

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

**REPUBLIC SERVICES**

**TOXIC**

**INVESTMENTS:**

*Liabilities Mount at  
Nuclear Waste Landfill*



## REPUBLIC SERVICES

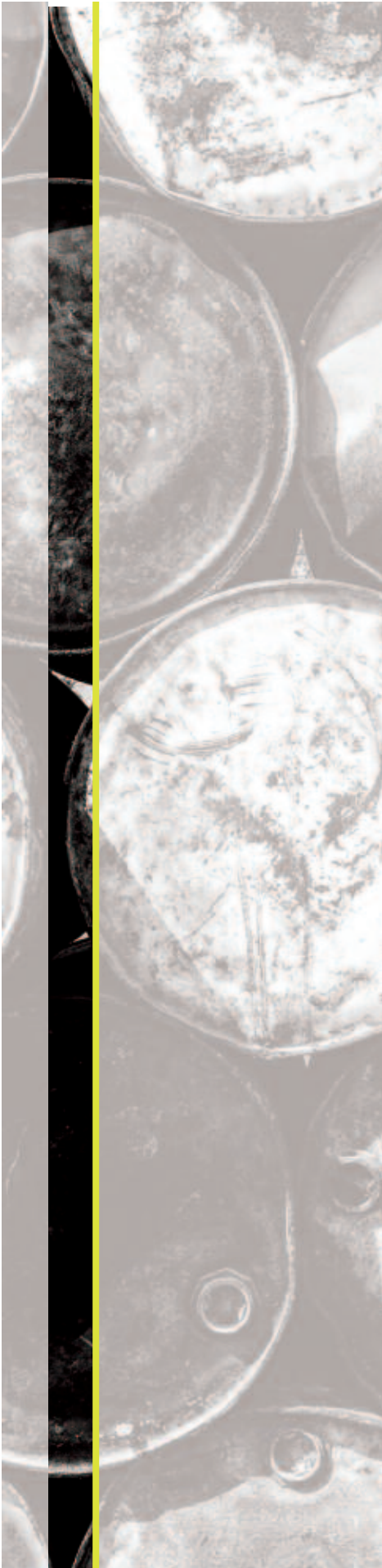
# TOXIC INVESTMENTS:

### *Liabilities Mount at Nuclear Waste Landfill*

*This report details Republic Services, Inc's (RSG) mismanagement of the remediation of two interconnected landfills – one containing 8,700 tons of radioactive waste and another with a 310-degree subsurface fire – in Bridgeton, MO, and the potential intervention by the U.S. Army Corps of Engineers to decide the corrective action and charge Republic for the cleanup. The company's annual report indicates it has spent \$219 million on remediation charges, with estimated remaining liabilities of \$342 million. It adds that the company is executing "remedial work plans previously approved by Missouri Department of National Resources" (MDNR) and continues to report to MDNR. Yet, the MO Attorney General has since stated that the contamination is so great the federal government should oversee all cleanup. A call by Missouri's Congressional Delegation to involve the Army Corps could also dramatically increase remediation costs for Republic.*

*"Our [remediation] estimates could change substantially as additional information becomes available regarding the nature or extent of contamination, the required remediation methods... and the actions of governmental agencies or private parties with interests in the matter."*

*– Republic Services, 2013 Annual Report*



Republic Services' Bridgeton and West Lake landfills have garnered significant media attention since 2010, when the subsurface landfill fire was first detected. Bridgeton and West Lake are two interconnected landfills that contain 8,700 tons of World War II-era radioactive waste and an active underground fire burning deep within the landfill. The West Lake landfill, where the radioactive waste is primarily buried, currently falls under the jurisdiction of the U.S. Environmental Protection Agency (EPA), with the agency directing the remediation of the problem in consultation with Republic Services. However, as the fire at the Bridgeton landfill continues to burn uncontrolled and remediation costs to Republic continue to mount – Republic Services' own estimates reach \$342 million – EPA is under pressure by Missouri's elected officials, community groups, environmental activists, and labor organizations to relinquish control of the West Lake landfill to the U.S. Army Corps of Engineers. The Army Corps of Engineers can implement remediation at its sole discretion, which could significantly increase Republic's liabilities for the site. This backgrounder details the timeline of events, regulatory agencies involved, and key developments that could drastically alter the future remediation efforts and the cost to Republic Services.

