

FILED

AUG 13 2010

*Jim Ruby, Executive Secretary
Environmental Quality Council*

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
Shane R. Taylor)
Property Owner)
Former VP&S Equipment)
1415 Holloway)
Sheridan, WY 82801)

Docket No. 09-5212A

MOTION TO WITHDRAW ORDER AND DISMISS CASE

Respondent, Wyoming Department of Environmental Quality (DEQ), submits this motion to withdraw Notice of Violation and Order (NOV) # 4521-09 and dismiss case Docket No. 09-5212A for the grounds stated below.

On July 14, 2009, DEQ issued NOV # 4521-09 to Shane R. Taylor alleging violations of the Wyoming Hazardous Waste Rules and Regulations and the Environmental Quality Act. On July 21, 2009, Mr. Taylor appealed the issuance of NOV # 4521-09 to the Wyoming Environmental Quality Council (EQC) and initiated this appeal. NOV # 4521-09 required Mr. Taylor to submit documentation and properly dispose of tanks that had formerly been used in the process of treating posts at the Valley Post and Sawmill facility (Site). Mr. Taylor had transported the tanks from the Site in June of 2008.

As this appeal was pending before the EQC, DEQ was contacted by the United States Environmental Protection Agency (EPA) who expressed its desire to implement a Removal Action under 40 C.F.R. § 300.415 of the National Contingency Plan at the Site. EPA believed that the conditions at the site presented a threat to public health, welfare, or the environment. DEQ had concluded from discussions with Mr. Taylor that he would be financially unable to

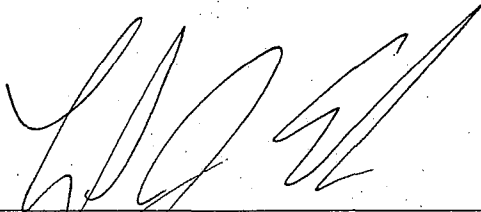
perform the actions required in NOV # 4521-09. DEQ therefore contacted EPA and requested it proceed with its Removal Action at the Site.

On May 10, 2010, EPA published an Action Memorandum announcing its initiation of a removal action at the Site. (See Exhibit 1). EPA cleaned and removed the tanks from their location in Guernsey, Wyoming and transported them back to the Site. (See Exhibit 2). EPA then conducted additional cleaning to prepare them to be sent to a recycling facility. (See Exhibit 3).

DEQ believes that EPA's activities at the Site and those involving the tanks which were the subject of NOV # 4521-09 have mooted DEQ's Order under NOV # 4521-09. Mr. Taylor can no longer comply with DEQ's Order even if the EQC approves the issuance of NOV # 4521-09 and therefore, DEQ requests that the EQC enter an order allowing DEQ to withdraw NOV # 4521-09 dismissing the case.

DATED this 13th day of August, 2010.

By:



Luke J. Esch (6-4155)
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6946
Attorney for DEQ/SHWD

CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing MOTION TO WITHDRAW ORDER AND DISMISS CASE was served this 13th day of August, 2010 by United States mail, first class postage prepaid addressed as follows:

Shane R. Taylor
Former VP&S Equipment
8100 Ptarmigan #3
Gillette, WY 82718

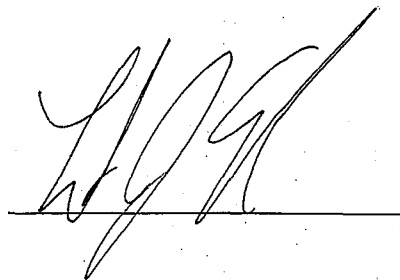
A handwritten signature in black ink, appearing to read 'SRT', is written over a horizontal line.

Exhibit 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: EPR-ER

DATE: 10 May 2010

SUBJECT: Approval and Funding for a Removal Action, Including Exemption from the 12-Month Statutory Time Limit, at the Valley Post and Sawmill Site, Sheridan, Sheridan County, Wyoming

FROM: Craig Myers, On Scene Coordinator
Response Unit, PAR

THRU: Curtis Kimbel, Chief
Response Unit, PAR

TO: David Ostrander, Director
Preparedness, Assessment, and Response Program (PAR)

Site ID #08RL

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the selected removal action described herein for the Valley Post and Sawmill Site located in Sheridan, Sheridan County, Wyoming.

This Removal Action will address the imminent and substantial endangerment to human health and the environment posed by hazardous substances – specifically pentachlorophenol (PCP) wastes – contained in surface and subsurface soils located at the Site. Wood treatment operations using PCP were conducted at the twenty five-acre Valley Post and Sawmill facility prior to its closure in or about 1996.

Conditions existing at the Site present a threat to public health or welfare or the environment and meet the criteria for initiating a Removal Action under 40 C.F.R. Section 300.415(b)(2) of the Oil and Hazardous Substances National Contingency Plan (NCP). The action is anticipated to require more than 12 months and less than two million dollars to complete.

II. SITE CONDITIONS AND BACKGROUND

The Valley Post and Sawmill site (Site) is a former sawmill and wood treatment facility located along the south side of Big Goose Road approximately 2 miles south west of Sheridan, Sheridan County, Wyoming. The Valley Post and Sawmill treated wood using Pentachlorophenol (PCP) mixed with diesel fuel. It is unknown precisely when the facility commenced its wood treating operation; however, the state of Wyoming believes that it shut down sometime during 1996.

Carl Sayer owned and operated the Valley Post and Sawmill during the entire period of operation. PCP was mixed with diesel fuel in a small tank, after which, it was transferred to the retort tank/pressure vessel where the posts were treated. In addition to the retort vessel, there were also two smaller tanks that posts were dipped in to be treated. Treated posts were then stacked on bare soil to dry. There is no record of any containment features associated with Site operations, and the use of engineered containment features was not a standard practice in the industry prior to the mid to late 1980s.

