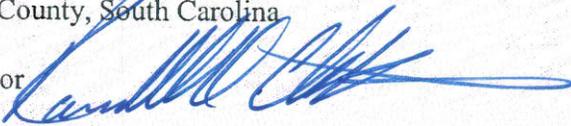




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MEMORANDUM

SUBJECT: Region 4 Request for Concurrence on Proposed Nationally Significant or Precedent Setting Removal Action at the US Finishing-Cone Mills Site Greenville, Greenville County, South Carolina

FROM: *for* Franklin E. Hill, Director
Superfund Division 

TO: Lawrence Stanton, Director
Office of Emergency Management

This memorandum requests your concurrence on the attached Region 4 draft Action Memorandum for a removal action at the US Finishing-Cone Mills Site located in Greenville, Greenville County, South Carolina. The proposed Action Memorandum is considered nationally significant or precedent setting because the proposed action mitigates friable asbestos as the principle contaminant of concern.

My staff has discussed this proposed removal action with your staff in the Program Operations and Coordination Division, Office of Emergency Management. The Action Memorandum is attached for your review.

Attachment

Concur:



Lawrence Stanton, Director
Office of Emergency Management

Sept. 13, 2011

Date

Non-Concur:

Lawrence Stanton, Director
Office of Emergency Management

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

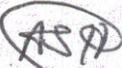
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ACTION MEMORANDUM

SUBJECT: Request Ceiling Increase, Exemption from the Twelve-Month Statutory Limit and \$2 Million Exemption for Time-Critical Removal Action at the US Finishing/Cone Mills Site, Greenville, Greenville County, South Carolina

FROM: Leo Francendese, On-Scene Coordinator
Emergency Response and Removal Branch

TO: Franklin E. Hill, Director
Superfund Division

THRU: Shane Hitchcock, Chief 
Emergency Response and Removal Branch

Site ID: A4DD

I. PURPOSE

The purpose of this Action Memorandum is to request additional funding and an emergency exemption from both the twelve-month and \$2,000,000 statutory limit for a removal action at the US Finishing/Cone Mills Site (Site) located in Greenville, Greenville County, South Carolina. The Site continues to pose a threat to public health and the environment that meets the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) section 300.415(b) criteria for removal actions. Site activities were commenced under the attached Emergency Action Memorandum signed August 18, 2011. A ceiling increase is needed in order to continue activities at the Site and to further mitigate the threats to human health, welfare and the environment. If approved, this ceiling increase will bring the total project ceiling to \$3,872,000 of which \$3,020,000 will be funded through the Regional Removal Allowance.

II. SITE CONDITIONS AND BACKGROUND INFORMATION

CERCLIS ID: SCD003358744

Removal Category: Time-Critical Removal Action

A. Site Description

1. Removal Site Evaluation

The Site was referred to the U.S. Environmental Protection Agency Region 4 Emergency Response and Removal Branch (ERRB) by the Region 4 Remedial Program for a Removal Site Evaluation (RSE) on May 20, 2011, as part of EPA's Integrated Cleanup Initiative (ICI). The Site was proposed for the National Priorities List on March 11, 2011.

The initial phase of the RSE encompassed the review of 30 years of data and actions taken and production of a comprehensive database with visual representation that will enable users (as appropriate) to query the complete database for specific needs during the future remedial investigation (RI) and/or removal action.

The On-Scene Coordinator (OSC) conducted a Removal Site Inspection (RSI) with the Remedial Project Manager (RPM) and representatives of the EPA Technical Services Section (TSS), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Superfund Technical Assessment and Response Team (START) on August 9, 2011. On August 9, 2011, START collected surface water samples from three locations at the aeration lagoon, one location at the reservoir, and one location at the wastewater treatment plant. Paint chip samples were collected from inside the water treatment station building and from inside the main plant building. Abandoned drums and small containers were noted during the RSI, as well as the dilapidated condition of the fire damaged facility. Extensive amounts of asbestos were observed in the fire damaged portion of the facility.

The OSC initiated an emergency removal action at the Site on August 9, 2011 to secure the Site via fencing and signage as well as contain and ultimately dispose of abandoned drums and small containers.

The RSE recommends that further action be taken by the Removal Program to address the risk presented by an ongoing release or threat of release of asbestos to the environment.

