

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023**CONTAINS ENFORCEMENT-SENSITIVE INFORMATION****MEMORANDUM**

DATE: April 18, 2006

SUBJ: Request for a 12-Month Exemption, Change in the Scope of Response, and Ceiling Increase for the Removal Action at the St. Albans Gas & Light Site, St. Albans, Vermont - **Action Memorandum Addendum**

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TO: *Susan Studlien* Susan Studlien, Director *Susan Studlien*
Office of Site Remediation and Restoration

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval for a 12-month exemption, a change in the scope of response, and a ceiling increase for the removal action at the St. Albans Gas & Light Site, (the Site), which is located at 38 & 40 Maple Street in St. Albans, Franklin County, Vermont. The change in scope is the inclusion of two abutting properties, 24-34 LaSalle Street and 48 Maple Street, to the Site. Hazardous substances present in surficial soils at the Site, if not addressed by implementing the response actions selected in this Action Memorandum, will continue to pose a threat to human health and the environment. There are no nationally significant or precedent-setting issues associated with this Site, and there has been no use of the OSC's \$200,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID# : VTD988366688
SITE ID# : 01CT
CATEGORY : Time Critical

A. Site Description

1. Removal site evaluation

The first Action Memorandum, dated August 24, 2005, was signed by the Deputy Division Director, Richard A. Cavagnero, on August 29, 2005. For more background information regarding the Site, please refer to the initial Action Memorandum (attached). The time-critical removal action was initiated on October 17, 2005. Removal activities include excavating down to an approximate depth of two feet and off-site disposal of contaminated soils from the yards located at 38 and 40 Maple Street. Geotextile fabric was placed into the excavated areas to delineate the locations where EPA remediated prior to backfilling with clean fill material. EPA and its contractors demobilized from the Site on November 9, 2005 for the winter season; and will remobilize to the Site in the Spring of 2006 to finish re-grading the yards and conduct site restoration activities. EPA also conducted sampling activities at 24-34 LaSalle Street and 48 Maple Street, which abut 38 and 40 Maple Street, to further delineate the extent of contamination. Sampling results indicate the presence of elevated levels of polycyclic aromatic hydrocarbons (PAHs) in the surficial soils of these two abutting properties.

The environmental data from the extent of contamination survey was provided to the Agency for Toxic Substances and Disease Registry (ATSDR) for evaluation in February 2006. Based upon the health consultation provided by ATSDR, it is recommended that direct contact of the surficial soils at these two abutting properties be prevented. The scope of work for this time-critical removal action will be amended to include these two abutting properties, 24-34 LaSalle Street and 48 Maple Street, to abate the public health threat posed by the contaminated surficial soils.

2. Physical location

The Site is located at the corner of Maple Street and LaSalle Street in St. Albans, Vermont. The geographic coordinates, as measured from the approximate center of the property, are 44° 48' 46.8" north latitude and 73° 05' 24.0" west longitude. The Site is further identified as Lot Nos. 23057024, 23057038, and 23057040 on the City of St. Albans Tax Assessor's Map No. 10. The Site is bordered by Maple Street and residential properties to the east, LaSalle Street and residential properties to the south, Stevens Brook and residential properties to the west, and residential properties to the north.

3. Site characteristics

Please refer to the Action Memorandum dated August 24, 2005 for details.

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

Hazardous substances which have been released or pose a threat of release include the following PAHs:

- Benzo(a)anthracene
- Benzo(a)pyrene
- Benzo(b)fluoranthene
- Benzo(g,h,i)perylene
- Benzo(k)fluoranthene

5. NPL status

The site is not currently on the National Priorities List, and has not received a Hazardous Ranking System rating.

B. Other Actions to Date

1. Previous actions

Please refer to the Action Memorandum dated August 24, 2005 for details on activities prior to this on-going removal action, which was initiated on October 17, 2005.

C. State and Local Authorities' Roles

1. State and local actions to date

VT DEC has provided technical support for this Site.

2. Potential for continued State/local response

VT DEC will continue to provide technical support and assist with the coordination of this project with local officials.

