



## REGION 3

PHILADELPHIA, PA 19103

**SUBJECT:** Request Approval and exemption from the 12-Month Statutory Limit for a Time-Critical Removal Action at the Kinzua Creek-Backus Tar Sites, McKean County, PA

**FROM:** Charles Rapone, On-Scene Coordinator  
Eastern Response Section (3SD31)

**THRU:** Michael Towle, Chief  
Preparedness and Response Branch (3SD30)

**TO:** Paul Leonard, Director  
Superfund and Emergency Management Division (3SD00)

**SITE ID #:** B3AC (Kinzua Creek-Backus Tar Sites)

### I. PURPOSE

The purpose of this Action Memorandum is to request approval to proceed with a Time-Critical Removal Action (TCRA) at the Kinzua Creek-Backus Tar Sites in Keating Township, McKean County, Pennsylvania (the Site) to remove wood tar deposits which are located in upland soils, in and above soils in wetlands adjacent to the waterway of Kinzua Creek (the Creek), portions of which are considered a high-quality cold-water fishery. Removal Site Evaluation (RSE) activities were performed from 2017 and 2020, in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300. The RSE documented a threat to public health or welfare or the environment due to the presence of a significant volume of wood tar located at and adjacent to the former Backus Wood Chemical Facility (Backus Facility). Based upon information obtained from the RSE, a Time-Critical Removal Action is necessary to mitigate threats posed by the release or substantial threat of release of hazardous substances from the Site and to protect public health, welfare, or the environment.

To mitigate the threat, Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601, et seq., funding in the amount of \$1,940,000 is requested from the Regional Removal Allowance. Due to information obtained during the RSE and the seasonal nature of mitigating/restoring a sensitive wetland environment, an extension to the 12-Month Statutory Limit is additionally being requested.

### II. SITE DESCRIPTION AND BACKGROUND

#### A. Site Description

##### 1. Physical Location

The Site is located at the S.R 89 Bridge over Kinzua Creek and is located approximately 3.2 miles east of the Bradford Regional Airport. The Site is situated in a rural area near to Kinzua Bridge State Park, Kinzua Valley Trail, and Pennsylvania State Game Lands. These areas are used for recreational activities such as fishing, hunting, hiking, and camping. The Site is positioned at and adjacent to a residential property.

## **2. Site Background**

The Site comprises multiple locations in and around the aforementioned areas in McKean County, Pennsylvania where the EPA believes wastes, known as wood tar, were disposed from the Backus Facility. Approximately 70 wood chemical manufacturing facilities are known to have operated throughout Pennsylvania in the late 1800s to mid-1900s, primarily in western Pennsylvania, including McKean County. The Backus Facility is located north of S.R. 59 on the east side of Kinzua Creek, with approximate geographic coordinates of 41.7986 degrees north and 78.5760 degrees west. By approximately 1950, the wood chemical plants were all abandoned.

Historically, wood chemical manufacturing facilities produced charcoal, methanol, and acetate lime. The basic process was to heat hardwood in the absence of oxygen to a very high temperature, which would drive off its chemicals and turn the remaining wood to charcoal. The chemicals were captured and treated to produce methanol and acetate lime. The charcoal was then cooled and most of it was subsequently sold to iron producers. A by-product of the process was wood tar, a complex mixture that contained at least 200 different compounds. Generally, the wood tar by-product was deposited directly on ground surfaces, in pits, in waterways, or in lagoons within the vicinity of the wood chemical plants.

The Site includes wood tar deposits that EPA believes are associated with the Backus Facility. Remnants of former industrial activity remain in the northern investigation area of the Site, including building foundations from the Backus Facility. Brick debris is scattered throughout portions of the impacted area, and remnants of a rail spur and buttress are also observed adjacent to a building foundation on the Backus Facility.

## **3. Site Characteristics**

The Site lies on private property and is located along Kinzua Creek, at the headwaters of the Kinzua Creek Watershed. The watershed consists of Threemile Run, several other minor tributaries, and Kinzua Creek and extends from Cyclone, Pennsylvania to the Allegheny Reservoir. The watershed supports a variety of recreational uses, including fishing, hunting, hiking, and camping. Kinzua Creek is a major tributary to the Allegheny River and is designated as a cold-water fishery by the Commonwealth of Pennsylvania that sustains three trout species, sculpins, and other aquatic species. It is recognized as a wild trout stream and functions as an important brook trout breeding and nursery habitat. The areas impacted by Site-related contamination extend into adjacent wetlands, uplands, and Kinzua Creek itself. Wood tar deposits are present throughout the Creek, its banks and bed, and associated wetlands.

