



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

**CONTAINS ENFORCEMENT-SENSITIVE INFORMATION**

**MEMORANDUM**

**DATE:** August 18, 2008

**SUBJ:** Request for a Removal Action at the Rolnick Property Site,  
Brewer, Penobscot County, Maine - **Action Memorandum**

**FROM:** Dan Wainberg, On-Scene Coordinator  
Emergency Response and Removal Section I

**THRU:** David McIntyre, Chief  
Emergency Response and Removal Section I

Arthur V. Johnson III, Chief  
Emergency Planning & Response Branch

**TO:** James T. Owens III, Director  
Office of Site Remediation and Restoration

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the proposed removal action at the Rolnick Property Site (the Site), which is located at 151 South Main Street in Brewer, Penobscot County, Maine. Lead present in the soils and sediments 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# :** MEN000105888  
**SITE ID# :** 01EU  
**CATEGORY :** Time-Critical

**A. Site Description**

**1. Removal site evaluation**

In January of 2008, the Maine Department of Environmental Protection (MEDEP) requested that EPA Region 1 Emergency Planning & Response Branch evaluate the subject property,

which is currently privately owned, to determine whether lead contaminated surface and subsurface soils along the Penobscot River pose a public health and environmental threat. On 18 April 2008, OSC Wainberg and Enforcement Coordinator Hennessy met with MEDEP representative Tracy Weston at the DEP Augusta offices to perform a file review and to conduct a site visit at the Rolnick Property. At the Site, T. Weston and the current property owner provided a tour and explained previous investigations and removal work. On 15 May 2008, the OSC, EPA contractors, and MEDEP completed a Removal Program Preliminary Assessment/Site Investigation (PA/SI), which included collecting soil samples in areas of concern MEDEP previously identified. OSC Wainberg recommended a time-critical removal action at the Rolnick Property Site in a Closure Memorandum dated 14 July 2008.

## **2. Physical location**

The Site, which abuts the Penobscot River, is located in a mixed residential and commercial area and is approximately 0.5 miles from the Brewer town center. According to 2006 census data, Brewer has an approximate population of 9,079.

Location details are:

- 151 South Main Street, Brewer, Penobscot County, Maine; and
- North 44°47'25.31" latitude, west 68°46'12.43" longitude.

The Site is bordered to the:

- North by three residential properties along Hardy Street and a town owned parcel that is the location of a formerly active municipal landfill and currently houses a pump station. Additionally, this parcel is being utilized as a staging area for the Maine Department of Transportation;
- East by South Main Street;
- West by the Penobscot River; and
- South by the Penobscot River and a commercial property.

## **3. Site characteristics**

The Site history<sup>1</sup>, current status, and features consist of the following:

- The Site is approximately 4.24 acres;

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<sup>1</sup> Historical information is from the 2004 Phase I Environmental Assessment Report provided to EPA by MEDEP.

- The property is privately owned and operated. There is a 40ft by 70ft Quonset hut in the northwest corner of the property along Main Street, which houses an active bottle redemption business that has been operating since approximately 1984;
- From approximately 1865 to 1906, the property was used by Dirigo Lumber as a saw mill;
- From 1895 until sometime before 1929, Charles Stanford owned and operated an automobile dealership at the Site;
- In 1914, a portion of the property was leased to Louis Rolnick for use as an automobile salvage facility. Louis Rolnick purchased the entire property in 1929 and continued its operation as an automobile salvage facility until 1983;
- Another portion of the Site was leased to Albert Cowan in 1933 for use as an Amoco gasoline station. The service station was located on the northeast corner of the subject property and remained there until 1946;
- The primary areas of concern at this property include the riverbank along the southern and western edges of the property where extensive sampling has indicated high levels of lead contamination in the surface and subsurface soils;
- The riverbank along the southern edge has visible battery casings (presumably from the auto salvage business) that extend from the top of the bank extending to below the high water mark; and
- The riverbank along the western edge is comprised of crib work constructed with wood timbers and car chasses. Battery casings and other debris are visible in this area.

