

BANKRUPTCY REMEDIATION TRUSTS

A NEW PRP PARADIGM IN OUR POST-INDUSTRIAL SOCIETY

An Environmental Consultant's Perspective

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David Heidlauf, CPG 9365

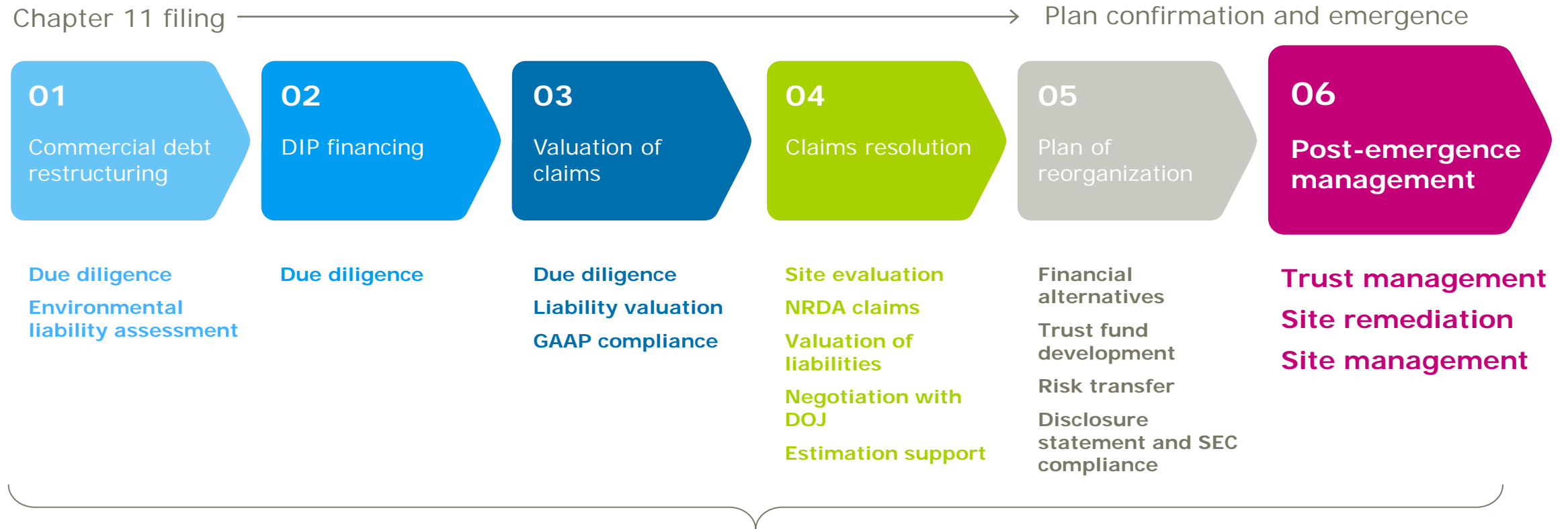
RAMBOLL

Bright ideas. Sustainable change.



BANKRUPTCY MILESTONES

Ramboll assists clients and stakeholders through the various pre-emergence bankruptcy milestones, into post-emergence management.



RAMBOLL EXPERIENCE

WHAT ARE BANKRUPTCY REMEDIATION TRUSTS?

- Entities established by the bankruptcy court to take title to environmentally impaired properties along with negotiated funding
- Functionally sever the contingent liabilities of the environmentally impaired properties with the parent bankrupt company
- Designed to provide a funding source to conduct response actions for its environmentally impaired properties (some funding is better than no funding)



HOW ARE BANKRUPTCY REMEDIATION TRUSTS MANAGED?



- Department of Justice is the governing authority responsible for the establishment and administration
- Managed by a court-appointed trust trustee
- Beneficiaries are the federal government (ie USEPA) and/or the respective states where the sites are located
- Each has a funded administrative account and a remediation account – typically each site has a separate remediation sub account allowance and budget

HOW ARE BANKRUPTCY REMEDIATION TRUSTS FUNDED?

