



SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEARS 2004 AND 2005

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EXECUTIVE SUMMARY

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as CERCLA or Superfund), which was expanded by the Superfund Amendments and Reauthorization Act of 1986, established the Superfund program to clean up the nation's worst hazardous waste sites.¹ CERCLA seeks to make those responsible for the improper disposal of hazardous waste bear the costs for their actions. It also established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance clean up actions where a liable party cannot be found or the third party is incapable of paying clean up costs. The Trust Fund also pays for the Environmental Protection Agency's (EPA) enforcement, management activities, and research and development.

Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for all Superfund litigation. Within the Department of Justice (DOJ), the Environment and Natural Resources Division (ENRD) was assigned to administer cases against those who violate CERCLA's civil and criminal pollution-control laws. In fiscal year (FY) 1987, EPA entered into interagency agreements with ENRD and began reimbursing ENRD for its litigation costs. EPA authorized reimbursements to ENRD of \$27.9 million for FY 2004 and \$26.9 million for FY 2005 in accordance with EPA Interagency Agreements DW-15-93796801 and DW-15-92194601, respectively.

¹ See Pub. L. No. 96-510, 94 Stat. 2767 (1980) and Pub. L. No. 99-499, 100 Stat. 1613 (1986)

The EPA and ENRD Statement of Work required ENRD to maintain a system that documented its litigation costs. To this end, ENRD used a cost distribution system designed and maintained by a private contractor. The system was designed to process financial data from the ENRD Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case, broken down between direct labor costs and all other direct costs; (2) non-Superfund direct costs; and (3) allocable indirect costs.²

As required by CERCLA, the DOJ Office of the Inspector General conducted this audit to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. We compared costs reported on the contractor-developed Accounting Schedules and Summaries for FYs 2004 and 2005 to costs recorded on DOJ accounting records to review the cost distribution system used by ENRD to allocate incurred costs to Superfund and non-Superfund cases.

In our judgment, ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. However, we make three recommendations to improve ENRD operations and ensure compliance with DOJ directives: (1) update its case designation procedures (outlined in the ENRD December 20, 2001, memorandum, *Determination of Superfund Cases*) to encompass the reorganized Natural Resources, Wildlife and Marine Resource, Indian Resource, Law and Policy, and the Executive Office litigation sections; (2) ensure that travel authorizations are approved prior to a traveler proceeding on a trip; and (3) ensure all subobject code 2508 transactions are allocated to the correct Superfund case number.

² The E&A Report is a summary of the total costs incurred by ENRD during the fiscal year. The report includes all costs (both liquidated and unliquidated) by subobject class and a final indirect cost rate calculation for the fiscal year. Other direct costs charged to individual cases include special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, graphics, and non-capital equipment. Indirect costs are the net of the Superfund funding provided in the EPA Interagency Agreements less direct charges and are allocated based on the direct Superfund salary costs on each case.

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INTRODUCTION

In 1980, the Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) to clean up hazardous waste sites throughout the United States for fiscal years (FY) 1981 through 1985.³ The law addressed growing concerns about the need to clean up abandoned hazardous waste sites and the future release of hazardous substances into the environment. When CERCLA was enacted, the Environmental Protection Agency (EPA) was assigned responsibility for preparing a National Priorities List to identify sites that presented the greatest risk to human health and the environment. Waste sites listed on the National Priorities List were generally considered the most contaminated in the nation, and EPA funds could be spent to clean up those sites. The clean up of these sites was to be financed by the potentially responsible parties – generally the current or previous owners or operators of the site. In cases where the potentially responsible party could not be found or were incapable of paying clean up costs, CERCLA established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance clean up efforts. The Trust Fund also pays for EPA's enforcement, management, and research and development activities.

Because CERCLA was set to expire in FY 1985, Congress passed the Superfund Amendments and Reauthorization Act (SARA) in 1986.⁴ SARA stressed the importance of using permanent remedies and innovative treatment technologies in the clean up of hazardous waste sites, provided EPA with new enforcement authorities and settlement tools, and increased the authorized amount of potentially available appropriations for the Trust Fund to \$8.5 billion for FYs 1987 through 1991.

Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for all Superfund litigation. Within the Department of Justice (DOJ), the Environment and Natural Resources Division (ENRD) was assigned to administer cases against those who violate CERCLA's civil and criminal pollution-control laws. ENRD performs Superfund litigation and support through its following sections: Appellate, Environmental Crimes, Environmental Defense, Environmental Enforcement, Land Acquisition, Natural Resources, Law

³ Pub. L. No. 96-510, 94 Stat. 2767 (1980)

⁴ Pub. L. No. 99-499, 100 Stat. 1613 (1986)

and Policy, Wildlife and Marine Resources, Indian Resources, and the Executive Office.

Beginning in FY 1987, the EPA entered into interagency agreements with ENRD to reimburse ENRD for its litigation costs related to its CERCLA activities. As shown in the following table, budgeted reimbursement for Superfund litigation represented, on average, about one-third of ENRD's total budget during the 19-year period from FY 1987 through FY 2005.

**Comparison of ENRD's Appropriations
and Budgeted Superfund Reimbursements
(1987 to 2005)**

FY	ENRD Appropriations	Budgeted Superfund Reimbursements	Total ENRD Budget
1987	\$23,195,000	\$11,550,000	\$34,745,000
1988	\$26,194,000	\$18,473,000	\$44,667,000
1989	\$26,456,000	\$22,100,000	\$48,556,000
1990	\$34,713,000	\$28,754,000	\$63,467,000
1991	\$43,683,000	\$32,799,000	\$76,482,000
1992	\$49,177,000	\$35,607,000	\$84,784,000
1993	\$51,445,000	\$34,534,000	\$85,979,000
1994	\$53,364,000	\$33,809,000	\$87,173,000
1995	\$58,170,000	\$33,879,860	\$92,049,860
1996	\$58,032,000	\$32,245,000	\$90,277,000
1997	\$58,049,000	\$30,000,000	\$88,049,000
1998	\$61,158,000	\$29,963,500	\$91,121,500
1999	\$62,652,000	\$30,500,000	\$93,152,000
2000	\$65,209,000	\$30,000,000	\$95,209,000
2001	\$68,703,000	\$28,500,000	\$97,203,000
2002	\$71,300,000	\$28,160,000	\$99,460,000
2003	\$70,814,000	\$28,150,000	\$98,964,000
2004	\$76,556,000	\$28,150,000	\$104,706,000
2005	\$90,856,000	\$27,150,000	\$118,006,000
Total	\$1,049,726,000	\$544,324,360	\$1,594,050,360

Source: ENRD Budget History Report for FYs 1987 through 2005

The EPA and ENRD Statement of Work required ENRD to maintain a system that documented its Superfund litigation costs. Accordingly, ENRD instituted a management information system designed by Rubino & McGeehin, Consulting Group, Incorporated (contractor). The system was designed to process financial data from ENRD's Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case, broken down between direct labor costs and all other direct costs, (2) non-Superfund direct costs, and (3) allocable indirect costs.⁵

The EPA authorized ENRD reimbursements of \$27.9 million for FY 2004 and \$26.9 million for FY 2005 in accordance with Interagency Agreements DW-15-93796801 and DW-15-92194601, respectively.

