



AUDIT OF SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEARS 2009 AND 2010

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EXECUTIVE SUMMARY

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as CERCLA or Superfund), which was expanded by the Superfund Amendments and Reauthorization Act of 1986, established the Superfund program to clean up the nation's worst hazardous waste sites.¹ CERCLA seeks to ensure that individuals or organizations responsible for the improper disposal of hazardous waste bear the costs for their actions. It also established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance clean up sites when a liable party cannot be found or the third party is incapable of paying clean up costs. The Trust Fund also pays the Environmental Protection Agency (EPA) for enforcement, management activities, and research and development.

Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for all Superfund litigation. Within the Department of Justice (DOJ), the Environment and Natural Resources Division (ENRD) enforces CERCLA's civil and criminal pollution-control laws. In fiscal year (FY) 1987, EPA entered into interagency agreements with the ENRD and began reimbursing the ENRD for its litigation costs. In recent years, EPA authorized reimbursements to the ENRD of \$25.6 million for FY 2009 and \$25.6 million for FY 2010 in accordance with EPA Interagency Agreements DW-15-92194601-7 (FY 2009) and DW-15-92194601-8 (FY 2010).

¹ 42 U.S.C. Chapter 103 (2010)

The EPA and the ENRD Statement of Work required the ENRD to maintain a system that documented its litigation costs. To this end, the ENRD used a cost distribution system developed and maintained by a private contractor. The system was designed to process financial data from the ENRD Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case broken down between direct labor costs and all other direct costs; (2) non-Superfund direct costs; and (3) allocable indirect costs.²

As required by CERCLA, the DOJ Office of the Inspector General conducted this audit to determine if the cost allocation process used by the ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FYs 2009 and 2010. We compared costs reported in the contractor's accounting schedules and summaries for these 2 years to costs recorded in DOJ accounting records to review the cost distribution system used by the ENRD to allocate incurred costs to Superfund and non-Superfund cases.

We believe that the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FYs 2009 and 2010. However, we make two recommendations: (1) develop processes to maintain documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data, and (2) remedy the \$27,966 of Fees – Expert Witness charges to be paid by the U.S. Attorney's Office.

² The E&A Report is a summary of the total costs incurred by the ENRD during the fiscal year. The report includes all costs (both liquidated and unliquidated) by subobject class and a final indirect cost rate calculation for the fiscal year. Other direct costs charged to individual cases include special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, graphics, and non-capital equipment. Indirect costs are the total amounts paid in the E&A Reports less direct charges and are allocated based on the direct Superfund salary costs on each case.

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INTRODUCTION

In 1980, the Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) to clean up hazardous waste sites throughout the United States.¹ The law addressed concerns about the need to clean up abandoned hazardous waste sites and the future release of hazardous substances into the environment. When CERCLA was enacted, the Environmental Protection Agency (EPA) was assigned responsibility for preparing a National Priorities List to identify sites that presented the greatest risk to human health and the environment. Waste sites listed on the National Priorities List were generally considered the most contaminated in the nation, and EPA funds could be used to clean up those sites. The clean up of these sites was to be financed by the potentially responsible parties – generally the current or previous owners or operators of the site. In cases where the potentially responsible party could not be found or were incapable of paying clean up costs, CERCLA established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance clean up efforts. The Trust Fund also pays for EPA's enforcement, management, and research and development activities.

Because CERCLA was set to expire in FY 1985, Congress passed the Superfund Amendments and Reauthorization Act (SARA) in 1986.² SARA stressed the importance of using permanent remedies and innovative treatment technologies in the clean up of hazardous waste sites, provided EPA with new enforcement authorities and settlement tools, and increased the authorized amount of potentially available appropriations for the Trust Fund.

Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for all Superfund litigation. Within the Department of Justice (DOJ), the Environment and Natural Resources Division (ENRD) administers cases against those who violate CERCLA's civil and criminal pollution-control laws. Superfund litigation and support are assigned to the following ENRD sections: Appellate, Environmental Crimes, Environmental Defense, Environmental Enforcement, Land Acquisition, Natural Resources, and Law and Policy.

¹ 42 U.S.C. Chapter 103 (2010)

² SARA is incorporated into 42 U.S.C. Chapter 103 (2010)

Beginning in FY 1987, the EPA entered into interagency agreements with the DOJ to reimburse the ENRD for its litigation costs related to its CERCLA activities. As shown in Exhibit 1, budgeted reimbursement for Superfund litigation represented, on average, 30 percent of the ENRD's total budget during the 24-year period from FYs 1987 through 2010.

Exhibit 1: Comparison of the ENRD's Appropriations and Budgeted Superfund Reimbursements (FYs 1987 through 2010)

FY	ENRD Appropriations	Budgeted Superfund Reimbursements	Total ENRD Budget
1987	\$23,195,000	\$11,550,000	\$34,745,000
1988	26,194,000	18,473,000	44,667,000
1989	26,456,000	22,100,000	48,556,000
1990	34,713,000	28,754,000	63,467,000
1991	43,683,000	32,799,000	76,482,000
1992	49,177,000	35,607,000	84,784,000
1993	51,445,000	34,534,000	85,979,000
1994	53,364,000	33,809,000	87,173,000
1995	58,170,000	33,879,860	92,049,860
1996	58,032,000	32,245,000	90,277,000
1997	58,049,000	30,000,000	88,049,000
1998	61,158,000	29,963,500	91,121,500
1999	62,652,000	30,500,000	93,152,000
2000	65,209,000	30,000,000	95,209,000
2001	68,703,000	28,500,000	97,203,000
2002	71,300,000	28,150,000	99,450,000
2003	70,814,000	28,150,000	98,964,000
2004	76,556,000	28,150,000	104,706,000
2005	90,856,000	27,150,000	118,006,000
2006	93,974,000	26,319,100	120,293,100
2007	95,093,000	26,056,000	121,149,000
2008	99,365,000	25,594,000	124,959,000
2009	109,093,000	25,600,000	134,693,000
2010	109,785,000	25,600,000	135,385,000
Total	\$1,557,036,000	\$673,483,460	\$2,230,519,460

Source: ENRD Budget History Report for FYs 1987 through 2010

The EPA and the ENRD Statement of Work required the ENRD to maintain a system that documented its Superfund litigation costs. Accordingly, the ENRD implemented a management information system designed by FTI Rubino & McGeehin Consulting Group, Incorporated (contractor). The system was designed to process financial data from the ENRD's Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case, allocated between direct labor costs and all other direct costs; (2) non-Superfund direct costs; and (3) allocable indirect costs.³

The EPA authorized reimbursements to the ENRD of \$25.6 million for FY 2009 and \$25.6 million for FY 2010 in accordance with EPA Interagency Agreements DW-15-92194601-7 (FY 2009) and DW-15-92194601-8 (FY 2010).

