# United States Environmental Protection Agency

#### inside

Condition 13 BOX 53 446	
GE v. Whitman	2
Conservation News	3
Challenged to Conserve	
EarthDay.gov	
Highlights	4
2003 Achievement Awards	
Cleanup of Rocky Flats	
One Cleanup Program	
In the Courts	6
In the Courts FOIA Case Ruling	6
	6
FOIA Case Ruling	6
FOIA Case Ruling	6
FOIA Case Ruling Mattiace Petrochemical	
FOIA Case Ruling Mattiace Petrochemical Tidbits	
FOIA Case Ruling Mattiace Petrochemical  Tidbits Phoenix Award Nominations	
FOIA Case Ruling Mattiace Petrochemical  Tidbits Phoenix Award Nominations	
FOIA Case Ruling Mattiace Petrochemical  Tidbits Phoenix Award Nominations RevTech Conference	7



CleanupNews is a quarterly newsletter highlighting hazardous waste cleanup cases, policies, settlements and technologies.

## cleanupnews

# **EPA Response to the Columbia Tragedy**

ollowing the tragic loss of the space shuttle *Columbia*, EPA wanted to prevent further devastating consequences from the crash: public exposure to potential hazards on and around debris. The Agency immediately deployed emergency response teams to assist the Federal Emergency Management Agency (FEMA) with recovery of debris. Initially tasked with finding and



Emergency Response Team members search for debris.

continued on page 2

## **Settlement Reached with Laclede Steel**

n a landmark settlement, the bankrupt Laclede Steel Company of Alton. Illinois has settled with the U.S. Department of Justice, EPA, and the State of Illinois. As part of the settlement, Laclede has agreed to sell its Alton, Illinois mill to Alton Steel for \$1 million. Monies from the sale will be placed in trust and used to fund clean-up activities at the mill. Laclede Steel had violated its Resource Conservation and Recovery Act (RCRA) permit since 1998, and RCRA corrective action is necessary at the site to remedy improperly disposed furnace dust. EPA and the State of Illinois will determine clean-up priorities for the site and make decisions about how the cleanup fund will be allocated across tasks. Alton Steel, which plans to partially reopen the mill, will be responsible for bringing the facility back into compliance with RCRA regulations.

Alton Steel was the creation of Mel Cook, a 32-year veteran of the Alton mill, and his son, Mike, who had worked at the mill for 13 years. They hoped to reach an arrangement that would allow for reopening of the mill and be mutually beneficial for all involved parties. The Cooks hope the reopening of the mill will stimulate the local economy through the creation of new jobs. EPA is pleased that funds from the mill sale will be devoted to site clean-up, limiting costly litigation and use of public monies for site clean-up.

During its 90 years in operation, the mill employed 3,000 workers at its peak and had been a vital part of the Alton economy until the 1998 closure. Once the mill is partially reopened, Alton Steel will employ approximately 200 workers from the community.

For additional information, contact Ted Kim, (202) 564-1136.

handling just hazardous materials, EPA has ultimately assumed responsibility for identifying, handling, transporting, and disposing of both hazardous and non-hazardous materials recovered by the recovery teams.

One unique challenge of recovering debris and protecting human safety is the size of the debris field, which extends from California to Louisiana. To assist in identifying areas of contamination across such a wide area, EPA employed its Airborne Spectralimagery of Environmental Contaminants Technology (ASPECT) plane and Trace Atmospheric Gas Analyzer (TAGA) bus. The ASPECT plane provides information about potential chemical plumes through computer images, global positioning system maps, and aerial photographs to assist ground crews with identifying chemical releases. The TAGA bus is a mobile laboratory with highly-sensitive air monitoring tools that can detect even small concentrations of chemicals

in the air. Both tools allowed EPA to provide precise, targeted information about air releases.

"I am proud of swift progress being made by our dedicated EPA employees and hope our efforts help NASA bring peace to the crew's families." — EPA Administrator Christie Whitman

According to EPA spokesman Dave Bary of Region 6, the arrival of Spring and the "greening" of the area has brought another difficulty for the recovery effort. The teams have found it increasingly difficult to find smaller pieces as the landscape changes. Initial recovery efforts, which started February 2, 2003 during the winter, were aided by the lack of vegetation.

