Region 5 resolves multi-media enforcement action against Ashland, Inc. under the National Enforcement Screening Strategy (NESS) / Canton, Ohio; St. Paul, Minnesota; Catlettsburg, Kentucky

IMPACT: On October 1, 1998, the United States simultaneously filed a Complaint and lodged a Consent Decree in this matter in the Eastern District of Kentucky. The Consent Decree resolves violations of the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), the Clean Water Act (CWA), the Emergency Planning and Community Right to Know Act (EPCRA), and the Toxic Substances Control Act (TSCA) at Ashland’s facilities in Canton, Ohio, St. Paul, Minnesota and Catlettsburg, Kentucky.

The Consent Decree encompasses an innovative $32.5 million settlement which includes significant civil penalties, full corporate-wide compliance, and substantial supplemental environmental projects ("SEPs"). The settlement provides for the payment of a cash penalty in the amount of $5,864,000, plus SEPs totaling $14,859,000. Remedial actions to attain compliance are estimated to cost an additional $11,800,000. One of the six SEP projects is the renovation and donation by the company of a 274 acre prairie grass ecosystem to the State of Minnesota for dedication as a permanent scientific and natural preservation and study area. This SEP was credited in the settlement at $631,000 and the unique ecosystem was appraised at a value of $87 million. Two of the other SEPs provide for the installation of hydrofluoric acid suppression systems protective of the citizens surrounding the Canton and St. Paul Park facilities. These systems are designed to prevent Bhopal-type chemical cloud disasters.
BACKGROUND: The Ashland Petroleum Company operated major petroleum refineries in three states. In June of 1996, EPA targeted these facilities for multi-media inspections following the first national review under the new NESS initiative. This selection was made because each refinery was believed to have serious ongoing violations under multiple statutes, the refining industry is a national priority sector, and regional staff felt that Ashland had demonstrated a corporate-wide policy of doing the minimum necessary to comply with environmental laws and then only after threat of litigation and long and difficult negotiation.

In the Fall of 1996, all three of these refineries were comprehensively inspected under all major EPA statutes. The inspections were lead by NEIC with participation by Regions 3, 4, and 5 and the appropriate states. Numerous violations of the CAA, CWA, and RCRA were documented at all facilities. In addition, violations of EPCRA and TSCA were found. Groundwater contamination was also detected at each facility. A multi-media/multi-facility referral was made to the Department of Justice in June of 1997. The States of Minnesota, Ohio, and Kentucky were invited to fully participate in the investigation, litigation, and negotiation of these violations. The States declined to participate, but requested that they be allowed to resolve the groundwater contamination problems separately with the company. The State of Minnesota has negotiated a settlement protective of the groundwater. Ohio and Kentucky are currently in negotiations with Ashland on this issue.

On January 1, 1998, Ashland and Marathon Oil formed a joint venture known as Marathon Ashland Petroleum, which now operates the subject facilities. The defendant, Ashland, is responsible for complying with the terms of the consent decree. Marathon Ashland Petroleum is responsible for compliance with all statutes at the facilities after January 1, 1998.

This settlement is an excellent example of the teamwork of staff from several Regions, Headquarters, NEIC and the Department of Justice, resulting in a significant nationwide cleanup of all facilities of a corporate polluter. The scope of this case, both conceptually and geographically, demanded the participation and coordination of a large number of staff from wide ranging parts of the Agency. The core work was done by Regions 4 and 5 and OECA’s Multi-Media Division.

Cast Contact: Michael Smith, Multi-Media Branch I, (312) 886-6522

Region 5 signs Order resolving CERCLA and EPCRA claims against B.F. Goodrich Company / Avon Lake, Ohio

IMPACT: On December 16, 1998, U.S. EPA and Geon Company ("Geon"), a wholly owned subsidiary of B.F. Goodrich Company, entered into a Consent Agreement and Consent Order ("CACO") resolving U.S. EPA's claim that B.F. Goodrich Company violated CERCLA § 103 and EPCRA § 304 at Geon's now defunct vinyl chloride polymerization facility in Avon Lake, Ohio. In the CACO, Geon, on behalf of B.F. Goodrich Company, agreed to pay a penalty of $15,000 and to conduct a supplemental environmental project valued at $22,650 involving the purchase of thermal imaging camera equipment for the Avon Lake Fire Department. The thermal imaging camera provides the firefighter with the ability to see through smoke. The equipment allows the firefighter to locate potential victims as well as the seat of the fire more rapidly.

