



U.S. Department of Energy  
Office of Inspector General  
Office of Audit Operations

# Audit Report

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Restoration of the Monticello Mill Site at  
Monticello, Utah

**DOE/IG-0665**

**October 2004**



## Department of Energy

Washington, DC 20585

October 28, 2004

### MEMORANDUM FOR THE SECRETARY

FROM:

*Greg Friedman*  
Gregory H. Friedman  
Inspector General

SUBJECT:

INFORMATION: Audit Report on "Restoration of the Monticello Mill Site at Monticello, Utah"

### BACKGROUND

Beginning in the 1940s and continuing until the early 1960s, the Department of Energy's predecessor agencies were heavily involved in mining and milling vanadium and uranium in Monticello, Utah, for the weapons complex. Since these operations ceased, the Department's Grand Junction Projects Office has expended about \$250 million to remediate and stabilize the Monticello Mill Site. One of the final phases of the project was to restore the mill site. The restoration was to include placing a soil barrier to cover hot spots, grading to provide proper surface drainage and re-vegetating to minimize erosion.

In 1995, the City of Monticello approached the Department, expressing an interest in performing the restoration work because it wanted to construct a golf course on the site. Both the Department and the U.S. Environmental Protection Agency supported this concept because it satisfied the Government's desire to restore the site, while placing it into productive public use and ensuring that the site would be maintained in a manner to control erosion. To satisfy their mutual interests, the Department entered into a cooperative agreement with Monticello in June 1999 to facilitate restoration. The cooperative agreement provided Monticello with approximately \$7.8 million, of which \$6.8 million was for mill site restoration. We performed an audit to determine whether the Department effectively monitored and controlled the restoration of the Monticello Mill Site.

### RESULTS OF AUDIT

Our audit disclosed that the Department's actions to monitor and control certain aspects of the Monticello Mill Site restoration project were not completely effective. The restoration of the site was completed in August 2001, as required; however, since that date, Monticello had not adequately maintained the site and, as a result, significant erosion had been experienced. While the Department took action to correct erosion problems that were of immediate concern, it had not taken steps to ensure that Monticello used funds provided under the agreement for long-term maintenance. Specifically, Monticello was permitted to expend about \$4.3 million for public works projects unrelated to the restoration project. In particular, Monticello spent \$3.2 million to expand an existing golf course and about \$1.1 million to expand and improve its public water supply system.



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We concluded that the Department had not properly structured the cooperative agreement with Monticello nor had it required strict compliance with certain terms of the agreement. Permitting the expenditure of funds needed for maintenance on other projects increased the risk that the mill site would not be in compliance with applicable long-term environmental requirements. The Department could also be forced to fund supplemental remedial work to avoid future enforcement action by regulators. Unless the former mill site is adequately maintained, erosion could expose radiation hot spots, potentially exposing the Department to fines of up to \$5,000 per week.

Although the Department had taken steps to increase its surveillance of the site and had required Monticello to correct erosion problems, additional action is necessary to ensure that the site is adequately maintained. Accordingly, we made several recommendations to the Office of Legacy Management (OLM) to correct the issues identified in this report and to recover funds for erosion control activities made on behalf of Monticello. We also recommended that the Department ensure that cooperative agreements used for future mill site restoration activities are more clearly structured and that compliance is assured so that the public interest is protected.

#### MANAGEMENT REACTION

While management concurred with three of the four recommendations, it disagreed with the conclusions in the report. OLM asserted that the auditors did not fully consider the cooperative agreement as envisioned, written, and administered. According to management, the Department's use of a fixed-price cooperative agreement provided Monticello with the flexibility to meet the Department's regulatory requirements while also satisfying the City's recreational needs.

We gave full consideration to the terms of the cooperative agreement in the conduct of the audit and, as a result, we disagree with OLM's assertions. In our judgment, after the expenditure of nearly \$7 million in taxpayer-provided funds, the primary objective should have been the restoration of the project site and long-term maintenance of the site in its restored state. Precisely because of the way in which the cooperative agreement was written and administered, we concluded that the long-term condition of the site is at risk.

