



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
EDISON, NEW JERSEY 08837

SEP 21 2016

ACTION MEMORANDUM – RV1

SUBJECT: Action Memorandum to Confirm a Verbal Authorization and to request a Ceiling Increase for the Emergency Removal Action at the Carville Leather Site, Johnstown, Fulton County, New York.

FROM: Paul L. Kahn, On-Scene Coordinator
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TO: Walter E. Mugdan, Director
Emergency and Remedial Response Division

THRU: Eric Mosher, Chief
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Site ID: A295

I. PURPOSE

The purpose of this Action Memorandum is to confirm the Emergency and Remedial Response Division (“ERRD”) Director’s August 4, 2016 verbal authorization of funding and to request and document approval for a Ceiling Increase for the removal action described herein at the Carville Leather Site (“Site”) located in Johnstown, Fulton County, New York.

The total project ceiling verbally authorized for this removal action was \$250,000, of which \$200,000 was for mitigation contracting. On September 7, 2016, the verbally authorized mitigation ceiling was revised to \$224,000, while the total project ceiling remained at \$250,000. This Action Memorandum requests approval of an additional \$415,000, of which \$400,000 is for mitigation contracting. Approval of this increase will raise the total project ceiling to \$665,000, of which \$624,000 is for mitigation contracting.

The Site meets the criteria for a removal action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), as described in Section 300.415 of the National Contingency Plan (“NCP”).

The continuation of the removal action is necessary to mitigate the threats posed by drums and containers of hazardous substances releasing or threatening to release into the environment. The facility is not being maintained and poses a high risk to visitors or unauthorized intruders.

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II. SITE CONDITIONS AND BACKGROUND

The Superfund Enterprise Management System identification number for this Site is NYD000284000.

A. Site Description

1. Removal Site Evaluation.

On July 11, 2016, the New York State Department of Environmental Conservation (“DEC”) filed a report with the National Response Center about a release of hazardous substances into the environment at an abandoned tannery facility (“Facility”) in Johnstown. DEC requested that EPA inspect the Facility and determine its eligibility for a Superfund removal action.

On July 14, 2016, two EPA Region 2 On-Scene Coordinators (“OSCs”), accompanied by representatives from the DEC and the City of Johnstown, conducted a Site visit . During the visit, the OSCs observed the layout of the Facility and noted the materials located at the Site.

The OSCs observed that the first floor of the Facility is a combination warehouse, office, and manufacturing area. This part of the building contained chemical totes, drums, and smaller containers. There were approximately 100 drums, including 55-gallon and 30-gallon poly drums, most of which were not labeled. Vandals had overturned over 20 drums onto the floor, resulting in an extensive spill characterized by multicolored stains, wetness, and a crystallized material around the perimeter.

Also observed on the first floor of the Facility were approximately 20 shrink-wrapped unlabeled drums staged on wood pallets. These drums appeared to contain waste chemicals that were staged for disposal; however, the drums did not have Resource Conservation and Recovery Act (“RCRA”) waste accumulation labels. One of the drums had a bulging top indicating that it was pressurized. In addition, there were two, full 300-gallon totes that were marked "sodium hydroxide," approximately 30 drums of various sizes that contained dyes or pigments, and 55-gallon drums of “leather processing oil.”

The OSCs noted a small lab on the first floor of the Facility that had dozens of lab pack-sized chemical containers. Labels on some of the containers indicated that the contents were acids and caustics. One container was marked as "Formic Acid," and another container had a white crystalline material on the top near the bung. Lastly, dozens of drums and bags of chemical dyes used to finish leather goods were observed on the first floor of the Facility in a room that appeared to be a pigment room.

In the basement of the Facility, the OSCs encountered approximately 30 to 40 drums, some of which were full or partially full and did not have any labels. The basement also contained a small lab with approximately 30 lab pack containers; a storage tank with a capacity of 2,000 gallons; and, 15 55-gallon drums, most of which were full and unlabeled. One of the drums had collapsed sides, indicating that the contents were under negative pressure and could eject material when opened.

On the second floor of the Facility, the OSCs noted a few 30-gallon containers of chemicals and another lab that had approximately 30 lab pack containers of acids and other chemicals.

In the former waste water treatment plant (“WWTP”) at the rear of the Site, within yards of the Cayadutta Creek, there was a full tote and a 55-gallon drum, each labeled “sodium hydroxide.” The WWTP also contained a filter press and there were pieces of dried filter cake on the floor. It was suspected that additional filter cake may be found on the plates inside the press. Process tanks in the WWTP contained liquid/residue and a sign warning about “poison gas.”

It is estimated that 75% of the hundreds of chemical containers at the Site are not labeled.

