



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

3009005

EPA Region 5 Records Ctr.



207836

FEB 25 2004

REPLY TO THE ATTENTION OF

MEMORANDUM

SUBJECT: ACTION MEMORANDUM - Request to Conduct a Time-Critical Removal Action at the Spies Field Site, Menominee, Menominee County, Michigan.

FROM: Kenneth B. Rhame, On-Scene Coordinator
Emergency Response Branch - Response Section 3

TO: Richard C. Karl, Acting Director
Superfund Division

THRU: Beverly Kush, Acting Chief
Emergency Response Branch

I. PURPOSE

The purpose of this memorandum is to request and document your approval to expend up to \$357,360 in order to mitigate threats to public health, welfare, and the environment at the Spies Field Site located in Menominee, Menominee County, Michigan. The response action is necessary to address the release, future releases, and the threat of human exposure to abandoned hazardous substances, including various paint wastes. The paint waste was sampled by U.S. EPA and analyzed for metals and volatile organic compounds (VOC's). The material sampled contained concentrations of lead of up to 47,400 parts per million (ppm). In addition, a toxic characteristic leaching procedure (TCLP) analysis for hazardous waste was performed on the material. The TCLP analysis results indicated the presence of chromium at concentrations above the regulatory threshold, thus making it at least potentially a hazardous waste regulated by the Resource Conservation and Recovery Act (RCRA). The removal, proper packaging and off-site disposal of these hazardous materials will alleviate the potential exposure to the public, further impacts to the environment and surrounding properties.

The proposed actions in response to the release and potential release of hazardous materials will be conducted in accordance with Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC § 9604(a)(1) to abate further

releases or potential for releases into the environment. The presence of abandoned drums containing heavy metals (lead and chromium) at the concentrations documented, in an area that is unrestricted and adjacent to a youth sports complex, justifies classifying this as a time-critical removal action.

There are no nationally significant or precedent setting issues associated with the Spies Field, site. This site is not on the National Priorities List.

II. SITE CONDITIONS AND BACKGROUND

SITE # B58G

CERCLIS ID# MIN000509078

The Spies Field site is located at the 1000 block of 26th Avenue, west of 10th Street and north of 26th, in the City of Menominee, Menominee County, Michigan. The geographic coordinates of the site are 45° 07' 15" N, 87° 37' 04"W. The site is approximately 3 acres and consists of a wetland and a drainage ditch that is a tributary to Lake Michigan. The site is located in a mixed area of commercial and recreational use. A commercial facility, Air Cooled Engines, is located on the southwest corner of the site. The property adjacent to the south and west of the site is a scrap yard owned by another party. The property adjacent and to the north of the site is a youth sports complex (Spies Field), which is owned by the city for public use. There is evidence that children have been playing in the immediate vicinity of the site based on the finding of youth sporting equipment (several baseballs and a soccer ball) while performing the removal assessment.

This property was purchased by the City of Menominee in March of 2002 as part of a city plan to expand the Spies Field sports complex. In the winter of 2002, prior to purchasing this parcel, the city had STS, an environmental consulting firm in Green Bay, Wisconsin, perform a "Phase I" environmental assessment. This Phase I assessment did not identify the drums of paint waste located on the property and did not involve or recommend the collection of environmental samples; thus the purchase of the property by the city was initiated and finalized.

In June of 2003, a citizen, reported to the City as well as to the National Response Center (NRC # 648695) that there were abandoned drums and hazardous substances on the property. The City had its contractor, STS, sample the material in the drums. These results indicated elevated levels of lead, up to 150,000 parts per million, as well as chromium up to 55,000 parts per million. Approximately eight (8), fifty-five (55) gallon drums were then over-packed and properly disposed of as hazardous waste. The City funded this removal. Reportedly due to the conditions of the site, which generally consists of a densely vegetated wetland, the drums had been overlooked and were later discovered.

On September 9, 2003 U.S. EPA received a letter from the City of Menominee requesting assistance in conducting an assessment / removal action at this site. On October 14, 2003, U.S.

EPA conducted a site assessment, collected surface soil samples and submitted them to a laboratory for the analysis of metals and VOC's. The results were received on October 24, 2003. The surface soil sampled contained elevated levels of lead, up to 47,400 (ppm). In addition, a toxic characteristic leaching procedure (TCLP) analysis for hazardous waste was performed on the material. The TCLP analysis results indicated that the material failed the TCLP for chromium, thus making it at least potentially a hazardous waste regulated by the Resource Conservation and Recovery Act (RCRA). During the Site assessment conducted on October 14, 2003, U.S. EPA observed that access to the site was generally unrestricted, with the exception of an orange construction fence surrounding the immediate area where the drums were once located.

