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March 6, 2000

Dear Committee Members:

The Minnesota Pollution Control Agency (MPCA) is pleased to present to you the annual report on the FY 1999 Superfund Report that has been prepared by MPCA staff. This report has been generated to fulfill the requirements of Minn. Stat. § 115B. 20, subd. 6.

The report summarizes fiscal year 1999 accomplishments, fund expenditures, and anticipated activities and issues for the future. If you have any questions concerning the contents of this report, please contact Allen Dotson, of my staff, at (651) 296-7735.

Sincerely,

Timothy K. Scherkenbach
Division Manager
Policy and Planning Division

TKS:ls

Enclosure

Minn. Stat. 115B.20 Subd. 6



Minnesota
Pollution
Control
Agency

December 1999

A Report on the Use of the Minnesota Environmental Response, Compensation, and Compliance Account

*This report is submitted to the Minnesota Legislature under
requirement of Minnesota Statutes Section 115B.20, subdivision 6.*

The Minnesota Environmental Response and Liability Act (MERLA) of 1983 established the Environmental Response, Compensation, and Compliance Account (Account), and authorized the Minnesota Pollution Control Agency (MPCA) to spend funds from the Account to investigate and clean up releases of hazardous substances or contaminants. The Minnesota Comprehensive Ground Water Protection Act of 1989 amended MERLA to authorize the Minnesota Department of Agriculture (MDA) access to the Account and the authority to investigate and clean up contamination from agricultural chemicals. The Account is established in the environmental fund in the state treasury. The Minnesota Department of Finance administers the Account.

The MPCA and MDA use the authorities granted under state and federal Superfund laws to identify, evaluate and clean up or direct the cleanup of sites which pose hazards to public health, welfare and the environment. As required by M.S. 115B.20, Subd. 6, this report details activities for which Account dollars have been spent during Fiscal Year 1999 (FY99) by the MPCA and the MDA. Table 1 (next page) details expenditures and income under MERLA for FY99.

The MPCA and MDA's administrative costs represented salaries for 43 full-time equivalent positions (39 MPCA and 4 MDA), as well as travel, equipment, non-site-specific legal costs, and supply expenditures associated with responding to emergencies and implementing site cleanups. FY99 Account figures are current as of FY99 financial closing on September 30, 1999, and may change slightly as financial statements are computed at year end. All cumulative income and expenditure figures are approximations. Staff costs to research, write, and review this report totaled approximately \$3000.

MERLA Responsibilities

The MPCA/MDA Superfund programs fulfill functions specified in MERLA for the 122 sites currently on the state's Permanent List of Priorities (PLP, the state Superfund list), as well as for more than 467 MPCA projects and 85 MDA projects addressed under voluntary investigation and cleanup programs governed by the Land Recycling Act of 1992. MPCA/MDA Superfund

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This report may be made available in other formats such as Braille, large type,
or audio tape upon request.

FY1999 Superfund Report

Table 1
MERLA account expenditures and income

| | |
|--|----------------------|
| Balance Forward 7-1-98 | \$ 11,261,000 |
| Plus Prior Year Adjustment | \$ 45,000 |
| Adjusted Balance Forward | \$ 11,306,000 |
| Income to the Fund (FY99) | |
| Superfund Reimbursement | \$ 1,161,000 |
| Hazardous Waste Generator Tax | \$ 2,011,000 |
| Penalties | \$ 2,191,000 |
| VIC/Property Transfer | \$ 638,000 |
| Investment Income | \$ 675,000 |
| Transfer from Drycleaner Account | \$ 235,000 |
| Other | \$ 156,000 |
| Less Revenue Refund | \$ (744,000) |
| Total | \$ 17,629,000 |
| Expenditures from the Fund (FY99) | |
| Oversight/Administrative (MDA=\$274,000) | \$ 4,614,000 |
| Site-specific and Support Costs (MDA=\$36,000) | \$ 1,321,457 |
| Trade and Economic Development | \$ 1,050,000 |
| Information Systems Initiative | \$ 180,967 |
| Unliquidated Obligations | \$ 118,576 |
| Department of Revenue (processing charge) | \$ 2,000 |
| Total Expenditures and Obligations | \$ 7,287,000 |
| Account Balance 6-30-99 | \$ 10,342,000 |

responsibilities fall into three main categories: emergency response, investigation and cleanup, and working with voluntary parties.

