



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

Reply To  
Attn Of: ECL-116

**ACTION MEMORANDUM**

**DATE:** May 28, 2004

**SUBJECT:** Request for a Time-Critical Removal Action at the former Burns Air Force Station Radar Base site, Burns, Harney County, Oregon; Site ID: 10-CJ

**FROM:** Michael J. Szerlog, On-Scene Coordinator  
Office of Environmental Cleanup

**TO:** Kathryn M. Davidson, Acting Director  
Office of Environmental Cleanup

**THRU:** Chris D. Field, Manager  
Emergency Response Unit  
Office of Environmental Cleanup

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval for a Time-Critical Removal Action described herein for the former Burns Air Force Station Radar Base (Burns Asbestos) site, Burns, Harney County, Oregon. The Removal is required for immediate reduction of the risk to the public and the environment from the uncontrolled hazardous substances at the former Air Force Station Radar Base.

**II. SITE CONDITIONS AND BACKGROUND**

The U.S. Environmental Protection Agency (EPA) identification numbers for the Burns Asbestos Site are: CERCLIS - OR0001096957 and RCRA - ORR000000877. The Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDs) identification number for the Site is : F10OR016300. The Oregon Department of Environmental Quality (ODEQ) Environmental Site Cleanup Inventory (ESCI) identification number for the site is 1703. This is a time critical removal action.

The Burns Asbestos site is a former Air Force Aerospace Defense Command site located on Hines

**BURNS ASBESTOS  
ACTION MEMORANDUM**

5/28/2004

Logging Road and Radar Lane approximately 3.5 miles southwest of the cities of Burns and Hines, Harney County, Oregon (T23S, R30E, Section 20 of Willamette Meridian), at the top of Burns Butte, elevation of 5,100 feet above mean sea level, 43 degrees 33'44" north latitude and 119 degrees 9'3.5" west longitude (EPA Figure 1). The site is approximately 31.5 acres in size and is located approximately 4 miles from the nearest surface water body - intermittent creeks.

The Burns Asbestos site is in the high arid desert of eastern Oregon, sparsely vegetated and sparsely populated. According to the 2000 US Census, the nearest residence is 1.5 miles from the former radar station, and there are 25 residents within 2 miles. The cities of Burns and Hines are adjacent to each other; together, they have a population of 4,535. There are 1,247 students in grades K-12 in both cities combined. Harney County, in central southern Oregon, has a total population of 7,609 in a 10,228 square mile area (ODEQ, 2003).

There are no known threatened or endangered species on the site. However, the United States Bureau of Land Management (BLM) has identified more than 70 species of migratory birds that are known to pass through or breed and nest in the Burns District (which encompasses the Burns Asbestos Site). Some species documented in surveys include sage thrasher, Brewer's sparrow, chipping sparrow, American robin, dusky flycatcher, gray flycatcher, loggerhead shrike, western meadowlark, red-winged blackbird, Brewer's blackbird, mourning dove, as well as many species of migratory shorebirds, waterfowl, raptors, and other songbirds. There are 87 Special Status plant species in the Burns District, however, according to BLM, none are known to be present on the Burns Asbestos Site. Special Status animal species in the Burns District include Columbia spotted frog (Federal candidate), Greater sage-grouse, California bighorn sheep, sage sparrow, Northern goshawk, desert horned lizard, northern sagebrush lizard, spotted bat, Townsend's big-eared bat, and Preble's shrew. Wildlife commonly occurring in the Burns District includes mule deer, elk, pronghorn antelope, coyotes, badgers, ravens, magpies, golden eagles, chukar partridges, California quail, weasels, raccoons, porcupines, ground squirrels, chipmunks, mice, shrews, bats, woodrats, beavers, mountain lions, bobcats, black-tailed jackrabbits, and cottontail rabbits (BLM 2004).

