



OFFICE OF INSPECTOR GENERAL

*Catalyst for Improving the Environment*

## Early Warning Report

# Making Better Use of Superfund Special Accounts in Region 8

Report No. 08-P-0102

March 17, 2008

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# At a Glance

*Catalyst for Improving the Environment*

## Why We Did This Review

In February 2006, the Office of Inspector General recommended that the U.S. Environmental Protection Agency (EPA) timely review Superfund special accounts to ensure funds are used consistent with its guidance. We followed up on EPA's progress in implementing this recommendation by evaluating EPA's use of special accounts that had high available balances or were at least 10 years old.

## Background

Section 122(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes EPA to retain and use funds received in settlements to address CERCLA response actions contemplated in the settlement agreements. EPA retains these funds in site-specific accounts, called "special accounts," which are sub accounts within the EPA Hazardous Substance Superfund Trust Fund (Trust Fund).

For further information, contact our Office of Congressional and Public Liaison at (202) 566-2391

To view the full report, click on the following link:  
[www.epa.gov/oig/reports/2008/20080317-08-P-0102.pdf](http://www.epa.gov/oig/reports/2008/20080317-08-P-0102.pdf)

## ***Making Better Use of Superfund Special Accounts in Region 8***

### **What We Found**

Region 8 can reclassify, or transfer to the Trust Fund, approximately \$8 million from the special accounts for the Portland Cement site in Utah. Construction was complete at the site in September 2006. However, in 2005, the Region identified a portion of the Portland Cement special accounts for reclassification. The Region said that there will be minimal but undetermined future costs for site maintenance at Portland Cement. These costs will be paid from the \$8.5 million balance. Region 8 can also reclassify, or transfer to the Trust Fund, approximately \$16,000 from four other special accounts.

Region 8 had not timely reviewed, reclassified, or transferred any of these funds because it was a low priority. The Region told us it planned to close or initiate closing the four other special accounts for approximately \$16,000 by October 2007, but the accounts have not been closed.

After receiving our draft report in February 2008, Region 8 reclassified approximately \$3 million from the Portland Cement special account. The Region said these funds will be used for cleanup needs at the Libby Superfund site in Montana and for Superfund records center site-specific work. The Region documented its plans to reclassify some portion of the remaining special account balance (about \$5 million) after it determines the amount of funds it will reimburse the State of Utah.

Had Region 8 more timely reclassified these special account funds, cleanup needs at the Libby Superfund site or at other sites that receive Trust Fund appropriations may have been met sooner. Once the Region reclassifies the special account funds reviewed here, more funds will be available to support other Superfund priorities.

### **What We Recommend**

We recommend that the Region 8 Administrator reclassify, or transfer to the Trust Fund, \$8 million of the Portland Cement special accounts and approximately \$16,000 from the four other interest-only special accounts. Region 8 agreed with the recommendations, reclassified \$3 million from the Portland Cement account, and said all actions to respond to the open recommendations will be completed by June 15, 2008.



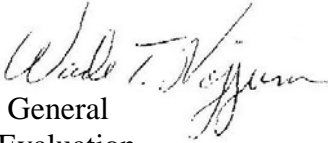
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
INSPECTOR GENERAL

March 17, 2008

**MEMORANDUM**

**SUBJECT:** Making Better Use of Superfund Special Accounts in Region 8  
Report No. 08-P-0102

**FROM:** Wade T. Najjum   
Assistant Inspector General  
Office of Program Evaluation

**TO:** Robbie Roberts  
Region Administrator  
EPA Region 8

This report is to inform you of findings by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) that require immediate action regarding EPA Region 8's management of several Superfund special accounts.

The OIG is conducting a review of (1) EPA Regions' utilization of special account funds for a sample of accounts with high available balances, and (2) EPA Regions' utilization of special account funds for accounts that are at least 10 years old. We are conducting our review in accordance with generally accepted government auditing standards. Section 122(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes EPA to retain and use funds received in settlements to address CERCLA response actions contemplated in the settlement agreements. EPA retains these funds in site-specific accounts, called "special accounts," which are sub accounts within the EPA Hazardous Substance Superfund Trust Fund (Trust Fund).

During our review of selected Region 8 accounts with high available balances and accounts that are at least 10 years old, we found the following for the Portland Cement Superfund site, in Salt Lake City, Utah, and for four interest-only Superfund special accounts.

**Portland Cement:** Region 8 could reclassify or transfer to the Trust Fund approximately \$8 million from the Portland Cement's 089C and 0838 Superfund special accounts, after EPA reimburses the State of Utah for cleanup costs. This is based on information provided by the Region, and in the Region's records, showing the Region has an amount in the special

accounts in excess of future anticipated needs. Reclassifying or transferring these funds is consistent with EPA guidance on managing Superfund special accounts.<sup>1</sup>

As of December 13, 2007, the net balance in Portland Cement’s special accounts was approximately \$8.5 million, including approximately \$4.3 million in interest. Construction was complete at the site in September 2006, and in February 2007, EPA Region 8 staff drafted a reclassification memo for the site’s special accounts. It stated that “EPA Region VIII is satisfied that all activities required for the Portland Cement Sites have been performed.” The memo also stated that the Region was determining the minimal anticipated future operations and maintenance expenses. This was so that remaining special account funds could be used to reimburse EPA’s past costs (reclassification). Region 8 staff stated that the memo was not finalized due to the project manager’s workload, complications on determining the amounts for reclassification and/or transfer to the Trust Fund, and a budget personnel change. For these reasons the memo was not a high priority until January 2008, when the Region finalized a reclassification memo.