Responding to Emergencies and Spills

Emergency response teams at the MPCA and MDA are on call 24 hours a day throughout the year. The MPCA received 2,329 reports of emergencies and spills in FY99. The MDA received an additional 177 incident reports.

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

In FY99, 71 emergencies were declared under MERLA authorities. In FY99, the MPCA spent \$216,829 from the Superfund Account to respond to these emergencies. The MDA spent an additional \$4,558 from the Account in responding to pesticide- or fertilizer-related emergencies.

Abandonment of waste oil and chemicals continues to be a problem. About three-quarters of the incidents for which the MPCA takes direct emergency action using MERLA authorities involve the classic abandoned barrels or "orphan spills" for which no responsible parties are immediately identifiable. Oil and paint-related liquid wastes contained in 55-gallon drums and gallon jugs are the most commonly abandoned materials.

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

State Superfund Investigation and Cleanup

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

MDA's site assessment program also prioritizes sites, and responsible parties that choose not to conduct voluntary actions may be requested to conduct cleanups under MDA oversight. Usually responsible parties qualify for partial reimbursement of cleanup costs from the Agricultural Chemical Response and Reimbursement Account. If responsible parties are unwilling or unable to clean up, the MDA formally assesses the site for listing on the PLP and/or NPL.

At the close of FY99, 26 Minnesota sites were listed on the NPL. One new site was listed during the fiscal year and one was delisted. There were 122 sites on the PLP. Four sites were added and seven sites delisted during the fiscal year. (Listing a site on the PLP does not automatically qualify it for listing on the NPL.) A detailed summary of past delisted sites is available from the MPCA.

After a site is listed on the PLP or the NPL, and if a responsible party either cannot be identified or is unable or unwilling to take appropriate action, the MPCA/MDA may use

funds from the Account to conduct an investigation and/or a cleanup. A remedial investigation/feasibility study is conducted to determine the extent of contamination and to evaluate cleanup alternatives. Following a decision on the needed activities, a plan for remedial design/remedial action is developed and implemented.

Some sites require long-term monitoring and maintenance to ensure continued effectiveness and protectiveness of the remedy. After cleanup is complete, or when the site no longer poses a risk to public health or the environment because the remedy requires only operation and maintenance or monitoring, the site may be delisted from the PLP or the NPL. If financially viable responsible parties are identified at any point during investigation or cleanup, the state will move to recover costs from them.

Table 2
Site-specific use of MERLA fund dollars in FY99

| | |
|--|---------------------|
| Arrowhead | \$ 33,256 |
| Doc's Auto Salvage | \$ 125 |
| Faribault Municipal Well Field | \$ 37,487 |
| General Fabrication | \$ 12,176 |
| Lake Elmo – Baytown GW Contamination | \$ 160 |
| Lake Elmo – Baytown HSCB | \$ 840 |
| LeHillier | \$ 5,988 |
| Long Prairie GW Contamination | \$ 80,000 |
| MacGillis and Gibbs | \$ 525,000 |
| Perham | \$ 3,047 |
| Red Hanson | \$ 289 |
| Schloff Chemical and Supply | \$ 194 |
| S. E. Brainerd GW Contamination | \$ 56,708 |
| St. Paul Park GW Contamination | \$ (29) |
| Winona GW Contamination | \$ 10,660 |
| Hazardous Waste Spills, Emergencies | \$ 216,829 |
| Arsenic sites (MDA) | \$ 45 |
| Emergencies (MDA) | \$ 4,558 |
| Subtotal (site-specific) | \$ 987,333 |
| Site-specific legal expenses | \$ 165,429 |
| Site-specific lab analytical services | \$ 137,730 |
| Site-specific legal expenses (MDA) | \$ 0 |
| Site-specific lab analytical services (MDA) | \$ 30,965 |
| Subtotal (site-specific support) | \$ 334,124 |
| Total FY99 site-specific expenditures | \$ 1,321,457 |

Minnesota's 26 NPL sites are eligible for federal funding for cleanup activities based on national priority. But access to these funds requires a commitment from the state to fulfill match requirements. The Comprehensive Environmental Response, Compensation, and Liability Act, the federal Superfund law, requires a match in state funds of either 10 percent of the cost of site-specific remedial actions when no state or

local government has been identified as an RP, or 50 percent if the site was owned or operated by a state or local governmental entity. During FY99, \$647,291 was spent on state match requirements for site cleanup activities.

