

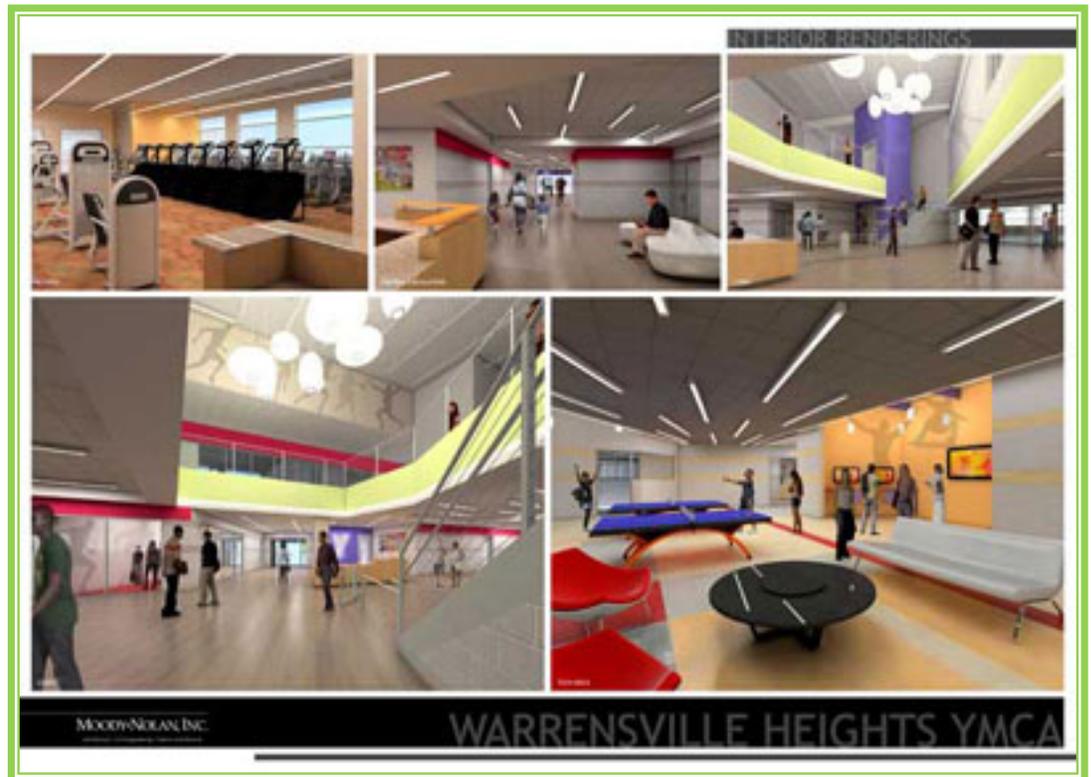
August 2011



Environmental  
Protection Agency

# Voluntary Action Program

## 2010 Legislative Report



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director



# Voluntary Action Program Annual Report to the Legislature

## Summary of Activities in 2010

- ✓ 26 No Further Action (NFA) letters were issued by certified professionals (CPs).
- ✓ 45 covenants not to sue (CNS) were issued by Ohio EPA.
- ✓ 815 acres were cleaned up for possible redevelopment.
- ✓ Four properties notified VAP of entry into the Memorandum of Agreement (MOA) track.
- ✓ The program staff initiated audits of 23 NFA letters (three of which were withdrawn by the volunteer from seeking a covenant after the audit pool was established).
- ✓ According to county auditors' reports to the Ohio Department of Development, 232 properties received more than \$9 million in tax exemptions.
- ✓ The total program cost for 2010 was \$2.5 million.

## Overview

Ohio's Voluntary Action Program (VAP), created in September 1994, was fully implemented in early 1997. The program was created to provide 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 deterred 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

### Definitions

VAP (Voluntary Action Program) - A program created to allow companies to undertake a cleanup project without direct oversight and be assured the property meets specific environmental standards developed by Ohio EPA. Once cleanup is complete, the company receives a promise from the State of Ohio that no more cleanup is needed.

NFA letter (No Further Action) - Describes any environmental problems found at the site, how those environmental problems were investigated and how the site meets applicable standards.

CP (Certified Professional) - A qualified, experienced professional such as an engineer, geologist or environmental scientist, who is certified by Ohio EPA to issue NFA letters.

CNS (Covenant Not to Sue) - Legal action issued by the director of Ohio EPA that protects the property owner or operator and future owners from being legally responsible for additional investigation and cleanup.

MOA (Memorandum of Agreement) - Agreement signed with U.S. EPA stating that sites cleaned under Ohio's VAP also receive comfort that U.S. EPA would not ask for additional cleanup if the volunteer incorporates public involvement and upfront oversight from Ohio EPA.

that stalled redevelopment and reuse of contaminated properties.

In 2010, Ohio EPA received 26 NFA letter notices, 22 of which requested a covenant. Forty-five NFA letters received a CNS, resulting in cleanup of more than 815 reported acres for possible redevelopment. CPs use the standards developed by Ohio EPA to clean up thousands of other sites that do not necessarily go through the formalized NFA letter process or get submitted for state liability release.

