

**Division of Emergency & Remedial Response**

**VOLUNTARY ACTION PROGRAM**

**2005 ANNUAL REPORT**

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*Former Alisco Aluminum Facility*

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**September 2006**

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# 2005 Voluntary Action Program Annual Report to the Legislature

## Summary

- ✓ 262 No Further Action (NFA) Letters issued by certified professionals to date, including 23 in 2005;
- ✓ 186 NFAs have received a covenant not to sue (CNS), including 22 in 2005;
- ✓ 3,755 acres reported being cleaned up for possible redevelopment;
- ✓ 546 acres cleaned up in 2005;
- ✓ NFA review time reduced by 47 percent for NFAs received in 2005 compared to 2003;
- ✓ NFA review fee increase recommended by Multidisciplinary Board;
- ✓ Initiated discussions with U.S. EPA to streamline MOA track;
- ✓ Three properties notified VAP of entry into the MOA track;
- ✓ Eight NFA Letters were audited;
- ✓ Total program cost for 2005 was \$1.95 million.

## 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 (covenant not to sue or CNS) 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, certified professionals (CPs) have issued 262 No Further Action (NFA) Letters for sites they have determined meet VAP standards. Of these, 186 have received a CNS. Of the remaining NFAs issued, 15 were denied a CNS, 17 were allowed to be withdrawn during the early years of the program, 14 were issued by the CP without requesting a CNS and 31 are pending review. (Note that some of the withdrawn or denied NFAs were resubmitted and issued a CNS.) This has resulted in more than 3,755 reported acres being cleaned up for possible redevelopment over the life of the program, including 546 in 2005. In addition, CPs use the standards developed by Ohio EPA to clean up thousands of other sites that do not get submitted for state liability release. During 2005, 22 sites received a CNS.

The VAP has improved the efficiency of NFA reviews over the past several years. Ohio EPA used the knowledge it has gained in almost seven years of project review experience to determine what causes project holdups on the Agency's end as well as the CP's end. A Timeline Procedure was developed and implemented at the end of September 2003. The data collected from tracking the steps and roadblocks to reviewing the NFAs are evaluated annually to continue to identify potential problems and improve the process. The initial analysis indicates that the time to issue covenants for NFAs received in 2004 and 2005 has been cut by almost half when compared to 2003.

On December 22, 2004, Governor Taft signed the Uniform Environmental Covenants Act (HB 516). This legislation establishes environmental covenants that would impose activity and use restrictions that transfer with the property and remain in perpetuity. This covenant generally applies to property that has undergone environmental remediation or mitigation projects. This bill codifies and makes uniform practices already being carried out by Ohio EPA, including the VAP. Therefore, passage of HB 516 only required procedural changes in implementation from use restrictions to environmental covenants.

Ohio EPA met with the Multidisciplinary Board in 2005 to evaluate the program's fee system. The MDB evaluated the program's current operating costs, other funding sources and other states' programs and revenues. The board recommended an increase in the NFA fees, but not the Certified Lab and Certified Professional fees. These fees did not go into effect until 2006.

This report provides an update of the program activities for 2005. Please contact the Ohio EPA Voluntary Action Program at (614) 644-2924 with questions.

## 22 Properties Receive Covenants Not to Sue

During 2005, Ohio EPA issued 22 covenants not to sue (CNS). The following are some examples of sites that received a CNS.

### Former AlSCO Aluminum Facility – Gnadenuhuten



The AlSCO Anaconda site started as a National Priorities List (NPL) Superfund Site. The party responsible for conducting the environmental investigation and cleanup was identified as the Atlantic Richfield Company (ARCO). ARCO was cooperative and willing to address the problems and worked closely with both Ohio EPA and U.S. EPA throughout the process.

The NPL portion of the site consisted of 4.8 acres of land adjacent to the Tuscarawas River. From 1965 to 1978, this land was used to dispose of wastewater and sludge generated during the production of aluminum products on other portions of the property, which totaled 23 acres. An environmental investigation occurred to determine the type of contaminants and the extent of the contamination. Based on the investigation, it was determined that the best remedy was to excavate and remove all of the waste.

Waste removal would allow the ground water, which was contaminated with chromium and other chemicals, to naturally clean up naturally. After the waste was excavated, Ohio EPA and U.S. EPA determined that the site met standards for unrestricted use on the land and in the ground water. As a result, AlSCO Anaconda was delisted from the NPL on September 6, 2001.

