



Bennington Landfill

NPL Site

Administrative Record Index

For the
De Minimis Settlement

Compiled: June 27, 1997

Updated: August 1998

Prepared by
US Environmental Protection Agency-Region I
Office of Site Remediation and Restoration

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Introduction

The documents listed in this index were relied upon by EPA-New England (Region I) in determining that a de minimis settlement, pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), is practicable and in the public interest. These documents were also employed by EPA-New England (Region I) in making party-specific findings with regard to the relative amount and toxic or other hazardous effects of the substances contributed by each party. In making these determinations, EPA also relied on that information referenced in or appended to the documents listed in this index. Such information so referenced or appended is incorporated by reference into this Administrative Record.

This Administrative Record for the Bennington Landfill Superfund Site de minimis Settlement is available for public review at both the EPA-New England (Region I) OSRR Record Center, 90 Canal St., Boston, MA and at the Bennington Public Library, Bennington, VT.

Questions concerning this Administrative Record should be addressed to Ed Hathaway, EPA Regional Project Manager, Office of Site Remediation and Restoration, U.S. Environmental Protection Agency, JFK Federal Building, Boston, MA 02233 or by calling him at (617) 573- 5782.

**BENNINGTON LANDFILL SUPERFUND SITE
DE MINIMIS SETTLEMENT
ADMINISTRATIVE RECORD INDEX**

TABLE OF CONTENTS

SECTION I: SITE SPECIFIC DOCUMENTS

- 10.0 Enforcement
 - 10.1 Correspondence
 - 10.4 Interviews, Depositions, and Affidavits
 - 10.5 General Negotiations
 - 10.6 PRP-Specific Negotiations
 - 10.8 EPA Consent Decree
 - 10.12 Litigation Support Documents
- 11.0 Potentially Responsible Parties (PRPs)
 - 11.9 PRP-Specific Documents
- 12.0 Cost Recovery
 - 12.3 Cost Summaries
- 16.0 Natural Resource Trustees
 - 16.1 Correspondence
 - 16.3 Natural Resource Trustees Releases

SECTION II: GUIDANCE DOCUMENTS

SECTION I: SITE SPECIFIC DOCUMENTS

10.0 Enforcement

10.1 Correspondence

1. Memorandum from Edward M. Hathaway, EPA to Bennington Site File titled, PRP Hazardous Waste Volumes Sent to the Bennington Landfill Superfund Site in Bennington, VT and Determination of Eligibility for *De Minimis* Settlement. Includes Attachments A and B. (June 5, 1997)
2. Revised Attachment A: *De Minimis* Eligibility and Fair Share Analysis.
3. Revised Attachment B: Explanation of PRP Waste Contribution Estimates.

10.4 Interviews, Depositions and Affidavits

1. Letter from Shapleigh Smith Jr., Dinse, Erdman, Knapp & McAndrew, P.C. to Hugh Martinez, EPA transmitting affidavit of Walter Noyes, H.M. Tuttle Co., Inc. (April 11, 1997)
2. Letter from Thomas M. Jacobs, Jacobs, McClintock & Scanlon to Hugh Martinez, EPA transmitting affidavit of Larry Lauzon, Lauzon Machine & Engineering, Inc. (July 9, 1998)
3. Letter from Thomas M. Jacobs, Jacobs, McClintock & Scanlon to Hugh Martinez, EPA transmitting supplemental affidavit of Larry Lauzon, Lauzon Machine & Engineering, Inc. (July 22, 1998)

10.5 General Negotiations

1. Letter from Indira Balkissoon, EPA to David Rosenblatt, Burns & Levinson, and Listed Addressees transmitting evidence summaries and supporting documentation. (February 16, 1995) Evidence Summaries and supporting documentation are available upon request for review at the Office of Site Remediation and Restoration Records Center, 90 Canal Street, Boston, MA (617) 573-5729.
2. Letter from Hugh Martinez, EPA to David Rosenblatt, Burns & Levinson regarding Bennington Landfill allocation analysis. (March 2, 1995)
3. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA concerning EPA's financial contribution to the alternative dispute resolution process. (March 28, 1995)

4. Letter from Hugh Martinez, EPA to David Rosenblatt, Burns & Levinson concerning Bennington Landfill allocation analysis. (May 16, 1995)
5. Letter from David P. Rosenblatt, Burns & Levinson to Hugh Martinez, EPA responding to EPA letter of May 16, 1995 regarding EPA's participation in or financial contribution toward alternative dispute resolution at Bennington Landfill. (June 6, 1995)
6. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA transmitting Bennington Landfill Superfund Site PRP Group's PRP Agreement. (June 21, 1995)
7. Sample Special Notice letter for Cleanup Negotiations at the Bennington Landfill Hazardous Waste Site. (July 24, 1995)
8. Letter from David Rosenblatt, Burns & Levinson to Indira Balkissoon, EPA transmitting Bennington Landfill Site Group Good Faith Proposal. (September 28, 1995)
9. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA requesting that negotiation discussions continue. (December 21, 1995)
10. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA identifying parties participating in *de minimis* settlement and basic terms of the proposed settlement. (February 12, 1996)
11. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA providing further information regarding the proposed *de minimis* settlement presented to EPA in a February 12, 1996 letter. (February 22, 1996)
12. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA providing comments on proposed Administrative Order by Consent. (May 10, 1996)
13. Letter from Hugh W. Martinez, EPA to David Rosenblatt, Burns & Levinson responding to David Rosenblatt's letter dated May 10, 1996. (May 29, 1996)
14. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA providing an overview of the *de minimis* component of the global settlement.
15. Letter from David Rosenblatt, Burns & Levinson to Hugh Martinez, EPA listing *de minimis* settlement shares.
16. Letter from David P. Rosenblatt, Burns & Levinson to Hugh Martinez, EPA with attached supplemental submittals from the PRP group. (January 21,