There are potential historical landmarks and/or structures with historical significance identified at the Burns Asbestos Site. EPA contacted the State Historic Preservation Office to determine if any of the buildings on site would be considered historically significant. EPA spoke with Roger Roper with the State Historic Preservation Office. Mr. Roper informed EPA that the site may be eligible for inclusion in the National Register of Historic Places and that EPA must submit a Section 106 Documentation and Effect form if the removal consists of alteration or demolition of potential historically significant properties.

There are Tribal interests at the site. EPA contacted the Burns Paiute Tribe to inform Dean Adams, the Tribal Chairman, about the removal action and to determine if the action was within the Tribe's usual and accustomed rights area. Mr. Adams informed EPA that the site is located within the Tribe's usual and accustomed rights area and the Tribe has expressed concerns in the past over the asbestos on site and the threat of potential exposures to tribal members. Mr. Adams was supportive of EPA's Removal Action to remove the threat and did not express any concerns over EPA's action to demolish the buildings on site.

### Ownership History

Much of the Burns Asbestos site is currently owned by Kathleen and Richard Towery. Structures on the site are shown in EPA Figure 2.

Between 1954 and 1958, a total of 40.04 acres of the site were acquired for an Air Force Station Radar Base and family housing annex. The acreage included two leases totaling 4.94 acres acquired in 1954; a total of 24.86 acres of Public Domain Lands withdrawn for military purposes by Public Law order number 1163 dated June 13, 1955; a total of 1.83 acres of Public Domain lands from the Department of Interior, Bureau of Land Management (BLM) withdrawn in 1958; and a total of 8.41 acres acquired by fee in 1958 (URS, 1996).

In 1970, Burns Air Force Station was determined excess and reported to the General Services Administration (GSA) for disposal. A total of 5.25 acres of the Public Domain Lands (PDL) were returned to BLM for road access use. The remaining 34.79 acres were assigned to the Department of Health, Education and Welfare who conveyed the property to Burns Union High School District No. 2 (BUHS) effective December 10, 1973.

In 1976, BUHS conveyed 0.64 acres to United Telephone Company by quitclaim deed.

In 1977, BUHS could not comply with the utilization condition of the quitclaim and reconveyed the remaining PDL, approximately 20.80 acres and 4.94 acres of leased lands back to GSA by quitclaim deeds.

In 1978, GSA transferred 1.66 acres of PDL to the Federal Aviation Administration (FAA) and 1.83 acres of PDL to the Bonneville Power Administration (BPA).

In 1979, the remaining 17.31 acres of PDL were quitclaim deeded by GSA to James and Alice Towery.

In 1980, Russell and Aileen Wilson acquired the property

In 1981, BUHS reconveyed 8.41 acres of fee lands back to GSA by quitclaim deed.

In 1982, approximately 0.85 acres of fee land was quitclaim deeded to Harney County Education Service District.

In June 2003, the Wilsons conveyed their property within the site to Kathleen and Richard Towery, who remains the current owner (URS, 1996).

### State Enforcement Actions

On February 07, 2003, ODEQ submitted a notice letter to Donald Rumsfeld, Secretary of Defense, and to Dr. James G. Roche, Secretary of the Air Force. The letter indicated that Department of Defense may be a potential responsible party to the remaining contamination at the Burns Asbestos site. By letter dated April 25, 2003, the Deputy Assistant Secretary of the Army replied to ODEQ's letter, declining to provide for response at the site. No other investigations by the State have been conducted at the site (ODEQ, 2003).

#### Regulatory and Enforcement History

No past EPA enforcement actions.

#### EPA Enforcement Actions

See confidential enforcement addendum.