- Bankrupt parent company estate
- Rights to insurance policies
- Company stock
- Rights to Rail crossing agreements (ie fiber optic)
- Judgements from lawsuits (ie fraudulent conveyance)
- Proceeds from the sale of remediated trust property
- Reimbursements from state-funded petroleum and ag chemical programs



BANKRUPTCY REMEDIATION TRUST MISSION

- The primary mission of Bankruptcy Remediation Trusts is to remediate and sell its properties, if possible
- A secondary mission in some cases is to maintain control of the impacted property while fund lead remedial actions are being conducted

OUR EXPERIENCE

01 We have served in the environmental consultant role on 8 LePetomane Family of Bankruptcy Remediation Trust Projects since 2002

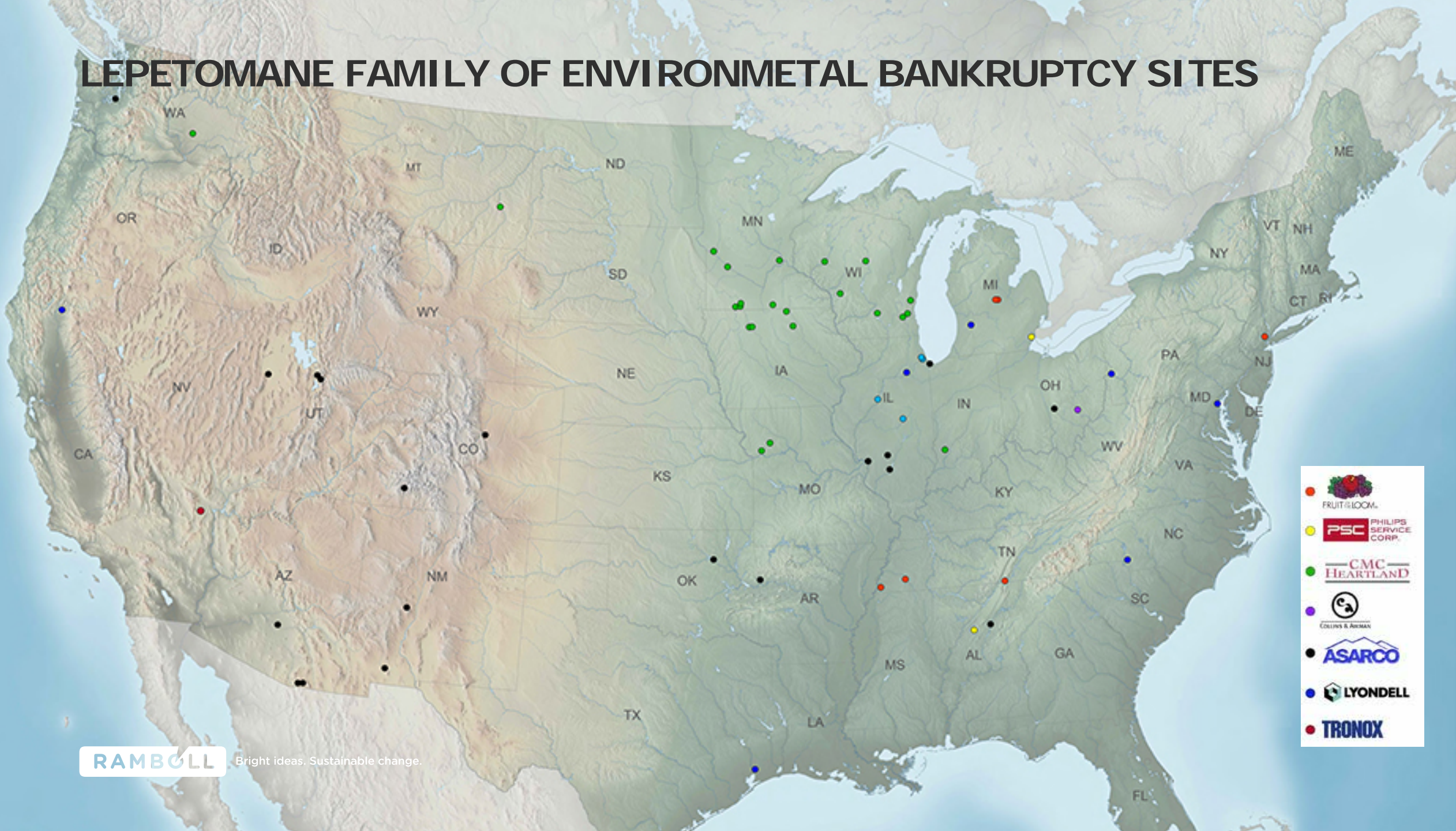
02 These trusts have included 80+ sites in 9 EPA regions and 25 states