Despite the difficulties, Jim Mullins of EPA Region 6, indicates that a high percentage of debris posing a potential public safety risk has been identified and that the threat of human contact with contaminated materials has been greatly diminished. As debris recovery began, NASA and other agencies have cautioned people within the debris field to avoid contact with debris that might be from the shuttle. Among the potential exposure risks are monomethyl hydrazine and nitrogen tetroxide (both components of rocket fuel) and ammonia.

EPA joined NASA, FEMA, and more than 90 other federal and local agencies in the debris identification and recovery mission. The massive effort has included 141 20-member air and ground recovery teams and divers that have covered almost 2 million acres of land and waterways. More than 42,000 pieces of confirmed *Columbia* debris have been recovered.

## Court Grants EPA's Motion to Dismiss GE v. Whitman

n March 31, 2003, the U.S. District Court for DC dismissed a suit filed by General Electric Company (GE) against EPA. The court found that GE had prematurely entered into the suit against EPA since EPA had not yet sought "to enforce its remedial actions in court." The GE suit challenged the constitutionality of Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) on the grounds that it violates the Fifth Amendment right to due process. GE contested the fact that it does not have the right to an impartial hearing and other safeguards prior to EPA issuing an administrative

order. Under CERCLA Section 106, EPA has the authority to order a party to clean a site and to file a civil action in district court to require compliance with a selected remedy. GE contended that CERCLA created a "Hobson's choice" for parties. They can choose to comply with an administrative order without a hearing or refuse to comply and face penalties. Under CERCLA Section 106, EPA has the right to assess penalties of up to \$27,500 for each day of non-compliance.

The court agreed with EPA's assertion that under CERCLA Section 113(h), a party cannot enter into litigation with EPA prior to EPA taking an

enforcement action. To date, EPA has not taken enforcement action against GE at the Hudson River PCBs Superfund site since a remedy has only recently been suggested and no remedial action has yet taken place. The selected remedy, outlined in a February 1, 2002 Record of Decision, recommends dredging over 2.5 million cubic yards of PCB-contaminated sediment to protect human health and the environment. The action is expected to take 10 years and cost hundreds of millions of dollars.

For additional information, contact Alan Carpien, (202) 564-5507.

## **Challenged to Conserve**

ast September, EPA's Office of Solid Waste and Emergency Response (OSWER) announced a new initiative-the Resource Conservation Challenge (RCC). RCC has three goals: (1) pollution prevention and recycling of materials, (2) recovering energy through process modifications and conversion of wastes to energy, and (3) pollution prevention (or, if not feasible, recycling) of 39 "priority" chemicals. The initiative encourages everyone—producers of goods, sellers, and consumers—to produce less waste so more natural resources are conserved. The materials and energy challenges support existing goals to increase the national recycling rate and reduce the per capita waste generation rate, expanding EPA's effort beyond municipal waste. The priority chemical challenges initially will focus on 30 priority chemicals identified by the waste program then add 9 additional persistent bioaccumulative and toxic (PBT) chemicals. OSWER will accomplish the program objectives by forming challenge partnerships with other programs in the Agency (e.g., OPPTS, OEI, OECA), the States, tribes, industry, the environmental community, and academia.



Since the initiative was announced, a number of companies have accepted the challenge through national partnering programs. The Waste Minimization Program, for example, encourages companies to make innovative changes in their manufacturing and production processes to reduce the use of the 39 priority chemicals. This program builds on the success of WasteWise, a municipal solid waste minimization program which encourages waste prevention through innovation and recycling techniques.

In addition to the National Waste Minimization Program, EPA recently developed the "Plug-in to eCycling" program. This program aims to 1) encourage safe recycling of old consumer electronics through incentives for manufacturers and retailers; 2) partner the public and private sectors in developing local infrastructure and providing collection opportunities; and 3) increase consumer awareness of the need to recycle and opportunities to do so.

Private sector partners Sony, Sharp, Panasonic, Dell, Best Buy, Recycle American, Envirocycle, and Nxtcycle have committed to make recycling opportunities available to the public and educate consumers about the importance of recycling old electronics. EPA has just invited state and local governments, trade associations, and non-government organizations to join the effort as well. Plug-In To eCycling partners will bring a collection event to Doylestown, PA on May 10th. Additional information is available at <a href="http://www.epa.gov/">http://www.epa.gov/</a> reg3wcmd/eCycling.htm or by calling (800) 438-2474.

continued on page 6

## **EPA Launches EarthDay.gov**

n April 14, 2003, EPAunveiled a new website for Earth Day information, EarthDay.gov.