1997)

10.6 PRP-Specific Negotiations

1. Letter from Lynn Bergeson and John Seymour, Weinberg, Bergeson & Neuman to Hugh Martinez, EPA regarding Courtalds Structural Composites, Inc.'s participation in the Bennington Landfill *de minimis* settlement. (February 27, 1997)
2. Letter from Samuel Hoar, Dinse, Erdmann, Knapp & McAndrew, P.C. to David Rosenblatt, Burns & Levinson agreeing to settlement terms for H.M. Tuttle Co., Inc. (April 1, 1997)
3. Letter from Thomas Jacobs, Jacobs, McClintock & Scanlon to Hugh Martinez, EPA concerning the involvement of Lauzon Machine & Engineering, Inc. at the Bennington Municipal Landfill Superfund Site. (April 8, 1998)
4. Letter from Thomas Jacobs, Jacobs, McClintock & Scanlon to Hugh Martinez, EPA concerning the involvement of Lauzon Machine & Engineering, Inc. at the Bennington Municipal Landfill Superfund Site. (May 28, 1998)

10.8 EPA Consent Decree

1. United States of America and State of Vermont v. Town of Bennington et al.

10.12 Litigation Support Documents

1. Administrative Record Index for the Bennington Landfill Superfund Site *de minimis* settlement. (June 27, 1996)
2. Administrative Record Index for the Bennington Landfill Superfund Site *de minimis* settlements. (August 1998)

11.0 Potentially Responsible Parties (PRPs)

11.9 PRP-Specific Documents

1. Letter from Kenneth Rota, Vermont Agency of Environmental Conservation to Mara Yules, EPA concerning hazardous waste generation by Graphi-Tek of Vermont. (April 3, 1986)
2. Letter from Edward Holden, EHH Realty Corporation to Christian Rasher, EPA responding to EPA's request for information addressed to Fairdale Farms, Inc. (September 26, 1990)

12.0 Cost Recovery

12.3 Cost Summaries

1. Memorandum from Arthur Mari, EPA to Edward Hathaway, EPA transmitting Bennington Landfill cost summaries for costs to date less costs recovered at the Site. (June 17, 1997)

16.0 Natural Resource Trustees

16.1 Correspondence

1. Letter from Linda Murphy, EPA to Andrew Raddant, DOI requesting a Covenant Not to Sue Release for natural resource damages at Bennington Landfill Superfund Site. (November 9, 1995)
2. Letter from Linda Murphy, EPA to Kenneth Finkelstein, NOAA requesting a Covenant Not to Sue Release for natural resource damages at Bennington Landfill Superfund Site. (November 9, 1995)
3. Letter from Linda Murphy, EPA to Barbara Ripley, Vermont Agency of Natural Resources requesting a Covenant Not to Sue Release for natural resource damages at Bennington Landfill Superfund Site. (November 9, 1995)

16.3 Natural Resource Trustees Releases

1. Letter from Anthony Conte, DOI to Joel Gross, DOJ granting conditional Covenant Not to Sue regarding natural resource damage claims. (June 11, 1997)

SECTION II: GUIDANCE DOCUMENTS

1. Federal Register vol 52 No. 125, page 24333, Tuesday, June 30, 1987, "Superfund Program: De Minimis Contributor Settlements" (June 30, 1987).
2. Guidance of Premium Payments in CERCLA Settlements, OSWER Directive No. 9835.6 (November 17, 1988).
3. Methodologies for Implementation of CERCLA Section 122(g)(1)(A) De Minimis Waste Contributor Settlements, OSWER Directive 9837.7-1B (December 20, 1989).
4. Final Guidance on Preparing Waste-In Lists and Volumetric Rankings For Release to Potentially Responsible Parties Under CERCLA, OSWER Directive No. 9835.16 (February 22, 1991).
5. Methodology for Early De Minimis Waste Contributor Settlements Under CERCLA Section 122(g)(1)(A), OSWER Directive No. 9834.7-1C (June 2, 1992).
6. Streamlined Approach for Settlement With De Minimis Waste Contributors Under CERCLA Section 122(g)(1)(A), OSWER Directive No. 9834.7-1D (July 30, 1993).
7. Standardizing the De Minimis Premium (July 7, 1995).