U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION/SITUATION REPORT
Newstead Site – PRP Action (Soil Excavation/Removal) - Removal Polrep
Final Removal Polrep

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region II

Subject: **POLREP #2**
Final - PRP Action - Soil Excavation/Disposal
Newstead Site – PRP Action (Soil Excavation/Removal)
4X
Newstead, NY
Latitude: 43.0739759 Longitude: -78.5538572

To:
From: Louis DiGuardia, On-Scene Coordinator
Date: 9/30/2010
Reporting Period:

1. Introduction

1.1 Background

Site Number:	4X	**Contract Number:**	
D.O. Number:		**Action Memo Date:**	4/4/2006
Response Authority:	CERCLA	**Response Type:**	Non-Time-Critical
Response Lead:	PRP	**Incident Category:**	Removal Action
NPL Status:	Non NPL	**Operable Unit:**	Three
Mobilization Date:	7/23/2007	**Start Date:**	7/23/2007
Demob Date:	11/28/2007	**Completion Date:**	9/30/2010
CERCLIS ID:	NYD986883387	**RCRIS ID:**	
ERNS No.:		**State Notification:**	
FPN#:		**Reimbursable Account #:**	

1.1.1 Incident Category

Excavation of approximately 4,000 cubic yards of hazardous wastes and contaminated soils to be transported off-Site for treatment/disposal. Residential, dump, “non-time critical removal action”

1.1.2 Site Description

The Newstead Site located on Fletcher Road in Newstead, Erie County, New York. This site consists of a 6.6-acre parcel of land that was purchased by the Pratt & Lambert Corporation, Inc. in August 1992. This company was then acquired by Sherwin-Williams in 1996.

1.1.2.1 Location

The Site is situated in a rural residential community in the Town of Newstead, south of the Tonawanda Creek. The Site is surrounded by woods to the east and south, and by wetlands to the north. The west side is bounded by Fletcher Road, and cultivated agricultural lands are located directly across the street. There is a drainage ditch located between the property boundary and Fletcher Road which runs along the length of Fletcher Road. The population in the town of Newstead is 8,397 persons according to the 2006 US Bureau Census.

During the late 1940’s and early 1950’s a previous owner of the Site disposed of industrial waste, including drums and cans of various sizes containing paints and other solvents on the property. These containers were brought from a Pratt & Lambert facility in Buffalo, New York and taken to the northern portion of the Site where they were burned, and/or otherwise disposed of. From approximately May 1980 until 1989 the Site was used for residential purposes then purchased by the Pratt & Lambert Corporation, Inc. in August 1992 (acquired by Sherwin-Williams in 1996) and since then has been unoccupied.

1.1.2.2 Description of Threat

According to the New York State Department of Environmental Conservation (NYSDEC), New York State Department of Health (NYSDOH), and Erie County Department of Environmental Protection (ECDEP), in addition to statements by a previous resident, at various times in the late 1980’s soil erosion uncovered previously buried waste materials, drums, cans, and containers along the ground surface of the Site. The release of potential hazards from these containers can pose a threat to human health and the environment. The migrations of hazardous substances present in the soils, further groundwater contamination, and

surface water contamination from runoff of contaminated rainwater are threats of concern.

Residents exposed to metal contaminates via incidental ingestion, dermal contact and inhalation of suspended soil particles are of concern. Surface soil samples were collected and analyzed for chromium, lead, and zinc during a risk assessment. As a result of the assessment lead was the only contaminate that posed a significant health risk to human health.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

In 1987 NYSDEC collected samples of waste from the Site that contained volatile organic compounds (VOCs), benzene, metals including lead and chromium. Samples of groundwater from a shallow well were also collected which contained elevated levels of VOCs and inorganic chemicals, while a deeper well that were used for drinking water was not impacted. Additional sampling by NYSDOH and ECDEP in 1988 identified elevated levels of organic compounds and metals in shallow solid samples (0 to 6 inches, including chromium, cadmium, lead and barium.

In June 1989, NYSDEC referred the Site to EPA for an appropriate response action. In August 1989, EPA received verbal notification from the Agency for Toxic Substances and Disease Registry (ATSDR) that the Site presented a significant and imminent health threat.

