

September 11, 2015
House Subcommittee on Environment and the Economy Hearing:
“Oversight of Federal Facility Cleanup under CERCLA”
Questions for the Record
J. Alfredo Gómez, Director, Natural Resources and Environment

The Honorable John Shimkus

- 1. Your testimony at the September 11, 2015 hearing stated that the Departments of Agriculture and Interior have identified thousands of contaminated sites but that their inventory, particularly for abandoned mines, is incomplete and unreliable. What should the Department of Agriculture and the Department of the Interior do to ensure that their inventories—especially the inventory of abandoned mines—are complete and reliable?**

GAO Response:

In our January 2015 report, *Hazardous Waste: Agencies Should Take Steps to Improve Information on USDA’s and Interior’s Potentially Contaminated Sites*, GAO-15-35, (Washington, D.C.: Jan. 16, 2015), we found that the U.S. Department of Agriculture (USDA) and the Department of the Interior (Interior) have identified many contaminated and potentially contaminated sites, but neither agency has a complete inventory. We recommended that to ensure that USDA has the information needed to better identify potentially contaminated sites--particularly abandoned mines--on properties it manages and, thereby, help minimize possible risks to human health and the environment, the Secretary of Agriculture should direct the heads of the department's land management agencies to develop plans and procedures for completing their inventories of potentially contaminated sites.

We also reported Interior’s Bureau of Land Management (BLM) had identified over 30,000 abandoned mines that were not yet assessed for contamination, and this inventory was not complete. In addition, we found that the reliability of BLM’s inventory of abandoned mines has been a long-standing concern. In 2005, Interior’s Office of Inspector General (OIG) reported that BLM’s national inventory of abandoned mines was incomplete, inaccurate, and inconsistent. In addition, the OIG found that the BLM field office staff responsible for abandoned mines was not identifying or entering known, high-priority abandoned mine sites into the inventory database. Many of the sites listed in the database were obtained from old Bureau of Mines data that was never verified by site visits. Given the limited funds available, the OIG noted that it was important that the inventory include current and credible information needed for program management of significant sites. On this basis, the OIG recommended that BLM validate existing inventory data and develop procedures for ongoing data collection to ensure that data in the inventory is complete, accurate, and consistent. As we reported in our January 2015 report, BLM agreed with the recommendation and has made an effort to improve data quality and the inventory’s completeness. For example, BLM has an ongoing effort to estimate the number of abandoned mines and mine features that have not yet been inventoried on BLM lands and the approximate cost to complete the inventory.

The Honorable Frank Pallone

During the second day of this hearing, state witnesses testified about potential issues related to agencies that are responsible parties asserting “Lead Agency Authority”

- 1. Can you explain what this authority is and why your Department makes use of this authority?**

GAO Response:

“Lead agency authority” refers to response authorities assigned to the President by CERCLA and delegated under Executive Order 12580 to the heads of Executive departments and agencies.

- 2. Does this authority apply differently at National Priority List sites and non-NPL sites?**

GAO Response:

For federal facilities that are not on the NPL but require a non-emergency response action, the federal agency with jurisdiction, custody, or control of the facility takes the lead on implementing the action; EPA takes the lead on emergency actions. For federal facilities that are on the NPL, agencies work with EPA under an interagency agreement to implement response actions.

According to state testimony, assertions of lead agency authority were more of a problem before 2008.

- 3. Please explain what your Department has done since 2008 to improve working relationships with states when your Department leads cleanups?**

GAO Response: NA

Similarly, state witnesses expressed concerns that, primarily before 2008, agency claims of sovereign immunity frustrated cleanup efforts.

- 4. When and why might your Department or employees of your Department claim sovereign immunity in the context of Superfund cleanups?**

GAO Response: NA

- 5. What has your Department done since 2008 to limit claims of sovereign immunity?**

GAO Response: NA

Lastly, state witnesses at the second day of this hearing raised the concern that priorities for cleanups are not always determined based on risk. Obviously, limitations on resources for cleanup make prioritization necessary and important.

- 6. What factors does the Department consider in making funding decisions for cleanups across your inventory of contaminated sites?**

GAO Response: NA

- 7. What does your Department do to ensure that contaminated sites posing serious or immediate threats to human health are cleaned up quickly and effectively?**

GAO Response:

GAO has conducted a number of reviews on the cleanup and funding status of National Priority List sites. Most recently, in a September 2015 report, *Superfund: Trends in Federal Funding and Cleanup of EPA's Nonfederal National Priorities List Sites*, GAO-15-812, (Washington, D.C.: Sept. 25, 2015), we reported on trends in (1) the annual federal appropriations to the Superfund program and EPA expenditures for remedial cleanup activities at nonfederal sites on the NPL; and (2) the number of nonfederal sites on the NPL, the number of remedial action project completions, and the number of construction completions at nonfederal NPL sites. We found that annual federal appropriations to the Superfund program generally declined from about \$2 billion to about \$1.1 billion in constant 2013 dollars from fiscal years 1999 through 2013. During this same time period, the total number of nonfederal sites on the NPL annually remained relatively constant, while the number of remedial action project completions and construction completions generally declined.

- 8. How does your Department ensure that budget requests will be sufficient to cover pressing cleanup needs?**

GAO Response: NA

- 9. Did the 2013 government shutdown affect your ability to meet your cleanup obligations on schedule?**

GAO Response: NA