

## DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

### SUMMARY

Data Element	Data
Site	Maxey Flats
Agreement Name	United States Environmental Protection Agency CERCLA Consent Decree for Remedial Design, Remedial Action, and Partial Reimbursement of Response Costs for the Maxey Flats Disposal Superfund Site Fleming County, Kentucky
State	Kentucky
Agreement Type	Consent Decree
Legal Driver(s)	CERCLA
Scope Summary	Address EPA's complaint seeking to be reimbursed for costs incurred by EPA and the Department of Justice for response actions at the Site and for performance of studies and response work by the Settling Defendants at the Site consistent with the National Oil and Hazardous Substances Pollution Contingency Plan
Parties	US Department of Justice; US EPA; Commonwealth of Kentucky; US Ecology, Inc.
Date	4/18/1996

### SCOPE

- Address EPA's complaint seeking to be reimbursed for costs incurred by EPA and the Department of Justice for response actions at the Site and for performance of studies and response work by the Settling Defendants at the Site consistent with the National Oil and Hazardous Substances Pollution Contingency Plan.

### ESTABLISHING MILESTONES

- Delays in performance due to an event of force majeure will be excused, provided timely requests for extensions have been made. Force majeure does not include

financial inability to complete the Work or the Performance Standards.

- Schedules specified in this Consent Decree or documents approved pursuant to this Consent Decree for implementation of the Work may be modified by agreement of EPA and the Settling Parties that are subject to the schedule.

## **FUNDING**

- The Settling Private Parties and Settling Federal Agencies have allocated the payment obligations under this Consent Decree among themselves as specified in the Settlement Agreement.
- Except as provided in Section XXI (Force Majeure), the failure or delay of any Settling Party to pay or otherwise perform its respective obligations shall not relieve any of the Parties of their obligations under this Consent Decree.
- No provision of this Consent Decree shall be interpreted to require the Settling Federal Agencies to pay funds in violation of the Anti-Deficiency Act.

## **PENALTIES**

- The following stipulated penalties shall be payable by the Settling Private Parties or the Commonwealth for any noncompliance identified in subparagraph 105.b: \$1,000 per violation per day for the 1<sup>st</sup> through the 14<sup>th</sup> day, \$3,000 per violation per day for the 15<sup>th</sup> through the 30<sup>th</sup> day, and \$5,000 for the 31<sup>st</sup> day and beyond.
- The following stipulated penalties shall be payable by the Settling Private Parties or the Commonwealth for any noncompliance identified in subparagraph 106.b: \$500 per violation per day for the 1<sup>st</sup> through the 14<sup>th</sup> day, \$1,000 per violation per day for the 15<sup>th</sup> through the 30<sup>th</sup> day, and \$2,500 for the 31<sup>st</sup> day and beyond.
- The following stipulated penalties shall be payable by the Commonwealth or the Settling Private Parties for any noncompliance identified in Subparagraph 109.b: \$1,000 per violation per day for the 1<sup>st</sup> through the 14<sup>th</sup> day, \$3,000 per violation per day for the 15<sup>th</sup> through the 30<sup>th</sup> day, and \$5,000 for the 31<sup>st</sup> day and beyond.
- The following stipulated penalties shall be payable by the Commonwealth or the Settling Private Parties for any noncompliance identified in Subparagraph 110.b: \$500 per violation per day for the 1<sup>st</sup> through the 14<sup>th</sup> day, \$1,000 per violation per day for the 15<sup>th</sup> through the 30<sup>th</sup> day, and \$2,500 for the 31<sup>st</sup> day and beyond.

- The provisions of the MOU shall govern disputes between EPA and the Settling Federal Agencies under or with respect to this Consent Decree.