The Wyoming Department of Environmental Quality (WDEQ) and EPA's Resource Conservation and Recovery Act (RCRA) programs conducted an inspection of the facility while it was in operation in 1987. The inspection documented areas of significant soil contamination and dumping of PCP laden solution directly to soil, however, at the time of the inspection, the F032 waste listing had not been promulgated, so no actions were taken. Results of this inspection are available in the Site file. There is no evidence that either EPA or DEQ followed up on this inspection.

In October of 2008, WDEQ responded to an inquiry about the facility from a prospective purchaser and conducted an inspection. This inspection identified that the tanks and equipment had been removed from the Site and that significant movement of soil had occurred recently. A cure notice was issued to the current property owner, Mr. Shane Taylor – Carl Sayer's nephew, to conduct an assessment of the property and to develop a clean up plan. Taylor was given 60 days to respond. WDEQ requested EPA's assistance for the Valley Post and Sawmill Site upon the expiration of the 60 day time period, on approximately May 15, 2009.

A. Site Description

The Site is an inactive 25 acre sawmill and wood treating facility consisting of several areas of contaminated soil where wood treatment, dipping and drying occurred. The Site has not been used for wood treatment since approximately 1996. The Site also includes a parcel of property located in Guernsey, WY, where the aforementioned tanks were moved to by Mr. Taylor.^a To reduce reader confusion, the property in Guernsey will be hereafter referred to individually as "The Guernsey Property" and the property in Sheridan will be referred to as "former sawmill property" or "Site".

^a The EPA HQ Office of General Council (OGC) has approved this Site configuration. Please see the Site file for documentation of this decision.

1. Removal Site Evaluation

In March 2009, a removal site evaluation was initiated after WDEQ requested EPA's assistance to assess two tanks that were taken from the Valley Post and Sawmill which were currently located at the property in Guernsey, WY. OSC Steven Merritt accompanied the Superfund Technical Assistance Response Team (START3) contractor team to the Site on March 25, 2009.

Upon arrival, the team found two tanks on a semi trailer. The trailer showed slight staining near the rear tank, indicating a small amount of leakage during transport. The rear tank, the retort tank, was found to contain metal apparatus used to hold posts in the tank while being treated, several wood posts, and a layer of black sludge that had apparently settled to the bottom of the tank. This sludge was sampled and, upon laboratory analysis, determined to contain 8,600 mg/kg Pentachlorophenol (PCP). The front tank was apparently empty and not able to be sampled for reasons outlined in the START3 Trip Report dated April 24, 2009. Both tanks had what appeared to be small holes drilled in them near the bottom.

In May, 2009, the OSC elected to conduct a Removal Site Assessment at the Valley Post and Sawmill facility. The objective of the Removal Site Assessment was to identify if a release of hazardous substances had occurred, as well as to begin delineation of said release if at all possible.

On June 8, 2009, OSC Myers accompanied the START3 team to the Site. OSC Myers discussed the investigation with Mr. Shane Taylor. The START3 team collected numerous surface and subsurface samples, predominantly from areas where inspection records suggested process equipment had been located as well as where soil discoloration and/or odors were present. Two ground water wells were attempted, with only one yielding enough water to obtain a sample. The START3 team also collected composite samples from areas that would have been amenable to stacking and drying wood in hopes of locating additional areas of contamination.

A second round of sampling was conducted between September 21st and September 24th to delineate the additional area(s) of contamination that were identified/delineated during the June event. EPA mobilized the START3 team and EPA's mobile laboratory to the Site for this event to ensure that the additional areas were fully delineated prior to demobilization. Sample results are available in the Sampling Activities Report in the Administrative Record for the Site. Sample locations and notable results are available as Attachment 1 of this document.

Analytical results of the aforementioned collected samples indicate significant levels of PCP and diesel fuel in the surface and subsurface soils at the Site, with the highest concentration detected being 16,424 ug/g (mg/kg) in a sample of

highly stained soil in the former drip area. The highest average concentration detected on the sample grid was 390 mg/kg near the location where the WDEQ documented drum storage and significant spillage in their June 1987 inspection (photo 36). Sample results also indicated that two of the areas sampled had PCP present even though there was no discoloration or odor noted at the time of sampling.

Treatability Study

EPA Region 8 commissioned The Environmental Response Team (ERT) out of Edison, NJ to conduct biological prospecting and a treatability study to determine if augmented biological treatment would be a viable option on this Site. ERT located a strain of bacteria from the samples taken in September that is very aggressive at breaking down PCP in soil; it degraded approximately 100 parts per million PCP in 4 days with very low chloride production.

2. Physical Location

The former sawmill property is located at 446 Big Goose Road, approximately 2 miles south west of Sheridan, Wyoming. Its geographic coordinates are 44.75970 degrees North latitude, 107.0828 degrees West longitude.

The Guernsey location (Guernsey Property) is located at 650 West Wheatland Ave, Guernsey, WY. Its geographic coordinates are 42.2737 degrees North latitude, 104.7505 degrees West longitude.

3. Site Characteristics

The Site is currently abandoned, but there are 2 habitable dwellings on the property and there is unrestricted access to the property. This Site is also used to access other parcels of land that are "land locked" or otherwise not accessible from the highway.

The Guernsey Property is currently used as a construction/trucking base for the property owner, and is located within the city limits of Guernsey, WY.

This will be the first removal action on either property.