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

A. Threats to Public Health or Welfare

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

Elevated levels of PAHs in the surface soils pose a direct contact threat to the residents and those who may enter the Site. ATSDR evaluated the environmental data and has indicated that a public health hazard exists.

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High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; [§300.415(b)(2)(iv)];

Sampling results have confirmed the presence of elevated levels of PAHs in the surface soils. There are bare areas that may make soil more likely to migrate via wind or runoff.

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

VT DEC does not have the resources to address the situation and have requested EPA's assistance in addressing this Site

B. Threats to the Environment

Actual or potential contamination of drinking water supplies or sensitive ecosystems; [§300.415(b)(2)(ii)];

Stevens Brook flows along the backside of the properties. It has been documented that high levels of PAH contamination exists in the backyards of these properties which are adjacent to the brook.

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; [§300.415(b)(2)(v)];

Heavy rainfalls could potentially cause contaminated soils to migrate into the nearby Stevens Brook.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances 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, or welfare, or the environment.¹

V. EXEMPTION FROM STATUTORY LIMITS

CERCLA §104(c) states that removal actions can exceed the 12-month and \$2 million statutory limits if conditions meet either the "emergency exemption" criteria or the "consistency

¹In accordance with OSWER Directive 9360.0-34, an endangerment determination is made based on collaboration with a trained risk assessor.

exemption" criteria. The consistency exemption requires that the proposed removal be appropriate and consistent with the remedial action to be taken. As described below, conditions at the Site meet the criteria for the consistency exemption.

A. Appropriateness

EPA OSWER directive 9360.0-12 states that an action is appropriate if the activity is necessary for any one of the following reasons:

1. To avoid a foreseeable threat;
2. To prevent further migration of contaminants;
3. To use alternatives to land disposal; or,
4. To comply with the off-site policy.

As indicated Section II(A)(1), elevated levels of PAHs in the surficial soils pose a contact threat to the residents who live in the apartments as well as anyone who may enter the Site. The proposed actions outlined below will meet criteria 1 and 2 because the actions will remove the contact threat and prevent further off-site migration of contaminants.

B. Consistency

The Site is not on the National Priorities List; however, a time-critical removal action was initiated at the Site in October 2005. The proposed actions outlined below are consistent with the current removal action and constitute removal and/or control of the source of the contamination; and therefore are consistent with any remedial action that may be taken.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

EPA plans to conduct this removal action as a fund-lead action, since no viable potentially responsible parties (PRPs) have been identified to date. The proposed actions will protect public health, welfare and the environment by removing the contaminated surface soils from the Site. Removal activities will include:

1. Remobilize to the Site with EPA response contractors;
2. Conduct additional sampling as needed to define the extent of surface soil contamination;
3. Excavation and off-site disposal of PAH-contaminated surface soils at EPA-approved disposal facilities;
4. Capping in-place of contaminated soils (if any) which may remain at depth or which cannot otherwise be excavated;

5. Backfilling of excavated areas;
6. Repair response-related damage areas disturbed by removal activities.

2. Community relations

EPA will remain involved with the local community throughout the removal action via press releases, fact sheets, and public meetings, as needed.

3. Contribution to remedial performance

The cleanup proposed in this Action Memorandum is designed to mitigate the threats to human health and the environment posed by the Site. The actions taken at the Site would be consistent with and will not impede any future responses.

4. Description of alternative technologies

The use of alternative technologies with regard to disposal options will be further examined as the site work progresses. On-site field screening and analytical techniques will be utilized during the removal action.

