

BACKGROUND PAPER

Subject: Lead Agency Designations at Atlas Asbestos Site, CA and Lee Acres Landfill Site, NM.

The U.S. Environmental Protection Agency (EPA) has listed both the Atlas Asbestos Site and the Lee Acres Landfill Site on the National Priority List. EPA has assumed (designated itself) the role of lead agency for the Atlas site and has conducted a Remedial Investigation and a Feasibility Study for the total site. EPA's action in regard to the Lee Acres site has been different, EPA has refused to assume the lead role at the Lee Acres site and has deferred to the State of New Mexico demand that BLM, as lead agency, conduct the RI/FS for that site. According to EPA its designations at both sites are fully consistent with the legal requirements.

According to EPA the Atlas Asbestos site extends well beyond the Atlas mine site and includes other mine sites and sources (e.g., the Joe Mine owned by Union Carbide). BLM's involvement in this stems from its role of owner of the Atlas Mine site (an unpatented claim) and its role of owner/operator of the BLM Clear Lake Recreation Area which EPA has designated as one of the contributing sources of contamination. Since much of the land is in non-Federal ownership, EPA must consider this site (or group of sites) as a regular Superfund site which happens to involve Federal lands to some extent. Thus EPA must assume the role of lead agency as required by law in the absence if any party qualified and willing to do so under EPA direction within a reasonable time.

A significant amount of privately owned lands including the Giant Refinery property - a known source of contamination - and other private land parcels are included within the Lee Acres Study Area (i.e., the site). However, inexplicably, EPA has classified the Lee Acres site as a Federal facility on the basis that all known potential sources of contamination are located solely on Federal lands. Even after numerous discussions with BLM, EPA continues to state that it has no knowledge of the existence of other probable significant sources of contamination which are located on non-Federal property, nor any information which would lead them to believe that such sources exist. EPA concludes that in absence of privately owned sources, the site qualifies only as a Federal facility and operation under the Superfund provisions are prohibited by law. Thus, the Bureau of Land Management, as the Federal Agency administering the land, must assume the role of lead agency and assure that all remedial actions are carried out in a timely manner.