Excise taxes imposed on the petroleum and chemical industries as well as an environmental income tax on corporations maintained the Trust Fund through December 31, 1995, when the taxing authority for Superfund expired. Since that time, Congress has not enacted legislation to reauthorize the tax. Therefore, the only funding for the Trust Fund are monies recovered through Superfund litigation. Consequently, the significance of ENRD's Superfund litigation can be seen in the commitments and recoveries the EPA has obtained, with the EPA receiving over \$5.9 billion in commitments to clean up hazardous waste sites and recovering \$4.4 billion from potentially responsible parties for FYs 1988 - 2005, as shown below.⁶

⁵ The E&A Report is a summary of the total costs incurred by ENRD during the fiscal year. The report includes all costs (both liquidated and unliquidated) by subobject class and a final indirect cost rate calculation for the fiscal year. Other direct costs charged to individual cases include special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, graphics, and non-capital equipment. Indirect costs are the net of the Superfund funding provided in the EPA Interagency Agreements less direct charges and are allocated based on the direct Superfund salary costs on each case.

⁶ Commitments are estimated funds from potentially responsible parties for the clean up of hazardous waste sites. Recoveries are funds actually received by EPA that include Superfund cost recovery, oversight costs, and interest.

**Estimated Commitments and Recoveries
(1988 to 2005)**

FY	Commitment	Recovery
1987	\$ 0	\$12,000,000
1988	\$10,000,000	\$32,000,000
1989	\$106,000,000	\$73,000,000
1990	\$10,000,000	\$56,000,000
1991	\$186,000,000	\$182,000,000
1992	\$225,000,000	\$211,000,000
1993	\$187,000,000	\$326,000,000
1994	\$148,000,000	\$490,000,000
1995	\$117,000,000	\$204,000,000
1996	\$101,000,000	\$338,000,000
1997	\$279,000,000	\$333,000,000
1998	\$403,000,000	\$306,000,000
1999	\$385,000,000	\$329,000,000
2000	\$429,000,000	\$152,000,000
2001	\$1,417,000,000	\$562,000,000
2002	\$562,000,000	\$276,000,000
2003	\$471,000,000	\$180,000,000
2004	\$285,000,000	\$92,000,000
2005	\$646,000,000	\$265,000,000
Total	\$5,967,000,000	\$4,419,000,000

Source: ENRD Commitment and Recovery Report for FYs 1987 – 2003, and Interagency Agreement for FYs 2004 and 2005

Audit Approach

The objective of the audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. To accomplish our objective, we assessed whether: (1) ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases.⁷

⁷ Additional information about our audit objective, scope, and methodology are contained in Appendix I.

FINDING AND RECOMMENDATIONS

Superfund Costs for FYs 2004 and 2005

We reviewed financial activities and procedures used by ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases. In our judgment, ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. However, we make three recommendations to improve ENRD operations and ensure compliance with DOJ directives: we recommend that ENRD update its case designation procedures, ensure that travel authorizations are approved prior to the traveler proceeding on the trip, and ensure all subobject code 2508 transactions are allocated to the correct Superfund case number.

We designed the audit to compare costs reported on the contractor-developed accounting schedules and summaries for FYs 2004 and 2005 (see Appendix III and Appendix IV) to the information recorded on DOJ accounting records, and to review the cost distribution system used by ENRD to allocate incurred costs to Superfund and non-Superfund cases. To accomplish this, we performed the following tests:

- Compared Superfund total costs recorded as paid on the E&A Reports to the amounts reported as Total Amounts Paid on the year-end accounting schedules and summaries, and traced the costs to Superfund cases.
- Reviewed ENRD's methodology for identifying Superfund cases by comparing a select number of cases against ENRD case assignment criteria.⁸
- Reviewed direct labor and indirect costs distributed to Superfund cases against the contractor-developed methodology, and compared other direct costs to source documents to validate their allocability to Superfund cases.

⁸ ENRD memorandum dated December 20, 2001, provides guidance on the determination of Superfund cases.

We performed these steps to ensure that costs distributed to Superfund and non-Superfund cases were based on the total actual costs for FYs 2004 and 2005, that the distribution methodology used and accepted in prior years remained viable, and that selected costs were supported by evidence that documented their allocability to Superfund and non-Superfund cases. These tests helped us determine if ENRD provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005.

Reconciliation of Contractor Accounting Schedules and Summaries to E&A Reports

To ensure that the distribution of costs to Superfund and non-Superfund cases was limited to total costs incurred for each fiscal year, we compared the amounts reported on the E&A Reports to those in the contractor's Schedule 6, *Reconciliation of Total ENRD Expenses*. According to the E&A Reports, total ENRD expenses were \$104 million in FY 2004 and \$108 million in FY 2005 as shown in the following table:

ENRD Expenses by Fiscal Year

Description	2004	2005
Salaries	\$ 59,855,153	\$ 61,532,266
Benefits	14,318,383	15,420,948
Travel	2,391,766	2,618,572
Freight	315,211	362,261
Rent	12,725,851	15,411,284
Printing	69,470	124,386
Services	13,210,494	11,287,561
Supplies	713,257	619,548
Equipment	830,135	671,477
Total	\$104,429,720	\$108,048,303

Source: ENRD E&A Reports for FYs ending 09/30/04 and 09/30/05

We then traced the E&A amounts to the distributions on Schedule 5, *Superfund Costs by Object Classification*, and Schedule 2, *Superfund Obligation and Payment Activity By Fiscal Year of Obligation*. We found that the amounts on these schedules reconciled through Schedule 6 to the E&A Reports.

After reconciling the contractor accounting schedules and summaries to the E&A Reports, we focused on the distribution of costs to Superfund. Our starting point for reviewing the distribution system was to identify and reconcile ENRD cases as Superfund or non-Superfund. This enabled us to extract only Superfund data from the ENRD data to compare to the accounting schedules and summaries. The Superfund costs in Schedule 2 of the accounting schedules and summaries for FYs 2004 and 2005 reported the following:

Superfund Distributed Costs by Fiscal Year⁹

Cost Categories	2004	2005
Labor	\$ 7,595,887	\$ 7,063,184
Other Direct Costs	2,083,287	1,111,321
Indirect Costs	14,668,225	13,564,536
Superfund Program Expenses	529,284	349,153
Unliquidated Obligations	3,163,698	4,874,211
Totals	\$28,040,381	\$26,962,405

Source: Schedule 2 of the contractor's accounting schedules and summaries.

