



OHIO VOLUNTARY ACTION PROGRAM

ANNUAL REPORT
TO THE
OHIO LEGISLATURE

July 2002 - June 2003
Ohio Environmental Protection Agency

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2002-2003 Voluntary Action Program Annual Report to the Legislature Introduction

Ohio's Voluntary Action Program (VAP) was created in September 1994 and, with the adoption of rules, became fully implemented in early 1997. The program was created to allow companies a way to investigate possible environmental contamination, clean it up if necessary, and receive a promise from the State of Ohio that no more cleanup is needed. Prior to the creation of this program, valuable land sat idle because fears of immense liability and cleanup costs scared off potential developers, businesses and banks. Some developers had abandoned plans to clean up their contaminated properties because Ohio EPA, which must focus its efforts on the worst sites, could not make those properties a priority. By creating this program, Ohio recognized the need to remove the environmental and legal barriers that stalled redevelopment and reuse of contaminated properties.

The program is getting sites cleaned up. Since the program was fully implemented, over 180 sites have been cleaned up to meet VAP standards and have received a No Further Action (NFA) Letter. Of these, 116 have received a liability release (covenant not to sue) from the State of Ohio, 17 of which were issued this past year (July 1, 2002 through June 30, 2003). You can read about some of these cleanups in this report.

During the past 12 months, the VAP has focused on completing two large projects that were initiated to facilitate two of the program's main goals - improving customer service to volunteers and providing guidance and rules that improve the ease of use of the VAP. The first project was finalizing and adopting, through the JCARR process, the revisions to the VAP's technical rules. These technical rules include those governing the investigation, risk assessment, cleanup standard application and ground water classification procedures used in the VAP. These rule revisions were adopted and became final October 21, 2002 and the focus was primarily on making changes that facilitated site cleanup while decreasing confusing or redundant requirements. Both prior to and after the rule revision adoption, the VAP focused on outreach and training to the Certified Professional (CP) community to ensure that the CPs, who are responsible for ensuring that VAP properties are protective of humans and the environment before issuing No Further Action Letters, clearly understood the new revisions.

The second major project that was completed this year was the VAP Timeline Project. The VAP has been working toward improving the efficiency of NFA reviews over the past several years. However, this project was specifically focused on how to meet VAP statutory review deadlines. The knowledge we have gained in almost six years of project review experience was used to determine what causes project holdups. Based on this knowledge, which looks at both time lags that happen on the Agency's end as well as the CP's end (when problems and deficiencies are found during NFA reviews), a Timeline Procedure was developed and implemented at the end of September 2003.

This report provides an update of the program activities for state fiscal year 2003 (July 1, 2002 through June 30, 2003). Please do not hesitate to contact the Ohio EPA Voluntary Action Program at (614) 644-2924 with questions.

Summary of Urban Setting Designations Received

When developing the VAP regulations, Ohio EPA recognized that many brownfield properties are located in highly urbanized areas which rely on community water systems to supply residents with safe drinking water. In those areas, ground water that contains chemicals from prior industrial/commercial activities poses no appreciable risk to the community, because the ground water is not used and will not be used for drinking water in the foreseeable future. In these situations, an Urban Setting Designation (USD) may be appropriate. A USD recognizes that cleaning up the ground water to drinking water standards is not necessary because no one will drink the ground water. Other possible exposures to contaminated ground water (such as wildlife or streams in the area) still must be addressed when a USD is granted for an area.

Only the director of Ohio EPA can grant a USD. A certified professional must submit a written request for a USD to the director. The request must successfully demonstrate that the property (or properties) meets all the criteria of a USD as specified in Ohio Administrative Code (OAC) rule 3745-300-10(D) before the designation can be granted. All USD requests must be submitted and approved by the director prior to completion of an NFA letter which relies upon a USD for applicable ground water standards for a property. The following table summarizes Urban Setting Designations submitted to the Voluntary Action Program for review and USD approvals issued during SFY'03.

Urban Setting Designations Received

Urban Setting Designation Name	City	District Office	Date Received	Total Acres in USD	Date Issued
Coltman Road Property	Cleveland	NEDO	7/20/02	1.2	12/5/02
City of Brook Park	Brook Park	NEDO	12/13/02	3,000	6/30/03

Files relating to these urban setting designations are available for review at Ohio EPA's Northeast District Office by contacting the records management officer at (330) 963-1200.