Voluntary Investigation and Cleanup

Minnesota has always been at the forefront of the national movement to return property with known or suspected environmental problems to productive use. A coalition of legislators, state agencies, local government agencies, environmental attorneys, environmental consultants, business and industry representatives, and nonprofit organizations worked together to design the Land Recycling Act of 1992. Through provision of legal assurances, the Act facilitates cleanup and redevelopment of properties which developers and lenders might otherwise avoid due to concerns with potential liability.

The MPCA's and the MDA's voluntary cleanup programs are involved to varying degrees in most of Minnesota's redevelopment projects on "brownfield" properties. These programs offer a menu of liability assurances that responsible and/or voluntary parties may obtain after sufficiently investigating and, if necessary, cleaning up sites.

Since 1988, the MPCA's Voluntary Investigation and Cleanup (VIC) Program has overseen 1,382 projects. Of those, 1,078 have been either cleaned up, found acceptable for purchase, development or refinancing, or transferred to other regulatory programs. Experience of the past three years (200-300 new projects per year) leads us to expect continued strong demand for VIC assistance in the coming year, assuming economic growth remains high and interest rates low.

This year, 12 new sites entered the MDA's Voluntary Cleanup and Technical Assistance Program (VCTAP), begun in 1996. Currently, 85 sites remain "open" cases. The VCTAP has closed a total of 55 sites to date, of which eight were closed in FY99. The combination of releases from liability under MERLA and eligibility for partial reimbursement of corrective action costs from the Agricultural Chemical Response and Reimbursement Account combine to form a strongly incentive-driven program which has been positively received by MDA clientele.

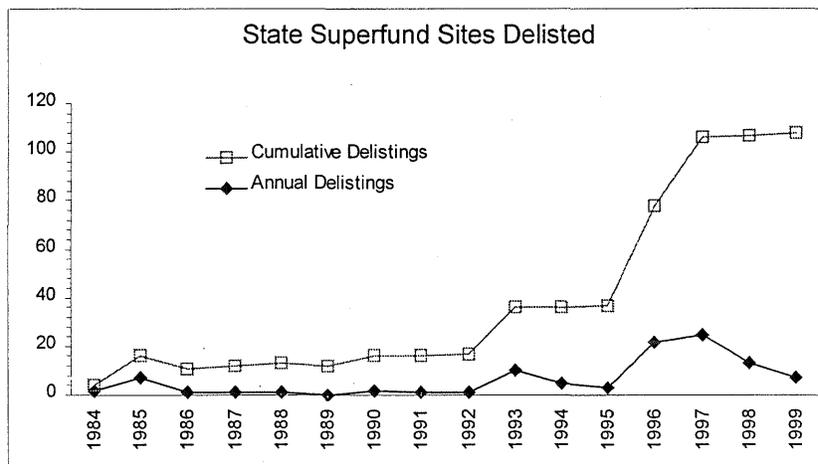
Other Superfund Activities

Completing the Mission

When the federal and Minnesota Superfund programs were enacted in the early 1980s, most of us assumed that the number of polluted sites was limited, and that cleanup would be achieved within ten years. Almost 20 years later, it is clear that decades of improper waste disposal left a legacy of contamination that would last many years.

With 122 current Superfund sites and 467 projects active in the VIC Program (at the time of this report), it is clear that Minnesota has a stronger grasp of its cleanup responsibilities than most states. The Superfund program is cleaning up many contaminated sites, is helping prevent the creation of new ones, and is contributing to the redevelopment of many urban brownfields sites. New sites continue to be discovered or reported to the Superfund program.

But most of the worst sites have already been listed on the PLP, and many have been cleaned up or are currently undergoing response actions. Overall, Minnesota Superfund sites are now being delisted from the NPL and PLP at a faster rate than they are being added. The following graph shows the number of sites delisted from the PLP during each year since the beginning of the Superfund program, and the cumulative number of deletions over time.