Superfund Case Reconciliation

ENRD litigated Superfund and non-Superfund cases. To control the processing of cases, ENRD assigned each case unique identifying numbers and maintained an annual database of Superfund cases. To ensure that the contractor used the appropriate Superfund database, we reconciled the contractor's Superfund database to ENRD's original Superfund database. This database identified 1,031 Superfund cases in FY 2004 and 1,081 cases in FY 2005 that incurred costs. We also reviewed the Superfund case designation criteria and case files to establish the method used by ENRD to identify Superfund cases, and to determine if cases were identified in accordance with established criteria.

⁹ The amounts listed in this table reflect actual reimbursements. The interagency agreements budgeted \$28,150,000 and \$27,150,000 for FYs 2004 and 2005, respectively.

We randomly selected 39 cases from the FY 2005 Superfund database to test whether ENRD sections adhered to case designation procedures outlined in the December 20, 2001, ENRD memorandum, *Determination of Superfund Cases*.¹⁰ We reviewed the cases against ENRD case documents including case intake worksheets, case opening forms, case transmittals, and e-mails. These documents referenced laws, regulations, or other information that established the cases as either Superfund or non-Superfund for tracking purposes.

We found that all 39 cases reviewed contained proper referencing documentation in the case files to justify the Superfund classification. However, we noted ENRD's December 20, 2001, memorandum, *Determination of Superfund Cases*, needs to be updated to appropriately reference the reorganized Natural Resources, Wildlife and Marine Resource, Indian Resource, Law and Policy, and the Executive Office litigation sections in ENRD.

Superfund Cost Distribution

Since we found that ENRD's case identification method adequately identified Superfund cases, we next reviewed the system used by the contractor to distribute direct labor, indirect costs, and other direct costs charged to Superfund cases. Following are the results of our review of the cost categories.

Direct Labor

During the 2 years under review in this audit, the contractor continued using the labor distribution system from prior years, which we had reviewed and accepted in prior audits. ENRD provided the contractor with electronic files that included employee time reporting information and biweekly salary information downloaded from the National Finance Center.¹¹ The contractor used the following formula to distribute labor costs monthly:

¹⁰ See Appendix II for the 39 cases we sampled. ENRD Sections included were Environmental Crimes, Environmental Defense, Environmental Enforcement, Land Acquisition, Law and Policy, Executive Office, Appellate, and Natural Resources.

¹¹ The National Finance Center processes biweekly payroll information for many federal government agencies, including the DOJ.

Salary Starting Point: Employee Biweekly Salary
Divided by: Employee Reported Biweekly Work Hours
Equals: Biweekly Hourly Rate
Multiplied by: Employee Reported Monthly Superfund and Non-Superfund Case Hours
Results In: Distributed Individual Monthly Labor Case Cost

For purposes of our review, we:

- Matched the total Superfund and non-Superfund labor costs to costs reported on the E&A Reports for FYs 2004 and 2005.
- Reviewed ENRD electronic labor files and selected salary files provided to the contractor and the resultant electronic files prepared by the contractor to summarize costs by employee and case.
- Extracted and reconciled Superfund case costs from the contractor files by using validated Superfund case numbers discussed earlier in this report.

We performed selected database matches to compare ENRD employee time and case data against the contractor's electronic files used to prepare the accounting schedules and summaries, and to identify Superfund case data. As mentioned in the Superfund Case Reconciliation section of this report, we were able to rely on the Superfund case database to match the ENRD case list to the contractor's completed schedules. We compared ENRD's electronic files to the contractor's and determined that the total Superfund hours were 168,825 for FY 2004 and 147,614 for FY 2005. To determine the number of Superfund cases with direct labor costs for each fiscal year, we compared the Superfund billed time data, which included 1,031 cases in FY 2004 and 1,081 cases in FY 2005, to the electronic files prepared by the contractor. Through our database matches, we found no reportable differences in the total number of Superfund cases with direct labor costs for each fiscal year.

Next, using the contractor's electronic files, we determined that the direct labor costs for Superfund cases were \$7,595,887 for FY 2004 and \$7,063,184 for FY 2005. We traced these amounts to the accounting schedules and summaries, and selected one month in each fiscal year (May 2004 and January 2005) to review the effective employee hourly rates calculated by the contractor. We found no reportable differences.

Overall, we were able to verify the accumulation of reported hours, the development and application of hourly rates, and the extraction of labor costs for Superfund cases. Therefore, in our judgment this process provided an equitable distribution of direct labor costs to Superfund cases during FYs 2004 and 2005.

Indirect Costs

In addition to direct costs incurred for specific cases, ENRD incurred indirect costs that were allocated to all cases. These include salaries, benefits, travel, freight, rent, communication, utilities, supplies, and equipment. The contractor distributes indirect costs to individual cases using an indirect cost rate that is calculated on a fiscal year basis.

The indirect cost rate is comprised of an ENRD indirect rate and a Superfund specific indirect rate. To calculate the ENRD indirect rate, the contractor subtracted the amount of direct costs from the total costs incurred according to ENRD's E&A report, and divided this amount by total direct labor for the period. To calculate a Superfund specific indirect rate, the contractor identified indirect costs that support only Superfund activities and divided these costs by Superfund direct labor. The rates for FYs 2004 and 2005 are as follows:

Indirect Cost Rates by Fiscal Year

Category	2004	2005
ENRD Indirect Rate	187%	188%
Superfund Specific Indirect Rate	22%	27%
Combined Indirect Cost Rate	209%	215%

Source: Schedule 4 of accounting schedules and summaries, percentages rounded to nearest whole percent

Using the E&A Reports and the contractor's electronic files, we reconciled the total indirect amounts to the accounting schedules and summaries, Schedule 4, *Indirect Rate Calculation*, to ensure that the contractor used only paid costs to accumulate the expense pool. We determined that the total amount of indirect costs for FY 2004 was \$59,505,112 versus the contractor's calculation of \$59,505,111 (\$1 variance). Furthermore, we determined that the total amount of indirect costs for FY 2005 was \$63,826,319 versus the contractor's calculation of \$63,826,318 (\$1 variance). These variances had a negligible impact upon the indirect cost rates and are considered immaterial. In our judgment, the indirect expenses calculated by the contractor are materially accurate. Therefore, we found that this process provided for an equitable distribution of indirect costs to Superfund cases during FYs 2004 and 2005.