17 Properties Receive Covenants Not to Sue

During SFY'03, Ohio EPA issued 17 covenants not to sue. Following are some examples of sites that received a covenant not to sue (CNS).

Krick Road Realty LLC Property - Walton Hills

The property, which is located in Walton Hills (a suburb of Cleveland), consists of 56.785 acres and was originally a farm. Initial development of the property occurred in 1944, when a private flying field was constructed. This airfield occupied the property until 1951.

The site currently contains two commercial buildings, Building 1 and Building 2. Historically, Building 1 was utilized for aluminum extrusion and anodizing processes and coating operations by several occupants. Building 1 was constructed in phases between 1957 and 1966 and is currently partitioned into six tenant spaces. In June 1999, Krick Road Realty, LLC, procured ownership of the property. Building 2 was constructed in 2001 by Hand-It, Inc., and will be used for additional warehousing.



Based upon an evaluation of the contaminants on-site, approximately 100 tons of contaminated soil were removed from two exterior identified areas around Building 1 during May 2001. The removal of residual concentrations of arsenic, chromium, barium and naphthalene prevented leaching to ground water. Additional soil removal was considered from three additional interior identified areas, but could not be accomplished given structural considerations related to the integrity of Building 1. Further analysis supported the conclusion that residual concentrations of arsenic, chromium and volatile organic

compounds in soils on the property would not leach to ground water in excess of applicable standards. A deed restriction was implemented which restricts the property to commercial or industrial use only.

Rookwood Commons Property - Norwood



Rookwood Commons - Before

The property consists of about 25.5 acres that were previously comprised of 28 parcels within the City of Norwood. Eight of the parcels were occupied by commercial or industrial facilities; the remainder of the parcels were residential. The property is currently improved with five retail buildings, three restaurants and a parking lot.

The property has been used for commercial and industrial purposes since at least 1903. Former businesses operating on the property include commercial warehouses,

commercial lumberyard, printer cartridge repair shop, high speed cutting tool company, welding repair operations and residential properties. Potential contaminants from these operations included volatile and semi-volatile organic compounds, total petroleum hydrocarbons (TPH), various metals, benzene, toluene, ethylbenzene and xylenes. Contaminated soils were removed from three areas. A risk-based analysis was used to determine that the concentrations of the remaining contaminants in the soil cumulatively do not present a risk above applicable standards if property use is restricted to industrial and commercial use only.



Rookwood Commons - After

Huffy Celina East Property - Celina

The site consists of 55 acres located to the south of Havemann Road, east of the city of Celina, Ohio. Historically, most of the property was used as farmland. From 1956 to 1998, the property was used as a bicycle manufacturing facility, at which time the factory was closed by Huffy Corporation. The site is vacant except for a Quonset hut that is to the west of a 2.5 acre wooded area in the north-central portion of the property.

Potential contamination on the property was investigated in the wooded area south of the Quonset hut where a 50-foot-long trench up to eight feet wide and five feet deep had been excavated. Manufacturing wastes, paint wastes, sludges and floor sweepings were disposed in this trench between 1973 and 1976. Later, between 1988 and 1992, construction and demolition debris, sandblasting wastes and excavated soil were disposed in the same area.



Huffy Celina East

All soils containing volatile organic compounds (VOCs) at concentrations above applicable standards for soils at commercial or industrial settings were excavated and removed from the property. The VOCs remaining in the soil are present at concentrations well below the standards. The contaminants that were originally present with the soils had not migrated downward, demonstrating that the ground water beneath the property is protected. The property is restricted to commercial or industrial use only.



CAPITOL MANUFACTURING BUILDING

Liberty Place - Before

Liberty Place LLC - Columbus

The property consists of approximately 6.7 acres in downtown Columbus that has been used for a variety of manufacturing purposes since before 1900. Businesses that have been operating on the property include a stove foundry and other foundry operations, an electroplating company, a furniture factory and lumber yard, and warehousing facilities.

Between 1947 and 1970, Capitol Manufacturing and Supply Company (later known as Harsco Corporation) acquired the property for the manufacturing of machined steel fittings.

Operations ceased in 1989 and most of the buildings were demolished in 1991. The major contaminants found as a result of these manufacturing operations were petroleum products, semivolatile compounds and chlorinated compounds.

The property complies with applicable standards for unrestricted land use, but is subject to a restriction on the use of ground water underlying the property. Remedial activities include excavation and disposal of the upper 10 feet of soil and refilling with 10



Liberty Place - After

feet of clean fill material, and installation of an interception trench to prevent petroleum from migrating off-property. The property is located in the City of Columbus' Brewery District, which is undergoing urban renewal. The proposed use of the property is residential.