4. Release or threatened release into the environment of a hazardous substance or pollutant or contaminant

PCP has been documented at the Site in concentrations exceeding 390 mg/kg, indicating that PCP has been released into the environment. Documents from the joint EPA/WDEQ inspection show very poor housekeeping during facility operations and support the Removal Site Evaluation findings of PCP in the soils on the Site.

PCP has been documented in concentrations exceeding 8,000 mg/kg in the tank at the Guernsey Property. This tank has also been documented to have existing holes, thus threatening a release of listed hazardous waste to the environment.

5. NPL Status

This Site is not listed, nor is it proposed to be listed, on the NPL.

6. Maps, Pictures, Other Geographic Representations

A map of the Site is available in Attachment 1. Relevant Site photos are available in the Site file Administrative Record in the form of START3 Trip Reports and WDEQ letter to the property owner.

B. Other Actions to Date

1. Previous Actions

There have been no previous actions to date on this Site.

2. Current Actions

Other than the proposed Fund Lead Removal and associated Removal Site Evaluation, there are no current actions taking place on the Site.

C. State and Local Authorities Role

1. State and Local actions to date

WDEQ Solid and Hazardous Waste Division requested EPA's assistance once it became clear that the RCRA program was not able to take effective action due to the Valley Post and Sawmill property owner's insolvency. Other than limited Site visits, it is not likely that State or local officials will be present or remain at the Site.

2. Potential for continued State/Local response

The State does not intend to continue to be involved once EPA begins its clean up. Wyoming does not have the funding necessary to have any level of involvement. WDEQ will provide assistance in the form of a liaison function within the Wyoming government as required.

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

The conditions at the Site present an imminent and substantial threat to human health and the environment and meet the criteria for initiating a Removal Action under Section 300.415(b)(2) of the NCP. Although all of the factors were considered, the following factors from §300.415(b)(2) of the NCP form the basis for EPA's determination of the threat presented, and the appropriate action to be taken:

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

Pentachlorophenol is the contaminant consistently detected at elevated concentrations in onsite soils. The concentrations of PCP in soil, on an average, do exceed EPA's acceptable cancer risk range for residential scenarios based on ingestion/inhalation and dermal exposure. The impact of the PCP contamination is also evident in the risk to groundwater and off-site surface water. While the Site is currently used in an agricultural setting, it is conceivable, given the number of livable structures on Site and the redevelopment in the surrounding area, that the Site will be used for residential purposes again in the near future.

PCP is a CERCLA hazardous substance. Below is an excerpt from the Agency for Toxic Substance and Disease Registry's (ATSDR) Toxicological FAQ sheet for PCP:

"...exposure to high levels of pentachlorophenol can cause the cells in the body to produce excess heat. When this occurs, a person may experience a very high fever, profuse sweating, and difficulty breathing. The body temperature can increase to dangerous levels, causing injury to various organs and tissues, and even death. Liver effects and damage to the immune system have also been observed in humans exposed to high levels of pentachlorophenol for a long time. Damage to the thyroid and reproductive system has been observed in laboratory animals exposed to high doses of pentachlorophenol...

...The EPA has determined that pentachlorophenol is a probable human carcinogen and the International Agency for Cancer Research (IARC) considers it possibly carcinogenic to humans."

- (iii) *Hazardous substances or pollutants or contaminants in drums, barrels, tanks or other bulk storage containers that may pose a threat of release.*

At the Guernsey Property, EPA has documented the presence of wood treating wastes in the retort tank and on the trailer used to transport it. Such waste is a listed waste (F032 waste code) and, as such, is considered a hazardous substance. The presence of the waste on the trailer constitutes a release to the environment; a hole in the retort tank poses a continued threat of release to the environment.

- (iv) *High levels of hazardous substances in soils largely at or near the surface, that may migrate*

High concentrations of PCP are present in surface soil samples at isolated locations onsite. Evidence from previous sampling investigations has documented the migration of this contamination to additional locations onsite. There is no reason to believe this migration will cease unless surface soil contamination is addressed.

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

The semi-arid climate of the area is characterized by harsh winters and hot summers. This type of climate accentuates the spread of contaminants through wind and erosion. The Spring season typically introduces an abrupt freeze/thaw and a quick snow melt, providing extra energy to the dispersion of the contaminants. The Site is located immediately above an irrigation canal, which, during rain events, would provide a direct pathway for PCP to migrate into the Big Goose River.

- (vii) *The (lack of) availability of other appropriate federal or state mechanisms to respond to the release*

State efforts under RCRA have failed to effect a change in the situation in Guernsey. No other Local, State, or Federal agency is in the position or has the resources to independently implement an effective response action to address the on-going threats presented at the Site.

IV ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site may present an imminent and substantial endangerment to public health, or welfare, or the environment.



V EXEMPTION FROM STATUTORY REQUIREMENTS

This removal action is requesting an exemption to the 12-month statutory limit imposed by Section 104(c) of CERCLA. The Site conditions meet the Emergency Exemption criteria:

- (i) **There is an immediate risk to public health or welfare or the environment:** The Guernsey Property represents a threat of release of listed hazardous waste to the environment. If not quickly and properly addressed, a release is likely to occur, potentially exposing animals or trespassers to the site.
- (ii) **Continued Response actions are immediately required to prevent, limit, or mitigate an emergency:** Weather conditions continue to expose and aid in the migration of hazardous substances present at the site. In addition, once treatment actions are started, the government has an obligation to complete them. If the 12 month limit is adhered to, hazardous substances could remain exposed to the same conditions that exist today, potentially exposing animals or trespassers on the Site.
- (iii) **Assistance will not otherwise be provided on a timely basis:** As discussed in Section II(C) of this action memorandum, neither the State nor Local governments have the resources or are in a position to provide assistance for this Site.

