

Potentially Responsible Party Searches

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Background

The Bureau of Land Management (BLM) is the lead agency on BLM-managed lands to implement the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 authorities under Executive Orders 12580 and 13016. The National Contingency Plan (NCP) and CERCLA require that the lead agency pursue cost recovery of funds spent for the study and/or cleanup of a site with a release or threat of a release of a hazardous substance. It is also BLM policy that where BLM has expended such costs and that where a viable Potentially Responsible Party (PRP) exists, BLM shall pursue recovery of the costs spent by the BLM from the PRP. BLM policy further requires that where a PRP is identified prior to BLM incurring costs for study or cleanup of a site with a release or threat of release of a hazardous substance under CERCLA, that the PRP be provided the opportunity to complete the site studies and cleanup action if in BLM's estimation the PRP is technically and financially capable of performing those actions.

Discussion

Any person who qualifies as a PRP may be held liable for the government's costs for response actions not inconsistent with the NCP, which include the costs for investigations, site monitoring, sampling, alternatives evaluation, legal work, contractors, personnel time, and equipment. In order to implement Department of the Interior (DOI) policy to aggressively pursue PRPs to correct their contamination of Public Lands and facilities, and/or to recover the full costs associated with a cleanup, it is necessary to conduct a PRP search to ascertain whether there exist any viable PRPs from whom to pursue cost recovery. This search will determine the identity and status of PRPs, as well as develop the evidence of liability that may be used in a judicial or an administrative action.

It is BLM policy that a PRP search should be completed at every site where BLM conducts a response action, except when the response action is being handled as part of a criminal enforcement measure, when the PRPs are already known, or when there are clearly no identifiable PRPs. The latter case must be documented according to the guidelines that follow. A PRP search should be initiated once the decision is made by BLM that a response action should be taken, and none of the aforementioned

criteria applies. However, the PRP search process may continue throughout the cleanup stages.

In general, BLM uses a two-step process in conducting PRP searches. The steps are an initial evaluation of the situation and then if necessary, a more thorough, in-depth research of the applicable records. The evaluation process consists primarily of data collection and an initial title search of the records. This PRP search evaluation is a relatively inexpensive effort to identify PRPs at a site. These evaluations generally consist of the following activities:

- identifying the site with a legal description/name
- collecting and compiling records, including an initial title search of the site
- referencing likely contaminants of concern and the time frames in which they were generated or disposed of at the site
- identifying current/past site operators/owners at the time when contaminants of concern were used
- preparing a PRP search evaluation report

After this report is completed, it should be reviewed and a decision should be made as to whether additional work needs to be conducted. If there are



significant data gaps or if PRPs are identified then their financial viability would need to be researched. If no further work needs to be performed then this decision should be documented for the files. If however, additional work is required, then a more thorough PRP search should be undertaken and should include the following activities:

- collecting and compiling additional records for review
- determining the history of operations at the site
- developing a PRP status/history update
- determining the financial viability of the PRPs
- obtaining PRP addresses

- interviewing persons who have knowledge of the site operations
- preparing a final PRP search report

PRP searches can be conducted in-house by trained BLM staff, or through the use of a contractor. Any person who conducts these searches should have the ability to search title information, review financial records, and assess mining claim and patent records. Additionally these persons should have sufficient background in CERCLA and other environmental laws to make assessments of whether parties are PRPs at a site and to determine if waste is a hazardous substance.

If a PRP search evaluation is undertaken by a contractor it can take up to 3 months to complete and cost anywhere between \$1,500 and \$3,000. A more complex, thorough search by a contractor can take several months and upwards of \$10,000 to complete.

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