The VAP implemented an Environmental Insurance Program (VAP-EIP) in July 2009. The VAP-EIP allows VAP volunteers to purchase certain environmental insurance coverages such as third-party liability protection and protection from unknown contamination that is discovered during or after the cleanup at a 10 percent discount. Three environmental insurance carriers signed MOAs with Ohio EPA to provide VAP-EIP insurance: ACE Insurance, Great American Insurance Company and Navigator's Insurance Company. More information about the VAP-EIP can be found at

[www.epa.ohio.gov/portals/30/vap/docs/VAP%20INS/EIWebPagedesign.pdf](http://www.epa.ohio.gov/portals/30/vap/docs/VAP%20INS/EIWebPagedesign.pdf)

Attached to this report is the *2010 Voluntary Action Program Annual Report* from the Ohio Department of Development. This report shows that 232 properties received more than \$9 million in tax exemptions on the increase in the assessed value of land, buildings, fixtures and structures on properties that were issued NFA letters by CPs.

This report provides an update of the program activities for 2010. Please contact VAP at (614) 644-2924 with questions.

## 45 Properties Receive Covenants Not to Sue

During 2010, Ohio EPA issued 45 CNSs. The following are some examples of sites that received a CNS.

### **Anchor Hocking Plant 2 - Lancaster (Fairfield County)**

The City of Lancaster owns the former site of the Anchor Hocking Glass Company Plant #2, located at 911 Lawrence Street, which was in operation from 1910 to 1985. The city was successful in securing a Brownfields Assessment Pilot Grant in 2002, funding a Phase 1 assessment. In addition, the city received approximately \$2.8 million in Clean Ohio Revitalization Fund money to clean up the 17-acre property. Demolition and soil remediation activities began in 2005 and were completed in 2008 and the site is ready for redevelopment.



Assessment of the site identified five areas of potential contamination: an unlicensed dump; above ground storage tanks; several vacant manufacturing buildings; two potential petroleum underground storage tanks; and a PCB-containing transformer area. The main chemicals of concern were metals - including arsenic, lead and cadmium; volatile organic compounds - including benzene,

1,1 dichloroethene, tetrachloroethene, trichloroethene and vinyl chloride; and PCBs. The soil in areas where the contaminants exceeded standards for commercial/industrial use was excavated and disposed off-site or relocated on the property below the depth of the point of compliance. The contaminants exceed potable use standards, but the property is within the "East Lancaster Development Corridor" urban setting designation, and the area ground water is not being used for drinking. The city also completed a Toxic Substance Control Act self-implementing closure for PCBs and removed asbestos before demolishing the existing buildings and structures.

### **Corning Glass Facility – Greenville (Darke County)**

The 34-acre property, located at 1025 Martin Street in Greenville, had previously been used for industrial purposes and is currently owned by Corgix Facility. Corning Glass Plant and Cedar Point Auto Supply occupied the location from 1958 to 1963, and the

site was solely occupied by Corning Glass until 2001. Corgix has renovated the facilities, and is looking to lease the property for manufacturing and warehousing uses.

In 2005, the city of Greenville received \$275,000 for a Phase 2 site assessment from the Clean Ohio Assessment Fund, and \$2,020,637 from the Clean Ohio Revitalization Fund. Assessment of the site identified several areas of potential contamination, including drum and tank storage areas, vehicle maintenance and storage areas, furnace and boiler rooms, and testing laboratory. The



The chemicals of concern identified included total petroleum hydrocarbon (TPH) and arsenic. Areas where the contamination exceeded the environmental standards for commercial and industrial use were excavated and removed from the property. The city filed an environmental covenant limiting property use to industrial and commercial purposes.

### **River Valley Hospital – Ironton (Lawrence County)**



The Lawrence County General Hospital (later River Valley Health System) and its related healthcare facilities had been in operation at 2228 South Ninth Street, a residential area in Ironton, since 1936. The hospital went into receivership in 2001 and the 4-acre site was purchased in 2002 by Our

Lady of Bellefonte Hospital, Inc. The Ironton Port Authority, Ironton-Lawrence County Community Action Organization and Our Lady of Bellefonte entered into a public-private partnership to develop residential housing on the site.

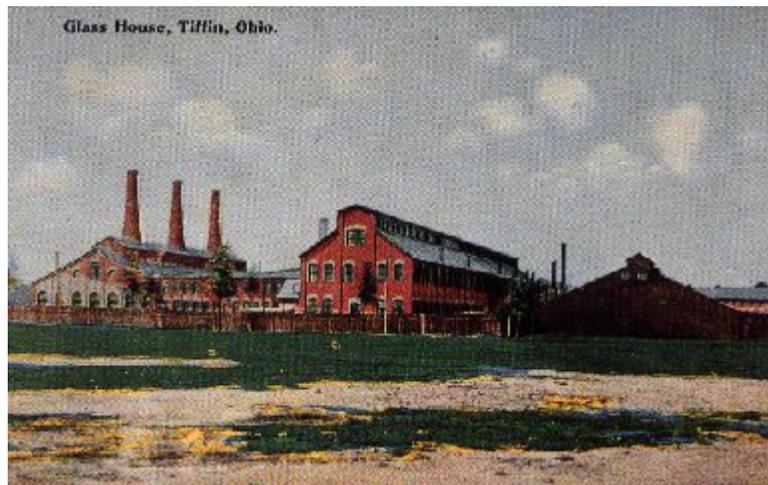
Areas of concern for potential contamination were the mechanical room, laundry room, chemical and waste storage rooms; heating oil tank; and asbestos-containing materials. Potential contaminants were: volatile organic compounds (VOCs); semi-volatile organic compounds (SVOCs); polycyclic aromatic hydrocarbons (PAHs); TPH; polychlorinated

biphenyls (PCBs); and asbestos. Data collected indicated that none of the chemicals exceeded residential standards in the soil. Various abatement activities were conducted in the buildings prior to demolition, including: asbestos abatement; removal of fluorescent lighting and ballasts; and removal of all biohazard, solid and infectious waste to permitted facilities. The Ironton Port Authority received \$750,000 from the Clean Ohio Assessment Fund in 2007 for a portion of the demolition, asbestos abatement and site preparation.