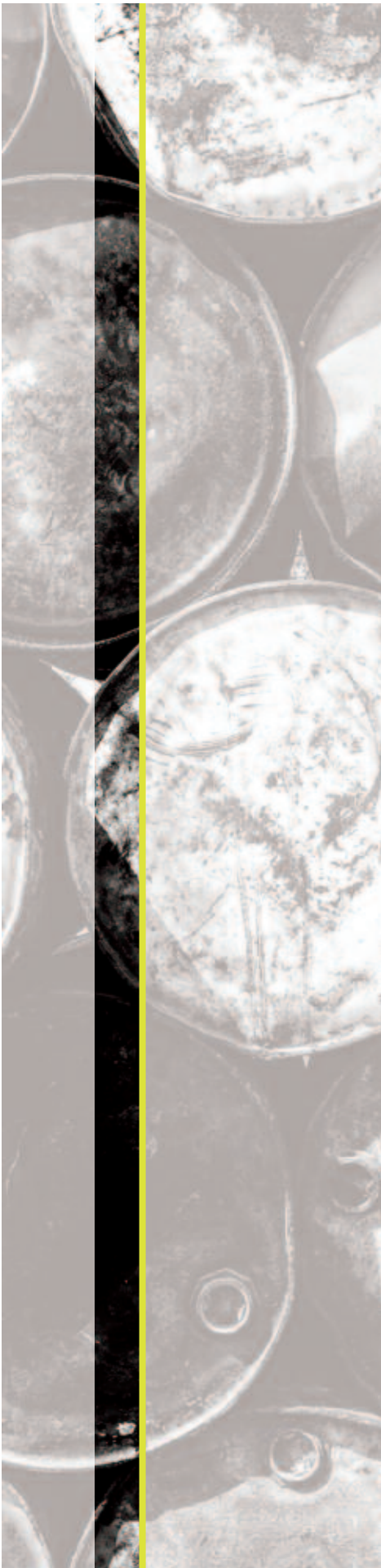
## Timeline

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**On December 23, 2010**, RSG sent an event report to MDNR to inform the agency of elevated temperatures and high hydrogen and carbon monoxide readings from its gas collection system in the Bridgeton landfill. These readings indicated the presence of a subsurface landfill fire,<sup>(1)</sup> though Republic Services prefers the innuendo “subsurface smoldering event.”<sup>(2)</sup> The Missouri DNR Solid Waste Management Program tasked Republic Services with “researching, designing and implementing actions to isolate the area with elevated temperatures in order to prevent expansion [of the subsurface landfill fire].” According to MDNR, Republic Services began “implementing a series of corrective actions” in **Spring 2011**. Despite these “corrective actions,” by **Spring 2012** new readings exceeded “expected levels” and nearby residents and businesses began complaining of an increase in odors from the landfill.<sup>(3)</sup> Additionally, the odors worsened,<sup>(4)</sup> and unsafe levels of benzene<sup>(5)</sup> and gamma radiation were found at the air sampling ports around the site perimeter.

**In February 2013**, over two years after Republic Services became aware of the landfill fire, the company finally indicated to its investors that it had a problem, noting in its annual report that it had experienced increased landfill operating expenses “primarily due to \$37.1 million of remediation charges” at a “closed disposal facility in Missouri.”<sup>(6)</sup>

