



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

ACTION MEMORANDUM

DATE: SEP 27 2017

SUBJECT: Request for a Time-Critical Removal Action at the Bercovich Lead Smelter Site

FROM: Eric Nuchims *EN*
Federal On-Scene Coordinator (SFD-9-2)

THRU: Harry L. Allen, Chief *HA*
Emergency Response Section (SFD-9-2)

TO: Enrique Manzanilla, Director
Superfund Division (SFD-9)

I. PURPOSE

The purpose of this memorandum is to obtain approval to expend up to \$858,000 in direct extramural costs to mitigate threats posed to human health and the environment from the presence of lead, a hazardous substance, in residential and commercial properties. It is believed that the lead contamination originated from a demolished lead smelting facility, known as the Bercovich Lead Smelter. The Bercovich Lead Smelter is located at 1639 18th Street, Oakland, CA 94607. The parcels surrounding the Bercovich Lead Smelter parcel, as well as the "smelter parcel" itself, comprise the Site boundary.

The proposed removal of hazardous substances is being taken pursuant to Section 104(a)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9604(a), and Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.415.

II. SITE CONDITIONS AND BACKGROUND

Site Status: Non-NPL
Category of Removal: Time-Critical
SEMS:
SITE ID: A9B4

A. Site Description

1. Physical Location

The Site consists of thirteen residential parcels and one commercial parcel near 1639 18th Street in Oakland, CA. The surrounding neighborhood is a mix of residential, commercial, and industrial properties. Interstate 880 passes approximately 1500 feet to the northwest of the Site.

2. Site Characteristics

The Site is the location of a former lead smelting operation. The parcel where the actual Bercovich Lead Smelter was located (i.e., 1639 18th Street or "smelter parcel") is now occupied by an industrial diesel engine repair business and is capped with concrete and asphalt. The surrounding 14 parcels, within the block bounded by 18th Street, Campbell Street, 17th Street, and Peralta Street, include one commercial and thirteen residential properties, including a children's daycare. Of the 14 parcels, 11 residential parcels have exposed ground surfaces with a mix of vegetative cover, bare soil, and decorative rock.

McKinlay Perkins Paint Company operated at the former smelter parcel from approximately 1906 to 1914. The ownership of the smelter parcel during this period is unknown. From 1916 to 1962, Sunset Smelting and Refining Company operated at the smelter parcel. Ownership of the smelter parcel during Sunset's operations include Oakland Paving Company up to 1917 and then General Electric Company through 1963. In 1963, West Oakland Salvage Corporation began operating at the Site. In 1986 the Site operated as Cogido Paper. From 1991 until the present time, trucking companies have operated at the Site.

According to the Department of Toxic Substances Control (DTSC) Preliminary Assessment (PA) report for the Site, McKinlay Perkins Paint Company's products included oils, paints, and varnishes and shellacs. Prior to 1978, paint production commonly involved the use of lead. Sunset operated a lead foundry at the smelter parcel producing small lead objects including dress weights, fishing leads, solder, and metal used for printing purposes. Fire insurance maps of Sunset's facility show heated kettles. Other materials processed by Sunset include copper oxide and platinum recovered from burnt out light bulbs. The smelting and refining process involves the fusing or melting of metal ores in order to separate the metallic constituents. From 1963 to 1983, West Oakland Salvage used the smelter parcel for a scrap steel and metal salvage operation. Scrap steel was cut up on site using stationary shears. Lead batteries were sold and resold at West Oakland Salvage, but were reportedly not dismantled. Solid lead pieces were also occasionally brought on site. Steel and iron were stored on site outdoors, while the more valuable non-ferrous metals such as aluminum, brass, copper, and lead were stored inside the office building. Approximately half of the Site was paved during West Oakland Salvage's tenure at the Site. The rest of the smelter parcel was paved by Cogido Paper. Cogido Paper operated a paper recycling business at the Site and occasionally shared the smelter parcel with various trucking companies. Although information was not available on the specific operations

that occurred at Cogido Paper, on-site operations limited the use of chemicals to hydraulic fluids and other petroleum products, and propane cylinders. In recent years, trucking companies have operated at the smelter parcel. The current occupant uses the smelter parcel for parking and maintenance of trucks that haul cargo from the nearby Port of Oakland.