03 We have had individual site remediation budgets ranging from \$80K to \$1B+

04 Projects have entailed 2 CERCLA removal actions, 13 CERCLA NPL, 3 RCRA, 1 NRC, 2 NESHAP, 1 TSCA, 20 different State voluntary remediation programs, and 3 litigation cases

05 Sites have included waste processing, waste disposal, paper mill, paint manufacturing, pesticide manufacturing, mines, mills, smelters and rail siding industrial settings

LEPETOMANE FAMILY OF ENVIRONMENTAL BANKRUPTCY SITES



FRUIT & LOOM
PSC PHILIPS SERVICE CORP.
CMC HEARTLAND
COLLINS & AERMAN
ASARCO
LYONDELL
TRONOX

SELECT PROJECT EXPERIENCE

FOL ENVIRONMENTAL BANKRUPTCY TRUST 2002 – PRESENT

CHALLENGES

8 sites in 4 states in 3 EPA regions

Multiple mega NPL sites

Liabilities in the billions

Limited funding

Varied PRP status

WHAT WE DID

Lead environmental contractor

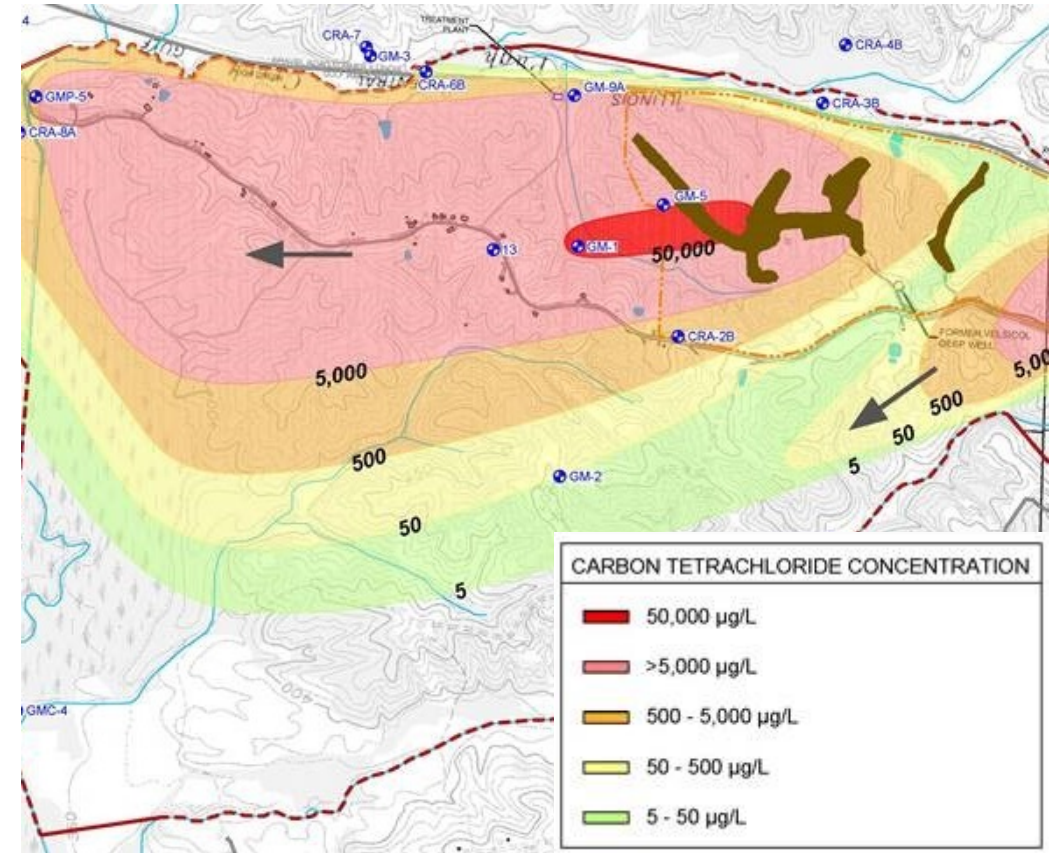
Support environmental contractor

Custodial contractor

Supported insurance policy cost recovery claims/litigation

EFFECT

Progressed CERCLA response actions at two mega NPL sites with failed remedies; successfully remediated mercury reprocessing and low level rad disposal sites; and two remediated properties sold