VI PROPOSED ACTION

A. Proposed Actions

1.) **Proposed Action Description**

Generally, the proposed removal action will attempt to address the source area contamination through on-site treatment using enhanced biological remediation to breakdown PCP and petroleum hydrocarbon contamination in soil. This is recognized by EPA as a Presumptive Remedy for wood treatment sites with PCP contamination (Presumptive Remedies: Technology Selection Guide for Wood Treater Sites, EPA540-F-93-020); it has been used successfully many times in EPA Region 8 since 2002. This includes the Creston Post and Pole RV2, Beaver Wood Product, and Pringle Post and Pole Sites.

- a. Phase I – Clean and Return tanks to Valley Post and Sawmill Site. The first step will be to clean the retort and product tanks at the Guernsey Property, to the maximum extent practicable, per 40 C.F.R. § 261.35. During the cleaning process, the solvent rinses will be tested for presence of PCP. After removing the material inside the tanks, it may become apparent that the cleaning process will be more expensive than cutting the tanks up and disposing of the material as F032 waste. If this is the case, the OSC may elect to dispose of the tank rather than meet the somewhat onerous requirements necessary to recycle the tanks.

Once field tests no longer detect PCP, the samples required by 40 C.F.R. § 261.35 will be sent for analysis and the tanks will be transported under hazardous waste manifest back to the Valley Post and Sawmill facility to await analytical results to determine if they can be recycled. If further cleaning is required, it will be done on Site. Once no further cleaning is required, the tanks will be sheared and recycled in accordance with RCRA. To the maximum extent practical, all waste generated during this process will be treated in the treatment cell with the contaminated soil.

The following phases of the clean up will occur in the Area of Contamination (AOC), a concept which is discussed in detail in the March 08, 1990 Preamble to the National Contingency Plan (55 FR 8758-8760). As such, no synthetic liner will be required.

HQ OGC has determined that, due to the fact that 1) the tank was illegally/inappropriately transported off of the facility; and 2) the waste originated on the facility and is of the same nature as that on the facility, the tank can be transported back to its original location. Since both properties are within one CERCLA Site, the Off-Site Rule does not apply.

EPA Region 8 Legal Enforcement has subsequently determined that, because the tank was illegally/inappropriately removed from the AOC, such replacement and subsequent treatment of the waste does not violate the premise of the AOC concept as outlined in the March 08, 1990 Preamble to the NCP.

- b. Phase II - Site Preparation. The next step on the Site will be to clear scrap metal, wood piles and equipment from the designated area for the bio-treatment cell construction. The bio-treatment cell area will be cleared of vegetation, and developed (depth, compaction...etc.) according to instruction provided by ERT personnel onsite. The exact size of the bio-treatment cell is unknown at this time (an estimate of 150 feet by 150 feet should be a conservative estimate to use during this phase). The width of the cell will be 150 feet and the length can be expanded or decreased from 150 feet if necessary. The exact size of the bio-treatment cell will be determined by the volume of excavated contaminated soil onsite. EPA will construct a fence around the bio-treatment cell once the cell is completely built and filled with contaminated material to prevent livestock and any persons on the Site from unknowingly entering the cell.

During this phase any and all equipment, wood piles, scrap metal, vehicles and structures will be relocated from their position above contaminated soil. Decontamination of materials and equipment will be conducted during this phase if necessary.

- c. Phase III - Excavation. During this phase EPA will excavate contaminated soil from its current location and transport it to the bio-treatment cell. The primary areas of concern are the areas surrounding the former pressure

treatment area, the PCP formulation area, and the dip tank and drying areas. EPA will initially excavate soil based on visual staining and previous sampling results from each area. An onsite GC/MS will be used as a screening tool to determine the extent of contamination removal from each area. Confirmation samples will be collected from the excavated area and sent to a laboratory to confirm the extent of contamination removal.

This time-critical removal action will attempt to eliminate or significantly reduce the volume of wood treatment contaminants currently present in the soil of the Valley Post and Sawmill Site. If successful, this would eliminate the soil exposure threat, offsite migration to surface water and stop any future release to groundwater.

The contaminated soil will be placed in the bio-treatment cell at a thickness specified by ERT. ERT will use either their REAC contractor or the START3 contractor to treat the cell with the PCP-degrading microbial liquid. EPA will add the necessary volumes of sawdust (used as a nutrient) and lime (or some other high pH material) as required to the bio-treatment cell. Once the excavation of contaminated soil is complete, the bio-treatment will begin.

- d. Phase IV - Bio-Treatment Phase. The contents of the cell will need to be watered and tilled on a weekly basis to keep the soil moisture and oxygen at appropriate levels, as well as to continuously mix the contaminants and biological additives to accelerate PCP degradation. ERT will develop a watering plan for the bio-treatment cell as well as a site-specific schedule for sampling of the materials contained within the bio-treatment cell. The duration of this phase is anticipated to last between 12-15 weeks but Site conditions may extend or decrease this time period.
- e. Phase V - Site Restoration. Upon completion of the bio-treatment phase of the project, the treated soil will be returned to its original location on-site. The soil located under the empty bio-treatment cell will be sampled to confirm the absence of harmful levels of wood treatment chemicals. The fence surrounding the bio-treatment cell will be removed, the area of the bio-treatment cell and the filled in excavated areas will be re-contoured to something approximating original conditions. All disturbed areas will be re-vegetated with native grasses to prevent erosion.

2. Contribution to remedial performance

This Removal Action is intended to be the final CERCLA activity for this Site, and should address all of the source areas of contamination. No additional action will be required unless additional areas of contamination are discovered in the future.