Excise taxes imposed on the petroleum and chemical industries as well as an environmental income tax on corporations maintained the Trust Fund through December 31, 1995, when the taxing authority for Superfund expired. Since that time, Congress has not enacted legislation to reauthorize the tax. Currently, the funding for Superfund is comprised of appropriations from EPA's general fund, interest, fines, penalties, and recoveries generated through litigation. Consequently, the significance of the ENRD's Superfund litigation can be seen in the commitments and recoveries the EPA has obtained, with the EPA receiving over \$8 billion in commitments to clean up hazardous waste sites and recovering over \$6 billion from potentially responsible parties during FYs 1987 - 2010, as shown in Exhibit 2.

³ The E&A Report is a summary of the total costs incurred by the ENRD during the fiscal year. The report includes all costs (both liquidated and unliquidated) by subobject class and a final indirect cost rate calculation for the fiscal year. Other direct costs charged to individual cases include special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, graphics, and non-capital equipment. Indirect costs are the total amounts paid in the E&A Reports less direct charges and are allocated based on the direct Superfund salary costs on each case.

**Exhibit 2: Estimated Commitments and Recoveries
(FYs 1987 through 2010)⁴**

FY	Commitment	Recovery
1987	\$ 0	\$ 12,000,000
1988	10,000,000	32,000,000
1989	106,000,000	73,000,000
1990	10,000,000	56,000,000
1991	186,000,000	182,000,000
1992	225,000,000	211,000,000
1993	187,000,000	326,000,000
1994	148,000,000	490,000,000
1995	117,000,000	204,000,000
1996	101,000,000	338,000,000
1997	280,000,000	334,000,000
1998	403,000,000	308,000,000
1999	386,000,000	332,000,000
2000	494,000,000	153,000,000
2001	1,418,000,000	566,000,000
2002	565,000,000	277,000,000
2003	474,000,000	185,000,000
2004	289,000,000	202,000,000
2005	647,000,000	270,000,000
2006	230,000,000	146,000,000
2007	271,000,000	211,000,000
2008	542,000,000	429,000,000
2009	272,000,000	179,000,000
2010	753,000,000	726,000,000
Total	\$8,114,000,000	\$6,242,000,000

Source: ENRD Commitment and Recovery Report for FYs 1987 through 2010

⁴ Commitments are estimated funds from potentially responsible parties for the clean up of hazardous waste sites. Recoveries are actual funds received by EPA that include Superfund cost recovery, oversight costs, and interest.

OIG Audit Approach

The objective of the audit was to determine if the cost allocation process used by the ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2009 and 2010. To accomplish our objective, we assessed whether: (1) the ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in the E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases.

Appendix I contains a more detailed description of our audit objectives, scope, and methodology.

FINDINGS AND RECOMMENDATIONS

SUPERFUND COSTS FOR FYS 2009 AND 2010

We found that the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYS 2009 and 2010. However, we make two recommendations: (1) develop processes to maintain documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data and (2) remedy the \$27,966 of Fees – Expert Witness charges to be paid by the U.S. Attorney’s Office.

We designed the audit to compare costs reported in the contractor’s accounting schedules and summaries for FYS 2009 and 2010 (see Appendices III and IV) to the information recorded in DOJ’s accounting records, and to review the cost distribution system used by the ENRD to allocate incurred costs to Superfund and non-Superfund cases. To accomplish this, we performed the following tests:

- We compared Superfund total costs recorded as paid in the E&A Reports to the amounts reported as Total Amounts Paid in the year-end accounting schedules and summaries, and we traced the costs to Superfund cases.
- We reviewed the ENRD’s methodology for categorizing Superfund cases by comparing a select number of Superfund cases to the ENRD’s Superfund case designation criteria.⁵
- We reviewed the contractor’s methodology for distributing direct labor and indirect costs to Superfund cases, and we compared other direct costs to source documents to validate their allocability to Superfund cases.

We performed these steps to ensure that costs distributed to Superfund and non-Superfund cases were based on total costs for FYS 2009 and 2010; that the distribution methodology used and accepted in prior years remained viable; and that selected costs were supported by evidence that documented their allocability to Superfund and non-Superfund cases. We used the test results to determine if the ENRD provided an equitable

⁵ FY 2007 ENRD memorandum entitled *Environment and Natural Resources Division Determination of Superfund Cases* provides the methodology for designating Superfund cases.

distribution of total labor, other direct costs, and indirect costs to Superfund cases during FYs 2009 and 2010.

We noted that the ENRD did not maintain copies of all data they provided to the contractor including: (1) initial financial data supplied to the contractor; (2) reconciliations performed between the ENRD and contractor; and (3) correspondence between the ENRD and the contractor. The lack of availability of this information required additional testing and validation. We discussed this issue with the ENRD and recommend that it develop processes to maintain this documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data.

Reconciliation of Contractor Accounting Schedules and Summaries to E&A Reports

To ensure that the distribution of costs to Superfund and non-Superfund cases was limited to total costs incurred for each fiscal year, we reconciled the amounts reported in the E&A Reports to those in the contractor's Schedule 6, *Reconciliation of Total ENRD Expenses*. According to the E&A Reports, total ENRD expenses were over \$123 million in FY 2009 and over \$131 million in FY 2010, as shown in Exhibit 3.

Exhibit 3: ENRD Expenses by Fiscal Year

Description	2009	2010
Salaries	\$73,298,886	\$77,157,958
Benefits	18,483,693	20,648,390
Travel	3,291,093	3,261,109
Freight	320,174	271,656
Rent	12,041,110	13,547,385
Printing	110,299	79,831
Services	13,884,737	15,420,648
Supplies	663,538	712,073
Equipment	1,354,647	67,983
Totals	\$123,448,177	\$131,167,033

Source: ENRD E&A Reports for FYs 2009 and 2010

We then reconciled the E&A Report amounts to the distributions in the contractor's Schedule 5, *Superfund Costs by Object Classification*, and Schedule 2, *Superfund Obligation and Payment Activity by Fiscal Year of Obligation*. We found that Schedules 1 through 6 reconciled to the E&A Reports.

After reconciling the contractor's accounting schedules and summaries to the E&A Reports, we reviewed the distribution of costs to Superfund cases. Our starting point for reviewing the distribution system was to identify and reconcile the ENRD cases as Superfund or non-Superfund. This enabled us to extract only Superfund data from the ENRD data to compare to the accounting schedules and summaries. The Superfund costs in Schedule 2 of the accounting schedules and summaries for FYs 2009 and 2010 are shown in Exhibit 4.

Exhibit 4: Superfund Distributed Costs by Fiscal Year of Obligation⁶

Cost Categories	2009	2010
Labor	\$7,589,564	\$7,345,134
Other Direct Costs	1,517,963	1,203,812
Indirect Costs	12,730,245	12,354,988
Unliquidated Obligations	5,739,192	5,023,027
Totals	\$27,576,964	\$25,926,961

Source: Schedule 2 of the contractor's accounting schedules and summaries

Superfund Case Reconciliation

The ENRD assigned unique identifying numbers to all Superfund and non-Superfund cases and maintained an annual database of Superfund cases. To ensure that the contractor used the appropriate Superfund database, we reconciled the contractor's Superfund database to the ENRD's original Superfund database. The reconciliation identified 857 Superfund cases in FY 2009 and 843 cases in FY 2010 in which ENRD incurred direct labor hour costs. We also reviewed the Superfund case designation criteria and case files to identify the method used by the ENRD to categorize Superfund cases, and to determine if Superfund cases were designated in accordance with established criteria.