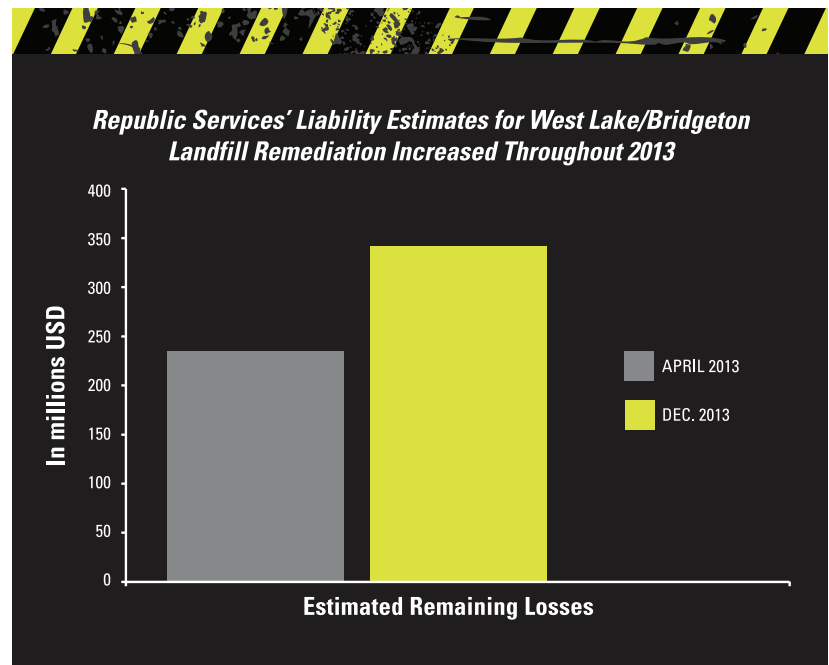
**In March 2013**, temperature measurements at the landfill continued to increase, reaching 310 degrees Fahrenheit at one sampling location.<sup>(7)</sup> MDNR requested legal action by the state's attorney general to “resolve

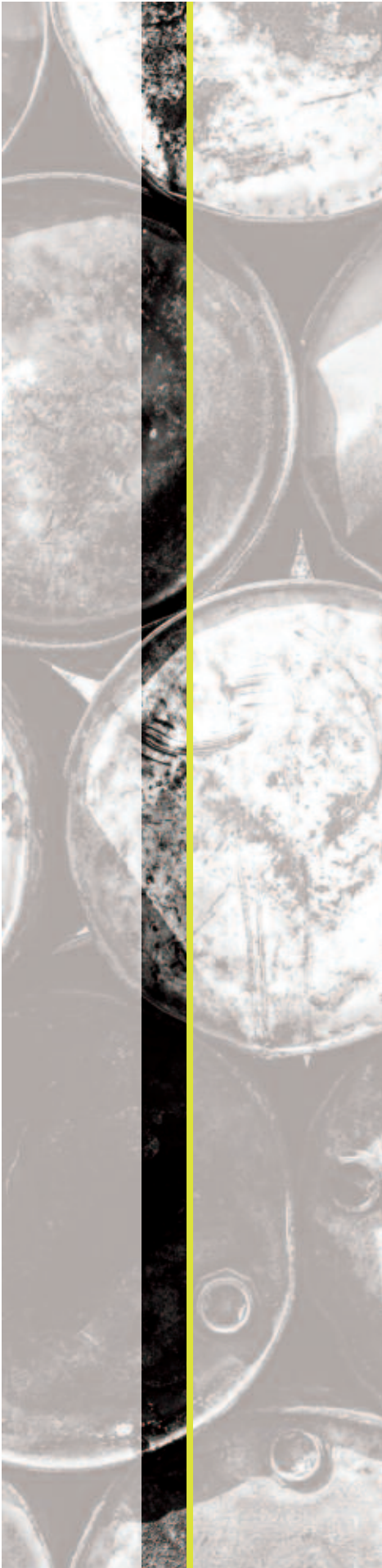


past, present, and future environmental violations.”<sup>(8)</sup> On March 27, Missouri Attorney General Chris Koster took up the case, filing a lawsuit against Republic Services, charging that the company was 1) causing a public nuisance, 2) burning solid waste at a sanitary landfill, 3) causing odor pollution, 4) exceeding methane gas limits, 5) causing pollution of waters of the state, 6) improperly handling hazardous waste, and 7) storing solid waste in a manner that violates the law, creates a public nuisance, and adversely affects public health. The suit also addressed natural resources damages and cost recovery, potentially seeking “tens of millions of dollars in civil penalties.”<sup>(9)</sup>

