



REGION 8

DENVER, CO 80202

December 6, 2023

Ref: 8SEM-EMR

ACTION MEMORANDUM

SUBJECT: Action Memorandum for a Removal Action at the Penrose Funeral Home Site

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THRU: Kerry Guy, Supervisor
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TO: Ben Bielenberg, Acting Director
Superfund and Emergency Management Division

I. Purpose

The purpose of this memorandum is to document the decision to initiate emergency response actions described herein for the Penrose Funeral Home Site (Site) located in Penrose, Fremont County, Colorado. This emergency response involves the demolition, cleanup, and proper disposal of the contaminated funeral home building. Conditions existing at the Site present a threat to public health or welfare or the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the National Contingency Plan (NCP).

EPA Region 8 consulted with OEM and considerations related to nationally-significant or precedent-setting issues have been factored into this time-critical removal action.

II. Site Information

A. Site Description

Site Name: Penrose Funeral Home Site

Site Spill ID (SSID): B8H6

NRC Case Number: N/A

CERCLIS Number: CON000826408

Site Location: 31 Werner Road, Penrose, CO 81240

Lat/Long: 38.431, -105.025

NPL Status: Non-NPL

Removal Start Date: TBD

B. Site Background

1. Site Evaluation

On approximately October 3, 2023, there was a report to local Fremont County law enforcement of an abhorrent smell emanating from the Return to Nature Funeral Home in Penrose, Colorado. On October 4, 2023, law enforcement officials executed a search warrant and determined human remains were improperly stored inside. Law enforcement officials later determined that at least 189 human bodies were inside the building in various stages of decomposition. Reportedly, some bodies had been improperly stored at the funeral home since as early as 2019. The Governor of Colorado declared a disaster emergency on October 5, 2023.

The funeral home advertised “green” procedures and no embalming fluids were used. One option offered by the funeral home was “aquamation,” an alternative to cremation, where an alkaline solution would be used to break down body tissues. Purportedly, the bones remaining after the aquamation or alkaline hydrolysis procedure would be crushed into ash and returned to the family similar to traditional cremation.

The Fremont County Sheriff’s office, Colorado Bureau of Investigation, Federal Bureau of Investigation and other local agencies entered the building the week of October 9, 2023. The investigators observed more than 189 human bodies improperly stored inside the building. The bodies were not contained. They were stored on the floor in various rooms, on card tables, and on medical gurneys. The bodies were in various stages of decomposition.

There were a few inches of matter from the decomposing bodies on the floor of the building. The Incident Management Team, including local and state agencies, contracted with a company to bring a vacuum truck to the site. The vacuum truck removed some of the matter and stored it in a container outdoors at the site. After the vacuuming procedure, some matter remained on the floor inside the building.

The material from the decomposing bodies was observed to have spread throughout the building and had soaked into walls, through woodwork, through the building foundation, and building stucco. There were thousands of flies inside the building, both dead and alive. There were signs that animals, possibly rodents, were attempting to burrow into the building near the front door.

The law enforcement teams transferred all human bodies from the building to the El Paso County Coroner's office and began the process of identification of the deceased individuals and notification to families. The law enforcement teams completed their investigations and evidence collection and released the building to Fremont County.

On October 26, 2023, the Fremont County Board of Health issued an Order to the funeral home owner to "... remove and abate the nuisance, source of filth, cause of sickness, and hazard existing..." at the funeral home. The funeral home owner did not comply with the Order. On October 30, 2023, Fremont County and the Colorado Department of Public Health and Environment (CDPHE) formally requested that EPA Region 8 conduct a CERCLA removal action. Residual matter from decomposing bodies has permeated the building's walls and foundation, thus decontaminating the building is infeasible. Demolition is the most efficient way to remove the hazards at the property. Neither the County nor CDPHE has the financial resources for a response action of this scope and complexity.

Two EPA OSCs and the START and ERRS contractors conducted a removal site inspection on November 15, 2023. The team assessed both the interior and exterior of the building. The OSCs confirmed the presence of residual matter/fluids from the decomposing bodies in nearly every room of the building including on floors and walls, tables, gurneys, and other surfaces inside the building. The OSCs confirmed the presence of thousands of dead flies inside the building and the burrowing area near the front door. The EPA team noted on the exterior of the building that fluids have seeped into the building foundation in several locations. The vacuum container used by the Incident Management Team has been removed from the Site and reportedly transferred to a hazardous waste incinerator.

The EPA OSCs determined a response action is necessary to address the release at the contaminated building.