3. EE/CA

§ 300.415(b)(4) of the NCP states "Whenever a planning period of at least six months exists before on-site activities must be initiated, and the lead agency determines, based on a Site evaluation, that a removal action is appropriate: (i) The lead agency shall conduct an engineering evaluation /cost analysis (EE/CA) or its equivalent.

Numerous EPA investigations and assessments have been conducted at the Valley Post and Sawmill Site since the early 1980s. EPA's determination to conduct a time-critical removal action is being made based on analysis of data from the September 2009 Removal Site Assessment and the ERT Treatment Study which was completed in April 2010. As discussed in Section V, there are immediate risks associated with this site, necessitating prompt action. Therefore, an EE/CA is not appropriate for this Site due the abbreviated planning period and elevated threat level.

4. Applicable or relevant and appropriate requirements (ARARs)

This Action Memorandum addresses the proposed time-critical removal at the Valley Post and Sawmill Site. PCP is the only hazardous substances, pollutant or contaminant addressed by the time-critical removal. To the extent practicable given the exigencies of the situation, the Removal Action will attain all ARARs. A table containing Site specific ARARs is provided as Attachment 2 to this Action Memorandum.

5. Project Schedule

It is anticipated that the proposed Removal Action will commence in May of 2010 and be completed during the late summer or fall months of 2010, however, it is not clear from the ERT Treatability Study exactly how efficient the biota will be in degrading the PCP to acceptable levels given the potential weather conditions at the Site. An additional growing season may be required to conduct the biological treatment. In any event, it is anticipated that all treatment, re-grading and re-vegetation should be completed by the late summer months of 2011.

B. Estimated Costs

<u>Extramural Costs:</u>	
<u>Regional Removal Allowance Costs:</u>	
ERRS Contract	\$300,000
START3 Contract	\$ 65,000
Subtotal Extramural Costs	\$365,000
Extramural Costs Contingency (20% of Subtotal, Extramural Costs rounded to nearest thousand.)	\$ 73,000
TOTAL REMOVAL ACTION PROJECT CEILING	\$438,000

INTRAMURAL COSTS

Intramural Direct Costs	\$ 30,000
TOTAL EXTRAMURAL + INTRAMURAL	\$468,000
Indirect Costs, 35%*	\$163,800
TOTAL ESTIMATED EPA COSTS FOR REMOVAL ACTION	\$631,800

*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 \$631,800 (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-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 total costs from this estimate will affect the United States' right to cost recovery.

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

Delayed action will increase the public health threat to the local population and the threat to the environment.

VIII. OUTSTANDING POLICY ISSUES

This removal does not set a precedent or constitute a nationally significant issue.

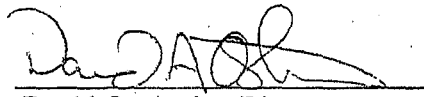
IX. ENFORCEMENT

A separate addendum will provide a confidential summary of current and potential future enforcement actions. The OSC has identified one Potentially Responsible Party per their responsibilities under 40 C.F.R. § 300.415(a)(2). The OSC has assessed the PRP's ability and willingness to perform some portions of the work on this Site.

X. RECOMMENDATION

This decision document represents the selected Time-Critical Removal Action for the Valley Post and Sawmill Site located in Sheridan County, Wyoming. This Action Memorandum was developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on 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 your approval of the proposed removal action. The removal project ceiling will be \$468,000, coming from the Regional removal allowance, and a total estimated Site cost of \$631,800.

Approve:  Date: 5/12/10
David Ostrander, Director
Preparedness, Assessment, and Response Program (PAR)
Office of Ecosystems Protection and Remediation

Disapprove: _____ Date: _____
David Ostrander, Director
Preparedness, Assessment, and Response Program (PAR)
Office of Ecosystems Protection and Remediation

