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BY E-MAIL
(To Director@fasb.org)

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File Reference No. 1099-001
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Re: Proposed Interpretation – Accounting for Conditional Asset Retirement Obligations, an interpretation of FASB Statement No. 143 (the "Proposed Interpretation")

Gentlemen:

I write to comment upon the Proposed Interpretation.

I support the FASB's Proposed Interpretation, with the exception of Example 4. I believe that the FASB should treat oil refineries and large chemical plants in the same fashion as is proposed for factories, in Example 1. FASB's proposed treatment of Example 4 is inconsistent with 1) the letter and spirit of the balance of FASB 143 and the Proposed Interpretation, 2) environmental law and practice, and 3) disclosure and accrual obligations under U.S. securities laws, particularly the Sarbanes-Oxley Act of 2002 ("SOX").

By way of background on my experience to comment, and perspective, on the Proposed Interpretation, one of my main responsibilities over the past dozen years has been as the attorney responsible for environmental regulatory compliance and environmental liability disclosure for The IT Group, Inc. ("ITX"), a publicly traded New York Stock Exchange Company (ITX was in the Fortune 1000 for a time). ITX was, in its time, the largest owner and operator of hazardous waste disposal sites and hauling operations on the West Coast. In its heyday, ITX owned and operated up to thirteen (13) hazardous waste treatment, storage and disposal facilities. ITX spent the last dozen years of its existence (it filed a petition for relief in bankruptcy in January 2002 and sold its operating assets in May 2002) closing the four (4) largest of these sites, and incurred approximately $165 million dollars in successfully fulfilling its obligations under U.S. environmental laws and in connection with satisfying environmental liabilities for wastes disposed of at third-party Superfund sites (sites that ITX did not own or operate). Included in my duties was responsibility for representing ITX in connection with the allocation of responsibility by the U.S. Environmental Protection Agency and corresponding state agencies and private potentially responsible parties at a number of third-party Superfund sites, and the attendant disclosure obligations under U.S. securities laws. Because of the materiality of environmental liabilities to ITX, I spent a considerable portion of my time on these matters. I am presently a principal in a business the main goal of which is to assist companies in resolving their environmental liabilities, and the prosecution of this business requires me to be involved in the interaction of environmental liability, financial reporting / accounting and disclosure rules, and tax considerations, among others. (The opinions in this letter are my own, however, and do not necessarily represent those of my employer or any of its affiliated companies.)

Example 4 Is Inconsistent With The Letter And Spirit Of The Balance Of FASB 143 And The Proposed Interpretation

The proposed treatment of oil refineries in Example 4 is inconsistent with the balance of FASB 143 and the Proposed Interpretation and the concept of "fair value" embodied in a number of recent accounting pronouncements. The fundamental purpose of FASB 143 is to require enterprises to recognize that they have obligations for the retirement of tangible long-lived assets and the fair value of those obligations. In promulgating FASB 143 and the Proposed Interpretation, the FASB appears to recognize that entities have frequently failed to recognize the costs of their obligations to comply with hazardous waste management and other environmental laws. As one lawyer noted:

> As with other approaches to earnings management, the sophisticated approaches [to under-reporting of liabilities for earnings management purposes] tend to cluster around the more subjective areas of accounting practice. Companies that face financial obligations that are both "probable" and "estimable" are required to establish liabilities reflecting the prospective losses. This "best guess" standard presents latitude for abuse frequently exploited by businesses under financial stress. ... Other items against which companies have failed to adequately reserve include projected costs of environmental remediation.... Sauer, *Financial Statement Fraud: The Boundaries of Liability Under the Federal Securities Laws*, 57 THE BUSINESS LAWYER 955, 990-91 (2002).

FASB 5 has long been criticized for its use by entities to postpone recognition of and accrual for environmental and other liabilities until the last possible moment. *See* Sauer, *supra*. For example, in connection with liabilities that are the subject of litigation, lawyers will ordinarily refrain from opining that a liability is probable, thus permitting entities to postpone or decline to recognize liabilities. For example, the American Bar Association notes that:

> In view of the inherent uncertainties, the lawyer should normally refrain from expressing judgments as to the outcome [of litigation] except in those *relatively few clear cases* where it appears to the lawyer that an unfavorable outcome is either "probable" or "remote;" for purposes of any such judgment it is appropriate to use the following meanings: (i) probable – an unfavorable outcome for the client is probable if the prospects of the claimant not succeeding are judged to be *extremely doubtful* and the prospects for success by the client in its defense are judged to be slight.... American Bar Association, Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information, (1975), par. (5) (emphasis added).