### **Tiffin Glass Company – Tiffin (Seneca County)**

The site of the Tiffin Glass Company, at the corner of Fourth and Vine Street, had been used by various glass producers since the 1880s. After Tiffin Glassware went out of business in 1984, the 4.3 acre site sat dormant. Seneca Industrial and Economic Development Corporation, with the help of the City of Tiffin, has been spearheading the effort to revitalize the site so that Tiffin Paper Company, d.b.a. TPC Food Service, a distributor of food and paper products to independent restaurants, can buy the land to expand its warehouse. The city of Tiffin received a \$750,000 cleanup grant from the Clean Ohio Assessment Fund in 2006 to complete the needed work.

A site assessment identified several areas with potential contamination, including: the location of the physical plant operations; acid storage, etching and painting; additives storage and mixing; oil storage and transfer area; melt furnaces and kilns; and possible transformer and lead contamination. Contaminants identified were metals, PAHs,



PCBs and VOCs. In areas where the contamination exceeded the commercial and industrial use standards, the soil was excavated and the area was reconsolidated under a minimum of two feet of unimpacted clay. The city also had a control structure installed to intercept affected ground water and prevent it from migrating off the property. Site remediation includes a deed restriction limiting future use to commercial and industrial purposes and prohibiting ground water extraction.

### Former Zayre Department Store – Warrensville Heights (Cuyahoga County)

Since the 1960s, the 18-acre property located on Northfield Road had been used for a variety of commercial activities including a grocery store, pharmacy, bowling alley and Zayre's – a furniture and department store with an automotive repair facility. The site was abandoned for more than 17 years, with issues relating to property ownership, environmental conditions and demolition requirements. While working with Hull & Associates, their environmental consultant, the City of Warrensville Heights was selected by Harvard University of Boston, Massachusetts and the Enterprise Foundation to have the Harvard Graduate School of Design study the Warrensville Heights Town Center Site for reinvented use. The city plans to construct a public library, YMCA, day-care center, elementary school and athletic field on the site, with the goal of initiating redevelopment.

Site assessment identified possible areas of contamination, including Bear Creek, former underground storage tanks and asbestos-containing materials. Other possible contaminants included VOCs, TPH, PAH, and metals. The city received a Clean Ohio Revitalization Fund grant of \$1,637,017 in 2003 for asbestos abatement, demolition and soil removal. The city also obtained a U.S. EPA Targeted Brownfield Assessment Grant to fund Ohio EPA's Site Investigation Field Unit's installation of additional wells for ground water sampling at the site. All soils that exceeded residential direct-contact standards were removed from the property for disposal.



*Artist's rendering of the Cuyahoga County Public Library's new Warrensville Heights branch.*

### Summary of Covenants Not to Sue Issued in 2010

NFA # Type	Name	Address	EPA District	Start Date	End Date	CP	Volunteer	Acres
09NFA339 90-day	Anchor Hocking Plt 2 (Former)	403 S. Ewing St., Lancaster, Fairfield	C	3/4/2009	3/22/2010	Gross, S	City of Lancaster	17.33
09NFA344 90-day	Anomatic Corp	185 E. Broadway, Westerville, Franklin	C	3/5/2009	4/29/2010	Pandey, A	Rusch Properties	5.62
09NFA370 30-day	Ecol Bedford Site No 1	5799 Taylor Rd., Gahanna, Franklin	C	8/19/2009	6/14/2010	Gross, S	City of Gahanna	25.85
08NFA321 90-day	Ecol Bedford Site No 1	870 – 950 Claycraft Rd., Gahanna, Franklin	C	11/26/2008	7/6/2010	Gross, S	City of Gahanna	24.01
08NFA322 90-day	Ecol Bedford Site No 1	950 Claycraft Rd., Gahanna, Franklin	C	12/5/2008	7/7/2010	Gross, S	Value Recovery Group II, LLC	1.24
09NFA330 90-day	Lazarus Whittier Peninsula Columbus	560 W. Whittier St., Columbus, Franklin	C	2/12/2009	6/15/2010	Mignery, T	Columbus and Franklin County Metropolitan Park District	12.97
09NFA348 90-day	Swan Cleaner (Former) Columbus	1361 Worthington Ctre Dr., Columbus, Franklin	C	3/6/2009	11/19/2010	Wells, R	Swan Cleaners	0.04
09NFA359 30-day	Wheatland Ave & W Broad St (Former Buckeye Youth Ctr.)	Wheatland Ave & W. Broad St., Columbus, Franklin	C	3/20/2009	2/10/2010	Hullinger, J	City of Columbus	22.54
08NFA308 90-day	Whittier Peninsula Northern Tier	Whittier Peninsula, Columbus, Franklin	C	8/28/2008	4/22/2010	Mignery, T	City of Columbus	20.71
09NFA346 90-day	3610 Barber Rd Vacant Parcel	3610 Barber Rd., Barberton, Summit	NE	3/6/2009	5/18/2010	Mounts, S	Barber nd Morgan LLC; Old Penny Lane LLC	34.85

