

Federal Facility Cleanup Dialogue

Department of the Interior and Department of Agriculture Sites

October 21, 2010

Meeting Summary

Facilitator Notes:

This summary is designed to assist in identifying themes and appropriate next steps. Thus, it is primarily organized by topic, not chronologically. Note that there is some overlap between themes. Presentations by government officials are included in more detail and with attribution to provide context. The majority of the document summarizes successes, challenges, and ideas for improvements identified by those other than federal officials.

Introduction

The Federal Facility Cleanup Dialogue regarding US Department of the Interior (DOI) and US Department of Agriculture (USDA) sites was held on October 21, 2010, in Washington, D.C. The purpose of the meeting was to discuss the federal facility cleanup program progress and challenges and to identify potential next steps for addressing the challenges of federal facility site cleanups. More detail regarding the purpose of the meeting can be found in Attachment A. Participants in attendance included federal agency officials from the US Environmental Protection Agency (EPA), DOI, USDA, the Army Corps of Engineers, and Department of Energy; state, tribal, and local government representatives; and national and local community members from across the country that are actively engaged in and/or concerned about the cleanup program. An updated participant and observer contact list can be found in Attachment B. The agenda and ground rules for the meeting can be found in Attachment C. DOI's and USDA's presentations, as well as presentation materials prepared by Elizabeth Martin, can be found in Attachment D.

This summary is organized as follows:

- I. Opening comments by:
 - A. Kristi Parker Celico, facilitator, Rocky Mountain Collaborative Solutions
 - B. Mathy, Stanislaus, Assistant Administrator of U.S. EPA's Office of Solid Waste and Emergency Response
 - C. Shalini Vajjhala, Director of US EPA's Office of International and Tribal Affairs
- II. Presentations on DOI and USDA Environmental Programs
 - A. Willie Taylor, Acting Deputy Assistant Secretary for Policy and International Affairs at DOI
 - B. Blake Velde, Senior Environmental Scientist with USDA's Environmental Management Division
- III. Substantive Themes that Emerged throughout the Day including lunch discussions
 - A. Communication and Collaboration
 - B. Federal Agency Roles and Responsibilities
 - C. Framework for Addressing Abandoned Mine Sites
 - D. Funding for Abandoned Mine Site Cleanup
 - E. Risk Evaluation and Cleanup Standards
 - F. Site Inventory and Prioritization
 - G. Technical Challenges of Abandoned Mine Site Cleanups
 - H. Tribal Consultation and Treaty Rights
- IV. Closing Comments:
 - A. Blake Velde, Senior Environmental Scientist with USDA's Environmental Management Division
 - B. Willie Taylor, Acting Deputy Assistant Secretary for Policy and International Affairs at DOI
 - C. Mathy, Stanislaus, Assistant Administrator of U.S. EPA's Office of Solid Waste and Emergency Response

I. Opening Comments

- A. Kristi Parker Celico, Facilitator, Rocky Mountain Collaborative Solutions. Kristi Parker Celico provided context for the meeting by looking back at two previous multi-stakeholder efforts to address concerns about federal facility cleanups: the Federal Facility Environmental Restoration Dialogue Committee (FFERDC)¹ during the 1990s, and the National Environmental Justice Advisory Council's (NEJAC)² Federal Facilities Working Group from the early 2000s. Both of these efforts produced consensus recommendations that resulted in significant changes for how cleanups are conducted. Kristi noted that a number of years have passed since FFERDC and NEJAC and that this is an opportunity to share cleanup successes and to identify new issues requiring attention and resolution.
- B. Mathy Stanislaus, Assistant Administrator of U.S. EPA's Office of Solid Waste and Emergency Response. Mathy Stanislaus thanked everyone for attending and attributed the great turnout as a willingness to engage in the issues. Mr. Stanislaus noted the substantive contributions of the FFERDC and NEJAC reports as well as the strong relationships that were established in developing the reports and their recommendations. These reports provide a strong foundation for moving forward and addressing new issues and challenges. Mr. Stanislaus further noted that community engagement is one of his top priorities and this meeting is intended to reinvigorate stakeholders. Mr. Stanislaus stated that his vision for the meeting was to:
- Promote transparency, greater collaboration and joint problem solving to help ease community frustration;
 - Have a blunt yet respectful conversation about challenges of federal facility cleanups;
 - Clarify federal roles and responsibilities; and
 - Develop a longer-term strategy for addressing key issues.

Mr. Stanislaus stated that the outcomes from this meeting will include development of a summary report and meetings with the federal partners to determine which issues can be addressed at local and national levels, respectively. He also anticipated ongoing conversations with stakeholders. Mr. Stanislaus concluded by thanking everyone for their passion and long-term commitment to this effort.

- C. Shalini Vajjhala, Director of U.S. EPA's Office of International and Tribal Affairs. Ms. Vajjhala stated that there are thousands of federal facility sites in Indian country with many issues and this meeting is the next step in communication between stakeholders to form solutions. Ms. Vajjhala highlighted three building blocks to tribal engagement: 1) government-to-government consultation; 2) inter-agency coordination; and 3) improving data needs and information. She noted that these three pillars are critical to compliance and allowing tribes to exercise their authority.

¹ The full FFERDC report can be found at <http://www.epa.gov/fedfac/pdf/fferdcc.pdf>

² The full NEJAC report can be found at <http://www.epa.gov/compliance/ej/resources/publications/nejac/ffwg-final-rpt-102504.pdf>

II. Presentations on DOI and USDA Environmental Programs

- A. Willie Taylor, Acting Deputy Assistant Secretary for Policy and International Affairs at DOI. Mr. Taylor stated that DOI is looking at this Dialogue as the first step to moving forward to action. The mission of the DOI is to protect America's natural resources and heritage, honor our cultures and tribal communities, and supply the energy to power our future. DOI manages 20 percent of U.S. land mass which equates to approximately 500 million acres of land, supplies about 30 percent of the nation's energy production, and works with 564 federally recognized tribes and villages. DOI comprises multiple bureaus including the Bureau of Land Management, U.S. Geologic Survey, the Bureau of Reclamation, and the Bureau of Ocean Energy Management, Regulation and Enforcement—formerly the Minerals Management Service, among others.

The Central Hazardous Materials Fund (CHF)³ was created in 1995 to clean up sites under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); it was intended to be used on medium to long-term cleanups with a focus on cleanup versus study. The CHF supports the appropriate bureaus under CERCLA and Executive Order 12580 (Lead Agency) authority. At sites where DOI has lead agency authority it conducts potentially responsible party (PRP) searches and cleanup activities. DOI's priorities for remediation are driven by three criteria: 1) risk to human health and the environment; 2) utilization of innovative and accelerated approaches or technology, and 3) involvement of PRPs. The CHF receives approximately \$10M a year in appropriations and recovers \$4 to \$5 million per year from PRPs. Between appropriations (\$144M), cost recoveries (\$52M) and DOI supervised PRP work (\$250M), DOI has leveraged over \$446 million in cleanups over the life of the program.

DOI has a management system for Environmental and Disposal Liabilities that tracks contaminated lands managed by the Department, which include:

- Over 805 sites on DOI lands;
- 261 probable sites that will need to be addressed under CERCLA (lower estimate at \$134M);
- 105 reasonably possible sites that will need to be addressed under CERCLA (lower estimate at \$49M); and
- CHF has addressed 18 percent of these 366 CERCLA sites to date.

Further, the Natural Resource Damage Assessment and Restoration (NRDAR) program follows CERCLA authority and is used to restore damaged habitat to pre-incident condition. In FY 2010 appropriations were \$6.5M and the budget includes \$191M in permanent funds from negotiated legal settlements.

DOI continues to deal with a main issue—lack of resources. The CHF is being asked to do more with fewer resources, and currently two-to-four people work on environmental and cleanup issues for the entire Department. Other challenges facing DOI include:

- A significant number of abandoned mine sites with environmental contamination on DOI lands
 - DOI does not believe that abandoned mines are federal facilities although DOI is responsible to help get these sites cleaned up

³ A map of all Central Hazardous Material Fund sites can be found at <http://oepec.doi.gov/chf/statemap.html>
Federal Facility Cleanup Dialogue
DOI and USDA Meeting Summary Report

- Many of these sites were not caused by the government and it is difficult to find viable PRPs
- Conflict with mining claims; claimants own tailings but may not have liability
- Tighter budget environment – fewer dollars within Department; competing with high priority programs
- Difficult to partner with other agencies due to different priorities
- Complex large sites – geology, hydrology, chemistry

B. Blake Velde, Senior Environmental Scientist with USDA's Environmental Management Division. USDA was established in 1862 and now has 100,000+ employees. It comprises 17 agencies that work across seven mission areas. USDA is responsible for 193M acres of land and funding sources include:

- USDA Hazardous Materials Management Appropriation (HMMA) Account ~ \$5M yr (\$3M for OGC and Program staff);
- USDA Enforcement actions - \$10 to \$175M/yr;
- Forest Service - \$15 M for abandoned mine lands; and
- Department of Defense – TBD annual value of effort spent on USDA lands and facilities (Formerly Used Defense Sites/Base Realignment and Closure/direct transfers).

USDA works under the following authorities:

- CERCLA;
- EO 12580 – CERCLA lead agency authority non-National Priorities List (NPL), non-time critical removal authority;
- EO 13016 – CERCLA enforcement authority – non-NPL;
- 40 CFR 300 NCP;
- 1872 Mining Act;
- Federal Land Policy and Management Act of 1976;
- EPA Office of Solid Waste and Emergency Response Directives, guidance; and
- Federal/State Applicable or Relevant and Appropriate Requirements.

The Environmental Management Division/Response and Restoration Program (EMD/R&R) focuses on cleanups for which USDA administers the HMMA account. EMD/R&R establishes Department-wide policy and guidance, and provides cleanup technical assistance and support. Mr. Velde stated that USDA uses enforcement authority on non-NPL sites. USDA has a site inventory with 21,000 potential sites; however, USDA has not assessed all of these sites to determine if they will need cleanup action. USDA provides incident/emergency response support and also supports local community's efforts to reuse brownfields.

The challenges USDA faces include:

- Making progress on USDA's cleanup backlog given HMMA funding cutbacks.
- Regulatory pressure to work on lower priority sites skews Department cleanup funding priorities.
- Emergency response (Deepwater Horizon) stretched staff resources.
- Increase in Department of Defense cleanup and assessment activity on USDA lands has stretched USDA and agency review and oversight capabilities.

- Congressional mandate to increase property disposals requiring environmental reviews.

USDA focuses on public health and environmental threats such as contamination of water supplies in surface water and ground water; direct contact exposure; and destruction of threatened/endangered fish habitat. The Agricultural Research Service Beltsville site is the only USDA NPL site listed as a federal facility. The USDA Forest service works to mitigate and remediate impacts from abandoned mines. Other USDA cleanup issues include Animal and Plant Inspection Health Service Cattle Dip Vats, Commodity Credit Corporation Grain Bins, and Formerly Used Defense Sites on USDA-managed lands.

USDA has experienced funding cuts that have had the following impacts:

- 15-20 project/yr cleanup rate (FY96-06) reduced to partially funding 3 projects in FY 2009 and 2010.
- Cleanup "life cycle" expands from hundreds of years to thousands of years.
- Moves emphasis to "keep out of jail" – State and Federal environmental regulator pressure to set priorities.
- Lack of Administration emphasis on cleanup programs can be interpreted as a lower program priority.

Federal agencies can take on a regulatory role under CERCLA 120 for non-NPL sites under the Executive Order 12580 delegations—there are pros and cons for the site manager. EPA retains oversight obligations by policy and holds federal facilities to the same standards.

III. Substantive Themes

The following themes were identified based on the comments of individual participants, large group dialogue, and small facilitated roundtable discussions pertaining to the challenges associated with federal facility site cleanups and possible approaches for addressing the challenges.

- A. Communication and Collaboration. A number of participants emphasized the importance of communication and collaboration among all parties to facilitate cleanup. A community representative spoke of successful collaborative efforts to address abandoned mines that involved representatives of the Bureau of Land Management, the US Forest Service, US Geologic Survey, state agencies and universities. The group has created working principles with a focus on collaboration. Other entities have been less successful in their efforts to collaborate. State government representatives spoke of their difficulties engaging with DOI or USDA on the cleanup of abandoned mine lands particularly as there is no state engagement process under the Federal Land Policy and Management Act where either USDA or DOI is the lead agency. State representatives reminded the agencies that the National Contingency Plan criteria apply to any actions they take under CERCLA; hence, they need to obtain state acceptance of their cleanup plans. States believe that by consulting with states and obtaining their buy-in, DOI and USDA would have increased success. Instead, states feel they have to go to EPA to request site listing as a last resort because DOI or USDA would not engage with the state. Suggestions for improving communication and collaboration include:

- At the site level, jointly develop a plan for federal, state, and local agencies that clarifies which agency is doing what and when.
- Develop language encouraging the creation of advisory boards at sites.
- Use trainings at lower levels of land management agencies to develop partnership skills.
- Apply a FFERDC type of communication dialogue to abandoned mine site cleanup issues. This will capitalize on the success of FFERDC regarding Department of Defense and Department of Energy issues.