As Republic Services’ failures to respond and act promptly gathered increased public attention, the company finally disclosed the specific landfill location to investors in a quarterly report filed in **April 2013**, stating that it had “encountered environmental issues.” These unnamed “environmental issues” had so far recorded a charge of \$74.1 million for remediation and monitoring. Republic Services estimated that the remaining loss for remediation costs would be \$45 million to \$235 million.<sup>(10)</sup> In **May 2013**, Republic Services paid to relocate nearby residents during some remediation work, though once residents returned, they noted the smell was still “really bad.”<sup>(11)</sup>

**In June 2013**, RSG recorded remediation charges of \$108.7 million. Republic Services’ latest annual report estimates the remaining loss for remediation to be up to \$342 million.<sup>(12)</sup> The graph below illustrates how estimates of liabilities mounted throughout 2013.<sup>(13)</sup>





## Pressure Mounts to Transfer Control of Cleanup from the EPA to the U.S. Army Corps of Engineers

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- The Bridgeton City Council unanimously agreed that “control of the radioactive West Lake Landfill” should be “transferred from the EPA to the Army Corps of Engineers.”<sup>(14)</sup>
- On February 28, 2014, Missouri’s Congressional Delegation sent a letter to the EPA stating, “we believe that the Agency should work with the Army Corps of Engineers and its Formerly Utilized Sites Remedial Action Program (FUSRAP) operations in the St. Louis area.” Furthermore, the delegation “request[s] that the EPA consider contracting directly with the Corps to handle any and all remediation needed... [and] to determine the appropriate long-term remediation.”<sup>(15)</sup>
- Pattonville School District Superintendent Michael Fulton has requested that “West Lake Landfill be transferred from the jurisdiction of the Environmental Protection Agency to the U.S. Army Corps of Engineers.”<sup>(16)</sup>
- Attorney General Koster is under pressure to hold Republic Services accountable to the fullest extent of the law. The *St. Louis Dispatch-Post* urges, “Mr. Koster has the power to start hitting Republic Services in the pocketbook. He should use it.”<sup>(17)</sup>

## Spread of Radioactive Materials Worse than Expected

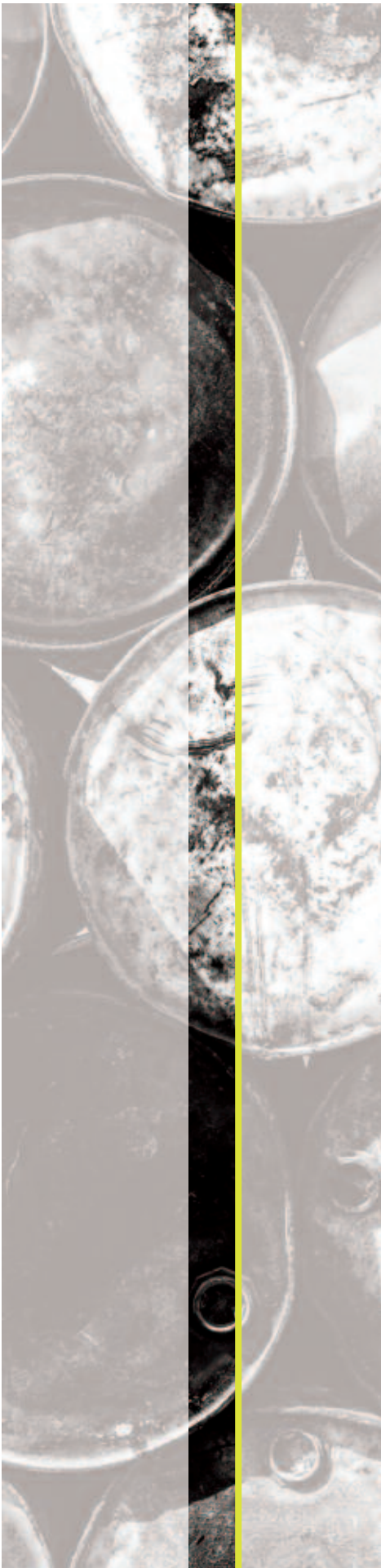
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“The entire West Lake / Bridgeton landfill complex was long-ago designated a Superfund site under federal control.” Last fall, the EPA ordered a comprehensive survey after radioactive material was newly found in parts of the landfill that were previously thought to be unaffected. Missouri Attorney General Koster’s review of Bridgeton over the last year has determined that the radioactive material “may be spread more widely than originally thought.” Koster states that “Republic and EPA must act aggressively to address this apparent relocation.”<sup>(18)</sup>

