

## 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 2000 (FY00) (July 1, 1999 – June 30, 2000) by the MPCA and the MDA. Table 1 (next page) details expenditures and income under MERLA for FY00.

The MPCA's and MDA's administrative costs represented salaries for 38 full-time equivalent positions (34 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. FY00 Account figures are current as of FY00 financial closing on September 30, 2000, 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 \$2000.

### MERLA Responsibilities

The MPCA/MDA Superfund programs fulfill functions specified in MERLA for the 112 sites currently on the state's Permanent List of Priorities (PLP, the state Superfund list), as well as for more than 552 MPCA projects and 88 MDA projects addressed under voluntary investigation and cleanup programs governed by the Land Recycling Act of 1992. MPCA/MDA Superfund responsibilities fall into



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**Table 1**  
**MERLA account expenditures and income**

<b>Balance Forward 7-1-99</b>	<b>\$ 10,342,000</b>
Plus Prior Year Adjustment	\$ 0
<b>Adjusted Balance Forward</b>	<b>\$ 10,342,000</b>
<b>Income to the Fund (FY00)</b>	
Transfer from Motor Vehicle Account	\$ 3,200,000
Superfund Reimbursement	\$ 1,894,000
Hazardous Waste Generator Tax	\$ 1,441,000
Investment Income	\$ 772,000
VIC/Property Transfer	\$ 684,000
Transfer from Solid Waste Fund (NRD)	\$ 427,000
Transfer from Drycleaner Account	\$ 236,000
Penalties	\$ 137,000
Other	\$ 179,000
Less Revenue Refund	\$ (155,000)
<b>Total</b>	<b>\$ 19,157,000</b>
<b>Expenditures from the Fund (FY00)</b>	
Oversight/Administrative	\$ 4,403,000
(MDA= \$273,000)	
Site-specific and Support Costs	\$ 2,639,000
(MDA=\$18,000)	
Trade and Economic Development	\$ 700,000
Department of Natural Resources/NRD	\$ 427,000
Information Systems Initiative	\$ 150,000
Natural Resource Damages (NRD)	\$ 3,000
Department of Revenue (processing charge)	\$ 2,000
<b>Total Expenditures and Obligations</b>	<b>\$ 8,324,000</b>
<b>Account Balance 6-30-00</b>	<b>\$ 10,833,000</b>

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 2,183 reports of emergencies and spills in FY00. The MDA received an additional 149 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 FY00, 65 emergencies were declared under MERLA authorities. The MPCA spent \$429,286 from the Superfund Account to respond to these emergencies. The MDA spent an additional \$6,600 from the Account in responding to pesticide- or fertilizer-related emergencies.

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

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

### **Voluntary Investigation and Cleanup**

Minnesota has long been at the forefront of the national movement to return property with known or suspected environmental problems to productive use. A coalition of legislators, state agencies, local governments, environmental attorneys, environmental consultants, business and industry representatives, and nonprofit organizations worked together to design the Land Recycling Act of 1992. The Act facilitates cleanup and redevelopment of properties which developers and lenders might otherwise avoid due to potential Superfund liability, by providing a process for seeking liability assurances.

The voluntary cleanup programs of the MPCA and the MDA are involved to varying degrees in most of Minnesota's redevelopment projects on "brownfield" properties. 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 1,575 projects. Of those, 1,023 have been either cleaned up, found acceptable for purchase, refinancing or redevelopment, or have been transferred to other regulatory programs for appropriate decision-making and actions. The experience of recent 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.

Last year, 16 new sites entered the MDA's Voluntary Cleanup and Technical Assistance Program (VCTAP), begun in 1996. Currently, 88 sites remain "open" cases. The VCTAP has closed a total of 61 sites to date, of which 9 were closed in FY00. 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.