2. Physical location and Site characteristics

The Site is at 31 Werner Road in Penrose, Colorado, adjacent to Colorado Highway 115. Homes and businesses are located nearby, including a U.S. Post Office immediately adjacent to the Site. At the United States Census 2020, the population of Penrose was 3,685.

According to EPA's Environmental Justice (EJ) Screening and Mapping Tool, the data does not indicate a potential area of EJ concern at or near the Site.

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

The main contaminants of concern are body fluids from decomposing human bodies. This material is not listed as a hazardous substance per 40 CFR 302.4 and is considered a pollutant or contaminant as defined in 42 U.S.C 9601(33).

III. Threats to Public Health Welfare or the Environment

A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants

There has been a release of matter/fluids from decomposing human bodies. During the removal site inspection, EPA observed these fluids have soaked into building materials and seepage can be seen on the exterior of the building on the walls and the foundation, i.e., into the environment.

Human remains can harbor dangerous disease producing agents (pathogens). Contact with infectious microorganisms in body fluids can result in exposure to pathogens that can be transmitted to individuals through various routes of exposure. Individuals in contact with or in proximity to human remains without adequate personal protective equipment or not following proper infection control protocols can potentially be exposed to these hazards, resulting in acute or chronic health conditions.

Residues of hazardous pharmaceuticals (e.g., chemotherapy drugs such as cyclophosphamide, alkylating agents) may be present in human remains or body fluids.

The presence of animal and insect vectors can result in possible transport of pollutants or contaminants and/or pathogens away from the structure and into the community, providing a secondary route of transmission and contact with infectious material.

Persons accessing the building or in proximity to the building may be exposed to pollutants or contaminants or pathogens, and the presence of disease vectors (animal, insect) may cause off-Site transport of pathogens with potential for secondary transmission in the nearby community.

B. Check applicable factors (from 40 CFR 300.415) which were considered in determining the appropriateness of a removal action: EPA has considered all the factors described in 40 CFR 300.415(b)(2) of the NCP and determined that the following factors apply at the Site.

- X 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)].
- ___ 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)].
- ___ 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)].
- ___ Weather conditions that may cause hazardous substances or pollutants to migrate or to be released [300.415(b)(2)(v)].
- ___ Threat of fire or explosion [300.415(b)(2)(vi)].
- X The availability of other appropriate federal or state response mechanisms to respond to the release [300.415(b)(2)(vii)].
- ___ Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)].

IV. Endangerment Determination under CERCLA Section 104: Pollutant or Contaminants

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

V. Selected Removal Action and Estimated Costs

A. Situation and Removal Activities to Date

1. Current Situation.

Local officials nailed boards across doors and windows of the building and erected a temporary fence around the property. These measures would not serve as long-term solutions to prevent unauthorized persons or vectors from accessing the building or prevent vectors from exiting the property into the local community. There is no security at the property.

2. Removal activities to date:

A) Federal Government/Private Party

There were no actions taken by the federal government or private parties after the building was released by law enforcement officials to Fremont County.

B) State/local

Local officials nailed boards across windows and doors and erected a temporary fence around the property. The Fremont County Board of Health issued an Order to the funeral home owners. The owners did not comply with the Order.

3. Enforcement

A separate Enforcement Addendum has been prepared providing a confidential summary of current and potential future enforcement activities.

B. Planned Removal Actions

1. Planned action description

Due to the extensive quantity of pollutants or contaminants remaining in the building, the evidence of contamination soaked into building materials inside the building, evidence of seepage on the exterior of the building, and the presence of insect and animal vectors, EPA will demolish the building and dispose of the building debris. No post-removal Site controls are anticipated to be necessary following the removal action. The EPA will identify the closest landfills allowed to accept the contaminated debris and which are in compliance with the CERCLA Off-Site Rule (40 CFR 300.440).

2. Contribution to remedial performance

The site is not listed on the NPL. The proposed actions will, to the extent practicable, contribute to the efficient performance of any long-term remedial action at the site.

3. 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. To date, no ARARs have been identified for this Site. EPA has been working closely with CDPHE and will identify ARARs prior to mobilization to begin the removal action.

4. Project Schedule

Removal activities on Site are anticipated to begin in January 2024. The removal action is anticipated to require approximately 10 days.

C. Estimated Costs*

Contractor costs (ERRS/START staff, travel, equipment)	\$600,000
Other Extramural Costs (Strike Team, other Fed Agencies)	\$ 0
Contingency costs (20% of subtotal)	\$120,000
Total Removal Project Ceiling	\$720,000

*EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA. "

VI. Expected Change in the Situation Should Action Be Delayed or Not Taken

A delay in action or no action at this Site will increase the actual or potential threats to the public health and/or the environment.