Other Direct Costs

The other direct costs incurred by ENRD and distributed to Superfund during FYs 2004 and 2005 are provided in the following table.

Superfund Other Direct Costs by Fiscal Year

Subobject Code and Description	2004	2005
1153-Special Masters Compensation	\$ 95,417	\$ 45,692
1157-Expert Witness Fees	2,287,056	1,015,843
2100-Travel and Transportation	540,555	373,483
2411-Printing and Reproduction, Court Instruments	6,565	18,698
2499-Printing and Reproduction, All Other	1,367	40
2508-Reporting and Transcripts-Deposition	148,439	125,847
2509-Reporting and Transcripts-Grand Jury		
2510-Reporting and Transcripts-Court	9,773	4,478
2529-Litigation Support	1,650,136	1,011,763
2534-Research Services		
2537-Advisory and Assist	141	
2557-Litigation Graphics	892	2,146
2563-Interest Penalties-Government	187	18
2598-Miscellaneous Litigation Expenses	5,486	851
2599-Other Services	45,563	
3129-Non-Capitalized Automated Litigation Support Equipment		
Totals	\$4,791,577	\$2,598,859

Source: The contractor's electronic files for FYs 2004 and 2005

As part of our audit, we reviewed selected FY 2005 direct cost transactions in the following four subobject codes:

- 1157 – Expert Witness Fees,
- 2100 – Travel and Transportation,
- 2508 – Reporting and Transcripts – Deposition, and
- 2529 – Litigation Support.

For FY 2005, these four subobject codes comprised 94 percent of the transaction universe (923 transactions) and 97 percent of the FY 2005 other direct cost expenditures (\$1.1 million). We stratified the high dollar transactions within these subobject codes and tested 100 percent of these transactions and selected the remaining transactions based on a statistical sample. In total, we reviewed 274 transactions totaling approximately \$551,015 as detailed in the chart below:

Other Direct Cost Tested

Subobject Code	Transactions	Dollar
1157	27	\$305,505
2529	13	42,892
2100	168	148,916
2508	66	53,702
Totals	274	\$551,015

Source: OIG other direct cost sample

We designed our review of the transactions in other direct costs to determine if the selected transactions included adequate support against the following four attributes:

- Correct subobject code classification – verified that the correct subobject code was used to classify the cost;
- Correct Superfund/non-Superfund case classification – verified that the case number appearing on the documents matched the case number in the Superfund database;
- Correct dollar amount – verified that the dollar amount listed in the other direct costs database matched the amounts on the supporting documentation; and
- Proper approval – verified that the proper approval was obtained on the vouchers paying the other direct costs.

Our tests resulted in no exceptions in the Expert Witness Fees (subobject code 1157) and Litigation Support (subobject code 2529) transactions tested against the four reviewed attributes.

As part of our testing for Travel and Transportation (subobject code 2100), we reviewed 168 travel vouchers and found that 1 travel voucher could not be located and 5 travel vouchers did not have evidence that they were signed by an authorizing official after the ENRD employees completed their travel.¹² In addition, we found that 39 authorizations in FY 2005 were not approved prior to the requested travel. We reported this finding in previous audit reports.¹³ In response to this finding in our September 2003 report, ENRD issued a memorandum, dated September 12, 2003, to Section Managers reminding them of their responsibilities under the travel regulations to document approval of travel prior to the travel being initiated. The prior authorization of travel initiates the obligation of the travel costs and ensures that the traveler is protected by an official authorization during periods of travel. Again in this audit, we recommend that ENRD require that all its employees have a documented authorization prior to incurring any travel expense.

For Reporting and Transcripts – Deposition (subobject code 2508) transactions, we found case numbers appearing on six vouchers that did not match the case numbers in the Superfund database. The error does not impact total Superfund dollars; however, it impacted the dollars allocated to specific Superfund cases. ENRD attributed this to an isolated keying error performed by an ex-employee. As a result of our audit, ENRD reviewed all subobject code 2508 transactions with the problem Superfund case number to ensure that the case number was accurate. They determined that 14 additional transactions not included in our testing sample also reflected the inaccurate Superfund case number and subsequently corrected the case numbers.

¹² ENRD officials explained that file copies of travel vouchers are made prior to supervisor approval of the voucher and that is why no signature appeared on the vouchers.

¹³ Department of Justice, Office of the Inspector General, Report Number 96-12, *Superfund Activities in the Environmental and Natural Resources Division for Fiscal Year 1994*, May 1996; Department of Justice, Office of the Inspector General, Report Number 00-08, *Superfund Activities in the Environmental and Natural Resources Division for Fiscal Year 1997*, March 2000; and Department of Justice, Office of the Inspector General, Report Number 03-34, *Superfund Activities in the Environmental and Natural Resources Division for Fiscal Years 2000 and 2001*, September 2003.

Based on our statistical sampling methodology and the results of our testing, the error rates we identified fell below 3 percent or were not considered material. Accordingly, we did not take exception to the errors or project the results to the total universe of transactions in FY 2005. In our judgment, ENRD maintains adequate internal controls over the recording of other direct charges to accounting records and Superfund cases.

Conclusion

In our judgment, ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2004 and FY 2005.

Recommendations

We recommend that ENRD:

1. Ensure that the ENRD memorandum entitled *Determination of Superfund Cases* is updated to include all ENRD litigation sections.
2. Ensure that all travel by ENRD employees is appropriately authorized prior to incurring any travel expense.
3. Ensure that all FY 2004 and 2005 Superfund subobject code 2508 transactions are allocated to the correct case number within the Superfund database and the Financial Management Information System.

Statement on Compliance with Laws and Regulations

The purpose of the audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. In connection with the audit, as required by *Government Auditing Standards*, we reviewed management processes and records to obtain reasonable assurance concerning ENRD's compliance with laws and regulations that if not complied with, in our judgment, could have a material effect on ENRD's operations. Compliance with laws and regulations applicable to ENRD's management of Superfund litigation is the responsibility of ENRD's management.

We conducted our review against relevant portions of CERCLA, and did not identify any instance of ENRD noncompliance.

APPENDIX I

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. To accomplish the overall objective, we assessed whether: (1) ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The audit focused on, but was not limited to, financial activities and the procedures used by ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases from October 1, 2003, through September 30, 2005. We compared total costs recorded as paid on the E&A Report to the amounts reported as Total Amounts Paid on the year end accounting schedules and summaries, and traced the costs to the Superfund cases for FYs 2004 and 2005. We also reviewed direct labor costs and indirect costs distributed to Superfund against the contractor-developed methodology for FY 2004 and FY 2005. We conducted a review of ENRD's methodology for identifying Superfund cases by comparing a select number of cases against the ENRD case assignment criteria for FY 2005 and we performed detailed transaction testing of other direct costs for FY 2005.