### **A. Site Description**

#### **1. Removal Site Evaluation**

EPA conducted two recent site visits to the Burns Asbestos site. On November 7, 2002, EPA Federal On-Scene Coordinators Dan Heister and Marc Callaghan accompanied by START contractor Bill Menhert conducted a site walk at the Burns Asbestos Site. EPA conducted the site visit because ODEQ had evidence of friable asbestos and polychlorinated biphenyl contamination at the site. According to a letter drafted by Dan Heister, the team spent approximately two hours walking and observed friable asbestos at the heavily vandalized site. The letter indicated the presence of four active communication operations on site and that workers are potentially at risk of exposure to friable asbestos. EPA offered assistance in trying to stabilize the situation (EPA 2003). On May 10, 2004, EPA Federal On-Scene Coordinator Michael Szerlog and ODEQ Hydrogeologist David Anderson, accompanied by START contractor Steve Hall and Emergency Rapid Response Services (ERRS) contractor Ron McManamy conducted a site walk and Removal scope meeting at the Burns Asbestos Site. The following areas were identified:

- 4 stick-frame constructed buildings with asbestos-containing siding, floor tiles, and pipe insulation. These buildings appear to be in imminent danger of collapse.
- 8 steel-frame constructed "Quonset Hut" buildings with asbestos-containing floor tiles, and pipe insulation.
- 8 steel-frame constructed buildings with asbestos-containing floor tiles, and pipe insulation.

- 3 cinder block constructed buildings with asbestos-containing floor tiles, and pipe insulation.
- 1 cinder block and steel-frame constructed building (number 204) with asbestos-containing floor tiles, ceiling/ wall insulation, and pipe insulation.
- 1 steel-framed constructed “Radome” building with asbestos-containing pipe insulation and PCB-contaminated soils.
- Approximately 150 feet of steam pipe (a 75 foot section located a few feet below ground surface) with asbestos-containing pipe insulation.

## 2. **Physical Location**

The site sits on a sequence of dozens of volcanic flows and clastic units averaging 250 to 300 feet thick. These units consist of a series of rhyolitic lava flows which form the top of Burns Butte and surrounding peaks (Burns Butte Rhyolite) and are underlain by silica-rich ash fall deposits and tuff flows (Wheeler Springs Tuff). The eruptive center for these flows was under Burns Butte or immediately to the west. The volcanic units were erupted during Miocene time and the rhyolite has been dated at  $7.54 \pm 0.01$  million years before present. Competence of the units varies from completely unconsolidated to highly welded and glassy. Structure of the region is dominated by numerous closely spaced faults trending northwest-southeast. Some localized folding is present with fold axes paralleling the fault trends. The elongate top of Burns Butte is bracketed on either side by these faults (ODEQ, 2003).

Many of the creeks in the area are either intermittent or terminate in the loose alluvial fill in valley bottoms, indicating that ground water is significantly below the surface. The few springs in the area are found near contacts between volcanic units of differing ages, indicating that the spring source is in soil or weathering zones between volcanic units.

The area surrounding the radar station is open desert, with occasional recreation use such as hiking, motorcycling, 4WD trails, and rock hunting (figure 3). Zoning in the area surrounding the former radar station allows farming and ranching but restricts residential development. The 18 acres of the former radar station were re-zoned, however, two years ago to Rural Residential (RR) at the request of the current property owner. The RR zoning allows the property owner to partition the former radar station into three residential lots (ODEQ, 2003).

## 3. **Site Characteristics**

The Burns Asbestos site is currently vacant and the facilities are left abandoned,

however, Century Telephone, FAA, and BPA continue to utilize buildings adjacent the site. The site is approximately 31.5 acres and is located at the top of Burns Butte. The majority of the property has been heavily vandalized and several buildings are in danger of imminent collapse.

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

The primary concern at this Site is the threat of release of CERCLA hazardous substances and pollutant or contaminants, specifically friable asbestos and from deteriorating abandoned buildings and PCB-contaminated soils at or near the surface at the site. Currently, the site is in disrepair. The buildings are severely vandalized with numerous pieces of asbestos containing material strewn on the ground. In addition, several of buildings are in danger of imminent collapse potentially releasing friable asbestos.

**5. NPL Status**

The Burns Asbestos site property is currently not a National Priorities List site.