The website encourages stewardship, volunteerism, and action in keeping with the Earth Day 2003 theme, "Action for a Healthy Environment." It represents a cross-government effort to give citizens a single point-of-access to Earth Day information to encourage action, including year-round events, volunteer opportunities, and advice on

environmentally-friendly practices. There are also links to information about President Bush's environmental priorities (Clear Skies, Healthy Forests, and Hydrogen Fuel Cells).

EarthDay.gov provides strategies for saving energy, using less water, reducing/reusing/recycling, and properly handling toxics, and finding commuting alternatives to driving. Teachers can find resources and activities for teaching children about a wide range

of environmental topics from acid rain to endangered species. A "For Kids" page provides links to a variety of puzzles, games, and activities for kids.

In addition, visitors of the website can access a list of volunteer opportunities in their area through the USA Freedom Corps Volunteer Network, a Bush administration initiative to encourage volunteer service.

# 2003 Notable Achievement Award Winners for Enforcement Work

he award recipients of the 2003 Notable Achievement Award will be honored for their accomplishments at a ceremony in Washington, DC on May 15th. EPA Administrator Christie Todd Whitman. **OSWER Assistant Administrator** Marianne Horinko, and OECA Assistant Administrator John Peter Suarez will honor the recipients. The National Notable Achievement Awards acknowledge outstanding achievements by individuals and groups in the Superfund, Superfund Enforcement, RCRA Corrective Action, and Regional Science programs. This year, 13 individuals and groups will receive awards.

Four awards will be given in the Enforcement category. RuthAnn Sherman of Region I will be honored with the Legal Enforcer of the Year award. A senior attorney in the Superfund Legal Office in Region 1, RuthAnn was instrumental in achieving settlements for five complex Superfund sites. One of the settlements involved a Prospective Purchaser Agreement and will lead to a multi-million dollar redevelopment and reuse of the site. For another settlement, she used an innovative approach to encourage a potentially responsible party to settle after nearly a decade.

Her innovative approach—a structured "credit system"—incentivizes the settlor to pay down the debt earlier in exchange for a reduction in the total debt owed.

One innovative enforcement approach—a "credit system"—led to a settlor paying debt earlier.

Kate Taylor, a financial analyst with Region 9's Site Cleanup Branch, will receive the Technical Enforcer of the Year award. Through her diligent work with time-consuming ability-to-pay calculations, Kate provided excellent ability-to-pay analyses that supported a number of successful settlements. For one settlement, her analysis verified that 11 parties were eligible for payment reductions. She was also the first person in Region 9 to create a Claims Collection Litigation Report to collect payment from a delinquent settlor.

The Financial Management Team of the Year Award will be awarded to the Region 5 Accounts Receivable Management Team: Cyprian Ejiasa, Anthony Audia, Linda Haile, Irene Walanka, Larry Kyte, Thomas Krueger, Peter Felitti, and Douglas Ballotti.

Through a revised Memorandum of Understanding, the team improved coordination between the Financial Management Office, Office of Regional Counsel, and Superfund Division. Through the Memorandum of Understanding and the collaborative, aggressive efforts of the team, Region 5 recovered costs from Superfund accounts that were more than 120 days delinquent. The result was a reduction of its outstanding Superfund Accounts Receivable total from \$65.8 million to \$18.1 million, a 72.5% reduction.

The Rose Hill Landfill Team (Amelia Katzen, Dave Newston, and Cynthia Catri) of Region I have been selected for the Enforcement Team of the Year award. The team successfully negotiated a settlement for the Rose Hill Landfill site in South Kingstown, Rhode Island through several innovative approaches: using an Alternative Dispute Resolution (ADR) facilitator, applying the Municipal Solid Waste policy, and securing mixed funding from EPAHeadquarters. The settlement allowed timely cleanup of the site with minimal Superfund money.

For additional information, contact Richard W. Popino, (202) 564-5136.

## Cleanup of Rocky Flats Ahead of Schedule and Under Budget

he Rocky Flats Environmental
Technology Site, a former
nuclear weapon component
production facility, is slated for accelerated cleanup—over 50 years ahead
of schedule. The accelerated timetable
is impressive given the size and scope
of this Superfund site and the nature
of the waste. The site includes 170
areas on 385-acres of land. The 2006

closure date was proposed through the collaborative efforts of the Department of Energy (DOE), EPA, and the Colorado Department of Public Health & Environment who worked together to streamline efforts. Kaiser-Hill, under contract with DOE to complete the cleanup, has financial incentive to achieve closure by 2006. There will be a reduction in fees earned by the con-

tractor for each day worked beyond the new target closure date. Earlier closure is desirable for a number of reasons. Accelerating the timeline means earlier removal of radioactive and hazardous materials that pose a potential threat to human health and the environment. Rocky Flats is located close to Denver, and 2.5 million people live within a 50-mile radius of the site.