2. Physical Location

The former US Finishing/Cone Mills Site is located at 3555 Old Buncombe Road, approximately 3 miles north of downtown Greenville, South Carolina. The central portion of the facility is situated at 34° 52' 59.852" North latitude and 82° 25' 34.69" West longitude. The property is roughly shaped like a 'V' and is approximately bounded by the Reedy River to the west and by Langston Creek and Highway 253 to the east. Within the 'V' exists a residential neighborhood that was formerly mill worker housing. Two reservoirs utilized by the facility are located to the north (the former Northern Reservoir) and northwest of the residential area (the former Northwestern Reservoir). Lakeview Middle School is adjacent to the former Northern Reservoir.

3. Site Characteristics

The facility was constructed in 1903 as a textile bleaching and finishing facility and was operational until November 2003 when the main plant was partially destroyed by fire. The main portion of the facility lies east of the Reedy River and west of Langston Creek, approximately three miles north of downtown Greenville, Greenville County, South Carolina. The property on which the main facility is located is bordered to the east by Highway 253, to the west by a residential neighborhood originally constructed to house Union Bleachery employees, to the north by Old Buncombe Road, and to the south (across the Reedy River) by a residential neighborhood. Two reservoirs utilized by the facility during the operational period are located northeast of Buncombe Road (the former Northern Reservoir) and northwest of the residential area (the Northwestern Reservoir). The former Northern Reservoir is bordered to the northwest and southeast by residential property, to the northeast by woodlands and to the west by Old Buncombe Road. Lakeview Middle School is located directly across Old Buncombe Road from the former Northern Reservoir.

The main portion of the 259-acre facility property is comprised of three main buildings:

- an approximately 400,000 square feet (ft²) industrial building that includes a basement and two floors partially destroyed by a 2003 fire;
- a warehouse, referred to as the Grey Warehouse; and
- the former groundwater remediation plant.

The facility property also contains 10 smaller, ancillary buildings. The main facility property is fenced; however, the fence has not been maintained and evidence of unrestricted access has been observed.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

A fire destroyed much of the facility in 2003. Based on both RSI observation and historical analytical data, the remaining fire related debris and dilapidated fire damaged structures contain substantial amounts of friable asbestos that provide a source of continuous release or threat of release to the environment.

Asbestos is a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 101 (14).

5. NPL Status

This Site has been proposed for listing on the NPL and is expected to be finalized for listing in late 2011.

6. Maps, pictures and other graphical representations

Maps, pictures and other graphics are available upon request.

B. Other Actions to Date

The Site was referred to the EPA Removal Program by the Region 4 Remedial Program for a Removal Site Evaluation on May 20, 2011. Historical information pertaining to the above Site can be found at http://www.epaosc.org/site/site_profile.aspx?site_id=6944 in the documents section as well as a database viewer at <http://www.usfinishing-conemills.com/>. The following is a brief history within the context of past business development, ownership and environmental enforcement.

In 1890, the brothers Moses and Caesar Cone formed the Cone Export & Commission Company of Greensboro, North Carolina with offices at 61 Worth St. New York City, New York. Among the Greensboro group of mills founded by the Cone Brothers was the White Oak Mills. Construction of the facility began in 1903 and was completed in 1905.

Operational details from 1903 through 1957 were not available to the OSC although it is known that the White Oak Mill (facility) was expanded on several occasions. In 1947, it was sold to the Aspinook Corporation and, in 1957, to the Cone Mills Corporation (Cone Mills). Cone Mills operated the facility until 1984 under the name Union Bleachery. American Fast Print, Ltd. (AFP) purchased the facility in May 1984 and operated it until November 2003 under the name US Finishing when the main plant was partially destroyed by fire. AFP is the current property owner of a large portion of the facility. In July 2004, Piper Properties purchased approximately 19 acres along the Reedy River from Cone Mills. The facility property is currently in temporary receivership.

The White Oak Mills is the subject of the Remedial Program's referral and is referred to in this document as the 259-acre US Finishing/Cone Mills Site (or Site).

The following description is a chronological summary of environmental enforcement:

- In November 1980, Cone Mills submitted a Hazardous Waste Permit Application.
- In 1981, Cone Mills submitted a Notification of Hazardous Waste Site to EPA Region 4.
- From 1981 thru 1984, investigations required under South Carolina Department of Health and Environmental Control (SCDHEC) oversight documented chromium contamination in Langston Creek and in groundwater beneath the main facility plant. SCDHEC entered into a Consent Decree with Cone Mills and AFP. The Consent Decree required continued recovery and treatment of contaminated groundwater.
- In December 1985, SCDHEC completed a Preliminary Assessment (PA) for the Site documenting chromium in groundwater.
- AFP conducted a Remedial Investigation (RI) from August 1990 to June 1991. Extensive contamination (metals and organics) was documented in groundwater and in sludge pits, the aeration lagoon, the Reedy River floodplain dump, and the main plant's basement and within chromium and caustic storage areas.
- In June 1993, the SCDHEC Site Screening Section completed a Site Investigation (SI) for the Site. The Site was assigned a medium priority under CERCLA. Enforcement strategy focused on the potentially responsible parties (PRP) conducting remediation efforts.