## EPA Retains U.S. Army Corps of Engineers to Construct Barrier Between Fire and Nuclear Waste

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In April 2014, Attorney General Koster announced “we are going to see a construction agreement entered into with the Army Corp of Engineers. We will see a construction order served upon Republic. We will see the beginning of on-site construction activity in early May 2014.”<sup>(19)</sup> The EPA has confirmed that it “intends soon to conclude an agreement with the United States Army Corps of Engineers to enlist Corps construction expertise for the isolation barrier to separate West Lake from the [fire].”<sup>(20)</sup>



## **Army Corp of Engineers Could Raise Costs for Republic Services**

As the *St. Louis Post-Dispatch* notes in its editorial on why the U.S. Army Corps FUSRAP program should control the site instead of the EPA: “Here's why the Corps of Engineers is a better idea: [Army Corps] doesn't have to ask the companies that will pay for a cleanup if a site needs it. If the corps determines that the site needs cleaning, it does it and then negotiates for payment with the parties responsible for the environmental hazard.” The editorial continues, “under the EPA's Superfund program, the financially responsible parties are largely in charge of site studies and of the final recommendation. If they disagree with the EPA's remedy or consider the cost unreasonable – and not surprisingly, they often do – they can sue to keep from cleaning up the site.”<sup>(21)</sup>

Robert Alvarez, a nuclear waste expert who served in the Department of Energy in the Clinton Administration agrees: “the EPA is unable to take an aggressive stand on removing the nuclear waste, because it lacks the regulatory authority to take action without drawing a lawsuit from the responsible parties.” The Army Corps of Engineers, on the other hand, “could order the removal without getting entangled in a lawsuit that could ‘drag on for years.’”<sup>(22)</sup>

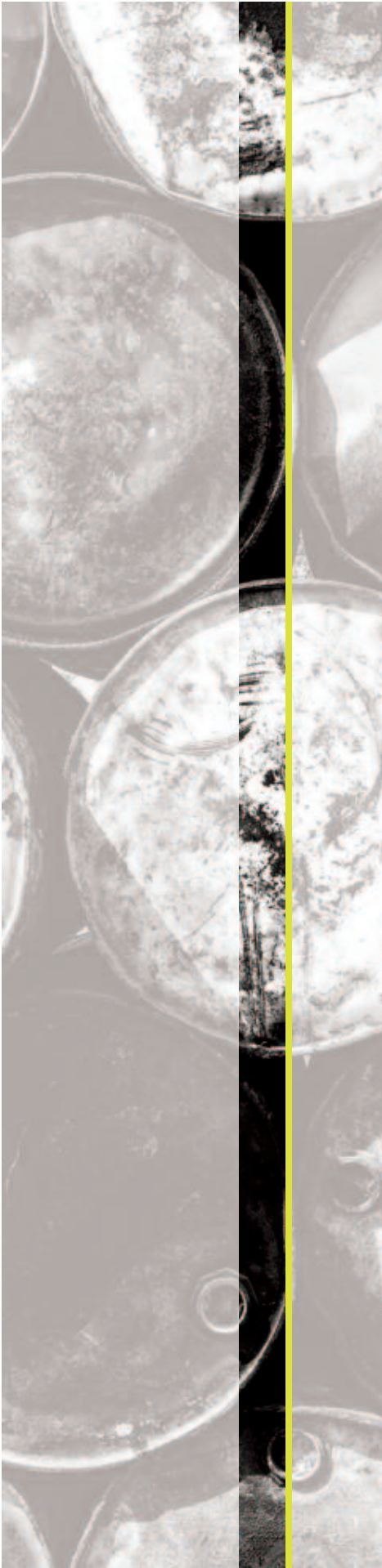
## **Desperate Measures: Republic Services Impersonates EPA**