## One Common Vision Behind "One Cleanup Program"

n April 8, 2003, Marianne Horinko, EPA's Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), unveiled a new initiative-One Cleanup Program-at the Environmental Council of States meeting in Washington, DC. One Cleanup Program encourages collaboration between the OSWER programs that handle solid and hazardous waste cleanups-including Superfund, Resource Conservation and Recovery Act (RCRA), and Underground Storage Tanks—and improvements in information sharing with the public. The program has three primary objectives: 1) focus efforts on revitalizing and reusing properties after cleanup, 2) share knowledge of available technologies and cleanup techniques, and 3) provide clear, accessible information on sites to the public, especially those most affected by cleanups.

To achieve these goals, officials in OSWER will improve internal communication and closely coordinate with EPA regional offices, states, tribes, local governments, and other agencies. Through improved coordination, EPA will be better able to measure program effectiveness and the success of clean-

ups. Some of the success measures that will be tracked include: 1) the number of potentially affected people protected through cleanup activities; 2) the degree to which cleanups are protective of the environment; 3) the amount of land reusable; and 4) the impact of the cleanup on the economy. Another key

and accurate information. The program grew out of feedback from the regulated community, citizens, and other federal agencies.

For additional information, contact Ellen Manges, (202) 566-0195.

"The One Cleanup Program can be the key to better and faster cleanups and more relevant public information on the health effects of waste sites."

-Marianne Horinko, OSWER
Assistant Administrator

objective to ensure more accurate, timely information is provided to the public. The goal is to provide compatible information systems so interested parties have access to current information. The hope is to ultimately have one point-of-access for all EPA waste cleanup program information.

"One Cleanup" demonstrates EPA's commitment to close coordination and public access to clear, understandable,

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Rocky Flats continued from page 4

The presence of radioactive material is a significant concern because the facility has more plutonium not in final weapons form than any other DOE site. Current estimates are that a total of almost 20,000 cubic meters of transuranic waste will be removed from the site by closure. In addition to alleviating the threat to people and the environment, accelerated closure will also result in an unprecedented cost savings. In 1995 when cleanup began, the estimated closure date was

The contractor has financial incentive to achieve a 2006 closure at Rocky Flats.

2060 with an inflation-adjusted cost estimate of \$90 billion. The estimated cost of a 2006 closure is \$6 billion, nearly \$80 billion less than for a 2060 closure.

For 40 years, the facility produced weapon components and a variety of

radioactive and hazardous materials were used in the manufacturing process including plutonium, uranium, and beryllium. Production paused in 1989 for environmental and safety reasons, and the facility was subsequently closed in 1992 with the cancellation of the W-88 Trident warhead program.

For additional information, contact Tim Rehder, EPA Rocky Flats Project Coordinator, (303) 312-6293.



#### District Court Rules in FOIA Case

The U.S. District Court for the Southern District of New York partially granted and partially denied an EPA motion for summary judgment in New York Public Interest Research Group (PIRG) v. US EPA. New York PIRG brought the suit in hopes that documents from mutual discussions and correspondence would be made public under the Freedom of Information Act (FOIA). The documents in question included handwritten notes from closed-door deliberations regarding the Hudson River PCB site and analyses GE produced. EPA had signed a confidentiality agreement with GE to prevent disclosure of sensitive information from the meetings. Of particular interest to New York PIRG was the period from July 2001 on, the period when GE was discussing remediation activities and cleanup costs with the Office of Management and Budget (OMB) and EPA. Following these discussions, EPA announced in February 2002 that large-scale dredging would be ordered at the site with a projected cost of \$450 million.

FOIA exempts some documents from disclosure. Under Exemption 4. "trade secrets and commercial or financial information obtained from a person and privileged or confidential" do not need to be disclosed. Exemption 5 stipulates that federal agencies do not need to release inter-agency or intra-agency memorandums or letters which are not available by law to a private party. The court ruled in favor of EPA that handwritten notes produced by EPA officials were deliberative and therefore exempt from disclosure. The court denied EPA's claim that GE's analyses were "commercial" and therefore exempt under Exemption 4.