- As part of a 1993 Settlement Agreement, Cone Mills conducted contaminated soils removal between 1993 and 1999 of approximately:
 - 3,500 tons of hydrocarbons affected soil
 - 7,000 tons of chromium affected soil and
 - 3,000 tons of caustic affected soil.
- A fire in November 2003 destroyed much of the main facility. Fifteen to 25 million gallons of fire suppression water containing unknown constituents from the facility was released to Langston Creek and the Reedy River.
- Due to an impending bankruptcy, Cone Mills removed the groundwater recovery and treatment system from operation in June 2004, after 20 years of operation. In 2004, SCDHEC completed an Expanded Site Inspection (ESI) for the Site. Based on the elevated metals findings of the ESI, the facility was given a high priority for further action.
- Removal activities were performed at the facility between October and December 2004, by contractors for AFP (US Finishing). Soil removal activities were conducted at:
 - SW corner of main plant
 - Sediments from the maintenance shop
 - Soils adjacent to an elevated railroad bed
 - Brine pit contents
 - Former water treatment basin contents
- In April 2005, SCDHEC conducted site assessment activities to further evaluate the potential threat to human health and the environment.
- In June 2005, SCDHEC conducted an ESI Update sampling event.
- AFP, Duke Energy Corporation, and Piper Properties of Greenville, Limited Liability Corporation (Piper Properties entered into a settlement agreement with SCDHEC in November 2006. Duke Energy conducted removal of PCB contaminated sources.
- In May 2008, SCDHEC petitioned the court to appoint a temporary receiver for property owned by AFP. SCDHEC petitioned the court to appoint a temporary receiver for Piper Properties in April 2009.
- In March 2011, the EPA proposed the Site for the NPL on the strength of the surface migration pathway.
- In May 2011, the EPA's Remedial Program referred the Site to the Removal Program for an RSE and is part of the Agency's Integrated Cleanup Initiative (ICI).

C. State and Local Authorities' Roles

1. State and local actions to date

The previous section provides a timeline of actions taken by the State and local authorities dating back to 1980. SCDHEC petitioned the court to appoint a temporary receiver for the property in 2009. In 2011, the State supported the proposed listing of the Site on the NPL.

2. Potential for continued State/local response

The SCDHEC has indicated that it does not currently have sufficient funds to conduct necessary response measures in a time-critical manner. EPA will continue to coordinate activities with SCDHEC.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR TO THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The OSC initiated an emergency response under his delegated warrant authority on August 9, 2011, to secure the release or threatened release from abandoned drums and containers, which were suspected to contain hazardous substances (chloroanilines, unknown solids in a swollen drum and waste oils), as well as secure the Site to discourage unauthorized public access. Substantial amounts of asbestos containing material are visible in the fire damaged facility. The facility has been posted by the local authorities as a "structure unsafe for human occupancy or use." Despite the posting, significant evidence of trespasser activity is present at the Site.

Section 300.415 of the NCP lists the factors to be considered in determining the appropriateness of a removal action. Paragraphs (b)(2)(i),(iii),(v), and (vii) directly apply to the Site:

300.415(b)(2)(i): Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants.

The 2003 fire caused the collapse of a large section of the roof of the main plant building. This damage resulted in a significant portion of the building being totally open to the environment. Large debris piles in this portion of the collapsed building contain visible evidence of asbestos. In addition, asbestos containing materials exist throughout the remainder of the dilapidated structure. Visible evidence suggests that trespassers have/are actively scavenging the building. Such trespassers run the risk of being exposed to hazardous substances and/or carry out activities (e.g. demolition) that could lead to off-site migration of hazardous substances. The fence is in disrepair despite the local authorities posting that the "structure is unsafe for human occupancy or use."

300.415(b)(2)(iii): Hazardous substances/pollutants/contaminants in containers which may pose a threat.

Various abandoned drums and containers suspected of containing hazardous substances (chloroanilines, unknown solids in a swollen drum and waste oils) were identified as part of the RSI.

300.415(b)(2)(v): Weather conditions may cause hazardous substance or pollutants/contaminants to migrate or be released.