Hardeman County Landfill Site – Toone, TN 2002 – Present

CHALLENGES

Mega complex NPL site

Failed remedies

Dangerous chemicals: Hex – Level B

Rural setting – Past residential harm

Sole PRP

Limited funding

WHAT WE DID

Site conceptual model update

Documented remedy failure

Conducted RI, FS, risk assessments and pilot studies to support new approach

Serving as landfill cap and SVE Design Engineer of Record

EFFECT

Successfully completed SVE pilot test remediation of a 1-acre buried drum landfill to help Region 4 win National Remedy Review Board buy-in of an SVE remedy for the main 23-acre buried drum landfills with 200,000 drums left in place

Velsicol Chemical Corporation – St. Louis, MI 2002 – Present

CHALLENGES

Mega complex NPL site
Failed remedies
Dangerous chemicals: DDT – Level B
Urban setting - Community distrust
Sole PRP
Limited funding

WHAT WE DID

Provided insurance policy cost
recovery litigation support
Represented the Trust at
periodic community action group
meetings
Provided site custodial support

EFFECT

Supported successful recovery
of \$50MM from an AIPG
environmental cost cap policy;
Trust retains property ownership
during fund lead clean-up

Breckenridge Disposal Site – Breckenridge, MI 2002 – 2012

CHALLENGE

NRC and CERCLA removal site
Buried rad and chemical waste
More waste than anticipated
Fixed funding

WHAT WE DID

Developed RESRAD model
remedial action objectives
Completed Phase I rad waste
removal action
Supported Phase II rad and
chemical waste removal action

EFFECT

Site successfully remediated via
excavation and off-site disposal
of both buried rad and chemical
waste; NRC issued unrestricted
use determination

PSC CyanoChem – Detroit, MI

2004 – 2009

CHALLENGE

- One of two PSC sites
- Closed RCRA TSD facility
- Cyanide/metals contamination
- Dangerous buildings and pits
- Sole PRP
- Limited funding

WHAT WE DID

- Worked jointly with a MDEQ and their contractor to mitigate unacceptable acute site risks
- Building demolition, contaminated groundwater removal and hot spot soil removal

EFFECT

- Eliminated imminent risks to human health and the environment
- Funds insufficient to address site's longer term chronic risks
- Property reverted back to the city

CMC HEARTLAND PARTNERS

2006 – 2019

CHALLENGE

56 sites in 7 states and 4 EPA regions

Multiple Trust beneficiaries

Rail siding parcels

Ag chemical and petroleum COCs

Encumbered property deed records

WHAT WE DID

Site investigations: 37 Phase I, 29 Phase II and 20 Phase III

Developed imminent and identifiable threat to public health and safety RAOs

Remediated 15 sites

EFFECT

Documented to the court's satisfaction non ownership of some sites; no unacceptable risks at sites that were or were not remediated



CMC Example Site – Fairmont, Minnesota

2006 – 2013

CHALLENGE

Arsenic impacts to shallow soil along rail siding and tracks

Nitrate/TKN soil impacts at site of former warehouse

Petroleum impacts to soil and groundwater from former ASTs

WHAT WE DID

Discover and delineate impacts to soil and groundwater

Vapor intrusion and water supply well surveys to evaluate pathways

Remediate soil impacts using MPCA petroleum remediation and MDA remediation programs

EFFECT

Received MPCA and MDA closure for the petroleum and Ag chemical evaluation and clean-up work

Receive reimbursement of eligible costs from MN Petrofund and ACRRRA programs

C&A Mosaic Tile – Zanesville, OH

2006 – 2019

CHALLENGE

CERCLA non-time critical RA
Partially completed capping remedy
Sole PRP
Limited funding

WHAT WE DID

Provided technical oversight of the Engineer of Record for completion of the site's cap
Conducted 8-year of post remedy landfill maintenance and monitoring

EFFECT

Successfully completed landfill capping remedial action and 8 years of post-closure landfill maintenance and monitoring
Property sale pending

ASARCO MULTI-STATE TRUST

2009 – PRESENT

CHALLENGE

17 sites, 11 states, 5 USEPA regions: 5 NPL,
2 RCRA, 2 NESHAP, 1 TSCA

Remote abandoned mine sites

Encumbered property deed records

Varied PRP status

Limited funding

WHAT WE DID

Lead environmental contractor

Support environmental contractor

Custodial contractor

EFFECT

Provided custodial services at 5 sites; progressed CERCLA, RCRA and state response actions at 7 sites; successfully remediated/sold 2 cement asbestos manufacturing, 2 smelter and 1 mill sites