B. Federal Agency Roles and Responsibilities. Participants noted there is evident confusion regarding roles and responsibilities of federal agencies during cleanup activities and there are issues with consistent implementation of CERCLA across agencies. Too much energy is spent on infighting rather than cleanup. Federal representatives acknowledge that there are tensions between federal land management agencies and EPA. Federal land managers believe that abandoned mines should not be considered federal facilities under CERCLA. These sites are typically distant from population centers, are more environmental than public health matters, and the contamination did not result from federal government activities. Further, federal land managers asserts that abandoned mines are not federal facilities due to successful court cases and that when EPA refers to abandoned mines on DOI or USDA lands as federal facilities, it restricts the tools and funding sources available to DOI and USDA to address these sites. Listing as a federal facility NPL prevents the CERCLA Trust fund from being used and the Federal Land Management Agencies from using enforcement authority. Conversely, EPA believes it must enforce CERCLA section 120 and does not believe the federal facility label restricts federal land management agencies. Federal agencies disagree on this point and acknowledge there needs to be discussion to resolve this issue. Community members expressed that they do not care about lead agency responsibility, site ownership, or who is responsible; communities just want action to ensure cleanup. Communities are not asking agencies to give up legal rights. They are asking them to participate in dialogue and bring ideas back to their respective agencies and promote them. A number of participants suggested that this topic warrants further dialogue. Such a dialogue could develop a process for good stewardship that defines a shared vision and defines roles and responsibilities. This would include criteria for when it is best to list a site or not list a site.

C. Framework for Addressing Abandoned Mine Sites. Some participants stressed the need for an overarching framework to address abandoned mine site cleanups. In that context, participants discussed different frameworks or approaches for addressing abandoned mine sites. Colorado has taken a collaborative watershed approach that has enabled the completion of numerous mine waste cleanups. USDA and DOI both promote the watershed approach and found that it facilitates increased collaboration among federal, state, and local agencies as well as with community groups. USDA and DOI suggested they could look at sites where a watershed approach has been successful to obtain lessons learned and best practices. EPA added that it may be valuable to evaluate lessons learned and best practices from the EPA Brownfields programs that might be adapted to abandon mine land sites. Other participants mentioned that the Good Samaritan initiative may provide a means to enable third-party groups to conduct cleanup activities; however, unresolved concerns about liability limit the effectiveness of the Good Samaritan initiative. Montana has a robust program that is funded by a 1 percent state tax placed on

hardrock minerals to assist in funding reclamation activities. The Montana program uses the threat of lawsuits under the Clean Water Act to compel those liable to address abandoned mine sites. Further, if there are patented claims where claimant does not take responsibility for cleanup, the state places a lien on the property. In Montana, if a party contaminates a waterway it is liable for cleanup.

- D. Funding. Limited funding and staff resources for abandoned mine site cleanups impact what DOI and USDA can accomplish. Federal land management agencies have been forced to continue work on legacy projects rather than new sites. State representatives recommend coordinating with states to work together to leverage additional funding and develop solutions to budget shortfalls. Suggestions for addressing funding issues involve using a dialogue process to develop a broad consensus to support requests for additional funding and identify administrative and possibly legislative proposals.
- E. Risk Evaluation and Cleanup Standards. A number of participants commented on the apparent lack of consistency across federal agencies regarding risk evaluation and cleanup of abandoned mine lands. EPA or states may view some abandoned mine lands as posing sufficient risks requiring immediate attention while federal land management agencies may not. Participants asserted that there needs to be clear and consistent standards across agencies for how risk assessments are performed. Suggestions for moving forward on this issue include conducting research on how risk assessment is conducted across agencies/programs, and developing clear standards that will enable joint prioritization of sites (discussed below). These standards should:
- Provide clarification on what is a naturally occurring substance and how much of a substance is due to mining versus ambient conditions.
 - Include risk modeling for various exposure pathways, including subsistence cultures.
 - Develop clear standards for “how clean is clean.”
- F. Site Inventory and Prioritization. Many participants inquired whether an inventory of abandoned mine sites exists, noting that a reliable inventory is essential for prioritizing and funding cleanups. Although each agency has its own incomplete list of abandoned mines sites that it uses to prioritize action, there is not a comprehensive national abandoned mine lands site inventory. As a result, there has been no shared prioritization of sites for action. Participants urged agencies to work together to develop a shared inventory to help identify the true extent of the problem. This could be done in the context of a larger dialogue process.⁴ Suggestions for beginning work on this inventory include:
- Gathering information from state governments that have conducted extensive inventory efforts.
 - Participating in a joint information collection effort to develop an inventory at the federal level.

⁴ Recently the Federal Mining Dialogue identified the need to more fully understand how each agency prioritizes sites as a means to more effectively coordinate cleanups. The Federal Mining Dialogue, which consists solely of government representatives, is starting an effort to gather information on prioritization processes to improve collaboration among agencies and the effectiveness of on-the-ground activities. Information on abandoned mines across the country can be found on the Inter-Agency Abandoned Mine Lands Portal located at www.abandonedmines.gov.

- Using the Army Corps of Engineers site inventory to assist with any inventory reconciliation activities.

G. Technical Challenges. Some participants discussed the technical challenges associated with the cleanup of abandoned mine lands, including pit lake formation and dewatering issues. Acid mine drainage continues to pose a problem for which there is no short-term solution. The methodology to deal with point sources does not work for abandoned mines. Institutional controls may help to address these issues, but there are situations where agencies push back on the use of institutional controls. Participants suggested that additional dialogue and coordination will need to occur to effectively deal with the complexities of these sites. Other suggestions for addressing technical challenges include:

- Developing interim and short-term success measures for specific challenges.
- Developing a national database of remediation technologies to help on-the-ground staff identify appropriate/innovative technologies to effectively and efficiently address contamination from abandoned mines.
- Sharing Department of Defense technologies that may be applicable to other cleanups.

H. Tribal Consultation and Treaty Rights. Tribal government participants stressed the importance of bringing tribal leaders into conversations – whether local or national – early in the process. If tribes are involved early in the decision-making process there is a greater likelihood of success. There are a number of avenues available for coordinating and collaborating with tribes, such as national tribal groups where there is extensive participation by tribal governments at the regional and local level. Tribal government participants also noted the importance of federal government trust responsibility to tribes and complying with tribal treaty rights. Federal agencies and Congress appear uninformed about how to manage trust responsibility and comply with treaty rights. Further, young people entering federal government positions do not have the knowledge and understanding to effectively coordinate with tribal leaders. Failure to fulfill trust responsibility and comply with treaty rights impedes government-to-government consultation.

IV. Closing Remarks

- A. Blake Velde, Senior Environmental Scientist with USDA's Environmental Management Division. Mr. Velde acknowledged that USDA's program is not as far along as either the Department of Defense or Department of Energy programs. He expressed hope for further dialogue on the issues and suggested it might be valuable to have this group tap into the Federal Mining Dialogue which discusses a lot of the same issues and is intended to work on a policy level. He also noted there is also a Brownfield Mine-Scarred Lands Initiative. Mr. Velde thanked all community members and tribes for their participation and indicated he was looking forward to other efforts to work together and come up with solutions.
- B. Willie Taylor, Acting Deputy Assistant Secretary for Policy and International Affairs at DOI. Willie Taylor was a member of the original FFERDC; he noted the group endured lots of struggles but had many successes. This effort will be similar, and that is okay. It will be important to have the Office of Management and Budget at the table—they need

to hear what communities are saying. He said that all want and strive for successful cleanups. The Bureau of Land Management, Fish and Wildlife Service, National Park Service, and Bureau of Reclamation should be at the table because they do on-the-ground cleanup work. He asserted the need for a long-term strategy and committed to distribute the meeting summary to his management and the Bureaus for comment. Mr. Taylor also stated that the group may want to consider looking at regional issues or issues by state to find out what is working and potentially conduct pilot projects to gain insight on best practices.

- C. Mathy Stanislaus, Assistant Administrator of U.S. EPA's Office of Solid Waste and Emergency Response. Mathy Stanislaus noted that the White House Council on Environmental Quality was invited to participate in this discussion and is engaged on these issues. He confirmed his commitment to this effort and said he would get back with the group in one month with ideas for next steps. These next steps will initially be developed through next discussions with federal agencies. Some issues are tough and long-term; however, there are things that can be improved in the short-term.

Mr. Stanislaus also observed that the Department of Defense and Department of Energy environmental programs have come a long way and have developed an understanding of what works. This group should look at the Department of Defense, Department of Energy, and other agencies to determine what lessons learned and best practices can be adapted to DOI and USDA issues. It is time for this group to determine priorities, adapt current systems, and identify a process to make short-term improvements.. In addition, other efforts beyond this group may result in improvement. For example, the CERCLA 108(b) rule related to financial assurance for permitting active mines would facilitate improvement in mining practices. He also stated that this group needs to establish baseline facts and develop an inventory of known sites. Mr. Stanislaus concluded the meeting by thanking states, tribes and communities for their participation and commitment to moving toward solutions.

Federal Facility Cleanup Dialogue

October 20-21, 2010

*Washington Plaza Hotel,
10 Thomas Circle NW
Washington, DC 20005-4106*

The Federal Facility Cleanup Dialogue (Dialogue) will serve as a forum for Federal agencies; tribal, state, and local governments; communities, environmental groups and academia to discuss the Federal facilities cleanup program progress. The objectives of the Dialogue include fostering effective communication among stakeholders, discussing and prioritizing challenges of federal cleanups, and establishing potential next steps for addressing the future challenges of federal facility site cleanups.

The Dialogue is a two-day event that will be held on October 20-21, 2010, at the Washington Plaza Hotel in Washington, DC. Due to the difference in the nature of challenges faced at Department of Energy (DOE) and Department of Defense (DOD) sites, compared with those at Department of Interior (DOI) and Department of Agriculture (USDA) sites, we have decided to hold two meetings to more fully address these challenges. The October 20th meeting will focus on issues relevant to DOE and DOD sites, while October 21st will focus on issues pertaining to DOI and USDA sites.

The desired outcome of the Dialogue is that Federal agencies, tribal, state, and local governments and communities develop a common understanding of program successes and future challenges, and identify how to work towards resolution of these challenges.



DOI and USDA Dialogue Participants October 21, 2010					
	Last Name	First Name	Phone	E-mail	Organization
1	Balocki	James	202-761-5642	james.b.balocki@usace.army.mil	United State Army Core of Engineers
2	Borsellino	Ron	215-814-3170	borsellino.ron@epa.gov	US Environmental Protection Agency Region 3
3	Cooper	Gail	703-603-0049	Cooper.GailAnn@epa.gov	US Environmental Protection Agency Region 3
4	Diamond	Jane	415-972-3275	diamond.jane@epa.gov	US Environmental Protection Agency Region 9
5	Giles	Cynthia	202-564-2440	giles-aa.cynthia@epa.gov	US Environmental Protection Agency Region 3
6	Harry	Norman	775-842-1765	normharry@aol.com	Pyramid Lake Paiute Tribe
7	Hatley	Earl	918-256-5269/918-520-5725	ehatley@neok.com	Local Environmental Action Demanded Agency, Inc.
8	Hendler	Harry	602-771-4609	hh3@azdeq.gov	Arizona Department of Environmental Quality
9	Jensen	Jim	406-443-2520	jjensen@meic.org	Montana Environmental Information Center
10	Jim	Russell	509-452-2502	Russell@yakama.com	Yakama Cleanup Program
11	Leclerc	Russell	303-312-6693	leclerc.russell@epa.gov	US Environmental Protection Agency Region 8
12	Lorch	Brian	970-668-4067	brianl@co.summit.co.us	Summit County Government
13	Martin	Elizabeth	530-265-8454	izzy.martin@sierrafund.org	The Sierra Fund
14	McClain	Mildred	912-233-0907	cfej@bellsouth.net	Harambee House/Citizens For Environmental Justice
15	Miller	Dan	303-866-5014	dan.miller@state.co.us	Colorado Department of Law
16	Miller	Glenn	775-784-4108	glennm@unr.edu	University of Nevada, Reno
17	Opalski	Dan	206-553-1855	opalski.dan@epa.gov	US Environmental Protection Agency Region 10
18	Pagel	Lauren	202-887-1872	lpagel@earthworksaction.org	EarthWorks
19	Roberts	Jennifer	907-269-7553	Jennifer.Roberts@alaska.gov	Alaska Department of Environmental Conservation
20	Russell	Elizabeth	303-440-2937	erussell@tu.org	Trout Unlimited
21	Siegel	Lenny	650-961-8918	lsiegel@cpeo.org	Center for Public Environmental Oversight
22	Stanislaus	Mathy	202-566-0200	stanislaus.mathy@epa.gov	US Environmental Protection Agency
23	Stover	Bruce	303-866-3567 ext8146	Bruce.stover@state.co.us	Colorado Abandoned Mine Program
24	Taylor	Willie	202-208-3891	Willie_Taylor@ios.doi.gov	US Department of the Interior
25	Vajjhala	Shalini	202-564-6600	vajjhala.shalini@epa.gov	US Environmental Protection Agency
26	Velde	Blake	202-205-0906	Blake.Velde@dm.usda.gov	US Department of Agriculture

DOD and DOE Dialogue Observers					
October 21, 2010					
	Last Name	First Name	Phone	Email	Organization
1	Besoughloff	Jeff	202-564-0303	Besoughloff.Jeff@epa.gov	US Environmental Protection Agency
2	Bogoshian	Matt	202-564-2440	Bogoshian.Matt@epa.gov	US Environmental Protection Agency
3	Borak	Dave	202-586-9928	david.borak@em.doe.gov	US Department of Energy
4	Cheatham	Reggie	202-603-9089	cheatham.reggie@epa.gov	US Environmental Protection Agency
5	Drazan	Dan	202-564-2328	drazan.dam@epa.gov	US Environmental Protection Agency
6	Garcia	Lisa	202-564-1259	garcia.lisa@epa.gov	US Environmental Protection Agency
7	Haible	Paul	415-298-6809	paul@peacefund.org	Peace Development Fund
8	Hoffman	Anne Marie	703-603-0720	Hoffman.AnneMarie@epa.gov	US Environmental Protection Agency
9	Joseph	Emily	202-208-5303	Emily_Jospeh@ios.doi.gov	US Department of the Interior
10	Juarez	Teresa	505-603-2009	tjuarez@la-tierra.com	New Mexico Alliance
11	Kambour	Andrew	202-624-3628	akambour@nga.org	National Governors Association Center for Best Practices
12	Lodder	William (Bill)	202-208-6128	william_lodder@ios.doi.gov	US Department of the Interior
13	Manges	Ellen	202-566-0195	manges.ellen@epa.gov	US Environmental Protection Agency
14	McCall	Tad	703-532-7747	mccall_tad@bah.com	Federal Facilities Environmental Restoration Dialogue Committee
15	Metz	Chloe	212-637-4449	metz.chloe@epa.gov	US Environmental Protection Agency Region 2
16	Moreno	Miguel	505-692-9700	miguelfmorenabase@gmail.com	Product of Aztlan
17	Reeder	John	202-564-6082	Reeder.John@epa.gov	US Environmental Protection Agency
18	Reyes	Charles	202-624-7882	charlesr@astswmo.org	Association of State and Territorial Solid Waste Management Officials
19	Reynolds	Georgianne	202-761-5855	georgianne.l.reynolds@HHQ02.USACE.army.mil	U.S. Army Corps of Engineers
20	Sanborn	David	703-604-1773	David.Sanborn@osd.mil	US Department of Defense
21	Siegel	Steven	202-219-0367	steven.siegel@sol.doi.gov	US Department of the Interior
22	Sutton	Amanda	703-603-0055	Sutton.Amanda@epa.gov	US Environmental Protection Agency
23	Warner	Jim			
24	Young	Dianna	703-603-0045	Young.Dianna@epa.gov	US Environmental Protection Agency

AGENDA
FEDERAL FACILITY CLEANUP DIALOGUE
DOI and USDA FEDERAL FACILITIES
October 21, 2010¹

Wednesday, October 20, 2010

6:00 p.m. Registration and Reception, Franklin Room, First Floor, Washington
to Plaza Hotel, 10 Thomas Circle, N.W. , Washington, D.C.
8:00 p.m.