For our assessment of internal controls over the compilation of direct labor charges, we relied on the results in the Office of the Inspector General Report number 01-19, August 2001, Environmental and Natural Resources Division Network Computer Security and Case Management System Internal Control Audit.

APPENDIX II

2005 CASES IN SAMPLE REVIEW

Case Number	ENRD Litigation Section
90-11-2-196C	Appellate
90-11-3-07299	Appellate
90-11-3-128/5	Appellate
90-11-2-477/1	Appellate
90-12-02075	Appellate
198-48-00514/1	Environmental Crimes
198-37-00452	Environmental Crimes
198-77-00586	Environmental Crimes
198-41-00503	Environmental Crimes
198-32-00487/1	Environmental Crimes
198-77-00538	Environmental Crimes
90-11-6-17255	Environmental Defense
90-11-6-17385	Environmental Defense
90-11-5-05764	Environmental Defense
90-11-6-05510	Environmental Defense
90-11-6-16303	Environmental Defense
90-11-3-07531	Environmental Enforcement
90-11-2-07883	Environmental Enforcement
90-11-3-1638/2	Environmental Enforcement
90-11-2-07430	Environmental Enforcement
90-11-2-07912	Environmental Enforcement
90-11-3-07541	Environmental Enforcement
90-11-3-1651	Environmental Enforcement
90-11-3-863	Environmental Enforcement
90-11-3-269/3	Environmental Enforcement
90-11-2-07430/2	Environmental Enforcement
90-11-2-506/1	Environmental Enforcement
90-11-3-07377	Environmental Enforcement
90-11-3-06902/2	Environmental Enforcement
90-11-2-196A	Environmental Enforcement
33-22-2430-11053	Land
33-5-3131-10450	Land
33-10-886-11155	Land
33-41-128-07665	Land
33-46-444-11037	Land
90-12-02055	Law and Policy
90-12-01779	Law and Policy
90-1-23-10662	Natural Resources
90-1-23-10940	Natural Resources

APPENDIX III

FY 2004 ACCOUNTING SCHEDULES AND SUMMARIES

RUBINO & MCGEEHIN CONSULTING GROUP, INC.

6905 ROCKLEDGE DRIVE
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BETHESDA, MARYLAND
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PHONE: 301 564 3636
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October 4, 2005

Mr. Robert L. Bruffy
U.S. Department of Justice
Environment and Natural
Resources Division
Suite 8000
601 D Street N.W.
Washington, DC. 20004

Dear Mr. Bruffy:

Enclosed please find the following final fiscal year 2004 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-6
September 30, 2004
- DOJ - Superfund Case Cost Summary (electronic copy)
As of September 30, 2004
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 2004 (electronic copy)
- DOJ - Superfund Direct Costs (electronic copy)
Year Ended September 30, 2004

The schedules represent the final fiscal year 2004 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2004.

25th
Celebrating 25 Years

Member, MSI Network - A Worldwide Association of Independent Professional Firms

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Mr. Robert L. Bruffy
U.S. Department of Justice
October 4, 2005
Page 2

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 2004, which are not identified as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours,



Rubino & McGeehin Consulting Group, Inc.

Enclosures

RUBINO & MCGEEHIN

EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 2004

	<u>Fiscal Years</u>				
	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>
EPA Billing Summary - Amount Paid	\$ 24,876,683 (a)	\$ 24,125,358 (b)	\$ 26,996,243 (b)	\$ 28,732,853 (b)	\$ 28,892,087 (b)
Add:					
Payments in FY 2004 for 2003 (a)	-	2,394,062	-	-	-
Payments in FY 2004 for 2002 (a)	-	-	623,287	-	-
Payments in FY 2004 for 2001 (a)	-	-	-	236,796	-
Payments in FY 2004 for 2000 (a)	-	-	-	-	(232)
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Subtotal	24,876,683	26,519,420	27,619,530	28,969,649	28,891,855
Unliquidated Obligations (c)	<hr/> 3,163,698	<hr/> 904,865	<hr/> 193,265	<hr/> 35,124	<hr/> -
Total	<hr/> <u>\$ 28,040,381</u>	<hr/> <u>\$ 27,424,285</u>	<hr/> <u>\$ 27,812,795</u>	<hr/> <u>\$ 29,004,773</u>	<hr/> <u>\$ 28,891,855</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2004

(b) See EPA Billing Summary, Schedule 1, September 30, 2003

(c) See EPA Billing Summary, Schedule 3, September 30, 2004

EPA BILLING SUMMARY
 SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2004
 BY FISCAL YEAR OF OBLIGATION

	<u>Fiscal Years</u>					<u>Total</u>
	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>	
<u>Amounts Paid:</u>						
Labor	\$ 7,595,887	\$ -	\$ -	\$ -	\$ -	\$ 7,595,887
Other Direct Costs	2,083,287	1,194,856	619,942	260,253	-	4,158,338
Indirect Costs	14,668,225	1,199,206	3,345	(23,457)	(232)	15,847,087
Superfund Program Expenses	529,284	-	-	-	-	529,284
Subtotal	24,876,683	2,394,062	623,287	236,796	(232)	28,130,596
Unliquidated Obligations (a)	3,163,698	904,865	193,265	35,124	-	4,296,952
Totals	<u>\$28,040,381</u>	<u>\$ 3,298,927</u>	<u>\$816,552</u>	<u>\$271,920</u>	<u>(\$232)</u>	<u>\$32,427,548</u>

(a) See Schedule 3

EPA BILLING SUMMARY
 FISCAL YEARS 2004, 2003, 2002 AND 2001 UNLIQUIDATED OBLIGATIONS
 September 30, 2004

	<u>Fiscal Years</u>			
	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>
ENRD unliquidated obligations at September 30, 2004	\$ 28,319,169	\$ 7,232,579	\$ 608,570	\$ 395,289
Less: unliquidated obligations:				
Section 1595 (a)	19,018,945	3,455,282	320,286	320,610
Section 1596 (b)	768,000	2,167,933	70,256	3,639
Section 1598 (c)	1,478,963	666,069	185,291	22,508
Subtotal	<u>21,265,908</u>	<u>6,289,284</u>	<u>575,833</u>	<u>346,757</u>
Net unliquidated obligations - ENRD	7,053,261	943,295	32,737	48,532
Superfund percentage (d)	<u>23.8859%</u>	<u>25.3151%</u>	<u>24.3589%</u>	<u>25.9957%</u>
Superfund portion of unliquidated obligations	1,684,735	238,796	7,974	12,616
Add - Section 1598 unliquidated obligations	<u>1,478,963</u>	<u>666,069</u>	<u>185,291</u>	<u>22,508</u>
Total Superfund unliquidated obligations (e)	<u>\$ 3,163,698</u>	<u>\$ 904,865</u>	<u>\$ 193,265</u>	<u>\$ 35,124</u>

(a) Section 1595 relates to reimbursable amounts from agencies other than EPA.

