



REGION 7

LENEXA, KS 66219

ACTION MEMORANDUM

SUBJECT: Request for an Emergency Removal Action at the Cherokee County Site, Operable Unit 03, Pursuant to the On-Scene Coordinator's delegated authority under CERCLA Section 104.

FROM: Brendan Martin, On-Scene Coordinator
Response, Removal and Oil Planning Section

THRU: Daniel O'Connor, Supervisor
Response, Removal and Oil Planning Section

TO: Adam Ruiz, Manager
Assessment, Emergency Response and Removal Branch

**BRENDAN
MARTIN**

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I. PURPOSE

The purpose of this Action Memorandum is to document the decision to initiate response actions described herein for the Cherokee County site, Operable Unit (OU) 03, pursuant to the On-Scene Coordinator's delegated authority under Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act. This response action is to address a residential property referred to the U.S. Environmental Protection Agency Assessment, Emergency Response and Removal (AERR) Branch by the EPA Lead Mining and Special Emphasis Branch (LMSE). An assessment of this property confirmed elevated lead concentrations in surface soils and a child resident under the age of seven that displayed an elevated blood lead level.

II. SITE INFORMATION

A. Site Description

Site Name: Cherokee County Site, OU3
Superfund Site ID (SSID): 0737
NRC Case Number: NA
EPA ID: KSD980741862
Site Location: [REDACTED]
Lat./Long.: [REDACTED]
Potentially Responsible Party (PRP): To be determined

NPL Status: NPL Site
Removal Category: Emergency
Nationally Significant: No

B. Site Background

1. Removal Site Evaluation

On March 13, 2024, the EPA AERR received a referral from the EPA LMSE to evaluate a single residential property for Removal Action under the Cherokee County site, OU3. The EPA LMSE confirmed elevated concentrations of lead in surface soils following notification from the Cherokee County Health Department of the presence of a child resident under the age of seven that displayed an elevated blood lead level.

2. Physical location and Site characteristics

This emergency Removal Action involves a residential property located at [REDACTED]. The surrounding area generally consists of residential and commercial properties.

The property is located within the Cherokee County National Priority List site, which spans 115 square miles and represents the Kansas portion of the Tri-State mining district. It consists of mine tailings, soil, sediment, surface water and groundwater contaminated with heavy metals (principally lead, zinc and cadmium). The primary sources of contamination are the residual metals in the abandoned mine workings, chat piles and tailings impoundments, in addition to historical impacts from smelting operations. The site was placed on the National Priorities List in 1983 and organized into subsites, which were then divided into nine OUs. This Emergency Removal Action is administratively within OU3 of the site.

The first Record of Decision (ROD) was signed on December 21, 1987, and provided the decision to begin remediating groundwater and surface water in and around Galena, Kansas. This was followed by RODs for the remaining OUs over the next several decades with the last being in 2016 with the signing of the OU8 ROD for Cherokee County Railroad lines. OU9, Tar Creek Watershed, is still in the Remedial Investigation / Feasibility Study phase and is expected to have a ROD in place in the next several years.

The EPA Remedial Program is in the process of procuring a Remedial Action contract to address lead contaminated residential properties in OU3 and OU7. The EPA Remedial Program anticipates a contract to be awarded in the 3rd Quarter of Fiscal Year 2024; however, field work will not be initiated on the residential Remedial Action until at least the 4th Quarter of Fiscal Year 2024. In

addition, there are currently two active mine waste Remedial Actions in Cherokee County OU4, the Webber Mine Remedial Action and a Cooperative Agreement Remedial Action. There is also an ongoing mine waste Remedial Action in OU3 (non-residential mine waste) and OU8 (rail lines).

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

Based on sampling conducted by EPA LMSE, lead was detected in surface soils at the residence at concentrations exceeding the Removal Management Level (RML). Lead is a hazardous substance consistent with the definition at Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act and as defined and listed at 40 C.F.R 302.4.