Thursday, October 21, 2010

8:15 a.m. Registration and Continental Breakfast Available for Participants and Observers.
Outside the National Hall, Washington Plaza Hotel

9:00 a.m. Opening of Meeting and Introductions of all Participants and Observers Kristi
Parker Celico and Steve Garon, Facilitators

9:15 a.m. Opening Comments

- Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste
and Emergency Response
- Shalini Vaijhala, Deputy Assistant Administrator, EPA Office of
International and Tribal Affairs

9:30 a.m. Review Purpose of the Day, Agenda, and Ground Rules. See Attachment A at
the back of this agenda regarding purpose and ground rules.

9:45 a.m. General Expectations for the Day and Overview of Programs:

- Willie Taylor, Acting Deputy Assistant Secretary for Policy and International
Affairs, Office of the Secretary, US Department of Interior
- Blake Velde, Sr. Environmental Scientist, USDA Environmental
Management Division

¹ Please note: The facilitators may adjust the times and content of this agenda based on the needs
of the group.

Attachment C

- 10:15 a.m. Kick-off Comments
We have asked a diversity of participants to prepare comments to the following two questions to help launch the discussion:
- What's working best and should be shared with other sites?
and/or
 - What is the biggest clean-up problem and what policy approach could help address it?
- Speakers should limit their comments to no more than three minutes.**
- Elizabeth Martin, Sierra Fund
 - Jennifer Roberts, Alaska Department of Environmental
 - Bruce Stover, Colorado Abandon Mine Program
 - Dan Opalski, EPA Region 10
 - Brian Lorch, Summit County Government
- 10:45 a.m. Break
- 11:00 a.m. Dialogue Discussion: Open discussion regarding what's working and what's not.
- 12:30 p.m. Working Lunch in the Hotel Lounge.
All meeting participants will be assigned seating to facilitate lunch discussions. Meeting observers may sign up to participate in lunch to the extent space allows. Sign-up is at the registration table. The cost is \$18 in cash for all participants and observers.
- Why Collaborate? Tad McCall, past senior official at the Navy, Air Force, and EPA. Past Chair of the Federal Facility Environmental Restoration Dialogue Committee (FFERDC Dialogue).
 - Facilitated round table discussions, based on discussions of the morning:
 - What are the top three challenges?
 - What are the best policy solutions to explore for these challenges?
 - Who should be involved in the exploration?
- 2:00 p.m. Brief Summary of Roundtable Discussions
- 2:15 p.m. Next Steps: Given what you have heard, suggestions for a path forward?
- What individual actions (agency or interest groups) can be taken to improve clean-ups?
 - What collaborative actions can be taken to improve clean-ups?
 - How should lessons learned be shared?
- 3:15 p.m. Closing Remarks:
- Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste and Emergency Response
- 3:30 p.m. Adjourn

Attachment A: Purpose of the Meeting and Meeting Ground Rules²
--

Purpose for the meeting is to:

Hold a forum for Federal agencies; tribal, state, and local governments; communities, environmental groups and academia to discuss Federal facility cleanup program progress, issues and lessons learned. The Dialogue will create the opportunity for all stakeholders to assess the status of the federal facilities program.

Desired Outcome:

Federal agencies, communities and other stakeholders will have an opportunity to share their individual experiences and perspectives of program successes and issues, and identify a range of ideas regarding how to work towards resolution of the remaining issues.

Objectives:

- Foster effective face-to-face communication among stakeholders
- Assess the progress of the Federal Facilities cleanup program
- Identify successes
- Identify and prioritize issues
- Establish next steps towards resolution of issues

Possible follow-up after the meeting:

- A draft meeting summary sent to all participants for comment
- A meeting between the federal agencies to discuss what they heard and next steps, if any.
- A mailing to all participants including the final meeting summary and a summary of the next steps agreed to at the federal agency meeting.

What these meetings will NOT be:

- An effort to reach consensus in a single day.
- A decision-making meeting. It is expected that the agencies will need to consider the advice they hear and determine next steps afterwards.

Meeting Ground Rules:

1. Share the meeting time
2. If raising problems, propose solutions.
3. Focus on problems that are common to many sites. Site-specific issues should be addressed off-line.
4. Avoid acronyms.
5. Avoid personal attacks.
6. To the extent participants and observers choose to speak to the media after the meeting, please summarize only your own thoughts. Do not attempt to summarize what others said.

² Developed in collaboration with the Planning Committee.

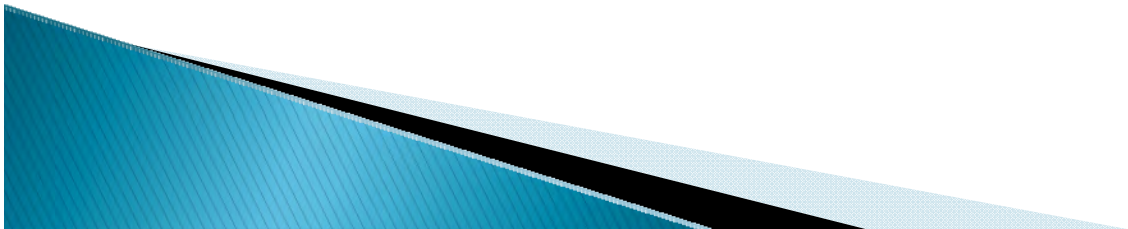
Department of the Interior Cleanup Programs



Willie R. Taylor
Acting Deputy Assistant Secretary –
Policy and International Affairs
Director, Office of Environmental Policy
and Compliance
October 21, 2010

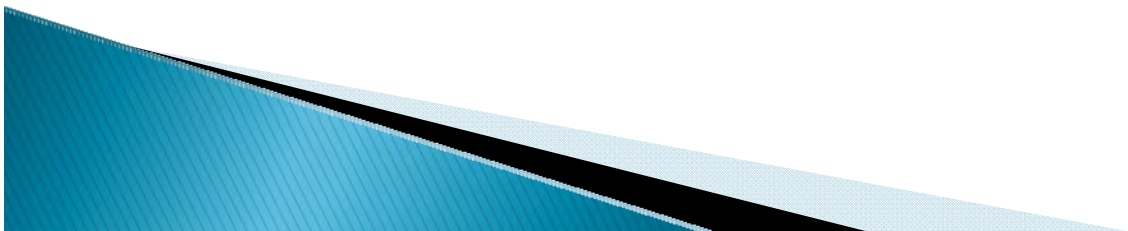
Interior's Mission

- ▶ The Mission of the Department of the Interior is to protect America's natural resources and heritage, honor our cultures and tribal communities, and supply the energy to power our future.



DOI “Big Picture”

- ▶ DOI manages 20% of US land mass
 - Approximately 500 million acres of land
- ▶ Supplies about 30 percent of the nation's energy production
- ▶ Works with 564 federally recognized tribes and villages