The facility is in a significant state of structural decline. A combination of structural failures (collapse) and wind dispersion have the likely potential to release asbestos into the environment. In addition, it is likely that significant storm events provide a threat of surface water migration of debris containing hazardous substances.

300.415 (b)(2)(vii): The availability of other appropriate Federal or State response mechanisms to respond to the release.

At this time, there are no federal or state government mechanisms that are able to respond to this incident in a timely manner and with the resources needed to assume the cleanup.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances and/or pollutants from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

A. Emergency Exemption

1. There is an immediate risk to public health or welfare at the Site.

The condition of the Site continues to present an imminent and substantial risk to public health. Significant debris piles from the fire along with a high percent level friable asbestos present within the dilapidated structure continues to present a release of hazardous substance to the environment and a threat to the public health. The following table is a preliminary evaluation of the debris categories. Due to the unstable nature of the damaged structures, it is very likely that the structures in question will have to be completely demolished as part of the execution of this removal action.

The following image and tables provide a summary of areas that are expected to be demolished, potential waste streams and volume estimates, and potential on-site disposal locations:



US FINISHING CONE MILLS
DRAFT 06.16.2011

Data Source:
Aerial Photography (FEB 2011) - City of Greenville
All other - Digitized by AEROSTAR based on aerial photography

VI. RESPONSE ACTIONS AND ESTIMATE COSTS

A. Response Actions

1. Action description

During the initial emergency response on August 9, 2011, abandoned drums and containers were secured, the perimeter fence was repaired, and additional signage was installed to minimize risks at the Site. The RSE recommendation is to execute the removal friable asbestos remaining within the damaged section of the facility. It is likely that complete demolition of portions of the overall structure will be required in order to safely perform the work. The OSC has been coordinating with the remedial program and the state during the scoping of this action and it is the expectation that an interim storage area will be constructed onsite for this material.

The requested additional funding outlined in this Action Memorandum will support operations to demolish the remaining asbestos containing structures on the Site and on-site containment of the asbestos waste. The new scope of work will include the following actions:

- Demolish the remaining structures identified with containing friable asbestos and consolidate the debris on-site;
- Consolidation of remaining friable asbestos in a pre-designated landfill area as well as the appropriate handling and possible landfilling of the other wastestreams generated;
- Continue air monitoring measures and decontamination protocols necessary on all asbestos abatements;
- Continue to provide Site security during non-working hours;
- Continue to coordinate all site removal activities with state and local officials and other EPA programs (remedial program); and
- Refer the Site control back to the remedial program following completion of the response and removal action.

2. Contribution to remedial performance

The response actions will, to the extent practicable, contribute to the efficient performance of any long-term remedial action at the Site.

3. Engineering Evaluation and Cost Analysis (EE/CA)

This removal action is time-critical and does not require an EE/CA.

4. Applicable or Relevant Appropriate Requirements (ARARs)

On-site removal actions conducted under CERCLA are required to attain ARARs to the extent practicable, considering the exigencies of the situation. Off-Site removal activities need only comply with all applicable federal and state laws, unless there is an emergency. This cleanup is being conducted as a removal action.

A letter to the State of South Carolina requesting identification of State ARARs will be sent immediately following approval of this Action Memorandum. The OSC will continue to coordinate with State officials to identify State ARARs and will evaluate such ARARs in accordance with the NCP.

All waste transferred off-site will comply with the CERCLA Off-Site Rule (40 CFR 300.440).

5. Project Schedule

The removal action began on August 9, 2011, with the initiation of an emergency response under the OSC's warrant authority. Foregoing unexpected delays, all construction-based actions are expected to be complete between six months to one year of the date of approval of this Action Memorandum. Additional time will likely be required beyond one year for transition from removal lead to remedial lead concerning database management. The estimate is given in order to account for unaccounted difficulties in demolition and separation execution as well as determining suitable on-site landfill locations and construction specifications.

B. Estimated Costs

Extramural Costs:	Current Ceiling	Proposed Increase	Proposed Ceiling
Regional Allowance Costs:			
ERRS	20,000	3,000,000	3,020,000
Non-Regional Allowance Costs:			
START	75,000	175,000	250,000
USCG Strike Team		100,000	100,000
EPA ERT		100,000	100,000
DOI BOR		50,000	50,000
Subtotal, Extramural Costs:	95,000	3,425,000	3,520,000
10% Contingency:	9,500	342,500	352,000
TOTAL EXTRAMURAL COSTS:	104,500	3,767,500	3,872,000
TOTAL SITE CEILING:	104,500	3,767,500	3,872,000

VII. EXPECTED CHANGE IN THE SITUATION SHOULD THE ACTION BE DELAYED OR NOT TAKEN

Actual or threatened releases of hazardous substances from this Site, if not addressed by the response action selected in this Action Memorandum, present an imminent and substantial endangerment to public health, welfare, or the environment.