TTG Properties, LLC - Logan

The 35.6-acre property is the site of the former Goodyear Tire and Rubber Plant, located at 1689 East Front Street in Logan. From 1963 to 1999 the plant produced padded instrument panels for the automotive industry. The property will be redeveloped for commercial or industrial uses. A portion of the property is already occupied by a manufacturer of wood and laminated fixtures used in retail store displays.

Remediation was necessary at two locations on the property for arsenic and PCBs in order to bring the property into compliance with applied direct contact standards. Land



TTG Properties - Before

use is restricted to industrial and commercial land use, except for the previous transformer location, which is limited to industrial use. The property meets standards for unrestricted potable use of ground water.



TTG Properties - After

Summary of Covenants Not to Sue Issued

Site Name & Address	NFA No.	Volunteer	Date Issued
Frank J. Stolzka & Son, Inc. 237 North Adams Street Akron Summit County	01NFA119	Monark Johnson, Jr.	7/3/02
Krick Road Realty LLC Property 7120-7130 Krick Road Walton Hills Cuyahoga County	01NFA123	Krick Road Realty, LLC	7/26/02
Sheller Globe Facility, Former 1200 East Kibby Street Lima Allen County	01NFA114	United Technologies Corporation	8/2/02
Huffy Celina East Property South of Havemann Road Celina Mercer County	02NFA128	Huffy Bicycle Company	9/17/02
Rookwood Commons Property 2620-2750 Edmondson Road Norwood Hamilton County	01NFA122	Rookwood Commons LLC	9/18/02
Handwell 304 West Mound Street Columbus Franklin County	02NFA140	The Handwell Company	11/5/02
CSXT Chillicothe Yard (South Parcel) E. Seventh & S. Watts Streets Chillicothe Ross County	00NFA107	CSX Transportation, Inc.	11/18/02
Liniform Service 1050 & 1060 Northview Avenue Barberton Summit County	01NFA121	Good Enterprises, Ltd.	11/8/02
Cammarn Residence 3532 Bellevue Road Toledo Lucas County	02NFA127	Ohio Department of Transportation	11/9/02

Site Name & Address	NFA No.	Volunteer	Date Issued
Oswald Property, Murton's Child Development Center 20375, 20425 & 20455 Lorain Road Fairview Park Lucas County	02NFA138	City of Fairview Park	12/20/02
CII Technologies 175 North Diamond Street Mansfield Richland County	01NFA116	STI Properties	2/6/03
Liberty Place, LLC 100 Liberty Street Columbus Franklin County	02NFA135	Liberty Place LLC	2/6/03
Chevron-Toledo: Front Street Parcel Front Street & Millard Avenue Toledo Lucas County	01NFA109	Chevron U.S.A., Inc.	3/14/03
TTG Properties, LLC 1689 East Front Street Logan Hocking County	02NFA136	TTG Properties, LLC	4/14/03
Kurz-Kasch, Inc. Property 199 East State Street Newcomerstown Tuscarawas County	02NFA149	J. N. Taylor, Jr., Kurz-Kasch, Inc.	4/14/03
Industrial Dimensions, Inc. 1600 North Main Street Fostoria Seneca County	02NFA131	Industrial Dimensions, Inc.	6/9/03
Fogg West 140 St.-Puritas Park Property 4565 Industrial Parkway Cleveland Cuyahoga County	03NFA163	Fogg-West 140 th Prop., LLC & Conoco Phillips Co.	6/24/03

VAP Superfund Memorandum of Agreement Track

On July 31, 2001, Ohio EPA finalized and signed the Voluntary Action Program Memorandum of Agreement (MOA) with U.S. EPA. After many months of negotiations between U.S. EPA and Ohio EPA, an MOA-Track program was developed to incorporate public involvement and up-front oversight into the existing VAP process. Volunteers who follow this track of the VAP will obtain both a CNS from Ohio EPA and comfort that U.S. EPA will not require any additional cleanup at the site. The existing VAP process, known as the Classic VAP Track, is still available to volunteers who do not feel the need for federal comfort and prefer not to incorporate up-front Agency oversight or public involvement into the voluntary cleanup process.