EPA received reports that out-of-state residents were receiving calls from a group who “claim[ed] to be representing EPA.” In fact, the EPA determined the calls were from the Republic Services front group, the Coalition to Keep Us Safe.<sup>(23)</sup> This tactic, however, seems to have failed to sway public opinion. “People in St. Louis County think the calls are intended to increase opposition to moving the waste across Missouri en route to licensed disposal sites in other parts of the country. Could this be a way to get support for the 2008 EPA decision to leave the waste in Bridgeton?”<sup>(24)</sup>

Republic claims that it wants to “help the public understand the risks associated with excavating and transporting nuclear material across the state. A consideration of such risks are [sic] part of a public conversation that some opposition groups seem determined to stifle.” Republic Services did not clarify why it chose to represent itself as the EPA.<sup>(25)</sup>

## **Republic Services Lobbyists Working Overtime: Industry-Backed “Schaefer Amendment” Would Strip Victims of Their Rights to Sue**

Missouri Senator Kurt Schaefer – whose legal firm works for Republic Services – has amended a senate bill that aims to clean up St. Louis neighborhoods. The amendment adds protection against “certain claims against abandoned or damaged properties if the property was in ‘good



faith compliance' with an order issued by the Missouri Department of Natural Resources, the U.S. Environmental Protection Agency or the office of the attorney general." The media and public have connected the Schaefer Amendment to Republic Services and have noted the attempt to "shield" the Bridgeton landfill from "lawsuits by citizens."<sup>(26)</sup>

## Burning Questions

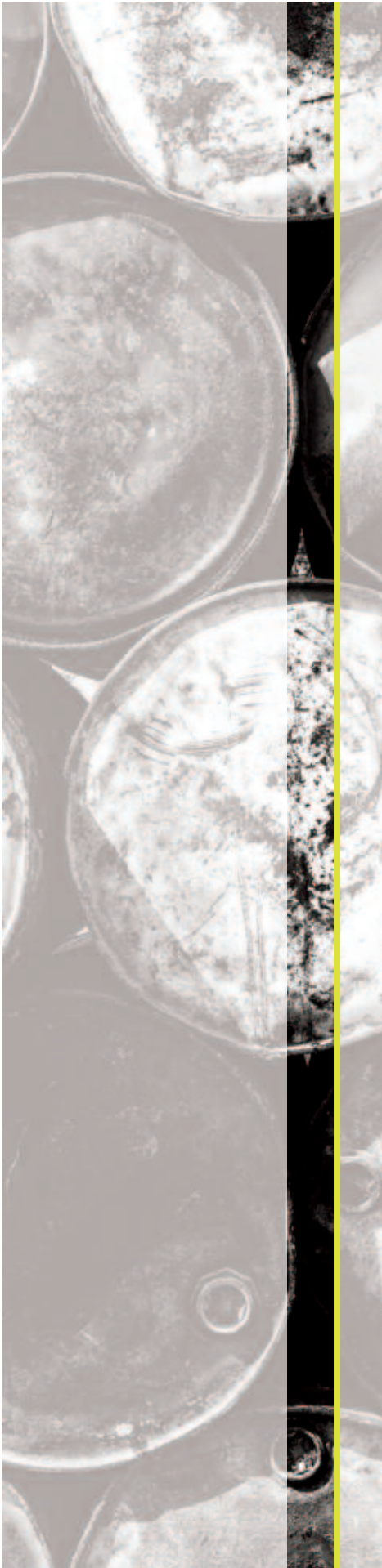
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**How much more will Republic Services' liabilities mount?** As Republic has dragged its feet, setting up a front group and rallying for the EPA's outdated remediation plans – which a new EPA analysis suggests would be ineffective in the event the fire reaches the radioactive material<sup>(27)</sup> – investors have seen Republic Services' conservative estimate of liabilities skyrocket. If Republic Services is satisfied that it knows how to fix the problem and has taken all the charges it needs to – and has disclosed the costs to investors – then why is it funding a front group? Will Republic Services' track record at Bridgeton discourage other municipalities from entering into contracts with the company?