ARCO decided to use the VAP to ensure that the remaining portion of the manufacturing facility met industrial use standards. At the same time, ARCO worked with the Village of Gnadenuhuten to find an appropriate use for the NPL site. Although the NPL portion of the site had been restored to unrestricted use, ARCO was concerned that a perception would remain that the site was still a “Superfund” site.

After long discussions and negotiations, ARCO (now ARCO/BP) and the Village of Gnadenuhuten agreed that the best use for the clean land would be to develop it as a wildlife observation area. ARCO/BP worked closely with the local school to determine what features would assist the teachers in using this land as an education resource. Using these discussions as a guide, ARCO worked with the Wildlife Habitat Council to ensure that native vegetation was planted. In addition, a walking trail, gazebo and bird and bat houses were built.

Ohio EPA has issued two covenants not to sue (CNS) for the site. The first CNS was for the Western Parcel. The Western Parcel consisted of a portion of the land which abuts

the Tuscarawas River (which was also part of the NPL site), the adjacent parking lot, and the wastewater treatment plant. The Western Parcel, along with the remaining portion of the former NPL site, is the land which is used as a wildlife observation area.

Ohio EPA issued the second CNS, which encompasses the entire property, including the Western Parcel and the former NPL site, on June 23, 2005. On December 15, 2005, ARCO donated 17 acres of the property to the Tuscarawas County Port Authority (TCPA). This portion of the property includes the industrial facility. The remainder of the property, the wildlife observation area, will also be donated to the TCPA. The TCPA intends to manage the wildlife observation area and find a permanent tenant for the industrial facility.

### **Green Industries – Sharonville**

The nine-acre property, located at 3603 East Kemper Road, was used as an industrial manufacturing facility from 1945 to 1959 as part of a larger parcel of property occupied by Autolite Manufacturing. Autolite's activities included plating automotive parts and accessories related to manufacturing automotive headlights. The St. Joe Paper Company purchased the site in 1959 and manufactured paper products until 1978. Maurice Green purchased the property in 1978 and metal plating operations began. Green Industries ceased operations in 1995.



The property was subject to federal remediation activities beginning in 1987. U.S. EPA coordinated disposing containerized wastes, decontaminating floors and walls, decontaminating or filling in pits and excavating contaminated soils.

In 2003, a demolition of site structures, the removal of hazardous building residuals, soil remediation, excavation of impacted soils and confirmatory sampling took place as part of a Clean Ohio Fund Revitalization Project, which was completed in November 2004. The owner also conducted several hazardous waste unit closures and obtained Ohio EPA's approval of these closures in January 2005. The ground water at the property now meets unrestricted potable use standards, and an environmental covenant restricts the property to commercial or industrial uses.

The owner intends to use the property for office space.

## Front Street Improvement Project – Toledo

The property consists of approximately 6.5 acres that was acquired by the City of Toledo in whole or part for the expanded Front Street right-of-way. The adjacent land was owned by a combination of industrial and residential land owners. Industrial owners included Beazer East, Toledo Coke Corporation, Koppers Company and Interlake Iron Company. The original iron plant was built in 1902 by Toledo Furnace Company.

Two of the parcels were previously owned by the Toledo Terminal Railroad and another parcel had been owned by Wheeling & Lake Erie Railroad (now Norfolk Southern Corporation). Ownership of these parcels dated to the turn of the last century.

Parcel usage has encompassed ironworking operations, a road tar plant with tar and carbolic oil tanks, gas purifying boxes for the Ohio Fuel Gas Company, an impoundment for a naphtha drain pit, coke ovens, ammonia storage tanks, and an automotive repair shop.

To clean the site, the city removed and managed waste materials, excavated and managed soils subsequently used for construction of the embankment core, and eliminated migration pathways along utility lines. In addition, the City of Toledo recorded use restrictions that prohibit the excavation of surface and subsurface soils, prohibit the use or extraction of ground water, and restrict land use to transportation and industrial activities.