According to the EPA Region 1 Environmental Justice Mapping Tool, the Site is in a low income environmental justice area.

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

Substance	Media
Lead - up to 51,000 parts per million (ppm)	surface soils, sediments, and surface water (Penobscot River)

**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** – None.
2. **Current actions** – None.

### **C. State and Local Authorities' Roles**

#### **1. State and local actions to date**

MEDEP performed a series of investigations from 2002 to 2004 that included surface and sub-surface soil, sediment, and pore water sampling. Investigations revealed high levels of lead contamination on the riverbank portions of the property and petroleum-related contamination in the northeast portion of the Site where a gasoline station had been located. MEDEP remediated this portion of the property in 2006.

#### **2. Potential for continued State/local response**

At this time, MEDEP and the property owner are unable to perform the necessary removal action. However, MEDEP has limited funding and will support the response by providing personnel and equipment resources.

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

*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)];*

Lead in the surface and subsurface soils pose a direct contact threat to nearby populations, including children and on-site employees that can access this unrestricted Site. The Penobscot River is inundating and undercutting portions of the riverbank causing erosion and subsequent migration of contaminated surface soils and sub-surface soils into the river threatening aquatic receptors including Striped Bass and Atlantic Salmon, which are consumed by recreational fisherpersons.

Humans are exposed to lead primarily by either ingestion or inhalation. Unborn children can be exposed to lead through their mothers. Children are more vulnerable and sensitive to lead exposure than adults. The main target for lead toxicity is the nervous system. Long-term exposure of adults to lead has resulted in decreased performance in tests that measure nervous system performance. Lead may also cause weakness in the wrists, fingers, and ankles. Exposure to high levels of lead can cause brain and kidney damage in adults and children and may ultimately lead to death. In pregnant women high levels of lead exposure may cause miscarriages. High level exposure in men can damage reproductive organs.<sup>2</sup>

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<sup>2</sup> Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services, Public Health Service, *Toxicological Profile for lead* September 2005.

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

Although the Penobscot River is not a drinking water source, the river is inundating and undercutting portions of the riverbank causing erosion and subsequent migration of contaminated surface soils and sub-surface soils into the river threatening aquatic receptors including Striped Bass and Atlantic Salmon, which are consumed by recreational fisherpersons.

*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 or contaminants to migrate or be released [§300.415(b)(2)(v)];*

Both EPA and MEDEP sampling efforts have indicated the presence of lead in surface and sub-surface soils along the river that range up to 51,000 ppm (from EPA sampling) and 71,000 ppm (from MEDEP sampling). The lead in the surface and subsurface soils may migrate into the Penobscot River, adjacent areas of the property where there is an active business, and/or adjacent commercial or residential properties through wind and water erosion.

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

State and local authorities do not have the resources to address this Site and MEDEP has requested EPA support to conduct a removal action. However, as mentioned above, MEDEP does have limited funding and will support the response by providing personnel and equipment resources.

#### **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.<sup>3</sup>

#### **V. PROPOSED ACTIONS AND ESTIMATED COSTS**

##### **A. Proposed Actions**

##### **1. Proposed action description**

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<sup>3</sup> In accordance with OSWER Directive 9360.0-34, an endangerment determination is made based on relevant action levels, cleanup standards, risk management guidance, or other relevant information published and relied upon by the State of Maine.