We have incorporated management's comments into the body of the report, and where appropriate, have modified the report and our recommendations in response to issues raised by management to a draft of the report.

Attachment

cc: Deputy Secretary  
Under Secretary for Energy, Science and Environment  
Acting, Assistant Secretary for Environmental Management  
Manager, Grand Junction Projects Office

# REPORT ON RESTORATION OF THE MONTICELLO MILL SITE AT MONTICELLO, UTAH

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# MILL SITE RESTORATION

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## Background

The Department of Energy (Department) issued a Record of Decision (ROD) in 1990 for remediation of the Monticello Mill Site. According to the ROD, the Department was to clean up contaminated facilities and tailings and restore the mill site. The restoration required placing a soil barrier to cover remaining contaminated areas that could not be remediated, grading to provide proper surface drainage, and re-vegetation to minimize erosion. The Department's Grand Junction Projects Office had originally planned to have its prime contractor, Rust Geotech, Inc., perform this work.

In July 1995, the City of Monticello's (City) mayor and the Site Specific Advisory Board, comprised of local residents, formally proposed that the mill site property be transferred to the City for the purpose of developing a golf course on the property. After consideration, both the Department and the Environmental Protection Agency (EPA) supported the golf course concept because such action would place the mill site into productive public use and ensure that it would be maintained to control erosion. Departmental officials also believed that it would be less costly for the City to perform the restoration of the site.

The Department entered into a cooperative agreement with the City in June 1999 that, among other things, required the restoration of the mill site and certain associated areas. Pursuant to the terms of the agreement, the Department was to be substantially involved in the project and was to ensure that funding provided was for allowable restoration-related expenses. In June 2000, prior to the commencement of restoration work, the City received title to the property through the Department of the Interior's *Federal Lands to Parks Program*.

Subsequent to signing the agreement, but prior to the commencement of restoration work, the City modified its plans to construct a golf course on the site, and with permission of the Department of the Interior, decided to convert the facility into a public park. Both the Department and the EPA concurred with the City's May 2000 change in plans.

## Site Restoration

Our audit disclosed that the Department did not effectively monitor or control certain aspects of the restoration of the Monticello Mill Site. The restoration of the site was completed as required; however, the City did not adequately maintain the site, and it suffered significant erosion. The Department took action to correct erosion problems that were of immediate concern, but it did not

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ensure that the City used funds provided under the agreement for long-term maintenance of the mill site.

In August 2000, the City engaged a contractor and commenced restoration of the mill site. The restoration work entailed covering the mill site with topsoil, grading the slopes, planting natural vegetation, and restoring a wetland area. Consistent with its agreement with the Department of the Interior, the City also made efforts to convert the mill site into a public park by installing gravel walkways, planting trees, and placing several picnic tables on the site. At completion, the City had spent approximately \$2.5 million for the restoration efforts.

However, the City did not maintain the site as required by the land transfer agreement. Shortly after the restoration work was completed, the mill site began to sustain serious erosion. During an inspection of the site, the EPA became concerned about the increase in erosion and the lack of action to control it. EPA notified the Department of this concern and the Department, in turn, notified the City. The City committed to take action and made several repairs. However, the City's efforts were inadequate and have not prevented or remedied erosion problems. During a tour of the mill site in September 2003, we noted that the walking path had been washed out in several locations. Topsoil, placed throughout the mill site to prevent exposure to various contaminated areas, was giving way to widespread rivulets reaching depths of over 12 inches (Figure 1). To help prevent further damage, the Department advised Monticello to add additional topsoil, fill, and re-grade portions of the site that were of immediate concern.



*Figure 1: Erosion at the mill site*

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While the Department took action to correct erosion problems of immediate concern that had not been adequately addressed by the City, it did not ensure that the City retained funds provided under the agreement that were needed for long-term maintenance. In executing the agreement, the Department provided a majority of the \$6.8 million for mill site restoration activities prior to the commencement of work. The City intermingled the funds with its General Fund and used \$2.5 million to pay for restoration work. Subsequently, the City also began using funds provided by the Department for other public works projects. Ultimately, the City used approximately \$3.2 million to expand its existing 9-hole golf course located across the street from the mill site and approximately \$1.1 million to expand and improve its public water supply system. With virtually all cooperative agreement funds now spent, the City does not have funds readily available for needed maintenance and will have to rely on its General Fund to correct current and future mill site deficiencies.

