specter of potential Superfund liability. But while the banking community overall embraced the plan, it would not implement it until the city had received EPA's assurance that it would not take over the site, negotiated firm agreements with KDHE and Coleman, and pushed through the changes in state law necessary to allow tax increment financing to be used for a long-term project.

Final Negotiations

Getting EPA's backing was easier than the city had expected. Cherches proposed that Wichita would follow all the usual EPA steps and requirements in cleaning up Gilbert-Mosley, but with KDHE acting as the primary oversight agency. Throughout the process, the city would report regularly to EPA on its progress. Although the city had expected some opposition, EPA actually had a great deal to gain and very little to lose: If the city succeeded, the agency could declare a victory with minimal expense or effort on its part. Conversely, if the plan failed, there was nothing to keep EPA from stepping in and implementing Superfund. After just one meeting in late November, Morris Kay, director of EPA's four-state Region VII, agreed in principle to support both the city-led plan and the state's offer to oversee the process. Although there was no written agreement guaranteeing that EPA would not intervene, Kay assured the city that as long as it was operating according to agency requirements, it would not intercede.

With EPA's support secure, the city still faced a major legislative challenge. A Kansas state law designed to ensure fiscal responsibility, the Cash Basis and Budget law, would not let local government commit operating revenues beyond one year. Wichita needed an exception to that law, and an amendment to TIF law, in order to be able to commit funds raised from a TIF district to a long-term environmental cleanup. Without the changes, the city would be unable to contract with KDHE to take on and finance what could be a 20-year effort.

Getting legislative approval of the TIF bill promised to be a struggle. The Cash Basis law was, in Cherches's words, a "sacred cow" that the legislature was loathe to touch. In addition, the traditional antagonism that existed between urban Wichita and the largely rural legislature was certain to complicate the bill's chances for passage. The city had to dispel the impression that its plan might be geared in Coleman's favor, a difficult task with the company's liability agreement still in negotiation. Moreover, because Kansas's part-time legislature met only from January through April, the city had a limited window of opportunity to prove the merits of its plan.

Wichita's credibility wasn't helped in March when both the county assessor and the state property valuation director declared unworkable the city's original proposal to establish a tax increment by first lowering and then raising assessed property values. In its place, three Sedgwick County legislators responsible for reviewing the TIF bill worked with the city to craft a new amendment that allowed municipalities in the state that met narrowly defined requirements to earmark 20 percent of a specially created TIF district's base year property taxes, on an annual basis, for environmental cleanups. If the bill passed, Wichita would be able to reserve up to 20 percent of the first year's Gilbert-Mosley property tax revenues to use for groundwater cleanup each year, for the next 20 years.

On March 26, Wichita signed a consent decree with KDHE, spelling out the city's responsibilities, what KDHE's oversight obligations would be, and how the Certificate and Release program would work. But the major obstacle to legislative approval, the Coleman agreement, was not resolved until April 23, slightly more than a week before the legislature adjourned. The agreement divided the contaminated site into three zones: Coleman agreed to pay all cleanup costs for the area where it was the main polluter; it would split costs with the city in a second area where it was a contributor to contamination; and the city would be responsible for cleanup and cost recovery in the final area, where most of the pollution came from other sources. In addition, the camping equipment manufacturer agreed to pay $1 million for the initial Remedial Investigation/Feasibility Study required by EPA.

Although Special Assistant Glaser had expected the Coleman negotiations to be perhaps the biggest barrier to settlement, the manufacturer actually had good cause to settle. The agreement allowed Coleman to convey a responsible civic and environmental image, an important consideration for a maker of outdoor equipment. In addition, if Gilbert-Mosley had become a Superfund site, Coleman would have faced substantially higher costs, and would have been left vulnerable to almost endless third-party lawsuits. In fact, Coleman had already been sued by property owners seeking damages due to contamination-related declines in property values. "I feel we got a pretty good deal from Coleman," said city attorney Thomas Powell. "They needed it as badly as we did."

One week after the Coleman agreement was signed, the Kansas legislature approved the TIF bill, and