**6. Maps, Pictures, and other Graphic Representations**

See attached EPA Figure 1(site location map), Figure 2 (site map), Figure 3 (aerial map)

**B. Other Actions To Date**

**1. Previous Actions**

On August 19, 1987 the United States Army Corps of Engineers (USACE) conducted a site visit under the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS). The site evaluation identified the following hazards: twenty-four (24) underground storage tanks (USTs) with associated equipment, a hydraulic cylinder with oil storage, two aboveground storage tanks (ASTs) with piping equipment, and nine transformers; two abandoned disposal sites, each approximately 5,000 square feet in size - one site contained four (4) visible 55-gallon drums; and numerous buildings in various states of disrepair due to vandalism. Also, several open sewer manholes and open pits over six feet in depth were observed, all holding several feet of water. According to ODEQ's review of the records, it appears that the USACE conducted a removal action that removed three USTs and two ASTs; floor-drain materials containing heating oil, sludge, lead, and PCBs; transformer oil containing PCBs and pesticides; six transformer carcasses; and approximately 84.7 tons of PCB-contaminated soils and debris. It was not clear to ODEQ whether the USACE removed the remaining USTs. According to ODEQ, the USACE did not address the abandoned disposal sites because it did not believe they were of Air Force origin. The USACE also

declined to address an asbestos problem identified at the site because it believed releases of friable asbestos were caused by vandalism and neglect of the structures after the property was conveyed to other owners (ODEQ, 2004).

On December 17, 1991, the USACE Inventory Project Report (INPR) was finalized and a determination of property eligibility for consideration under DERP-FUDS was signed and approved by the North Pacific Division Engineer. Three potential projects were proposed in the INPR: a transformer and underground storage tank removal project (CON/HTRW – project 01); a hazardous waste study project (HTRW – project 02); and a building demolition/debris removal project (BD/DR – project 03). The CON/HTRW project was approved January 6, 1992, and the HTRW project was approved on March 18, 1992. The BD/DR project was disapproved in the January 6, 1992 approval letter (USACE 2004)

In 1995, the USACE determined during a field visit involving personnel from the Portland and Seattle Districts that the HTRW project (02) should not proceed as planned because it was found that the two waste disposal areas to be evaluated were not the result of Air Force activity. Approval to cancel the HTRW investigation was given by North Pacific Division on May 5, 1995. The BD/DR project (03) was determined to be ineligible because the property was privately owned and the condition of the structures was the result of vandalism and neglect on the part of owners subsequent to the Air Force occupancy (USACE 2004).

In 1996 the CON/HTRW project (01) was reportedly completed by the USACE.

On August 29, 1996, URS Consultants, under contract to EPA, conducted a Preliminary Assessment (PA) for the Burns Asbestos site. The purpose of the PA was to document a threat or potential threat to public health or the environment posed by the site, identify whether a potential emergency situation exists that may require an immediate response, document the presence or absence of uncontained or uncontrolled hazardous substances on site, and confirm site characteristics and area receptor information. The PA did not collect any samples (URS 1996).

In 2001, ODEQ became aware of the presence of potentially friable asbestos containing material. This material is primarily associated with the abandoned structures and facilities. The material is found remaining within the structures and exists in the form of debris found throughout the site. ODEQ has reviewed available information regarding the site including the Army Corps of Engineers files and the PA completed in 1996. No previous source had cited asbestos as a concern. Since the buildings were not remediated by the USACE/FUDs program then by association neither was the debris and asbestos containing material (ODEQ 2003).

In April and October of 2002, and in September 2003, ODEQ staff, investigating friable asbestos reported at the site, collected samples of fragmented tile, wallboard, pipe wrap, insulation, and other building materials. Pipe wrap and insulation contained from 10% to 60% amosite and chrysotile asbestos; wallboard samples contained from 10% to 25%

chrysotile asbestos; and tile and mastic samples contained from 5% to 8% chrysotile asbestos (ODEQ 2003).