## Wal-Mart Proposed Site - Whitehall

The 42-acre property is located in a mixed-use commercial /residential area in Whitehall and Columbus along the south side of East Main Street. The property is comprised of three parts:

- The western portion was historically used as an elementary school as far back as 1932.
- The central portion contained a tree farm/orchard in the 1930s and later the East Main Drive-In movie theater. Along the northern part of this portion, Research Fuels operated a service station with two 10,000-gallon underground storage tanks in the 1970s. There are two commercial buildings currently on this portion of the property.
- The eastern and southern portion of the property was undeveloped or farmed until the early 1960s, and used for the disposal of construction and demolition debris in



the 1960s and 1970s. It is now covered with secondary growth forest and shrubbery.

Soil sampling indicated elevated levels of arsenic and benzo(a)pyrene in the old fill material; however, soil quality meets commercial and industrial land use standards. An environmental covenant now limits use to commercial and industrial, and restricts ground water potable use due to the arsenic levels. No remedial activities other than the environmental covenant were required.

Wal-mart plans to construct a Supercenter on the site.

### **Warehouse and Distribution Facility – Akron**

The 3.9-acre property, located at 859 Moe Drive, was used by Willoughby Supply, a roofing supplier, FedEx Package Systems, Roadway Package Systems, Inc., and 7-UP Bottling Company for warehousing and distribution facilities from 1971 to 2002. The property has been vacant since February 2002. Potential areas of concern were an area west of the building where trichloroethylene was detected potentially from off site sources, and an area where two underground storage tanks were located. No source areas of volatile organic compounds were found on site.



An eligibility issue arose with the underground storage tanks, but the owner later submitted documentation that an NFA letter was received from the Bureau of Underground Storage Tank Regulations. The intended future use is unknown, but the property meets residential standards with a ground water use restriction.

### **Former Westinghouse Repair Facility – Cleveland**



The 4.8-acre property, located at 4600 West 160<sup>th</sup> Street, was undeveloped until 1955, when it was purchased by Westinghouse Electric Corporation. The majority of Westinghouse operations were discontinued by 1992. Van Dorn DEMAG Corporation maintained operations at the facility from 1994 through 2001. The property is currently being operated by Monarch Electric Service Company.

Areas of concern on the property were the testing/assembly areas, the paint booth/hydraulic oil storage area, the transformer pit, electrical transformer area, interior and exterior underground storage tanks, drainage

swale and parking lot soil stockpile area. Contaminated soil that exceeded commercial and industrial direct contact standards was excavated and removed.

In a few areas, where the remaining soil exceeded the commercial/industrial standards for PCBs, the excavated areas were capped with new asphalt and the existing asphalt is being maintained. These areas will be maintained with an operation and maintenance agreement. A deed restriction also limits the use of the property to commercial or industrial land uses.

### Summary of Covenants Not to Sue Issued in 2005

NFA Number	Property Name, Address, City, County	Volunteer Name	Date Received	Date Issued	CP Name	Acres Cleaned Up
02NFA151	Front St Improvement Project Area 1 Toledo, Lucas	Toledo Lucas Co. Port Authority	10/21/2002	1/3/2005	Eric Cherry (CP 142)	6.59
04NFA191	Springfield Place 1030-1068 Upper Valley Pike Springfield, Clark	General Electric Credit Equities, Inc.	11/22/2004	2/18/2005	James Zentmeyer (CP252)	3.71
04NFA195	CSX Property, Former North of Rutherford Rd. Powell, Delaware	M/I Homes of Central Ohio, LLC	12/17/2004	3/1/2005	Bruce Savage (CP265)	40.83
03NFA161	Superior Fibers, Inc. 499 N. Broad St. Bremen, Fairfield	Superior Fibers, Inc.	2/19/2003	3/22/2005	Dennis Smalley (CP197)	32.29
04NFA197	Whse & Distribution Fac. 859 Moe Drive Akron, Summit	Lyn-Kae Corp.	12/21/2004	4/21/2005	Mark Butler (CP137)	3.86
05NFA200	Green Ind. Corp. 3603 E. Kemper Rd. Sharonville, Hamilton	Cincinnati Port of Dev. Authority	2/28/2005	5/13/2005	Craig Kasper (CP103)	9.31
04NFA190	Northwoods Development 780-806 Northwood Blvd. Vandalia, Montgomery	Northwoods Assoc., Ltd.	11/12/2004	6/6/2005	Donald Fay (CP254)	37.00
04NFA193	Lakewood Mfg. Co., Former 251000 Detroit Rd. Westlake, Cuyahoga	Fairchild Properties, LLC	11/16/2004	6/6/2005	Matthew Knecht (CP105)	4.57
04NFA178	AlSCO Aluminum Fac., Former One Anaconda Dr. Gnadenhutten, Tuscarawas	Atlantic Richfield Co.	1/20/2004	6/23/2005	Oren Gottlieb (CP123)	21.74
05NFA202	Mosler Inc. 1561 Grand Blvd. Hamilton, Butler	Hamilton Brownfields Redevelopment	3/31/2005	7/7/2005	Michael Weinstein (CP126)	11.99