In its February 19, 2008, response to our draft report, Region 8 told us that approximately \$500,000 of Portland Cement’s special account will be needed for future site work and maintenance. Some undetermined amount will be needed to refund the State of Utah’s portion of cleanup costs.<sup>2</sup> Based on our review of regional records and information, approximately \$8 million can be reclassified or transferred to the Trust Fund, calculated as follows:

**Table 1: Portland Cement Special Account Funds Available for Better Use**

Account Balance (12/13/07 )	\$8,523,014
Less: Planned Future Site Work, 5-year Reviews, Operations and Maintenance, and Land Use Controls	(-)548,889
<b>Total Available for Reclassification or Transfer</b>	<b>\$7,974,125</b>

Source: OIG analysis of EPA ORBIT data<sup>3</sup> and EPA staff information, rounded to the nearest dollar

**Interest-Only Special Accounts in Region 8:** Reclassification or transfer to the Trust Fund of approximately \$16,000 can occur from four interest-only special accounts. This is because the Region has either used all of the principal funds in the special accounts or will be spending all of the funds in the special accounts to the extent possible. The Region planned to initiate closing these special accounts by October 2007. However, the accounts were not closed because they were not a priority. According to regional data, the balances in the four interest-only accounts that can be reclassified or transferred to the Trust Fund are as follows:

<sup>1</sup> “Special Accounts: Guidance on Key Decision Points in Using Special Account Funds,” Office of Solid Waste and Emergency Response # 9275.1-03.

<sup>2</sup> Region 8 requested that the OIG withhold the potential estimates of funds to be returned to the State of Utah as that amount has not yet been finalized.

<sup>3</sup> EPA’s ORBIT (Office of the Chief Financial Officer Reporting and Business Intelligence Tool) is a Web-based reporting and data analysis tool that accesses financial, administrative, and operational information.

**Table 2: Region 8 Interest-Only Special Accounts**

<b>Special Account Name</b>	<b>Account Number</b>	<b>Balance (2/20/08)</b>
Lowry Landfill (Arapahoe County, Colorado)	0808	\$6,048
Central City/Clear Creek (Idaho Springs, Colorado)	0813	\$7,912
Petrochem Recycling Corp/Ekotek Plant (Salt Lake City, Utah)	08F3	\$2,023
California Gulch (Leadville, Colorado)	0829	\$101
<b>Total</b>		<b>\$16,084</b>

Source: OIG analysis of EPA's ORBIT data, rounded to the nearest dollar

## **Recommendations**

We recommend that the Region 8 Administrator:

- 1) Reclassify \$8 million of the Portland Cement special accounts to fund other priority response activities or transfer these funds to the Trust Fund, as appropriate.
- 2) Reclassify \$16,084 from the Lowry Landfill, Central City/Clear Creek, Petrochem Recycling Corp/Ekotek Plant, and California Gulch accounts to fund other priority response activities or transfer these funds to the Trust Fund, as appropriate.

## **Agency Response and OIG Evaluation**

On the same day Region 8 provided its response to our draft report (February 19, 2008), Region 8 reclassified approximately \$3 million from the Portland Cement accounts to primarily fund work at the Libby Superfund site in Region 8. A relatively small portion of the reclassified funds were also to be used to fund the Superfund records center site-specific work. Region 8 also indicated in its response that the balance remaining after it reimbursed the State of Utah could be reclassified. Regional staff stated that the amount that the State would be reimbursed might be known in about 30 days. OIG recognizes the partial reclassification and a timely reclassification of the remaining balance as meeting the intent of recommendation 1. Nonetheless, the Libby site has had publicly disclosed needs for additional funding for a number of years. Region 8 has been aware it could reclassify some portion of funds since 2005, and the Libby funding needs have been known for at least that long. Region 8's timely reclassification of the remaining Portland Cement special account balance after reimbursement to Utah potentially provides opportunities to address other priority Superfund sites. Recommendation 1 will remain open until the reclassification is complete and amounts reclassified are confirmed.

EPA agreed with recommendation 2. This recommendation will remain open until the reclassifications, or transfers, are complete and the reclassified or transferred amounts are confirmed.

Region 8 stated that corrective actions for both recommendations would be completed by June 15, 2008. We are closing the report in the OIG management tracking system. Please notify the OIG when the reclassifications and transfers are completed and provide documentation supporting the amount reclassified or transferred

We will issue a final report that will discuss other OIG findings on EPA's management of Superfund special accounts. That report will include the Region's final response to the issues identified in this report. If there are questions, I can be reached at (202) 566-0827 or [najjum.wade@epa.gov](mailto:najjum.wade@epa.gov), or you can contact Carolyn Copper at (202) 566-0829 or [copper.carolyn@epa.gov](mailto:copper.carolyn@epa.gov).

## **Status of Recommendations and Potential Monetary Benefits**

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	3	Reclassify \$8 million of the Portland Cement special accounts to fund other priority response activities or transfer these funds to the Trust Fund, as appropriate.	O	Region 8 Administrator		\$7,974.1	\$7,974.1
2	3	Reclassify \$16,084 from the Lowry Landfill, Central City/Clear Creek, Petrochem Recycling Corp/Ekotec Plant, and California Gulch accounts to fund other priority response activities or transfer these funds to the Trust Fund, as appropriate.	O	Region 8 Administrator		\$16.1	\$16.1

<sup>1</sup> O = recommendation is open with agreed-to corrective actions pending;  
 C = recommendation is closed with all agreed-to actions completed;  
 U = recommendation is undecided with resolution efforts in progress



## ***Distribution***

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Assistant Administrator, Office of Solid Waste and Emergency Response  
Chief Financial Officer  
Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response  
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Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance  
Director, Office of Superfund Remediation and Technology Innovation  
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Director, Superfund Remedial Response Program, Region 8  
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