On July 27, 2016, the DEC sent EPA a formal request to initiate a Superfund removal action at the Site. On August 4, 2016, the OSC returned to the Site with representatives from EPA’s Environmental Response Team (“ERT”) and a group of its subcontractors. The purpose of the visit was to conduct a Removal Site Evaluation and sample/field test various chemical containers to determine the need to initiate an emergency removal action at the Site. ERT sampled 21 drums. Of those 21 drums, two contained acids with a pH less than 2.5, one contained PCBs greater than 50ppm, two contained CERCLA-listed hazardous substances, and two had very low flash points.

2. Physical location

The Site is located at 10 Knox Avenue, Johnstown, New York 12095-2715. Johnstown is the county seat of Fulton County. The Site is located in a residential area and borders a former railroad right-of-way, which has been converted to a jogging/bike trail. Adjacent to the trail is the Cayadutta Creek, a 20-foot wide navigable waterway that flows into the Mohawk River, about 3 miles away. The Mohawk River is a tributary of the Hudson River and is part of the New York State Canal System. The Site is within 200 yards of sensitive receptors such as the Women’s Home; the Wells Nursing Home, which is a 100-bed psychiatric rehabilitation facility; and the Pineview Commons, an assisted living facility for senior citizens. The Site is about half of a mile from downtown Johnstown, close to a populated residential and commercial district, several schools, churches, landmarked buildings, and the municipal/county buildings.

3. Site characteristics

Carville National Leather Corporation (“Carville”) was a family tannery business that produced leather using the chrome tanning process, a multi-step procedure involving numerous chemicals through the entire step-wise process of converting animal hides to leather. The main building of the Facility is a 3-story concrete block structure in good structural condition, although there were 3 minor fires in the building since 2010. There is a detached, partially collapsed, WWTP in the rear yard. There is a 20,000-gallon aboveground storage tank also at the rear of the Site.

The tannery was closed in 2013 and the owner filed for Chapter 7 (liquidation) bankruptcy protection. It was reported to the OSC by City officials that there had been an auction of company assets, and the second and third floors of the Facility are totally bare of furniture and

equipment. The former owners/operators have moved out of state, and appear to have abandoned the property.

This is the first removal action to take place at this Site.

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

Site trespassers committing acts of vandalism are seemingly the cause of the releases at the Site. Prior to EPA's involvement at the Site, vandals gained access to the Site, stripped hundreds of feet of copper wire, and likely overturned more than 20 drums of chemicals, including leather dyes. This created a chemical puddle approximately 20 feet wide by 100 feet long. The contents of a drum of red chemical dye has migrated out of the main building of the Facility and onto the adjacent outdoor parking lot abutting the Cayadutta Creek and jogging trail.

In addition, based on the statutory and regulatory definition of "release," as set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and Section 300.5 of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. § 300.5, the abandonment of containers of hazardous substances, contaminants, or pollutants constitutes a de facto release to the environment.

The key problem areas at the Site identified by the OSC include the basement and the first floor of the Facility, where hundreds of drums of chemicals are haphazardly stored. Most of the drums stored in these areas are unlabeled and many have dried chemicals covering the sides. Another problem area is the former WWTP, which contains a tote and a drum of sodium hydroxide and possibly a poisonous gas. The filter cake on the ground and in the filter press at the WWTP may contain RCRA characteristic toxic wastes. A final problem area is the rear of the Site, at which there is a large storage tank that may contain process chemicals.

Based on drum label information and the results of field testing samples, the following CERCLA hazardous substances were found at the Site:

HAZARDOUS SUBSTANCE	REGULATORY AUTHORITY
Sodium hydroxide *	1
Formic acid *	1, 4
Hydrochloric acid *	1, 3
Sulfuric acid *	1
Unlisted Hazardous Wastes Characteristic of Ignitability #	4
Unlisted Hazardous Wastes Characteristic of Corrosivity #	4
Polychlorinated Bi-phenyls #	1,2,3
Aluminum sulfate #	1
Toluene #	1,2,3,4

- 1 Clean Water Act, Section 311(b)(2).
- 2 Clean Water Act, Section 307(a)
- 3 Clean Air Act, Section 112
- 4 RCRA Section 3001

* = label information
= haz-cat results

5. NPL Status

This Site is not listed on the National Priorities List (“NPL”), nor is it proposed for listing on the NPL.

6. Maps, pictures and graphic representations

See attachments.

B. Other Actions to Date

1. Previous Actions

There have not been any prior responses or removal actions taken at this Site.