Additionally, the City's goal of converting the mill site into a public park – an end-use that should have encouraged long-term maintenance of the site – was not fully realized. Specifically, no signs were erected to indicate that the land was available for public use – a requirement established in the land transfer documents – and the grounds were not well maintained. When we visited the site, the gravel walking path was overgrown with weeds (Figure 2), and the City had removed previously placed picnic tables. At one point, the City used a portion of the site to store pipes and construction debris.



*Figure 2: Walking path at the mill site.*

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**Cooperative Agreement**

We concluded that these problems occurred, in large part, because the Department did not properly structure and did not require compliance with certain terms of the cooperative agreement.

Structure of the Agreement

According to the Department, it considered the agreement to be a fixed-price contract with the City. However, the structure of the agreement contained provisions that were inconsistent with fixed-price instruments. For example, under a fixed-price contract there is typically no review for the allowability of incurred costs. In spite of the Department's intent, throughout the agreement there are several sections which state that the City will only be reimbursed for allowable costs.

Compliance with Cost Provisions

The Department also did not implement the necessary controls to ensure that allowable cost provisions established by the agreement were actually followed by the City. According to the agreement, the City would only be reimbursed after it had incurred costs to accomplish the goals of the agreement. However, the Department did not actively enforce these provisions. In particular, the Department chose to provide the City with over 90 percent of the funding at the beginning of the project before work began. Such action effectively prohibited the Department from contemporaneous enforcement of the terms of the agreement that required costs only be incurred and reimbursed for allowable expenses associated with the goals of the agreement.

Even when the Department became aware that the City was expending funds for projects not contemplated by the agreement, program officials did not take action to review expenditures for allowability. In October 2002, after restoration work on the mill site had been completed, a certified public accounting (CPA) firm auditing the City's records questioned the propriety of the City using restoration funds for unrelated projects. In spite of this notification, the Department did not take action to ensure that the City's expenditures were reviewed for allowability. To the contrary, the Department essentially agreed with the practice by notifying the CPA firm that the City could use the funds at its discretion provided it maintained the site. Project managers explained that they took this approach because they considered the agreement to be a firm fixed-price arrangement. Thus, the

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Department was more concerned with the City restoring and maintaining the site and less concerned about how the funds were being spent.

The importance, however, of ensuring compliance with the allowable cost provisions of the agreement crystallizes when issues related to one of the primary drivers for permitting the City to perform the work – assumed significant cost savings – are closely examined. In particular, program officials based their assumption regarding savings on an \$11.3 million cost estimate prepared in January 1999. Since remediation of the mill site had not been completed at the time the estimate was prepared, there was a large degree of uncertainty related to technical requirements for the restoration and the ultimate cost. For example, required fill quantities, elevations, and final alignment of a creek were unknown.

The January 1999 conceptual restoration estimate also was a significant increase over the \$2.13 million restoration estimate included in the Final Remedial Investigation/Feasibility Study for the Monticello Mill Site. Nevertheless, the Department chose to rely on the estimate prepared by its management and operating (M&O) contractor and calculated that the cost of having the City perform the work would reduce outlays by approximately \$4.5 million. The opportunity to resolve uncertainties associated with the M&O prepared estimate was lost when the Department did not review the costs as they were incurred during restoration activities.

## **Remediation Costs**

As a consequence of the factors noted above, the Department incurred \$4.3 million in costs for which the Government received no direct benefit. In the situation in which the Department now finds itself, it may be forced to spend additional funds to control erosion at the mill site. Even though the Department correctly indicates that the City is liable for maintaining the site in perpetuity, the City has not fully corrected known problems and its fiscal ability to do so in the future is uncertain. Since virtually all funds provided by the Department have been expended, the City also must rely solely on its general fund to correct existing and future problems – a potentially significant challenge for a small municipality. Unless continuing erosion problems are rectified, the EPA also has indicated that fines of \$5,000 per week could potentially be assessed against the Department.