### **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.

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

At the close of FY00, 25 Minnesota sites were listed on the NPL, with no sites added to or removed from the list during the fiscal year. There were 112 sites on the PLP; five sites were taken off the PLP during the fiscal year, and no sites were added. (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 listing a site 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 evaluate cleanup alternatives. Following a decision on the needed activities, a plan for remedial design/remedial action is developed and implemented. If financially viable

responsible parties are identified at any point during investigation or cleanup, the state may attempt to secure their cooperation and recover costs from them.

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

**Table 2**  
**Site-specific use of MERLA fund dollars in FY00**

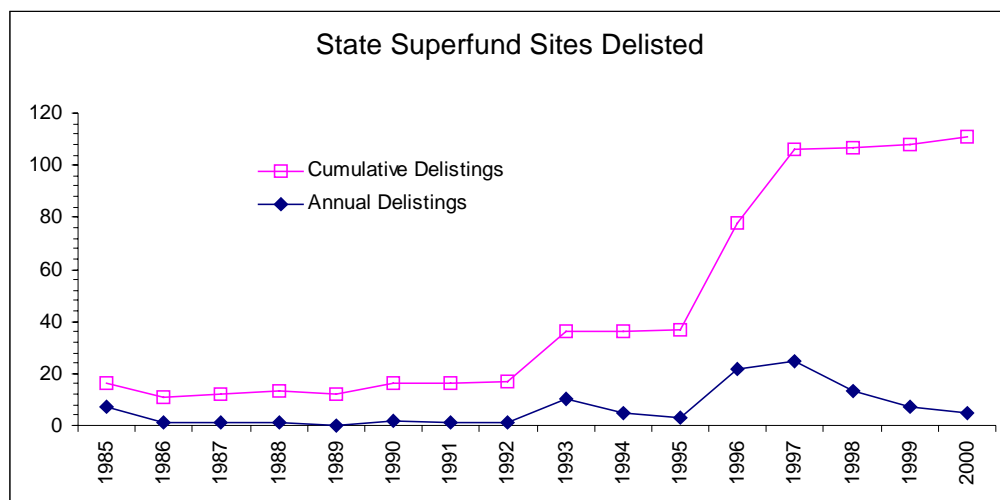
Arrowhead	\$ 38,827
Blaine Municipal Wellfield	\$ 63,763
Castle Rock (MDA)	\$ 1,721
Duluth Dump	\$ 10,202
Faribault Municipal Well Field	\$ 7,483
Interlake	\$ 25,869
Kurt Manufacturing	\$ 507
LeHillier	\$ 8,234
Long Prairie GW Contamination	\$ 50,778
MacGillis and Gibbs	\$ 103,530
Perham	\$ 170,867
Pig's Eye Dump	\$ 613,751
Pilgrim Cleaners	\$ 31,022
Red Hanson	\$ 690
Rice Municipal Wellfield	\$ 2,142
Schloff Chemical and Supply	\$ 150
S. E. Brainerd GW Contamination	\$ 3,005
Winona GW Contamination	\$ 77,069
PA/SI state lead	\$ 54,773
Hazardous Waste Spills, Emergencies (PCA)	\$ 429,286
Emergencies (MDA)	\$ 4,701
<b>Subtotal (site-specific)</b>	<b>\$1,698,370</b>
Site-specific legal expenses (PCA)	\$ 146,980
Site-specific lab analytical services (PCA)	\$ 80,468
Site-specific legal expenses (MDA)	\$ 0
Site-specific lab analytical services (MDA)	\$ 11,906
<b>Subtotal (site-specific support)</b>	<b>\$ 239,354</b>
<b>Total FY00 site-specific expenditures</b>	<b>\$ 1,937,724</b>

Minnesota's 25 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 state match of either 10 percent of the cost of site-specific remedial actions when no state or local government has been identified as a responsible party, or 50 percent if the site was owned or operated by a state or local governmental entity. During FY00, no funds were spent on state-match requirements for site cleanup.

