**Session 1: Exercise**

**What Kind of Liable Party Are You, Anyway?**

Assign one (or more) categories of liable person to each ***highlighted example***.

1. Current owner/operator - § 107(a)(1)

2. Owner/operator at the time of disposal – § 107(a)(2)

3. Arranger for disposal of hazardous substances – § 107(a)(3)

4. Transporter of hazardous substances for disposal – § 107(a)(4)

5. None of the above

\_\_\_\_\_ A. ***Trash-R-Us, Inc*.** picked up drums of TCE and other solvents from its customers and dumped them in an abandoned quarry despite having agreed to take them to a local disposal facility. EPA later takes an action to address ground water contamination from the quarry.

\_\_\_\_\_ B. In 1979, ***Joe Smith*** purchased 4 acres of property from a local wood treating company on which he parked his business vehicles for several years. EPA later took a removal action to address contamination on the property from arsenic, chromium and copper.

\_\_\_\_\_ C. ***Kill Them Bugs Co.*** operated a pesticide manufacturing and blending facility for 40 years. *Kill Them Bugs Co*. owned the property during their operations and continued to own the property at the time EPA takes an action to address soil and ground water contamination at and from the Site.

\_\_\_\_\_ D. ***Swift Construction, Inc.*** has an easement on Kill Them Bugs Co.’s property which allows it to access its property where it is building a housing development. Swift Construction, Inc. begins digging within the easement boundaries, unearthing buried waste from Kill Them Bugs Co.’s operations and moving it to a new location on the property.

\_\_\_\_\_ E. ***Pretty Colors Corporation*** manufactured metal widgets in the 1960s. Pretty Colors Corporation contracted with Trash-R-Us, Inc. to remove its drummed spent solvent waste. Pretty Colors Corporation’s drums were dumped in an abandoned quarry. EPA later takes an action to address ground water contamination from the quarry.

\_\_\_\_\_ F. Between 1960 and 1975, ***Landfill Folly, Inc.*** operated a landfilling operation on 60 acres of wetlands owned by local businessman, George Jefferson. Landfill Folly, Inc. accepted both hazardous and non-hazardous waste. EPA later determines that an action is required to address the contamination.

\_\_\_\_\_ G. In 1979, ***Joe Smith*** purchased 4 acres of property from a local wood treating company. He also purchased and continued to operate the Magic Wood, Inc. wood treating business. EPA later took a removal action to address contamination from arsenic, chromium and copper.

\_\_\_\_\_ H. ***Bright Lights Corporation*** operated a facility manufacturing self-illuminated watches and instrument dials, smoke detectors, neutron sources, exit signs, and other merchandise containing radioactive materials. The property, which was leased from a local mining company, became contaminated by Bright Lights Corporation’s activities, causing EPA to take an action to address the contamination.

\_\_\_\_\_ I. ***Trash-R-Us, Inc.*** picked up drums of TCE and other solvents from its customer Pretty Colors Corporation with the intention of taking them to a local disposal facility. Pretty Colors Corporation directed Trash-R-Us, Inc. to take the drums to an abandoned quarry instead. EPA later takes an action to address ground water contamination from the quarry.

\_\_\_\_\_ J. The ***City of Buzzardville*** operated an incinerator to handle the waste and rubbish of its residents. Running out of room, the City of Buzzardsville contracted with Trash-R-Us, Inc. to haul the ashes from the incinerator to a local dump. EPA later takes action at the local dump to address contamination there.

\_\_\_\_\_ K. In 1982, the ***U.S. Fish and Bird Watching Agency***, at Congress’s behest, acquired 1000 acres of local wetlands and former wetlands to create a wild life refuge. Among the 1000 acres is a closed 60 acre landfill into which all manner of hazardous and non-hazardous waste was dumped between 1960 and 1975. The landfill is added to the National Properties List and EPA later determines that an action is required to address the contamination.

**Session 1: Exercise Answers**

**What Kind of Liable Party Are You, Anyway?**

Assign one (or more) categories of liable person to each ***highlighted example***.

1. Current owner/operator - § 107(a)(1)

2. Owner/operator at the time of disposal – § 107(a)(2)

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4. Transporter of hazardous substances for disposal – § 107(a)(4)

5. None of the above

 4 A. ***Trash-R-Us, Inc*.** is most likely liable as a person who transported hazardous substances for disposal. Trash-R-Us, Inc. selected the disposal location for the hazardous substances that it hauled.

 1 B. ***Joe Smith*** is most likely liable as the current owner/operator of the facility. CERCLA is a strict liability statute so it does not matter that he did not dispose of hazardous substances on the property.

 1 & 2 C. ***Kill Them Bugs Co.*** disposed of hazardous substances at the Site during its operations there as a pesticide manufacturer and is potentially liable as the owner and operator of the facility at the time hazardous substances were disposed of there. Because Kill Them Bugs Co. continues to own the facility it is also likely liable as the current owner of the facility.

 3 & 4 D. By digging up the contamination and moving it to a new location on the property, ***Swift Construction, Inc.*** effectively disposed of hazardous substances there. Consequently, Swift Construction, Inc. is potentially liable as both a person who arranged for the disposal of hazardous substances and as a transporter of those hazardous substances for disposal. Because of its easement, which is a right to use property, Swift Construction, Inc. may also be liable as the operator of the property at the time hazardous substances were disposed of there and as the current operator of the property.

 3 E. ***Pretty Colors Corporation*** arranged with a trash hauler to dispose of its

drums of hazardous substances. *Pretty Colors Corporation* is potentially liable as a person who arranged for the disposal of hazardous substances.

 2 F. ***Landfill Folly, Inc.*** did not own the property but did operate it as a landfill which accepted hazardous substances for disposal. Thus, Landfill Folly, Inc. is likely liable as the operator of the property at the time hazardous substances were disposed of there.

1 & 2 G. ***Joe Smith*** not only acquired the contaminated property, he continued to operate it causing the release of hazardous substances into the environment. Joe Smith is potentially liable as both the current owner and operator of the facility but also as the owner and operator at the time hazardous substances were disposed of there.

 2 H. ***Bright Lights Corporation*** operated the facility under a lease agreement. Its operations contaminated the property with hazardous substances. Consequently, Bright Lights Corporation is likely liable as the operator of the facility at the time hazardous substances were disposed of there.

 5 I. Despite the fact that ***Trash-R-Us, Inc.*** picked up drums of TCE and other solvents from its customer and disposed of them at a location that became an EPA clean-up location, Trash-R-Us, Inc. did NOT select the disposal location for the solvents. Trash-R-Us, Inc. is probably not liable.

 3 J. The ***City of Buzzardville*** is likely liable as a person who arranged for the disposal of hazardous substances contained in incinerator ash.

 1 K. ***U.S. Fish and Bird Watching Agency***, is the proud owner of a Superfund Site and is potentially liable as the current owner and operator.