⁶ The amounts listed in this table reflect actual reimbursements. The interagency agreements budgeted \$25.6 million per year for FYs 2009 and 2010.

We judgmentally selected 29 cases from the FY 2010 Superfund database to test whether the ENRD staff adhered to case designation procedures outlined in the memorandum, *ENRD Determination of Superfund Cases (last updated FY 2007)*.⁷ We compared the case number in the Superfund database to the ENRD case file documents including case intake worksheets, case opening forms, case transmittals, and e-mails. These documents referenced laws, regulations, or other information used to categorize the cases as either Superfund or non-Superfund for tracking purposes.

Of the 29 cases reviewed, we found two exceptions – case nos. 198-37-00452 and 198-17M-00965. Case no. 198-37-00452 should have been reclassified to non-Superfund status in 2010, but ENRD did not change the status (\$56). Also, we noted that while case no. 198-17M-00965 should have been considered a Superfund case for a majority of FY 2010, the case should have been reclassified to non-Superfund status in August of 2010 since no CERCLA charges were filed (\$1,623). On August 25, 2011, ENRD resolved these errors by reclassifying the cases a non-Superfund case number.

Superfund Cost Distribution

Since we found that the ENRD's case identification method adequately identified Superfund cases, we proceeded to review the system used by the contractor to distribute direct labor, indirect costs, and other direct costs charged to Superfund cases.

Direct Labor

During the 2-year period under review, the contractor continued using the labor distribution system from prior years, which we had reviewed and accepted in prior audits. The ENRD provided the contractor with electronic files that included employee time reporting information and bi-weekly salary information downloaded from the National Finance Center.⁸ The contractor used the following formula to distribute labor costs monthly:

⁷ See Appendix II for the 29 cases we sampled.

⁸ The National Finance Center processes bi-weekly payroll information for many federal government agencies, including DOJ.

Salary Starting Point: Employee Bi-weekly Salary
Divided by: Employee Reported Bi-weekly Work Hours
Equals: Bi-weekly Hourly Rate
Multiplied by: Employee Reported Monthly Superfund and Non-Superfund Case Hours
Results In: Distributed Individual Monthly Labor Case Cost

For purposes of our review, we:

- compared total Superfund and non-Superfund labor costs to costs reported in the E&A Reports for FYs 2009 and 2010;
- reviewed the ENRD electronic labor files and selected salary files provided to the contractor and the resultant electronic files prepared by the contractor to summarize costs by employee and case; and
- extracted Superfund case costs from the contractor files by using validated Superfund case numbers.

We performed selected database matches to compare the ENRD electronic employee time and case data against the contractor's electronic files used to prepare the accounting schedules and summaries, and to identify Superfund case data. We determined total Superfund hours were 142,649 for FY 2009 and 134,308 for FY 2010. To determine the number of Superfund cases with direct labor costs for each fiscal year under review, we compared the ENRD Superfund billed time electronic data, which included 857 cases in FY 2009 and 843 cases in FY 2010 to the electronic files prepared by the contractor and found no significant differences in the total number of Superfund cases with direct labor costs for each fiscal year.

Next, using the contractor's electronic files, we determined that the direct labor costs for Superfund cases were \$7,589,564 for FY 2009 and \$7,345,134 for FY 2010. We traced these amounts to the contractor's accounting schedules and summaries, and selected the first two bi-weekly periods in January 2009 and 2010 to review the calculation of the effective employee hourly rates. We found the contractor calculated the effective hourly rates in compliance with the methodology outlined previously in this report.

Overall, we were able to verify the accumulation of reported hours, the development and application of hourly rates, and the extraction of labor costs for Superfund cases. Therefore, we believe that this process provided an equitable distribution of direct labor costs to Superfund cases during FYs 2009 through 2010.

Indirect Costs

In addition to direct costs incurred for specific cases, the ENRD incurred indirect costs that were allocated to all cases. These costs included salaries, benefits, travel, freight, rent, communication, utilities, supplies, and equipment. The contractor distributed indirect costs to individual cases using an indirect cost rate calculated on a fiscal year basis.

The indirect cost rate was comprised of an ENRD indirect rate and a Superfund-specific indirect rate. To calculate the ENRD indirect rate, the contractor subtracted the amount of direct costs from the total costs incurred according to the ENRD's E&A report and divided this amount by the total direct labor costs for the period. To calculate a Superfund specific indirect rate, the contractor identified indirect costs that support only Superfund activities and divided these costs by the Superfund direct labor costs for the period. The rates for FYs 2009 and 2010 are shown in the Exhibit 5.

Exhibit 5: Indirect Cost Rates by Fiscal Year

Category	2009	2010⁹
ENRD Indirect Rate	166.2%	167.0%
Superfund-Specific Indirect Rate	22.6%	28.8%
Combined Indirect Cost Rate	188.8%	195.8%

Source: Schedule 4 of the contractor's accounting schedules and summaries, percentages rounded to nearest tenth of a percent

Using the E&A Reports and the contractor's electronic files, we reconciled the total indirect amounts to Schedule 4, *Indirect Rate Calculation*, to ensure that the contractor used only paid costs to accumulate the expense pool. We determined that the total amount of indirect costs for FY 2009 was \$70,011,955. We also determined that the total amount of the indirect costs for FY 2010 was \$74,496,507. Therefore, we found that this

⁹ On August 25, 2011, the ENRD contractor revised FY 2010 EPA Billing Summary Schedules to include an additional Superfund Specific Overhead expense not included on the original Schedule.

process provided for an equitable distribution of indirect costs to Superfund cases during FYs 2009 through 2010.

Other Direct Costs

The other direct costs incurred by the ENRD and distributed to Superfund during FYs 2009 and 2010 are presented in Exhibit 6.

Exhibit 6: Superfund Other Direct Costs by Fiscal Year

Subobject Code and Description	2009	2010
1153 – Compensation, Masters	\$ 4,419	\$ 34,239
1157 – Fees, Expert Witness	2,473,940	1,721,712
2100 - Travel and Transportation	465,556	301,370
2411 – Printing and Reproduction, Court Instruments	5,208	3,544
2499 – Printing and Reproduction, All Other	855	0
2501 – Filing and Recording Fees	756	316
2508 – Reporting and Transcripts – Deposition	97,175	85,313
2510 – Reporting and Transcripts - Court	433	38
2529 – Litigation Support	773,215	302,292
2556 – Graphics	0	250
2563 – Interest Penalties incurred on late payments by the Government	52	8
2598 – Miscellaneous Litigation Expenses	11,247	3,444
2599 – Other Services	50	0
Totals	\$3,832,906	\$2,452,526

Source: The contractor’s electronic files for FYs 2009 and 2010

As part of our audit, we selected the following four FY 2010 other direct cost subobject codes to test.

