Illegal waste buries Rhodia

By Roberta Forsell Stauffer of The Montana Standard

Company pleads guilty to storing of hazardous waste at plant west of Butte

MISSOULA — A multinational corporation pleaded guilty in Missoula federal court Wednesday to illegal storage of hazardous waste at the shuttered phosphorus plant west of Butte.

The admission of guilt to two felony criminal counts was part of a plea agreement reached by Rhodia Inc., and the U.S. government in which the company would pay $18 million in fines and clean the site as a condition of its five-year

probation.

U.S. District Judge Donald Molloy made it clear that he was not bound by any such agreement and could fine the company up to about $34 million on each count.

He then ordered a pre-sentence report and set April 29 as the sentencing date.

If accepted by the court, the fine would be the second highest criminal penalty lodged under the federal Resource Conservation and Recovery Act, topped only by an $18.5 million fine levied at Colorado's Rocky Flats waste site, according to Daniel Dooher, federal **environmental** crimes attorney.

Of the fine, $16.2 million would go into the federal treasury, and $1.8 million would be paid **in restitution** to the Montana Department of Environmental Quality.

U.S. Attorney Bill Mercer said the work done by state and federal environmental investigators in this case could be used as a national role model, and the resulting guilty pleas should send a strong message to corporations that hazardous waste violations will be taken seriously.

"We're confident this sort of prosecution will be a deterrent," Mercer said.

The illegally stored waste contains elemental phosphorus, which can burst into flames wher it contacts air.

Phillip Curry, Rhodia vice president for health, safety and environmental affairs, admitted that the company stored the phosphorus waste in a 100-foot diameter clarifier tank at the site, and that carbon bricks and precipitator dust contaminated with flammable phosphorus

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were also stored on site.

"The company believes that it should have applied for a permit and didn't apply for a permit, and that's why we're here today," Curry told the judge.

The charges were filed in December, the culmination of an investigation that started in 1999.

Government officials obtained a search warrant in spring 2000 and ordered the company to take a number of steps to better secure the waste following their investigation.

"It's safer than it was before, but not as safe as it will be once the cleanup is done," said Susan Sassali, environmental engineer with EPA's criminal investigation division.

By the time Rhodia took ownership of the plant in 1998, it was already closed. When the plant was running, the phosphorus-bearing materials were allowed on site as part of normal operations, but once it closed, they immediately became classified as hazardous waste and the onus was on Rhodia to inform the government of what it had there.

Curry contends that the government knew what was there, and that the company was never trying to hide anything. In fact, it voluntarily submitted a closure plan to the state in 1999, he said.

"The materials at the Silver Bow plant should not have been a secret to anyone," Curry said. "They were part of normal operations."

Mercer said the government believes Rhodia "knowingly hid" the characteristics of the materials it had stored on site.

"They knew better," he said.

The order requiring Rhodia to clean the material as part of the plea agreement does not state whether the company will have to transport the waste to an out-of-state facility or treat the waste on site.

That issue still needs to be worked out. EPA favors moving the waste, and Rhodia believes on-site treatment would be best.

Rhodia's North America division has 26 operating facilities and employs 3,100 people. Worldwide, the corporation employs 23,600. It's based in Paris, France, and its North American headquarters is in Cranbury, N.J., according to Kate Stanley, community relations representative.

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