The ruling explained that disclosure of the analyses would not be detrimental to the company's commercial interests.

For additional information contact, David Dowton, (202) 564-4228.

# EPA Concurs with Consent Decree for Mattiace Petrochemical

The EPA Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), Marianne Horinko, has agreed to a Region 2 consent decree for Mattiace Petrochemical, a Superfund site in Glen Cove, New York. The consent decree is unique in that a non-liable party, TRC Companies, has agreed to be jointly and severally liable for cleanup activities at the site. TRC will assume liability from the 80 generators that provided drums to Mattiace for recycling.

By assuming liability, TRC is agreeing to take financial responsibility for long-term remedial action and operation and maintenance at the site totaling \$13 million.

TRC uses a unique program called the "Exit Strategy program" which is a liability and risk transfer mechanism. Through the "Exit Strategy program," jointly liable parties collectively pay TRC to assume liability and cleanup responsibilities at a site, as the parties have agreed to do at Mattiace. The consent decree indicates that TRC will demonstrate financial assurance through an environmental insurance policy. The consent decree also stipulates that the 80 "generators" that provided drums to Mattiace will jointly pay approximately \$1.3 million for past and future costs.

EPA has already completed activities, including an emergency removal of 120,000 gallons of hazardous liquids and construction of a groundwater/soil vapor integrated treatment facility. Until the consent decree, EPAhad not recovered any of the \$22 million in claims against the 80 parties. The consent decree is mutually beneficial for all parties. EPA recovers cleanup costs rather than using Superfund funds at the site, and the liable generators out-source their liabilities, therefore eliminating the need for costly litigation.

For additional information, contact Antoinette Powell Dickson, (202) 564-0967.

#### Challenged continued from page 3

Federal employees, state and local government employees, and residents of these communities are urged to bring used electronic items to a scheduled collection point in their communities.

The Resource Conservation Challenge also seeks to increase public awareness of conservation and recycling through educational programs, training, and outreach.

Currently, OSWER is focusing on developing a list of 10-15 voluntary partnership objectives, tools, and incentives that might attract participation in the challenge. In June, EPA will meet with key players from industry, the environmental community, academia, and government to announce areas of interest, seek feedback, and begin the process of seeking participation and public support for the RCC. Ideally, the Agency hopes to develop agreements with measurable goals (similar to what has been done with the carpet industry) over the summer and early fall.

More information about the Resource Conservation Challenge is available at <a href="https://www.epa.gov/epaoswer/osw/conserve/index.htm">www.epa.gov/epaoswer/osw/conserve/index.htm</a>.

For additional information, contact David Hockey, (703) 308-8846.

#### Call for 2003 International Phoenix Award Nominations

The Office of Brownfields Cleanup and Redevelopment requests assistance in nominating outstanding brownfields projects for the Phoenix Awards. Since its creation in 1997, the Phoenix Awards have honored outstanding brownfields projects within the U.S. With growing international interest in redevelopment projects, the Phoenix Awards have expanded this year to acknowledge projects from across the world. This year's recipients will include one winner from each of the EPA Regions, one international project, and additional ones for the community impact awards. From the pool of recipients, a grand prize winner will be selected.

Individuals, groups, government agencies, companies or organizations can be nominated for a Phoenix Award. Nomination applications and award details are available on the Phoenix Awards website, <a href="https://www.phoenixawards.org">www.phoenixawards.org</a>. The deadline for nominations is July 18. The winners will be acknowledged at the Brownfields 2003 conference in Portland, Oregon in October 27-29, 2003 where their projects will be on display.

For additional information, contact Sharon Williams, (717) 783-7816.

# RevTech Conference To Focus on New Cleanup Technologies

On July 22-24, 2003 at the Marriott City Center in Pittsburgh, PA, OSWER's Technology Innovation Office (TIO) will host RevTech. The purpose is to share effective technical approaches and tools for cleaning up contaminated properties for reuse and revitalization.

The conference goal is to demonstrate quicker, more cost-effective assessment and cleanup strategies that support reuse and revitalization. Anyone with an interest in new cleanup technologies is encouraged to attend. This includes local, state, and federal cleanup and development officials; developers; the financial community; technology vendors, service providers; and consultants.

The conference agenda will include a variety of topics including how to get the most out of limited cleanup budgets, working with regulators, and using flexible approaches to cleanups. The New Jersey Institute of Technology will host a Technology Fair as part of the conference.