See also Krogstad, *et al., An Experimental Investigation of the Efficacy of Lawyers' Letters*, AUDITING: A Journal of Practice & Theory (March 2002) (limitations on use of lawyers' responses to auditors' information requests lead to concerns about underreporting and undermine the utility of such letters in liability accruals).

Indeed, the whole purpose of the progression from FASB 5, through U.S. Securities and Exchange Commission Staff Accounting Bulletin No. 92 ("SAB 92") to American Institute of Certified Public Accountants' Statement of Position 96-1 ("SOP 96-1") is to close the gaps and loopholes that plagued the use of FASB 5's methodology of dealing with environmental liabilities. One of the principal innovations of SOP 96-1 is to recognize that in cases of historical environmental contamination of property, the outcome of the litigation or claim will be unfavorable, thereby foreclosing exploitation of the subjectivity of the probability requirement of FASB 5. SOP 96-1 (par. 5.6).

FASB 143, with its change in focus from the probability of occurrence of a liability to recognition of its fair value, is thus a significant improvement in practice. This improvement is best epitomized in the recognition in Paragraph 10 of FASB 143 that at least some environmental liabilities should be recognized upon their creation, i.e., upon a release of (contamination of the environment with) hazardous substances. FASB is further to be applauded, in its treatment of Examples 1 through 3 of the Proposed Interpretation. Example 4, however, represents a retreat from the positions taken in FASB 143 and the balance of the Proposed Interpretation.

The treatment of proposed Example 4 is logically indistinguishable from, and therefore inconsistent with, the treatment proposed for Examples 1-3, nor do any supportable grounds in law or policy exist for differentiating those cases. Oil refineries are no less subject to technological and market forces than are "factories." An oil refinery is a species of factory. Both produce goods for sale. They are, therefore, both indistinguishable in terms of their functions and the potentially indeterminate but ultimately finite lives of those facilities. A factory, no less than an oil refinery, can be subject to claims that its useful life cannot be predicted. In the history of American manufacturing, many factories have been utilized for long spans of time, in some cases for more than 100 years. (Indeed, many factories, insulated from or lacking competition for long periods, were able to continue to exist for long periods beyond when it would have been prudent to modernize or close. American automobile factories and steel plants offer many illustrations of this point over the past 20 years.) Closures of refineries and other large industrial installations are not isolated occurrences. Many small and/or independent refiners have been forced out of business over the past 20 years, and have been subject to cleanups of contaminated soil (the subject of Example 4) and groundwater. The author represented several such companies in the Southern California area alone, and is involved in the environmental remediation of several other such oil refineries. One of many examples is the former Pacific Refinery in Hercules (San Francisco Bay area), California, which was closed, demolished, and its former site converted to residential uses. (*See* www.victoriabythebay.com.)

Moreover, the Proposed Interpretation gives no guidance on how to determine into which category many other industrial facilities might fall. Indeed, it is impossible to distinguish, based on the guidance offered, how to treat the unmentioned examples, among many other possible examples, of chemical plants and paint shops.

Such installations are subject to the same technological and market forces as are all other industrial installations.

It is not, however, even necessary to reach the question of the potentially indeterminate life of an industrial asset. The Proposed Interpretation, paragraph 2, note 2, provides that retirement includes "sale." A refinery or factory is extremely likely to be the subject of an asset sale or sale by way of merger many times. Therefore, it is not necessary to "guess-timate" the useful life of such a facility, as its retirement by way of sale is quite likely to occur before the end of its useful life.

Example 4 is indistinguishable from, and therefore inconsistent with, Example 1 in a number of other important respects.

First, there is no basis to distinguish the factory and refinery based on the physical structure of the assets involved. Many factories are composed of multiple buildings and structures comprising many acres. In some of these structures workers perform functions ancillary to production while other structures may store or process chemicals or other raw materials required for the production of the factory's finished product. Many refineries are similarly composed of many structures, some of them providing office or other space for workers who perform functions necessary to the refinery's operation, while others are dedicated to storing or processing chemicals or other items integral to formulation of the refinery's product.