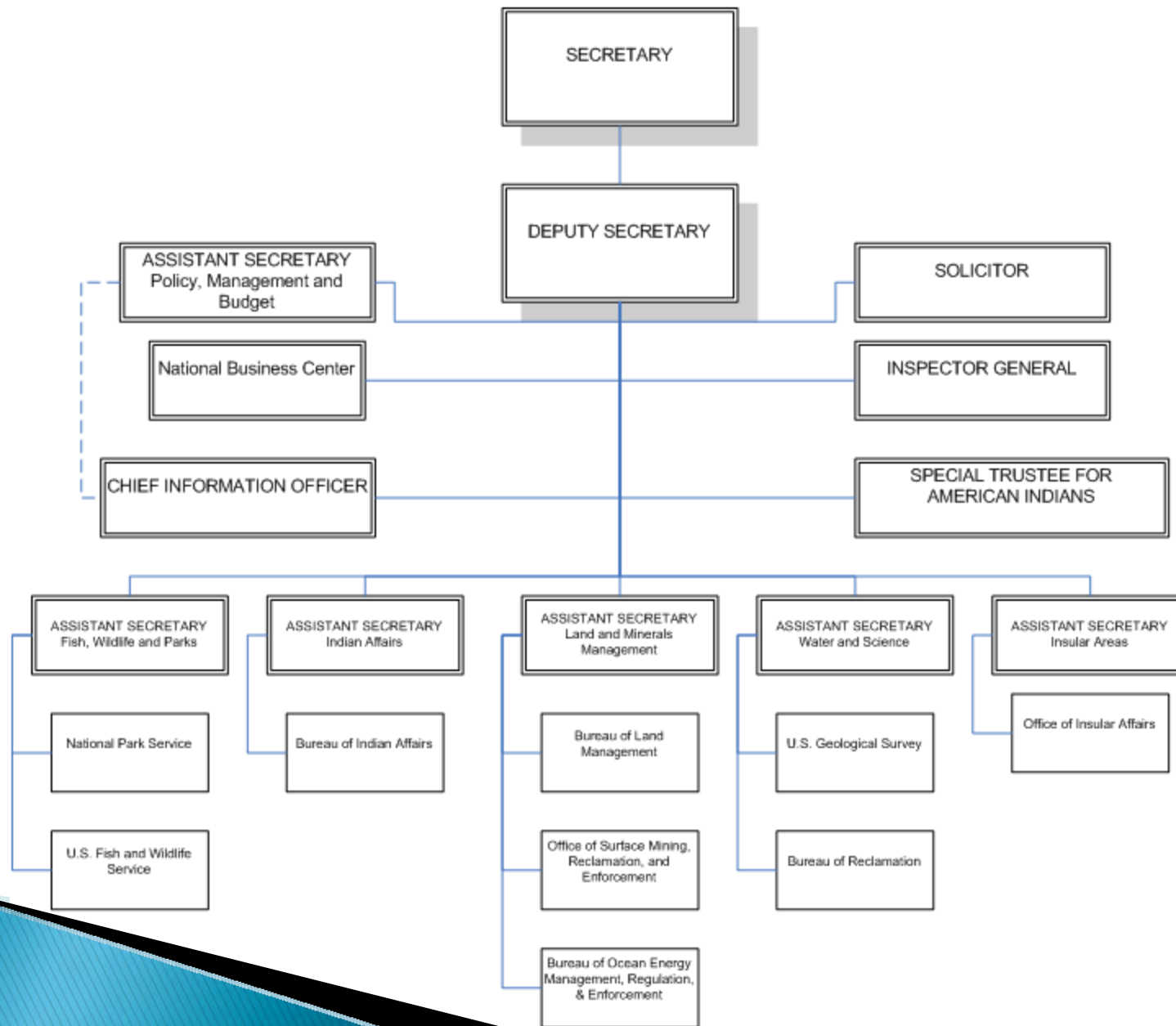


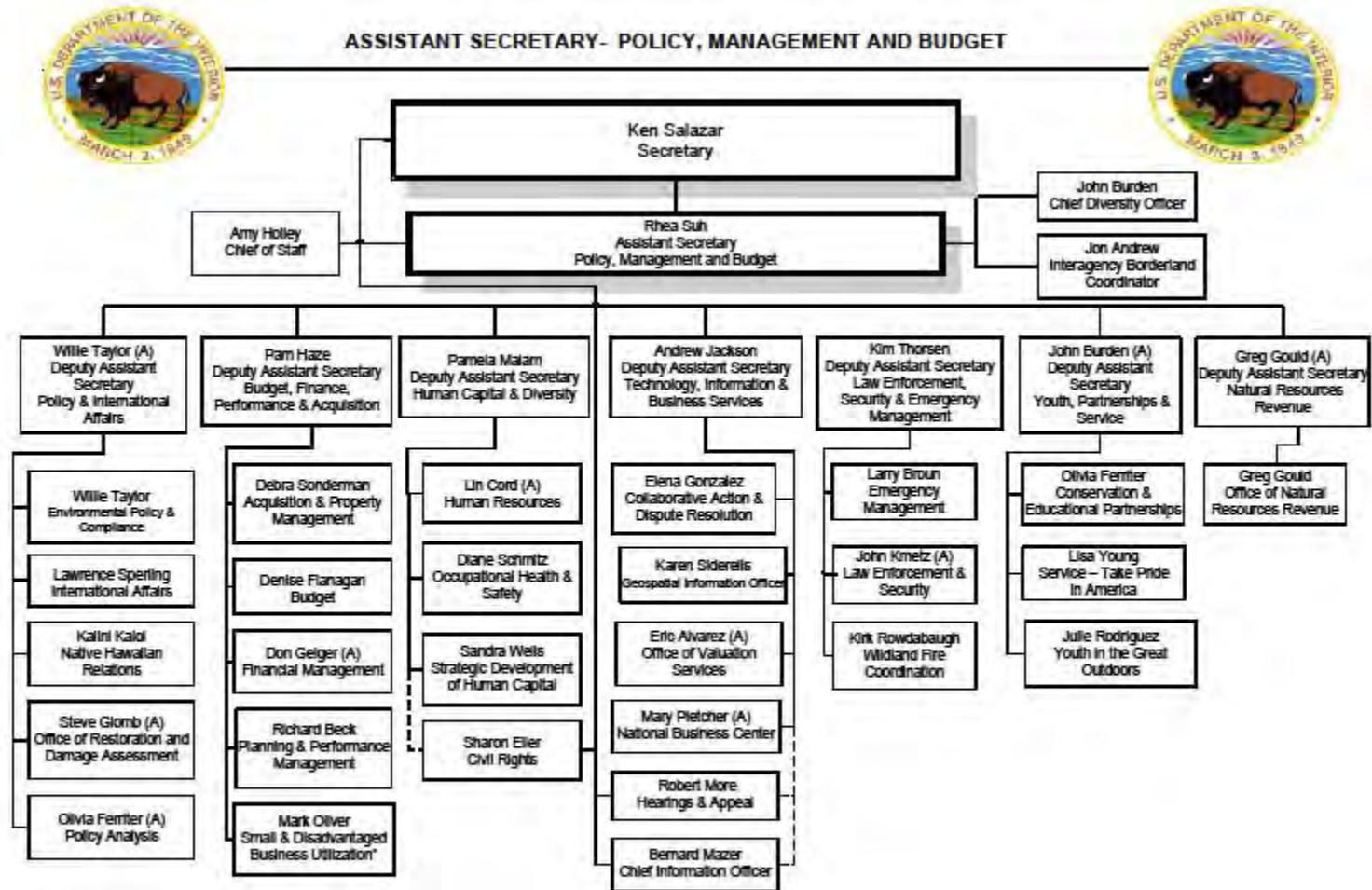
Bureaus



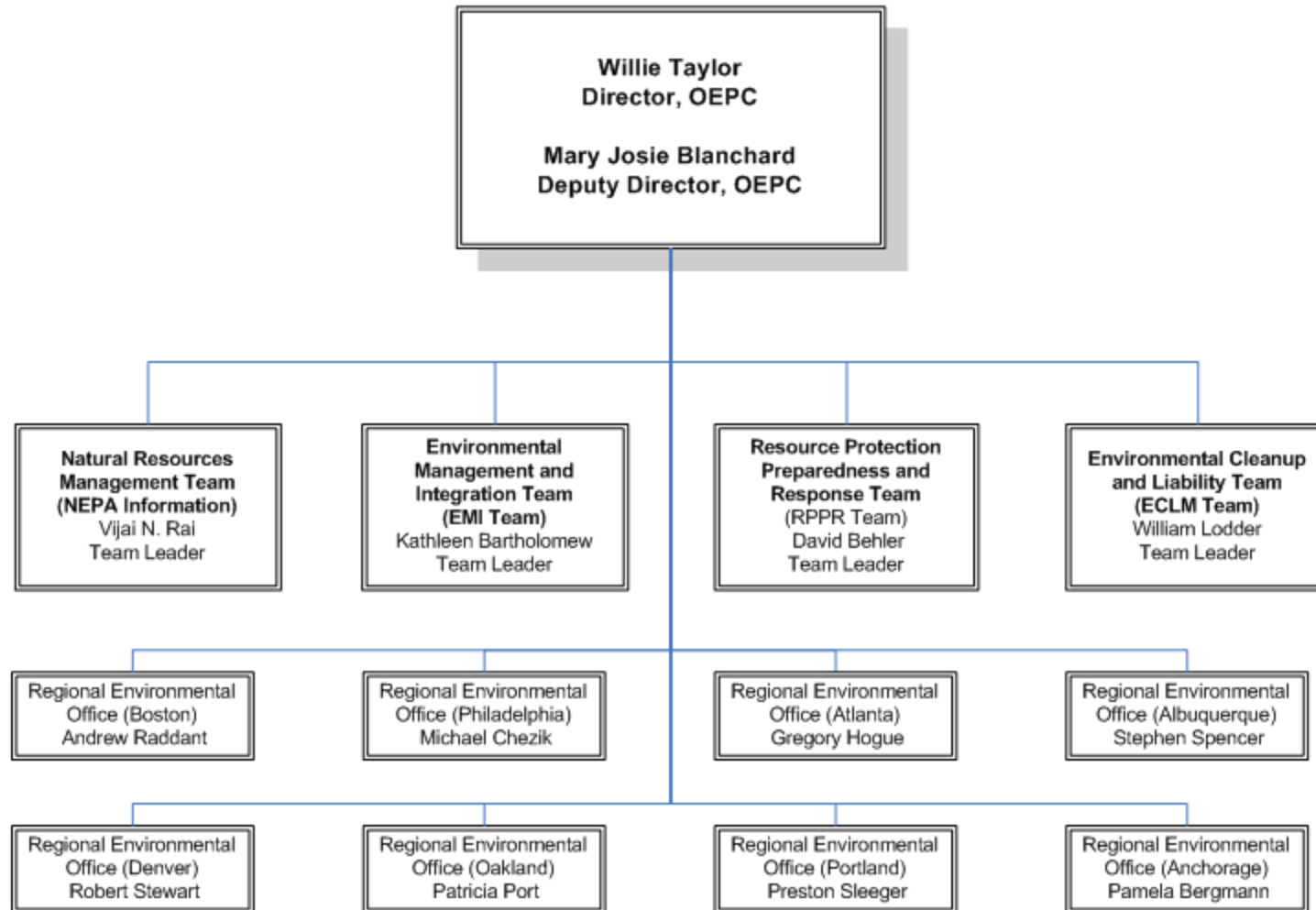
**Bureau of Ocean
Energy
Management ,
Regulation and
Enforcement**

DOI Organizational Chart





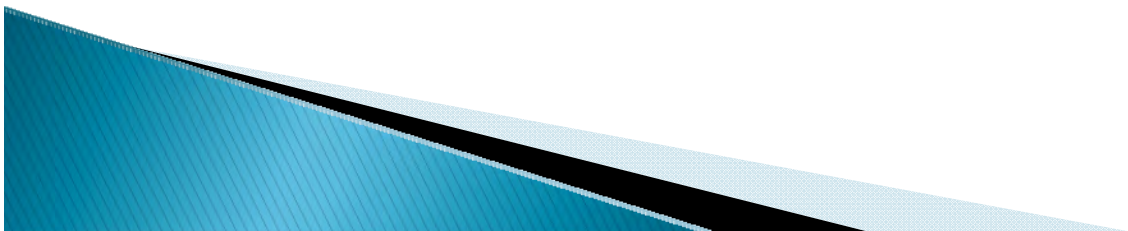
Office of Environmental Policy and Compliance



Cleanup Programs

- ▶ Central Hazardous Materials Fund (CHF)
 - Larger/Longer Duration projects
 - Department funded
 - CERCLA authority/process

- ▶ Natural Resources Damage Assessment and Restoration (NRDAR) Program
 - CERCLA Authority
 - Habitat Restoration



Central Hazardous Material Fund (CHF)

- ▶ Created in 1995 to cleanup sites under “Superfund” law
 - Used on medium to long-term cleanups
 - Focus on cleanup vs. study
 - Fund supports the appropriate bureaus

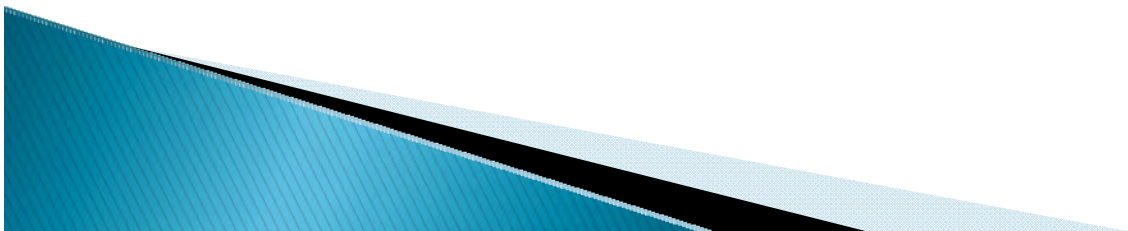
- ▶ Legal Drivers
 - Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
 - Executive Order 12580 (Lead Agent)



CHF Priorities

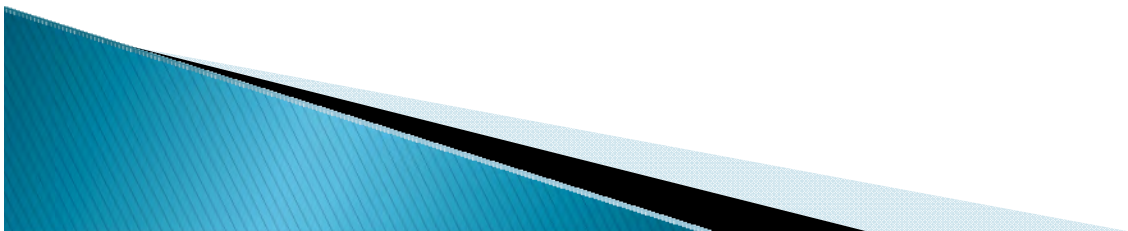
The Department's priorities for remediation are driven by three criteria:

- 1) Risk to human health and the environment,
- 2) Utilization of innovative and accelerated approaches or technology, and
- 3) Involvement of Potentially Responsible Parties

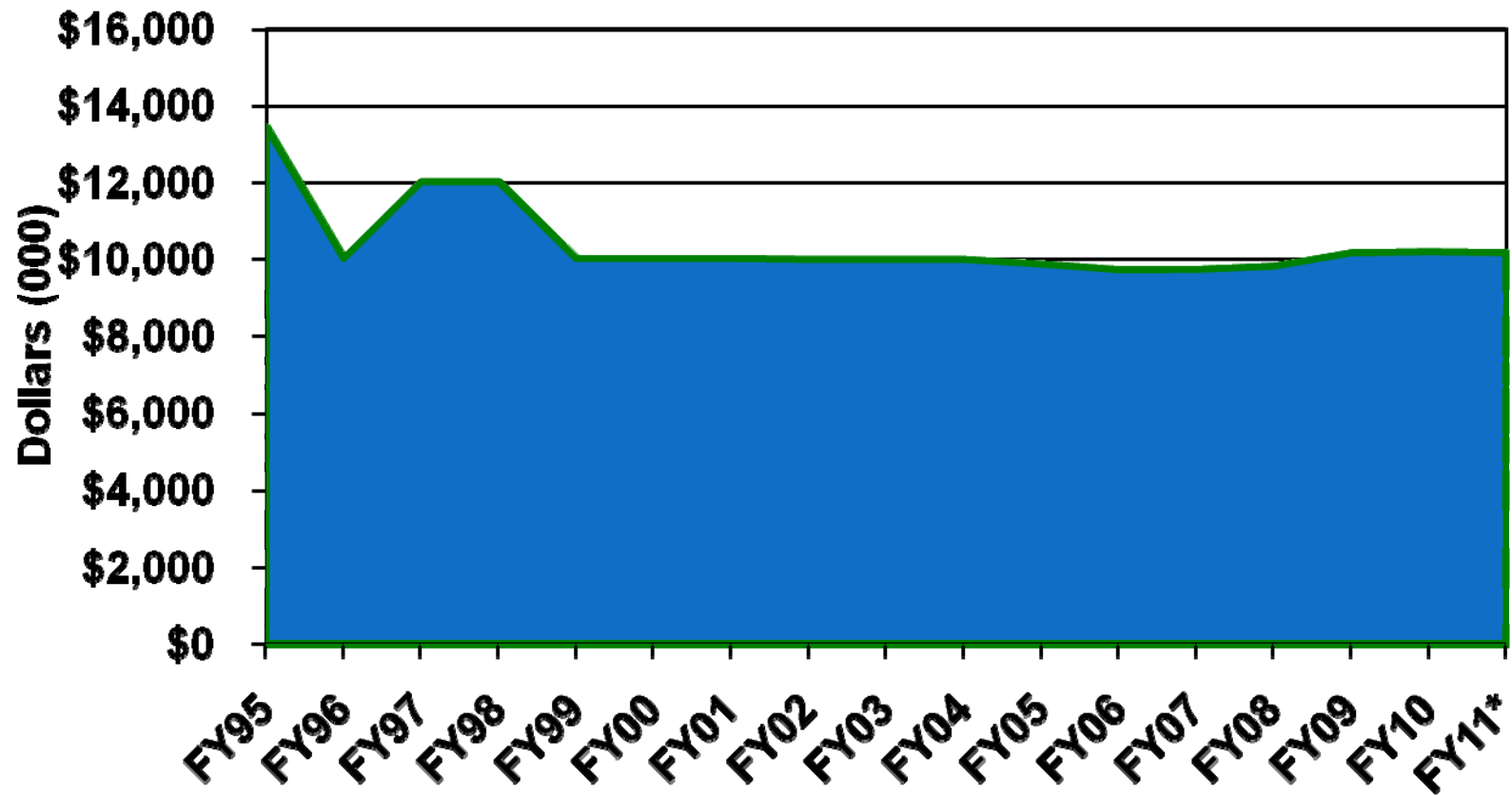


CHF Program Funding

- ▶ Approximately \$10M in appropriations/ year
- ▶ Recoveries from Potentially Responsible Parties (PRP) ranges from \$4 million to \$5 million per year
- ▶ Between appropriations (\$144M), cost recoveries (\$52M) and DOI supervised PRP work (\$250M), we have leveraged over \$446 million in cleanups