VIII. OUTSTANDING POLICY ISSUES

While this response does not set a precedent, it is considered nationally significant based on EPA's policy regarding CERCLA actions at asbestos sites. Headquarters concurrence with this Action Memorandum is attached.

This Site has also been identified by EPA Region 4 as a Site that is functionally operating under the Agency's Integrated Cleanup Initiative.

IX. ENFORCEMENT

Enforcement activities have been initiated and are ongoing. Please see the attached Enforcement Addendum (Enforcement Sensitive) for further information regarding enforcement activities.

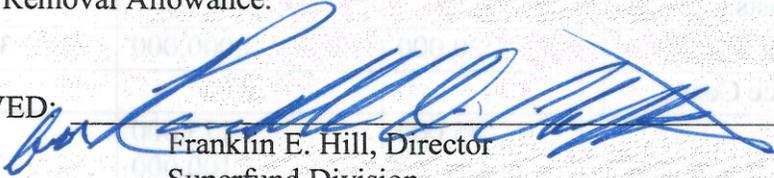
The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$3,872,000 using the following formula: (Total Extramural Costs + Total Intramural Costs) + (45.26% x (Total Extramural Costs + Total Intramural Costs)) or (\$3,872,000) + (45.26% x (\$3,872,000)) = \$5,624,467.¹

X. RECOMMENDATION

This decision document represents the selected removal action for the US Finishing/Cone Mills Site in Greenville, Greenville County, South Carolina developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

Conditions at the Site continue to meet the NCP Section 300.415(b) criteria for a removal and the CERCLA Section 104(c) emergency exemption from the \$2 million and twelve-month limitation. I recommend your approval for the proposed action to allow continued removal response. The total project ceiling, if approved, will be \$3,872,000 of which an estimated \$3,020,000 comes from the Regional Removal Allowance.

APPROVED: _____


Franklin E. Hill, Director
Superfund Division

Date: _____

9/1/11

DISAPPROVED: _____

Franklin E. Hill, Director
Superfund Division

Date: _____

Attachments:

- Removal Site Inspection/Emergency Response Letter Report
- Removal Site Evaluation Recommendations Memo
- Emergency Response Action Memorandum (August 18, 2011 Initial POLREP)
- Enforcement Addendum

¹ Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

ENFORCEMENT ADDENDUM

U.S. FINISHING / CONE MILLS SUPERFUND SITE

The US Finishing/Cone Mills Superfund Site (Site) is located at 3555 Old Buncombe Road approximately 3 miles north of downtown Greenville, SC. Since 1903, the Site has been owned and operated by various textile companies. In 1947, the facility was sold to the Aspinook Corporation and, in 1957, to the Cone Mills Corporation (Cone Mills). Cone Mills operated the facility until 1984 under the name Union Bleachery. American Fast Print, Ltd. purchased the facility in May 1984 and operated until November 2003 under the name US Finishing until the main plant was partially destroyed by fire. American Fast Print, Ltd. is the current property owner of a large portion of the facility. In July 2004, Piper Properties purchased approximately 19 acres along the Reedy River from Cone Mills. The facility property is currently in temporary receivership.

In 2004, SCDHEC completed an Expanded Site Inspection (ESI) for the Cone Mills Union Bleachery facility. Based on the elevated metals findings of the ESI, the facility was given a high priority for further action. In April 2005, SCDHEC conducted site assessment activities to further evaluate the potential threat to human health and the environment.

In May 2011, the EPA's Remedial Program referred the site to the Removal Program for an RSE and is part of the Agency's Integrated Cleanup Initiative (ICI). As of March 2011, the site has been proposed for the National Priorities List (NPL) with likely listing on the NPL by September 2011.

The Potentially Responsible Party (PRP) search activities discussed below began in July 2010 and are ongoing.