A Site characterization survey (see Administrative Record, Site Characterization Summary Report-Kinzua Creek Backus Tar Sites), conducted in 2020, estimated approximately 4,204 cubic yards of wood tar deposits exist within a 6.37-acre area including the Backus Facility property and adjacent properties. Further delineation of the deposits confirmed three areas of wood tar deposits north of the S.R. 59 Bridge. Figure 4 of Site Characterization Summary Report (see Administrative Record illustrates the lateral and vertical extent of these wood tar deposits, with the total volume estimated to be

4,204 cubic yards. These estimates were developed using hydraulic-assisted hand coring methods. However, due to access limitations in the Creek and wetlands, and in consideration of minimizing disturbance to sensitive areas, some uncertainty remains in the volumetric estimates.

Additionally, a substantial wood tar deposit at the Site was documented south of the S.R. 59 Bridge, where excavation spoils were placed during a bridge renovation project. This wood tar deposit is estimated to be approximately 1,000 cubic yards. The bridge construction excavation left the wood tar deposit exposed, with limited vegetative cover. Consequently, this material presents an elevated risk of release of hazardous substances. An exposed wood tar deposit is more vulnerable to migration because sun exposure increases the surface temperature of the wood tar deposit. When the surface temperature of the deposit increases, a higher likelihood exists that the deposit will become liquified, which can lead to the spreading or oozing of the deposit from its original location.

#### **4. Removal Site Evaluation**

From 2017 to 2020, EPA conducted investigations on several former wood chemical facilities in the Kinzua Creek Watershed, including the Backus Facility. Wood tar was observed to be oozing and flowing into the streams and in the associated watershed at several locations in Kinzua Creek. Deposits of wood tar were observed along the banks and within Kinzua Creek at the Site. Soil, surface water, sediment, and wood tar samples were collected at the Site along Kinzua Creek. Results of these investigations confirmed the presence of semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs), and metals associated with the chemical wood tar in both Kinzua Creek and the Site. Additionally, biota surveys were completed, including micro and macro-invertebrate sampling and a creel survey.

The 2018 Final Site Inspection Report for the Kinzua Watershed Creek Tar Sites (see Administrative Record), revealed that the wood tar samples contained VOCs such as toluene, ethylbenzene, and total xylene, as well as benzene, isopropylbenzene, styrene, and methyl acetate. The wood tar samples also contained numerous SVOCs, particularly polycyclic aromatic hydrocarbons (PAHs). Benzo(a)pyrene, one of the PAHs that is more adverse to human health and the environment, was detected in all the wood tar samples.

The VOC ethylbenzene was detected in the source (wood tar) samples on-Site and was detected at elevated concentrations in surface water above background concentrations. The VOCs toluene and xylenes (o-, m, p-), which were detected in the source samples, were detected at elevated concentrations, significantly above background concentrations, in both surface water and sediment samples. The VOC acetone was detected in the source samples and was detected at elevated concentrations in sediment.

The SVOCs, naphthalene, 2-methylnaphthalene, 2-4-dimethylphenol, acenaphthylene and acenaphthene, were also detected in elevated concentrations, above background concentrations, in the surface water samples taken at the Site. Benzo (a) pyrene, 2-4-dimethylphenol and 4-methylphenol and other SVOCs, were detected at elevated concentrations in sediment samples. In addition, naphthalene, 2-methylnaphthalene, acenaphthylene, acenaphthene, fluorene, phenanthrene, anthracene, pyrene, chrysene, and benzo(a)anthracene were detected in sediment samples at the Site above the Biological Technical Assistance Group (BTAG) freshwater sediment screening criteria. A release of hazardous substances from source areas at the Site to the surface water has been documented at the Site.

## **5. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant**

Assessment activities conducted within the Kinzua Creek Watershed, including at the Site, have documented the presence of numerous VOCs and SVOCs in wood tar deposits. These hazardous substances exist at the surfaces of the wood tar deposits and readily available for migration into adjacent surface water and sediment, where they may pose a risk to vertebrate and invertebrate receptors.