**How much worse will the landfill fire get?** With each delay, the problem has worsened and public support for intervention has soared, creating additional, undisclosed risks and tainting the company's reputation. Republic Services Lindshould commit itself to fixing this problem in cooperation with all involved authorities as expediently as possible. Experience has demonstrated that more delays will equal more liabilities. How many other Bridgetons are there? Republic Services is no stranger to subsurface landfill fires<sup>(28)</sup> or radioactive wastes.<sup>(29)</sup> How many other landfill fires is the company quietly trying to put out before it admits the problem is out of hand? We need answers.

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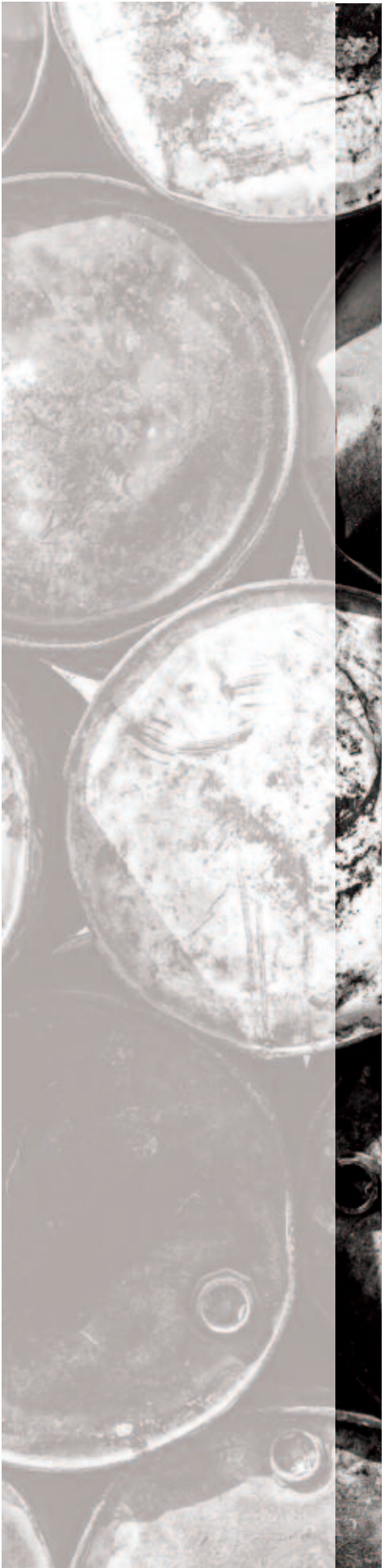
*With 1.4 million members, the International Brotherhood of Teamsters (IBT) is the leading labor union representing workers in the waste industry. In the interests of our members – frontline waste collection workers who are the first to be harmed by Republic Services' failure to take proper corrective action – the IBT has joined with local community activists and the greater St. Louis region to challenge Republic Services to do right by the local Bridgeton community and protect the jobs of our hard-working members by expediting cleanup. Delays and distractions by Republic Services increase the company's liabilities for remediation and threaten the long term sustainability of the company and the jobs of its employees.*



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