I. Potentially Liable Parties

1. PRP Search

In July, 2010, EPA's Civil Investigator (CI) initiated a PRP investigation for the Site. EPA tasked Toeroek Associates, Inc. to conduct the PRP search. EPA submitted a Freedom of Information Act (FOIA) Request to the South Carolina Department of Health and Environmental Control (SCDHEC) on August 9, 2010 to obtain site records. EPA traveled to the site area in October 2010 and collected all relevant records. SCDHEC provided documents of interest from the Bureau of Water Pollution & Control, the Bureau of Land & Waste Management, the Bureau of Air Quality, the Bureau of Water Pollution & Control, the Register of Deeds Office, and the Tax Collector's Office. The records were provided to Toeroek for review.

On October 20, 1902, Fannie P. Beattie, Emilie E. Beattie, and Perry Beattie, conveyed the site property and more to The Union Bleaching and Finishing Company by deed. This 64.55-acre tract comprised a portion of the property on which The Union Bleaching and Finishing Company operated. Because historical plats are not available, it is unclear which portion of the modern day site property is contained in this tract. This deed is recorded in the Greenville County Register of Deeds Office, Deed Book HHH, Page 491 (GCRD 00002).

On October 20, 1902, William F. Thackston conveyed the site property and more to The Union Bleaching and Finishing Company by deed. This 101.28-acre tract comprised a portion of the property on which The Union Bleaching and Finishing Company operated. Because historical plats are not available, it is unclear which portion of the modern day site property is contained in this tract.

On July 1, 1922, The Union Bleaching and Finishing Company conveyed the site property and more to Union Bleachery. Included in this conveyance were the 64.55-acre and 101.28-acre tracts, containing the site property, which the Company previously obtained. This conveyance included all the water and flowage rights, easements, rights of reverter, and other interests in the land.

On July 31, 1947, Union Bleachery conveyed the site property and more to The Aspinook Corporation, The Lawrence Print Works, Inc., and Arnold Print Works, Inc. The Board of Directors of Union Bleachery adopted resolutions on June 2, 1947, which approved the dissolution of the company and the distribution of its assets in liquidation to its stockholders. All outstanding shares of the capital stock of Union Bleachery were owned jointly by The Aspinook Corporation, The Lawrence Print Works, Inc., and Arnold Print Works, Inc. This deed was intended to vest all of the real estate, leasehold interests, easements, remainders, rights of reverter and of re-entry and any and all other interests held by the grantor to the grantee. Also included were all buildings (e.g. main building, warehouses, garages, tenant houses and sulfuric acid mixing house), side tracks, spur tracks, water filter plants, water softening plants, pumping stations, storage tanks, central heating, water distribution, and fire protection systems, and all other fixtures and structures on the real estate.

On July 19, 1950, The Aspinook Corporation, The Lawrence Print Works, Inc., and Arnold Print Works, Inc., entered into a Consolidation Agreement. The three entities became consolidated into a resultant corporation known as The Aspinook Corporation. This Agreement had the effect of vesting in The Aspinook Corporation the title to all property of the consolidating corporations.

On March 31, 1952, The Aspinook Corporation conveyed the site property and more to Cone Mills Corporation by deed. The site property is included in Tract No. 1 of this conveyance. This conveyance included all reversionary interests, remainders and rights of reverter and of entry and re-entry in or to any and all real property; all easements, leases, and leasehold interests and rights therein owned or vested in the grantor. Also included were all buildings (including main building, warehouses, garages, tenant houses and sulphuric acid mixing house), water filter plants, water softening plants, pumping stations, storage tanks, central heating and fire protection systems, and all other fixtures and structures on the real estate.

On May 11, 1984, Cone Mills conveyed the site property and more to American Fast Print Limited (a United Kingdom Corporation) by deed. This conveyance contained 259.41 acres and included all flood rights, reversionary interests, remainders and rights of reverter, and of entry and re-entry in or to any and all real property of the grantor. It also included all easements, leases, and leasehold interests and rights therein of the grantor. Also included were all buildings (including main building, warehouses, garages, tenant houses and sulphuric acid mixing house), water filter plants, water softening plants, pumping stations, storage tanks, central heating and fire protection systems, and all other fixtures and structures on the real estate.

On December 31, 1986, American Fast Print Limited, a United Kingdom corporation, released the site property and more to American Fast Print Limited (U.S.) by deed. The deed was filed on February 4, 1987, which is the date listed on the property card information. This deed represented a transfer of property from American Fast Print Limited (U.K.), a wholly owned subsidiary of American Fast Print Limited (U.S.), to the parent corporation; it was not a sale of property. The site property is included in Tract 2, which contains seven parcels totaling 257.033 acres. The conveyance was subject to all recorded easements, rights of way, and restrictions affecting the property. According to this document, the conveyance is subject to three mortgages, totaling \$5,253,565, on the property.