Information regarding hazardous waste management practices at the smelter parcel is limited to the trucking companies that have operated at the smelter parcel in the last twenty years. Waste oil, solvents, and oil filters are the primary forms of hazardous waste that have been generated by the trucking companies. The hazardous waste is currently removed from the smelter parcel by a permitted hazardous waste hauler. A 200-gallon diesel spill occurred at A&L Trucking in February of 1992. The diesel apparently spilled from a truck at the Site due to a ruptured valve. A licensed hazardous waste hauler cleaned up the spill.

2.1 Previous Investigations

In 1989, sampling was performed at the Site in two phases. The sampling was performed on behalf of a potential buyer for the Site. Six soil samples were collected from three soil borings during a sampling event in July 1989. Soil samples were collected at depths of one and three feet from each boring and analyzed for metals, including arsenic, lead, mercury, selenium, and thallium. During Phase II sampling in August 1989, forty-five soil samples were collected from 15 borings across the Site. The borings were drilled to depths of one, three, and five feet and soil samples collected from these borings were analyzed for lead. Unfiltered grab groundwater samples were collected from three borings, two during Phase I sampling and one during Phase II sampling, and analyzed for pH, volatile organic compounds (VOCs), and petroleum hydrocarbons. In addition, groundwater samples from Phase I were analyzed for metals.

No VOCs or petroleum hydrocarbons were detected in groundwater samples from the Phase I or Phase II sampling efforts. Metals detected in the groundwater samples from Phase I did not exceed drinking water standards, with the exception of iron and manganese. Lead was detected in soil collected during Phase I sampling at a maximum concentration of 878 milligrams per kilogram (mg/kg), and in soil collected during Phase II sampling at a maximum concentration of 1,100 mg/kg. Phase II analytical results indicate that lead was detected above 500 mg/kg at five different locations at the Site, and that lead concentrations in all samples collected at five feet were below 100 mg/kg. Lead was detected at 370 mg/kg in a background sample collected from three feet beneath a sidewalk near a galvanizing plant.

Drive-by reconnaissance was performed on November 16, 2001 by DTSC. During the drive-by, personnel observed several intermodal containers at the Site, but no evidence of releases of hazardous substances was observed. DTSC conducted a site screening of the Site in March of 2002 under contract with the EPA. The site screening consisted of a drive-by and review of available regulatory files, historical information, and ownership information. Based on historical research it was discovered that elevated levels of lead were detected in soil beneath paved areas of the Site when sampling was performed on behalf of a potential buyer for the Site. The Site Screening

report recommended further action based on the occurrence of elevated levels of lead and possibly other hazardous contaminants in soil, and the potential for hazardous substance release to nearby residences.

3. Removal Site Evaluation

On June 27th, 2017, EPA and Superfund Technical Assessment and Response Team (START) conducted a removal assessment by collecting soil samples from six properties within the expanded Site boundary (i.e., 18th Street, Campbell Street, 17th Street, and Peralta Street in Oakland). Composite soil samples were collected at the surface and from depths down to 12 inches in individual Decision Units. Soil samples were analyzed on-site using X-ray fluorescence (XRF) instrumentation. A subset of those samples was delivered to the EPA Region 9 Laboratory for metals analysis.

On August 28th, 2017, EPA and START conducted additional removal assessment activities by collecting composite soils samples from five properties identified in the original assessment within the Site boundary. Those soil samples were analyzed on-site by XRF instrumentation and a subset of those samples was delivered to the EPA Region 9 Laboratory for metals analysis.

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

The field analytical and laboratory analytical soil sample results ranged from 327 mg/kg to 2,874 mg/kg Lead. EPA's Residential Screening Level (RSL) for lead in soil is 400 mg/kg, and California's Office of Environmental Health Hazard Assessment cleanup level for lead is 80 mg/kg. Results are presented in the Bercovich Lead Smelter Removal Assessment Final Report and the Field XRF Data Summary from the 2 sampling events is attached (see Tables 1 & 2 for a summary). As described above, there are concentrations of lead above the RSL of 400 mg/kg at all 11 properties that were sampled during the removal assessment. The presence of lead in the soil at elevated concentrations indicates that there is a potential release of lead at from the smelter parcel to the residences. There is a risk that children could be exposed to lead through contact with the contaminated soil. Children reside at two of the properties, and a daycare is operated at a third property.

5. National Priority List status

This Site is not on the NPL.

B. Other Actions to Date

As described above, EPA has conducted a removal assessment to determine the concentrations of lead in soil within the block around the original Bercovich Lead Smelter location. In addition, EPA Region 9 conducted a PA for the Bercovich site in 2003 and determined that the site did not qualify for the National Priority List based on its Hazard Ranking System Score. The site is currently being reassessed to incorporate new information and to determine whether further remedial assessment is warranted.