Second, there is also no basis for distinguishing the two examples on the basis of the type of contamination found in the factory as opposed to the refinery. To give just two examples, factories and refineries are equally subject to soil contamination, and asbestos can be present in a refinery as well as in a factory. The use of asbestos for insulation, for example, is just as likely to be found in a refinery as in a factory. Indeed, the Proposed Interpretation gives no basis to distinguish the treatment of various types of environmental contamination. For example, groundwater contamination, which is the likely result, if left unremediated, of the soil contamination discussed in Example 4, is frequently more intractable, difficult, and expensive to remediate than soil contamination. Further difficulties arise in the consideration of contamination of such media as water. The Proposed Interpretation provides no guidance, for example, with respect to the case of pollution of waterways adjacent to and draining a factory or refinery site. More difficulty yet is presented by the case of airborne dispersal of contaminants.

Third, in the case of the oil refinery posited in Example 4, the case for recognition of environmental liabilities is at least as strong as it is in connection with the asbestos liabilities posited in Example 1. The soil contamination discussed in Example 4 more directly results from the refinery's processes than does the asbestos contamination of the factory building. The factory's asbestos is not a result of the factory's operations but rather a portion of the infrastructure to support the production processes located within it.

Fourth, in Example 4 the obligations are less "contingent" than in Example 1. In Example 1, it is possible that the asbestos contamination is of a smaller scale and that the contamination will be overlooked or not form the basis for a significant discount in the purchase price of the asset. The contamination that is the basis of Example 4, however, is unlikely to be missed or overlooked by all but the most unsophisticated buyers, and is likely, particularly under the prevailing, enhanced materiality standards of SEC Staff Accounting Bulletin 99, to be material to all but the very largest entities.

Example 4 Is Inconsistent With Environmental Law and Practice

The treatment permitted by Example 4 is inconsistent with environmental law and practice in at least two (2) important ways. First, it appears to ignore the requirements to disclose and accrue known environmental liabilities of industrial facilities. Second, it appears to ignore any requirement to disclose or accrue the costs to at least contain permanently, if not clean up, the environmental contamination at a facility, which are presently known or estimable.

The treatment permitted by Example 4 appears to ignore the requirements to disclose and accrue known environmental liabilities of an industrial facility. Any significant refinery is likely to contain one or more units for the treatment, storage, and/or disposal of hazardous waste. These units are regulated under the U.S. Resource Conservation and Recovery Act of 1976 ("RCRA"). The owners of such facilities are required to monitor the groundwater at those facilities for evidence of releases of hazardous wastes. *See, e.g.*, 40 C.F.R. 261.91(a) (1), (4). At facilities where the groundwater protection standard is exceeded or where hazardous constituents from a regulated unit exceed applicable concentration limits in the groundwater, the owner must institute a corrective action program to comply with the groundwater protection standard established in the permit for the facility. 40 C.F.R. 261.91(a)(2), (3). These actions must be continued during the period established in the permit or until compliance with groundwater protection standards is achieved. 40 C.F.R. 264.100 (e), (f). Because the remediation of these RCRA units is very likely to precede the closure of the refinery, factory or other industrial installation of which they are a part, these costs are presently known or estimable. Nevertheless, Example 4 ignores them and seems to suggest that a claim that the life of the facility is indeterminate excuses their disclosure and accrual.

Moreover, the largest entities are likely to have many large facilities presenting many of the same obligations at each facility, which could pose significant under-recognition issues. The example of W.R. Grace is illustrative and provides a "real life" example of why the recognition of environmental liabilities should not be postponed as permitted by Example 4. Grace engaged in a business that used asbestos. Grace sold certain assets into a transaction in 1998 and, as a part of that transaction, executed certifications of its solvency. These certifications did not take into account that the company had previously exposed a large number of workers to asbestos. Upon a challenge that the 1998 sale transaction was a fraudulent conveyance, the court ruled that because of the previous exposure of the workers, Grace was in fact insolvent at the time certifications were executed. The court noted that the claims, even though asserted after the certificate was executed, should be considered in determining Grace's solvency, because the exposure / contamination and injury had already occurred. *See In re W.R. Grace Co.*, 281 B.R. 852 (U.S. Bankruptcy Court, D. Del, July 29, 2002). The same considerations apply in connection with other types of environmental contamination, such as land and groundwater pollution – both the release / contamination and the damage to the environment have occurred. More importantly, Grace is a paradigm of the fact that large industrial entities can have significant under-recognized environmental liabilities, that under-recognition can be amplified even when entities are permitted to recognize multiple liabilities at the lower end of their respective possible ranges, and that such multiple under-recognized liabilities can have significant adverse effects on an entity, in this case leading to its bankruptcy. Accordingly, such examples argue for prompt disclosure and accrual of environmental liabilities so that the true state of the entity's financial condition may be known on a timely basis.