BACKGROUND: On December 19, 1994, Region 5 issued an administrative complaint (Docket No.[CERCLA]/EPCRA 002-95) alleging that B.F. Goodrich Company (1) failed to immediately notify the National Response Center of an 81 pound release of vinyl chloride on January 2, 1992, in violation of CERCLA § 103; (2) failed to immediately notify the National Response Center of a release of an 825 pound release of vinyl chloride on November 18, 1992 in violation
of CERCLA § 103; and (3) failed to immediately notify the Ohio State Emergency Response Commission of the November 18, 1992 release in violation of EPCRA § 304. The total penalty assessed in the Complaint for the three counts was $75,000. Judge Greene, in two orders issued in March and April of 1998, denied the parties cross motions for accelerated decision.

Case Contact:  Ignacio L. Arrázola, Multi-Media Branch II, (312) 886-7152

Region 5 settles Administrative Complaint against Big River Zinc Corp. for violations of EPCRA and RCRA / Sauget, Illinois


The EPCRA counts alleged that Big River Zinc, Corp. failed to notify the State Emergency Response Commission, and the Chicago Local Emergency Planning Committee for a release of an extremely hazardous substance from its facility in Sauget, Illinois in amounts equal to or greater than the reportable quantity. Additionally, the Region alleged that Big River Zinc, Corp. failed to properly store certain hazardous wastes; failed to submit required notification of treatment technology in use at facility, as well as, failed to keep required records regarding such treatment technology; failed to satisfy certain requirements of a generator storing hazardous waste 90 days or less without a permit; failed to keep on-site copies of notification forms for hazardous waste manifests, and failed to send copies of two hazardous waste manifests to the Illinois Environmental Protection Agency.

On October 8, 1998, Judge Pearlstein granted the Region’s motion to withdraw the EPCRA counts without prejudice. The Region withdrew the EPCRA counts when the Company discovered that its report, used by U.S. EPA as evidence of the EPCRA violations, inaccurately reflected the amount of substance released. The Region proposed a penalty of $75,150 for the RCRA violations.

On October 30, 1998, the Acting Regional Administrator signed a Consent Agreement and Consent Order (CACO) that resolves the remaining RCRA counts. The CACO requires the Respondent to pay a penalty of $25,406 and to conduct a Supplemental Environmental Project (SEP). The SEP reduces the amount of cadmium and lead the Company disposes of through purchase and installation of a permanent fiberglass cover for a thickener tank containing impure zinc sulfate. Currently, Respondent uses a temporary Styrofoam cover which becomes contaminated with cadmium and lead. Respondent disposes of the contaminated Styrofoam cover as a hazardous waste (D006 and D008). The SEP will cost approximately $185,562.

Case Contact:  Leslie A. Kirby, Multi-Media Branch II, (312) 886-7166

Consent Decree lodged resolving multimedia action against British Petroleum Oil Company (BP) for violations of the Clean Air Act, CERCLA, and EPCRA, including $1.4 million civil penalty / Toledo, Ohio
IMPACT: On March 15, 1999 a Consent Decree resolving a multimedia civil action against BP Oil Company (BP) was lodged with the Federal District Court in Toledo. The Decree resolves an enforcement action involving the BP refinery located in Toledo, Ohio. The action concerned violations of the New Source Performance Standards (NSPS) and the Prevention of Significant Deterioration (PSD) provisions under the Clean Air Act (CAA), the Ohio State Implementation Plan (SIP), the emergency notification provisions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). The Decree provides for the payment of a $1.4 million civil penalty, the performance of Supplemental Environmental Projects (SEPs) valued at $350,000, and the reporting, analysis, and correction of certain future flaring events.

BACKGROUND: The Complaint filed on December 5, 1997 alleged that BP discharged excess sulfur dioxide into the atmosphere from its Claus Sulfur Recovery Unit (SRU) and associated control device, in violation of the petroleum refinery provisions of the NSPS, the general provisions of the NSPS which require operation and maintenance consistent with good air pollution control practice for minimizing emissions, and various permits. The Complaint also alleged that BP, by operating and maintaining the SRU in a manner which resulted in shutdowns of the SRU and increased sulfur dioxide emissions, violated the general provisions of the NSPS which require good air pollution control practice for minimizing emissions. In addition, other counts contained in the Complaint involved allegations that BP flared fuel gas containing excess hydrogen sulfide from the SRU flare; allegations of tears in the seal fabric of external floating roof tanks; and allegations that BP failed to immediately report certain releases of air pollutants to the atmosphere, including hydrogen sulfide, in violation of the emergency notification provisions of CERCLA and EPCRA.