C. State and Local Authorities' Roles

1. State and local actions to date

On March 22, 2006, DTSC placed a deed restriction on the lead smelter parcel (1639 18th Street). The property is capped by asphalt and concrete, leaving no exposed soil. DTSC's deed restriction requires that the property owner maintain the cap as long as the lead contaminated soil remains on the property. Given the deed restriction, 1639 18th Street was not investigated in the EPA removal assessment.

Alameda County Department of Environmental Health (ACDEH) is able to conduct wipe sampling indoors in the residences with children present, and subject to site conditions ACDEH may address the removal of any lead contamination inside the structures.

2. Potential for Continued State/Local Response

EPA, DTSC, and ACDEH will coordinate efforts to address the contamination in the soil and the structures on the properties. This removal action will provide additional time for these parties to develop a viable plan.

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

Conditions at the Site indicate that there has been a release and there is a potential threat of release, of a CERCLA hazardous substance threatening to public health, or welfare, or the environment based upon the factors set forth in the NCP, 40 CFR § 300.415(b)(2). These factors include:

1. Actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations or the food chain

As describe in section II.4, there are elevated lead concentrations in all the sampled parcels adjacent to the former location of the Bercovich Lead Smelter. Nearly all the lead concentrations are above the cleanup level of 400 mg/kg and in some locations concentrations exceed 2,800 mg/kg. Environmental sources of lead exposure are more likely to cause subtle adverse health effects such as behavioral and learning impairments. Additionally, there are areas of the properties where the ground surface is bare dirt allowing for greater chance for the lead contamination to migrate into the residences where it presents a greater exposure threat.

Lead is a heavy metal that bio-accumulates in human tissues. Short-term exposure to large amounts of lead can cause harmful effects on the nervous system, gastrointestinal system, kidneys, and circulatory system. Long-term exposure to low levels, such as those that occur in the work place, can cause damage to the central nervous system, kidneys, blood, gastrointestinal tract, and gingival tissues. Children are particularly sensitive to the chronic effects of lead, with slowed cognitive development, reduced growth and other effects. Residents could be exposed to lead by

tracking contaminated soil into the house or through gardening or children playing in the contaminated soil. The lead and lead compounds that are subject to this removal action are CERCLA hazardous substances and are listed as such at 40 C.F.R. § 302.4.

2. The availability of other appropriate federal or state response mechanisms to respond to the release

Neither State nor local agencies have the resources to undertake the proposed cleanup action. EPA plans to work cooperatively with ACDEH to ensure that the hazardous substances are properly disposed of and the threats mitigated.

IV. ENDANGERMENT DETERMINATION

The elevated levels of lead discovered in the soil, if not addressed constitute a release that threatens human health and the environment. The response actions proposed in this memo are appropriate and are authorized by Section 104 (a) of CERCLA, 42 U.S.C. § 9604(a).

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

The following response actions will be conducted as part of this removal action:

Removal of lead contaminated surface and near-surface soil at residential properties. The current surface cover of each property will be assessed (i.e., grass, bare soil, shrubs, decomposed granite, etc.). EPA proposes to excavate lead-contaminated soil to approximately one foot depth and backfill with clean soil. An indicator layer will be placed at the bottom of the excavated area and then those excavated areas would be covered with clean fill. Necessary repairs to the landscaping and infrastructure would be performed as determined by the OSC in conjunction with the property owner.

With the approval of the action proposed in this memorandum, the physical removal of the material will include transportation and treatment or disposal of the materials at an approved treatment, storage or disposal facility. It is anticipated that additional hazardous materials, wastes, or situations may be present and contingency costs have been built into the funding ceiling for this eventuality.

2. Contribution to remedial performance

There is no ongoing remedial action at the Site.

3. Applicable or relevant and appropriate requirements

In accordance with 40 C.F.R. § 300.415(j), this removal shall, to the extent practicable

considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal laws and the environmental laws of the State of California.

Federal ARARs: Potential relevant federal ARARs are the provisions of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the corresponding regulations pertaining to the transportation and disposal of hazardous waste, including the land disposal restrictions at 40 CFR Part 268. As the materials being dealt with are likely to be RCRA characteristic and listed wastes, they will be handled accordingly. To the degree materials are sent off-Site, wastes will be sent to a RCRA permitted facility and RCRA manifesting requirements will be complied with for all waste streams. The materials will be sent to an acceptable RCRA treatment, storage, or disposal facility pursuant to the off-Site disposal requirements at 40 CFR § 300.440.

