

ACTION MEMORANDUM

SUBJECT: Request for a Ceiling Increase and Exemption from the Twelve Month Statutory Limit and \$2 Million Exemption for a Time-Critical Removal Action at the Liberty Fibers Site, Morristown, Hamblen County, Tennessee

FROM: Dave Andrews, On-Scene Coordinator
Emergency Response and Removal Branch

THRU: Shane Hitchcock, Chief
Emergency Response and Removal Branch

TO: Franklin E. Hill, Director
Superfund Division

Site ID: B457

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 for the Liberty Fibers Site (Site) located in Morristown, Hamblen County, Tennessee. 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 April 21, 2010. 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 \$3,057,000, of which \$2,520,000 will be funded through the Regional Removal Allowance.

II. SITE CONDITIONS AND BACKGROUND INFORMATION

CERCLIS ID: TNN000410507
Removal Category: Time-Critical Removal Action

Site Description

1. Removal Site Evaluation

A Removal Site Evaluation (RSE) was conducted in January 2010, where the presence of friable asbestos was documented in several demolition and debris piles throughout the 350-acre Site. The On-Scene Coordinator (OSC) requested assistance from Region 4's Technical Service Section (TSS) to evaluate the RSE data and draft a technical support document. TSS drafted a Technical Data Review on April 22, 2010 to support the OSC's decision to activate an Emergency Response action at the Site (Attachment A).

Asbestos was detected in samples collected from several areas throughout the 350 acre site. The types of asbestos found included chrysotile, amosite, and anthophyllite, which are the same types that were identified in a 2008 sampling event conducted by the responsible party's contractor, A.C.T. Asbestos was identified at maximum detections of 25% chrysotile, 30% amosite and 50% anthophyllite. Additionally, the RSE sampling event conducted in January 2010 confirmed the presence of friable ACM. The condition of most of the bulk material sampled is described by the samplers as damaged or "weathered." Based on the A.C.T. and EPA sample data from 2008, observations from EPA's site visit conducted in December 2009 and the January 2010 sample data, EPA has determined that friable and weathered ACM is widely dispersed across the Site.

2. Physical Location and Site Characteristics

The Site is located at 1200 Enka Highway, Morristown, Tennessee at Latitude N 36.1545740 and Longitude -83.2116280. The Site is located on a 350 acre parcel of the former BASF textile facility in Morristown. The facility was previously used by BASF to manufacture rayon and other synthetic fibers for the textile industry. During the late 1980's, BASF sold the facility to Lenzig Fibers which eventually transferred manufacturing to Liberty Fibers. Land use of the surrounding area is primarily industrial with a few residential properties located approximately one quarter mile north of the former rayon facility. Several acres of land immediately east of the facility are landfills previously operated by BASF and Lenzig Fibers. The site also contains a railroad spur previously used while the facility was in operation. The French Broad River is located approximately one quarter mile to the south.

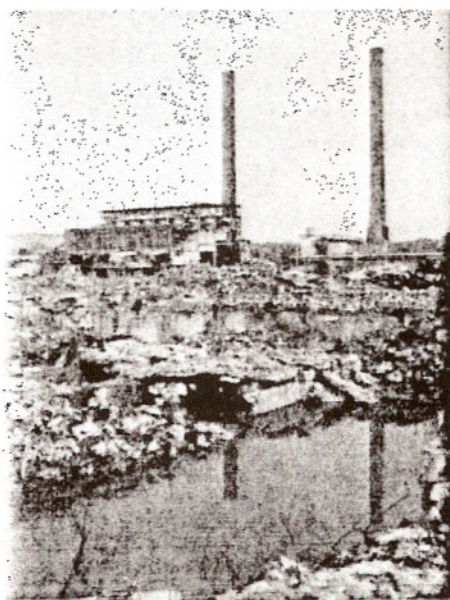
3. Site Characteristics

Following the Liberty Fibers bankruptcy, the land was sold in auction to Lowland Industries Inc. and operated primarily as a recycling company. Several intact structures on site were demolished and the resulting scrap metal was salvaged. The majority of the remaining 300 acres contains few intact structures and several piles of demolition debris contaminated with friable asbestos. Several acres of land immediately east of the Site contain closed BASF and Lenzig Fibers Landfills.

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

A fire event on April 19, 2010 was limited to an area approximately 100 by 150 feet along the southern perimeter of the site near two former waste water neutralization pits associated with rayon and cellulose treatment. The conclusions from the fire investigation indicated that the fire originated in the area where hot-work or metal cutting using acetylene torch took place. The cause of the incident was deemed "accidental" by the local fire department's arson investigation team. However, friable asbestos was within the area of the fire.