On July 26, 1989 a preliminary assessment pursuant to CERCLA at the Site was conducted by EPA. In August 22, 1989, EPA received verbal notification from the Agency for Toxic Substances and Disease Registry (ATSDR) that the Site presented a significant and imminent health threat. ATSDR issued a Health Advisory that recommended disassociation of human contact with the contaminated area and biological testing of the Site residents.

During the Site Investigation, samples were collected from the waste materials and sediments and analyzed for Target Compound List (TLC) organics and Target Analysis List (TAL) inorganics and selected samples were analyzed using the Toxicity Characteristic Leaching Procedure (TCLP).

Based on the results of the Site Investigation, it was determined that several surface soil, subsurface soil, and sediment samples exhibited concentrations of inorganic parameters that could potentially exceed regulatory criteria for the TCLP analysis. These samples exhibited elevated levels of one o more of the following inorganic parameters: lead, chromium, cadmium, and barium.

In 1989 and 1990 the NUS Corporation, under contract to EPA, conducted additional investigations. Results of these investigations indicated elevated levels of VOCs, including ethylbenzene and xylenes, in soil gas. Lead, zinc and chromium were also found in Site Soils; the highest concentrations found were 9,600 parts per million (ppm), 7,900 ppm and 1,800 ppm, respectively

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

An Interim Response Action Work Plan for the Newstead Superfund Site was prepared by ERM Remediation & Construction Management (RCM) and approved by EPA. The plans are to mobilize their team at the site on Monday, 23 July 2007 to begin collecting the site pre-characterization samples, followed by mobilization of the excavation equipment to the site beginning on Monday, 30 July 2007.

2.1.2 Response Actions to Date

In June 1989, NYSDEC referred the Site to EPA for an appropriate response action.

In 1992, Sherwin-Williams purchased the property, stabilized the wastes, demolished and removed the remains of the house, and installed a chain link fence to restrict access into the contaminated area.

On April 25, 2006 a public meeting was held during the public comment period at the Newstead Town Hall to present the conclusions of the Engineering Evaluation/Cost Analysis (EE/CA), to discuss the preferred response action, and to receive public comments on the preferred response action.

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

On September 27, 1989, EPA issued an Administrative Order to Pratt & Lambert requiring it to relocate the family that had been residing at the Site to a comparable replacement dwelling and to pay interim housing costs until the relocation has occurred.

On September 26, 1990, EPA issued another Administrative Order to Pratt & Lambert requiring it to conduct an investigation of the release and threatened release of hazardous substances at the Site, and to evaluate potential cleanup alternatives.

During performance of the 1990 Order, Sherwin-Williams proposed to EPA and NYSDEC that it perform an expedited interim removal action at the Site to remove the hazardous substances and contaminated soils and sediments at the Site. Following lengthy negotiations for an order on consent pursuant to CERCLA between EPA and Sherwin-Williams for performance of that work under EPA oversight, Sherwin-Williams did not agree to EPA=s requirements with respect to an applicable work plan for such work, nor with respect to the terms of an order on consent to perform that work and, by letter dated June 11, 2002, EPA notified Sherwin-Williams that it was terminating discussions for consensual performance of the work.

Following the June 2002 cessation of negotiations with Sherwin-Williams, EPA commenced an Engineering Evaluation/Cost Analysis Report (EE/CA) and prepared a Proposed Response Action Document (PRAD) for a non-time-critical removal action to address the contamination at the Site. On September 29, 2006, EPA issued an Action Memorandum selecting a removal response action to address paint and associated wastes, contaminated soils and contaminated sediments at the Site and to perform groundwater monitoring at the Site.

On October 24, 2006, EPA issued an a Unilateral Administrative Order (UAO) to Sherwin-Williams requiring it to conduct a removal response action to address paint and associated wastes, contaminated soils and contaminated sediments at the Site and to perform groundwater monitoring at the Site.

2.1.4 Progress Metrics

Waste Stream	*Medium*	*Quantity*	*Manifest #*	*Treatment*	*Disposal*

2.2 Planning Section

2.2.1 Anticipated Activities

ERM collected samples for site soil characterization on July 23, 2007 and mobilized personnel and equipment to the site on August 1, 2007. Soil excavation began on August 14, 2007. As per the approved work plan, soil excavation and disposal inthe Surface Contamination Area was estimated to be approximately 2,019 cubic yards with an average excavation depth of 12 inches. In the Intermittent Waste Area approximately 624 cubic yards of material was excavated and disposed to an average depth of 18 inches. In the Continuous Waste Layer, approximately 2,600 cubic yards of waste was removed to a depth of approximately 54 inches. Approximately 530 cubic yards of hazardous material was stabilized, excavated and disposed. Approximately 7,018 tons of non-hazardous soils was excavated and disposed off-site.