2. Current Actions

Based on the initial EPA Site visit, it was determined that a more thorough inspection was needed to further document conditions at the Site and threatened releases. On July 20, 2016, the owner of the property granted EPA verbal access to the Site. This was followed by the August 4, 2016, sampling event, which included the sampling and field testing of unknown drums in order to characterize the threats or potential threats to the environment and public health.

Concurrently, the OSC compiled an inventory of chemical containers and tanks at the Site. Twenty-one drums of unknown liquids were sampled and field tested by ERT. Of those drums, 3 contained liquids with a pH ≤ 2.5 , one contained PCBs > 50 parts per million, 2 drums contained flammable liquids, one drum possibly contained toluene, and one drum contained aluminum sulfate. The drum inventory compiled by the OSC revealed the presence of the following containers: 4 chemical totes with about 1,000 gallons total and approximately 100 55-gallon drums, 40 30-gallon drums, 70 5-gallon pails, and over 150 1-gallon and smaller containers.

Inside the WWTP at the rear of the Site, is a chemical tote and 55-gallon drum marked "sodium hydroxide" totaling approximately 300 gallons. Also in the WWTP is a filter press that was used to remove the solids portion of process wastewater prior to discharge to the local POTW. This filter might contain hazardous filter cake. There is also a warning sign in the WWTP that says, "Danger, poison gas," which could indicate the presence of a chlorine gas cylinder.

Based on the above Site conditions and field testing, on August 4, 2016, the OSC requested, and was granted, verbal authority and \$250,000 in funding (\$200,000 for mitigation contracting) to initiate an emergency removal action at the Site. The EPA contractor was mobilized to the Site on August 8, 2016, and the removal action was initiated. The contractor stabilized the Site by securing all doors and window openings, retrieved and staged more than 250 containers of known and unknown chemicals in a secure area of the Site, and relocated containers of hazardous sodium hydroxide from the WWTP to the secure drum staging area. The contractor has also commenced sampling and field testing of the hundreds of drums that were discovered at the Site.

On September 7, 2016, the verbally authorized mitigation ceiling was increased from \$200,000 to \$224,000, while the total project ceiling remained at \$250,000. The \$24,000 mitigation ceiling increase was transferred from the unused ERT ceiling. This ceiling authorization change was memorialized in a POLREP issued on September 8, 2016.

C. State and Local Authorities' Roles

1. State and local actions to date

On July 11, 2016, the Site was referred to EPA from the DEC via telephone. In response to that call EPA OSCs visited the Site on July 14, 2016, and conducted a Site visit with officials from the DEC and the City of Johnstown.

2. Potential for continued State/local response

Neither the State or the City of Johnstown have the funds or resources to perform a removal action at this Site. The DEC and the City of Johnstown will provide logistical support for the duration of the removal action.

III. THREATS TO PUBLIC HEALTH, OR WELFARE, OR THE ENVIRONMENT

Factors from the NCP Section 300.415(b)(2) that support continuing the removal action at the Site include:

(i) **Actual or potential exposure to nearby human population, animals, or the food chain from hazardous substances, pollutants, or contaminants [§300.415(b)(2)(i)]**

There are containers of CERCLA-listed hazardous substances at the Site. Abandoning containers of hazardous substances constitutes a "release" as that term is defined under CERCLA and the regulations promulgated pursuant to CERCLA. There has also been an actual release to the environment as a result of vandalism and the overturning of more than 20 drums of chemicals and dyes at the Site. A red dye from one drum that was overturned inside the Facility migrated outside and into an adjacent parking lot that abuts the jogging path and the Cayadutta Creek.

The main building of the Facility and the WWTP do not have any power, consequently there is no functioning fire detection or suppression system. Vandals have accessed the premises and stripped copper wire and overturned drums of chemicals. Should a fire occur as a result of unauthorized access to the Site, there would be no advanced warning. A fire would likely involve hundreds of drums of chemicals and create a toxic plume that could engulf nearby residences and other areas of the City of Johnstown. The Site is located within one-quarter mile of a major east-west county road, and a fire at the Site could result in the closing of this major arterial road. In addition to the populated areas that could be impacted by a fire in the building, there are numerous vegetable farms in the area, which could be adversely impacted by a chemical smoke plume.

(iii) **Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that pose a threat of release [§300.415(b)(2)(iii)]**

Based on the results of field testing events, there are hundreds of containers of hazardous substances, contaminants, or pollutants haphazardly stored throughout the Site. Vandals have already overturned dozens of drums of chemicals, including a red chemical dye that migrated from the main building of the Facility into the environment. Containers of chemicals stored in an unheated building over the course of seasonal weather changes will become stressed and there is the potential for seams to burst or otherwise fail, resulting in additional releases of chemicals into the environment.