Former CAPCO Facility – Ragland, AL

2009 – 2014

CHALLENGE

Alabama voluntary clean-up program
Asbestos- and PCB-impacted soils
Limited funding

WHAT WE DID

Conducted site investigation
Demolished site buildings
Removed PCB-impacted soils
In-place closure of asbestos-impacted soils
Established institutional controls

EFFECT

Successfully remediated the site's asbestos and PCP impacts
Alabama (ADEM) issued a no further action letter
Sold the remediated property to an adjacent landowner for industrial reuse

Former Federated Metals Smelter Site – Alton, IL 2009 – 2015

CHALLENGE

Illinois voluntary remediation site

Multi-regulatory agencies

Difficult site conditions:
wetlands, overhead power,
nesting bald eagles, flooding,
endangered Mississippi river dike

Limited funding

WHAT WE DID

Conducted RI, FS, RD and RA

Constructed a passive *in-situ*
groundwater treatment remedy

Excavated lead impacted soils,
consolidated soils on 14-acre
slag pile and capped slag pile

Established institutional controls

EFFECT

Successfully remediated site,
employing green remediation
means: onsite borrow source,
reuse of dredged spoils for cap
top soil, wood chip roads and
tree root ball habitat restoration

Sold remediated site to a
brownfields developer

Former ASARCO Mill Site – Deming, NM

2009 – 2014

CHALLENGE

New Mexico voluntary
remediation program

Abandoned mill site

WHAT WE DID

Conducted a site investigation

Excavation of metals-impacted
soils, consolidation under an
existing spoils landfill and
placement of surface barrier

Established institutional controls

EFFECT

Successfully remediated site

New Mexico issued a no further
action letter

The Trust sold the site to an
adjacent landowner

Silverton Site – Silverton, CO 2009 – Present

CHALLENGE

81 mining claims; only one has environmental issues

That claim is part of the Bonita Peaks NPL site

Public resistance against disturbance of historic mine features

WHAT WE DID

Mine safety closure coordination

Site investigation of the Army Tunnel and Aspen Mine tailing piles on the San Juan claim

In-situ tailings pile stabilization pilot test

EFFECT

Trust unable to initiate any response actions until environmental issues identified at the San Juan claim

Response measures limited by community tourism-driven aversion to disturbance of historic mining features

LYONDELL TRUST 2010 – PRESENT

CHALLENGE

7 sites in 7 states and 5 EPA regions

2 NPL, 1 RCRA and 4 state sites

WHAT WE DID

Served as lead environmental contractor

Served as support environmental contractor

Served as custodial contractor

EFFECT

Progressed CERLCA, RCRA and state response actions at 6 sites

Sold one material storage site



Turtle Bayou – Turtle Bayou, TX 2010 – Present

CHALLENGE

Waste chemical disposal NPL site
Long remediation history with multiple technologies
Recalcitrant contamination issues
Limited funding

WHAT WE DID

Optimization of long-term groundwater monitoring program
Conducted additional plume delineation studies
Facilitated technical impracticability waiver
Proposed institutional controls

EFFECT

Optimized long-term groundwater monitoring program to reduce the annual groundwater monitoring costs and thereby increase the life of the Trust