In Region 5, Environmental Justice (EJ) Criteria for Michigan are: the low-income percentage of the population is 58% or greater, and the minority percentage is 42% or greater. To meet the EJ Criteria, the area within one mile of the Site must have a population that is twice the state low-income percentage and/or twice the state minority percentage. At this site, the low-income percentage is 59% and the minority percentage is 5%. Therefore, this Site does not meet the region's EJ criteria based on demographics, as identified in the "Region 5 Superfund EJ Analysis Spies Field Site, Menominee, MI."

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

The conditions at the Spies Field Site present and imminent and substantial endangerment to the public health, welfare, and the environment, and meet the criteria for a time-critical removal action provided for in Section 300.415 (b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), as amended, 40 CFR Part 300. These factors include, but are not limited to, the following:

- i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

Analytical results indicate that surface soil has been impacted by elevated concentrations of lead and chromium. Total lead concentrations on-site were detected up to a maximum concentration of 47,400 mg/kg and exceeded the Agency For Toxic Substances and Disease Registry (ATSDR) recommended action level for residential soil (400 mg/kg). ATSDR would use the 400 mg/kg action level at this site due to its recreational use. In addition, TCLP chromium in Site soils exceeded the criterion for toxicity. Because access to the Site is unrestricted and because human activity is apparent at the Site, the presence of high lead and chromium levels in site soils and the presence of hazardous wastes in the abandoned containers increases the likelihood that the Site poses a significant threat to human health and the environment.

- ii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release;

Some of the paint wastes and other unknown substances present on this site have leaked from abandoned deteriorated drums. The property appears to have been "filled" with various materials including construction debris (concrete, asphalt, etc.), metal and soils; given this history, there is a possibility that additional drums will be discovered. The waste material (paint waste) is visible on surface soils in an area consisting of approximately 40 ft. by 40 ft. Several other drums are visible that appear to contain nonhazardous material, such as asphalt. Since the waste material is not contained, and is exposed to the various weather conditions, the Site conditions are subject to deterioration. Trespassing, scavenging, and vandalism are also worrisome factors under these circumstances.

- iii) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; and

Due to their location in a wetland that is adjacent to a drainage ditch, which in turn is a tributary to Lake Michigan, and because they are exposed to the outdoor elements, the waste material and contaminated soils are subject to be washed off-site, causing discharges into surface water and contamination of additional soils.

- iv) The unavailability of other appropriate federal or state response mechanisms to respond to the release.

State and local agencies have supported Region 5's efforts to mitigate the threats to public health, welfare, and the environment at the Spies Field Site as a time-critical removal action. Region 5 understands that state and local agencies do not have the resources to conduct a response action as described herein. MDEQ has indicated that it concurs with the proposed removal action documented by this Action Memorandum.

IV. ENDANGERMENT DETERMINATION

Given the conditions at the Spies Field Site, the nature of the hazardous substances on-site, and the potential exposure pathways to nearby populations as described in Sections II and III above, the actual or threatened release of hazardous substances from this site, if not addressed by implementing the response action selected in this Action Memorandum, may present an immediate and substantial endangerment to public health, or welfare, or the environment.

Removing, securing, packaging, and properly disposing of the contaminated soils and abandoned drums will mitigate the public health threat posed by direct human and wildlife contact.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

The response actions described in this memorandum directly address actual or

potential releases of hazardous substances on or from the Site, which pose an imminent and substantial endangerment to public health, or welfare, or the environment. Removal activities on Site will include:

- 1) Develop and implement a Site Health and Safety and Site Security Plan;
- 2) Remove, sample and characterize all the waste containers and contaminated soils;
- 3) Secure, package, and dispose of the containerized waste;
- 4) Take any response actions necessary to address any release or threatened release of a hazardous substance, pollutants, or contaminant that the U.S. EPA determines may pose an imminent and substantial endangerment to public health or the environment, including potential impact on surface water or ground water; and.
- 5) Conduct post removal sampling and analysis to verify completion of the removal action.

The removal action will be conducted in a manner not inconsistent with the NCP. The OSC has initiated planning for provision of post-removal Site control consistent with the provisions of Section 300.415(1) of the NCP. Elimination of all surface threats is, however, expected to minimize the need for post-removal Site control.

The removal activities are expected to take 7 on-site working days to complete.

The detailed cleanup contractor cost is presented in Attachment 1 and estimated project costs are summarized below:

REMOVAL PROJECT CEILING ESTIMATE

EXTRAMURAL COSTS:

ERRS	\$219,000.00
ERRS Contingency (20%)	\$43,800.00
ERRS Subtotal	\$262,800.00
START	\$35,000.00

Extramural Subtotal	\$297,800.00
Extramural Contingency (20%)	\$59,560.00
	=====
Extramural Total	\$357,360.00

TOTAL PROJECT CEILING: \$357,360.00

All hazardous substances, pollutants, or contaminants removed off Site pursuant to this removal action for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance as determined by U.S. EPA Off-Site Rule, 40 CFR § 300.440.