VAP staff created procedures and documents to assist volunteers and certified professionals through a voluntary action that meets both the traditional VAP requirements and the additional public involvement and Ohio EPA review requirements for the MOA track. Detailed information about the VAP's MOA-Track process, including a copy of the MOA, can be found on the program Web page (under the section titled "Final Memorandum of Agreement - July 2001") at www.epa.state.oh.us/derr/vap/moa/mo.html.

Nine sites initiated the first step of the process, the notice of entry into the MOA track, in SFY'03. These properties are listed in the table below:

Property Name and Address	Volunteer	Date Entered MOA Track
Center Hill Landfill 5700 Center Hill Road Cincinnati Hamilton County	Port of Greater Cincinnati Development Authority	7/11/02
Crescent Brick 6878 Osnaburg Street East Canton Stark County	Resco Products, Inc.	8/23/02
Barium & Chemicals, Inc. 515 Kingsdale Road Steubenville Jefferson County	Barium & Chemical, Inc.	10/15/02
Bayley Company Property, Former 148 West North Street Springfield Clark County	City of Springfield	10/16/02

Property Name and Address	Volunteer	Date Entered MOA Track
Hobart Brothers Lagoon Between 439 and 507 Elm Street Troy Montgomery County	Hobart Brothers Co.	12/10/02
BP Site #69115, Former 849 West Main Street Kent Portage County	BP Products of America, Inc.	12/17/02
Schmidt's Brewery, Former 9300 Quincy Ave Cleveland Cuyahoga County	Board of Cuyahoga Co. Commissioners	1/6/03
Hemisphere Industrial Park Kinsman Road & E 80 th Cleveland Cuyahoga County	Hemisphere	2/18/03
BP Site #69436 410 Sycamore Street Marysville Union County	BP Products North America, Inc.	3/24/03

Former Bayley Company Property - Springfield

The site of the former Bayley Company in Springfield will likely be the first MOA track site to receive a covenant not to sue from Ohio EPA. Because it is publicly owned, this site also was among the first in Ohio to receive assistance from Ohio EPA for conducting some of the sampling that was required for the site investigation. This saved the city money that it put toward the cleanup of the site.

The property was originally developed as a manufacturing facility in the late 1800s, and was purchased by William Bayley, who was considered an icon of Springfield's industrial revolution. The William Bayley Company closed in the mid 1980s, at which time the property was purchased and used for various manufacturing, retail and warehouse uses.



Proposed Oncology Center

On August 7, 2003, a groundbreaking ceremony was held for the Springfield Regional Cancer Center. The state-of-the-art facility will be 22,000 square feet and will unite the treatment programs of the city's two hospitals. The downtown location of the center adds convenience for all treatment services. The center will be located along the cliffs of the Buck Creek corridor, adjacent to green space and with a view into Veterans Park. The redevelopment agreement between the hospitals and the city will breathe new life into a historically significant downtown site.

Low-Interest Loans Issued to Properties Undergoing Voluntary Actions

The Water Pollution Control Loan Fund (WPCLF) is administered by Ohio EPA's Division of Environmental and Financial Assistance. Any environmental investigation or remediation performed under the VAP rules that will result in water quality benefits to surface and/or ground water is eligible for WPCLF financing. This can include activities such as literature searches, site evaluation studies, sampling, monitoring, laboratory analyses and cleanup activities. The WPCLF will provide up to \$3 million to a project for these eligible activities. Private borrowers are limited to a maximum repayment term of 10 years so future development of cleaned up sites is not unduly subsidized. An application fee of 0.5 percent of the requested loan amount is charged to help defray the costs of the State's additional expenses necessary to complete financial and legal reviews.

An ongoing concern is the length of the time involved, not only to mutually agree upon sufficient sources of security and repayment, but to review and accept the documentation in support of those sources. For example, Ohio EPA may agree on a first mortgage on the property as security, then find the appraisal deficient or overly optimistic in its appraised value of the property. Ohio EPA is beginning to explore alternatives, which could include an interest buy-down arrangement with a private lender (relieving Ohio EPA of making credit judgements).

Of course, the most difficult situations are those that present serious and immediate environmental problems, but where applicants have profound financial difficulties that make it very difficult to financially justify the investment of WPCLF. The financial risk/environmental benefit ratio must be addressed on a case-specific basis.

No loans were issued for VAP properties in SFY'03.