NFA Number	Property Name, Address, City, County	Volunteer Name	Date Received	Date Issued	CP Name	Acres Cleaned Up
05NFA201	Ameri-Con Ashbury Project 4721-4805 Fenwick Ave. Cleveland, Cuyahoga	Ameri-Con Ashbury LLC	3/7/2005	7/15/2005	Dan Brown (CP127)	1.38
05NFA207	Kresge Block, The SW corner Market St & 4th St. Canton, Stark	City of Canton	5/10/2005	7/15/2005	Jim Smith (CP121)	0.94
00NFA088	BP Oil Cleveland 5717 Hamlet Ave. Cleveland, Cuyahoga	BP America Inc. Standard Oil	3/17/2000	8/3/2005	Martin Schmidt (CP170)	12.60
04NFA196	Wal-Mart Proposed Site 3651 E. Main St. Whitehall, Franklin	Wal-Mart Real Estate Business Trust	12/10/2004	8/24/2005	Thomas Mignery (CP125)	41.69
05NFA198	DAP Fac. 5300 Huberville Ave. Riverside, Montgomery	City of Riverside	1/24/2005	9/8/2005	Bradford White (CP146)	11.96
05NFA209	Century Farms Property 7278 & 7376 New Haven Rd. New Baltimore, Hamilton	Fort Scott Development Co. LLC	6/10/2005	9/19/2005	Michael Weinstein (CP126)	201.86
03NFA173	Ben Venue Labs Inc. 270 Northfield Rd. Bedford, Cuyahoga	Ben Venue Labs Inc.	9/23/2003	10/18/2005	Matthew Knecht (CP105)	21.12
05NFA206	GHR Foundry 400 Detrick St. Dayton, Montgomery	City of Dayton	5/9/2005	10/31/2005	Bradford White (CP146)	11.24
00NFA086	Sohio No 1 Refinery 2735 Broadway Ave. Cleveland, Cuyahoga	Crewville Ltd.	3/6/2000	11/7/2005	Martin Schmidt (CP170)	39.43
04NFA194	Westinghouse Repair Fac., Former 4600 W. 160th St. Cleveland, Cuyahoga	Viacom Inc.	12/10/2004	11/22/2005	William Baughman (CP243)	4.84
03NFA172	Oaks Foundry Western Disposal Area 700 Bronze Rd. Warren, Trumbull	Oakes Foundry Inc.	9/10/2003	12/1/2005	Joel Hunt (CP185)	4.82

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NFA Number	Property Name, Address, City, County	Volunteer Name	Date Received	Date Issued	CP Name	Acres Cleaned Up
05NFA203	Park Place Parking 18951 Snow Rd. Brook Park, Cuyahoga	Cleveland Holdings LLC	4/8/2005	12/29/2005	Steven Gross (CP192)	22.57

## 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. The MOA-Track program incorporates 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. Three programs entered the MOA Track in 2005. The existing VAP process, known as the Classic VAP Track, is also 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.

In 2005, Ohio EPA and U.S. EPA agreed to change the review and approval process for the MOA Track to aid Brownfield Cleanup Revolving Loan (BCRLF) recipients participating in the MOA Track along with all other MOA Track volunteers. The proposed process change offers more flexibility to volunteers yet does not change any of the oversight conducted by Ohio EPA or lessen any public participation opportunities.

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 at <http://www.epa.state.oh.us/derr/vap/moa/mo.html>.