Asbestos is a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 101 (14). The majority of friable asbestos and primarily area of concern is located near the former powerhouse and the debris piles along the northern third (approximately 50-75 acres) of the Site (Figure 1). The total estimated volume of friable asbestos and ACM is 350,000 cubic yards.



Debris Pile & Powerhouse (left)



Figure 1
Pre-demolition in Sept 2006 (right)

5. NPL Status

This Site is not currently on the National Priorities List (NPL). Plans to evaluate the Site for NPL consideration are being coordinated with Tennessee Department of Environment and Conservation (TDEC) and EPA's Site Evaluation Program.

6. Maps, pictures and other graphical representations

Maps, pictures and other graphics are available upon request

A. Other Actions to Date

Region 4 OSC Steve Spurlin conducted a Site visit in the spring of 2008. At that time, the OSC was requested to evaluate the presence of carbon disulfide in several tanks on site and unaware of any asbestos related issues. The OSC interviewed site employees, inspected the facility, and determined that no carbon disulfide was present and no further actions were taken at that time.

An emergency removal action was initiated under the OSC's warrant authority on April 21, 2010 following the fire incident (Attachment B). The OSC and Emergency Rapid Response Service (ERRS) contractor support mobilized to the Site on April 22, 2010

ERRS was initially tasked to concentrate on safety related elements of the site including marking and temporarily covering known asbestos containing debris piles and stacked thermal cast insulation from steam piping. In order to minimize the amount of airborne migration of friable asbestos across or off-Site due to windy conditions or during handling of the material, ERRS fixed the friable asbestos fibers in place via application of "lock down agent" on the debris. This lock-down agent is a water soluble polymer which is a spray-application over debris piles and acts as an adhesive coating and temporarily resistant to weather or minimal disturbance of the material.

B. State and Local Authorities' Roles

1. State and local actions to date

The OSC initially conducted a Level C assessment with a representative from TDEC Superfund Division and Region 4 Technical Services Tim Fredericks in December 2009. At the time of this assessment, the OSC and TSS representative determined that a Removal Site Evaluation (RSE) was needed to further determine the extent of friable asbestos contamination throughout the site. TDEC continues to be involved with ongoing response activities.

Prior to the OSC's emergency activation on April 21, 2010, local firefighters from Morristown responded to a fire at the Site on April 19, 2010. The response personnel from the Morristown Fire Department were aware of the asbestos contamination across the Site and additionally requested EPA's assistance to minimize future incidents by maintaining a presence if warranted under an emergency action.

2. Potential for continued State/local response

TDEC does not currently have sufficient funds to conduct necessary response measures in a time critical manner. EPA will continue to coordinate activities with TDEC.

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

Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) lists the factors to be considered in determining the appropriateness of a Removal Action. Paragraphs (b)(2)(i, iv, 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.***

During recycling operations on April 19, 2010, a debris pile along the southern perimeter of the Site caught fire and there was a response by the Morristown Fire Department. In order to minimize such future events, and to minimize the chance of asbestos exposure, the OSC elected to serve the owner with a Notice of Federal Interest in order to initiate Site containment and mitigation measures. The site contains numerous construction debris piles with large quantities of friable asbestos.

Concurrent to the April 19, 2010 fire and recent activities on Site, the OSC requested that Region 4 Technical Services Section evaluate asbestos data conducted from January 2010 to determine if a threat to human health and the environment existed at the Site. On April 22, 2010, a draft memo was completed and the conclusions indicates a human health risk exist on-site due to wide-spread contamination of friable asbestos. The disease and pathology associated with the inhalation of asbestos fibers is well documented in the medical literature.

- ***300.415 (b)(2)(iv): High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate***

Analytical and observable results reveal the presence of asbestos in the surface soil and within the demolition debris piles on the Site. Modification of the demolition area through movement of material, digging, grading or any other means may create the potential for migration to off-site locations. There is no natural or man-made boundary to restrict asbestos that is interspersed within the debris from migrating off-site. A relationship between the concentration of fibers in a source material (soil or asbestos contaminated media) and the concentration of fibers in the air that results when the source is disturbed is very complex and depends on a broad range of variables. No method is available to predict the concentration of asbestos in air reliably as it relates to measured concentration of airborne asbestos in the source material. A low concentration of asbestos source material may, when disturbed, result in a high-concentration of airborne asbestos. Future land-use of the site may be vigorous and routine disturbance of the soil and structural remnants of the former production structure. An action is warranted to prevent exposure to workers who will be operating at or near the area of contamination, and future occupants of the site.