St. Helena – Baltimore, MD 2010 – Present

CHALLENGE

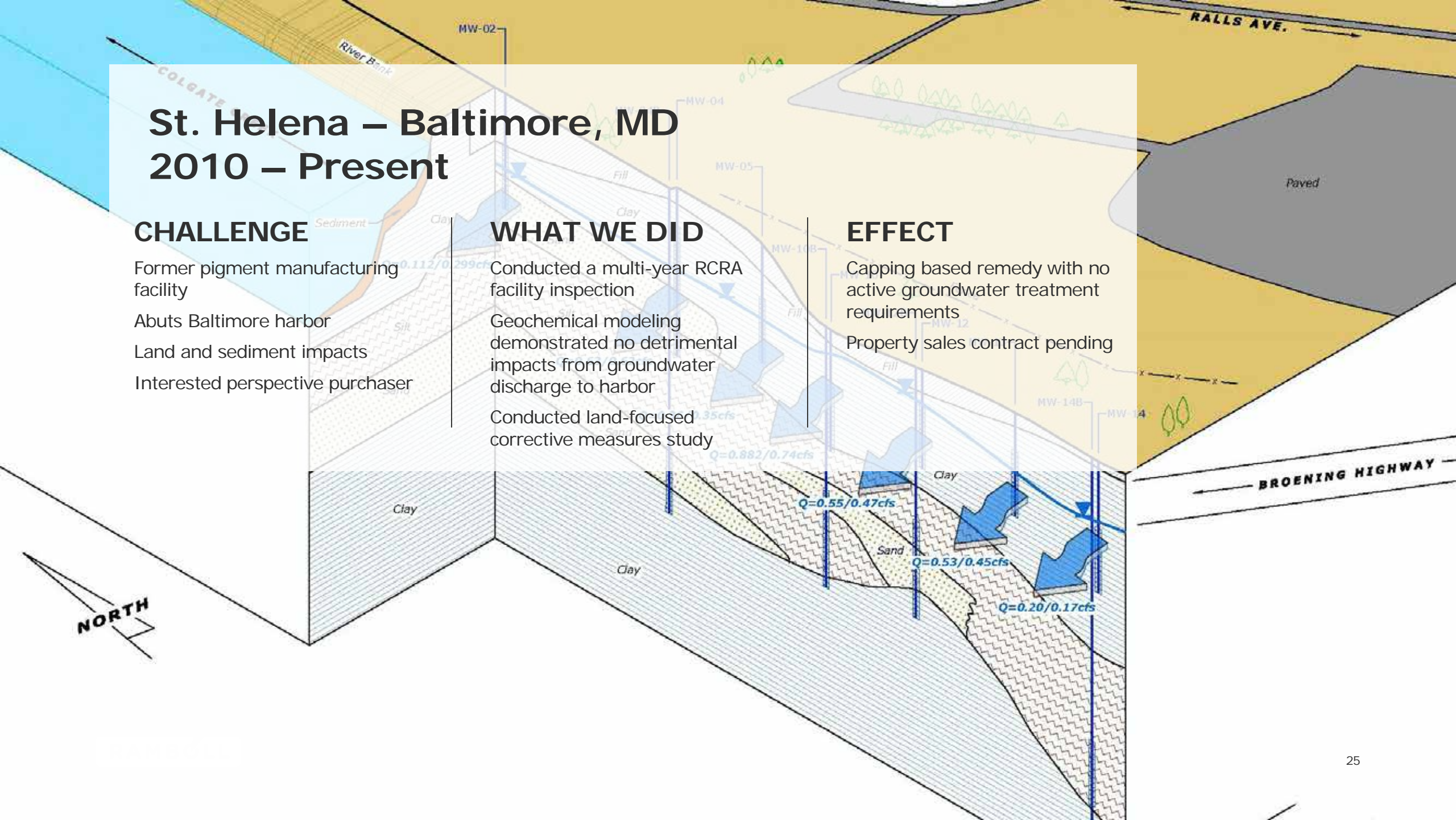
- Former pigment manufacturing facility
- Abuts Baltimore harbor
- Land and sediment impacts
- Interested perspective purchaser

WHAT WE DID

- Conducted a multi-year RCRA facility inspection
- Geochemical modeling demonstrated no detrimental impacts from groundwater discharge to harbor
- Conducted land-focused corrective measures study

EFFECT

- Capping based remedy with no active groundwater treatment requirements
- Property sales contract pending



NERT – Henderson, NV 2011 – Present

CHALLENGE

Former magnesium product and rocket fuel manufacturing site with a perchlorate groundwater plume that covers 5,000 acres and historically impacted Lake Mead

Multiple coalescing plumes, multiple PRPs and multiple consultants

\$1B in Trust funding

WHAT WE DID

Managed completion of a \$100MM interim soil removal

Groundwater remedial performance monitoring

Multi-year remedial investigation and feasibility study

Innovative treatability studies

EFFECT

Working toward cost-effectively addressing onsite and offsite impacts consistent with remedial action objectives while addressing Bankruptcy Trust, regulatory agency, stakeholder and community concerns

BANKRUPTCY REMEDIATION TRUST PARADIGM

- ✓ The Bankruptcy Remediation Trust paradigm works well when the trustee, environmental consultant, and the federal and/or state remedial project manager(s) collaborate together toward pragmatic solutions to a site's environmental challenges with the resources available in the trust.
- ✗ The Bankruptcy Remediation Trust paradigm works poorly when federal and/or state stakeholders treat the trustee and the environmental consultant as an adverse party.



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