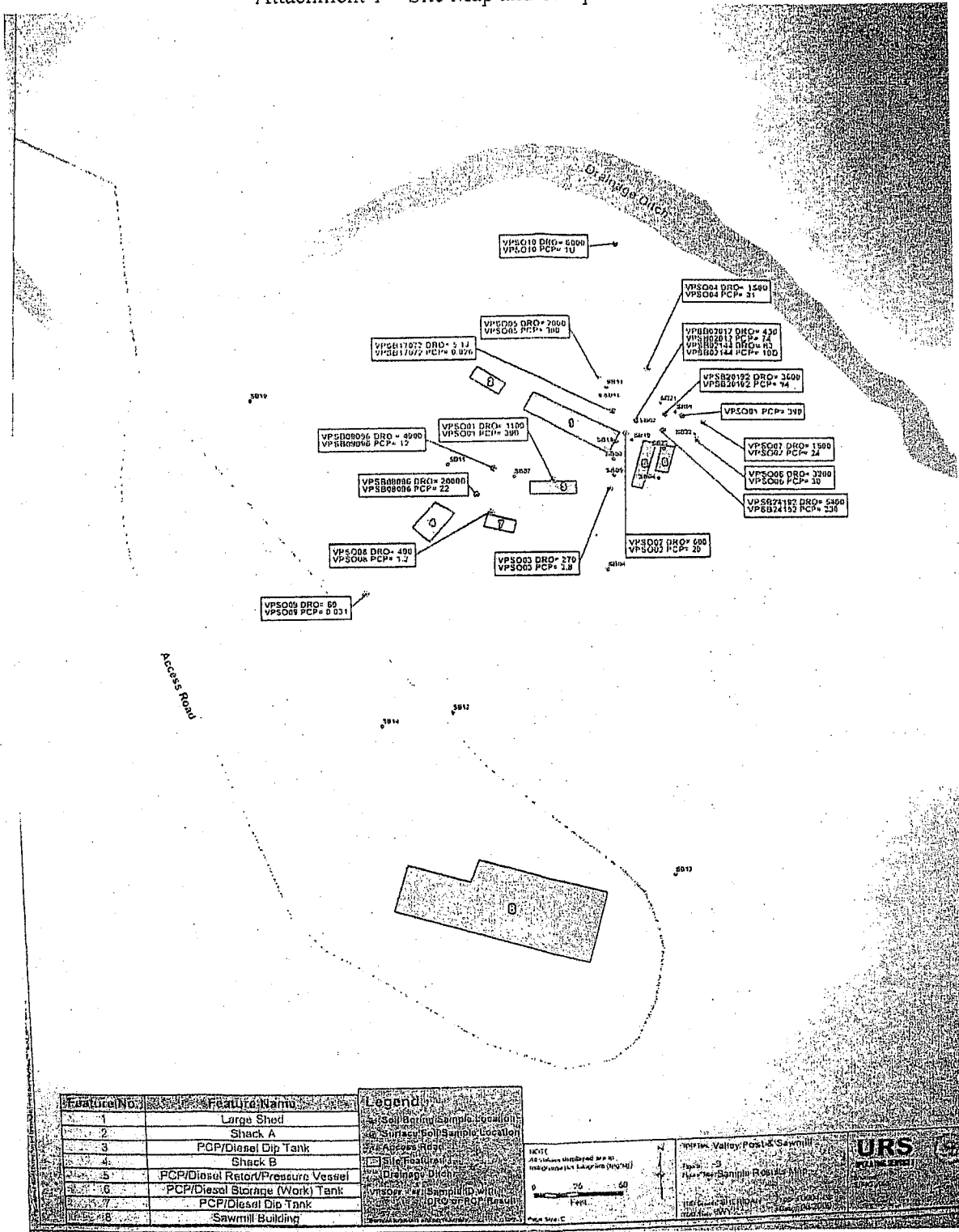
Attachments:

- Attachment 1 – Site Map and Sample Locations
- Attachment 2 - Federal and State ARARs

SUPPLEMENTAL DOCUMENTS

Support/reference documents which may be helpful to the reader and/or have been cited in the report may be found in the Administrative Record Files for the Valley Post and Sawmill Site at the Superfund Records Center for Region 8 EPA, 1595 Wynkoop Street, Denver, Colorado 80202.

Attachment 1 – Site Map and Sample Results



Attachment 2 – Valley Post and Sawmill Action Memo.

**Table of Applicable Relevant and Appropriate Regulations
Valley Post and Sawmill Site
Sheridan, Sheridan County, Wyoming**

Statute	Implementing Regulation	Status	Requirements	Comments
FEDERAL ARARS				
Resource Conservation and Recovery Act (RCRA)	40 CFR § 261.35	A	Wood Treatment equipment cleaning and replacement	Applicable to the cleaning, replacement, and disposal of any tankage and other large equipment that was used in wood preservig processes.
Comprehensive Environmental Response Compensation and Liability Act	40 CFR § 300.440	A	CERCLA OffSite Rule- Applies to any CERCLA response action involving the offsite transfer of any hazardous substance, pollutant or contaminat. CERCLA wastes may only be placed in a facility operating in compliance with RCRA or other applicable Federal or State requirements.	Applicable to any transfer of hazardous substances, pollutants or contaminants from the Site.
Occupational Safetyand Health Act	29 CFR 1910.120	X	Regulations for hazardous waste operations and emergency response.	OSHA 1910.120 is not an ARAR andapplies to all EPA emergency response and time critical removal actions.
Excavation under RCRA	40 CFR 268 (subpart D)	X	Movement of excavated materials to new location and placement in or on land will trigger land disposal restrictions for the excavated wastes.	Not applicable because OSC is not moving waste to new locatbn. Therefore, placement is not occurring and RCRA land disposal restrictions are not triggered
Land treatment under RCRA	40 CFR § 264.271 And 40 CFR § 264.273	X	Prior to land treatment, the waste must be treated tBDAT levels or meet a minimum standard	Not applicable The OSC is moving hazardous wastes within an AOC, not to a Treatment, Storage, and Disposal Facility.
STATE ARARS				
Wyoming Environmental Quality Act	W.S. 35-11-101 HWRR Chapters 1-14	A	State statute that basically mirrors RCRA- WDEQ has stated that there are not additional requirements for this site beyond what would be required by RCRA.	Applicable to anyone generating or managing hazardous waste in Wyoming.-

A: Applicable
R: Relevant & Appropriate
N: Scope of the action does not trigger ths requirement
X: Not an ARAR

Exhibit 2

U.S. ENVIRONMENTAL PROTECTION AGENCY
 POLLUTION/SITUATION REPORT
 Valley Post & Sawmill - Removal Polrep



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 Region VIII**

Subject: POLREP #1
 Initial POLREP
 Valley Post & Sawmill

Sheridan, WY
 Latitude: 44.7597000 Longitude: -107.0828000

To:
From: Craig Myers, On-Scene Coordinator
Date: 6/13/2010
Reporting Period: 5/24/2010 thru 6/12/2010

1. Introduction

1.1 Background

Site Number: 08RL	Contract Number:
D.O. Number:	Action Memo Date: 5/12/2010
Response Authority: CERCLA	Response Type: Time-Critical
Response Lead: EPA	Incident Category: Removal Action
NPL Status: Non NPL	Operable Unit:
Mobilization Date: 5/24/2010	Start Date: 5/24/2010
Demob Date:	Completion Date:
CERCLIS ID:	RCRIS ID:
ERNS No.:	State Notification:
FPN#:	Reimbursable Account #:

1.1.1 Incident Category

Time Critical Removal Action

1.1.2 Site Description

The Valley Post and Sawmill site (Site) is a former sawmill and wood treatment facility located along the south side of Big Goose Road approximately 2 miles south west of Sheridan, Sheridan County, Wyoming. The Valley Post and Sawmill treated wood using Pentachlorophenol (PCP) mixed with diesel fuel. It is unknown precisely when the facility commenced its wood treating operation; however, the state of Wyoming

believes that it shut down sometime during 1996.

