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Arco to pay for river work

By Roberta Forsell Stauffer of The Montana Standard - 11/06/2004 Nov 4, 2004

A new Superfund-related

consent decree announced Friday between the Environmental Protection Agency and the Atlantic Richfield Co. has nothing to do with Arco's liability for cleanup work yet to come.

The $62 million settlement is a reimbursement to EPA from Arco for expenses that EPA accrued working on four Clark Fork River sites from the early 1980s until July 31, 2002. Of that, $50 million will be paid by Arco and $12 million will come from a federal

judgment fund.

The four sites are Butte Priority Soils, Warm Springs Ponds, Anaconda Smelter and the Clark Fork River Operable Unit.

"It's basically the costs we've incurred for almost 20 years for the oversight of the Arco work," said John Wardell, director of EPA's Montana office.

"The key word is past costs," he said. "This doesn't release Arco from any liability for future obligations from any of those operable units. In fact, they even waived some of their defenses for the liability they have along the Clark Fork."

After the federal government sued Arco more than a decade ago to recover some of these costs, the oil company responded in kind.

"We filed a counter lawsuit saying that the federal government was liable for a portion of the activities within the Clark Fork Basin and we had concerns with some of the costs that they were asking us to pay for," said Robin Bullock, northwest regional manager for Arco.

This settlement puts an end to the legal debate over who's responsible.

"We think it's a fair settlement and we're glad that it's complete and look forward to closing out the remainder of our issues in Montana," Bullock said.

Also as part of the consent decree, Arco agreed not to sue the federal government in the future for any additional liabilities in the basin.

"Our ability to sue for some of those concerns has now been waived," Bullock said. "This just resolves the past, and now it gives us a clean slate to move forward to finalize actions we've got in front of us at these sites and negotiate future oversight costs."

The Milltown Dam Superfund site was not included in this settlement because it's much closer to a final resolution than the others. Bullock said Arco hopes to resolve both past and future costs on Milltown with EPA in just one consent decree, as it did with four sites already resolved — the Berkeley Pit, Montana Pole, Rocker, and Silver Bow Creek.

Within the next few years, Arco and EPA will likely enter into separate additional consent decrees on future costs and responsibilities at the four sites that are the topic of today's announcement.

As for the $62 million, Wardell said it will be held in a special fund reserve fund earmarked for the Montana Clark Fork cleanup. The fund will only be tapped if the sites still don't meet EPA standards once Arco is finished with its work.

"We're hopeful that very little of it will actually need to be used for remediation," Wardell said. "Arco as responsible party will be expected to pay for these cleanups."

If the money is not needed in Montana, it will go back into the national Superfund account, according to Wardell.

He also said this settlement has nothing to do with the State of Montana's natural resource damage lawsuit against Arco.

"It's a completely separate legal proceeding," he said.

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