2. PRP Liability and Financial Status

A. American Fast Print Limited (U.S.) (a/k/a U.S. Finishing)

On May 11, 1984, American Fast Print Limited (a United Kingdom corporation) purchased the site property and continued to operate the facility under the name U.S. Finishing. On December 31, 1986, American Fast Print Limited, a United Kingdom corporation, transferred the property to American Fast Print Limited (U.S.), by deed. American Fast Print Limited (U.K.) is a wholly owned subsidiary of American Fast Print Limited (U.S.), the parent corporation. American Fast Print Limited continued the same operations as Cone Mills; however, they began using organic based dyes. American Fast Print reports it has never used sodium dichromate as an oxidizing agent and that it has not discharged dyes or chemicals containing metals except in trace amounts. American Fast Print Limited and Cone Mills Corporation entered into a Settlement and Release Agreement for on-site remedial activities.

American Fast Print Limited would be liable under CERCLA § 107(a)(2) as one who at the time of disposal of hazardous substances owned and operated the facility at which such hazardous substances were disposed.

According to the South Carolina Secretary of State, American Fast Print Limited was dissolved as of November 2, 2006. The site property is up for sale by W.M. Hales, Inc. for \$210,000. The taxes on the property are current. It is not clear how American Fast Print Limited is paying the taxes on the property if the company is no longer active.

B. Duke Energy Corporation

Duke Energy Corporation owns and operates electric transmission and delivery equipment that was placed on a leased lot (50 feet by 50 feet) and a transmission right-of-way. Prior to 1952, Duke provided a direct line to the site to provide supplemental power, primarily on weekends. In 1952, Duke constructed a substation on leased property at the site. The initial substation had three 500-KVA General Electric transformers. They were replaced in 1956 with three 1,000-KVA Allis Chalmers transformers and then replaced again in 1960 with three 1,500-KVA General Electric transformers. Duke also constructed a transmission line at the site in the 1930^s. In 1998, a three phase, pole mounted transformer at the site caught fire. The lid came off the transformer, indicating an internal fault; however, reportedly no oil spilled. Duke Energy Corporation responded to an Information Request from SCDHEC regarding the site on April 27, 2005.

Based on the available information, EPA believes the transformers and electrical equipment were not located directly on the 33.53-acre tract of land defined as the site property. Rather, Duke operated throughout the original approximately 257-acre property on which the facilities were located. Based on their January 17, 2007, Cone Mill Site PCB Investigation Report, it appears that PCB^s have migrated onto the site property and potentially further since the investigation was conducted. Duke is included as a PRP under CERCLA § 107(a)(1) as one who at the time of disposal of hazardous substances owned and operated the facility at which such hazardous substances were disposed based on their operational involvement with the property as a whole. Duke Energy Corporation is an active entity.

C. Cone Mills Corporation

Cone Mills Corporation owned and operated the site from 1952 to 1984. After selling the property to American Fast Print Limited (U.K.), Cone Mills Corporation operated a wastewater treatment system on-site until their bankruptcy in 2004.

On September 24, 2003, Cone Mills filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. It continued to operate the business and manage their properties as debtors in possession. Cone Mills and its subsidiaries, CIPCO, Cone Foreign Trading, and Cornwallis were collectively referred to as the “Debtors” in the bankruptcy proceedings. Shortly before filing for Chapter 11 protection, Cone Mills entered into an agreement with WL Ross, believed to be Cone Mills’ largest secured creditor, to acquire substantially all of the Debtors’ assets. The agreement was formalized pursuant to an Amended and Restated Asset Purchase Agreement, by and among, WLR Recovery Fund II L.P., WLR Cone Mills Acquisition LLC (collectively WL Ross), and the Debtors. WL Ross, through its planned acquisition of Burlington Industries’ operations, would provide the Debtors with an opportunity to consolidate Burlington’s denim operations with their own.

In a March 30, 2005 Response to a SCDHEC Information Request, W.L. Ross & Co. and International Textile Group and their affiliates provided information to SCDHEC with the understanding they would not be named as defendants in any action for remediation or damages related to the site. They claimed that as part of the bankruptcy proceeding, the Bankruptcy Court approved the sale of certain, but not all, of the Debtors operating assets to an affiliate of WLR, WLR Cone Mills Acquisition LLC, free and clear of all liens, claims, and encumbrances. The

Bankruptcy Court's Order Approving the Sale expressly indicated that the buyer was not the successor to Cone Mills Corporation and its' affiliates. The Order also specifically prohibited any person from pursuing any claims relating to the Debtors or their business operations against the buyer, its successors or assigns. In the sale, the purchased operating assets bought by WLR Cone Mills Acquisition LLC were transferred to its affiliate, WLR Cone Mill LLC. Property at the site was not purchased by Cone Mills Acquisition LLC or W.L. Ross & Co., but rather was specifically excluded from the purchased assets. After the closing, in a series of transactions to combine the assets of Cone Mills and Burlington Industries, International Textile Group (ITG) was formed.

