



**4WD-ERRB**

**CHANGE IN SCOPE OF RESPONSE ACTION MEMORANDUM**

**SUBJECT:** Action Memorandum for a Removal Action at the Black Leaf Chemical site pursuant to the On-Scene Coordinator's delegated authority under CERCLA Section 104.

**FROM:** Art Smith, On-Scene Coordinator (OSC)  
Emergency Response and Removal Branch

**THRU:** Shane Hitchcock, Chief  
Emergency Response and Removal Branch

**TO:** Site File

**I. Purpose**

The purpose of this Action Memorandum is to document the change in scope for the time-critical removal action initiated previously for the Black Leaf Chemical Site (the Site) located in Louisville, Jefferson County, Kentucky. This removal action is pursuant to the OSC's \$50,000 programmatic authority under CERCLA Regional Delegation 14-2 for a time-critical removal action where site conditions do not constitute an emergency. This removal action is proposed as a Fund-lead as the negotiations with the Potentially Responsible Parties (PRP) identified for this Site are not complete at this time, and certain actions are necessary to stabilize the Site.

**II. Site Information**

**A. Site Description**

Site Name: Black Leaf Chemical  
Superfund Site ID (SSID): B4L7  
NRC Case Number: None  
CERCLIS Number: KYD980559520  
Site Location: 1391 Dixie Highway, Louisville, KY 40210  
Lat/Long: N 38.260987 W 85.782500  
Potentially Responsible Party (PRP): ExxonMobil Corporation and Occidental Chemical Corporation  
NPL Status: Non-NPL

## **B. Site Background**

### 1. Removal Site Evaluation

On July 25, 2011, the Kentucky Department for Environmental Protection (KDEP) Superfund Branch requested that EPA Region 4 evaluate this Site for purposes of conducting a time-critical removal action. The request was based on the results of an October 2010 Site Investigation (SI) that revealed high concentrations of organochlorine pesticides in surface soil at an industrial park. KDEP also cited the lack of controls on access to the Site and the inability to compel the current property owner to secure the Site.

On August 8, 2011, OSC Smith and KDEP performed a site inspection. At that time, a gate at the 17<sup>th</sup> Street entrance to the Site was missing and evidence of trespassing was noted in areas of the Site where hazardous substance releases are present. Based on this information, the OSC completed the removal site evaluation under 40 CFR Section 300.410, and concluded that the site meets the National Contingency Plan (NCP) criteria for a time-critical removal action. On September 13, 2011, the EPA initiated a time-critical removal action to repair the fence and secure the Site to protect the public from potential direct contact with hazardous substances.

In September and October 2011, the EPA collected soil samples onsite in a storm drain and at multiple locations just outside the fence along the perimeter of the Site to determine whether hazardous substances had migrated off-site areas. These sampling locations are identified in Attachments D and E. Analytical results indicate that arsenic, lead, and organochlorine pesticides which were released at the Site have migrated offsite into the public sewer system and the public right of ways.

In February 2012, the EPA collected soil samples at 50 residential properties located in close proximity to the Site. These sampling locations are identified in Attachment F. Analytical results indicate that arsenic, lead, organochlorine pesticides and PAHs such as benzo(a)pyrene which were released at the Site have migrated to nearby residential properties. Arsenic, benzo(a)pyrene, and lead are at concentrations which exceed EPA's criteria for taking a removal action at multiple adjacent and other properties.

### 2. Physical location and Site characteristics

The Site is located on a portion of a 29-acre parcel of land in the Park Hill neighborhood of Louisville, and is bordered by a densely populated residential

area to the north, a large rail yard to the south, and industrial/commercial areas to the east and west. Multiple brick structures occupy the Site, which was the location of pesticide formulating operation, a whiskey distillery, and several wood drying and lumber distribution companies in the past. The Site is currently abandoned.

The Site includes the 29 acre industrial park, and both the public right of ways and the residential properties to the north of the facility where contaminant concentrations in surface soils exceed EPA's Risk Management Levels (RMLs).