VII. Outstanding Policy Issues

None.

VIII. Approvals

This decision document represents the selected removal action for this Site, developed in accordance with CERCLA as amended, and is not inconsistent with the National Contingency Plan. This decision is based on the administrative record for the Site.

Conditions at the Site meet the NCP section 300.415(b) criteria for a removal action and through this document, I am approving the proposed removal actions. The total project ceiling is \$720,000; this amount will be funded from the Regional removal allowance.

APPROVE

Ben Bielenberg, Acting Director

Superfund and Emergency Management Division

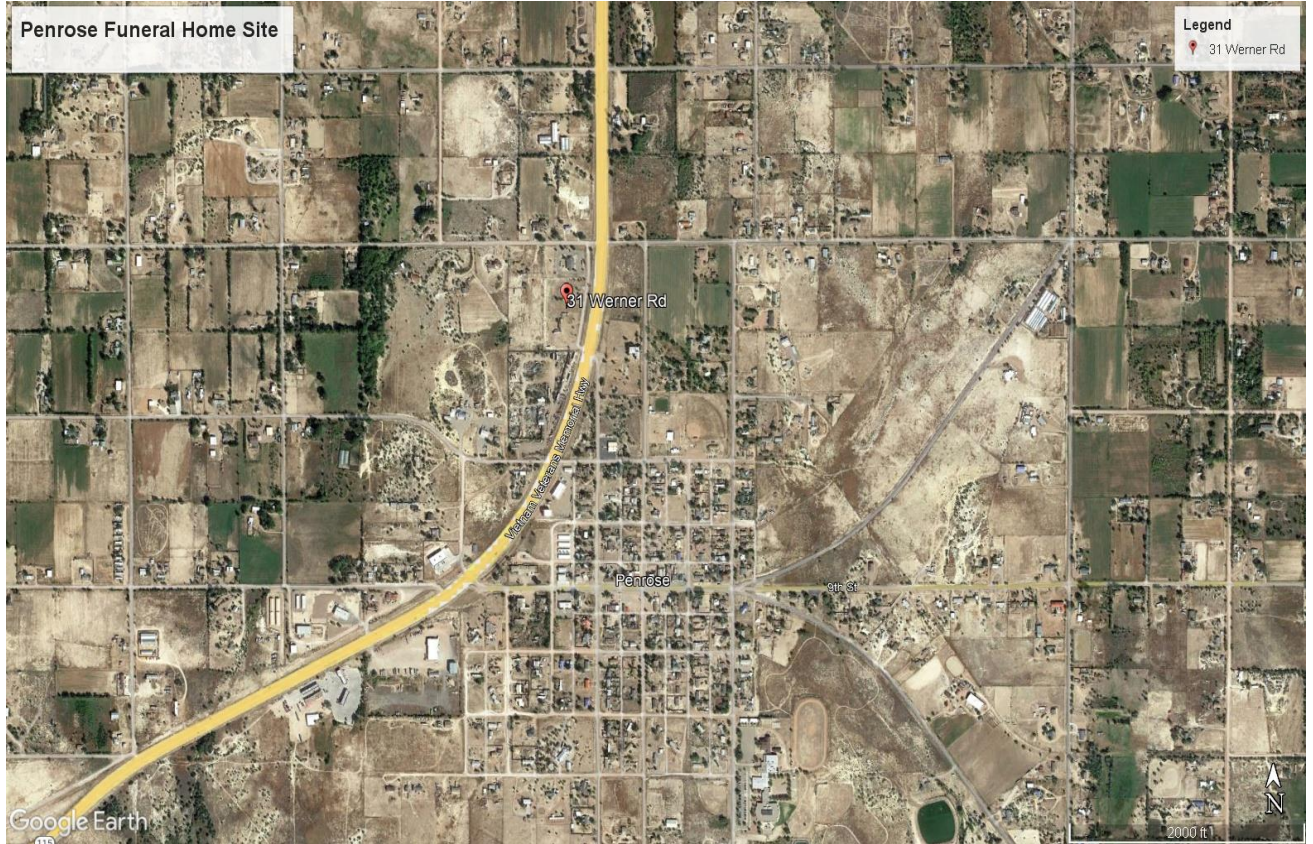
Date

Attachments:

Attachment 1: Site Map

Attachment 2: Site Photos

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Attachment 2: Site Photos