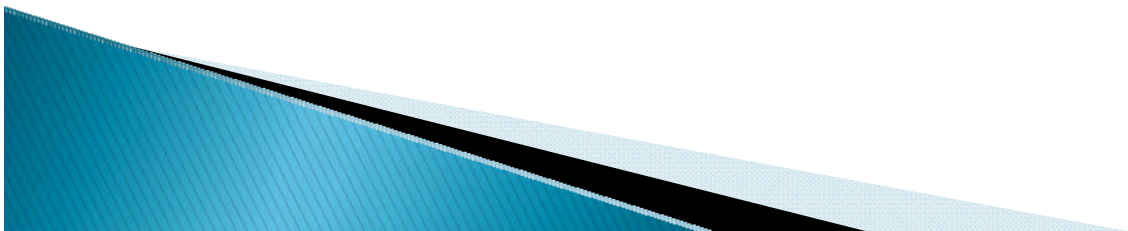
CHF Funding Levels FY95–FY11



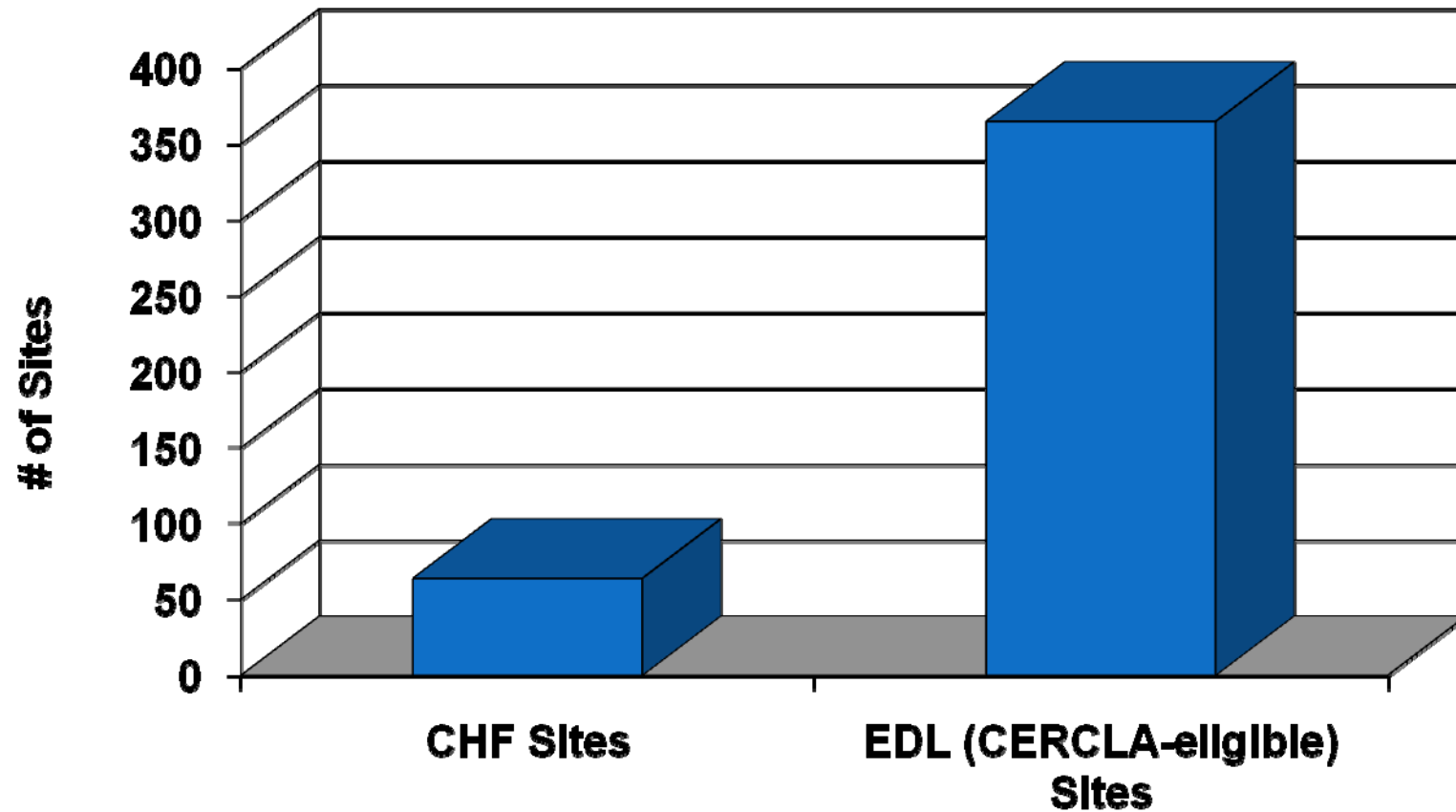
* projected

Cleanup Legacy

- ▶ **Environmental & Disposal Liabilities**
 - Tracks contaminated lands managed by the Department
 - Over 805 sites on Departmental lands
 - 261 probable sites that will need to be addressed under CERCLA (lower estimate at \$134M)
 - 105 reasonably possible sites that will need to be addressed under CERCLA (lower estimate at \$49M)
 - CHF is or has addressed 18% of these 366 CERCLA sites to date



Cleanup vs. Liability

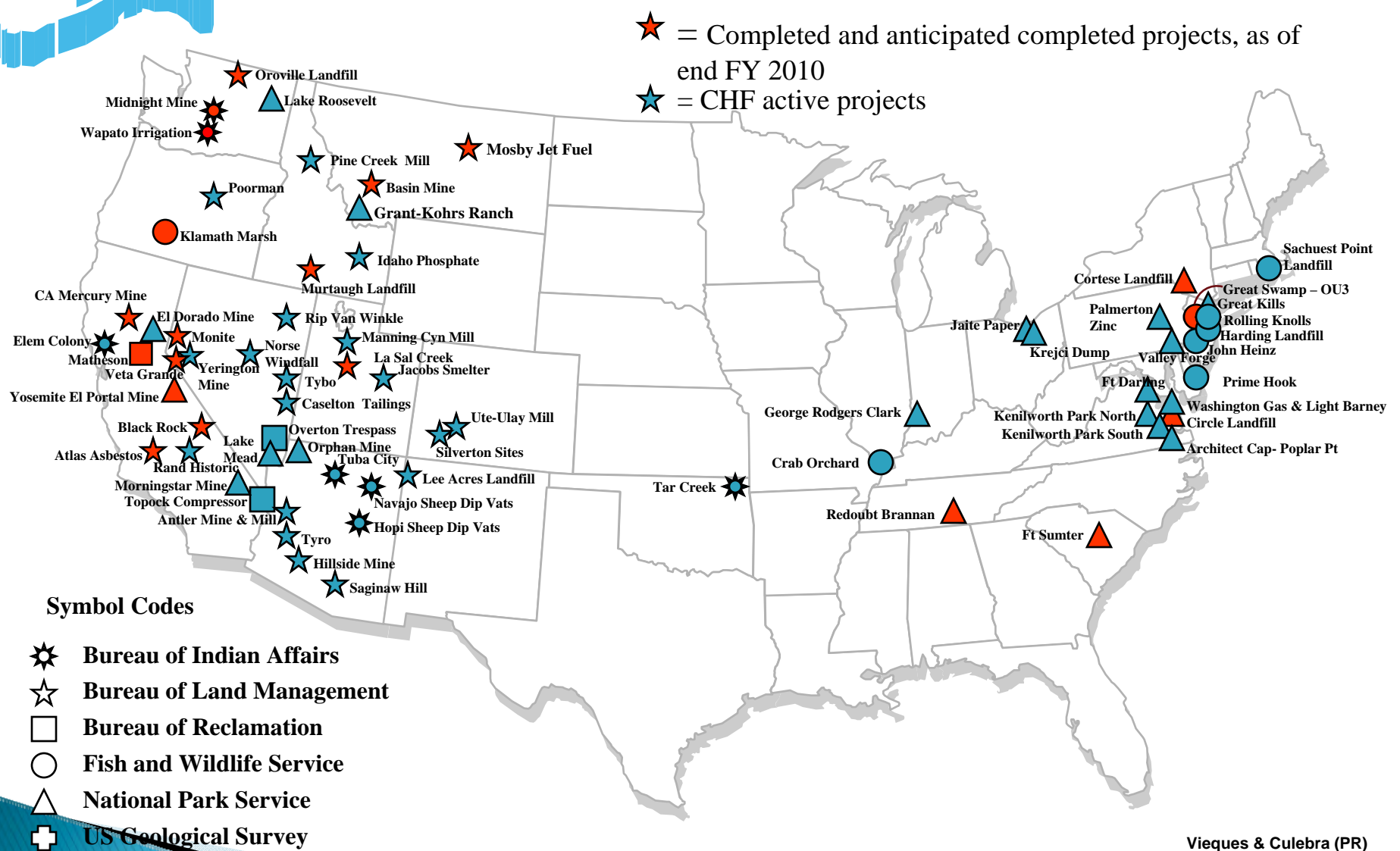


Central Hazardous Materials Fund Project Sites

Color Codes

- ★ = Completed and anticipated completed projects, as of end FY 2010
- ★ = CHF active projects

Ft Egbert Landfill
Govt Hill
Nabesna Mine
Red Devil Mine



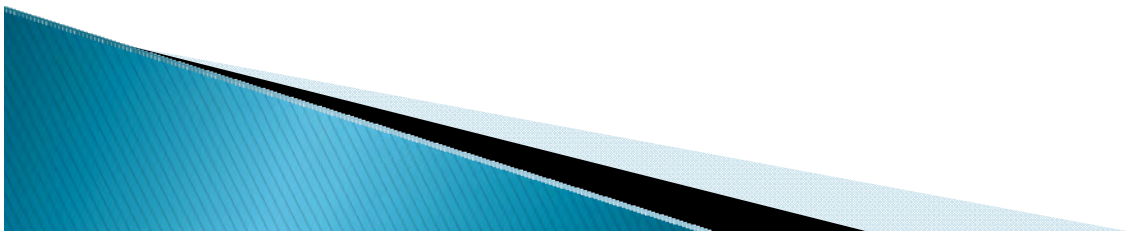
NRDAR Program

- ▶ Restoration fund
- ▶ Follows CERCLA Authority
- ▶ Used to restore damaged habitat to pre-incident condition
- ▶ FY 2010 Appropriation was \$6.5M
 - Budget includes \$191M in permanent funds
 - From negotiated legal settlements



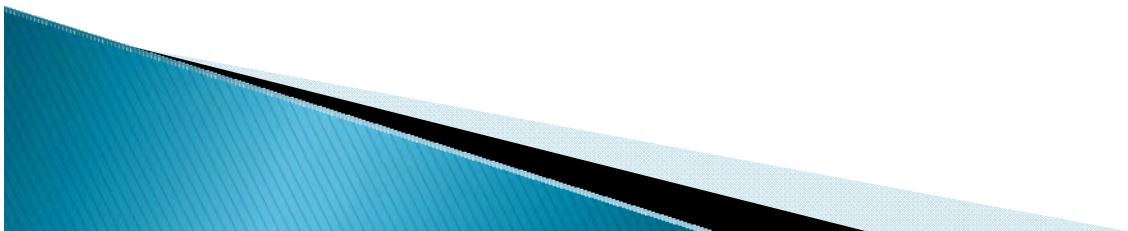
Challenges

- ▶ A significant number of abandoned mines with environmental contamination on DOI land
 - Not caused by Government; difficult to find viable PRPs
 - Conflict with mining claims; claimants own tailings but may not have liability
- ▶ Tighter budget environment – fewer dollars within Department; competing with high priority programs
- ▶ Difficult to partner with other agencies due to different priorities
- ▶ Complex large sites – geology, hydrology, chemistry

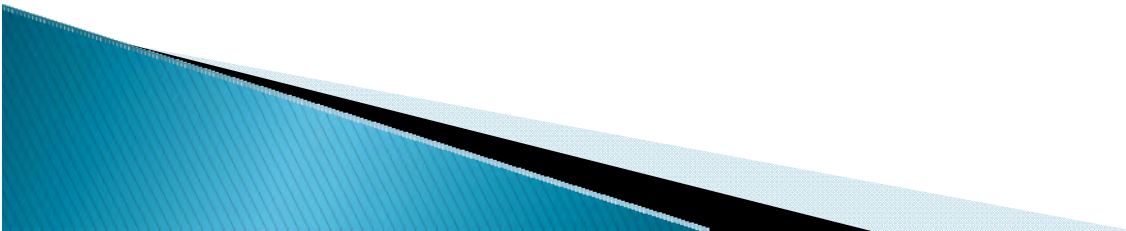


Bureau Funded Cleanups

- ▶ Bureau funded
 - Smaller/Shorter Duration projects
 - Bureau appropriations
- ▶ Bureaus typically follow CERCLA, CWA or RCRA
 - Federal Land Policy & Management Act of 1976
 - EO 13016 – Enforcement Authority – Non-NPL
- ▶ Examples of dedicated cleanup bureau funds
 - Refuge Contaminant Cleanup Fund (FWS) FY10 – \$13.5M
 - Abandoned Mine Land (AML) Fund (BLM) FY10 – \$15.9M
 - Special Cleanup Fund (BLM) FY10 – \$1.19M
 - Limited dollars; typically support other environmentally related activities in addition to cleanup
 - Projects not funded, prioritized or managed by the Department



Questions?