NFA # Type	Name	Address	EPA District	Start Date	End Date	CP	Volunteer	Acres
09NFA376 90-day	4600 Euclid Ave Cleveland	4600 Euclid Ave., Cleveland, Cuyahoga	NE	10/16/2009	9/15/2010	Knecht, M; Zampino, J.	Cuyahoga County Board of Commissioners	1.24
09NFA363 90-day	AT&T Fac, Cleveland	10615 Cedar Ave., Cleveland, Cuyahoga	NE	4/13/2009	3/22/2010	Hackett, B	AT&T Ohio	2.88
08NFA286 90-day	Baker Electric Bldg	7100 Euclid Ave., Cleveland, Cuyahoga	NE	1/29/2008	3/3/2010	Zampino, J	Cumberland Development LLC	1.95
10NFA383 90-day	Cedar Ctr Plaza (Former)	13861-13969 Cedar & 2096-2104 Warrensville Ctr Rd., Euclid, Cuyahoga	NE	3/23/2010	10/20/2010	Mignery, T	City of South Euclid	12.10
08NFA289 90-day	Dilley Sand Pit	10207 State Route 43, Streetsboro, Portage	NE	2/21/2008	2/8/2010	Gross, S	Ryan Homes	4.85
10NFA384 30-day	E 55th & Euclid	E 55th St & Euclid Ave., Cleveland, Cuyahoga	NE	4/28/2010	10/13/2010	Zampino, J	City of Cleveland	0.75
10NFA398 30-day	E 57th St & Chester Ave	E 57th St. & Chester Ave., Cleveland, Cuyahoga	NE	10/22/2010	11/29/2010	Zampino, J	City of Cleveland	0.08
09NFA325 90-day	Glastic Corp Jefferson Facility	400 E. Erie St., Jefferson, Ashtabula	NE	1/7/2009	8/9/2010	Gross, S	Kobe Steel USA Holdings Ltd.	8.06
09NFA377 90-day	Kittinger Trucking (Former)	2064 Killian Rd., Akron, Summit	NE	11/9/2009	7/22/2010	Smith, J	Killian Latex Inc.	15.58
09NFA356 30-day	Miles Shopping Plaza	13205 Miles Ave., Cleveland, Cuyahoga	NE	3/13/2009	2/11/2010	Wilburn, E	Union Miles Development Corp	1.44
08NFA318 90-day	Steelyard Remaining Sites, Cleveland	3447 Steelyard Dr., Cleveland, Cuyahoga	NE	11/12/2008	1/21/2010	Garvey, J	Steelyard Commons LLC	59.95

NFA # Type	Name	Address	EPA District	Start Date	End Date	CP	Volunteer	Acres
09NFA332 90-day	Steelyard Target Parcel, Cleveland	3535 Steelyard Dr., Cleveland, Cuyahoga	NE	2/24/2009	10/27/2010	Garvey, J	Steelyard Commons LLC	14.19
09NFA333 90-day	Steelyard West LLC Parcel, Cleveland	3358 Steelyard Dr., Cleveland, Cuyahoga	NE	2/25/2009	12/17/2010	Garvey, J	Steelyard Commons LLC	18.18
08NFA285 90-day	VF Holdings & JSN Holdings, Independence	W Canal Rd., Independence, Cuyahoga	NE	1/16/2008	3/9/2010	Simon, J	VF Holdings & JSN Holdings Ltd	55.70
08NFA292 90-day	Zayre Dept Store (Former), Warrensville Heights	4417 & 4435 Northfield Rd, Warrensville Heights, Cuyahoga	NE	3/25/2008	3/22/2010	Rish, W	City of Warrensville Heights	18.09
09NFA342 90-day	Arena Project Toledo	1 Main St., Toledo, Lucas	NW	3/4/2009	4/29/2010	Rish, W	City of Toledo	50.31
09NFA335 90-day	Bechtel-McLaughlin Inc, Sandusky	3612 Milan Rd, Sandusky, Erie	NW	2/26/2009	3/10/2010	Volpi, R	Menards	58.60
06NFA240 90-day	Breese Rd, Fort Shawnee	NE Corner of 1-75 and Breese Rd, Fort Shawnee, Allen	NW	6/30/2006	3/10/2010	Krumm, C	Ohio Department of Transportation District One	25.90
09NFA343 90-day	Crane Plumbing Plastics Plant	1855 Harrington Memorial Rd., Mansfield, Richland	NW	3/5/2009	5/18/2010	Pradhan, M	RLB Holdings Inc.	9.11
09NFA369 90-day	ODOT Dist 3 Hq Ashland	906 N Clark St., Ashland, Ashland	NW	8/17/2009	3/22/2010	Knecht, M	Ohio Department of Transportation	3.95
09NFA338 90-day	Tiffin Glass & Crystal	245 Vine St., Tiffin, Seneca	NW	3/3/2009	4/1/2010	Mignery, T	Seneca Industrial & Economic Development Corp.	4.29

