

Energy and Commerce Committee  
Subcommittee on Environment  
Testimony of James McKenna  
January 18, 2018

One-Page Summary of Testimony:

Witness Name: James McKenna, Portland Harbor Superfund Policy Analyst

Witness Organization: Office of Oregon Governor Kate Brown

Name and Date of Hearing: Modernizing the Superfund Cleanup Program, January 18, 2018

Subcommittee: Energy and Commerce Committee; Subcommittee on Environment

Main Points of Testimony:

The federal Superfund Program must remain strong and viable in order to live up to its promise of protecting public health and the environment, and ensuring people live and work in healthy, vibrant places. In that spirit the State of Oregon recommends:

- Increasing the Superfund program budget to ensure timely resolution of existing and new NPL sites.
- Maintaining adequate staffing and technical expertise at the Headquarter and Regional levels.
- Reinstating a revenue source(s) to replenish the “Fund” for orphan sites (the State of Oregon is spending nearly \$5-million/year on orphan sites).
- For mega-Superfund Sites, breaking the sites up into manageable Operable Units.
- For sites with numerous PRPs, recognize the difficulty of negotiating one settlement with the entire PRP group. EPA should develop tools that give PRPs enough certainty so they can settle-out in ways that allow cleanup to move forward, while maintaining the government’s need for prudent reopeners. And,
- Accommodating flexibility in cleanup design and implementation. EPA should work with PRPs and the community to appropriately accommodate flexibility in area-specific cleanup designs that are not inconsistent with the ROD, but which recognizes the unique conditions and likely future land uses at each location.

Energy and Commerce Committee  
Subcommittee on Environment  
Testimony of James McKenna  
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Chairman Shimkus, Ranking Member Tonko, and members of the subcommittee, thank you for providing me the opportunity to testify today on the Superfund Program. I am here representing the Office of Oregon Governor Kate Brown to discuss the Federal Superfund Program. Before I get into the details of my testimony please allow me to convey my background to demonstrate my expertise with superfund sites.

I have been involved with the Superfund cleanups for over thirty years, starting as Environmental Coordinator with NASA's Jet Propulsion Laboratory in the 1980s. JPL had a contaminated groundwater plume adversely impacting the City of Pasadena water supply wells. Prior to joining the Office of Oregon Governor Brown I owned and managed a private environmental consulting firm that focused primarily on cleanup of Superfund sites.

Governor Brown supports the Federal Superfund Program. One of Oregon's most complex, the Portland Harbor Site, is critical for the vitality of the region's economy. The challenges of site cleanup for Portland Harbor are similar to those in many other sites across the country and I will present this committee with recommendations for improving the federal program to help sites like Portland Harbor and those in your districts and those of your colleagues. For Portland Harbor the Governor will ensure State agencies coordinate with EPA to adequately and timely reduce risks to the community, protect the environment, and uphold the polluter pays principle. It is also a high priority of the Governor that at-risk and underserved communities are not inordinately impacted or unjustly burdened by cleanup activities.

Achieving this common vision calls for close coordination with Tribal governments, key stakeholders, local businesses, and the community. Governor Brown will therefore ensure the state retains a prominent seat at the table in regards to cleanup of the Portland Harbor. This level of coordination and leadership is vital considering the complexity of the Portland Harbor site:

Energy and Commerce Committee  
Subcommittee on Environment  
Testimony of James McKenna  
January 18, 2018

- Technical: The Willamette River is a large and dynamic system, and cleanup must address numerous contaminants from a multitude of legacy industrial operations and some on-going sources. Willamette River salmon and steelhead are Endangered Species, and hence limit the in-water work to about 4 months per year.
- Regulatory: EPA manages the in-water sediment cleanup; DEQ oversees the upland and upstream source control efforts; the Army Corps of Engineers maintains the Federal Navigation Channel; and six sovereign Tribal Governments are engaged as Natural Resource Trustees.
- Legal: there are over 100 identified potential responsible parties (PRPs), including public and private entities. This includes federal and State agencies and departments, local governments, international corporations, and local small businesses. Most of the PRPs are participating in a private mediation to resolve their respective liabilities.

The Portland Harbor Superfund Site was placed on the National Priorities List in 2000. Field studies were conducted and reports generated through 2015. EPA presented their Proposed Plan to the public in mid-2016, and issued its Record of Decision in January 2017.

Cleanup of Portland Harbor is critical to revitalizing and sustaining a vibrant regional economy. The harbor is an industrial sanctuary and an economic engine for regional industries and agriculture. The Harbor supports approximately 30,000 direct jobs and 30,000 induced or indirect jobs. Annually this translates to approximately \$4-billion in payroll, \$400-million in State and local taxes, and \$13-billion in business revenue. Maintaining a healthy, safe, and clean working harbor is essential to all Oregonians.

Portland Harbor benefits from unique transportation interconnectedness: North to south and east to west interstate highways and railroads; a deep-water draft federal navigation channel; and an international airport. Nowhere else in the State will you find this confluence of infrastructure. That being said, economic studies

Energy and Commerce Committee  
Subcommittee on Environment  
Testimony of James McKenna  
January 18, 2018

indicate the Portland region needs to add approximately 10,000 industrial family-wage jobs in next 15 to 20 years.

To do so will require reinvestment and revitalization of hundreds-of-acres of under-utilized or vacant industrial lands in and near Portland Harbor. Redevelopment of these Brownfield sites will require a cooperative effort of private businesses, and local, State and federal agencies and resources. Oregon has a track record of successfully implementing complex Brownfield projects, as evidence by the recent Howard Orlean Excellence Award for redevelopment of the former Reynolds Aluminum site (a Superfund Site east of Portland and along the Columbia River).

Implementation of EPA's Record of Decision, along with the resolution of PRP liabilities, will help lift the cloud of economic uncertainty that has hung over Portland Harbor since being listed as a Superfund Site in 2000. It has been one year since the ROD was released and we have momentum in moving the project towards final cleanup: four private PRPs have signed an Order with EPA to conduct the baseline sampling; Northwest Natural Gas has signed an Order to complete the cleanup design at their GASCO facility; the City of Portland is partnering with several private PRPs and they have signed an Order to finalize the cleanup design at River Mile-11East; the Port of Portland is negotiating an Order with EPA for final design of cleanup at Terminal-4; and the State of Oregon is in preliminary discussions with EPA regarding Orders to design cleanup at Willamette Cove, generate a comprehensive Data Management Plan, and develop the Institutional Controls Implementation and Assurance Plan.

The federal Superfund Program must remain strong and viable in order to live up to its promise of protecting public health and the environment, and ensuring people live and work in healthy, vibrant places. In that spirit the State of Oregon recommends:

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Energy and Commerce Committee  
Subcommittee on Environment  
Testimony of James McKenna  
January 18, 2018

- Reinstating a revenue source(s) to replenish the “Fund” for orphan sites (the State of Oregon is spending nearly \$5-million/year on orphan sites).
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- Accommodating flexibility in cleanup design and implementation. EPA should work with PRPs and the community to appropriately accommodate flexibility in area-specific cleanup designs that are not inconsistent with the ROD, but which recognizes the unique conditions and likely future land uses at each location.
- Sites with low-level risk or in the long-term Operations and Maintenance mode could be delisted and transferred to State environmental agencies that are willing and able to oversee these sites.

Thank you for allowing me to testify today, and I am happy to answer questions.