In resolution of the United States’ allegations that certain flaring of acid gases violates the general and petroleum refinery provisions of the NSPS, the Consent Decree requires BP to monitor and report to Region 5 all flaring incidents of acid gases. Further, the Consent Decree requires BP to analyze each such flaring incident to determine the cause of the incident, and, upon such determination, implement corrective action to prevent recurrences.

The United States and BP have also agreed to the performance of two SEPs which directly address concerns of the local community. First, BP will purchase, donate and have installed an emergency response telephone notification system that will be capable of notifying local and county residents of emergencies. BP has agreed to spend $150,000 for this project. Second, BP will purchase, donate, and have installed an upgraded radio and paging system for the local fire department. BP has agreed to spend $200,000 for this project.

Case Contacts: Edward J. Messina, Multi-Media Branch II, (312) 353-8892
William H. Wagner, Multi-Media Branch II, (312) 886-4684

Consent Decree entered in multi-media civil case against British Petroleum Oil Company (BP) for violations of the Clean Air Act, CERCLA, and EPCRA / Toledo, Ohio

IMPACT: On May 5, 1999 a Consent Decree resolving a multimedia civil action against BP Oil Company (BP) was entered with the Federal District Court in Toledo. The Decree resolves an enforcement action involving the BP refinery located in Toledo, Ohio. The action concerned violations of the New Source Performance Standards (NSPS) and the Prevention of Significant Deterioration (PSD) provisions under the Clean Air Act (CAA), the Ohio State Implementation Plan (SIP), the emergency notification provisions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). The Decree provides for the payment of a $1.4 million penalty.
civil penalty, the performance of Supplemental Environmental Projects (SEPs) valued at $350,000, and the reporting, analysis, and correction of certain future flaring events.

BACKGROUND: The Complaint filed on December 5, 1997 alleged that BP discharged excess sulfur dioxide into the atmosphere from its Claus Sulfur Recovery Unit (SRU) and associated control device, in violation of the petroleum refinery provisions of the NSPS, the general provisions of the NSPS which require operation and maintenance consistent with good air pollution control practice for minimizing emissions, and various permits. The Complaint also alleged that BP, by operating and maintaining the SRU in a manner which resulted in shutdowns of the SRU and increased sulfur dioxide emissions, violated the general provisions of the NSPS which require good air pollution control practice for minimizing emissions. In addition, other counts contained in the Complaint involved allegations that BP flared fuel gas containing excess hydrogen sulfide from the SRU flare; allegations of tears in the seal fabric of external floating roof tanks; and allegations that BP failed to immediately report certain releases of air pollutants to the atmosphere, including hydrogen sulfide, in violation of the emergency notification provisions of CERCLA and EPCRA.

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Case Contacts: Edward J. Messina, Multi-Media Branch II, (312) 353-8892
William H. Wagner, Multi-Media Branch II, (312) 886-4684

Region 5 enters in Consent Agreement and Consent Order resolving EPCRA and CERCLA violations by Dietzgen Corporation / Des Plaines, Illinois

IMPACT: On February 24, 1999, the Acting Regional Administrator, U.S. EPA Region 5, signed a Consent Agreement and Consent Order (CACO) under CERCLA Section 103 and EPCRA Sections 304 and 312, pursuant to which Dietzgen Corporation, agrees to pay a civil penalty of $61,810.

BACKGROUND: On September 17, 1998, U.S. EPA filed a complaint for $92,198 against Dietzgen, alleging violations of CERCLA Section 103 and EPCRA Sections 304 and 312.