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**RECOMMENDATIONS**

To address the project management, funding, and environmental issues discussed in this report, we recommend that the Director, OLM:

1. Ensure that cooperative agreements used for future mill site restoration activities are clearly structured and complied with to protect the Department's interest;
2. Develop and implement an erosion abatement and control plan at the Monticello Mill Site;
3. Seek recovery of the Department's funds spent for recent erosion control efforts from the City; and,
4. Coordinate with the National Park Service to ensure that the mill site is adequately maintained for public use.

**MANAGEMENT REACTION**

The Director, OLM, agreed with recommendations 2, 3, and 4 but disagreed with recommendation 1 and several of the conclusions reached. In response to recommendation 1, management stated that it is founded upon the auditors' misperception of the contract arrangement versus fact. OLM stated that the report does not fully consider the cooperative agreement as envisioned, written, and administered. The Department's approach to the agreement was to engage the City in a "fixed price" arrangement to complete mill site restoration, city street repair, and purchase supplemental equipment. This strategy allowed the City the flexibility to meet Department regulatory requirements and also meet their recreational needs.

Even though not specifically spelled out in the agreement, management also asserted that the approach provided assurance that the City, and not the Department, would be responsible for all future maintenance of the site. While not attaching a specific dollar amount, management implied that funds provided to the City that were over and above the actual cost of restoration could be attributed to the City's assumption of the legal responsibility to maintain the site in perpetuity.

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**AUDITOR  
COMMENTS**

Contrary to management's assertion, our report fully considered the terms and intent of the agreement. As detailed in our report, we noted that the provisions of the agreement were not consistent with those typical of fixed price contracts.

While the Department argued that the approach chosen resulted in significant savings, we noted that the estimate prepared by the previous contractor was uncertain. We found no evidence that this estimate was independently validated and noted that it had increased substantially over earlier recorded estimates. Even given the assertions that savings were achieved, such savings do not obviate the need to ensure that funds are expended only for items related to the restoration. Had program officials been more proactive in this respect, they may have been able to prevent the expenditure of an additional \$4.3 million. At the least, officials may have been able to ensure that the City maintained adequate reserve funds to comply with its obligation to properly maintain the site.

As indicated by the Department, while the City may have a legal obligation to maintain the site, its performance in that area has not been fully satisfactory. Both EPA and the Department recognized this fact and have attempted to compel the City to correct known problems. While the City performed some work, past problems may be indicative of a need for the Department to intervene and perform remedial repairs in the future. Based on this demonstrated lack of past performance, the expectation that the Department has been relieved of the responsibility for maintenance of the site may not be realizable.

Management's concurrence with and proposed corrective actions for recommendations 2, 3, and 4 is considered responsive.

## APPENDIX

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### OBJECTIVE

The objective of this audit was to determine whether the Department effectively monitored and controlled the restoration of the Monticello Mill Site.

### SCOPE

The audit was performed from September 8, 2003, to April 5, 2004, at the Grand Junction Projects Office in Grand Junction, Colorado, and in Monticello, Utah. The scope of this audit was limited to activities pertaining to the "Restoration of Mill Site Property" in the Cooperative Agreement's Statement of Joint Objectives (Agreement No. DE-FC13-99GJ79485).

### METHODOLOGY

To accomplish the audit objective, we:

- Obtained and reviewed planning documents for restoration activities;
- Visited the Monticello Mill Site;
- Researched Federal and Departmental regulations;
- Reviewed the Cooperative Agreement between the Department and the City for the restoration of the uranium mill site;
- Assessed internal controls and performance measures established under the *Government Performance and Results Act of 1993*; and,
- Interviewed key personnel in the Grand Junction Projects Office.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Specifically, we assessed controls with respect to the Department's oversight over cooperative agreements. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We did not rely on computer-generated data to accomplish our audit objective.

An exit conference was held with the Manager of the Grand Junction Projects Office on October 13, 2004. In response to a draft of our report, management provided comments that have been addressed and summarized in the body of the report. Management

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was afforded the opportunity to review the revisions to the report but elected to not provide additional comments.

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