The proposed treatment in Example 4 also appears to violate at least the spirit of SOP 96-1. SOP 96-1 requires recognition of at least the lower end of ranges of estimates for the remediation of uncontrolled, third-party Superfund sites. In the FASB 143 examples, the sites are by definition within the control of the reporting entity (they are its long-lived assets that are subject to retirement). The reporting entity therefore has the ability and basis to obtain, if it does not already have, significantly more knowledge about site conditions than in the case of Superfund sites within the purview of SOP 96-1. Example 4 inexplicably and illogically seems to require less of site owners than it does of those responsible for uncontrolled, third-party Superfund sites.

Moreover, the treatment permitted by Example 4 appears to ignore the environmental situation of many factories, refineries and other large industrial facilities. In many cases, even if the ultimate date of the facility's closure is undetermined, facility owners are required to take active steps (usually by operating and maintaining "pump-and-treat" systems) to contain and prevent the further spread of groundwater and other contamination. These efforts are required to be continued essentially in perpetuity in the absence of a final cleanup plan for the facility. There is no compelling reason why the costs of funding such operation and maintenance programs cannot be estimated, and their present value disclosed and accrued. Such disclosures and accruals would clearly comply with the requirements of SAB 92 and SOP 96-1 to disclose the lower end of a range of potential outcomes. Yet, Example 4 seems to have forgotten the lessons of these prior accounting guidances. (That it is possible to estimate such costs, even in the hardest cases, is illustrated by the Iron Mountain Mines Superfund site, north of Redding, California. In that case the costs of operation and maintenance of a remedy lasting 3,900 years were estimated, their present value calculated, and funded. The author served as the principal negotiator for one of the parties to the settlement at that site.)

Example 4 Is Inconsistent With Disclosure and Accrual Obligations under U.S. Securities Laws, Particularly the Sarbanes-Oxley Act Of 2002

The treatment in proposed Example 4 is also inconsistent with both the letter and current direction of U.S. securities laws, particularly the Sarbanes-Oxley Act of 2002.

The only bases on which Examples 1 and 4 can be distinguished are management's 1) present intention to discontinue use of the facility, and 2) present resources to continue maintenance and replacement activities.

(Indeed, the language of Example 4 recognizes this when it notes that there is a "lack of objective evidence regarding the useful lives of refineries…." Present management intentions and resources cannot and should not, however, form the bases for failure to accrue asset retirement obligations other than in conformity with the balance of FASB 143 and the Proposed Interpretation. Present management intention is highly suspect as a basis for postponing recognition of otherwise fixed obligations, on at least two (2) grounds. First, management's incentive will always be to decline to make provision for potentially long-term obligations in the face of pressure for current financial performance. Indeed, as mentioned, the entire progression from FASB 5 through SAB 92 to SOP 96-1 is designed to correct this disincentive timely to recognize already incurred environmental liabilities. Second, management intention places the recognition of such "contingent" environmental liabilities entirely within the control of the industrial enterprise in question. (As noted, however, the fact that such releases and contamination, and the resulting damage, have already occurred, renders such liabilities no longer contingent.) Example 4 suggests that "the company would recognize a liability in the period in which sufficient information is available to estimate its fair value." This formulation also permits and encourages management to postpone or fail entirely to conduct the environmental investigation necessary to support the costs of soil and groundwater contamination. As noted above, in many cases the costs of containing and/or remedying existing contamination (rather than future contamination), can be known with a reasonable degree of certainty if the entity is prepared to undertake the investigation necessary to determine the nature and extent of the contamination. Further, giving to management control over the timing of recognition as permitted in Example 4 effectively shifts the standard at least as far back as the FASB 5 standard of probability of occurrence, if it does not make the standard even more subjective.