### Properties that Entered the MOA Track in 2005

Property Name, Address City, County	Volunteer	Date Entered MOA Track
Whittier Peninsula, Northern Tier Columbus, Franklin	Columbus & Franklin County Metro Parks	1/6/2005
Hercules Engines, Former 101 11 <sup>th</sup> Street SE Canton, Stark	Broadview Development, LLC	8/5/2005
Columbia Gas of Ohio, Toledo Service Center 333 South Erie St. Toledo, Lucas	Columbia Gas Of OH NiSource Corp.	11/17/2005

## 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 2005, the VAP initiated audits of eight of the 21 NFA Letters requesting a CNS that were submitted to Ohio EPA during the previous year (2004), or 38 percent. The following table summarizes the name and address of the properties audited, the NFA number, the basis for selecting the property for audit, and the status of the audit. The completed audits found the properties to be protective of human health and the environment.

### 2004 NFA Letters Selected for Audit in 2005

Property Name, Address, City, County	NFA Number	Audit Pool	Status
R. L. Polk Building 400 Pike St Cincinnati, Hamilton	04NFA188	Selected from random audit pool	Completed September 2005
Northwoods Development 780-806 Northwood Blvd. Vandalia, Montgomery	04NFA190	Selected from random audit pool	Pending
National Gypsum Co. 504 Walnut St. Niles, Trumbull	04NFA189	Selected from random audit pool	Pending
Grimes Aerospace Co. 4200 Surface Rd. Columbus, Franklin	04NFA187	Selected from random audit pool	Pending
Springfield Place 1030-1068 Upper Valley Pike Springfield, Clark	04NFA191	Selected from priority audit pool	Completed November 2005
AlSCO Aluminum Fac., Former One Anaconda Dr. Gnadenhutten, Tuscarawas	04NFA178	Selected from priority audit pool	Pending
Westinghouse Repair Fac., Former 4600 W. 160th St. Cleveland, Cuyahoga	04NFA194	Selected from priority audit pool	Pending
Lockland Commerce Park 401 S. Cooper Ave. Lockland, Hamilton	04NFA177	Selected from priority audit pool	Pending

<b>VAP EXPENDITURES FOR CALENDAR YEAR 2005 (CY05)</b>		
<b>PERSONNEL</b>		
Fund 4R9 - VAP Fund	\$	734,633.12
Hazardous Waste Management Fund (505)	\$	70,474.46
General Revenue Fund (GRF)	\$	337,137.64
Environmental Protection Fund (5BC)	\$	201,106.96
U.S. EPA Grants (Federal dollars)	\$	121,912.98
<b>Total Cost of Personnel</b>	<b>\$</b>	<b>1,465,265.16</b>
<b>MAINTENANCE COST OF THE PROGRAM</b>		
Fund 4R9 - VAP Fund	\$	266,745.33
Hazardous Waste Management Fund (505)	\$	12,367.59
General Revenue Fund (GRF)	\$	70,389.96
Environmental Protection Fund (5BC)	\$	45,476.67
U.S. EPA Grants (Federal dollars)	\$	9,010.33
<b>Total Cost of Maintenance</b>	<b>\$</b>	<b>403,989.88</b>
<b>EQUIPMENT</b>		
Fund 4R9 - VAP Fund	\$	1,838.44
Hazardous Waste Management Fund (505)	\$	-
General Revenue Fund (GRF)	\$	123.74
Environmental Protection Fund (5BC)	\$	-
U.S. EPA Grants (Federal dollars)	\$	-
<b>Total Cost of Equipment</b>	<b>\$</b>	<b>1,962.18</b>
<b>OTHER - CONTRACTUAL SERVICES</b>		
Fund 4R9 - VAP Fund	\$	16,496.93
Hazardous Waste Management Fund (505)	\$	-
General Revenue Fund (GRF)	\$	27,413.83
Environmental Protection Fund (5BC)	\$	4,655.34
U.S. EPA Grants (Federal dollars)	\$	38,725.44
<b>Total Cost of Other Contractual Services</b>	<b>\$</b>	<b>87,291.54</b>
<b>TOTAL VAP PROGRAM COST FOR CY05</b>	<b>\$</b>	<b>1,958,508.76</b>
<b>VAP REVENUE FOR CY05</b>		
Certified Professional Fees	\$	208,950.00
Certified Laboratory Fees	\$	75,817.66
No Further Action (NFAs) Fees	\$	85,950.00
Technical Assistance Cost Recovery	\$	265,135.62
AGO Collected	\$	566.76
Misc. - photocopying, etc.	\$	7,720.84
<b>TOTAL REVENUE FOR CY05</b>	<b>\$</b>	<b>644,140.88</b>