III. THREATS TO PUBLIC HEALTH, WELFARE OR THE ENVIRONMENT

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

Lead was detected in surface soils at one residence at concentrations exceeding the EPA RML. A child under the age of seven resides at the property and according to the Cherokee County Health Department, displays an elevated blood lead level.

B. Check Applicable Factors (from 40 C.F.R. § 300.415) Which Were Considered in Determining the Appropriateness of a Removal Action:

- ☒ 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)].
- ☐ 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. SELECTED REMOVAL ACTION AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Current situation

The EPA LMSE has notified the property owner of the presence of lead contamination in their soil.

2. Removal Activities to date:

a. State/Local

The Cherokee County Health Department conducts blood testing for lead exposure on children within the site and recently referred the property at [REDACTED] to the EPA LMSE branch because a child resident under the age of seven displayed an elevated blood lead level.

b. Federal Government/Private Party

Following the referral from the Cherokee County Health Department, EPA LMSE subsequently gained access and sampled the residential soil at the property and identified that surface soils exceeded the EPA RML.

3. Enforcement

An Enforcement Addendum will be prepared to accompany this Action Memorandum as soon as possible once the EPA is able to gather more information regarding potential liable and viable parties associated with the site.

B. Planned Removal Actions

1. Proposed action description

This Removal Action will address the residential property with sensitive populations and lead-contaminated soil exceeding the RML. This proposed action involves the excavation and removal of lead-contaminated soil, backfill of the excavated area to original grade with clean material and restoring a grass lawn in areas of exposed soil.

Remediation of the residential properties will generally proceed in accordance with the Superfund Lead-Contaminated Residential sites Handbook and in consultation with LMSE to ensure consistency with the future Remedial Action.

2. Contribution to remedial performance

It is expected that the Removal Action provided for herein would contribute to any potential Remedial Action at the site and would not adversely affect any future remedial performance for the site.

3. Applicable or relevant and appropriate requirements (ARARs)

Removal Actions conducted under CERCLA are required to attain ARARs to the extent practicable. Any identified potential ARARs will be evaluated and complied with to the extent practicable. In determining whether compliance with ARARs is practicable, the OSC will consider appropriate factors, including the urgency of the situation and the scope of the Removal Action to be conducted. Specific ARARs for this site are detailed in the following table.

Action	Requirement	Citation
Hazardous materials transportation	Identification of requirements for transporting potential hazardous materials	40 CFR Parts 171-179
Standards applicable to generators of hazardous waste	Manifesting, pre-transport, recordkeeping	40 CFR Part 262
Standards applicable to transporters of hazardous waste	Manifesting, recordkeeping	40 CFR Part 263
Hazardous Materials Transportation Act	Transportation	49 U.S.C. §§ 801 – 1813, 49 CFR Parts 171 – 179

4. Project schedule

The emergency Removal Action start date is March 15, 2024, and the proposed emergency removal action completion date is June 1, 2024.

C. Estimated Costs*

Contractor Costs (ERRS/START staff, travel, equipment)	\$112,500
Other Extramural Costs (Strike Team, other Federal Agencies)	\$0
Contingency Costs (20% of subtotal)	\$22,500
Total Removal Project Ceiling	\$135,000

*** The 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.**

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

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

VI. OUTSTANDING POLICY ISSUES

None.

VII. APPROVALS

This decision document represents the selected Removal Action for this site, developed in accordance with CERCLA as amended, and not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). 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 action. The total project ceiling is \$135,000. This amount comes from Superfund tax money the Region received to address lead-impacted sites.

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MARTIN**

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Brendan Martin
Federal On-Scene Coordinator

VIII. ENDANGERMENT DETERMINATION UNDER CERCLA SECTION 106: HAZARDOUS SUBSTANCES

Pursuant to Section 106 of CERCLA, I have determined that there may be imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from the site.

**DANIEL
O'CONNOR**

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for Adam Ruiz, Manager
Assessment, Emergency Response and Removal Branch