The dangers and disincentives to accurate and timely disclosure and accrual already inherent in such a subjective approach are illustrated the common practice of purchasers and sellers of refinery properties to enter into "no look" agreements. In these agreements a buyer's investigation of environmental conditions at a refinery property is prohibited for a period of years. For example, the agreement for the sale of the Tosco Golden Eagle Refinery in Martinez, California to Ultramar Diamond Shamrock contained the following clause (section 13.03):

> "For a period of ten (10) years after the Closing Date, except to make reports that are required by SH&E Law, Buyer shall not take any action to request, initiate, encourage, or induce an applicable government agency to require any site assessment or investigation that could lead to the discovery of an SH&E Condition and which would involve drilling or penetration of the surface of the ground, unless (i) such site assessment or investigation is performed in the ordinary course of business such as for geophysical studies for equipment foundations or in connection with construction, remodeling or demolish and rebuild work at the Refinery, or (ii) ordered to conduct such as assessment or investigation by any federal, state, or local governmental authority having jurisdiction thereof." *See* Taugher, "Refinery's Ex-owner Requests Lawsuit's Shift to Arbitration," CONTRA COSTA [CALIFORNIA] TIMES, February 8, 2004.

Further, reliance on management's assertions that an asset has an indeterminate useful life or on management's present intentions and resources places the auditor in the particularly difficult position of either 1) being the predictor of the technological or market life-span of assets, which is beyond the competence and traditional charter of auditors, 2) relying solely on the declaration of management as to its intentions, which does violence to the notion of an audit, which is intended to be a third-party objective test of the accuracy of management's presentation of financial results, or 3) determining when an entity's financial condition is such that it should begin accruing for plant closing obligations. The present Example 4 could result in accruals over a continuum of times, from when the entity possesses significant cash reserves to when its viability as a going concern is questionable. Clearly, the deferred recognition of obligations until the entity's continued long-term viability is in doubt was one of the fundamental issues in the collapse of Enron and other firms. The examples of the recent collapses of Enron and other large entities teach that larger firms, which may presently have the resources to continue to maintain older facilities, are as subject to financial collapse as smaller firms. Indeed, very few firms can be expected to maintain their present financial strength over any significant period of time. It is commonly known that only eight firms in the U.S. maintain "AAA" credit ratings, and that that number has declined significantly over the past 20 years. *See* Krantz, "Only eight companies receive AAA debt rating," USA TODAY, May 29, 2002. That financial collapse can be caused by environmental issues is illustrated by the example of W.R. Grace (among others). In short, what the proposed treatment in Example 4 appears principally to do is to exempt larger entities from standards applicable to others and to codify the existing poor practices of a number of those larger firms. The FASB should not equate such existing poor, potentially misleading practices with appropriate accounting treatment, particularly when better (if still imperfect) guidance is already provided by SAB 92, SOP 96-1, and Example 1 and the balance of the Proposed Interpretation.

The subjective deferral of recognition of environmental liabilities allowed by Example 4 also appears to be a continuation of the kind of behavior that leads to "big bath" charges. As noted above, subjectivity in the deferral of recognition of environmental and other liabilities is one of the principal ways in which earnings can be inappropriately managed. *See* Sauer, *supra*. Such subjectivity allows managers to utilize write-offs for earnings management, including to enhance the appearance of their own financial performance, and are associated with underperforming firms that are potentially unstable and subject to further senior management changes. *See* Riedell, *An Examination of Long-Lived Asset Impairments*, 79 THE ACCOUNTING REVIEW 823 (2004) (imprecise standards for long-lived asset impairments either fail to control, or facilitate, the impetus to manage earnings). The FASB would better serve users of financial statements by enacting uniform standards that require the periodic, accurate estimation, disclosure, and accrual of the costs of remediation of prior environmental contamination, than in permitting such important and potentially material matters to be entirely within management's subjective and changeable intention, discretion, and resources.

The failure to investigate, disclose, and accrue for environmental conditions embodied the treatment permitted by Example 4 may well also violate both the certification requirements of SOX, and also SOX's disclosure and internal control requirements. The FASB should not place itself in the position of potentially vitiating the certification and internal and disclosure control requirements of SOX.