State ARARs: All ARARs based on the laws of the State of California that DTSC identifies in a timely fashion will be complied with to the extent practicable. Potential state ARARs are Characteristics of Hazardous Waste implemented through the California Health and Safety Code, Title 22, §§ 66261.20-24.

4. Project schedule

Actual field work related to this removal is expected to take up to four weeks. This includes time to conduct sampling of the excavated area, receive analytical results from sampling, and conduct the removal action.

B. Estimated Costs

Cost estimates are based on existing Emergency and Rapid Remedial Response Services rates for the EPA Region 9 contracts. Cost estimates may have to be adjusted after potential bids for the removal are received, or if there is a substantial increase in material that requires attention.

Extramural Costs

Regional Removal Allowance Costs

Cleanup Contractor (ERRS)	\$595,000
START Contractor	<u>\$120,000</u>
Extramural Subtotal	\$715,000
Extramural Contingency (20%)	<u>\$143,000</u>
TOTAL, Removal Action Project Ceiling	\$858,000

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

Given the Site conditions, the nature of the hazardous substances documented on Site, and the potential exposure pathways to nearby populations described in Sections III and IV above, actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response actions selected in this memorandum, present a release or substantial threat of release of hazardous substances into the environment. If no action is taken, residents within this block in the City of Oakland, particularly those residents living at properties where lead levels exceed RSLs, will continue to be exposed to high levels of lead.

VII. ENFORCEMENT

Please see the attached Confidential Enforcement Addendum for a discussion regarding enforcement in this matter. In addition to the extramural costs estimated for the proposed action, a cost recovery enforcement action also may recover the following intramural costs:

Intramural Costs¹

U.S. EPA Direct Costs	\$50,000
U.S. EPA Indirect Costs (64.80% of Spending \$858,000 + \$50,000)	\$588,384
TOTAL Intramural Costs	\$638,384

The total EPA extramural and intramural costs for this removal action, based on full-cost accounting practices that will be eligible for cost recovery, are estimated to be \$1,496,384. Of this, an estimated \$858,000 comes from the Regional removal allowance.

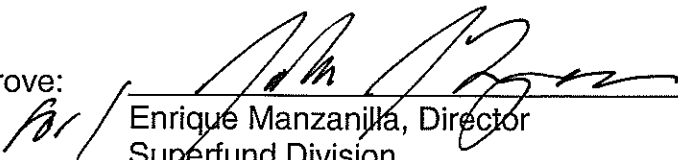
VIII. RECOMMENDATION

This decision document represents an appropriate removal action for the Bercovich Lead Smelter Site, Oakland, California, developed in accordance with CERCLA and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

Because conditions at the Site meet the NCP criteria for a time-critical removal, I recommend that you concur on the determination that there has been a release and there continues to be a substantial threat of a release, and approve the removal action proposed in this memorandum. The total removal action project ceiling, if approved, will

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

be \$858,000. If you approve of this action, please indicate your decision by signing below.

Approve:  September 28, 2017
Enrique Manzanilla, Director
Superfund Division Date

Disapprove: _____
Enrique Manzanilla, Director
Superfund Division Date

cc: Tim Grier, OEM

Enforcement Confidential Addendum

Attachments

1. Summary Data Tables 1 & 2
2. Index to the Administrative Record

bcc: Site File
Nathaniel Boesch, ORC-3
Bret Moxley, SFD-9-2
Harry L Allen, SFD-9-2
Ramon Albizu, SFD-9-4
Barbara Lee, SFD-9-4
Celeste Temple, SFD-9-4

ATTACHMENT 1

Summary Data Tables 1 & 2

Table 1
Summary of Lead Results
Bercovich Lead Smelter Removal Assessment
Oakland, Alameda County, California