NFA # Type	Name	Address	EPA District	Start Date	End Date	CP	Volunteer	Acres
08NFA320 90-day	Toledo Coke Corp 1 Property	2563 Front St., Toledo, Luca	NW	11/24/2008	2/10/2010	White, B	Toledo-Lucas County Port Authority	38.69
09NFA371 90-day	Downtowner Plaza Coshocton	Mulberry St/S 2nd St/Vine St/Muskingum River, Coshocton, Coshocton	SE	8/24/2009	11/17/2010	Schultz, T	A. Altman Co.	20.80
06NFA249 90-day	Empire Detroit Steel CORF Round 1	River Rd., New Boston, Scioto	SE	10/27/2006	10/7/2010	Smith, J	Southern Ohio Port Authority	55.04
09NFA351 90-day	McBee Systems, Athens	1055 E. State St., Athens, Athens	SE	3/9/2009	6/24/2010	Knecht, M	Deluxe Corp.	19.48
09NFA380 30-day	River Valley Hosp Ironton	2228 S Ninth St., Ironton, Lawrence	SE	12/4/2009	5/25/2010	Mignery, T	Ironton Port Authority	4.19
09NFA334 90-day	Celotex Corp Lockland 320 S Wayne	320 S Wayne Ave., Lockland, Hamilton	SW	2/25/2009	7/22/2010	Melnyk, I	Hamilton County Regional Business Park LLC	28.74
09NFA340 90-day	Celotex Lockl/Verwandt II	321 S. Wayne Ave., Lockland, Hamilton	SW	3/4/2009	3/23/2010	Egan, K	Verwandt Properties II LLC	27.61
09NFA353 90-day	Corning Glass Fac Greenville	1025 Martin St., Greenville, Darke	SW	3/11/2009	5/3/2010	Mignery, T	City of Greenville	36.89
08NFA297 90-day	Globe Lot Norwood - Linden Pointe	5025 Carthage Ave., Norwood, Hamilton	SW	5/6/2008	9/15/2010	White, B	Linden Pointe LLC; Port of Greater Cincinnati Development Authority	15.21
09NFA341 90-day	Magnus Co Cinci, W 7th St	1029 W. Seventh St., Cincinnati, Hamilton	SW	3/4/2009	10/13/2010	Fay, D	M&M Partnership	2.28

NFA # Type	Name	Address	EPA District	Start Date	End Date	CP	Volunteer	Acres
08NFA313 90-day	Rite Aid, Xenia	66 S. Allison Ave., Xenia, Greene	SW	9/30/2008	10/13/2010	Behringer, D	NOM Xenia LLC	2.36
03NFA174 90-day	Siemens Energy & Automation, Urbana	145 Dellinger Rd., Urbana, Champaign	SW	9/26/2003	4/19/2010	Payne, J	Seimens Energy & Automation Inc., Gould Electronics	11.39
09NFA336 90-day	Unocal Facility (Former) Middletown	3431 Yankee Rdl, Middletown, Butler	SW	2/26/2009	4/19/2010	Sauer, N	Ashland Inc.	6.88
07NFA272 90-day	Washington Square Shopping Ctr	6061-6263 Far Hills Ave., Dayton, Montgomery	SW	9/25/2007	7/13/2010	Roelker, R	Washington Square Land Development LLC	12.67

Ohio EPA Districts: C = Central District (Columbus); NE = Northeast District (Twinsburg); NW = Northwest District (Bowling Green); SE = Southeast District (Logan); SW = Southwest District (Dayton)

## VAP Memorandum of Agreement Track

The MOA-Track program incorporates public involvement and up-front oversight into the existing VAP process. Volunteers who follow this track of the VAP obtain both a CNS from Ohio EPA and assurance that U.S. EPA will not require any additional cleanup at the site. Four properties entered the MOA Track in 2010. The original VAP process, known as the Classic VAP Track, is also available to volunteers who are not seeking federal assurance 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 between Ohio EPA and U.S. EPA, can be found on the program Web page at

<http://www.epa.state.oh.us/LinkClick.aspx?fileticket=CfTA7pql4ns%3d&tabid=2293>

### Properties that Entered the MOA Track in 2010

Property Name, Address	Volunteer	Date Entered MOA Track
Tech Town Redevelopment Dayton	City of Dayton	4/26/2010
Midland Steel Former, Cleveland	City of Cleveland	7/6/2010
DPH-DAS LLC, Home Ave Fac Dayton	DPH-DAS LLC	7/22/2010
Monument Ave Gateway Project, Dayton	City of Dayton	8/24/2010

## 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 2010, the VAP initiated audits of 23 of the 53 NFA letters requesting a CNS that were submitted to Ohio EPA during the previous year (2009). 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.

## NFA Letters Received in 2009 Selected for Audit in 2010

Property Name	Address	NFA No.	Ohio EPA District	Audit Pool	Status
Swan Cleaners Former, Columbus - Olentangy Plaza	867 Bethel Rd., Columbus, Franklin	09NFA357	CDO	Priority	NFA Withdrawn
Midwest Rubber Co, Barberton	745 Norton Ave., Barberton, Summit	09NFA337	NEDO	Priority	Pending
Steelyard West LLC Parcel, Cleveland	3358 Steelyard Dr., Cleveland, Cuyahoga	09NFA333	NEDO	Priority	Pending
Van Kay Inc, Canton	4124 Southway St SW, Canton, Stark	09NFA331	NEDO	Priority	Pending
ODOT Dist 3 Hq Ashland	906 N Clark St., Ashland, Ashland	09NFA369	NWDO	Priority	Completed
Buckeye Pipeline Co, Lima - 4416 N Dixie Hwy	4416 N Dixie Hwy, Lima, Allen	09NFA349	NWDO	Priority	Pending
Bechtel-McLaughlin Inc, Sandusky	3612 Milan Rd., Sandusky, Erie	09NFA335	NWDO	Priority	Pending
Tiffin Glass & Crystal	245 Vine St., Tiffin, Seneca	09NFA338	NWDO	Priority	Completed
McBee Systems, Athens	1055 E State St., Athens, Athens	09NFA351	SEDO	Priority	Completed
Celotex Corp Lockland 320 S Wayne	320 S. Wayne Ave., Lockland, Hamilton	09NFA334	SWDO	Priority	Pending
NCR West Campus, Dayton - 1300 S Patterson Blvd	1300 S Patterson Blvd., Dayton, Montgomery	09NFA347	SWDO	Priority	Pending
Unocal Fac Former Middletown	3431 Yankee Rd., Middletown, Butler	09NFA336	SWDO	Priority	Pending
Gem City Engineering	401 Gem St., Dayton, Montgomery	09NFA372	SWDO	Priority	NFA Withdrawn
Crescent Brick, East Canton	6878 Osnaburg St., East Canton, Stark	09NFA365	NEDO	Random	Pending