- ***300.415 (b)(2)(v): Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released***

Dry weather conditions could make the debris piles susceptible to asbestos becoming airborne thus contaminating the atmosphere in the local area on Site or migrate off Site.

- ***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 state or local government mechanisms that are able to respond to this incident with the resources needed to perform the necessary removal actions.

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. A significant debris pile with an estimated volume of 350,000 cubic yards is centrally located on the Site and contains friable asbestos. The debris pile is the result of an uncontrolled demolition of the former Liberty Fibers production and covers several acres. The plant demolition was conducted without proper safety controls used in asbestos abatement.

2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency.

The debris pile contains friable asbestos and uncontrolled or exposed to the weather over several acres. During the initial response in April 2010 a temporary fixative ("lock down agent") was applied to the pile to minimize fugitive dust and migration of the contamination across and off the Site. However, the fixative is not a long-term control and performance of the fixative is limited by weather and exposure ultraviolet light. A security guard has been maintained on Site since the initial response in April 2010 to limit public access and as a deterrent to vandalism; however, continued response actions to remove and contain the contamination are immediately required to mitigate this emergency.

3. Assistance will not otherwise be provided on a timely basis.

As stated in aforementioned *300.415 (b)(2)(vii)*, there are currently no state or local government mechanisms that are able to respond to this incident with the resources needed to perform the necessary removal actions.

VI. RESPONSE ACTIONS AND ESTIMATE COSTS

A. Response Actions

1. Action description

During the initial response in April 2010 and subsequent measures during the Fall of 2010, site safety measures and stabilization was conducted to prevent or minimize any further spread of friable asbestos on Site and secure the Site from public access.

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 on site identified with containing friable asbestos and consolidate the debris on-site;
- Consolidation of remaining friable asbestos in a pre-designated landfill area;
- Continue air monitoring measures and decontamination protocols necessary on all asbestos abatements;
- Restore areas disturbed by the removal action to their pre-removal state to the maximum extent practicable;
- Continue to provide Site security during non-working hours;
- Continue to coordinate all site removal activities with state and local officials.
- Refer Site control back to TDEC 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 Tennessee requesting identification of State ARARs was sent in April 2011. The On-Scene Coordinator 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

Response actions at the Site will continue to be implemented at this Site. Foregoing any unexpected delays, all actions are expected to be complete within the next three months.

B. Estimated Costs

Extramural Costs:

Regional Allowance Costs:

Current Ceiling	Proposed Increase	Proposed Ceiling
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Extramural Costs:**Regional Allowance Costs:**

ERRS	552,000	2,000,000	2,552,000
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Non-Regional Allowance Costs:

START	30,000	150,000	180,000
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USCG Strike Team		100,000	100,000
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<u>Subtotal, Extramural Costs:</u>	582,000	2,250,000	2,832,000
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10% Contingency:		225,000	225,000
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TOTAL EXTRAMURAL COSTS:	582,000	2,475,000	3,057,000
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TOTAL SITE CEILING:	582,000	2,475,000	3,057,000
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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.

IX. ENFORCEMENT

Enforcement activities have been initiated and are ongoing. EPA Region 4 RCRA Section has several outstanding actions against the current responsible party. It is expected that this site will be conducted as a fund-lead removal action (Attachment C).

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 \$3,057,000 using the following formula: (Total Extramural Costs + Total Intramural Costs) + (45.26% x (Total Extramural Costs + Total Intramural Costs)) or (\$3,057,000) + (45.26% x (\$3,057,000)) = \$4,440,600¹.

X. RECOMMENDATION


This decision document represents the selected removal action for the Liberty Fibers Site in Morristown, Hamblen County, Tennessee developed in accordance with CERCLA as amended,

¹Direct 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.

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 \$3,057,000 of which an estimated \$2,520,000 comes from the Regional Removal Allowance.

APPROVED: _____


Franklin E. Hill, Director
Superfund Division

Date: _____

6/30/2011

DISAPPROVED: _____

Franklin E. Hill, Director
Superfund Division

Date: _____

Attachments:

Emergency Response Action Memorandum (April 21, 2010)

Threat Recommendations Memo (April 22, 2010)

Enforcement Addendum

References