- 1157 – Fees - Expert Witness
- 2100 – Travel and Transportation
- 2508 – Reporting and Transcripts – Deposition
- 2529 – Litigation Support

For FY 2010, these four subobject codes comprised 94 percent of the transaction universe (966 transactions) and 98 percent of the FY 2010 other direct cost expenditures (\$2.4 million). Considering the possible variation between these four types of transactional activity measures, we employed a stratified random sampling design to provide effective coverage and to obtain precise estimates of the test results’ statistics. The set of transaction in the universe was divided into two subsets, a high dollar value transactions

and non-high dollar value transactions. We reviewed 100 percent of transactions in one stratum that consisted of high dollar transactions within these four subobject codes. In total, we reviewed 241 transactions totaling approximately \$1.1 million as detailed in Exhibit 7.

Exhibit 7: Other Direct Costs Tested

Subobject Code	Descriptions	Number of Transactions	Dollar Amount
1157	Fees - Expert Witness	62	\$735,026
2100	Travel and Transportation	108	136,881
2508	Reporting and Transcripts - Deposition	30	36,675
2529	Litigation Support	41	167,785
Totals		241	\$1,076,367

Source: OIG other direct costs sampled

We designed our review of other direct costs transactions to determine if the selected transactions included adequate support based on the following four attributes:

- subobject code classification – verified that the correct subobject code was used to classify the cost;
- Superfund/non-Superfund case classification – verified that the case number appearing on the documents matched the case number in the Superfund database;
- dollar amount – verified that the dollar amount listed in the other direct costs database matched the amounts on the supporting documentation; and
- proper approval – verified that the proper approval was obtained on the vouchers paying the other direct costs.

Our tests resulted in no exceptions in the Reporting and Transcripts – Deposition subobject code 2508. However, our tests of Fees – Expert Witness (subobject code 1157), Travel and Transportation (subobject code 2100), and Litigation Support (subobject code 2529) revealed exceptions.

Fees – Expert Witness (subobject code 1157)

We tested 62 Fees – Expert Witness transactions and found that all 62 transactions reviewed carried the correct dollar amount, were classified to the correct subobject code and were properly approved. However, one invoice tested was not correctly classified. We discussed the issue with the ENRD and they stated that the invoice should have been paid by the U. S. Attorney’s Office. The \$27,966 invoice was inadvertently charged to the wrong case. According to the ENRD, the U.S. Attorney’s Office intends to reimburse the ENRD for the invoice amount of \$27,966. As of July 2011, ENRD had not received reimbursement from the U.S. Attorney’s Office.

Travel and Transportation (subobject code 2100)

While we found all 108 Travel and Transportation transactions we reviewed had been appropriately classified and properly approved; we noted that the dollar amounts on three transactions were incorrect and one transaction had the incorrect Superfund case classification. Exhibit 8 summarizes our results.

During our test, we compared the dollar amount allocated to a specific case number to the supporting documentation. For four of the travel transactions we tested, the supporting documentation was not sufficient to support the travel expenses charged to Superfund. However, ENRD has resolved all issues regarding our review of subobject code 2100. We summarized our analysis in Exhibit 8.

Exhibit 8: Travel and Transportation Issues

Superfund Matter ID	Voucher Amount	Description of Issue	ENRD Resolution of the Issue
90-11-3-09838	\$2,762.63	Voucher 3A10394 should have been split between 2 different Superfund cases.	ENRD transferred \$691 to the correct Superfund case.
90-11-2-07135/1	\$1,976.47	Voucher 3A06465 should have been split between a Superfund Case and non-Superfund Case.	ENRD transferred \$1,235 to the correct non-Superfund case.
90-11-2-1049/9	\$1,505.74	Voucher 3A08192 reflected \$12 more than the documentation supported.	ENRD received a check from the traveler for \$12.
90-11-3-08304/1	\$517.45	Voucher 3A2366 was incorrectly classified. The voucher should have been split between a different Superfund case than noted on the voucher and a non-Superfund case.	ENRD transferred the \$388.09 to a different Superfund case and \$129.36 to a non-Superfund case.

Source: OIG analysis and ENRD general ledger documentation

Litigation Support (subobject code 2529)

We tested 41 Litigation Support transactions and found that all 41 transactions reviewed carried the correct dollar amount, were classified to the correct subobject code and were properly approved. However, two transactions tested did not have the correct case classification.

Exhibit 9: Litigation Support Issues

Superfund Matter ID	Voucher Amount	Description of Issue	ENRD Resolution of the Issue
198-17M-00876	\$13,777.64	Supporting documentation indicates the correct case is 90-2-20-09922.	ENRD transferred \$13,778 to the correct non-Superfund case.
90-11-3-1776/3	\$6,487.98	The vendor invoice specified the incorrect case number.	ENRD transferred \$6,487 to the correct non-Superfund case.

Source: OIG analysis and ENRD general ledger documentation

Conclusion

We found that the cost allocation process used by the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2009 and 2010. During our audit we noted a few discrepancies; however, the ENRD and its contractor have resolved the majority of the issues identified.

Recommendations

We recommend that the ENRD:

1. Develop processes to maintain documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data.
2. Remedy the \$27,966 of Fees – Expert Witness charges to be paid by the U.S. Attorney's Office.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that ENRD's management complied with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as CERCLA or Superfund) and the Superfund Amendments and Reauthorization Act of 1986 for which noncompliance, in our judgment, could have a material effect on the results of our audit. ENRD's management is responsible for ensuring compliance with federal laws and regulations applicable to the ENRD. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Chapter 103, Section 9611(k)
- Superfund Amendments and Reauthorization Act of 1986 (SARA)

Our audit included examining, on a test basis, ENRD's compliance with the aforementioned laws and regulations that could have a material effect on ENRD's operations, through interviewing ENRD's personnel and contractor, analyzing data, assessing internal control procedures, and examining procedural practices.

Nothing came to our attention that caused us to believe that the ENRD was not in compliance with the aforementioned laws and regulations.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of this audit was to determine if the cost allocation process used by the ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2009 and 2010.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. To accomplish the overall objective, we assessed whether: (1) the ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in the E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases.

The audit covered, but was not limited to financial activities and the procedures used by the ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases from October 1, 2008, through September 30, 2010. We compared total costs recorded as paid on the ENRD's E&A Report to the amounts reported as Total Amounts Paid on the contractor's year end accounting schedules and summaries, and traced the costs to the Superfund cases for FYs 2009 and 2010. We also reviewed the contractor's methodology for distributing direct labor costs and indirect costs to Superfund cases for FYs 2009 and 2010. In addition, we reviewed the ENRD's methodology for categorizing Superfund cases by comparing a select number of Superfund cases to the ENRD's Superfund case designation criteria for FY 2010.

