

Summary of Frequently Asked Questions and Answers: The Asarco Settlement and Bunker Hill Superfund Cleanup

In December 2009, EPA announced the largest Superfund settlement in EPA history. Out of a global bankruptcy settlement totaling \$1.7 billion for environmental cleanups at contaminated sites across the country, about \$494 million will go toward Superfund cleanup in the Bunker Hill Superfund site. Among other things, these funds will help EPA continue work in residential areas and carry out a comprehensive cleanup in the Bunker Hill Superfund site. The funds will help clean up contamination that exists throughout the Coeur d'Alene River Basin.

This document answers questions about the settlement and how it relates to the cleanup of the Bunker Hill Superfund Site.

Does this historic settlement pay for all of EPA's Bunker Hill Superfund cleanup costs?

No. While the Asarco bankruptcy settlement is very significant, the funds received represent only about 20% of the overall site cleanup needs. EPA estimates that the cost of a final Bunker Hill remedy, including the Coeur d'Alene Basin and Bunker Hill Box, would be more than \$2 billion.

Can the settlement funds be used on cleanup of other Superfund sites?

No, the settlement funds received for the Bunker Hill cleanup are only to be used at the Bunker Hill site.

How will the funds be used?

As part of the settlement, EPA received funding for Superfund response actions in the Bunker Hill site, including the Bunker Hill Box and the Coeur d'Alene Basin. However, most of the settlement monies, about \$486 million, can only be used to perform EPA-selected cleanup actions in mining-contaminated areas of the Coeur d'Alene Basin, outside of the Bunker Hill Box. EPA was reimbursed \$8 million from the bankruptcy settlement for human health cleanup the Agency already completed in the Bunker Hill Box from 2002 to 2005. The \$8 million is the only EPA bankruptcy settlement funding available for cleanup work in the Bunker Hill Box.

Does this settlement reduce the taxpayer burden for the cleanup?

Yes. When a polluting company pays for Superfund cleanup, the taxpayer cost is lowered. Taxpayers sometimes end up paying the bill for hazardous waste cleanups when polluting companies declare bankruptcy and avoid paying cleanup costs. This settlement demonstrates that bankruptcy does not always shelter a company from paying its share, so that taxpayers won't have to.

How will the settlement affect residential property cleanups?

Ongoing Basin residential property cleanups will continue. At this time, the Idaho Department of Environmental Quality (DEQ) will continue as the lead for implementing this priority human health cleanup work with funding from EPA.

How will the settlement affect the pace of cleanup?

At this time, EPA expects the cleanup work to steadily increase over time and likely reach a stable annual pace that will extend several decades into the future. EPA is carefully considering how to maximize the settlement funds while also moving forward with project priorities. As previously noted, while very significant, the bankruptcy settlement only represents about 20% of the site cleanup needs. Therefore, EPA wants to balance how quickly the bankruptcy settlement funds are expended while ensuring there is enough funding for the remaining 80% of cleanup work.

As cleanup moves forward, more workers and equipment will be seen on the ground, hauling contaminated soil to repositories, capping soil in place, and doing other work to carry out the cleanup. The work will protect human health and the environment. And, with more family wage jobs available, local economies will get a much-needed boost for many years.

Will the overall cleanup get done sooner with this influx of money?

Not necessarily. As previously noted, the bankruptcy settlement only represents about 20% of the funds needed to complete the overall cleanup. However, the settlement allows EPA to do more long-term planning and provide greater certainty about how the cleanup will be implemented over the next several years. This, in turn, will provide more information to the community and ongoing local job opportunities generated by the cleanup. Overall, EPA plans to get the cleanup done as quickly and efficiently as we can, and leave the area a cleaner, safer place.

Will the settlement affect when we'll need new waste repositories?

Most likely, yes. Repositories are necessary to protect people and the environment by safely storing contaminated soils that have been removed from communities and other cleanup areas. If cleanup work steadily increases for a period of time, repositories will fill up more quickly, and we'll need more of them. For example, when cleanup at mine and mill sites takes place, we will look for ways to stabilize the contaminated soils on site. However, this approach will not work at all mine and mill sites so there will still be waste soils that need to be taken to repositories. There is a lot of contaminated soil to clean up, and it's going to be a tough road ahead to figure out where to put all of it. We look forward to working with site residents as we find suitable places for new repositories to support the cleanup.

How does the Asarco settlement affect EPA's upcoming ROD Amendment for the Upper Basin?

The Asarco settlement will help fund implementation of the ROD Amendment. This decision document must be in place before settlement funding is used to implement the selected cleanup work.

What about the Lower Basin--will there be any money reserved for cleaning it up?

Yes. As EPA evaluates how to maximize bankruptcy settlement and other funding sources, the Agency will ensure that resources are available to do cleanup work in the Lower Basin. Studies are going on now to better understand and predict contaminated sediment movement in the Lower Basin. EPA plans to complete a ROD Amendment for the Lower Basin that will build on the increased understanding and provide a more comprehensive cleanup approach for the Lower Basin.

What work will be done in the Bunker Hill "Box" with EPA's settlement money?

The Bunker Hill Box (Box) is the 21-square-mile area in northern Idaho's Silver Valley where EPA's cleanup activities began. As noted earlier, EPA was reimbursed \$8 million from the settlement for human health cleanup the Agency already completed in the Box from 2002 to 2005. These are the only EPA bankruptcy settlement funds available for cleanup work in the Box.