(b) Section 1596 relates to non-Superfund charges.

(c) Section 1598 relates to charges that are Superfund specific.

(d) Superfund percentage of unliquidated obligations was calculated by dividing year to date Superfund direct labor by the total direct labor for each of the fiscal years.

(e) Relates only to unliquidated obligations for the fiscal year indicated.

EPA BILLING SUMMARY
INDIRECT RATE CALCULATION

September 30, 2004

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$25,959,902
Fringes	14,264,091
Indirect travel	315,398
Freight	315,211
Office space and utilities	12,350,918
Printing(forms, etc.)	21,167
Training and other services	4,735,032
Supplies	713,257
Non-capitalized equipment and miscellaneous	<u>830,135</u>
Subtotal	59,505,111
Total Direct Labor	31,800,736
ENRD Indirect Costs Rate - F/Y 2004 Obligations	187.1187%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2004 \$ 454,897
	2003 1,199,206
	2002 3,345
	2001 (23,457)
	2000 <u>(232)</u>
	Total <u>1,633,759</u>
Superfund Direct Labor	7,595,887
Superfund Indirect Rate	<u>21.5085%</u>
Total Indirect Rate	<u><u>208.6272%</u></u>

- (a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596) have been removed.
- (b) Indirect labor and fringes include certain month-end obligation accruals.
- (c) Indirect cost payments for the prior year obligations included in the totals presented are as follows; \$998,800; \$3,345; \$(23,457); and \$(232) for F/Y 2003 through 2000 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 2004 to maintain Superfund case information or perform other Superfund Specific activities. These charges were initiated as a result of Superfund and are of benefit only to the Superfund Program. They have been allocated only to Superfund cases through this separate indirect approach. The charges are \$454,897 and \$200,406 for Fiscal years 2004 and 2003 respectively.

EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION

September 30, 2004

Object Class.	Description	Direct Expenses	Superfund Program Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries	\$8,922,752 (a)	\$ 74,429	\$6,473,852	\$1,619,672	\$17,090,705
12	Benefits	-	-	3,407,106	118,815	3,525,921
21	Travel	483,239	-	75,335	51,817	610,391
22	Freight	-	-	75,291	20,708	95,999
23	Rent	-	285,375	3,039,686	287,622	3,612,683
24	Printing	4,138	-	5,055	9,084	18,277
25	Services	269,045	169,480	1,223,247	904,802	2,566,574
26	Supplies	-	-	170,368	29,172	199,540
31	Equipment	-	-	198,285	122,005	320,290
	Total	<u>\$9,679,174</u>	<u>\$ 529,284</u>	<u>\$14,668,225</u>	<u>\$3,163,697</u>	<u>\$28,040,380</u>

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated damages.

EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES

September 30, 2004

Object Class	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$8,997,181	\$6,473,852	\$24,416,607	\$19,759,145	\$208,368	\$59,855,153
12	Benefits	-	3,407,106	-	10,856,985	54,292	14,318,383
21	Travel	483,239	75,335	1,583,940	240,063	9,189	2,391,766
22	Freight	-	75,291	-	239,920	-	315,211
23	Rent	285,375	3,039,686	-	9,400,790	-	12,725,851
24	Printing	4,138	5,055	44,165	16,112	-	69,470
25	Services	438,525	1,223,247	1,499,658	3,604,029	6,445,035	13,210,494
26	Supplies	-	170,368	-	542,889	-	713,257
31	Equipment	-	198,285	-	631,850	-	830,135
Total		<u>\$10,208,458</u>	<u>\$14,668,225</u>	<u>\$27,544,370</u>	<u>\$45,291,783</u>	<u>\$6,716,884</u>	<u>\$104,429,720</u>

APPENDIX IV

FY 2005 ACCOUNTING SCHEDULES AND SUMMARIES

RUBINO & MCGEEHIN CONSULTING GROUP, INC.

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May 4, 2006

Mr. Robert L. Bruffy
U.S. Department of Justice
Environment and Natural
Resources Division
Suite 8000
601 D Street N.W.
Washington, DC. 20004

Dear Mr. Bruffy:

Enclosed please find the following final fiscal year 2005 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-7
September 30, 2005
- DOJ - Superfund Case Cost Summary (electronic copy)
As of September 30, 2005
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 2005 (electronic copy)
- DOJ - Superfund Direct Costs (electronic copy)
Year Ended September 30, 2005

The schedules represent the final fiscal year 2005 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2005.

25th
Celebrating 25 Years

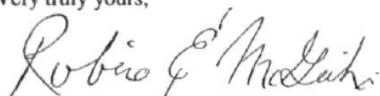
Member, MSI Network – A Worldwide Association of Independent Professional Firms **msi**

Mr. Robert L. Bruffy
U.S. Department of Justice
May 4, 2006
Page 2

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 2005, which are not identified as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours,



Rubino & McGeehin Consulting Group, Inc.

Enclosures

RUBINO & MCGEEHIN

EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 2005

	<u>Fiscal Years</u>				
	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>
EPA Billing Summary - Amount Paid	\$ 22,088,194 (a)	\$ 24,876,683 (b)	\$ 26,519,420 (b)	\$ 27,619,530 (b)	\$ 28,969,649 (b)
Add:					
Payments in FY 2005 for 2004 (a)	-	2,540,877	-	-	-
Payments in FY 2005 for 2003 (a)	-	-	59,641	-	-
Payments in FY 2005 for 2002 (a)	-	-	-	62,284	-
Payments in FY 2005 for 2001 (a)	-	-	-	-	(1,933)
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Subtotal	22,088,194	27,417,560	26,579,061	27,681,814	28,967,716
Unliquidated Obligations (c)	<hr/> 4,874,211	<hr/> 575,048	<hr/> 441,102	<hr/> 26,005	<hr/> -
Total	<hr/> <u>\$ 26,962,405</u>	<hr/> <u>\$ 27,992,608</u>	<hr/> <u>\$ 27,020,163</u>	<hr/> <u>\$ 27,707,819</u>	<hr/> <u>\$ 28,967,716</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2005