We performed detailed transaction testing of other direct costs for FY 2010. Considering the possible variation between these four types of transactional activity measures, we employed a stratified random sampling design to provide effective coverage and to obtain precise estimates of the test results' statistics. We reviewed 100 percent of transactions in one

stratum that consisted of high-dollar transactions within these four subobject codes. In total, we reviewed 241 transactions totaling approximately \$1.1 million.

For our assessment of internal controls over the compilation of direct labor charges, we relied on the results in the *U.S. Department of Justice, Office of the Inspector General, Environmental and Natural Resources Division Network Computer Security and Case Management System Internal Control Audit*, Audit Report 1-19, August 2001.

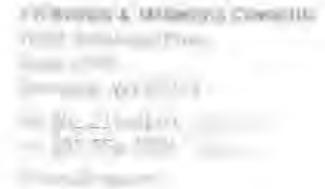
APPENDIX II

FY 2010 CASES IN SAMPLE REVIEW

Case Number	Classification
90-11-3-13148	Appellate
90-12-02828	Appellate
198-53-01174	Criminal
198-17M-00965	Criminal
198-37-00452	Criminal
198-44-00607	Criminal
198-50-01044	Criminal
90-11-5-05965	Defense
90-11-6-05817	Defense
90-11-6-17666/1	Defense
90-11-6-18314	Defense
90-11-6-18771	Defense
90-11-3-09945	Enforcement
90-11-3-90/2	Enforcement
90-11-2-09104	Enforcement
90-11-2-48D	Enforcement
90-11-3-08696	Enforcement
90-11-3-08304/2	General Litigation
90-1-23-10202	General Litigation
90-1-23-12162	General Litigation
90-1-23-12820	General Litigation
33-46-434-07072	Land Acquisition
33-14-965-12007	Land Acquisition
33-41-128-07655	Land Acquisition
33-41-128-07659	Land Acquisition
33-41-128-07665	Land Acquisition
90-12-01316/1	Law and Policy
90-12-01779	Law and Policy
90-12-02933	Law and Policy

APPENDIX III

FY 2009 ACCOUNTING SCHEDULES AND SUMMARIES



January 20, 2011

Mr. Andrew Collier
U.S. Department of Justice
Environment and Natural Resources Division
Suite 2038
601 D Street N.W.
Washington, DC 20004

Dear Mr. Collier:

Enclosed please find the following final fiscal year 2009 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-7
September 30, 2009
- DOJ - Superfund Case Cost Summary (electronic copy)
As of September 30, 2009
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 2009 (electronic copy)
- DOJ - Superfund Direct Costs (electronic copy)
Year Ended September 30, 2009

The schedules represent the final fiscal year 2009 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2009.

Mr. Andrew Collier
U.S. Department of Justice
January 20, 2011
Page 2

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 2009, which are not identified as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours,
FTI CONSULTING, INC.



William M. Kirne
Senior Managing Director

Enclosures



**EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 2009**

	<u>Fiscal Years</u>					
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
EPA Billing Summary - Amount Paid	\$ 21,837,772 (a)	\$ 22,322,252 (b)	\$ 26,180,990 (b)	\$ 24,583,525 (b)	\$ 26,773,390 (b)	\$ 27,830,737 (b)
<u>Add:</u>						
Payments in FY 2009 for 2008 (a)	-	3,075,764	-	-	-	-
Payments in FY 2009 for 2007 (a)	-	-	134,364	-	-	-
Payments in FY 2009 for 2006 (a)	-	-	-	657,815	-	-
Payments in FY 2009 for 2005 (a)	-	-	-	-	44,122	-
Payments in FY 2009 for 2004 (a)	-	-	-	-	-	(128)
Subtotal	<u>21,837,772</u>	<u>25,398,016</u>	<u>26,315,354</u>	<u>25,241,340</u>	<u>26,817,512</u>	<u>27,830,609</u>
Unliquidated Obligations (c)	<u>5,739,192</u>	<u>376,137</u>	<u>472,740</u>	<u>6,211</u>	<u>159,471</u>	<u>-</u>
Total	<u>\$ 27,576,964</u>	<u>\$ 25,774,153</u>	<u>\$ 26,788,094</u>	<u>\$ 25,247,551</u>	<u>\$ 26,976,983</u>	<u>\$ 27,830,609</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2009
(b) See EPA Billing Summary, Schedule 1, September 30, 2008
(c) See EPA Billing Summary, Schedule 3, September 30, 2009

**EPA BILLING SUMMARY
SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2009
BY FISCAL YEAR OF OBLIGATION**

	<u>Fiscal Years</u>						<u>Total</u>
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	
<u>Amounts Paid:</u>							
Labor	\$ 7,589,564	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,589,564
Other Direct Costs	1,517,963	1,503,657	118,372	646,191	46,723	-	3,832,906
Indirect Costs	<u>12,730,245</u>	<u>1,572,107</u>	<u>15,992</u>	<u>11,624</u>	<u>(2,601)</u>	<u>(128)</u>	<u>14,327,239</u>
Subtotal	21,837,772	3,075,764	134,364	657,815	44,122	(128)	25,749,709
Unliquidated Obligations (a)	<u>5,739,192</u>	<u>376,137</u>	<u>472,740</u>	<u>6,211</u>	<u>159,471</u>	<u>-</u>	<u>6,753,751</u>
Totals	<u>\$27,576,964</u>	<u>\$3,451,901</u>	<u>\$ 607,104</u>	<u>\$664,026</u>	<u>\$203,593</u>	<u>(\$128)</u>	<u>32,503,460</u>

(a) See Schedule 3

EPA BILLING SUMMARY
FISCAL YEARS 2009, 2008, 2007, 2006 AND 2005 UNLIQUIDATED OBLIGATIONS
September 30, 2009

	<u>Fiscal Years</u>				
	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
ENRD Unliquidated Obligations at September 30, 2009	\$ 24,018,365	\$ 2,964,666	\$ 1,678,705	\$ 415,511	\$ 247,860
Less: Unliquidated Obligations:					
Section 1595 (a)	8,310,944	1,683,056	663,910	392,376	87,625
Section 1596 (b)	502,219	794,246	-	-	-
Section 1598 (c)	<u>3,659,203</u>	<u>349,451</u>	<u>338,596</u>	<u>2,070</u>	<u>159,270</u>
Subtotal	<u>12,472,366</u>	<u>2,826,753</u>	<u>1,002,506</u>	<u>394,446</u>	<u>246,895</u>
Net Unliquidated Obligations - ENRD	11,545,999	137,913	676,199	21,065	965
Superfund percentage (d)	<u>18.0148%</u>	<u>19.3499%</u>	<u>19.8380%</u>	<u>19.6570%</u>	<u>20.8205%</u>
Superfund portion of Unliquidated Obligations	2,079,989	26,686	134,144	4,141	201
Add - Section 1598 Unliquidated Obligations	<u>3,659,203</u>	<u>349,451</u>	<u>338,596</u>	<u>2,070</u>	<u>159,270</u>
Total Superfund Unliquidated Obligations (e)	<u>\$ 5,739,192</u>	<u>\$ 376,137</u>	<u>\$ 472,740</u>	<u>\$ 6,211</u>	<u>\$ 159,471</u>

(a) Section 1595 relates to reimbursable amounts from agencies other than EPA.