The complaint alleged that Dietzgen failed to promptly notify the National Response Center, State Emergency Response Commission, and Local Emergency Planning Committee of a release of nitrogen dioxide, as well as failed to file completed Emergency and Hazardous Chemical Inventory (Tier) forms for calendar years 1994-1996. The release of nitrogen dioxide at the Dietzgen facility occurred when 21 liters of 98% nitric acid was poured into a 55 gallon drum containing 30 gallons of methyl ethyl ketone (MEK). Based on Dietzgen’s cooperative attitude, newly presented evidence to U.S. EPA on the amount of nitrogen dioxide released, and the reaching of a settlement in principal within 90 days, U.S. EPA mitigated the penalty to
$61,810 for settlement.

Case Contact: Robert H. Smith, Multi-Media Branch II, (312) 886-0765

Region 5 and Marsh Supermarkets, Inc. enter into Consent Agreement and Consent Order in CERCLA/EPCRA case / Indiana

BACKGROUND: On November 24, 1998, U.S. EPA issued an Administrative Complaint against Marsh Supermarkets, Inc., for the assessment of a penalty pursuant to Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right-to Know Act (EPCRA), 42 U.S.C. § 11045. The Complaint contained five counts and alleged violations of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Sections 304(a) and © of EPCRA, 42 U.S.C. § 11004(a) and ©. The Complaint sought a total civil penalty of $57,032. Specifically, Counts I, II and III allege that the Respondent failed to immediately notify the National Response Center (NRC), the Indiana State Emergency Response Center (SERC) and the Delaware County Local Emergency Planning Committee (LEPC) of a 1000 lbs. release of anhydrous ammonia, respectively. Counts IV and V allege that Respondent failed to provide a written follow-up notice to the SERC and the LEPC as soon as practicable, respectively.

IMPACT: On March 30, 1999, U.S. EPA and Marsh Supermarkets entered into a Consent Agreement Consent Order to settle this case. The CACO reduced the proposed penalty to $25,485. Initially, U.S. EPA had calculated the penalty for these three counts at a high extent and middle gravity level. Thus, each of the first three Counts carried a penalty of $13,751. However, factual information provided after the Complaint was issued dropped the three Counts to a middle extent and middle gravity level thereby reducing the penalty to $6,876 per Count. This reduces the total penalty from $57,032 to $36,407. In addition, the enforcement team felt that the Respondent was entitled to a 20% attitude reduction of the penalty. The Respondent was cooperative, responsive and well prepared during the settlement discussions. The team did not propose the full 25% reduction of the penalty based on attitude because during the information request period the Respondent had to be asked twice for certain information. Lastly, the penalty policy provides that if the Respondent and the Agency reach a settlement in principle within 90 days of the issuance of the Complaint the Respondent is entitled to an additional 10% reduction in penalty. Respondent falls under this category and was, therefore, entitled to the 10% reduction. Thus, the 30% total reduction of the revised penalty results in a settlement penalty of $25,485.

Case Contact: Eva Hahn, Multi-Media Branch I, (312) 886-6833

Region 5 reaches settlement in multi-media case against Northwestern Steel and Wire Co. / Sterling, Illinois

BACKGROUND: A multi-media administrative complaint was filed in the above-referenced matter on September 29, 1998. The complaint proposed a civil penalty of $92,070.00 ($85,910-RCRA/$6160-TSCA) for Northwestern Steel and Wire Company's ("Northwestern") failure to comply with certain RCRA and TSCA regulations. The violations alleged in the complaint were discovered during a multi-media inspection of the facility which was conducted in July of 1997. The Northwestern facility is a steel-making plant which houses the world's largest electric arc
furnace.

IMPACT: Pursuant to this administrative settlement, Northwestern will pay $25,637.00 in cash and perform two supplemental environmental projects (SEPs) valued at approximately $126,000.00. The RCRA SEP is a pollution reduction project and comprises construction of a concrete pad and sump system. The concrete pad will prevent direct contact of K061 dust/sludge to the ground. K061 dust/sludge is a hazardous waste produced from Northwestern's steel-making activities. The pad will be designed so that the dust/sludge is collected in sumps which will feed into the facility's permitted wastewater treatment system. The dust/sludge will be captured as a sludge, treated for LDR, and disposed of in a permitted hazardous waste landfill. The SEP is estimated to capture 10 tons of hazardous waste annually that would otherwise be released to the environment. The TSCA SEP comprises the removal and disposal of the last remaining PCB capacitors in use at the Northwestern facility. The PCB capacitors will be replaced with non-PCB capacitors thus reducing the threat of release of PCBs.

Case Contact: Rich Murawski, Multi Media Branch I, (312) 886-6721