In order to plan for the future of the Superfund program, however, the MPCA must now identify any problems or issues the program still needs to address. So, as sites where cleanup once seemed impossible neared the end of the cleanup process -- the Arrowhead Refinery in the Duluth area, Reilly Tar and Chemical in St. Louis Park, and the Twin Cities Army Ammunition Plant in Arden Hills and New Brighton, for example -- the MPCA began an effort to find and assess not only large industrial facilities clearly requiring major cleanups, but also the smaller sites across the state where past waste releases or disposal, though less visible, still threaten the health, environment or economy of Minnesota citizens.

Consequently, the agency increasingly is turning its attention toward the old municipal dumps, former gas manufacturing plants, defunct drycleaning operations, and other "sites next door." Many of these sites are entering investigation and cleanup processes through voluntary programs, while others are being discovered and prioritized through site assessment programs.

For example, in FY98, the MPCA launched a Baseline Evaluation Project to estimate how many site cleanups Minnesota must face in the future. The project's assessment team had initially estimated that between 3,000 and 7,000 additional contaminated sites might merit at least some degree of evaluation. So, the MPCA began its statewide effort by evaluating 3,000 known contamination sites to determine which ones might pose threats to public health or the environment. Initial screening reduced this number to 2,300 potential sites meriting further evaluation.

During FY99, the MPCA evaluated approximately 560 of those 2,300 sites under the Baseline Evaluation Project, bringing the total number of sites screened and evaluated under the project to 1,260. So far, fifty of the sites have been recommended for more extensive evaluation under the Superfund program.

MPCA staff have worked closely with county and city environmental staff in this effort, not only to accurately locate and evaluate these sites, but also to identify any additional undiscovered sites of concern. The MPCA expects to complete this statewide evaluation effort by January 31, 2000.

Finally, the MPCA is also committed to completing most of its Superfund sites by 2006. A smaller, integrated remediation program will likely be necessary beyond that point to address any newly discovered sites and to oversee ongoing remediation or maintenance activities. This will allow the Agency to shift resources from remediating contaminated sites to guarding against future contamination. In the future, the MPCA will focus increasingly on contamination prevention, technical assistance, training, and education.

Improving Superfund Responsiveness

Although the need for the Superfund program has not yet disappeared, there is room for improvement in how the program accomplishes its goals. Areas where we need to improve include speeding up investigation and cleanup of existing sites and responding more quickly to contamination at newly discovered or reported sites. Therefore, during FY99, staff and management of the Superfund program began efforts to reinvigorate the program, and are planning to streamline response processes in order to complete response actions at all known sites. Tools for accomplishing these goals include more systematic planning of site activities, risk-based decision-making guidance, more effective use of existing legal and administrative authorities and procedures, and partnering with local governments and other organizations whenever possible.

The program is also working to ensure that coordination continues to improve internally among different facets of the program (e.g., between "traditional" Superfund and VIC), and between the program and other remediation-related programs (e.g., the Resource Conservation and Recovery Act program, Leaking Underground Storage Tanks program, Department of Trade and Economic Development (brownfields grants), and city and

county programs). Such coordination is especially important in facilitating redevelopment of contaminated sites.

Pollution Prevention in the Cleanup Process

Near the close of FY98, the MPCA received a two-year grant from EPA to develop guidelines and voluntary measures for integrating pollution-prevention practices into our cleanup programs. Such measures would not seek to exceed or extend the scope of authorities or responsibilities of the Superfund or VIC programs. Rather, the purposes of such measures would be to reduce costs, resource and energy use, and pollution during remediation and redevelopment projects. Such practices may include, for example, changing feedstocks at a facility, combining cleanup systems and ongoing operations, and promoting use of "green" building materials during redevelopment.

During FY99 and into FY00, a work group including representatives of various industrial sectors, local government, state agencies, and environmental groups met to determine how pollution prevention might be better incorporated into investigating and remediating Superfund and VIC sites. The group also produced a report and other materials which might help site owners, tenants, developers, and public agencies do a better job of reducing material or energy waste and preventing pollution.

Participants in this cooperative effort were invigorated by the combination of practical industry experience with the expertise of various other groups. Together they developed goals, methods of leveraging resources, and incentives for responsible or voluntary parties to improve overall resource use and disposal practices while also achieving long-term cost savings. The materials the group produced are currently under review by MPCA management, and staff plan to place them on the MPCA website for public accessibility following approval.

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