(b) Section 1596 relates to non-Superfund charges.

(c) Section 1598 relates to charges that are Superfund specific.

(d) Superfund percentage of unliquidated obligations was calculated by dividing year to date Superfund direct labor by the total direct labor for each of the fiscal years.

(e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION**

September 30, 2009

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$29,534,814
Fringes	18,444,712
Indirect travel	363,821
Freight	320,175
Office space and utilities	12,041,110
Printing(forms, etc.)	59,212
Training and other services	7,287,977
Supplies	663,538
Non-capitalized equipment and miscellaneous	<u>1,296,596</u>
Subtotal	70,011,955
Total Direct Labor	42,129,638
ENRD Indirect Costs Rate - F/Y 2009 Obligations	166.1822%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2009 \$ 117,739
	2008 1,572,107
	2007 15,992
	2006 11,624
	2005 (2,601)
	2004 <u>(128)</u>
	Total <u>1,714,732</u>
Superfund Direct Labor	7,589,564
Superfund Indirect Rate	<u>22.5933%</u>
Total Indirect Rate	<u><u>188.7755%</u></u>

- (a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596) have been removed.
- (b) Indirect labor and fringes include certain month-end obligation accruals.
- (c) Indirect cost payments for the prior year obligations included in the totals presented are as follows: \$1,488,284; \$15,992; \$5,535; -\$2,601 and -\$128; for F/Y 2008 through F/Y 2004 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 2008 to maintain Superfund case information or perform other Superfund Specific activities. These charges were initiated as a result of Superfund and are of benefit only to the Superfund Program. They have been allocated only to Superfund cases through this separate indirect approach. The charges are \$117,739; \$83,823; \$0; \$6,089 and \$0 for F/Y 2009 through F/Y 2005 respectively.

**EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION**

September 30, 2009

<u>Object Class.</u>	<u>Description</u>	<u>Direct Expenses</u>	<u>Indirect Expenses</u>	<u>Unliquidated Obligations (b)</u>	<u>Total</u>
11	Salaries (a)	\$8,542,057	\$5,423,862	\$2,449,324	\$16,415,243
12	Benefits	-	3,322,776	172,807	3,495,583
21	Travel	438,022	65,540	45,803	549,365
22	Freight	-	57,679	10,650	68,329
23	Rent	-	2,169,177	770,886	2,940,063
24	Printing	6,023	10,667	4,656	21,346
25	Services	121,425	1,312,917	2,260,443	3,694,785
26	Supplies	-	119,535	23,682	143,217
31	Equipment	-	248,092	941	249,033
	Total	<u>\$9,107,527</u>	<u>\$12,730,245</u>	<u>\$5,739,192</u>	<u>\$27,576,964</u>

-
- (a) Includes costs for direct labor, special masters and expert witnesses.
(b) Represents the Superfund portion of unliquidated damages.

**EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES**

September 30, 2009

Object Class	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$8,542,057	\$5,423,862	\$34,850,252	\$24,214,178	\$268,537	\$73,298,886
12	Benefits	-	3,322,776	-	15,121,937	38,980	18,483,693
21	Travel	438,022	65,540	2,317,995	298,281	171,255	3,291,093
22	Freight	-	57,679	-	262,495	-	320,174
23	Rent	-	2,169,177	-	9,871,933	-	12,041,110
24	Printing	6,023	10,667	45,064	48,545	-	110,299
25	Services	121,425	1,312,917	3,357,688	5,975,063	3,117,644	13,884,737
26	Supplies	-	119,535	-	544,003	-	663,538
31 & 42	Equipment	-	248,092	-	1,063,017	43,538	1,354,647
Total		<u>\$9,107,527</u>	<u>\$12,730,245</u>	<u>\$40,570,999</u>	<u>\$57,399,452</u>	<u>\$3,639,954</u>	<u>\$123,448,177</u>

**DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCES DIVISION
SUMMARY OF SUPERFUND AMOUNTS BY SECTION
FISCAL YEAR 2009**

<u>Section</u>	<u>Hours</u>	<u>Direct Labor</u>	<u>Other Direct Costs</u>	<u>Indirect</u>	<u>Total</u>	<u>Cases</u>
Law and Policy	216	\$ 14,583	\$ -	\$ 27,529	\$ 42,112	4
Criminal	7,314	271,508	89,252	512,541	873,301	7
Defense	2,215	124,991	3,437	235,952	364,380	21
Enforcement	132,248	7,139,027	3,705,544	13,476,736	24,321,307	802
Natural Resources	448	24,901	34,673	47,007	106,581	7
Land Acq.	208	14,554	-	27,474	42,028	16
Total	<u>142,649</u>	<u>\$ 7,589,564</u>	<u>\$ 3,832,906</u>	<u>\$ 14,327,239</u>	<u>\$ 25,749,709</u>	<u>857</u>

APPENDIX IV

FY 2010 ACCOUNTING SCHEDULES AND SUMMARIES



Federal Trust for Justice
1111 Constitution Avenue, N.W.
Washington, D.C. 20004
Phone: 202-462-1000
Fax: 202-462-1001
www.federaltrustforjustice.org

August 25, 2011

Mr. Andrew Collier
U.S. Department of Justice
Environment and Natural Resources Division
Suite 2038
601 D Street N.W.
Washington, DC, 20004

Dear Mr. Collier:

Enclosed please find the following final fiscal year 2010 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-7
September 30, 2010
- DOJ - Superfund Case Cost Summary (electronic copy)
As of September 30, 2010
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 2010 (electronic copy)
- DOJ - Superfund Direct Costs (electronic copy)
Year Ended September 30, 2010

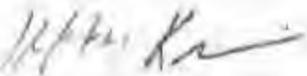
The schedules represent the final fiscal year 2010 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2010.

