

United States Environmental Protection Agency
Region V
POLLUTION REPORT

Date: Friday, November 16, 2007

From: Brad Stimple

Subject: Mosaic Tile Dump Site Operable Unit (OU) 1
951 1/2 Woody Lane, Zanesville, OH
Latitude: 39.9225000
Longitude: -82.0292000

POLREP No.:	10	Site #:	B53U-01
Reporting Period:		D.O. #:	
Start Date:	7/14/2003	Response Authority:	CERCLA
Mob Date:		Response Type:	Time-Critical
Demob Date:		NPL Status:	Non NPL
Completion Date:		Incident Category:	Removal Action
CERCLIS ID #:	OHN 000 508 430	Contract #	
RCRIS ID #:			

Site Description

The Mosaic Tile Dump Site, Operable Unit (OU) 1 is an abandoned waste tile, dump located just outside of Zanesville, Ohio (Springfield Township), Muskingham County, Ohio. The Site, also known as the Northern Parcel, is situated on ~3.5 acres just west of the county fairgrounds and is bordered by Pershing Road, Benjamin Avenue and Woody Lane. Residential homes surround the Site with the majority located along Benjamin Avenue (west side). A large mound or pile of waste is visible covering approximately 2/3 of the property.

The Site was used by the Mosaic Tile Company to dispose/dump off-specification tile, glaze and debris during the 1950s and 1960s. The large waste pile on-site is comprised of this material. The company was formerly located north of the Site on the north side of Pershing Road. The Site is currently owned Collins & Aikman Accessory Mat, Inc. (C&A) who is the Responsible Party and funding the removal action.

Total lead concentrations of waste glaze were detected as high as 45,000 ppm. Corresponding TCLP levels were detected above 5 mg/l, the RCRA regulatory level for hazardous waste (D008). Lead is the primary constituent of concern at the site.

Removal activities began in earnest Spring 2006 and were 75% complete by late fall.

Please refer to POLREP 1-9 and additional documents at the Profile Documents section of this web page for further information.

Current Activities

During the reporting period, January thru November 2007, the following removal activities were (were not) complete:

As discussed in the previous POLREP 9, site activities were suspended through the winter months due to wet weather conditions. It was also at this time that C&A notified USEPA that due to their ongoing bankruptcy problems, completion of the removal action would not take place as planned Spring 2007. Below is a brief account of the proceedings and negotiations over the last 9-months, per USEPA Office of Regional Counsel.

BANKRUPTCY COURT APPROVES A CERCLA SETTLEMENT AGREEMENT BETWEEN THE DEBTOR, COLLINS & AIKMAN CORPORATION, AND CREDITORS THE UNITED STATES OF AMERICA AND MARMON WIRE & CABLE LLC. THE AGREEMENT REQUIRES MARMON TO PAY INTO A CUSTODIAL TRUST \$1.1 MILLION TO ENSURE THE COMPLETION OF RESPONSE ACTIONS AT THE MOSAIC TILE SITE IN ZAINESVILLE, OHIO.

STATEMENT: On October 12, 2007, the United States Bankruptcy Court, Eastern District of Michigan, Southern Division approved a CERCLA Settlement Agreement between the debtor, Collins & Aikman Corporation (C&A) and creditors, the United States of America and Marmon Wire & Cable LLC (Marmon). The agreement provides that Marmon will pay into a custodial trust \$1.1 million to ensure the completion of response actions at the Mosaic Tile OU1 Site in Zainesville, Ohio. The Mosaic Tile Site is an approximately three acre, non-NPL, non-RCRA regulated site in Zainesville, Ohio, where the Agency has been overseeing removal actions to address the threats posed by lead-contaminated soils. On May 17, 2005, C&A had filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

BACKGROUND: Since April 3, 2003, C&A had been performing response actions at the Site pursuant to an Administrative Order on Consent (AOC). The AOC required C&A to dispose of off-site highly contaminated soils, and to consolidate and properly cap on-site the remaining soils with concentrations above the action level. As of Fall 2006, C&A had disposed of off-site the highly contaminated soils, and had consolidated on-site the remaining actionable soils but had not completed the cap when it advised the Region that it could not fund the remaining work.

In January 2007, the Region contacted Marmon and began negotiations to reach an agreement with Marmon and C&A to complete the work. In 2004, Marmon had completed a removal action on the southern parcel (OU2) of the Mosaic Tile Site under a Unilateral Administrative Order. The parties negotiated a Settlement Agreement that allows C&A and Marmon to resolve their claims against one another, and for the Region to resolve its claims against C&A and Marmon. The Agreement provides that Marmon will pay into a Custodial Trust \$1.1 million. The trustee of the Custodial Trust is Jay Steinberg, a Chicago attorney with extensive experience administering trusts that own contaminated real estate.

The Region believes the payment to the Trust of \$1.1 million will ensure the completion of the response actions and will allow for long-term groundwater monitoring and site maintenance. The site is underlain by clay and there is little likelihood of future groundwater contamination.

The Department of Justice has been represented in negotiations by Alan Tennenbaum and Robert Darnell. Messrs. Darnell and Tennenbaum used as a starting point for the settlement document the Model CERCLA Peripheral Party Cashout Consent Decree. This Peripheral Party Cashout Consent Decree provides the settling parties with complete releases of liability under CERCLA and under Section 7003 of RCRA, subject to the standard reopeners and reservations of rights.

Completion of the removal action was to take place Fall 2007, but full approval of the settlement agreement was delayed and the construction season was lost.

As of October 2007, the Custodial Trust has been funded and will accrue interest.

Approval of the agreement will now allow the Trust to fund completion of the removal action by the end of the 2008 construction season, avoiding the expense, further delay and uncertainty of litigation.

C&A contractors (Haley & Aldrich/EMS) will be retained by the Trust to winterize the site, perform maintenance as necessary through winter 2007/2008 and complete capping and remaining removal activities beginning Spring 2008.

NOTE: Unfortunately, funding from the Trust had to be expended to winterize and maintain the site thru the reporting period. This was funding originally designated for completion of the removal action and for long term monitoring.

Planned Removal Actions

- * Repair erosion and replace control structures and maintain site through the winter and early spring.
- * USEPA will work with OEPA, the Trust, and consultants to generate a restoration plan and a long term Operations and Maintenance (O&M) plan.

Next Steps

Spring 2008. Complete all remaining removal action activities: final contour, grading and capping. Complete site drainage construction. Complete all restoration work. Place 5 wells on-site for future monitoring.

Key Issues

USEPA has been in discussions with OEPA to take on oversight of the long term O&M. The Trust will fund and report O&M results as long as funding is available.