Upon completion of excavation activities, post excavation confirmation sampling was performed to verify cleanup to the project action limits. With the verification of cleanup levels in, certified clean fill was brought in to complete backfilling activities.

All equipment and suport faclities were demobilized from the Site on Novenber 28, 2007.

2.2.1.1 Planned Response Activities

As part of the removal order, a post-removal groundwater monitoring plan was implemented.

2.2.1.2 Next Steps

Review all post-removal groundwater data collected between January 2008 and April 2010, and determine if the natural groundwater quality at the Site has been impacted.

2.2.2 Issues

On September 30, 2010, the following correspondence was forwarded to the PRP completing all site removal activities.

EPA had received and reviewed the following correspondence for the Administrative Order on Consent (AAOC@) (Index No. II CERCLA-02-2006-2023) for the excavation of contaminated waste, soils and sediment from the Site, restoration of the impacted wetland in the northern region of the Site and implementation of a post-removal groundwater monitoring program, under Section VI. Order, B. Description of Work, for the Newstead Site (Site).

- Final Report Interim Removal Action, Newstead Superfund Site, dated December 2007, prepared by ERM Remediation & Construction (ERM).

- Letter, dated June 26, 2008, from Mr. Kenneth Stroebel (ERM) to Edward Hinchey, ERM, entitled “Additional Information and Clarification Sidewall Sampling and Excavation Limits, Newstead Superfund Site”.

- Letter Report, dated November 4, 2008, from Kenneth Stroebel (ERM) to Michael Walters (EPA), entitled “Additional Soil Sampling Newstead Superfund Site”.

- April 2010 Semi-Annual Groundwater Sampling Report, Newstead Superfund Site, dated June 30, 2010, prepared by ARCADIS.

Based upon the information provided in these reports, in conjunction with correspondence from EPA, dated October 24, 2007, from Kevin Lynch (EPA) to Dr. Gordon S. Kuntz (SW), which confirmed the acceptance

by EPA and the New York State Department of Environmental Conservation (NYSDEC) of clean fill and provided approval for backfilling of select quadrants due to exceedances of zinc above the Order actions levels, based upon Section VI. Order, K., Compliance With Other Laws, 75, which states “All actions required pursuant to this Order shall be performed in accordance with all applicable New York State and federal laws and regulations except as provided in CERCLA ' 121(e)(1), 42 U.S.C. ' 9621(e)(1), and 40 CFR ' 300.415(j). In accordance with 40 CFR ' 300.415(j), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or New York State environmental or facility siting laws. (See "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991)”, where EPA and NYSDEC considered the Unrestricted Use Cleanup Objectives under Title 6 of the New York Code of Rules and Regulations Part 275-6.8(a), for the contaminants of concern, barium (350 parts per million (ppm), cadmium (2.5 ppm), chromium (30 ppm), lead (63 ppm), mercury (.18 ppm) and zinc (109 ppm).

In-addition, as provided in the correspondence dated August 4, 2010, from Michael Walters (EPA) to Dr. Gordon S. Kuntz (SW), where based upon all post-removal groundwater data collected between January 2008 and April 2010, EPA determined that the natural groundwater quality at the Site has been achieved. Therefore, in accordance with Paragraph 55 of the Order, EPA requires no further post-removal groundwater sampling and analysis for the Site

In accordance with Section S, Termination and Satisfaction, Paragraph 95, of the Order, EPA has determined that all removal actions and requirements have been fully performed and/or satisfied in accordance with this Order, by The Sherwin-Williams Company. Accordingly, this correspondence constitutes the notice of completion under this Order.

2.3 Logistics Section

No information available at this time.

2.4 Finance Section

No information available at this time.

2.5 Other Command Staff

No information available at this time.

3. Participating Entities

No information available at this time.

4. Personnel On Site

No information available at this time.

5. Definition of Terms

No information available at this time.

6. Additional sources of information

No information available at this time.

7. Situational Reference Materials

No information available at this time.