Mr. Andrew Collier
U.S. Department of Justice
August 25, 2011
Page 2

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 2010, which are not identified as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours
FTI CONSULTING, INC



William M. Kims
Senior Managing Director

Enclosures



**EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 2010**

	<u>Fiscal Years</u>				
	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
EPA Billing Summary - Amount Paid	\$ 20,903,934 (a)	\$ 21,837,772 (b)	\$ 25,398,016 (b)	\$ 26,315,354 (b)	\$ 25,241,340 (b)
<u>Add:</u>					
Payments in FY 2010 for 2009 (a)	-	3,080,228	-	-	-
Payments in FY 2010 for 2008 (a)	-	-	155,353	-	-
Payments in FY 2010 for 2007 (a)	-	-	-	90,824	-
Payments in FY 2010 for 2006 (a)	-	-	-	-	(125)
Subtotal	<u>20,903,934</u>	<u>24,918,000</u>	<u>25,553,369</u>	<u>26,406,178</u>	<u>25,241,215</u>
Unliquidated Obligations (c)	<u>5,023,027</u>	<u>2,390,082</u>	<u>78,187</u>	<u>106,075</u>	<u>2,209</u>
Total	<u><u>\$ 25,926,961</u></u>	<u><u>\$ 27,308,082</u></u>	<u><u>\$ 25,631,556</u></u>	<u><u>\$ 26,512,253</u></u>	<u><u>\$ 25,243,424</u></u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2010

(b) See EPA Billing Summary, Schedule 1, September 30, 2009

(c) See EPA Billing Summary, Schedule 3, September 30, 2010

**EPA BILLING SUMMARY
SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2010
BY FISCAL YEAR OF OBLIGATION**

	<u>Fiscal Years</u>					<u>Total</u>
	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	
<u>Amounts Paid:</u>						
Labor	\$ 7,345,134	\$ -	\$ -	\$ -	\$ -	\$ 7,345,134
Other Direct Costs	1,203,812	1,097,840	139,335	11,472	67	2,452,526
Indirect Costs	12,354,988	1,932,630	16,018	79,352	(192)	14,382,796
Superfund Program Expenses	<u>-</u>	<u>49,758</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>49,758</u>
Subtotal	20,903,934	3,080,228	155,353	90,824	(125)	24,230,214
Unliquidated Obligations (a)	<u>5,023,027</u>	<u>2,390,082</u>	<u>78,187</u>	<u>106,075</u>	<u>2,209</u>	<u>7,599,580</u>
Totals	<u>\$25,926,961</u>	<u>\$5,470,310</u>	<u>\$ 233,540</u>	<u>\$196,899</u>	<u>\$2,084</u>	<u>31,829,794</u>

(a) See Schedule 3

EPA BILLING SUMMARY
FISCAL YEARS 2010, 2009, 2008, 2007, AND 2006 UNLIQUIDATED OBLIGATIONS
September 30, 2010

	<u>Fiscal Years</u>				
	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
ENRD Unliquidated Obligations at September 30, 2010	\$ 33,692,756	\$ 3,960,172	\$ 688,043	\$ 324,366	\$ 33,988
Less: Unliquidated Obligations:					
Section 1595 (a)	16,978,604	1,509,237	549,796	205,479	30,923
Section 1596 (b)	1,319,982	27,322	-	-	-
Section 1598 (c)	2,979,325	2,382,714	63,777	102,904	2,000
Subtotal	<u>21,277,911</u>	<u>3,919,273</u>	<u>613,573</u>	<u>308,383</u>	<u>32,923</u>
Net Unliquidated Obligations - ENRD	12,414,845	40,899	74,470	15,983	1,065
Superfund percentage (d)	<u>16.4618%</u>	<u>18.0148%</u>	<u>19.3499%</u>	<u>19.8380%</u>	<u>19.6570%</u>
Superfund portion of Unliquidated Obligations	2,043,702	7,368	14,410	3,171	209
Add - Section 1598 Unliquidated Obligations	<u>2,979,325</u>	<u>2,382,714</u>	<u>63,777</u>	<u>102,904</u>	<u>2,000</u>
Total Superfund Unliquidated Obligations (e)	<u>\$ 5,023,027</u>	<u>\$ 2,390,082</u>	<u>\$ 78,187</u>	<u>\$ 106,075</u>	<u>\$ 2,209</u>

(a) Section 1595 relates to reimbursable amounts from agencies other than EPA.

(b) Section 1596 relates to non-Superfund charges.

(c) Section 1598 relates to charges that are Superfund specific.

(d) Superfund percentage of unliquidated obligations was calculated by dividing year to date Superfund direct labor by the total direct labor for each of the fiscal years.

(e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION**

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$31,326,980
Fringes	20,624,204
Indirect travel	327,077
Freight	271,657
Office space and utilities	13,547,386
Printing(forms, etc.)	46,250
Training and other services	7,573,079
Supplies	712,071
Non-capitalized equipment and miscellaneous	<u>67,893</u>
Subtotal	74,496,507
Total Direct Labor	44,619,362
ENRD Indirect Costs Rate - F/Y 2010 Obligations	166.9600%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2010 \$ 91,558
	2009 1,932,630
	2008 16,018
	2007 79,352
	2006 <u>(192)</u>
	Total <u>2,119,366</u>
Superfund Direct Labor	7,345,134
Superfund Indirect Rate	<u>28.8540%</u>
Total Indirect Rate	<u>195.8140%</u>

(a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596) have been removed.

(b) Indirect labor and fringes include certain month-end obligation accruals.

(c) Indirect cost payments for the prior year obligations included in the totals presented are as follows: \$1,874,924; \$11,220; \$79,352; and -\$192; for F/Y 2009 through F/Y 2006 respectively.

(d) The balance of the charges in the totals presented were paid during fiscal year 2010 to maintain Superfund case information or perform other Superfund Specific activities. These charges were initiated as a result of Superfund and are of benefit only to the Superfund Program. They have been allocated only to Superfund cases through this separate indirect approach. The charges are \$91,558; \$57,706; and \$4,798; \$0 and \$0 for F/Y 2010 through F/Y 2006 respectively.

**EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION**

<u>Object Class.</u>	<u>Description</u>	<u>Direct Expenses</u>	<u>Indirect Expenses</u>	<u>Unliquidated Obligations (b)</u>	<u>Total</u>
11	Salaries	\$8,176,675	\$5,248,530	\$2,094,007	\$15,519,212
12	Benefits	-	3,395,105	177,392	3,572,497
21	Travel	287,373	53,841	55,233	396,447
22	Freight	-	44,720	13,620	58,340
23	Rent	-	2,230,135	415,265	2,645,400
24	Printing	3,489	7,613	7,716	18,818
25	Services	81,408	1,246,663	2,199,521	3,527,592
26	Supplies	-	117,220	20,746	137,966
31	Equipment	-	11,161	39,527	50,688
	Total	<u>\$8,548,945</u>	<u>\$12,354,988</u>	<u>\$5,023,027</u>	<u>\$25,926,960</u>

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated damages.

**EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES**

September 30, 2010

Object Class	Description	--Superfund--		--Non-Superfund--		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$8,176,675	\$5,248,530	\$37,379,528	\$26,170,008	\$183,217	\$77,157,958
12	Benefits	-	3,395,105	-	17,229,098	24,187	20,648,390
21	Travel	287,373	53,841	2,449,787	273,236	196,872	3,261,109
22	Freight	-	44,720	-	226,936	-	271,656
23	Rent	-	2,230,135	-	11,317,250	-	13,547,385
24	Printing	3,489	7,613	30,093	38,636	-	79,831
25	Services	81,408	1,246,663	4,437,476	6,326,416	3,328,685	15,420,648
26	Supplies	-	117,220	-	594,853	-	712,073
31 & 42	Equipment	-	11,161	180	56,642	-	67,983
Total		<u>\$8,548,945</u>	<u>\$12,354,988</u>	<u>\$44,297,064</u>	<u>\$62,233,075</u>	<u>\$3,732,961</u>	<u>\$131,167,033</u>

**DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCES DIVISION**

<u>Section</u>	<u>Hours</u>	<u>Direct Labor</u>	<u>Other Direct Costs</u>	<u>Indirect</u>	<u>Total</u>	<u>Cases</u>
SF Program Exp	-	-	\$ 49,758	-	\$ 49,758	-
Appellate	206	\$ 10,714	-	\$ 20,980	31,694	2
Law and Policy	272	16,390	-	32,094	48,484	2
Criminal	575	26,237	31,291	51,376	108,904	8
Defense	1,624	93,097	-	182,297	275,394	24
Enforcement	130,867	7,158,770	2,421,235	14,017,868	23,597,873	783
Natural Resources	679	34,067	-	66,708	100,775	4
Land Acq.	85	5,859	-	11,473	17,332	19
Total	134,308	\$ 7,345,134	\$ 2,502,284	\$ 14,382,796	\$ 24,230,214	842

APPENDIX V

SCHEDULE OF DOLLAR-RELATED FINDING

QUESTIONED COSTS:	AMOUNT	PAGE
Fees – Expert Witness	\$27,966	14
TOTAL QUESTIONED COSTS	\$27,966	

Questioned Costs are expenditures that do not comply with legal, regulatory or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

ENVIRONMENTAL AND NATURAL RESOURCE DIVISION'S
RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

September 12, 2011

Raymond J. Beaudet
Assistant Inspector General for Audit
Office of the Inspector General
1425 New York Avenue, N.W.
Washington, D.C. 20530

Re: Audit of Superfund Activities in ENRD for Fiscal Years 2009 and 2010

Dear Mr. Beaudet:

I am writing to thank you for the professional and careful audit work performed by staff from the Office of the Inspector General ("OIG") during the recent audit of Superfund activities in the Environment and Natural Resources Division ("ENRD"), and to address the draft audit report's recommendations. For over 20 years, ENRD has relied on your office to provide sound advice to help ensure that our accounting systems and operations meet rigorous standards for quality. Through the constructive process of regular audits, ENRD has strengthened its accounting, which has helped the government recover hundreds of millions of dollars through cost recovery litigation over the years. These audits are instrumental in maintaining the integrity, reliability and accountability of the Division's Superfund program. We greatly appreciate the role that the OIG plays in this process. We also appreciate the opportunity to review this subject draft report and to respond to the recommendations.

The objective of the fiscal years 2009 and 2010 audit was to determine if the cost allocation process used by ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during the subject fiscal years. We are pleased with OIG's conclusion that "ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FY s 2009 and 2010." We also are pleased to learn that your review did not identify any instances of non-compliance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as "CERCLA" or the "Superfund law"), under which this audit was conducted.

Overall, we agree with the findings and conclusions described in the draft audit report. Listed below is a summary of your audit recommendations, accompanied by ENRD's responses to the recommendations.

RECOMMENDATION # 1: Develop processes to maintain documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data.

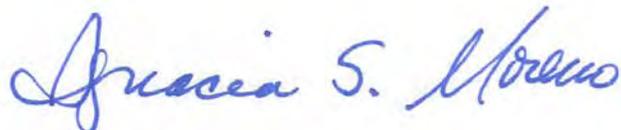
RESPONSE: We concur with this recommendation. In the attached memo dated September 8, 2011, ENRD's Executive Officer notified the Office of the Comptroller ("OC") and the Office of Information Management ("OIM") of a new document and data retention requirement. ENRD has created a new electronic, network-accessible repository which will retain any and all end-of-year Superfund time, cost and case reports (i.e., CMS, FMIS and NFC data) as well as internal reconciliations and relevant correspondence. Beginning this fiscal year (FY 2011), staff from the OC and OIM are required to retain end-of-year reports in this data repository. This new process will enhance the integrity and security of our data at the same time that it will allow facilitated access and streamlined reconcilability of our annual Superfund time, cost and case information.

RECOMMENDATION #2: Remedy the \$27,966.00 of Fees - Expert Witness charges to be paid by the U.S. Attorney's Office.

RESPONSE: We concur with this recommendation. The OIG identified one Superfund payment of \$27,966.00 made by ENRD on an expert witness invoice that should have been paid by the U.S. Attorney's Office (S.D.NY). The invoice was erroneously posted to the incorrect case/DJ number. To remedy this discrepancy, EOUSA has agreed to reimburse ENRD for the invoice amount of \$27,966.00. ENRD is currently working with JMD to process the reimbursement, which is a complex procedure in the Department's financial management system, FMIS, as the transaction crosses multiple "tablesegs." Once this process is completed, staff from ENRD's Executive Office will provide you with the accounting report, verifying that the payment has been credited to ENRD's Superfund account.

ENRD is committed to maintaining a reliable and efficient system for allocating Superfund costs. This audit, as well as ENRD's responses to the OIG's findings and recommendations as outlined above, significantly benefits the government's efforts to recover federal funds spent to clean up the environment and protect human health. In this era of tight budgets and constrained staffing, we very much appreciate the Inspector General's willingness to conduct audits of the Superfund program. Should you or your staff require further information, please feel free to contact me, ENRD's Executive Officer, Andrew Collier, on 616-3359 or ENRD's Assistant Director of the Comptroller's Office, Terri Cahill, on 616-3142.

Sincerely,



Ignacia S. Moreno
Assistant Attorney General
Environment and Natural Resources Division

Enclosure

APPENDIX VII

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The Office of the Inspector General (OIG) provided a draft of this audit report to the Environment and Natural Resources Division (ENRD). The ENRD response is incorporated in Appendix VI of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation Number:

1. **Closed.** We recommended that ENRD develop processes to maintain documentation in order to provide complete support for the Superfund allocation processes and aid in the reconciliation of ENRD and contractor data. The ENRD concurred with the recommendation and provided a September 8, 2011 memorandum specifying the new procedures for maintaining end-of-year Superfund reports and information.

We reviewed the new procedure for retaining Superfund information and determined it adequately addresses our recommendation. Therefore, this recommendation is closed.

2. **Resolved.** The ENRD concurred with our recommendation to remedy the \$27,966 of Fees – Expert Witness charges. The ENRD stated in its response that ENRD is currently working to remedy this invoice and will provide the OIG with the appropriate accounting report verifying that the payment has been credited to the ENRD's Superfund account.

This recommendation can be closed when we receive documentation that the ENRD has remedied the \$27,966 of Fees - Expert Witness charges.