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

Hazardous substances as defined by section 101(14) of CERCLA, which have been released from the Site and have been discovered in the right of ways or in residential yards are as follows:

Table 1

<b>Hazardous Substance</b>	<b>CAS Number</b>	<b>Maximum Concentration (mg/kg)</b>	<b>EPA Residential Risk Management Levels (mg/kg)</b>
Arsenic	7440-38-2	54	40
Benzo(a)pyrene	50-32-8	3.2	1.5
Lead	7439-92-1	840	400

(Note: these constituents are in addition to those identified in the August 23, 2011 Action Memo for this Site).

### **III. Threats to Public Health Welfare or the Environment**

#### **A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants.**

Hazardous substances including arsenic, benzo(a)pyrene, and lead have been released on the industrial park property and have migrated into the public right of ways and into residential yards. However, the concentrations discovered do not represent an acute health risk, and therefore, residents do not need to be disassociated from the threat of exposure.

**B. Check applicable factors (from 40 CFR 300.415) which were considered in determining the appropriateness of a removal action:**

- Actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances or pollutants or contaminants [300.415(b)(2)(i)].
- Actual or potential contamination of drinking water supplies or sensitive ecosystems [300.415(b)(2)(ii)].
- Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that pose a threat of release [300.415(b)(2)(iii)].
- High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate [300.415(b)(2)(iv)].
- Weather conditions that may cause hazardous substances or pollutants to migrate or to be released [300.415(b)(2)(v)].
- Threat of fire or explosion [300.415(b)(2)(vi)].
- The availability of other appropriate federal or state response mechanisms to respond to the release [300.415(b)(2)(vii)].
- Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)].

**IV. Selected Removal Action and Estimated Costs**

**A. Situation and Removal Activities to Date**

1. Current Situation

The Site is currently in an abandoned condition. Stormwater runoff is uncontrolled and is in a direction toward nearby residential areas along the northern property boundary which has caused a migration of contaminants away from the Site.

2. Removal activities to date

In September 2011, EPA initiated a time-critical removal action to secure the premises, repairing fencing, and posting the site to warn against potential exposure to hazardous substances.

3. Enforcement

EPA is currently in negotiations with Potentially Responsible Parties (PRPs) for this Site regarding additional investigation and cleanup of areas where releases have occurred. However, the results of the February 2012 residential sampling investigation have identified the surface migration pathways that require stabilization as an immediate action. EPA is in a unique position to perform this work at the present time.

**B. Planned Removal Actions**

## 1. Proposed action description

The removal action will be limited to stormwater control measures such as construction of silt fences and rock check dams. The objective is to stop migration of contaminant-laden particulate material mobilized by stormwater runoff from leaving the Site along the northern property boundary.

## 2. Contribution to remedial performance

The proposed actions will, to the extent practicable, contribute to the efficient performance of any long-term remedial action at the site.

## 3. ARARs

On December 12, 2011, the OSC requested that the Kentucky Department for Environmental Protection (KDEP) identify ARARs which could be in effect for this removal action. Based on a review of KDEP's response, there are no ARARs identified which pertain to the specific measures proposed herein.

## 4. Project Schedule

The removal action will begin on June 11, 2012. It is expected that the construction work will be completed within one week of the time when removal activities begin at the Site.

**C. Estimated Costs**

The costs will remain within the current approved total project ceiling established in the August 23, 2011 Action Memo.

**V. Expected Change in the Situation Should Action Be Delayed or Not Taken**

A delay in action or no action at this Site would increase the actual or potential threats to the public health and/or the environment.

**VI. Outstanding Policy Issues: None**

**VII. Approvals**

This decision document represents the selected removal action for this Site, developed in accordance with CERCLA as amended, and not inconsistent with the National Contingency Plan. This decision is based on the administrative record for the Site.

Conditions at the site continue to meet the NCP section 300.415(b) criteria for a removal action and through this document, I am approving the proposed removal actions. The total project ceiling is \$50,000, and this amount will be funded from the Regional removal allowance.



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Art Smith,  
On-Scene Coordinator



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Date