Analytical results from wood tar source material, collected at Threemile Run, which is in close proximity to the Backus Tar Sites, confirm the presence of elevated concentrations of VOCs including toluene (72,000 µg/kg), ethylbenzene (65,300 µg/kg), and total xylene (297,000 µg/kg), as well as benzene, isopropylbenzene, styrene, and methyl acetate. These compounds are mobile in the environment and have been detected in surface water and sediment at concentrations significantly above background, indicating migration from the wood tar source material.

Similarly, SVOCs were detected in the wood tar deposits at the Site, including PAHs such as naphthalene (306,000 µg/kg), 2-methylnaphthalene (411,000 µg/kg), mp-cresol (1,900,000 µg/kg), o-cresol (1,220,000 µg/kg), and phenol (561,000 µg/kg). Several PAHs, including benzo(a)pyrene, chrysene, anthracene, and phenanthrene, exceeded BTAG freshwater sediment screening criteria, confirming that migration from exposed wood tar deposits at the Backus Facility has led to contamination of aquatic habitats. The above identified VOCs and SVOCs are listed as hazardous substances under CERCLA, as specified in 40 C.F.R. Part 302.4.

The bioavailability of these substances is further demonstrated by ecological sampling and toxicity testing. Crayfish collected from the Site contained detectable concentrations of acenaphthylene, anthracene, fluorene, naphthalene, and phenanthrene, confirming trophic transfer of contaminants into biota. Sediment toxicity tests with the amphipod *Hyalella azteca* showed reduced growth compared to reference sites. These invertebrates represent a critical food source for fish, amphibians, and higher-level predators, that bioaccumulate through the food web. Evaluations conducted for the Threemile Run EE/CA concluded that risks to upper trophic level receptors such as belted kingfisher and mink were not increased.

Because portions of the Site are in close proximity to Pennsylvania State Game Lands, the migration of contaminants into surface waters and sediments increases potential exposure to recreationally and economically important species (fish, amphibians, waterfowl, and game animals), as well as to the local community engaged in hunting and fishing. The hazardous substances present in wood tar deposits at the Site are exposed, mobile, and capable of migrating into surface water and sediment. This migration has been documented through sampling of sediment, detection in benthic organisms, and observed in invertebrates. Although risk to some higher trophic levels species has not been indicated, these findings support the conclusion that the threat of risk exists to the aquatic ecosystem, to species dependent on benthic invertebrates in the Kinzua Creek watershed.

## **6. NPL Status**

The Site is not on the NPL.

## **B. Other Actions to Date**

### **1. Previous Actions**

No previous actions have been undertaken at the Site, however, several former chemical wood tar facilities with identical contaminants have been investigated and mitigated over the years in the Kinzua Creek Watershed.

### **2. Current Actions**

EPA conducted investigations at the Site in July/August 2017, October/November 2018, July 2019, and May/June 2020. EPA completed a Site Characterization Summary Report in June 2020 with an overview of May 2020 field activities. The objective of the Site characterization survey was to delineate the vertical and horizontal extent of wood tar deposits in surface soils.

## **C. State, Tribal and Local Authorities**

EPA will continue to coordinate with the Pennsylvania Department of Environmental Protection (PADEP), McKean County, and the McKean County Conservation District on the proposed Removal Action – removal of wood tar deposits from four identified source locations within wetland areas in the vicinity of the Backus Facility. All agencies listed above have been fully briefed during the Site Inspection and RSE activities to date. EPA will continue to coordinate with the above listed agencies as well as the US Fish and Wildlife Service (USFWS) to provide oversight through the Removal Action.

The Removal Action at the Site will be conducted under CERCLA authority. The OSC will coordinate efforts between EPA, USFWS, PADEP, Seneca Nation, and local authorities will continue throughout the project. The OSC has met with the EPA Region III tribal coordinator who will work with the OSC on any tribal concerns which may arise.

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

Section 300.415 of the National Contingency Plan (NCP) lists the factors to be considered in determining the appropriateness of a removal action. Paragraphs (b)(2)(i), (iv), (v), and (vii) of Section 300.415 directly apply as follows to the conditions as they exist at the Site.

***300.415 (b) (2) (i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants***

Numerous VOCs and SVOCs contained in the wood tar have been detected in sediment and surface water above the BTAG freshwater sediment screening criteria at the Site. Biological studies have shown measurable impacts to Kinzua Creek when compared to the unimpacted “reference” creek for the area,

Meade Run. Additionally, dermal irritation may occur in humans after contact with wood tar and it remains present on the skin for several days after contact with it.