The response actions described in this memorandum directly address actual or threatened releases of hazardous substances, pollutants, or contaminants at the Site which may pose an imminent and substantial endangerment to public health and safety and the environment. These response actions do not impose a burden on the affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

Applicable or Relevant and Appropriate Requirements

All applicable, relevant, and appropriate requirements (ARARs) of Federal and State law will be complied with to the extent practicable.

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

Delayed or no action will increase the potential for public exposure and for toxic hazardous substances to release, thereby threatening the adjacent population and the environment.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

For administrative purposes, information concerning the enforcement strategy for this Site is contained in the Confidential Enforcement Addendum. According to the City of Menominee's City Manager, the site was purchased in March of 2002.

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 \$531,110.00.¹

$[\$357,360.00 + \$22,300.00 \text{ (Intramural EPA Cost)}] + (42.38 \% \times \$357,360.00) =$

$\$379,660 + \$151,450 = \$531,110.00$

IX. RECOMMENDATION

This decision document represents the selected removal action for the Spies Field Site located at 1000 block of 26th Avenue West of 10th Street, North of 26th, Menominee, Menominee County, Michigan. It was developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based upon the Administrative Record for the Site. Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal and I recommend our approval of the proposed removal action. The total project ceiling, if approved, will be \$357,360. Of this, an estimated \$262,800 comes from the regional removal allowance. You may indicate your decision by signing below.

APPROVE: Richard C Karl DATE: 2-25-04
Director, Superfund Division

DISAPPROVE: _____ DATE: _____
Director, Superfund Division

Enforcement Addendum Attachments

1. Detailed Cleanup Contractor Cost Estimate
2. Administrative Record Index

cc: R. Worley, U.S. EPA 5202G
M. Chezik, U.S. Department of Interior, w/o Enf. Addendum
C. Austin, Michigan DEQ w/o Enf. Addendum

¹ Direct Costs include direct extramural costs 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-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.

ENFORCEMENT ADDENDUM

**SPIES FIELD SITE
MENOMINEE, MENOMINEE COUNTY, MICHIGAN**

FEBRUARY 2004

**ENFORCEMENT CONFIDENTIAL
NOT SUBJECT TO DISCOVERY**

(REDACTED 2 PAGES)

NOT RELEVANT TO THE SELECTION OF THE REMOVAL ACTION

ATTACHMENT 1

INDEPENDENT GOVERNMENT COST ESTIMATE SPIES FIELD, SITE MENOMINEE, MENOMINEE COUNTY, MICHIGAN DECEMBER 2003

EXTRAMURAL COSTS:

The estimated cleanup contractor costs necessary to complete the removal action at the Spies Field Site based on 14 days are as follows:

ERRS:

Personnel (1 Laborer, 2 Operator, 1 Foreman, 1 Response Manager) Estimate includes per diem / based on 10 hour day

\$7,500 dollars per day **\$105,000.00**

Equipment (2 Trackhoe, 2 pickups) **\$10,000.00**

On-Site Support Facilities

(2 Office Trailers, electric, phone, copier, fax, port-a-john)

\$5,000.00

Transportation and Disposal

A cushion was estimated due to distance to disposal facility

50 ft x 50 ft x 4 ft = 10,000 cubic ft

445 tons x 200 dollars per ton = **\$89,000.00**

Restoration (Must utilize private property with heavy equipment to access the site)

\$5,000.00

Mobilization and Demobilization **\$5,000.00**

ERRS Subtotal **\$219,000.00**

ERRS 20% Contingency **\$43,800.00**

=====

Total ERRS **\$262,800.00**

START :

(1 START for sample collection, documentation, and assist with removal oversight)