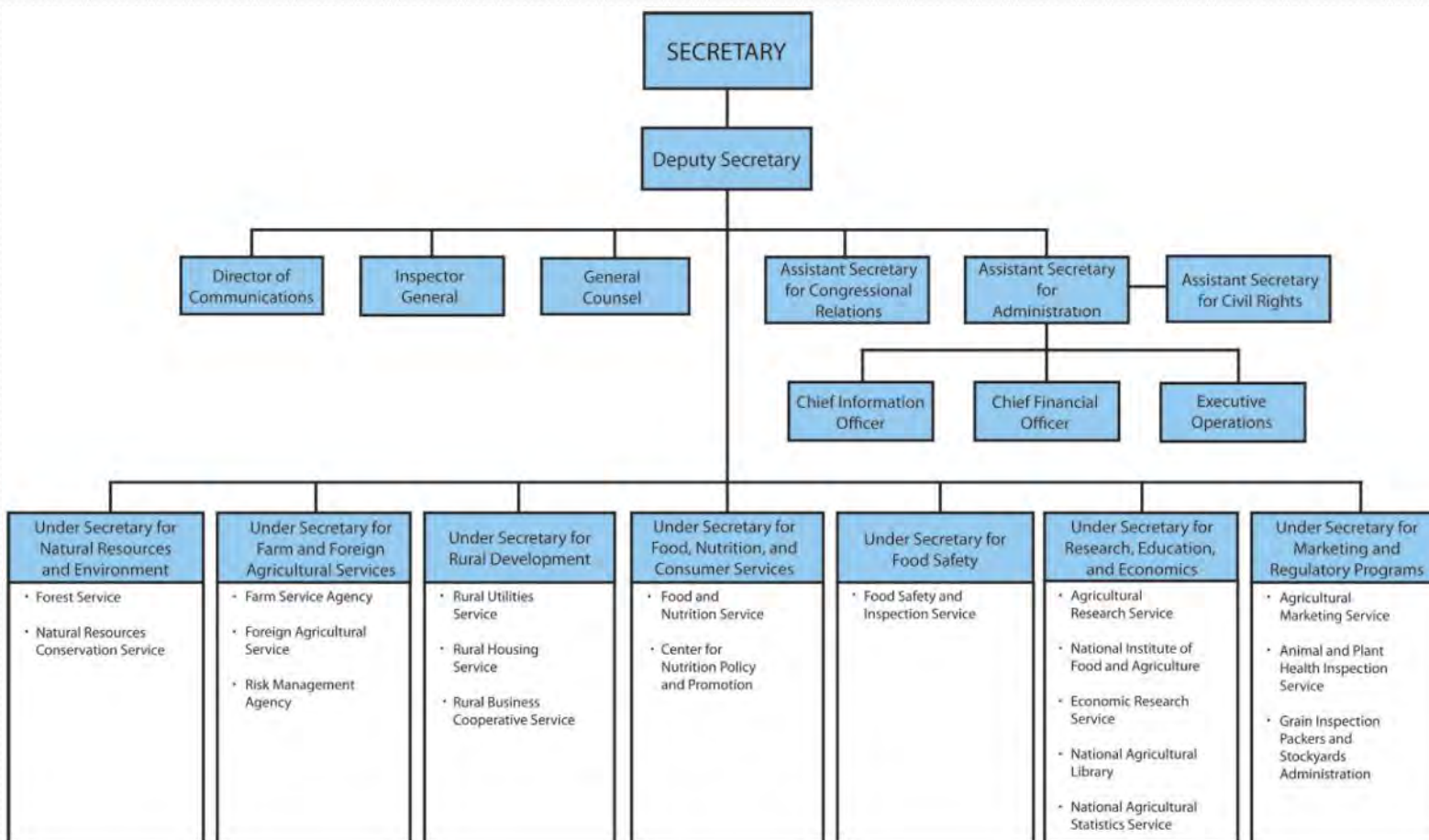
USDA Environmental Cleanup Program Overview

Blake T. Velde
Sr. Environmental Scientist
USDA Departmental Administration
Environmental Management Division
October 2010

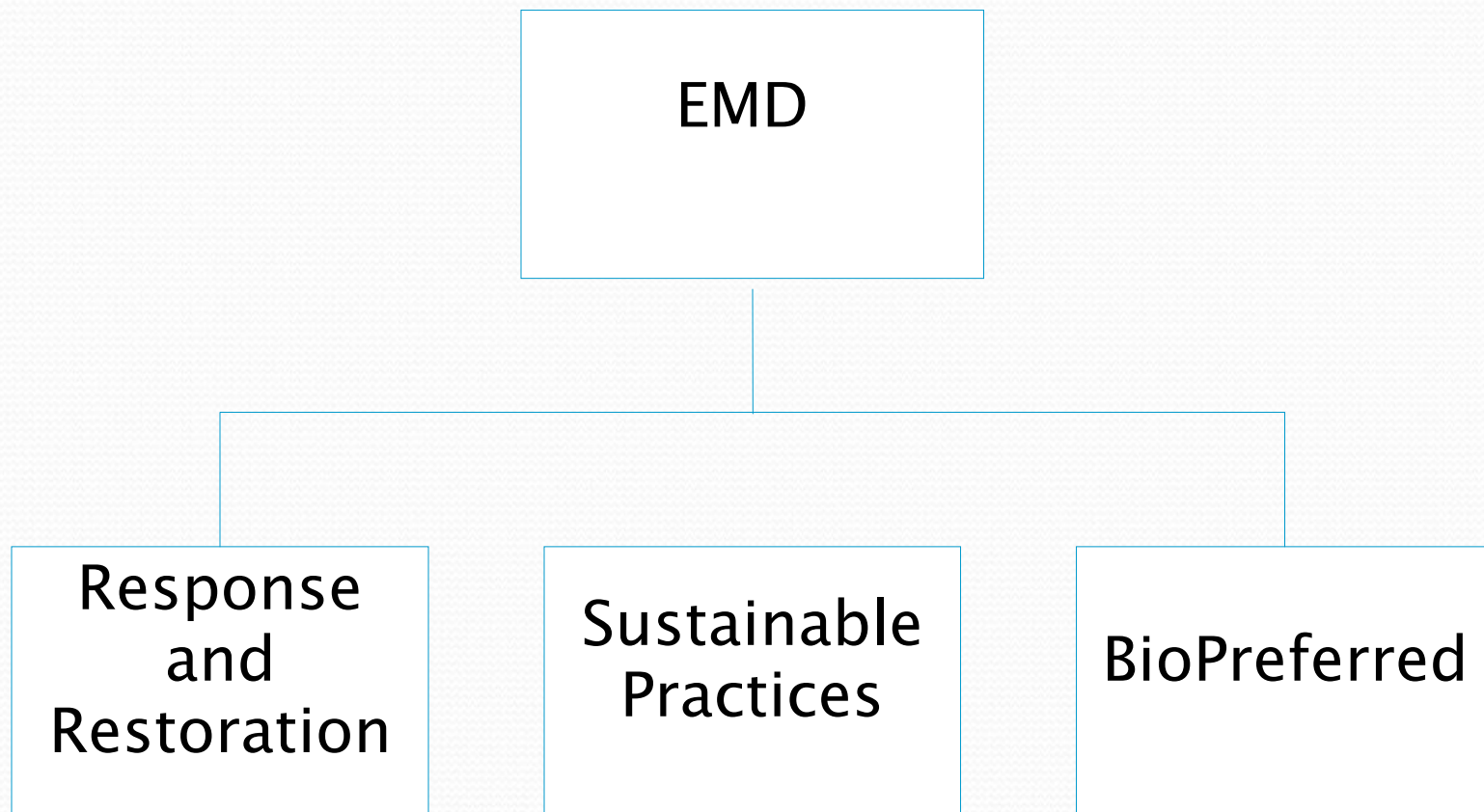
USDA At a Glance

- 1862 USDA Established
- 100,000+ employees – almost every county in US
- 193M acres of land
- 7 Mission Areas - 17 Agencies
 - Natural Resources & Environment
 - Rural Development
 - Marketing & Regulatory Programs
 - Farm & Foreign Agricultural Services
 - Food, Nutrition and Consumer Services
 - Food Safety
 - Research, Education & Economics

USDA Organization



DA/OPPM/EMD



EMD/Response and Restoration Program Elements

- Site cleanup
 - Administer Hazardous Materials Management Appropriation (HMMA) account
 - Provide cleanup technical assistance and support
 - Oversee New World Mining Response and Restoration escrow account
- Provide incident/emergency response support
 - Stafford Act/National Response Plan
 - National Response Team – Oil/Hazmat spills
- Brownfields

USDA Cleanup Challenges

- 2,000+ abandoned mines on Forest Service lands
- 300+ Formerly Used Defense Sites, BRAC, direct transfer DoD
- ARS Beltsville Superfund NPL site
- 100+ CCC Grain bin fumigation legacy sites
- 1,000+ APHIS cattle dip vats
- Other contaminated sites, labs, facilities

Public Health/Environmental Threats

- Contamination of water supplies
 - Surface water
 - Ground water
- Direct contact exposure
- Destruction of threatened/endangered fish habitat

ARS Beltsville NPL Site



Forest Service AMLs



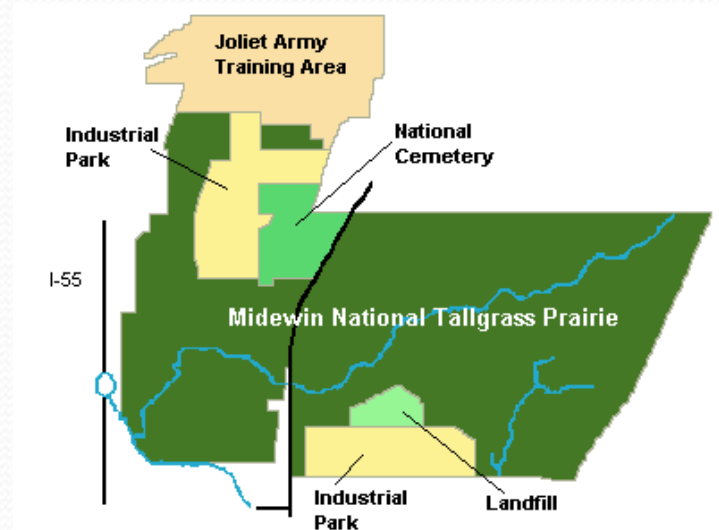
APHIS Dip Vats



CCC Grain Bins



USDA DoD Sites



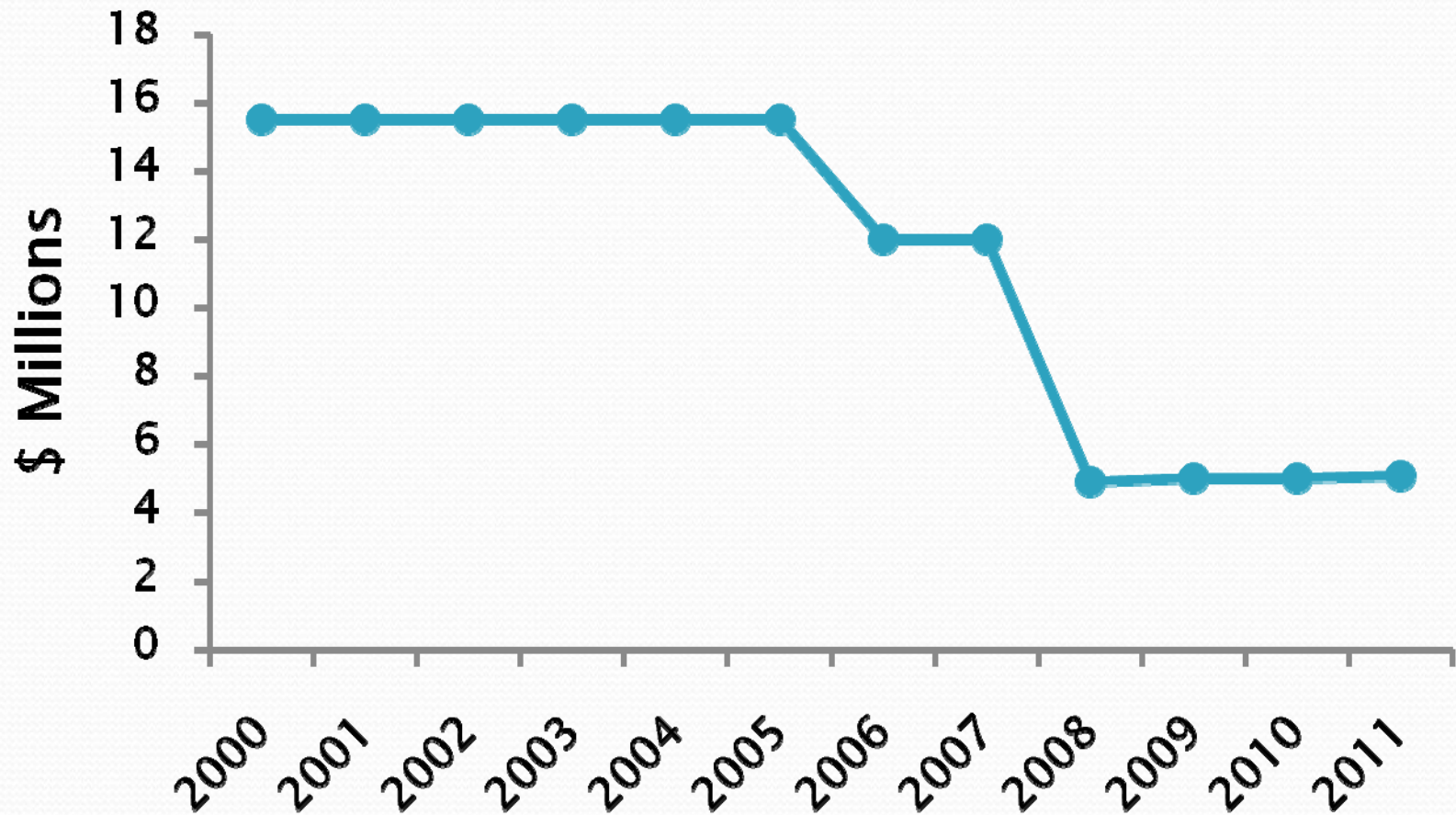
USDA Cleanup \$\$ Sources

- USDA HMMA Account ~ \$5M yr (\$4M Staff)
- USDA Enforcement actions - \$10-\$200M/yr
- Forest Service - \$15 M for abandoned mine lands
- DoD – TBD annual value of effort spent on USDA lands and facilities (FUDS/BRAC/direct transfers)