Property Name	Address	NFA No.	Ohio EPA District	Audit Pool	Status
Electrolizing Corp of Ohio, Cleveland	1325 E 152nd St., Cleveland, Cuyahoga	09NFA326	NEDO	Random	Pending
Burns Cold Forge Co.	9312 Arrow Rd NW, Minerva, Carroll	09NFA329	NEDO	Random	NFA Withdrawn
AT&T Fac, Cleveland	10615 Cedar Ave., Cleveland, Cuyahoga	09NFA363	NEDO	Random	Pending
Glastic Corp Jefferson Fac	400 E Erie St., Jefferson, Ashtabula	09NFA325	NEDO	Random	Completed
LRC Surety Products Inc, Carrollton	271 5th St NW, Carrollton, Carroll	09NFA327	NEDO	Random	Completed
Trinity Square Retail Development	753 & 755 Howe Ave., Cuyahoga Falls, Summit	09NFA355	NEDO	Random	Pending
Downtowner Plaza Coshocton	Mulberry St/S 2nd St/Vine St/Muskingum River, Coshocton, Coshocton	09NFA371	SEDO	Random	Completed
Magnus Co Inc, Cincinnati - W 7th St	1029 W Seventh St., Cincinnati, Hamilton	09NFA341	SWDO	Random	Pending
Fort Piqua Hotel	100 W High St., Piqua, Miami	09NFA328	SWDO	Random	Completed

**VAP Expenditures for Calendar Year 2010****PERSONNEL**

Fund 4R9 - VAP Fund	\$	684,636.37
Hazardous Waste Management Fund (505)	\$	727,924.19
General Revenue Fund (GRF)		
Environmental Protection Fund (5BC)	\$	527,411.89
USEPA Grants (Federal dollars)	\$	69,130.89
<b>Total Cost of Personnel</b>	\$	<b>2,009,103.34</b>

**MAINTENANCE COST OF THE PROGRAM**

Fund 4R9 - VAP Fund	\$	81,704.36
Hazardous Waste Management Fund (505)	\$	275,218.12
General Revenue Fund (GRF)		
Environmental Protection Fund (5BC)	\$	115,463.07
USEPA Grants (Federal dollars)	\$	843.96
<b>Total Cost of Maintenance</b>	\$	<b>473,229.51</b>

**EQUIPMENT**

Fund 4R9 - VAP Fund	\$	-
Hazardous Waste Management Fund (505)	\$	-
General Revenue Fund (GRF)		
Environmental Protection Fund (5BC)	\$	-
USEPA Grants (Federal dollars)	\$	792.34
<b>Total Cost of Equipment</b>	\$	<b>792.34</b>

**OTHER - CONTRACTUAL SERVICES**

Fund 4R9 - VAP Fund	\$	3,870.00
Hazardous Waste Management Fund (505)	\$	3,307.32
General Revenue Fund (GRF)		
Environmental Protection Fund (5BC)	\$	-
USEPA Grants (Federal dollars)	\$	-
<b>Total Cost of Other Contractual Services</b>	\$	<b>7,177.32</b>