Carl Sayer owned and operated the Valley Post and Sawmill during the entire period of operation. PCP was mixed with diesel fuel in a small tank, after which, it was transferred to the retort tank/pressure vessel where the posts were treated. In addition to the retort vessel, there were also two smaller tanks that posts were dipped in to be treated. Treated posts were then stacked on bare soil to dry. There is no record of any containment features associated with Site operations, and the use of engineered containment features was not a standard practice in the industry prior to the mid to late 1980s.

The Wyoming Department of Environmental Quality (WDEQ) and EPA's Resource Conservation and Recovery Act (RCRA) programs conducted an inspection of the facility while it was in operation in 1987. The inspection documented areas of significant soil contamination and dumping of PCP laden solution directly to soil, however, at the time of the inspection, the F032 waste listing had not been promulgated, so no actions were taken. Results of this inspection are available in the Site file. There is no evidence that either EPA or DEQ followed up on this inspection.

In October of 2008, WDEQ responded to an inquiry about the facility from a prospective purchaser and conducted an inspection. This inspection identified that the tanks and equipment had been removed from the Site and that significant movement of soil had occurred recently. A cure notice was issued to the current property owner, Mr. Shane Taylor – Carl Sayer's nephew, to conduct an assessment of the property and to develop a clean up plan. Taylor was given 60 days to respond. WDEQ requested EPA's assistance for the Valley Post and Sawmill Site upon the expiration of the 60 day time period, on approximately May 15, 2009.

The Site is an inactive 25 acre sawmill and wood treating facility consisting of several areas of contaminated soil where wood treatment, dipping, and drying occurred. The Site has not been used for wood treatment since approximately 1996. The site also includes a parcel of property located in Guernsey, WY, where Mr. Taylor moved the aforementioned tanks.

1.1.2.1 Location

650 West Wheatland Ave, Guernsey, WY; and
446 Big Goose Road, Sheridan, WY

1.1.2.2 Description of Threat

PCP has been documented at the Site in concentrations exceeding 390 mg/kg, indicating that PCP has been released into the environment. Documents from the joint EPA/WDEQ inspection show very poor housekeeping during facility operations and support the Removal Site Evaluation findings of PCP in the soils on the Site.

PCP has been documented in concentrations exceeding 8,000 mg/kg in the tank at the Guernsey Property. This tank has also been documented to have existing holes, thus threatening a release of listed hazardous waste to the environment.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

In March 2009, a removal site evaluation was initiated after WDEQ requested EPA's assistance to assess two tanks that were taken from the Valley Post and Sawmill which were currently located at the property in Guernsey, WY. OSC Steven Merritt accompanied the Superfund Technical Assistance Response Team (START3) contractor team to the Site on March 25, 2009.

Upon arrival, the team found two tanks on a semi trailer. The trailer showed slight staining near the rear

tank, indicating a small amount of leakage during transport. The rear tank, the retort tank, was found to contain metal apparatus used to hold posts in the tank while being treated, several wood posts, and a layer of black sludge that had apparently settled to the bottom of the tank. This sludge was sampled and, upon laboratory analysis, determined to contain 8,600 mg/kg Pentachlorophenol (PCP). The front tank was apparently empty and not able to be sampled for reasons outlined in the START3 Trip Report dated April 24, 2009. Both tanks had what appeared to be small holes drilled in them near the bottom.

In May, 2009, the OSC elected to conduct a Removal Site Assessment at the Valley Post and Sawmill facility. The objective of the Removal Site Assessment was to identify if a release of hazardous substances had occurred, as well as to begin delineation of said release if at all possible.

On June 8, 2009, OSC Myers accompanied the START3 team to the Site. OSC Myers discussed the investigation with Mr. Shane Taylor. The START3 team collected numerous surface and subsurface samples, predominantly from areas where inspection records suggested process equipment had been located as well as where soil discoloration and/or odors were present. Two ground water wells were attempted, with only one yielding enough water to obtain a sample. The START3 team also collected composite samples from areas that would have been amenable to stacking and drying wood in hopes of locating additional areas of contamination.

A second round of sampling was conducted between September 21st and September 24th to delineate the additional area(s) of contamination that were identified/delineated during the June event. EPA mobilized the START3 team and EPA's mobile laboratory to the Site for this event to ensure that the additional areas were fully delineated prior to demobilization. Sample results are available in the Sampling Activities Report in the Administrative Record for the Site.

Analytical results of the aforementioned collected samples indicate significant levels of PCP and diesel fuel in the surface and subsurface soils at the Site, with the highest concentration detected being 16,424 ug/g (mg/kg) in a sample of highly stained soil in the former drip area. The highest average concentration detected on the sample grid was 390 mg/kg near the location where the WDEQ documented drum storage and significant spillage in their June 1987 inspection (photo 36). Sample results also indicated that two of the areas sampled had PCP present even though there was no discoloration or odor noted at the time of sampling.