(b) See EPA Billing Summary, Schedule 1, September 30, 2004

(c) See EPA Billing Summary, Schedule 3, September 30, 2005

EPA BILLING SUMMARY
 SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2005
 BY FISCAL YEAR OF OBLIGATION

	<u>Fiscal Years</u>					<u>Total</u>
	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	
<u>Amounts Paid:</u>						
Labor	\$ 7,063,184	\$ -	\$ -	\$ -	\$ -	\$ 7,063,184
Other Direct Costs	1,111,321	687,536	145,821	58,549	2,276	2,005,503
Indirect Costs	13,564,536	1,715,876	(86,180)	3,735	(4,209)	15,193,758
Superfund Program Expenses	<u>349,153</u>	<u>137,465</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>486,618</u>
Subtotal	22,088,194	2,540,877	59,641	62,284	(1,933)	24,749,063
Unliquidated Obligations (a)	<u>4,874,211</u>	<u>575,048</u>	<u>441,102</u>	<u>26,005</u>	<u>-</u>	<u>5,916,366</u>
Totals	<u>\$26,962,405</u>	<u>\$3,115,925</u>	<u>\$ 500,743</u>	<u>\$88,289</u>	<u>(\$1,933)</u>	<u>\$30,665,429</u>

(a) See Schedule 3

EPA BILLING SUMMARY
 FISCAL YEARS 2005, 2004, 2003 AND 2002 UNLIQUIDATED OBLIGATIONS
 September 30, 2005

	<u>Fiscal Years</u>			
	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>
ENRD Unliquidated Obligations at September 30, 2005	\$ 32,410,939	\$ 4,372,164	\$ 3,236,481	\$ 78,675
Less: Unliquidated Obligations:				
Section 1595 (a)	17,365,164	2,986,724	1,816,354	52,639
Section 1596 (b)	616,000	753,613	965,660	-
Section 1598 (c)	2,361,545	557,230	436,572	25,995
Subtotal	<u>20,342,709</u>	<u>4,297,567</u>	<u>3,218,586</u>	<u>78,634</u>
Net Unliquidated Obligations - ENRD	12,068,230	74,597	17,895	41
Superfund percentage (d)	<u>20.8205%</u>	<u>23.8859%</u>	<u>25.3151%</u>	<u>24.3589%</u>
Superfund portion of Unliquidated Obligations	2,512,666	17,818	4,530	10
Add - Section 1598 Unliquidated Obligations	<u>2,361,545</u>	<u>557,230</u>	<u>436,572</u>	<u>25,995</u>
Total Superfund Unliquidated Obligations (e)	<u>\$ 4,874,211</u>	<u>\$ 575,048</u>	<u>\$ 441,102</u>	<u>\$ 26,005</u>

-
- (a) Section 1595 relates to reimbursable amounts from agencies other than EPA.
 (b) Section 1596 relates to non-Superfund charges.
 (c) Section 1598 relates to charges that are Superfund specific.
 (d) Superfund percentage of unliquidated obligations was calculated by dividing year to date direct labor by the total direct labor for each of the fiscal years.
 (e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION**

September 30, 2005

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$26,545,791
Fringes	15,384,042
Indirect travel	451,893
Freight	362,261
Office space and utilities	15,080,284
Printing(forms, etc.)	52,021
Training and other services	4,675,969
Supplies	619,548
Non-capitalized equipment and miscellaneous	<u>654,509</u>
Subtotal	63,826,318
Total Direct Labor	33,924,192
ENRD Indirect Costs Rate - F/Y 2004 Obligations	188.1440%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2005 \$ 275,579
	2004 1,715,876
	2003 (86,180)
	2002 3,735
	2001 <u>(4,209)</u>
	Total <u>1,904,801</u>
Superfund Direct Labor	7,063,184
Superfund Indirect Rate	<u>26.9680%</u>
Total Indirect Rate	<u><u>215.1120%</u></u>

(a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596) have been removed.

(b) Indirect labor and fringes include certain month-end obligation accruals.

(c) Indirect cost payments for the prior year obligations included in the totals presented are as follows; \$1,603,240; \$(86,180); \$3,735; and \$(4,209) for F/Y 2004 through 2001 respectively.

(d) The balance of the charges in the totals presented were paid during fiscal year 2005 to maintain Superfund case information or perform other Superfund Specific activities. These charges were initiated as a result of Superfund and are of benefit only to the Superfund Program. They have been allocated only to Superfund cases through this separate indirect approach. The charges are \$275,579 and \$117,014 for Fiscal Years 2005 and 2004 respectively.

**EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION**

September 30, 2005

Object Class	Description	Direct Expenses	Superfund Program Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries	\$7,614,862 (a)	\$ 113,303	\$5,674,596	\$2,281,884	\$15,684,645
12	Benefits	-	-	3,203,033	121,763	3,324,796
21	Travel	354,368	-	94,086	56,297	504,751
22	Freight	-	-	75,424	85,017	160,441
23	Rent	-	216,075	3,254,716	394,557	3,865,348
24	Printing	18,132	-	10,830	4,260	33,222
25	Services	187,143	9,433	983,868	1,461,101	2,641,545
26	Supplies	-	-	128,992	43,845	172,837
31	Equipment	-	10,342	138,991	425,486	574,819
	Total	<u>\$8,174,505</u>	<u>\$ 349,153</u>	<u>\$13,564,536</u>	<u>\$4,874,210</u>	<u>\$26,962,404</u>

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated damages.

EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES

September 30, 2005

Object Class.	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$7,728,165	\$5,674,596	\$27,031,542	\$21,018,821	\$79,142	\$61,532,266
12	Benefits	-	3,203,033	-	12,181,009	36,906	15,420,948
21	Travel	354,368	94,086	1,796,813	357,807	15,498	2,618,572
22	Freight	-	75,424	-	286,837	-	362,261
23	Rent	216,075	3,254,716	-	11,940,493	-	15,411,284
24	Printing	18,132	10,830	54,233	41,191	-	124,386
25	Services	196,576	983,868	2,931,942	3,702,410	3,472,765	11,287,561
26	Supplies	-	128,992	-	490,556	-	619,548
31	Equipment	10,342	138,991	-	518,237	3,907	671,477
Total		<u>\$8,523,658</u>	<u>\$13,564,536</u>	<u>\$31,814,530</u>	<u>\$50,537,361</u>	<u>\$3,608,218</u>	<u>\$108,048,303</u>

APPENDIX V

ENRD'S RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Environment and Natural Resources Division

*Assistant Attorney General
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September 11, 2007

Raymond J. Beaudet
Acting Assistant Inspector General for Audit
Office of the Inspector General
1425 New York Avenue, N.W.
Washington, D.C. 20530

Re: Audit of Superfund Activities in ENRD for Fiscal Years 2004 and 2005

Dear Mr. Beaudet:

I am writing to thank you for the professional and careful audit work performed by staff from the Office of the Inspector General during the recent audit of the Superfund program in the Environment and Natural Resources Division, and to address the audit report's recommendations. For nearly 20 years, ENRD has relied on your office to provide sound advice to help us ensure that our accounting systems and operations meet rigorous standards for quality. Through the constructive process of annual audits, ENRD has strengthened its accounting, which has helped the government recover hundreds of millions of dollars in cost recovery litigation. These audits are instrumental in maintaining the integrity, reliability and accountability of the Division's Superfund program. We greatly appreciate the role that the OIG plays in this process. We also appreciate the opportunity to review this draft report and to respond to the recommendations.