Additional details about the conference are available on the conference website, <a href="http://brownfieldstsc.org/revtech.htm">http://brownfieldstsc.org/revtech.htm</a>. Online registration is available, or you can fax the registration form (available for download from the website.) Hotel reservations must be made by July 7th.

For additional information, contact Ann Eleanor, (703) 603-7199.

#### Region 4 Agrees to Prospective Purchaser Agreement with Habitat for Humanity

On March 6, 2003, Region 4 entered into a Prospective Purchaser Agreement (PPA) with Habitat for Humanity with respect to the Anniston Lead Superfund site in Anniston, Alabama. The PPA is pending approval by the

Department of Justice and the results of a 30-day public comment period. Prior to the arrangement, EPA has placed priorities on areas of the Anniston Lead site and is addressing areas with the most significant lead contamination levels as established by the Office of Technical Support first. Priority is being given to residential properties with lead levels of 1200 parts per million and higher. On those properties where either a pregnant women or a child under age 6 is present, lead levels of 400 parts per million trigger a priority.

Through the arrangement, Habitat has agreed to perform time-critical soil removal actions on both priority and less-endangered properties, as identified by EPA. In exchange for conducting the remedial activities, Habitat's potential CERCLA liability as owner of the site will be removed. EPA will oversee the remedial activities conducted by Habitat. The PPA is a win-win situation for both parties. EPA benefits in that cleanup activities will be performed quickly and at reduced cost to the Agency. Also, a former Superfund site will be redeveloped and put to productive use, a major objective of the Agency. Habitat gains through purchasing a property at reduced cost and helping to redevelop a community.

The June 2003 deadline for completion of the soil removal actions is significant. Habitat for Humanity International has chosen the Anniston site as one of three construction sites for the 2003 Jimmy Carter Work Project, an annual event which draws approximately 2000 volunteers to help build homes. The organization has planned the homebuilding at Anniston for June 8-13, 2003. Habitat for Humanity hopes to build as many as 50 properties on the site during this timeframe.

For additional information, contact Mike Stephenson, (404) 562-9543.

#### May 19-23, 2003

National Association of Remedial Project Managers Annual Training Conference Colorado Springs, CO

Victoria VanRoden (202) 564-4268 vanroden.victoria@epa.gov KC Schefski (202) 564-8213 schefski.kenneth@epa.gov

#### July 22-24, 2003

RevTech Conference Pittsburgh, PA

Ann Eleanor (703) 603-7199 eleanor.ann@epa.gov

#### **August 5-7, 2003**

Designing Your EMS: A Federal Facilities Workshop. For environmental managers and staff of Federal facilities. Kansas City, MO

Perce Cox (913) 551-7618 cox.perce@epa.gov

#### **August 12-15, 2003**

2003 RCRA National Meeting

Washington, DC

Janette Petersen (703) 308-8871 petersen.janette@epa.gov Rick Brandes (703) 303-8871 brandes.william@epa.gov

	Gloss	arv	1
ADR	Alternative Dispute Resolution	OEI	Office of Environmental Information
ASPECT	Airborne Spectral-imagery of Environmental Contaminants Technology	OPPTS	Office of Prevention, Pesticides, and Toxic Substances
CERCLA	Comprehensive Environmental Response, Compensation, and	OIVIB	Office of Management and Budget
	Liability Act	OSRE	Office of Site Remediation
DOJ	Department of Justice		
EPA	Environmental Protection Agency	OSWER	Office of Solid Waste and Emergency Response
FEMA	Federal Emergency Management Agency	PPA	Prospective Purchaser Agreement
FOIA	Freedom of Information Act	RCRA	Resource Conservation and Recovery Act
NASA	National Aeronautics and Space Administration	TAGA	Trace Atmospheric Gas Analyzer
OECA	Office of Enforcement and Compliance Assurance	T10	Technology Innovation Office

### cleanupnews

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Christine Rueter, DPRA Inc., writer

Lauren Grantham, DPRA Inc., designer

To comment on the newsletter contact Richard W. Popino, PhD REM, at MC-2271A, U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460, email:popino.rick@epa.gov. To be added or deleted from the mailing list, contact Christine Rueter, DPRA Inc., 1300 North 17th Street, Suite 950, Arlington, Virginia 22209, Fax: (703) 524-9415, email:christine.rueter@dpra.com

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