The State of Idaho got money from the settlement, too. What work will be done with Idaho's portion?

The State of Idaho received \$11.8 million from the settlement for the Bunker Hill Box. The funds will be used to operate the Box Institutional Controls Program (ICP) into the future and to establish, operate, and maintain a long-term Box ICP repository for the populated areas of the Box. The State of Idaho was not a party to the Basin bankruptcy settlement because they had already settled with Asarco in 1987.

Will the settlement money be used for interior home cleanup?

Not at this time. Consistent with the 2002 Basin Record of Decision (ROD), EPA will not be cleaning any home interiors in the Coeur d'Alene Basin (outside of the Box). The ROD states EPA will evaluate the need for interior home cleaning after we finish the exterior property cleanups. In the Bunker Hill Box, EPA selected interior cleaning as part of the human health remedy for homes that exceeded 1,000 parts per million (ppm) lead dust concentrations. EPA continues to evaluate ongoing house dust monitoring data in the Box and will provide an updated recommendation in the upcoming Five-Year Review, which will be completed by mid-October 2010. If EPA moves forward with implementing interior cleaning in the Bunker Hill Box, a limited amount of bankruptcy settlement funds could be used for this action (see previous response regarding settlement funds received for Bunker Hill Box).

The Panhandle Health District (PHD) is a resource for interior home cleanups. For example, PHD loans vacuum cleaners to site residents. Vacuuming is one way to reduce in-home dust exposure. PHD can be reached at 208-783-0707.

Will the settlement money be used for lead health screening or treatment?

Settlement money could be used for these activities but no decision has been made to change what has been done in the past. Currently, the Lead Health Intervention Program, which includes the annual blood lead testing program, is funded by the State of Idaho. The State of Idaho receives credit toward its Superfund match obligation by paying for this work. EPA and the State of Idaho continue to look for ways to increase participation

in the blood lead testing program run by Panhandle Health District (PHD). EPA will continue partnering with DEQ, PHD, and local residents to identify possible improvements to the program.

Did the “Federal Trustees” also get settlement money? What does this mean?

Yes, the Federal Natural Resource Trustees received \$79.4 million as part of the bankruptcy settlement. Now that a settlement has been approved, a plan will be developed to address the documented natural resource damages and guide restoration efforts in the Coeur d’Alene Basin by the federal government’s natural resource representatives in the Basin. Those representatives are: the U.S. Fish and Wildlife Service (lead trustee), the Bureau of Land Management, and the U.S. Forest Service, along with the Coeur d’Alene Tribe and in consultation with the State of Idaho. During the restoration planning process, the public will be asked to participate and comment. Once a plan is in place, the settlement funds will be used to restore, replace, rehabilitate, or acquire the equivalent of the damaged natural resources. The settlement provides only a portion of the money needed to restore natural resources damaged by mining and the release of hazardous substances in the Basin. The natural resource restoration planning and implementation will be coordinated with EPA’s cleanup plans. Natural resource restoration actions are in addition to EPA and/or state government cleanup actions at a hazardous waste site and may exceed the level of cleanup actions. The cleanup and restoration activities will involve millions of dollars and will likely span decades.

Who will manage the money and make sure it is spent appropriately?

Most of the bankruptcy settlement funds were placed in a Successor Coeur d’Alene Custodial and Work Trust (Trust). The Trust can only be used to do cleanup work in mining contaminated areas of the Basin, outside of the Bunker Hill Box. The Trust is managed by a Trustee. The Trustee must manage the Trust funds as defined in the Successor Coeur d’Alene Custodial and Work Trust Agreement, which was approved by the bankruptcy court. In general, the Trust will perform work as a limited purpose successor to Asarco, which means that the Trust is stepping into the shoes of Asarco when performing response actions in the Basin. The Trustee will manage the Trust to maximize value and carry out cleanup actions selected and approved by EPA. EPA will oversee the Trust, although as the beneficiary, it cannot direct the Trust’s work. EPA’s decision documents (e.g., Records of Decision and Amendments) will define the work that the Trust performs, which will be further clarified in annual work plans that are approved by EPA. EPA will continue to coordinate with the communities and local, state, tribal, and federal partners in the development, selection, and prioritization of Superfund response actions.

EPA also will directly manage a smaller portion of bankruptcy settlement funds received into EPA special accounts for use at the Bunker Hill site. As EPA evaluates the best use of these special account funds, a top priority will be to ensure that there is sufficient, long-term funding for EPA oversight of the Trust funds.

Will the Trust have an office in the Silver Valley and will local contractors have a chance to bid for work performed by the Trust?

The Trustee plans to open an office in the Silver Valley. When an office is opened will depend, in part, on what work EPA approves the Trust to perform and when that work would be planned to start. The Trust is interested in hiring locally and will conduct an open and competitive contractor bidding process once specific projects are identified. The Trust is not bound by Davis Bacon wage requirements.

How can the Basin Commission or other stakeholders be involved in the Work Trust?

As previously noted, the Trust will perform work pursuant to EPA decision documents. EPA will continue to involve the Basin Commission, the public, and other stakeholders in the development, selection, and prioritization of response actions. However, decisions about what specific projects the Trust (rather than EPA or other agencies appointed by EPA) would perform in a given year will be proposed by the Trustee and approved by EPA.