**TOTAL VAP PROGRAM COST** **\$ 2,490,302.51**

**VAP Revenues for Calendar Year 2010**

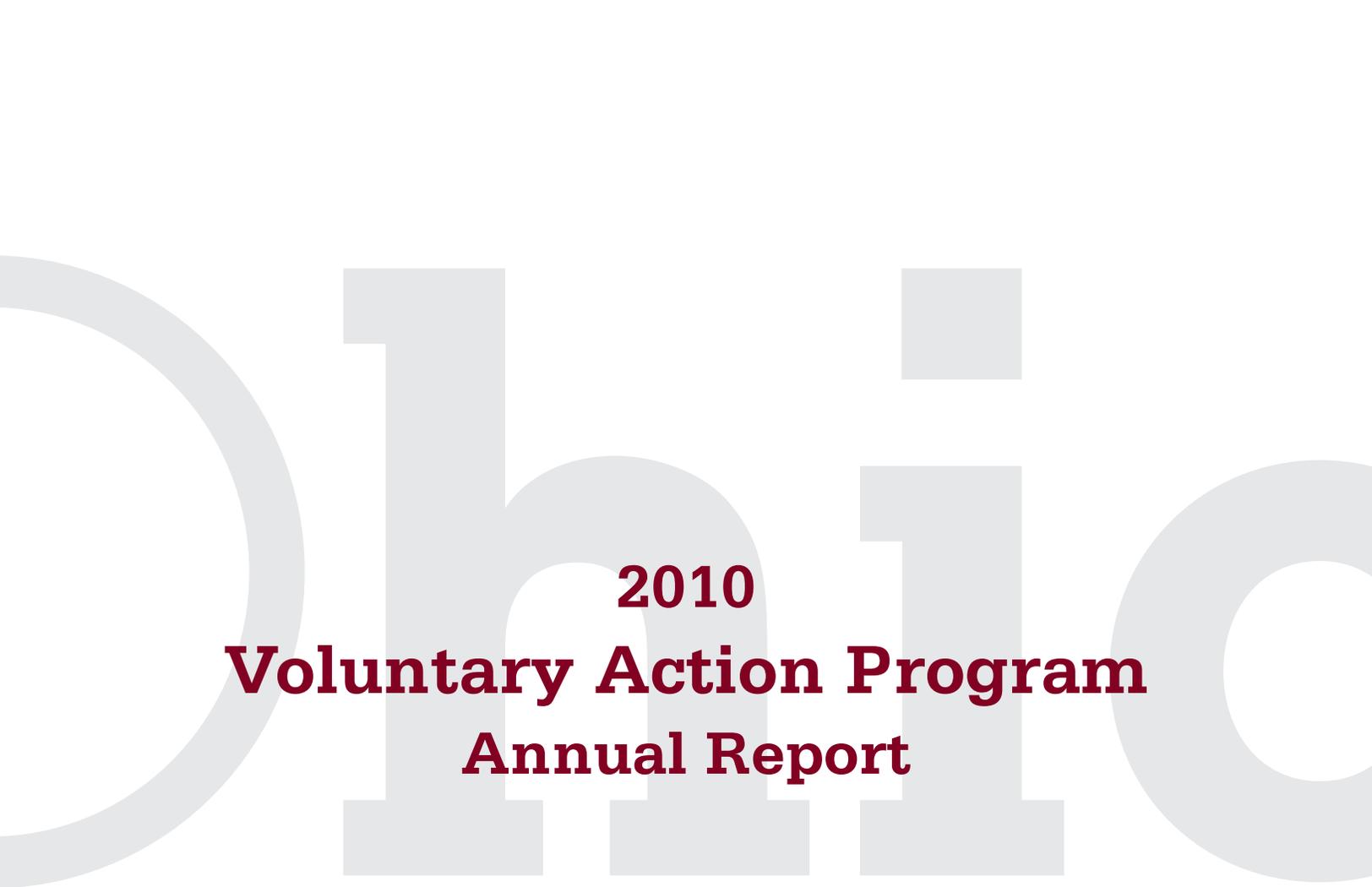
Certified Professional Fees	\$	217,900.00
Certified Laboratory Fees	\$	69,075.93
No Further Action (NFAs) Fees	\$	64,102.23
Technical Assistance Cost Recovery	\$	399,849.35
CP Training Reimbursements	\$	6,400.00
AGO Collected	\$	14,023.97
Misc. - photocopying, etc.	\$	-
<b>TOTAL REVENUE</b>	<b>\$</b>	<b>771,351.48</b>



Ohio Environmental Protection Agency  
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Columbus, Ohio 43216-1049  
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**2010**  
**Voluntary Action Program**  
**Annual Report**

**June 24, 2011**



**Department of  
Development**

**John R. Kasich**, Governor

**James A. Leftwich**, Director



June 24, 2011

Mr. Scott J. Nally, Director  
Ohio Environmental Protection Agency  
Director's Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Director Nally:

The Ohio Department of Development is pleased to present to you and the Ohio Environmental Protection Agency (Ohio EPA) the 2010 Voluntary Action Program Annual Report. The information contained within this report is based on information the Department has received from municipal corporations and counties regarding properties that received or are receiving tax exemptions under Ohio Revised Code Sections 5709.87 and 5709.88.

According to Ohio Revised Code 5709.87, parcels that are issued a No Further Action (NFA) letter from Certified Professionals are exempt from increases in assessed value. NFA letters are issued upon successful completion of "voluntary actions;" a series of measures established by Ohio EPA's Voluntary Action Program that may be undertaken to identify and address sources of property contamination by hazardous substances or petroleum. NFA letters also confirm that the property complies with the applicable use standard, *i.e.*, residential, commercial, or industrial. Ohio Revised Code Section 3746.35(B) requires county auditors to report properties within the auditor's jurisdiction which have received exemption from real property taxation under Section 5709.87 to the Department.

Ohio Revised Code Section 5709.88 similarly allows the exemption of a negotiated portion of the increase in the assessed value of parcels related to new buildings and improvements that are issued NFA letters from Certified Professionals and enter into agreements with a municipal corporation or county. Ohio Revised Code Section 3746.35(C) requires the Department to report projects listed by the Ohio EPA as having completed environmental remediation activities under the Voluntary Action Program that have received an additional tax exemption contained in Section 5709.88, covering new construction and improvements to the remediated real estate.

The 2010 Voluntary Action Program Annual Report compiles and reports information to the Ohio EPA as required by Ohio Revised Code Sections 3746.35(B) and (C).

We thank you for your leadership on these programs and hope the report provides useful information to you about the effectiveness of these tax exemptions.

Sincerely,

  
James A. Leftwich  
Director

## ORC Section 5709.87

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Each year, the Ohio Department of Development (Development) is required to provide the information received from county auditors regarding properties that received or are receiving tax exemption under Ohio Revised Code (ORC) Section 5709.87. This report fulfills the annual compilation and reporting requirement to the Director of the Ohio Environmental Protection Agency (EPA) for the 2010 calendar year.

Section 5709.87 exempts real property taxation to properties that are issued No Further Action (NFA) letters from Certified Professionals. The NFA letters are issued upon successful completion of "voluntary actions"; a series of measures established by the EPA's Voluntary Action Program that may be undertaken to identify and address potential sources of property contamination by hazardous substances or petroleum. The NFA letters also confirm that the property complies with applicable use standards, i.e. residential, commercial, or industrial. The EPA is required to notify the Ohio Department of Taxation (Taxation) when NFA letters are issued, and Taxation is required to notify the appropriate county auditor of the issuance.

ORC Section 5709.87(C)(1)(a) states that "upon receipt by the tax commissioner of a certification for property under division (B) of this section, the commissioner shall issue an order granting an exemption from real property taxation of the increase in the assessed value of land constituting property that is described in the certification, and of the increase in the assessed value of improvements, buildings, fixtures, and structures situated on that land at the time the order is issued as indicated on the current tax lists."