(vi) **Threat of fire or explosion [§300.415(b)(2)(vi)]**

Unattended drums of chemicals that can be (and have been) accessed by unauthorized individuals can result in spills of incompatible chemicals, resulting in a reaction that can cause a fire, such as mixing water with an acid, or a corrosive chemical coming into contact with an organic material such as a wooden pallet or cardboard.

(vii) The availability of other appropriate federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)].

The DEC and the City of Johnstown have informed the EPA that they do not have the resources or funds to perform a removal action at this Site.

IV. Endangerment Determination

Actual or threatened releases of hazardous substances from the Site may present an imminent and substantial endangerment to public health, welfare, or the environment.

V. PROPOSED ACTOINS AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Proposed action description

The purpose of this removal action is to prevent further releases, as well as threatened releases, of hazardous substances into the environment at the Site. The following activities constitute the scope of work for the removal action at the Site. Activities marked with an asterisk have already been completed or are in progress based on the verbal authorization given to the OSC on August 4, 2016:

- *Upon receipt of a task order, the contractor shall assign a Response Manager and contact the OSC to schedule a Site walk through.
- *Prepare a draft Health and Safety Plan (“HASP”).
- *Prepare a draft work plan.
- *Secure the premises of the main building of the Facility and the WWTP to prevent unauthorized access.
- *Mobilize crew, trailers, and equipment to the Site.
- *Initiate removal activities in accordance with the HASP and approved work plan.
- *Sample and test all containers of chemicals. Compatible chemicals shall be bulked into distinct groups, which will be sampled and analyzed for profiling for disposal.
- Solicit bids for transportation and disposal of all hazardous substances, contaminants, and pollutants.
- Dispose of all hazardous substances, contaminants, and pollutants at an off-site disposal facility that is in compliance with EPA off-site disposal regulations.
- Demobilize crew and equipment at the termination of the removal action.

At the conclusion of this removal action, there will be no need for any post-removal Site controls.

2. Contribution to remedial performance

The proposed actions will, to the extent practicable, contribute to the efficient performance of any long-term remedial action at the Site. However, at this time a long-term remedial action is not anticipated.

3. Applicable or Relevant and Appropriate Requirements (“ARARs”)

Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable. In determining whether compliance with ARARs is practicable, the OSC may consider appropriate factors, including the urgency of the situation and the scope of the removal action to be conducted.

4. Project schedule

It is anticipated that the SOW for this removal action will take 10 weeks to complete.

B. Estimated Costs

Extramural Costs:	Verbal Authorization Granted on August 4, 2016	Sept. 7, 2016 Adjusted Verbally Authorized Ceilings	Ceiling Increase Requested in this Action Memorandum	Proposed New Total Project Ceilings
Regional Removal Allowance Costs: Total Cleanup Contractor Costs (This cost category includes estimates for ERRS, subcontractors, notices to proceed, and interagency agreements with other federal agencies. Incl. 20% contingency.)	\$200,000	\$224,000	\$400,000	\$624,000
Other Extramural Costs:				
Total ERT, including multiplier costs	\$50,000	\$26,000	\$0	\$26,000
Total RST, including multiplier costs	\$0	\$0	\$4,000	\$4,000
Total CLP	\$0	\$0	\$11,000	\$11,000
Subtotal Extramural Costs:	\$250,000	\$250,000	\$415,000	\$665,000
Extramural Costs Contingency (20% of subtotal; costs rounded to nearest thousand)	\$0	\$0	\$0	\$0
TOTAL REMOVAL ACTION PROJECT CEILING	\$250,000	\$250,000	\$415,000	\$665,000

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

A delay in action or no action at the Site would increase the actual or potential threat to public health and/or the environment. In particular, a release of chemicals in the event of a fire or further vandalism would undoubtedly have serious adverse impacts on the City of Johnstown and/or the Cayadutta Creek, a navigable waterway of the United States. There is also the potential threat of exposure to the chemicals by vandals or curiosity seekers.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

The property owner and former operator of the Site has been identified, but has filed for bankruptcy protection. The property owner granted EPA access to the Site.

Total EPA costs for this removal action, which are based on full-cost accounting practices and are eligible for cost recovery, are estimated to be \$1,186,140 and were calculated as follows:

Cost Type	Funding Requested in this Action Memorandum
Direct Extramural Costs	\$665,000
Direct Intramural Cost	\$130,000
Subtotal, Direct Costs	\$795,000
Indirect Costs (Indirect Regional Cost Rate 49.2%)	\$391,140
Estimated EPA Costs Eligible for Cost Recovery	\$1,186,140

Note: 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 costs from this estimate will affect the United States' right to cost recovery.