\$35,000.00

EXTRAMURAL SUBTOTAL	\$297,800.00
EXTRAMURAL CONTINGENCY (20%)	\$59,560.00
	=====
EXTRAMURAL TOTAL	\$357,360.00



ATTACHMENT 2

U.S. ENVIRONMENTAL PROTECTION AGENCY REMOVAL ACTION

ADMINISTRATIVE RECORD FOR SPIES FIELD SITE MENOMINEE, MENOMINEE COUNTY, MICHIGAN

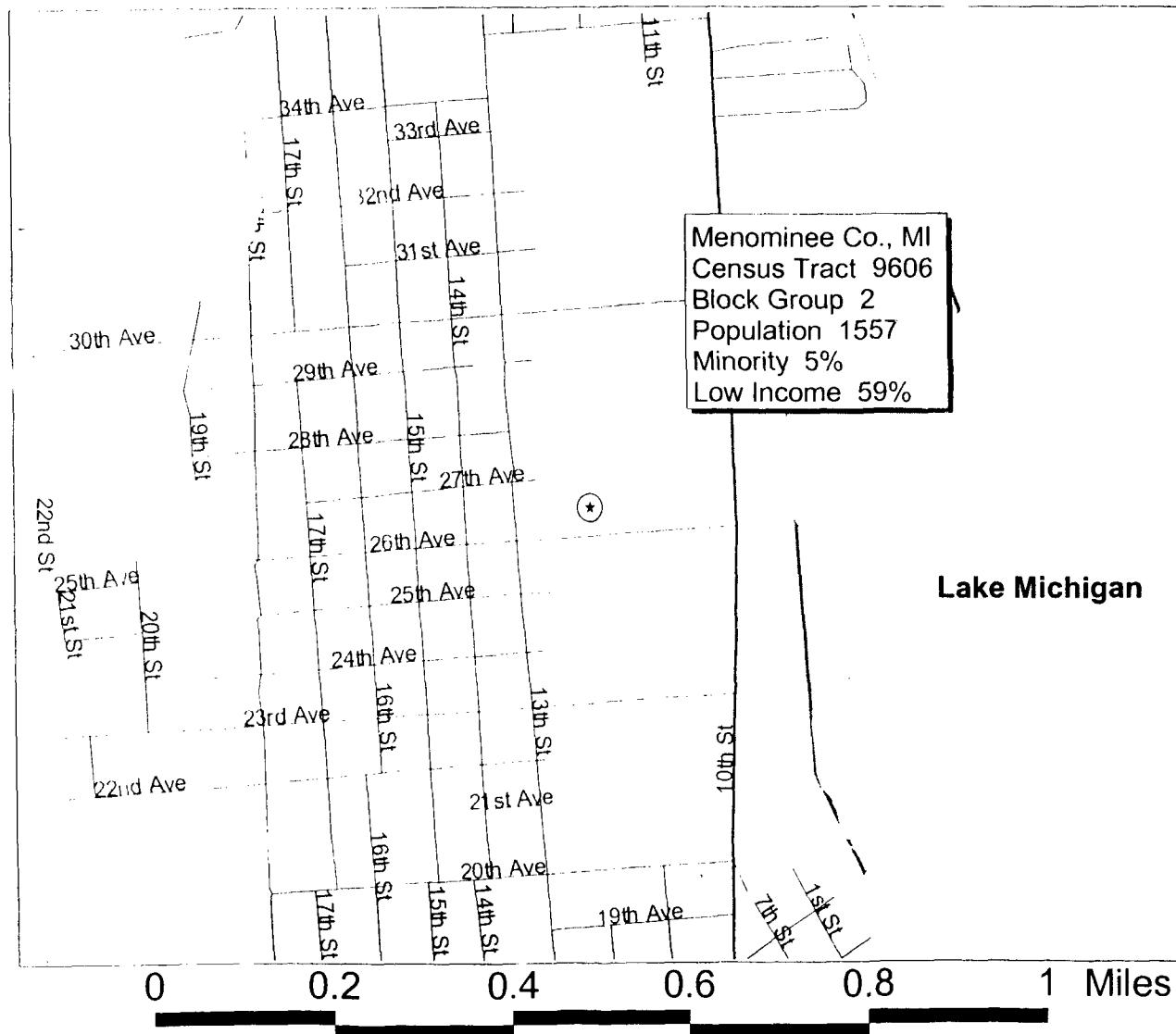
ORIGINAL
DECEMBER 31, 2003

<u>NO.</u>	<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
1	00/00/00		U.S. EPA	START Report for the Spies Field Site (PENDING)	
2	06/16/03	National Response Center	U.S. EPA	Incident Report #648695 for the Spies Field Site	3
3	10/02/03	Mikalonis, S., Butzel Long	Hogarth, A., MDEQ	Letter re: Mr. Joseph Krygoski's Notice of Intent to Sue the MDEQ and The City of Menominee	4
4	09/04/03	Furton, A., City of Menominee	U.S. EPA	Letter re: City of Menominee's Request for U.S. EPA's Assistance at the Spies Field Site	2
5	00/00/00	Kenneth, K., U.S. EPA	Muno, W., U.S. EPA	Action Memorandum: Request to Conduct a Time-Critical Removal Action at the Spies Field Site (PENDING)	

Region 5 Superfund EJ Analysis

Spies Field Site

Menominee, MI



State of Michigan averages:
Minority: 21%
Low Income: 29%

U.S. EPA Region 5
Environmental Justice Case Criteria
for State of Michigan

Minority: 42% or greater

Low Income: 58% or greater

★ Site Location



Date of Map: 12/15/11

Source of Map: Census 2000 Database
Aerial Imagery