FINANCIAL ASSURANCE

AMERICAN RECOVERY SITE
CURTIS BAY, MARYLAND
SITE HISTORY

- US Industrial Chemicals operation in 1930’s. 40 acres in the Curtis Bay area.
- Manufacturer of chemicals, resins, intermediates, anti-freeze, industrial alcohols, and vitamin concentrate for stock and poultry feedstuffs.
- Unknown when operations terminated.
- Infrastructure in place in area.
AMERICAN RECOVERY COMPANY, INC.

- ARC was a subsidiary of parent company “The Union Corporation”, in Connecticut.
- ARC leased a 9 acre parcel of the former US Industrial Chemicals site in 1970.
- ARC operated a hazardous waste recycling, treatment and storage facility.
- How did they operate?
Drum Crushing Area
Spilled material inside the area.
Drum Pumping Area
In Front of Acid Storage Tanks
Main Pad Drum Storage: No Aisle Space, Deformed Drums, the Usual Mess.
Solvent Consolidation Area…..looks like an emergency cleanup by the Superfund folks, doesn’t it?
You don’t really want to know what these guys are doing, do you? Believe it or not, “solidification of wastes with sawdust”.
Greenpeace digs in as firm erects fences

By Tom Horton

Both sides agree that the conflict over the future of Greenpeace's Washington, D.C., office is heating up. The company's plan to build a fence around the site has sparked a heated debate among environmentalists and local residents.

The company, known as American Recovery, has plans to build a new office building on the site, which is currently occupied by Greenpeace. The proposed fence would block access to the site and prevent protesters from entering.

Environmental activists are concerned about the impact of the fence on free speech and the ability of protesters to express their views. They argue that the fence is a violation of their right to assemble and protest.

The company, on the other hand, says that the fence is necessary to protect the property and ensure the safety of its employees. They also argue that the fence is not a violation of their rights.

The conflict has sparked a heated debate among environmentalists and local residents. Many are concerned about the impact of the fence on free speech and the ability of protesters to express their views. Others argue that the fence is necessary to protect the property and ensure the safety of employees.

The issue is expected to continue to be a source of contention as the company moves forward with its plans.
PERMIT REVOCATION

• In response to repeated violations, permit revoked on December 20, 1984. (Only site in Maryland to have permit revoked.)

• Final Closure activities conducted in 1985 and 1986.

• Entered into Consent Order for Post Closure work in September, 1988. (Note: Property Owner was not a part of CO: BIG MISTAKE.)
Consent Order

• Implementation of Work Plan as required by Modified Closure Plan
• Monitoring of groundwater and maintenance of wells.
• Remedial Action Plan
  – Site Assessment per Work Plan
  – Cost Estimates and Financial Assurance Instruments
  – Other Requirements
Cost Estimates and Financial Assurance Instruments

• Post closure monitoring and maintenance for 30 years.
  – Trust Agreement and Standby Letter of Credit for $500,000

• Long term monitoring under the Work Plan
  – Annuity: To be paid annually until maturity in 29 years ($261,756); Current value = $140,229

• FA when Corrective Action is triggered.
Financial Assurance for
Triggered Corrective Action

• ARC submitted an unacceptable cost estimate for implementation of remedial measures plan (they said $75k).
• MDE agreed to postpone its request to increase the F.A. for remediation until a CMI Plan was received. (November, 1992)
• MDE retained the $500,000 Trust and the Annuity.
CONFESSIONS

Lack of consistency with project management.

Enforcement activities were bounced around from inspector to inspector.

No dedicated hydrogeologist to evaluate work done under the monitoring requirements.

Frustrations with apparent lack of cooperation by ARC.

We booted it to EPA for Corrective Action in 1998.

We breathed a sigh of relief that EPA agreed to take on ARC and implement Corrective Action requirements.
BANKRUPTCY

Spring, 2003 – Uh Oh!!
What we gonna do now?
PANIC

• MDE and EPA filed a proof of claim in the ARC bankruptcy for cost of site remediation ($9,081,944)
• When bankruptcy plan goes into effect, ARC ceases to exist.
• Consent Order will be rendered meaningless, as no inclusion that incorporates any successors to the company or to the actual “property owner”.
WE GOT LUCKY!!

• Although the bankruptcy proceedings dissolved ARC, MDE was able to obtain all proceeds from the financial assurance instruments.
• The $500,000 trust was put in an account available to MDE to continue closure, post-closure activities at site.
• We’re working on doing the same with the Annuity (currently at $140,229)
WHAT NOW?

• Contract for full site characterization is in the works (collaborative effort between MDE and EPA III).
• Following site characterization, decision will be made about additional work.
• There is a potential buyer for the property, which may let us look at a “RCRA Brownfields” possibility.
What’s it look like now?

I’ll tell ya one thing, buster, that was then and this is now. Let’s go down memory lane and see today.
Remember dis? Check the next one out.
Bad, bad, bad and ugly, ugly, ugly.
Better, hunh? ……Well, maybe.
Egermency, egermency, every vun to leaf streets. (With apologies to Alan Arkin.)
It really does look better……..sort of.
Remember Greenpeace? They might get poison ivy, oak, alien rashes, whatever today.
Waterfront area with development potential........after a little debris action.
WO!!!!  Fishin’s better than expected…depending on who’s fishin’ for who.
There really is good work going on at this site today.

Monitoring well sampling.
Anudder well.
LESSONS LEARNED
TOO MANY TO LIST

• Assure Financial Assurances are “current” for inflation, etc.
• Check to see if the F.A. is linked to a legitimate source.
• Have State Insurance Commissioner or independent perform “audit” on F.A.
• Implement deadlines and make them stick.
• Assign staff to work with fiscal folks to monitor and report progress on F.A.
• Develop S.O.P.’s to deal with all of above.
Okay, everybody, you’re on.
Let’s talk about what we may be able to do in the Region and what resources may be available to help us monitor our financial assurance obligations better.
Finally, we did get some benefit out of putting the Financial Assurance dollars into a dedicated account so that the Department could draw upon the money for environmental cleanup and other needs. Check out our new Hazardous Waste Enforcement vehicles.
Oh, yeah, baby, behave!!!!!!!!!!!!!
We even had a little extra……travel money.