

United States Environmental Protection Agency
Region II
POLLUTION REPORT

Date: Wednesday, October 4, 2006

From: Paul Kahn

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Subject: Bio-Tech Mills OPA Removal Site
RFD 2, Battenville, NY
Latitude: 43.1097000
Longitude: -73.4225000

POLREP No.:	3	Site #:	n/a
Reporting Period:		D.O. #:	029
Start Date:	6/6/2006	Response Authority:	OPA
Mob Date:		Response Type:	Non-Time-Critical
Demob Date:		NPL Status:	Non NPL
Completion Date:		Incident Category:	Removal Action
CERCLIS ID #:		Contract #	EP-W-O4-055
RCRIS ID #:		Reimbursable Account #	2005HR02H0X71302D91CZ271
FPN#	E05204		

Site Description

Site is a defunct paper converter which manufactured tissue and toilet paper, and is located within 10 feet of the Battenkill River in upstate rural NY. Owner operates a business office at the site, but manufacturing ceased 12 years ago.

Since April, 2004, OSC has been working with the owner to remove approx. drums of hydraulic fluid, PCB fluids, waste oil and other chemical substances. The CERCLA removal action was completed in June, 2005.

During the removal action, the OSC observed a large oil tank on the property. Closer examination revealed the presence of approx. 10,000 gallon of aged #6 oil being stored in what was a deteriorated metal tank that had inadequate secondary containment.

Inasmuch as the mill has been shut down for 12 years and will never operate again, the OSC determined that the oil being stored in the deteriorated tank, with less than adequate secondary, constituted a significant threat of a release of petroleum to a navigable waterway of the United States. Because of the Petroleum Exclusion in CERCLA, the oil will be now be addressed with funding authority under CWA-Oil Pollution Act '90. The owner has agreed to cooperate with EPA and have the oil removed.

See separate site profile for "Bio-Tech Mills-CERCLA" for additional information.

Current Activities

Responsible Party ("RP") has refused numerous times to grant EPA access to perform the removal of the oil and tank. RP has contacted a number of private companies who do this kind of work, and has balked at entering into a contract with any of them due to the high cost of the project.

OSC issued a CWA Section 311 (C) order to RP on 9/28/06, giving him until 10/13/06 to have the oil removed. Violation of the order will result in the RP being referred to ORC for further enforcement action and seeking judicial access for EPA to do the work. Violation of the terms of the Order could also result in the imposition of civil monetary penalties.

RP has informed the OSC on 10/3/06 that he has a verbal agreement with a local asphalt company to take the oil and the empty tank for reuse. OSC faxed letter to RP on 10/4/06 confirming conversation of 10/3, and asking RP to submit a written update with removal time frames NLT 10/6/06.

Planned Removal Actions

Await response from RP regarding the date when the oil will be removed from the tank.

Next Steps

OSC will visit the Site during the removal to monitor operations. OSC will also inform local NYSDEC office when the date for the removal has been set so that the DEC can send a representative.

Key Issues

Key issues continue to be the removal of the #6 oil and clean-out of the tank.

response.epa.gov/biotech_II