SOX is specifically designed to require companies to look beyond the letter of Generally Accepted Accounting Principles in preparing financial statements. The certifications required by Sections 302 and 906 of SOX are that the applicable financial statements "fairly present in all material respects the financial condition and results of operations of the issuer." The certification is thus not limited to compliance with GAAP. Indeed, as the SEC noted in the issuing release:

> "The certification is ... not limited to a representation that the financial statements ... have been presented in accordance with "generally accepted accounting principles" and is not otherwise limited by reference to generally accepted accounting principles. We believe that Congress intended this statement to provide assurance that the financial information disclosed in a report, viewed in its entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under generally accepted accounting principals. In our view, a "fair presentation" ... encompasses the selection of appropriate accounting policies, proper application of appropriate accounting policies, disclosure of financial information that is informative and reasonably reflects the underlying transactions and events and the inclusion of any additional disclosure necessary to provide investors with a materially accurate and complete picture of an issuer's financial condition, results of operations and cash flows. SEC Release 33-8124, 34-46427, Section II. B.3 (emphasis added).

It is difficult to imagine how a company that knows that it operates major facilities that are environmentally contaminated can certify that its financial statements are accurate without at least disclosing the fact, nature, extent and present costs to contain and/or remediate that contamination.

Moreover, Sections 302 and 906 also require, generally, certification that the reporting company maintains a system of disclosure controls and internal controls pursuant to which material information is "recorded, processed, summarized and reported" and "accumulated and communicated" to management (*see* SEC Rules 13a-15 & 15d-15), and that the certifiers have evaluated the effectiveness of the controls within the last 90 days. It is difficult to imagine how a company can certify that it has effective disclosure and internal controls when it operates major facilities that are environmentally contaminated and its records do not contain accurate information regarding the fact, nature, extent and present costs to contain and/or remediate that contamination. Once that information has been "accumulated and communicated" to management as required by SEC rules, it is also difficult to imagine how a company can, at a minimum, fail to disclose material information and remain in compliance with the anti-fraud strictures of the securities laws.

Summary

In summary, the FASB should decline to codify a rule that permits an entity to fail to recognize an asset retirement obligation based on the claim that the asset has an indeterminate life. Assets such as the refinery in Example 4 are no less subject to technological and market obsolesce and closure than the factory in Example 1. Refineries and factories are indistinguishable both functionally and in a number of other ways.

The accounting treatment permitted by Example 4 is inconsistent with environmental law and practice. Example 4 fails to address the recognition of any environmental costs of a facility, even when the facility has sub-units that are likely to be required to be cleaned up under environmental laws prior to the overall facility's closure, or where, even if the ultimate closure date is unknown, the costs to continue to contain (if not clean up) prior environmental contamination are known or estimable. The treatment allowed in Example 4 also appears to require less of owners of industrial facilities, who are in a better position to understand their own facilities' environmental issues and costs, than is required of the same owners when they face liability at uncontrolled, third-party Superfund sites. The accounting treatment permitted in Example 4 also lends itself to the underestimation of an entity's enterprise-wide environmental liabilities. Otherwise applicable accounting guidance allows entities with multiple liabilities to accrue each such liability at the low end of its respective range, potentially resulting in a significant under-estimation of the entire enterprise's obligations. The treatment allowed by Example 4 does not even require as much as this pre-existing accounting guidance.

The treatment permitted by Example 4 also veers away from the more objective fair value standard of the balance of FASB 143 and other recent accounting guidance, toward a standard at least as subjective and prone to abuse as FASB 5. Management's present intention about a facility's useful life may well result in excessive deferral of asset retirement obligations. And, the lesson of Enron and other recent large firm collapses shows the perils of under- and deferred recognition of obligations at even the largest firms. Moreover, the accounting treatment permitted by Example 4 vitiates, if it does not violate, both the certification and internal and disclosure control requirements of SOX.

Example 1 of the Proposed Interpretation should be adopted and apply in all cases, to promote the uniform and timely recognition of the costs of firms' operations. At a minimum, even if the potential useful life of a major industrial installation is indeterminate and therefore subject to uncertainty in estimation, in almost all cases the current costs to close or retire the asset can be estimated with reasonable accuracy, and entities should be required to disclose the current costs of closure / retirement.

Sincerely yours,

/s/

James M. Redwine

cc: Director, Division of Corporate Finance,
U.S. Securities and Exchange Commission
U.S. Environmental Protection Agency
U.S. Government Accountability Office