Sample Number	Sample Location	Decision Unit	Sample Depth (inches)	¹ XRF Lead (ppm)	Lab Lead (mg/kg)
EPA Site-Specific Screening Level in mg/kg (equivalent to ppm)				400	
R1-1-2	Residence 1	1	0 to 2	661	-
R1-1-6		1	2 to 6	630	-
R1-1-12		1	6 to 12	546	-
R1-1-12 FD		1	6 to 12	483	-
R1-2-2		2	0 to 2	393	350
R1-2-6		2	2 to 6	923	-
R1-2-12		2	6 to 12	327	-
R5-1-2	Residence 5	1	0 to 2	873	-
R5-1-6		1	2 to 6	996	-
R5-1-12		1	6 to 12	679	-
R5-2-2		2	0 to 2	1,431	-
R5-2-6		2	2 to 6	1,377	-
R5-2-12		2	6 to 12	1,322	1,100
*R5-3-2		3	0 to 2	57.8	-
R8-1-2	Residence 8	1	0 to 2	1,889	-
R8-1-2 FD		1	0 to 2	1,911	-
R8-1-6		1	2 to 6	1,374	-
R8-1-12		1	6 to 12	1,968	-
R9-1-2	Residence 9	1	0 to 2	1,662	-
R9-1-6		1	2 to 6	2,049	1,700
R9-1-12		1	6 to 12	1,608	-
R12-1-2	Residence 12	1	0 to 2	843	-
R12-1-6		1	2 to 6	994	-
R12-1-12		1	6 to 12	750	750
R13-1-2	Residence 13	1	0 to 2	566	500
R13-1-6		1	2 to 6	1,287	-
R13-1-12		1	6 to 12	1,160	-
R13-2-2		2	0 to 2	1,431	-
R13-2-6		2	2 to 6	1,799	-
R13-2-6 FD		2	2 to 6	1,731	-
R13-2-12		2	6 to 12	1,528	-

Notes:

Samples were collected on June 27, 2017

1 = Analysis by Innov-X XRF in soil mode with 90-second run time

Lead analysis by EPA Method 6010C

EPA Site-specific screening level for Lead is 400 mg/kg

* Discrete sample

Bold = Result exceeds screening level

FD = Field Duplicate

mg/kg = milligrams per kilogram

PD = preparation duplicate

ppm = parts per million

XRF = X-ray fluorescence

Table 2
Summary of Lead Results
Bercovich Lead Smelter Removal Assessment
Oakland, Alameda County, California

Sample Number	Sample Location	Decision Unit	Sample Depth (inches)	¹ XRF Lead (ppm)	Lab Lead (mg/kg)
EPA Site-Specific Screening Level in mg/kg (equivalent to ppm)				400	
R2-1-2	Residence 2	1	0 to 2	1,091	
R2-1-6		1	2 to 6	1,158	
R2-1-12		1	6 to 12	1,010	
R2-1-12 FD		1	6 to 12	937	
R3-1-2	Residence 3	1	0 to 2	1,026	
R3-1-6		1	2 to 6	1,011	
R3-1-12		1	6 to 12	876	
R3-2-2		2	0 to 2	628	
R3-2-6		2	2 to 6	414	
R3-2-12		2	6 to 12	577	
R3-3-2		3	0 to 2	2,758	
R3-3-6		3	2 to 6	2,874	
R3-3-12		3	6 to 12	1,899	
R4-1-2	Residence 4	1	0 to 2	754	
R4-1-2 FD		1	0 to 2	769	
R4-1-6		1	2 to 6	1,005	
R4-1-12		1	6 to 12	866	
R4-2-2		2	0 to 2	1,561	
R4-2-6		2	2 to 6	1,744	
R4-2-12		2	6 to 12	1,800	
R6-1-2	Residence 6	1	0 to 2	637	
R6-1-6		1	2 to 6	831	
R6-1-12		1	6 to 12	740	
R6-2-2		2	0 to 2	657	
R6-2-6		2	2 to 6	777	
R6-2-12		2	6 to 12	769	
R6-2-12 FD		2	6 to 12	807	
R6-3-2		3	0 to 2	758	
R6-3-6		3	2 to 6	875	
R6-3-12		3	6 to 12	931	

Notes:

Samples were collected on August 25, 2017

1 = Analysis by Innov-X XRF in soil mode with 90-second run time

Lead analysis by EPA Method 6010C

EPA Site-specific screening level for Lead is 400 mg/kg

Bold = Result exceeds screening level

FD = Field Duplicate

mg/kg = milligrams per kilogram

ppm = parts per million

XRF = X-ray fluorescence

ATTACHMENT 2

Index to the Administrative Record

1. DTSC Request Letter for Federal Assistance, TBD
2. DTSC Preliminary Assessment for USEPA, April 3rd, 2002
3. Bercovich Lead Smelter Removal Assessment Final Report, Weston Solutions, August 11th, 2017