In April 2017, WESTON conducted a creel survey at locations along Kinzua Creek directly downstream of the Site. Kinzua Creek and the Allegheny Reservoir are fished for human consumption, primarily from locations on the downstream portions of the Kinzua Creek; however, several anglers indicated they fish locations throughout. Species that inhabit Kinzua Creek and are targeted by anglers include brook trout, brown trout, rainbow trout, walleye, perch, crayfish, and frogs. These findings demonstrate that potential exposure of hazardous substances to the food chain exists.

During several macroinvertebrate sampling events on Threemile Run, which is a nearby tributary to Kinzua Creek, the highest PAH contamination in sediments were found. Biologists frequently found specimens with wood tar deposited on gills and body integument or internally at areas of the Site with contaminated sediment, indicating that animals or the food chain is exposed to hazardous substances. PAHs may bioaccumulate in the food chain thereby posing a risk through human consumption. Additionally, crayfish whole body samples collected downstream of the Site contained detectable concentrations of the PAHs acenaphthylene, anthracene, fluorene, naphthalene, and phenanthrene using the macroinvertebrate assessment method (see Administrative Record, Engineering Evaluation/Cost Analysis).

Information gathered from Threemile Run is representative of impacts to Kinzua Creek because both sites were impacted by similar wood tar and have similar species throughout the watershed.

***300.415 (b) (2) (iv) High levels of hazardous substances or pollutants or contaminants near the surface that may migrate***

Deposits of wood tar exist within the Site including within the wetland areas, along the banks and within the stream bed of Kinzua Creek. During the Site investigations, wood tar was observed moving into Kinzua Creek from deposits adjacent to the Creek bank and further down into the Creek itself in several areas. The movement of the wood tar was observed day to day, especially in warm weather. During the Site visits, the OSC observed a detectible sheen was emanating from numerous wood tar deposits in warmer temperatures indicating that hazardous substances were being released. One area of the Site south of the S.R. 59 Bridge was disturbed during bridge construction, leaving wood tar deposits exposed to the sun. Sun exposure on the wood tar deposits elevates their surface temperatures, making them vulnerable to migration in the environment which creates a substantial threat of release of hazardous substances.

***300.415 (b) (2) (v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released***

Flooding events have caused wood tar deposits to dislodge from their original source areas at the Site into Kinzua Creek and be transported downstream. Wood tar deposits have been located by the OSC

extending up to 200 yards downstream of the original source area. In addition, the OSC has observed measurable movements of tar deposits in the summer, due to high temperatures and lack of vegetative cover, in various areas of the Creek over the past years of field visits. This evidence indicates weather conditions, such as heat, flooding, and sun exposure, can cause wood tar deposit contaminants to be released and migrate.

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

The local and state governments do not have the resources to address and/or respond to the ongoing releases of wood tar deposits from the Backus Facility.

**IV. ENDANGERMENT DETERMINATION**

Based upon information gathered during the RSE for the Site, as described above, the actual or threatened releases of hazardous substances from this Site may present an imminent and substantial endangerment to public health, welfare or the environment.

**V. PROPOSED ACTIONS AND ESTIMATED COSTS**

Based upon information obtained by EPA during the RSE, as described above, an exemption from the 12-month limit for a response action is requested to fully implement the proposed actions described below to mitigate the immediate threats to public health, welfare, and the environment. Pursuant to Region 3 EPA Delegation 14-2 Section 2.d. (dated 4/15/19), the Regional Administrator may delegate the authority for CERCLA removal actions that meet the requirements of an emergency waiver as set forth in CERCLA § 104(c)(1)(A), 42 U.S.C. § 9604(c)(1)(A), subject to such approval by the Assistant Administrator for the Office of Land and Emergency Management, as may be required, to the Director, Superfund and Emergency Management Division.

Conditions at the Site meet the requirements of the emergency exemption as described below.

- (i) *Continued response actions are immediately required to prevent, limit, or mitigate an emergency:*

Given the bioaccumulation potential of PAHs and the demonstrated impacts to aquatic organisms, immediate action is warranted to prevent, limit, and mitigate the continued migration of the tar deposits and to reduce the threat of further ecologic and human exposure. Due to the location of the contamination, which is in a wetland area, work will need to be conducted and restored seasonally in order to limit downstream impacts to the greatest extent possible. The action will need to span multiple seasons beyond 12 months to ensure the least disruption to aquatic populations and adjacent fauna that are dormant during the cooler temperatures.

