THORN & ASSOCIATES II.

Settling case with Supplemental Environmental Projects (SEPs)

Instead of simply paying a penalty to settle a matter with EPA, a facility can propose one or more supplemental environmental projects (SEPs). The cost of the SEP is used to offset part of the proposed penalty. Furthermore, since EPA issues press releases for all complaints and settlements, a SEP that benefits the surrounding community can reduce any public relations outfall associated with the enforcement.

So what is a SEP? Simply put, a SEP is a project that benefits the environment. Typically SEPs fall into one of the following categories: pollution prevention, pollution reduction, public health, environmental compliance promotion, emergency planning and prevention, environmental restoration and protection, and assessments and audits. Needless to say, a SEP must meet certain requirements before it is accepted by EPA. The most important requirement is that there is a nexus (or relationship) between the proposed SEP and the violations. For example, an asthma monitoring program would likely be acceptable for a Clean Air Act case, but most likely not for a RCRA hazardous waste case. Another requirement is that the SEP cannot merely bring a company back in to compliance, it must go above and beyond the company's legal obligations. For example, if a company had an ammonia release and failed to follow the EPCRA/CERCLA reporting requirements, an acceptable SEP would be to install release sensors and alarms, which are not required by law, to notify personnel of a release.

If you have any questions regarding potential SEPs or SEP requirements, contact us at 773-609-5320 or info@thornenvironmentallaw.com.

Disclaimer: This article cannot, and does not, create any attorney/client or consultant/client relationship.