The terms of ORC Section 3746.35(B)(1) designate that each affected county auditor is required to report to the Director of Development requested information about applicable properties. Properties are applicable if they are within the auditor's county and receive exemption from real property taxation under ORC Section 5709.87.

### ***2010 Report Requirement and Compilation Process:***

As required by ORC Section 3746.35(B)(2), "the Director of Development shall compile the information provided to the Director under division (B)(1) of this section applicable to the preceding tax year into a report covering all of the counties in the state in which are located properties receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year and shall forward the report to the Director of Environmental Protection. The sole responsibility of the Director of Development in preparing the report is to compile the information submitted to the Director by the county auditors under division (B)(1) of this section."

In April 2011, Development sent a notice to all auditors of counties identified as having NFA letters issued under the VAP requesting the following information:

- (a) The owner and address of the property as stated in the records of the county auditor;
- (b) The amount of taxes exempted for the stated year under ORC Section 5709.87; and
- (c) A cover letter signed by the auditor certifying the information provided in (a) and (b).

Development then followed up in May with a phone call requesting again the required information outlined in the statute from each county auditor who did not report. The results on Page 4 reflect all information received.

The Director of Development compiled the information submitted by the county auditors for 2010. In total, 50 counties were identified, 44 of which reported to Development. There were 23 counties that reported that no valuation of property was exempted from real property taxation under ORC Section 5709.87. Six county auditors did not respond to the Department's requests for information about applicable exemptions. Table I summarizes the information received for 2010. The total reported estimated dollar amount of taxes exempted under ORC Section 5709.87 in 2010 is \$9,064,329.48.

## **ORC Section 5709.88**

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Each year, Development is also required to provide the information received from municipal corporations and counties regarding properties that received a tax exemption under ORC Section 5709.88. This report is provided in compliance with the annual compilation and reporting requirement to the Director of the EPA for the 2010 calendar year.

ORC Section 5709.88 allows the negotiated exemption of a portion of the value of new buildings and improvements to the properties, including personal property investments, which are issued No Further Action (NFA) letters by Certified Professionals and enter into agreements with a municipal corporation or county under ORC Section 5709.88 of the Revised Code. ORC Section 5709.882 requires that each affected municipal corporation or county report to the Director of Development annually information about applicable properties. The Director of Development must then compile this information for the Director of the Ohio Environmental Protection Agency pursuant to ORC Section 3746.35(C).

### ***2010 Report Requirement and Compilation Process:***

As required by ORC Section 3746.35 (C), "the Director of Development shall compile the information provided to the Director by municipal corporations and counties under division (A) of section 5709.882 of the Revised Code applicable to the preceding calendar year into a report covering, by county, all of the municipal corporations and counties in this state in which are located properties receiving a tax abatement pursuant to an agreement entered into under section 5709.88 of the Revised Code and shall forward the report to the Director of Environmental Protection. The sole responsibility of the Director of Development in preparing the report is to compile the information submitted to him by municipal corporations and counties under division (A) of section 5709.882 of the Revised Code."

Development relies upon the municipal corporations and counties that enter into tax incentive agreements to comply with applicable statutes and provide copies of such agreements to Development. For 2010, a review of the records received by Development's Office of Grants and Tax Incentives from municipal corporations and counties indicate that there were no reported agreements providing tax exemptions pursuant to ORC Section 5709.88 related to the projects listed by the EPA as having completed environmental remediation activities.

Accordingly, Development reports no such agreements for 2010.

**Table I:**  
**2010 Compiled Information: County Auditor Reports as required by ORC Section 3746.35(B)(1)**

County	2010 Number of Abatements listed	\$ Amount of Taxes exempted in tax year 2010
Adams	1	0.00
Allen	4	\$4,593.92
Ashland	2	\$0.00
Ashtabula		DNR
Athens	1	\$0.00
Auglaize	1	\$2,498.29
Butler	6	\$190,929.08
Carroll	1	\$0.00
Champaign	1	\$0.00
Clark	7	\$0.00
Clinton	0	\$0.00
Columbiana	1	\$88.50
Coshocton	1	\$0.00
Cuyahoga	56	\$351,353.84
Darke	1	\$0.00
Delaware		DNR
Erie	2	\$77,881.36
Fairfield		DNR
Franklin	36	\$882,023.87
Greene	1	\$17,041.84
Hamilton	25	\$2,485,995.27
Hancock	1	\$51,611.00
Henry		DNR
Hocking	1	\$0.00
Huron	1	\$0.00
Knox	1	\$9,769.17
Lake	2	\$0.00
Lawrence	1	\$2,196.42
Licking	3	\$4,540.93
Lorain	1	\$0.00
Lucas	15	\$2,440.42
Mahoning	5	\$3,016.75
Mercer	1	\$0.00
Miami		DNR
Montgomery	9	0*
Muskingum	1	\$0.00
Perry	1	\$2,990.43
Richland	4	\$170,131.00
Ross	2	\$0.00
Sandusky	1	\$0.00
Scioto	4	\$72,008.39
Seneca	2	\$0.00
Stark	5	\$0.00
Summit	13	\$4,577,080.00
Trumbull		DNR
Tuscarawas	4	\$0.00
Vinton	1	\$0.00
Warren	4	\$156,139.00
Wayne	1	\$0.00
Williams	1	\$0.00
<b>TOTAL</b>	<b>232</b>	<b>\$9,064,329.48</b>

DNR – County Auditor did not report amount exempted  
 \*Received information for a different tax year