- (ii) *There is an immediate risk to public health, welfare, or the environment:*

The wood tar deposits are located within and adjacent to Kinzua Creek, a high quality, cold-water fishery. The Backus Facility is near to the headwaters of Kinzua Creek Watershed. SVOCs were detected at elevated concentrations in sediment samples. Data shows that Site sediment samples contain multiple PAH compounds. Crayfish whole body samples contained detectable concentrations of acenaphthylene, anthracene, fluorene, naphthalene, and phenanthrene, indicating that wood tar releases have endangered aquatic life at the Site. These specific compounds are attributed to the wood tar source at the Site because these same compounds were found in the wood tar deposits on-Site. Macroinvertebrate sampling events have shown the presence of wood tar in the gut and gills of various species.

(iii) *Such assistance will not otherwise be provided on a timely basis*

Additional resources are not available from PADEP, local or other federal agencies as indicated in EPA communication with McKean County Conservation District, and PADEP. EPA is the only agency that has the ability to respond to a Site of this size.

This request satisfies the following exemption criteria as set forth in CERCLA § 104(c)(1)(A), 42 U.S.C. § 9604(c)(1)(A), and § 300.415(b)(5)(i) of the NCP, 40 C.F.R. § 300.415(b)(5)(i).

## **A. Proposed Actions**

### **1. Proposed Action Description**

The proposed actions are intended to prevent additional material from the Backus Facility from entering the waterway and to reduce immediate threats to public health, welfare, and the environment posed by the uncontrolled release or threat of release of hazardous substances, pollutants, or contaminants. The OSC will utilize the funds to remove and dispose of wood tar deposits located upland and in wetland areas in the vicinity of the Backus Facility. However, contamination in this area is widespread. Wood tar within the Creek will not be removed as part of this Removal Action.

- a. Establish Site security, as necessary, to prevent unauthorized access during removal actions;
- b. Mobilize and demobilize crew and equipment;
- c. Conduct a wetland delineation to determine the wetland area affected by the removal of the wood tar deposits;
- d. Install facilities and implement temporary measures (e.g., remove vegetation, install roads, install fencing, install staging areas) to improve, facilitate, and control access in and around work areas to facilitate efficient performance of the removal action and minimize exposure of contractors, and nearby residents to wood tar during the Removal Action;
- e. Install temporary points of access to reach areas of wood tar deposits located across the Creek, as necessary. Access will be achieved through the placement of culverts and the use of mud mats to establish stable crossing points. In addition, stabilization of the Creek bank will be required to support equipment access and ensure safe and effective removal of the wood tar deposits;

- f. Address the three distinct wood tar deposits located north of the S.R. 59 Bridge, in the vicinity of the Backus Facility (see Administrative Record);
- g. Address a wood tar deposit located south of the S.R 59 Bridge, where excavation spoils were placed in an area during a recent bridge renovation;
- h. Repair of access road as required by state and local departments of transportation;
- i. Sample wood tar deposits for disposal purposes;
- j. Removal, stabilization, and hauling of excavated wood tar deposits;
- k. Disposal off-site of excavated wood tar, in accordance with Pennsylvania Residual Waste Regulations: 25 Pa. Code §§ 287.1-287.666 and 25 Pa. Code §§ 288.1-288.625, CERCLA § 121(d)(3) and 40 C.F.R. § 300.440 pursuant to results from j., above;
- l. Backfill and establishment of natural grades with imported clean fill material if needed; and
- m. To the extent practicable, restore areas affected by the Removal Action. Backfill or regrade as necessary to maintain proper soil and erosion controls that promotes proper drainage and minimizes erosion and allows for restoration of a suitable cover (e.g. vegetative) using native species or preserved seed ban.

In addition, EPA will monitor the Kinzua Creek, wetland and streambank through one growing season to ensure suitable permanence of the Site restoration.

**2. Contribution to Remedial Performance**

The actions proposed will contribute to any future remedial actions that may be necessary at the Site.

**3. Applicable or Relevant and Appropriate Requirements**

The proposed Removal Action will comply with federal and state applicable or relevant and appropriate environmental regulations (ARARs) to the extent practicable considering the exigencies of the situation.