Audits of No Further Action Letters

Ohio EPA annually audits at least 25 percent of all No Further Action (NFA) letters submitted to the Voluntary Action Program in each calendar year. These audits can be limited to a review and analysis of the documents pertaining to the NFA letter to determine compliance with program requirements (Tier I Audit), or be expanded to include sampling and analysis of soils, surface water, air, sediments or ground water (Tier II Audit). Audits are conducted to determine if the properties meet applicable standards after completion of the remedial activities. Audits also are conducted to ensure that certified professionals and certified laboratories that performed work in support of the NFAs possess the qualifications necessary to perform work under the VAP and that their work results in NFAs that are consistent with applicable standards.

OAC 3745-300-14 describes the procedures for selecting and conducting audits of NFA letters. The rule establishes three "pools" of NFA letters to prioritize their selection for audits. These are the mandatory, priority and random audit pools. The *mandatory audit pool* includes NFA letters meeting one of six criteria that provide reason to believe the NFA letter was issued fraudulently or that performance of the certified professional who issued the NFA letter or the certified laboratory that performed analyses in support of the NFA letter was inadequate. The *priority audit pool* includes NFA letters that included a risk assessment or employed an engineering control (such as a fence) or institutional control (such as a deed restriction) as a remedial activity. The *random audit pool* includes all other NFA letters, including those from the priority audit pool that are not selected during the initial random selection as described below. Properties were selected according to criteria and procedures described in OAC 3745-300-14.

In addition to auditing all NFA letters in the mandatory audit pool, OAC 3745-300-14 requires Ohio EPA to audit at least 25 percent of NFA letters for properties where remedial activities occurred and 25 percent of those where no remedial activities occurred. Letters are randomly selected from the priority audit pool and the random audit pool to meet the 25 percent quota.

In calendar year 2002, the VAP audited five NFA Letters submitted to Ohio EPA during the previous year (2001). The following table summarizes the properties audited, the name of the volunteer for each property and the basis for selecting the property for audit. Tier I audits were conducted at four of the properties; the CII Technologies audit is still in progress. The completed audits found the properties to be protective of human health and the environment.

2001 NFA Letters Selected for Audit in 2002

Property Name and Address	Name of Volunteer(s)	County	Audit Pool
Chevron-Toledo; Front Street Parcel	Chevron U.S. A., Inc.	Lucas	Selected from Priority Audit Pool
Sermatech Lehr, Plants 2 & 3	Sermatech-Lehr	Hamilton	Selected from Priority Audit Pool
CII Technologies	STI Properties	Richland	Selected from Priority Audit Pool
Liniform Services	Good Enterprises, LTD.	Summit	Selected from Priority Audit Pool
Motel Properties, Former (Parcel 1)	City of Fairview Park	Cuyahoga	Selected from Random Audit Pool

VAP EXPENSES FOR SFY '03

PERSONNEL

Fund 4R9 - VAP Fund	\$ 363,650.76
Hazardous Waste Management Fund	-0-
General Revenue Fund	684,237.39
Superfund Grants (Federal dollars)	<u>362,521.81</u>
Total Cost of Personnel	\$ 1,410,409.96

MAINTENANCE COST OF THE PROGRAM

Fund 4R9 - VAP Fund	\$ 95,085.31
Hazardous Waste Management Fund	-0-
General Revenue Fund	253,586.10
Superfund Grants (Federal dollars)	<u>172,199.20</u>
Total Cost of Maintenance	\$ 520,870.61

EQUIPMENT

Fund 4R9 - VAP Fund	\$ -0-
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund Grants (Federal dollars)	<u>35,807.46</u>
Total Cost of Equipment	\$ 35,807.46

OTHER - CONTRACTUAL SERVICES

Fund 4R9 - VAP Fund	\$ -0-
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund Grants (Federal dollars)	<u>31,135.65</u>
Total Cost of Other Contractual Services	\$ 31,135.65

OPEN ENCUMBRANCE SFY '03

Fund 4R9 - VAP Fund	\$ 8,678.90
Hazardous Waste Management Fund	-0-
General Revenue Fund	59.71
Superfund Grants (Federal dollars)	<u>\$ 8,558.37</u>
Total Open Encumbrance	\$ 17,296.98

TOTAL VAP PROGRAM COST FOR SFY '03 **\$2,015,520.66**

VAP REVENUE FOR SFY '03

Certified Professional Fees	\$ 212,500.00
Certified Laboratory Fees	59,557.08
No Further Action (NFAs) Fees	173,773.39
Technical Assistance Cost Recovery	<u>225,623.98</u>
TOTAL REVENUE FOR FY '03	\$ 671,454.45