EPA Region 8 commissioned The Environmental Response Team (ERT) out of Edison, NJ to conduct biological prospecting and a treatability study to determine if augmented biological treatment would be a viable option on this Site. ERT located a strain of bacteria from the samples taken in September that is very aggressive at breaking down PCP in soil; it degraded approximately 100 parts per million PCP in 4 days with very low chloride production.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

2.1.2 Response Actions to Date

Week of 5/24/2010

The tanks that were illegally/improperly taken to Guernsey were cleaned to the point that they were legally transportable under DOT regulations and transported back to the former facility in Sheridan, WY.

Week of 6/7/2010

This week was spent mobilizing, setting up the site, and beginning to clean the tanks. It has become apparent that solvent rinsing is not going to clean the tanks to the levels required by the regulations. A pilot test was done using heat to break down the PCP/dioxins, heating the metal

to its bluing temperature - approximately 800 degrees Celsius for approximately 30 seconds. Tests in the on-site lab confirmed that no PCP remained on the metal. The tanks will be cut into pieces, heated, and rinsed a final time in toluene, which will be sampled per 40 CFR 261.35 prior to the tanks being released to a recycler. The treatment area preparation was also completed, and excavation began on Saturday, excavating approximately 150 cubic yards of soil.

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

Intentionally Left Blank - Enforcement Sensitive.

2.1.4 Progress Metrics

This section does not apply to this removal action. All waste is being treated on site at this time.

<i>Waste Stream</i>	<i>Medium</i>	<i>Quantity</i>	<i>Manifest #</i>	<i>Treatment</i>	<i>Disposal</i>

2.2 Planning Section

2.2.1 Anticipated Activities

Excavation is anticipated to to continue.

Tank cleaning/treatment is expected to continue.

2.2.1.1 Planned Response Activities

None.

2.2.1.2 Next Steps

Intentionally left blank.

2.2.2 Issues

None.

2.3 Logistics Section

Intentionally Left Blank. This section does not apply to a removal action.

2.4 Finance Section

2.5 Safety Officer

Intentionally Left Blank. This section does not apply to a removal action.

2.6 Liaison Officer

Intentionally Left Blank. This section does not apply to a removal action.

2.7 Information Officer

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3. Participating Entities

3.1 Unified Command

Intentionally Left Blank. This section does not apply to a removal action.

3.2 Cooperating and Assisting Agencies

None.

4. Personnel On Site

ERRS - 6
START - 1
ESAT - 1
EPA OSC - 1

5. Definition of Terms

6. Additional sources of information

6.1 Internet location of additional information/reports

Additional information can be found on-line at www.epaosc.net/ValleyPostSawmill or in the Site file in the EPA Region 8 Superfund Records Center.

6.2 Reporting Schedule

The next report will be made when the OSC deems it appropriate.

7. Situational Reference Materials

www.epaosc.net/ValleyPostandSawmill

Exhibit 3

U.S. ENVIRONMENTAL PROTECTION AGENCY
 POLLUTION/SITUATION REPORT
 Valley Post & Sawmill - Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 Region VIII

Subject: POLREP #2
 POLREP #2
 Valley Post & Sawmill

Sheridan, WY
 Latitude: 44.7597000 Longitude: -107.0828000

To:
From: Craig Myers, On-Scene Coordinator
Date: 7/20/2010
Reporting Period: 6/13/2010 through 7/6/2010

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1.1 Background

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1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

See POLREP #1

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

2.1.2 Response Actions to Date

Week of 6/14/2010

Excavation continued, as did treatment of the tanks. Waste was mixed with compost and placed into the treatment cell. Attempts were made to place the waste such that the cell had an even concentration of PCP. An additional drum was found during excavation on 6/14. It contained an oily material with a concentration of approximately 2,900 ppm PCP.

Week of 6/21/2010

Excavation continued during the early part of the week, as did treatment of the tanks. Samples of the tank rinse showed that the tanks should be clean. Samples were submitted to a commercial lab for dioxin analysis. The treatment cell was tilled to better homogenize the soils prior to inoculation with the bacteria. The cell was inoculated on 6/23/2010. The cell was tilled and watered daily on the 24th and 25th, and the contractor demobilized on the 26th.

June 26th, 2010 through July 6th, 2010

The cell has been tilled and watered bi-weekly during this time. Routine operations have been transitioned to a sub-contractor who has installed a watering system and will conduct the bi-weekly tilling of the cell.

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

Intentionally Left Blank - Enforcement Sensitive.

2.1.4 Progress Metrics

All soil is being treated on site at this time. Steel from the tanks is currently staged on site awaiting approval from the State of Colorado for disposal as F032 waste.

<i>Waste Stream</i>	<i>Medium</i>	<i>Quantity</i>	<i>Manifest #</i>	<i>Treatment</i>	<i>Disposal</i>
Debris	Solid	3.68 tons	N/A	None	Non-Hazardous

2.2 Planning Section

2.2.1 Anticipated Activities

Routine maintenance of the cell will continue. Samples will be taken and analyzed for PCP as well as biological analysis to determine efficacy of the treatment.

2.2.1.1 Planned Response Activities

None.

2.2.1.2 Next Steps

Intentionally left blank.

2.2.2 Issues

None.

2.3 Logistics Section

Intentionally Left Blank. This section does not apply to a removal action.

2.4 Finance Section

2.5 Safety Officer

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3. Participating Entities

3.1 Unified Command

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3.2 Cooperating and Assisting Agencies

None.

4. Personnel On Site

None at this time. The ERRS sub contractor is mobilizing a crew of 2 personnel as needed to maintain the cell.

5. Definition of Terms

6. Additional sources of information

6.1 Internet location of additional information/reports

Additional information can be found on-line at www.epaosc.net/ValleyPostSawmill or in the Site file in the EPA Region 8 Superfund Records Center.

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