The OSC formally requested State ARARs from PADEP in an email dated September 2, 2025. On September 4, 2025, PADEP identified potential ARARs for this action via email, which are included in the Administrative Record. The OSC and PADEP will continue to identify and evaluate ARARs as Site work proceeds. All work will be completed in coordination with the State and local authorities.

**4. Project Schedule**

If approved, removal activities proposed in this Action Memorandum are anticipated to begin within 60 days of approval.

**B. Estimated Costs**

Estimated costs necessary to complete the proposed actions in this Action Memorandum are provided below. The proposed distribution of funding is as follows:

Extramural Costs	Total
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TOTAL Cleanup ERRS Contractor Costs (includes ERRS and subcontractors estimated costs)	\$1,750,000
Total START Contractor Costs	\$95,000
Subtotal	\$1,845,000
Extramural Contingency costs (~5% of subtotal)	\$92,000
<b>Total Removal Action Project Ceiling</b>	<b>\$1,940,000</b>

\*Independent Government Cost Estimate values have been rounded to nearest \$5,000.

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

**VII.**

If the proposed actions at the Site are not taken or are significantly delayed, the threatened release of hazardous substances into the environment will continue. Delayed action will increase the environmental impacts and risks and continual exposure to contaminants present in Site soil, sediment and surface water. Without immediate actions to mitigate the release and potential release of hazardous substances or pollutants or contaminants at the Site, potential threats posed to the public health or welfare or the environment will be unabated and may increase.

**VIII. OUTSTANDING POLICY ISSUES**

There are no outstanding policy issues related to the proposed Removal Action at this Site.

**IX. ENFORCEMENT**

The OSC is coordinating with the EPA Cost Recovery Section with information available to pursue all enforcement actions pertaining to the Site. The Confidential Enforcement Addendum is shown in Attachment A. A title search conducted by EPA Cost Recovery identified only private ownership from the 1930s through the period when wood tar disposal occurred.

The total cumulative EPA costs for this Removal Action, based on full cost accounting practices, that will be eligible for cost recovery are estimated below as:

Direct Extramural Cost:	\$ 1,940,000
Direct Intramural Costs:	<u>\$ 100,000</u>
Subtotal:	\$ 2,040,000
Indirect Costs (68.66% of above)	\$ 1,400,664
Estimated EPA Costs for the Removal Action:	\$ 3,440,664

The total EPA costs for this Removal Action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$3,440,664.<sup>1</sup>

**X. RECOMMENDATION**

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<sup>1</sup> Direct Costs include direct extramural and direct intramural costs. Indirect Costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment 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 costs from this estimate will affect the United States' right to cost recovery.

This Request for Funding and 12-Month Exemption for a Time-Critical Removal Action for the Backus Tar Sites was developed in accordance with CERCLA and is not inconsistent with the NCP. Because conditions at the Site meet the criteria in Section 300.415(b) of the NCP for a removal action, I recommend your approval of the proposed Removal Action.

By signing this Action Memorandum, you are also hereby establishing the documents listed in Attachment B as the Administrative Record supporting the selection of the Time-Critical Removal Action identified in this document pursuant to Section 113(k) of CERCLA, 42 U.S.C § 9613(k), and EPA Delegation 14-22.

The total Removal Action project ceiling, if approved, would be \$1,940,000.

Action by the Approving Official:

I have reviewed the above-stated facts and based upon those facts and the information compiled in the documents described above, I hereby determine that the threatened release of hazardous substances, pollutants, or contaminants at the Site presents or may present an imminent and substantial endangerment to the public health or welfare or to the environment. I concur with the Removal Action as outlined in the Action Memorandum.

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
Paul Leonard, Director  
Superfund and Emergency Management Division  
EPA Region III

**Attachments:**

- A. Enforcement Confidential Memorandum (Privileged Attorney-Client Communication)
- B. Administrative Record Index
  - 1. Site Characterization Summary Report-Kinzua Creek Backus Tar Sites
  - 2. Engineering Evaluation/Cost Analysis-Kinzua Creek Watershed-Threemile Run Tar Site
  - 3. Pollution Report-Removal Site Evaluation
  - 4. Community Involvement Plan
  - 5. PA DEP Identified ARARs
  - 6. 2018 Final Site Inspection Report for the Kinzua Watershed Creek Tar Sites
  - 7. Fresh Water Branch Study