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Congress of the United States
House of Representatives
Washington, DC 20515-0601

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**Why isn't the federal government held to the same
environmental standards as the private sector?**

New report questions Pentagon's commitment to cleanup

Dear Colleague:

At tens of thousands of contaminated federally-owned sites throughout the country, states are struggling to enforce the same environmental standards on the federal government that they apply to privately owned sites. Why? Because the federal government hides behind the shield of "sovereign immunity" to protect itself from state enforcement of most environmental laws.

A report in the March 1999 National Environmental Enforcement Journal published by the National Association of Attorneys General describes the problems that have occurred when states attempt to hold the Pentagon responsible for cleaning up its facilities. They encounter "serious opposition from the Department of Defense regarding clean-up standards and environmental oversight costs." Additionally, the report adds that,

"still-contaminated military properties are sold to often uninformed or unwitting private or non-federal government purchasers who do not recognize the gravity of the cleanup to be performed in order to redevelop the parcel. And like any other entity seeking to avoid costs, the federal government regularly asserts every defense and avoidance tactic...to shift those burdens to some other entity - in this case, the states. These tactics include asserting sovereign immunity to avoid state laws and budgetary and funding concerns, regardless of the consequences."

Federal facilities which aren't cleaned up to the same standards as other privately-owned properties create a heightened risk for redevelopment and allow the federal government to shirk its responsibilities to communities across this country. Given the federal government's continued downsizing, sites which once housed federal facilities are being transferred to the private sector, creating new opportunities, but also new uncertainties.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or Superfund, and the Clean Water Act currently do not adequately waive the federal government's sovereign immunity with respect to liability enforcement under those statutes. Consequently, while states can theoretically apply environmental standards to federal facilities, they often encounter endless litigation by the federal operators and face probable defeat at trial.

Without similar enforceable waivers of sovereign immunity in Superfund, properties will never be cleaned up to the satisfaction of the community and potential developers. That is why I have introduced H.R. 617, the **Federal Facilities Superfund Compliance Act**, to provide the enforcement tools states need to ensure the same level of compliance by federal sites as by private sites.

If you would like to cosponsor this bill, or request additional information, please contact Nick Karamanos of my staff at 5-4431.

Sincerely,



Diana DeGette
Member of Congress

Cosponsors (10): Norwood, Schakowsky, Shows, English, Underwood, Rivers, Strickland, Goodling, Stark, Pallone