According to the March 30, 2005 Response, Cone Mills Corporation and its subsidiaries, with widely held publicly traded stock and its own Board of Directors, continues as an independent corporation retaining the assets and liabilities not purchased or assumed by WLR Cone Mill LLC. Consequently, WLR Cone Mill LLC and now ITG have no relationship to the site in any way and any responsibility for the site is the Debtors'. The only connections that W.L. Ross & Co. and ITG have to the site are certain former Cone Mills Corporation employees with knowledge of the site who are now ITG employees, and documents that may remain in their files.

A 2010 Mergent, Inc. Report indicates that on May 2, 2005, Cone Mills Corporation announced its emergence from Chapter 11 Protection. On February 11, 2005, the Court had approved the sale of substantially all of the Debtors' assets. A Second Amended Plan of Liquidation provided for the proceeds of the sale, as well as proceeds of the liquidation of all remaining assets to be distributed to creditors in order of their relative priority. The Plan provided for the cancellation of all equity interests in the Debtors.

The North Carolina Secretary of State lists Cone Mills Corporation as Merged as of April 28, 2005. The Articles of Merger dated April 27, 2005, states that Cone Mills Corporation, CIPCO S.C., Inc., Cornwallis Development Co., and Cone Foreign Trading LLC merged to become a surviving corporation known as Reorganized Cone Mills Corporation. The terms of the merger stated that on the effective date of the merger, the separate existence of each absorbed entity would cease. The surviving corporation, Reorganized Cone Mills Corporation, succeeded to all rights, privileges, immunities, and franchises, and all the property, real, personal and mixed, of each absorbed entity. Reorganized Cone Mills Corporation assumed responsibility for all liabilities and obligations of each absorbed entity, and neither the rights of creditors nor any liens on the property of any of the absorbed entities were impaired by the merger. Michael R. D'Appolonia was appointed Sole Director and Sole Officer and assumed the role of president, secretary, and treasurer until his successor or successors were elected or appointed by Reorganized Cone Mills Corporation. Reorganized Cone Mills Corporation incorporated in Delaware on December 27, 1995. According to the Articles of Merger, Reorganized Cone Mills Corporation was formed as the surviving corporation of the absorbed entities in 2005. It is not clear why Delaware states it was incorporated in 1995.

On its website, International Textile Group lists Cone Denim as one of its companies. It states that Cone Denim was established in 1891 by the Cone Brothers. The current affiliation between Cone Mills Corporation, Reorganized Cone Mills Corporation, Cone Denim, W.L. Ross & Co.,

and International Textile Group is not clear. Through the bankruptcy proceedings, they purchased the assets of Cone Mills and the related Debtors, but did not incur any liability for the site. It appears that International Textile Group is the parent corporation of Reorganized Cone Mills Corporation (a/k/a Cone Mills Corporation or Cone Denim). Cone Mills Corporation is an active entity.

D. Other Potential Generators and Transporters

CERCLA Section 107(a)(3) imposes liability on any person (or entity) who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment, of hazardous substances at any facility owned or operated by another party and containing such hazardous substances. Although the statute does not use the term “generator,” this term is commonly used to refer to persons/entities that generated the hazardous substance or arranged for its disposal or treatment. No Generator PRPs were identified for the site.

CERCLA Section 107(a)(4) imposes liability on a person who accepts a hazardous substance for transportation to a disposal or treatment facility or site selected by such person. The term “transportation” is defined to include the movement of a hazardous substance by any mode, including any stoppage in transit which is temporary and incidental to the transportation movement. No Transporter PRPs were identified for the site.

II. Notification of PRPs of Potential Liability and of the Required Removal Action

Additional work needs to be performed to determine the viability of the listed PRPs. Specifically, the status of the Cone Mills Corporation after emergence from bankruptcy needs to be examined. In addition, EPA needs to determine existence of insurance policies during the respective periods of ownership and operation.

III. Decision Whether to Issue Order

IV. Negotiation and Order Issuance Strategy

V. Other Related Legal Issues