5. Applicable or relevant and appropriate requirements (ARARs)

Federal ARARs:

29 CFR Parts 1910, 1926, and 1904: OSHA Health and Safety Regulations

40 CFR Part 262 Standards Applicable to Generators of Hazardous Waste:

Subpart B - The Manifest

- 262.20 : General requirements for manifesting
- 262.21 : Acquisition of manifests
- 262.22 : Number of copies of manifests
- 262.23 : Use of the manifest

Subpart C - Pre-Transport Requirements

- 262.30 : Packaging
- 262.31 : Labeling
- 262.32 : Marking

Subpart D - Recordkeeping and Reporting

- 262.40 : Recordkeeping

40 CFR Part 264 Standards for Owners and Operators of Hazardous waste Treatment, Storage, and Disposal Facilities:

Subpart I - Use and Management of Containers

- 264.171 : Condition of containers
- 264.172 : Compatibility of waste with containers
- 264.173 : Management of containers
- 264.174 : Inspections
- 264.175 : Containment
- 264.176 : Special requirements for ignitable or reactive waste
- 264.177 : Special requirements for incompatible wastes

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40 CFR Part 264 Hazardous Waste Regulations - RCRA Subtitle C:

268-270 : Hazardous and Solid Waste Amendments Land Disposal Restrictions Rule

40 CFR Part 300.440 Procedures for Planning and Implementing Off-Site Response Actions (Off-Site Rule)

49 CFR Parts 171-179 : Department of Transportation Regulations for Transport of Hazardous Materials

State ARARs:

The OSC will coordinate with State officials to identify additional State ARARs, if any. In accordance with the National Contingency Plan and EPA Guidance Documents, the OSC will determine the applicability and practicability of complying with each ARAR which is identified in a timely manner.

6. Project schedule

EPA will initiate removal activities as soon as practical after the Action Memorandum is signed and anticipates completing on-site activities within ten months of its commencement.

B. Estimated Costs

COST CATEGORY	CURRENT CEILING	COSTS TO DATE	PROPOSED CEILING
<i>REGIONAL REMOVAL ALLOWANCE COSTS:</i>			
ERRS ² Contractor	\$400,000.00	\$269,215.00	\$600,000.00
Interagency Agreement	\$0.00	\$0.00	\$0.00
<i>OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE:</i>			
START ³ Contractor	\$100,000.00	\$79,200.00	\$200,000.00
Extramural Subtotal	\$500,000.00	\$348,415.00	\$800,000.00
Extramural Contingency (20%)	\$100,000.00	\$0.00	\$160,000.00
TOTAL, REMOVAL ACTION CEILING	\$600,000.00	\$348,415.00	\$960,000.00

² Emergency Rapid Response Services

³ Superfund Technical Assistance and Response Team

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

In the absence of the response action described herein, conditions at the Site can be expected to continue to deteriorate, and the threats associated with the presence of hazardous substances will persist.

VIII. OUTSTANDING POLICY ISSUES

There are no precedent setting policy issues associated with this site.

IX. ENFORCEMENT ... For Internal Distribution Only

See attached Enforcement Strategy.

The total EPA costs for this removal action based on full-time accounting practices that will be eligible for cost recovery are estimated to be \$960,000 (extramural costs) + \$200,000 (EPA intramural costs) = \$1,160,000 X 1.3151 (regional indirect rate) = **\$1,525,516⁴**.

X. RECOMMENDATION

This decision document represents the selected removal action for the St. Albans Gas & Light Site in St. Albans, Vermont, developed in accordance with CERCLA, as amended, and not inconsistent with the National Contingency Plan. The basis for this decision will be documented in the administrative record to be established for the Site.

Conditions as the Site meet the NCP Section 300.415 (b) (2) criteria for a removal action due to the following:

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

Actual or potential contamination of drinking water supplies or sensitive ecosystems [§300.415(b)(2)(ii)];

High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; [§300.415(b)(2)(iv)];

⁴ Direct Costs include direct extramural costs \$960,000 and direct intramural costs \$200,000. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific costs [31.51% x \$1,160,000], consistent with the full accounting methodology effective October 2, 2000. These estimates do not include pre-judgement 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.

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Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; [§300.415(b)(2)(v)];

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

I recommend that you approve the proposed removal action. The total removal action project ceiling if approved will be increased from \$600,000 to \$960,000. Of this total, no more than \$760,000 comes from the Regional removal allowance, an increase of \$260,000 from the original project ceiling.

APPROVAL:  _____

DATE: 4-24-06

DISAPPROVAL: _____

DATE: _____