USDA HMMA

- Separate budget line item in annual appropriation bills
- *“For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act...”*
- Fund Uses
 - USDA agency CERCLA cleanups
 - OPPM program and management staff (7 FTE)
 - General Counsel’s Pollution Control Team staff

HMMA Ten-year Funding Profile



HMMA Funding Cut Impacts

- 15-20 project/yr cleanup rate (FY96-06) reduced to partially funding 3 projects (NPL) in FY 2009 and 2010
- Cleanup "life cycle" expands from hundreds of years to thousands of years
- Moves emphasis to “keep out of jail” – State and Federal environmental regulator pressure to set priorities
- Lack of Administration emphasis signals lower program priority to USDA agencies and regulators
- Loss of talented agency staff

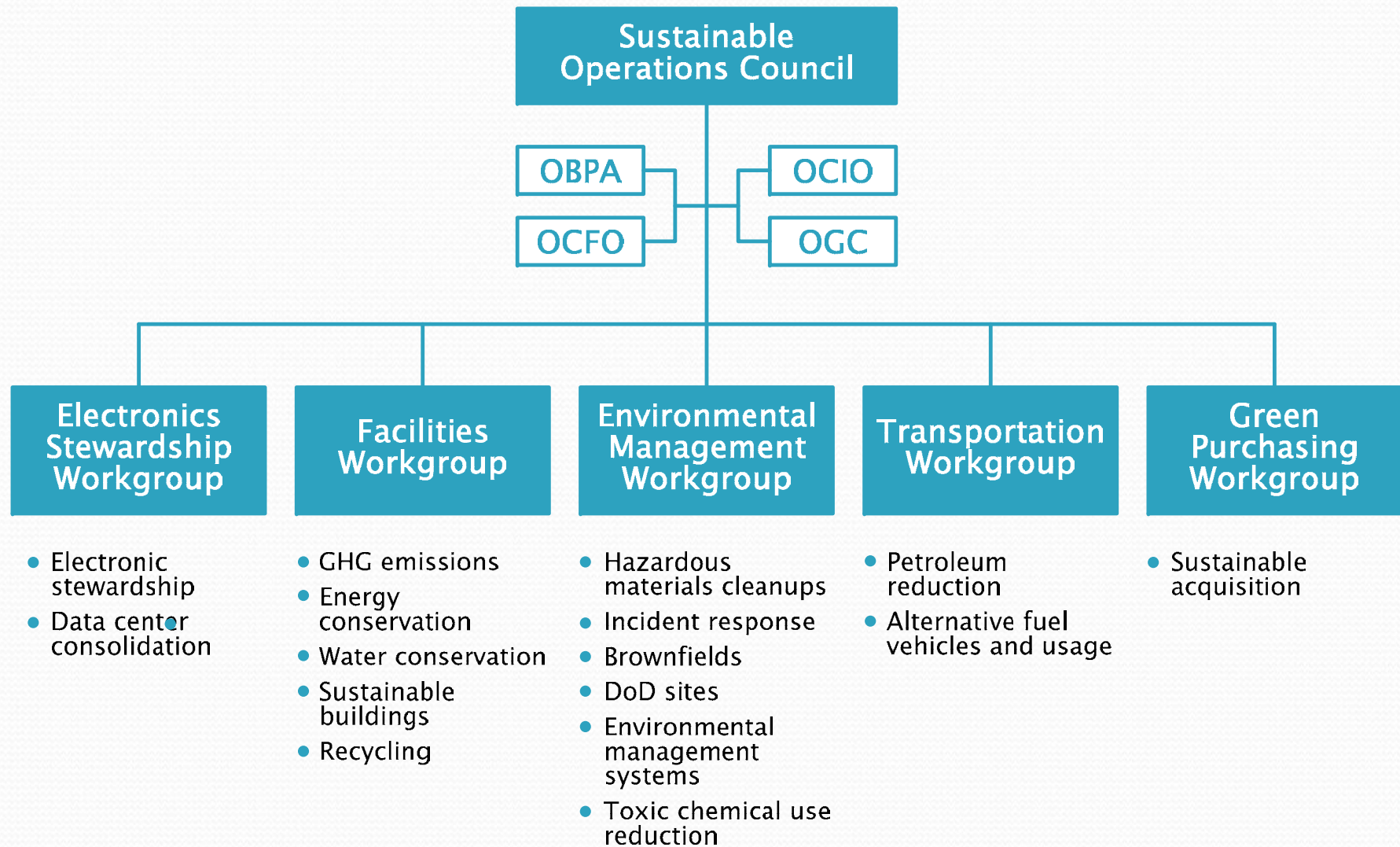
EMD/Response and Restoration Staffing

Name	Position
Blake Velde	GS-15 Sr. Environ. Sci.
Brenda Styer-Gee	GS-14 Environ. Engr.
Holly Fliniau	GS-14 Environ. Engr.
Vacant	GS-14 Environ. Sci.

Sustainable Operations Council

- USDA Hazardous Materials Policy Council merged with larger environmental council
- Funding priorities
- Budget review/recommendation
- Policy review/coordination

SOC Structure



EMD Management Challenges

- Making progress on USDA's cleanup backlog given HMMA funding cutbacks
- Keeping Response and Restoration staff motivated in light of HMMA funding and lack of management attention
- Regulatory pressure to derail funding priorities
- Emergency response (Deepwater Horizon) stretched staff resources
- DoD activity increase stretching review capabilities
- Congressional mandate to increase property disposals requiring environmental reviews
- Agriculture Appropriations Committee direction to not use HMMA funds for Forest Service (Interior Approps) sites.

USDA Cleanup Authorities

- CERCLA
- EO 12580 – lead agency authority non-NPL, non-time critical removal authority
- EO 13016 – enforcement authority – non-NPL
- 40 CFR 300 NCP
- 1872 Mining Act
- FLPMA – Federal Land Policy & Management Act 1976
- EPA OSWER Directives, guidance
- Federal/State ARARs

Site Complexities

- NPL – USDA labs, facilities – CERCLA 120 agreements, EPA final decision (State may or may not join agreement)
- Non-NPL – USDA labs, facilities, mine sites wholly on FS lands – USDA lead agency
- Non-NPL - mixed ownership mine sites – lead TBD with EPA and State
- Non-NPL – Defense sites (FUDS) – USDA/DoD lead agency disputed – both assert
- Non-NPL – 3rd party liability (not USDA property) - State

USDA Contact Information

Blake T. Velde

Sr. Environmental Scientist

USDA/DM/OPPM/EMD

1400 Independence AV SW MS-9100

Washington, DC 20250

202.205.0906

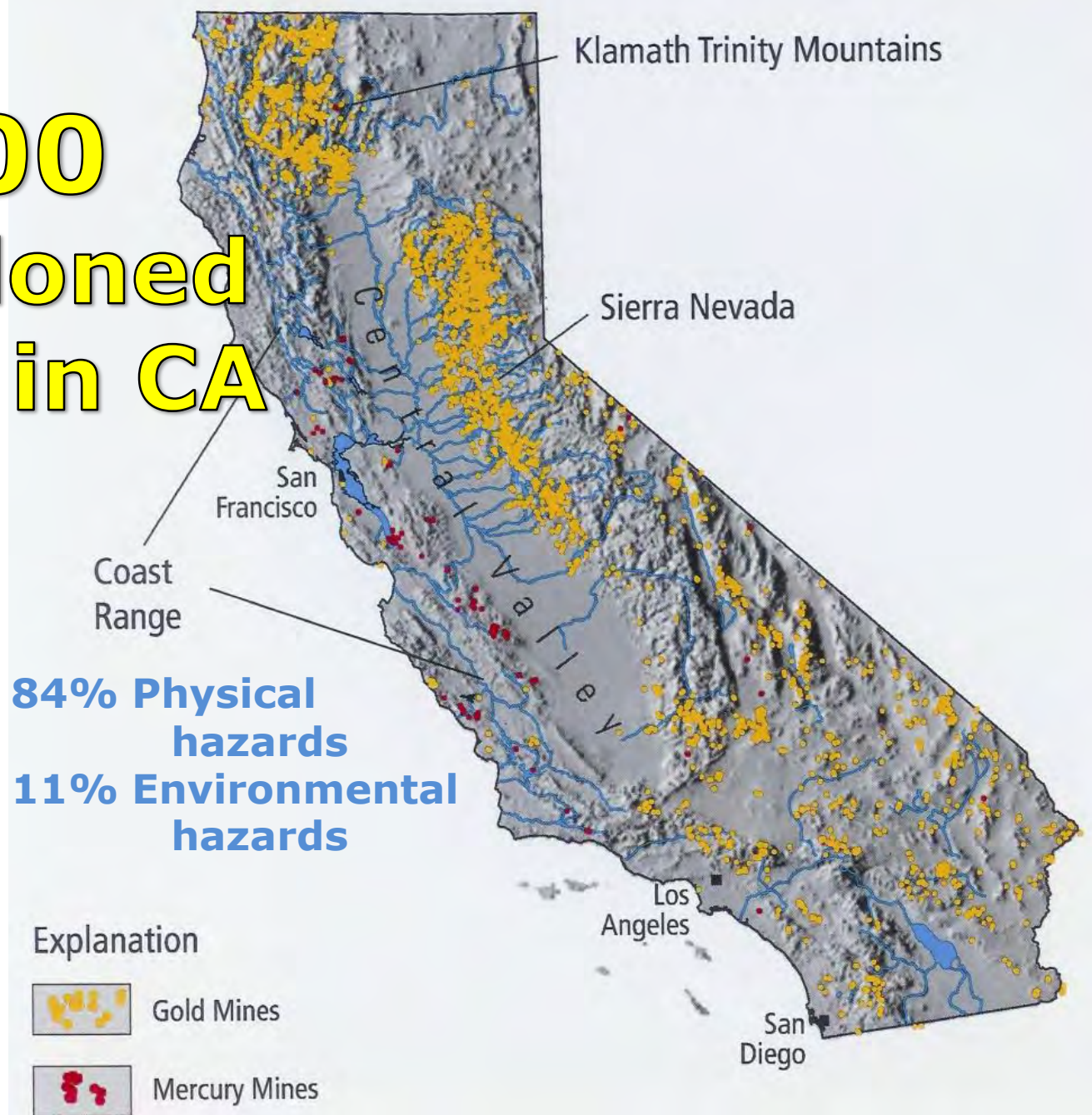
Blake.Velde@dm.usda.gov



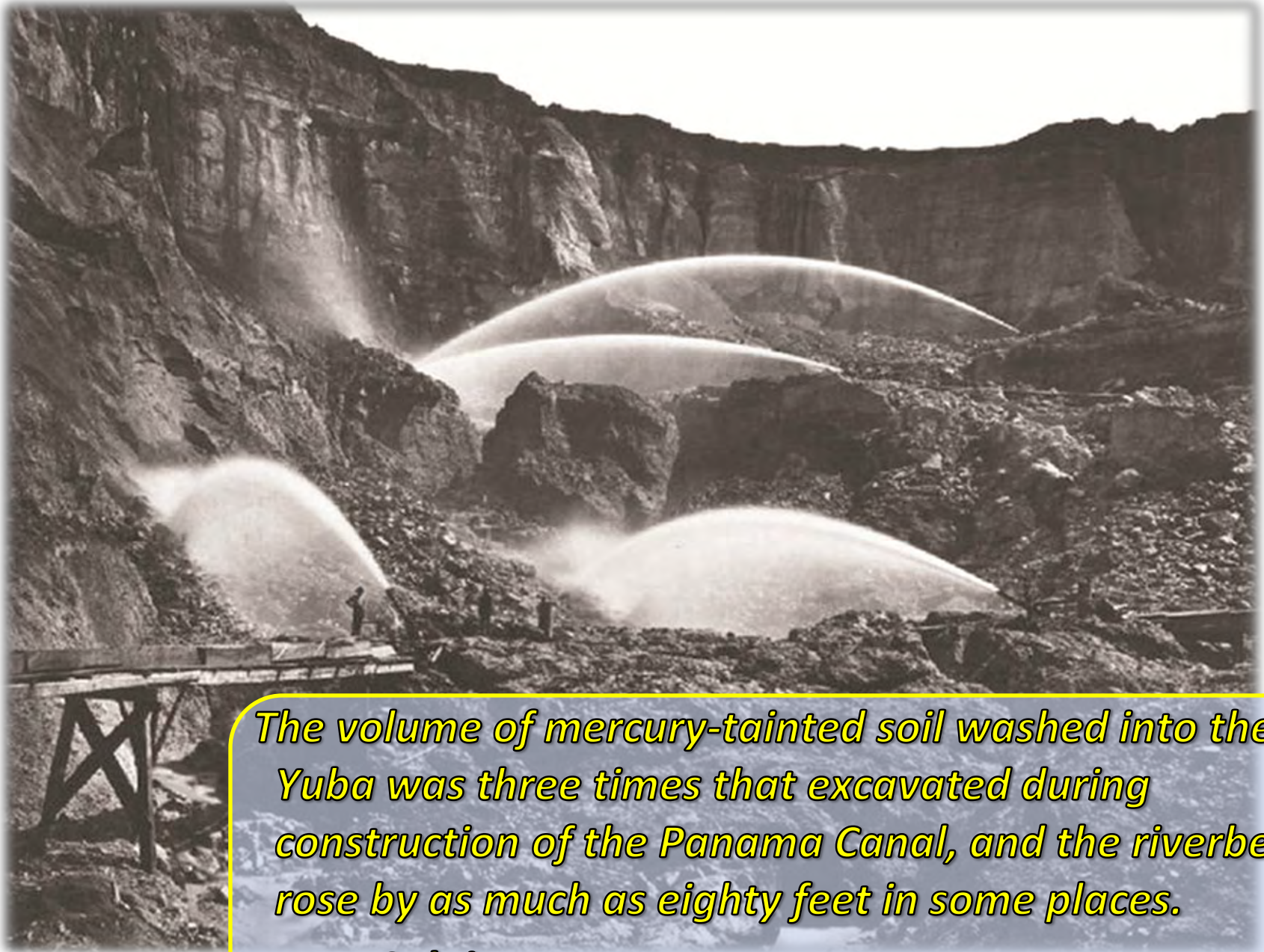
Mining's Toxic Legacy

Elizabeth "Izzy" Martin
The Sierra Fund

47,000 Abandoned Mines in CA







The volume of mercury-tainted soil washed into the Yuba was three times that excavated during construction of the Panama Canal, and the riverbed rose by as much as eighty feet in some places.