The objective of this audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2004 and 2005. We are pleased with the conclusion stated in your draft audit report that "In our judgment, ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2004 and FY 2005." We also are pleased to learn that your review did not identify any instances of non-compliance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as "CERCLA" or "Superfund"), the law under which this audit is being conducted.

Overall, we agree with the findings and conclusions described in the draft audit report. The report recommendations highlight three valid and important areas for improvement. Listed below are the audit recommendations followed by the Environment Division's responses.

RECOMMENDATION 1: Ensure that the ENRD memorandum entitled *Determination of Superfund Cases* is updated to include all ENRD litigation sections.

RESPONSE: We concur with this recommendation. The above entitled memorandum has been updated to include all ENRD litigating sections and to reflect the current names of each section. The updated memorandum is enclosed for your information.

RECOMMENDATION 2: Ensure that all travel by ENRD employees is appropriately authorized prior to incurring any travel expense.

RESPONSE: We concur with this recommendation. As stated in the draft audit report, the OIG has noted this finding in previous audit reports. In order to address this recommendation, we have composed a memorandum – attached for your information – which we plan to distribute to Division managers within the next week reminding them of their responsibilities to authorize travel before a traveler incurs travel related expenses, as required under DOJ and federal travel regulations. Because this remedial action is similar to previous corrective actions concerning the same recommendation, ENRD plans to take five additional corrective measures to address this shortcoming. First, we plan to post an announcement on the splash screen of our Division’s intranet – the first thing users see when they log on to their computers each day – reminding all employees, not just managers, that they must have authorization to incur travel related expenditures prior to traveling. Second, we plan to update the travel page of our Division’s intranet to highlight this important requirement. Third, we plan to include a new “travel policies” document in ENRD’s new employee orientation package, so all new employees are made aware that they must receive authorization prior to traveling. Fourth, we plan to disseminate an information memorandum to all Division employees, reminding them that they must comply with Section 301, Part 2.1 of the Federal Travel Regulations, which requires pre-approval prior to traveling. Fifth, we plan to purchase a number of ink stamps which will indicate that prior authorization has been provided by an authorizing official (on a date preceding the date of travel) so such authorization, if appropriate, can be easily noted on travel authorization forms. This final corrective action is intended to address situations where last minute or emergency travel is required but where it is not possible or not practical for a supervisor to physically sign a travel authorization form. Any stamped authorization forms will be accompanied by an e-mail confirmation or other written or electronic approval prior to the occurrence of travel. Once again, this stamp and e-mail process will only be implemented if a supervisor is not able to physically sign the actual authorization form. We expect to implement all five of these additional responsive measures within the next 60 days.

RECOMMENDATION 3: Ensure that all FY 2004 and 2005 Superfund SOC 2508 transactions are allocated to the correct case number within the Superfund database and the Financial Management Information System (FMIS).

RESPONSE: We concur with this recommendation. We have generated a complete list of SOC 2508 Superfund transactions for FY 2004 and 2005. This document is attached for your review and information. ENRD has already begun a comprehensive effort to

locate each relevant invoice and compare the case number identified on it to the case number keyed into FMIS for the subject fiscal years. We will provide a report of any errors noted during this review upon completion of this project. We expect this effort to take up to 90 days to complete.

The Environment Division is committed to maintaining a reliable and efficient system for allocating Superfund costs. We appreciate the close cooperation and assistance of your staff during the audit. In this era of tight budgets, we also very much appreciate the Inspector General's willingness to conduct audits of the Superfund program. These audits benefit the government's efforts to recover federal funds spent to clean the environment. Should you or your staff require further information, please feel free to contact ENRD's Executive Officer, Robert Bruffy on 616-3147, or ENRD's Comptroller, Andrew Collier on 616-3359.

Sincerely,



Ronald J. Tenpas
Acting Assistant Attorney General
Environment and Natural Resources Division

Enclosures

APPENDIX VI

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

We provided a draft audit report to the ENRD for review and comment. The ENRD's comments, which detail the actions it has taken or plans to implement in response to our recommendations, have been included as Appendix V to this report. This Appendix summarizes our analysis of the ENRD's comments and proposed actions required to close the report.

Recommendations:

1. **Closed.** The ENRD updated its memorandum entitled *Determination of Superfund Cases* to include all ENRD litigation sections. Therefore, this recommendation is considered closed.
2. **Resolved.** The ENRD agreed with our recommendation to ensure that all travel by ENRD employees is appropriately authorized prior to incurring any travel expense. In response, the ENRD composed a memorandum to distribute to ENRD managers reminding them of their responsibilities to authorize travel before a traveler incurs travel-related expenses. In addition, the ENRD stated that it will take five additional corrective measures: (1) post an announcement on the splash screen of ENRD's intranet reminding all employees that they must have authorization to incur travel-related expenditures prior to traveling; (2) update the travel page of ENRD's intranet to highlight this requirement; (3) include a new "travel policies" document in ENRD's new employee orientation package; (4) disseminate an information memorandum to all ENRD employees, reminding them that they must comply with Section 301, Part 2.1 of the Federal Travel Regulations; and (5) purchase a number of ink stamps to indicate that prior authorization has been provided by an authorizing official.

As noted in the report, this finding has been reported in prior audits. Therefore, this recommendation can be closed when subsequent Superfund audits verify that ENRD employees received appropriate authorization prior to incurring travel-related expenses.

3. **Resolved.** The ENRD agreed with our recommendation to ensure that all FY 2004 and 2005 Superfund SOC 2508 transactions are allocated to the correct case number within the Superfund database and the Financial Management Information System (FMIS). In response, the ENRD generated a complete list of SOC 2508 Superfund transactions for FY 2004 and 2005 to locate each relevant invoice and compare the case number identified on the invoice to the case number keyed into FMIS. This recommendation can be closed when we review and evaluate documentation substantiating that ENRD reviewed all FY 2004 and 2005 Superfund SOC 2508 transactions, and corrected any errors noted during this review.