Most of the worst Superfund sites in Minnesota have already been listed on the PLP, and many have been cleaned up or are currently undergoing response actions. Overall, Minnesota Superfund sites are now being delisted from the NPL and PLP faster than they are being added. Figure 1 shows the number of sites delisted from the PLP each year since the beginning of the Superfund program and the cumulative number of deletions over time.

**Figure 1**



Nevertheless, the Superfund program remains responsible for identifying and addressing problems which continue to pose threats to the health and environment of Minnesota citizens. During FY2000, the MPCA completed its "Baseline Evaluation Project" to evaluate approximately 3000 potential Superfund sites in Minnesota. The MPCA determined that approximately 50 sites need further evaluation.

The MPCA is also attempting to determine a final tally of old "uncontrolled" hazardous waste sites in Minnesota, including those which may not have been included in previous evaluation efforts or for which final action decisions were never made. These may include many former coal-gas manufacturing plants, locations of former drycleaning operations, and other sites across the state where past waste releases or disposal, though no longer highly visible, may threaten the health, environment, or economy of Minnesota

citizens. The goals of this effort are both to locate sites and make final decisions on whether they pose enough risks to merit further action.

For example, the MPCA is currently conducting a study of contaminated drinking-water supplies. The MPCA has been receiving monitoring results from the Minnesota Department of Health (MDH) on public water-supply systems since 1995. The MDH regulates the operation of public drinking-water supplies throughout Minnesota and samples drinking-water systems to ensure safe and reliable drinking water.

The MDH notifies the MPCA of detections of contaminants in these drinking-water supplies. The MPCA has used this information in the past to identify possible Superfund or petroleum-release sites which may have been sources of the contaminants. In April, 2000 the MPCA began an evaluation of more than 826 monitoring points contaminated by non-petroleum releases. This initial screening identified 39 drinking-water systems as high priority for further evaluation. The MPCA hired a contractor to identify potential sources of the contamination in these water systems.

### **Superfund and Sustainable Communities**

When federal and state Superfund programs evolved during the early 1980s, the primary goal of the programs was to clean up the worst by-products of our industrial past — highly contaminated factories, military bases, mines and dumps. Many of these were owned by large companies or even by various units of government.

While finding and investigating such sites, however, Superfund programs discovered there were more of them than first believed. Improvements in risk-assessment techniques and chemical analysis also showed that more chemicals were posing health risks than previously known, and often at lower levels, especially in drinking water.

As the economy evolves and most large industrial sites are cleaned up or controlled, the “average” new site may become smaller and will not necessarily be in an urban setting. Nor will it likely be owned by a large corporation. In fact, many contaminated sites are no longer owned by any financially solvent party, and may be tax-forfeited properties. Such sites often come to the attention of local governments and regulators in the course of redevelopment efforts. They may be on Main Street or even in isolated rural areas.

Although such sites may present lower risks than many of the more-familiar large industrial sites, they may pose health risks nonetheless, depending on whether they have contaminated drinking water supplies or how they are to be redeveloped. In fact, they may be sources of significant ground-water contamination, an important issue in areas where most people drink water from private wells.

A site’s location often limits both its market value and the amount of potential income it could generate after redevelopment. These factors in turn limit the abilities of potential

sellers, buyers, or redevelopers to pay for investigation and any necessary cleanup. Moreover, banks may refuse to provide loans for purchase and redevelopment until they are confident that risks are acceptable. Properties like these can become caught in a vicious circle of liability concerns and insufficient capital to address them.

But such sites can be important to an area's economy, particularly in rural counties and smaller communities, where even a few additional businesses can noticeably boost economic vitality and the range of services available to citizens. So, from a community standpoint, such sites represent lost opportunities — opportunities to recycle properties back into viable businesses.

By helping to “recycle” land, the state Superfund program can also make a real contribution to the economic vitality and sustainability of communities. The Superfund program is available to investigate such sites in order to determine whether they pose significant human health or environmental risks and, if so, the program can help fund cleanup of the sites. The sites can then become available for redevelopment, thus helping to preserve the vitality and sustainability of communities across the state.

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