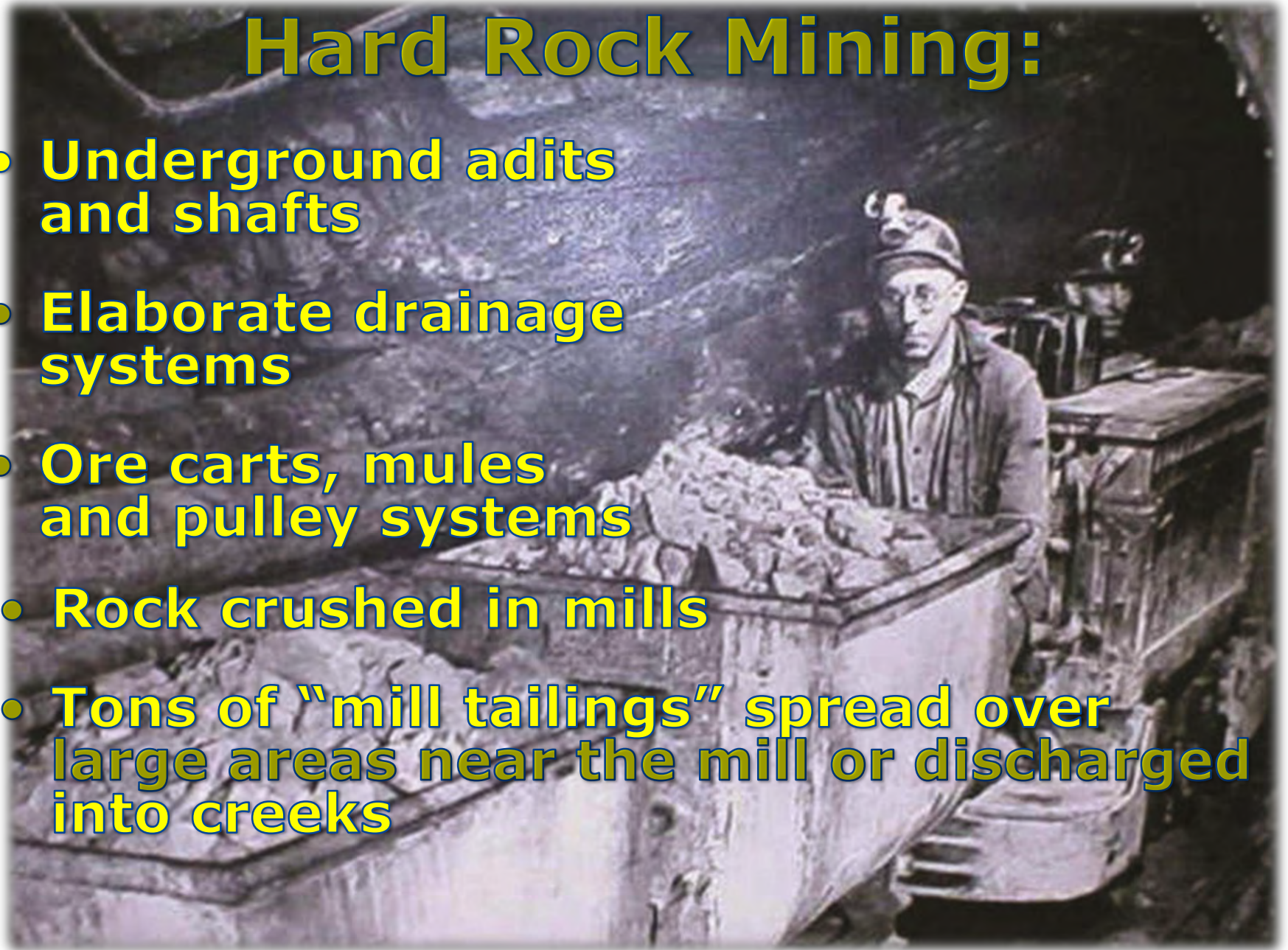
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Placer Mining: sifting and sluicing actions

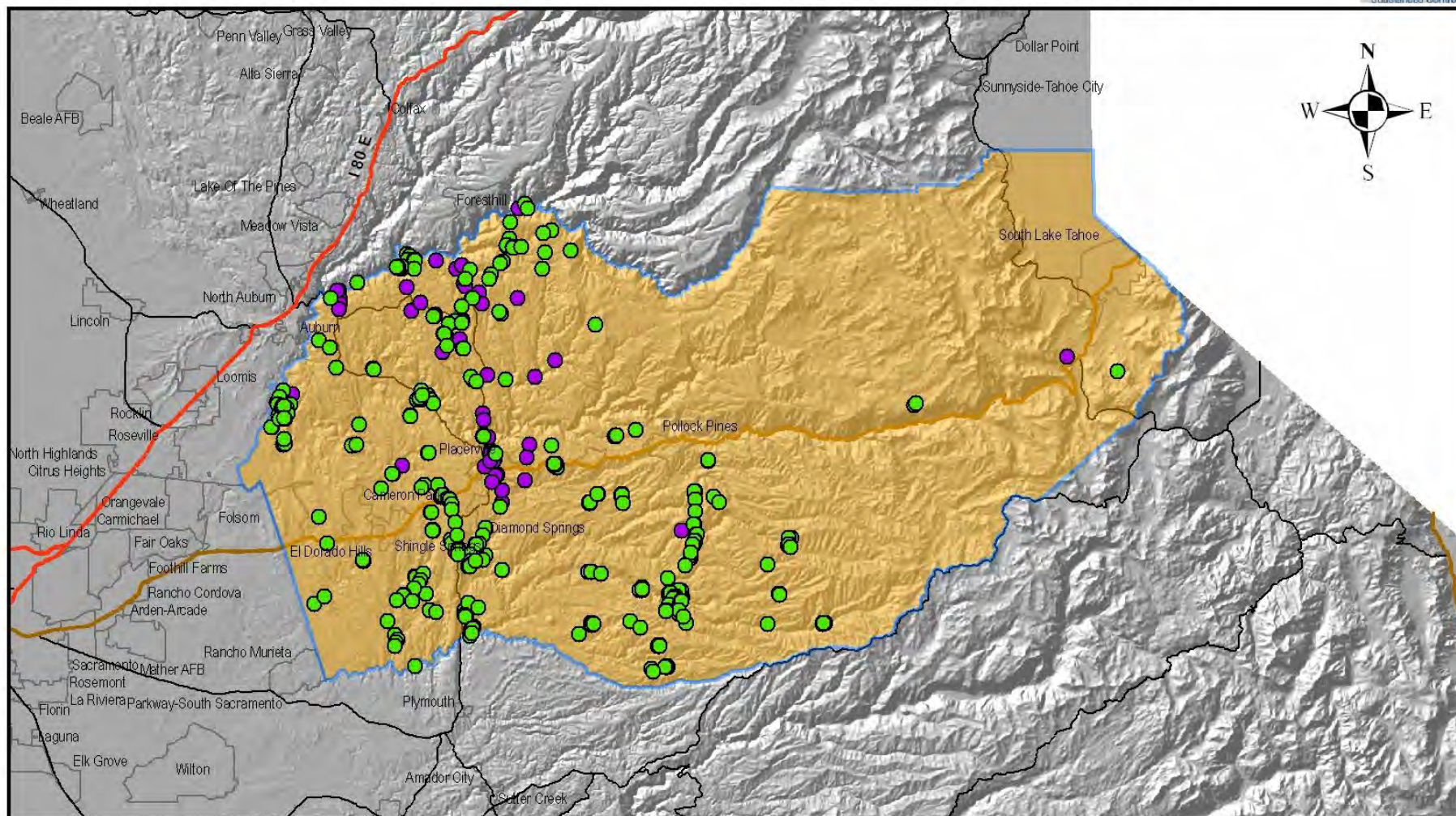


Hard Rock Mining:

- Underground adits and shafts
- Elaborate drainage systems
- Ore carts, mules and pulley systems
- Rock crushed in mills
- Tons of "mill tailings" spread over large areas near the mill or discharged into creeks



DEPARTMENT OF TOXIC SUBSTANCES CONTROL EL DORADO COUNTY MINES AND MINING FEATURES

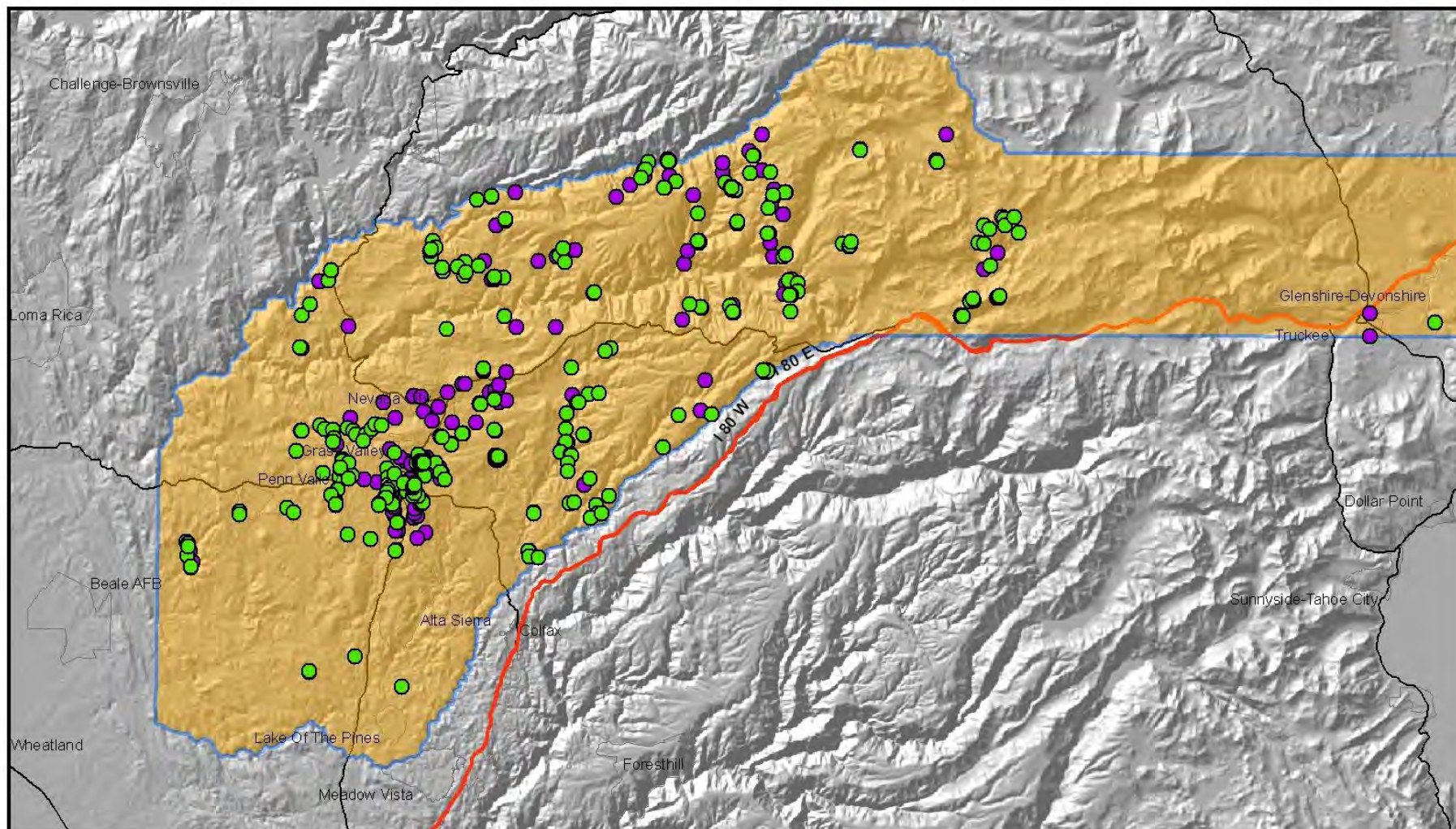


Legend

- El Dorado County: 423 Mine Features from Topographic Occuring Mine Symbols (TOMS)
- El Dorado County: 71 Mines from Principle Areas of Mine Pollution (PAMP)
- El Dorado County

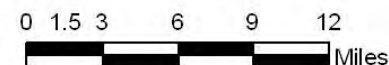
0 2 4 8 12 16
Miles

DEPARTMENT OF TOXIC SUBSTANCES CONTROL NEVADA COUNTY MINES AND MINING FEATURES



Legend

- Nevada County: 332 Mine Features from Topographic Occuring Mine Symbols (TOMS)
- Nevada County: 155 Mines from Principle Areas of Mine Pollution (PAMP)
- Nevada County



4/1/2009 JC

Actions:

1. Invest in better assessment and remediation technologies
2. Consistent definition of “how clean is clean”
3. True community outreach to ensure community participation in assessment & clean-up
4. Fund collaboration with state, tribal, local government, conservation & business communities