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Lowry cleanup likely to top \$134.5 million

How much is in the fund set aside to rehab landfill site remains a secret

By Todd Hartman, Rocky Mountain News
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The cost to clean up the witches' brew of toxic chemicals buried at the Lowry Landfill in Arapahoe County is expected to top \$134.5 million, and that doesn't include millions of dollars spent before 1994.

The newest totals have emerged in the wake of a legal settlement last month between the Environmental Protection Agency and the operators of the site: the city and county of Denver and Waste Management of Colorado Inc.

The updated figures, provided by an EPA project manager for the cleanup, include about \$64 million in design, construction, operation and maintenance costs incurred since 1994 by Denver and Waste Management.

The money has come from a cleanup account funded by hundreds of polluters who contributed to the contamination at Lowry.

The \$134.5 million total also includes \$13.9 million that polluters paid out of the fund to cover the EPA's oversight costs at the 508-acre Superfund site 15 miles southeast of downtown Denver, a deal announced by the EPA last month. Some of those costs date back before 1994.

The newest figures shed light on the staggering costs associated with decades of unregulated dumping at the site. The worst of it came before the strict environmental regulations of the 1970s and 1980s when some of the region's largest industries and government agencies - including Coors, Conoco and various sewage treatment districts - legally poured millions of gallons of liquid and solid wastes laced with solvents, metals and other toxins at the landfill.

Most of the cleanup costs have been borne by private companies, but untold millions also have come out of the public's pocket, including about \$8 million spent by the EPA and millions more paid by cities and public sewage districts for their share of liability for dumping.

The agreement reached last month between the EPA and the entities that share primary responsibility for the cleanup, Denver and Waste Management, also projects \$43 million in additional construction and operations costs during the next 30 years, part of the \$134.5 million figure.

What's not clear is the amount of money in the fund - including how much Denver and Waste Management have contributed to it.

Well-guarded secret

The sum is a well-guarded secret that both parties persuaded a federal judge to seal from public view in the early 1990s, arguing that confidentiality was essential to the settlement agreements with the various dumpers.

Although who paid what - and how much - into the fund is secret, Pat Shanks, a Los Angeles lawyer representing polluters at Lowry, said wording in the latest agreement with the EPA offers an assurance that the parties responsible for cleanup have enough funds to complete the work at Lowry.

"The co-trustees (Denver and Waste Management) certified that there were sufficient funds in the (cleanup fund) to meet their obligations," Shanks said, noting that the agreement requires an independent accounting firm to annually certify to the EPA that the fund has enough money.

Denver environmental attorney Roger Freeman, who was involved in cleanup settlements with some of the smaller polluters at Lowry, said he has little doubt the cleanup fund has ample money. That's because predicted cleanup costs were far higher a decade ago, leading to "significant" settlements even with companies or agencies that contributed little pollution to Lowry, he said.

"My expectations are that there should be . . . more than sufficient funds to minimize the burden on the remaining parties, Denver and Waste Management, to complete the cleanup," Freeman said.

As part of an exhaustive investigation into the Lowry cleanup in 2001, the Denver weekly newspaper *Westword* reported that it found documents, some apparently misfiled, at the Federal Records Center that revealed agreements with 166 polluters at Lowry for a total of nearly \$110 million.

That total included more than \$23 million paid by the Adolph Coors Co., more than \$18 million from Syntex Chemicals Inc. (now Roche Colorado Corp.), nearly \$11 million from the S.W. Shattuck Chemical Co. and more than \$5 million from Conoco Inc., among many others.

No party associated with the cleanup ever publicly challenged the *Westword* report.

Last year, more than a decade after the records were sealed, the *Rocky Mountain News* asked Denver Mayor John Hickenlooper to formally unveil who paid how much toward cleanup and how much money was in the fund. But the city again declined to do so.

Citing its then-legal conflict with the EPA (settled last month) and "the interests of some of the companies that settled with us, we do not believe that it is in the best interests of the citizens of Denver to make these agreements and the financial matters of the trust public at this time," City Attorney Cole Finegan wrote.

Dennis Bollman, an environmental scientist supervisor for Denver, affirmed that Denver still considers the information off-limits to the public, citing the seal applied by the federal judge.

Also unclear is exactly how much money was spent at Lowry before 1994. Bollman, who has a long history at the site, puts the figure at roughly \$40 million, spent by Denver, Waste Management and others who dumped refuse at Lowry.

The EPA's Lowry project manager, Bonnie Lavelle, said the agency didn't track expenditures by Denver and Waste before the 1994 agreement that set out the cleanup plans for the site.

But if Bollman's figure is correct, that would place the total figure for cleanup at about \$174.5 million.

Much work left

Construction of cleanup remedies at Lowry continues, with significant projects remaining to ensure that contaminants are contained on the site and don't escape via groundwater outside cleanup boundaries. They include:

- Adding up to 40 feet of height to part of the landfill, using construction and demolition debris as part of a plan to stop settling that allows water to form ponds atop the site.
- Adding more monitoring wells in the area of the north boundary barrier wall, which is supposed to stop any migrating contaminants. Denver and Waste Management must create a groundwater monitoring plan to rule out the chance that chemicals might be escaping.
- Extracting highly toxic liquid wastes, including gasoline-like chemicals and solvents, from a section of the landfill known as the Former Tile Pile Area. The plan calls for inserting wells in the area and pumping out the liquids into tanks, then taking them elsewhere for treatment.

That job is expected to take six or seven more years. By 2012, Lavelle said, all construction work at the site should be complete, and the landfill cleanup will move into long-term operation and maintenance.

Such a shift marks a major turning point when the cost of most Superfund cleanups drops significantly and the bulk of the activity involves routine practices such as water treatment, capturing landfill gas and monitoring groundwater wells.

Costly cleanup

Since 1994, the city and county of Denver, Waste Management and hundreds of dumpers that contributed to a trust fund have spent tens of millions of dollars cleaning up the Lowry Landfill Superfund site. Here's a breakdown of past and future costs at the site.

- \$39.1 million: Design and construction of cleanup remedies
- \$25 million: Operation and maintenance of the cleanup
- \$13.9 million: Reimbursement to the Environmental Protection Agency for its oversight costs
- \$8.1 million: EPA expenses, not reimbursed by polluters
- \$43 million: Construction and operation during the next 30 years
- \$5.4 million: EPA oversight costs during the next 30 years, eventually to be reimbursed by the polluters
- Unknown litigation costs: Incurred by Denver and Waste Management
- Unknown sum: To be spent after 2035, likely in perpetuity, at the site
- Total: More than \$134.5 million

Note: The figures don't include millions of dollars spent at the site by Denver and Waste Management before 1994, figures the EPA couldn't provide. One Denver official estimates those costs at about \$40 million, increasing the total tab to \$174.5 million.

Source: Environmental Protection Agency

Superfund spending

The estimated costs to clean up some of the 22 other Colorado Superfund sites:

- Rocky Flats nuclear weapons plant: \$6.1 billion
- Rocky Mountain Arsenal: \$2.2 billion
- Summitville: \$235 million
- Eagle Mine: \$70 million

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