Proposed actions include, but are not limited to, the following:

- The OSC and EPA contractors will convene at the Site to discuss initial logistics, personnel, equipment, and supply needs of the removal action;
- Secure and post the Site to prevent unauthorized access, as necessary;
- Develop and execute a work plan to address the lead-contaminated soils by excavating and/or consolidating and capping soils. The work plan will need to be developed utilizing engineering expertise from both EPA contractors and United States Army Corps of Engineers (USACE). The plan will consider protection of the river while addressing the public health and ecological threat posed by the lead contaminated soils;
- Dispose, at a licensed off-site disposal facility, any contaminated soil that will be removed from the Site;
- Implement controls to prevent airborne emissions of contaminated particulates to the environment during any excavation activities or handling of contaminated soils. Misting operations are expected to prevent contaminants from migrating during the removal;
- Plan and conduct air monitoring during excavation activities or handling of contaminated soils to assure protection of site workers and nearby on-site and off-site workers and residents;
- Assess and characterize any additional hazardous materials discovered during the course of this action. Any hazardous materials will either be properly removed and transported to a licensed off-site disposal facility where possible or otherwise addressed as seen fit by the OSC to reduce or eliminate any immediate health and/or environmental threats; and
- Repair response-related damages.

## **2. Community relations**

MEDEP has conducted various investigations and a removal of petroleum-related contaminated soils from a portion of the Site. This work has been communicated to the public via press releases and fact sheets. Once the removal commences, public outreach activities will include:

- Coordination of removal activities with the City and MEDEP;
- Periodic fact sheets for local residents and area businesses;

- Visits to residents and area businesses in the immediate vicinity as appropriate;
- Coordination with the City and MEDEP to determine the need for and subsequent issuance of press releases and/or newsletters with removal action status;
- OSC availability at the Site during removal activities to address questions and/or concerns from the public;
- Public information sessions and/or public meetings as necessary; and
- Maintenance of an EPA OSC web site.

### **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**

No alternative technologies have been identified at this time. If technologies become available that are appropriate they will be assessed and implemented if suitable.

### **5. Applicable or relevant and appropriate requirements (ARARs)**

Federal ARARs:

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

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)

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**

Pending availability of funding, EPA anticipates removal activities will commence within 30 days of the signing of this Action Memorandum. The removal action is estimated to take six to twelve months to complete.

**B. Estimated Costs**

COST CATEGORY		CEILING
<i>REGIONAL REMOVAL ALLOWANCE COSTS</i>		
ERRS <sup>5</sup> Contractor		\$1,339,000
Interagency Agreement		\$50,000
<i>OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE</i>		
START <sup>6</sup> Contractor		\$141,000
Extramural Subtotal		\$1,530,000
Extramural Contingency	20%	\$306,000
<b>TOTAL, REMOVAL ACTION CEILING</b>		<b>\$1,836,000</b>

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<sup>4</sup> This cost will be driven by the selected option(s). Should longer term options need to be implemented, additional funding may be required.

<sup>5</sup> Emergency Rapid Response Services

<sup>6</sup> Superfund Technical Assistance and Response Team



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

Delayed action will increase both environmental and health risks posed by the presence of hazardous substances in soils that may migrate and contaminate nearby properties and the abutting Penobscot River.

**VII. OUTSTANDING POLICY ISSUES**

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

**VIII. 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 \$1,836,000(extramural costs) + \$25,600 (EPA intramural costs) = \$1,861,960 X 1.33 (regional indirect rate) = \$2,476,411.62<sup>7</sup>.

**IX. RECOMMENDATION**

This decision document represents the selected removal action for the Rolnick Property Site in Brewer, Maine developed in accordance with CERCLA, as amended, and is 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 at 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)];*

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<sup>7</sup>Direct Costs include direct extramural costs \$1,836,000 and direct intramural costs \$25,600. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific costs [33% x \$1,861,960 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.

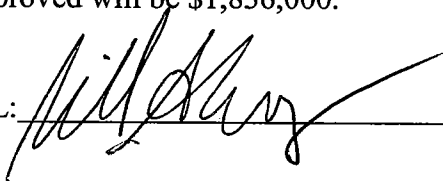
*High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate [§300.415(b)(2)(iv)];*

*Weather conditions that may cause hazardous substances or pollutants 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 \$1,836,000.

APPROVAL: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "Bill Dwyer", written over a horizontal line.

DATE: \_\_\_\_\_

8-19-08

DISAPPROVAL: \_\_\_\_\_

DATE: \_\_\_\_\_