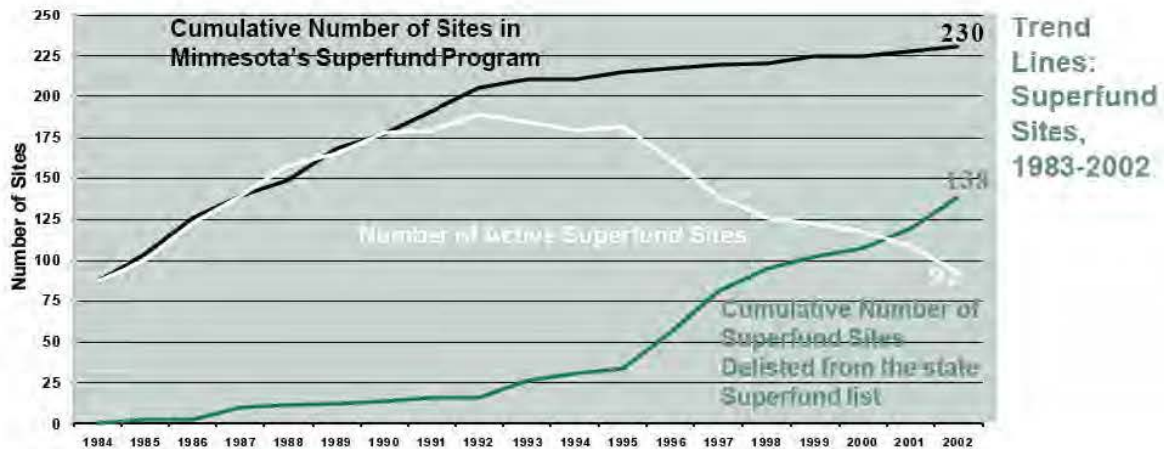
environment of Minnesota citizens. Due to the accomplishments of the program's site assessment activities, however, it is likely that the worst Superfund sites in Minnesota have been discovered.



**Superfund
Moving to
Maintenance
Program by
2006**

The MPCA intends to reduce the number of state Superfund sites from 92 to 25 by 2006. The agency also hopes to reduce the number of federal Superfund sites from 24 to 0 by 2006. There have been 138 sites cleaned up and taken off the state Superfund list since the program's creation in 1983. Twenty-one of 45 sites have been removed from the federal Superfund list. MPCA estimates that a rolling average of 25 sites will be on the state Superfund list for the foreseeable future with two sites being added each year and two sites being delisted each year.

The next two years are critical in making the transition in the Superfund program possible. The MPCA expects cleanup costs to total \$6 million for the current fiscal year, \$4.1 million in FY04 and \$3.4 million in FY05. These funds will complete the cleanup of the 32 fund-financed sites remaining on the state Superfund list.



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