In May 2003, Oregon Department of Human Services (ODHS) completed a health consultation regarding the site. The report concluded that the presence of asbestos at the site presents an inhalation hazard to site workers and visitors/trespassers. The report recommended cleanup and provided additional recommendations regarding physical hazards and other potential cleanup issues at the site. ODHS reviewed ODEQ records, which included sampling reports, site surveys, assessments (EPA and the US Army Corps of Engineers), environmental cleanup reports, and correspondence. Site visits and interviews with staff from Harney County Planning, Health, and Sheriff Departments provided additional information on the site's condition and history (ODEQ 2003).

## **2. Current Actions**

There are no current actions being conducted on site.

### **C. State and Local Authorities' Roles:**

#### **1. State and Local Actions to Date:**

On April 9, 2002, Oregon Department of Environmental Quality (ODEQ) collected 4 samples of construction material at the Burns Asbestos site. All four samples contained asbestos fibers.

On October 2, 2002, ODEQ collected 4 samples of construction material at the Burns Asbestos site. Three out of four samples contained asbestos fibers.

In November 2002, ODEQ posted "Danger Asbestos" and "Keep out" signs and issued a press release to discourage trespassing and reduce the risk of asbestos exposure.

#### **2. Potential for Continued State and Local Response:**

At this time, the ODEQ has deferred to the EPA for time-critical actions required at this site. On April 20, 2004, ODEQ officially requested support from EPA to conduct a removal action at the Burns Asbestos Site (see attached letter). The State specifically asked EPA to address the removal of asbestos at the site. The State does not have the resources to and does not plan to conduct further actions to address the hazardous substances identified on site. However, the State has agreed to pay for the disposal of non-hazardous construction debris and scrap metal associated with the EPA fund-lead removal action.



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

Conditions presently exist at the site which may present an imminent and substantial endangerment to public health or welfare or the environment. Conditions at the site meet the criteria for a removal action as stated in the National Contingency Plan (NCP), 40 CFR, Section 300.415 (b) (2) as follows:

#### **A. Threats to Public Health or Welfare**

*Actual or potential exposure to hazardous substances or pollutants or contaminants by nearby human populations or the food chain.* CERCLA hazardous substances contained in 26 deteriorating buildings and construction debris on site threatens communication workers and trespassers with airborne asbestos exposure. CERCLA hazardous substances contained in on-site soils near the Radome Building on site threatens trespassers with PCB exposure. There is considerable evidence of trespassing and vandalism at the site, including graffiti, tire marks, bullet holes, previous fires, beer bottles, and torn security measures (i.e. gates, wire rope barriers, and signage).

*High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate.* Polychlorinated biphenyl contamination was found by the USACE in soil around the Radome Building on the Burns Asbestos property. The contamination was detected at or near the surface and was not removed. The potential for human exposure to the surface soil contamination is high. There is considerable evidence of trespassing inside of this building, including bullet holes, graffiti, and beer bottles. The floor has been removed and the PCB-contaminated soils are exposed.

*Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.* The site is located at an elevation of 5,100 feet above mean sea level on top of Burns Butte. The site is exposed to the elements including constant wind and wind gusts that worsen the situation causing accelerated deterioration of the asbestos containing building materials and further release of asbestos containing material.

#### **B. Threats to the Environment**

The contamination at the Site does not appear to pose an imminent and substantial endangerment to the environment.

### **IV. ENDANGERMENT DETERMINATION**

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

The Acting Director of the Office of Environmental Cleanup has determined that the site conditions: 1) present an immediate risk to public health or welfare or the environment; and 2) present a situation where assistance from other government agencies or responsible parties will not otherwise be provided on a timely basis.

## **V. PROPOSED ACTIONS AND ESTIMATED COSTS**

### **A. Proposed Actions**

The objective of the actions outlined below is to achieve reductions in potential exposures to human health and the environment in the areas with the potentially most mobile and highest levels of contamination. These proposed actions are based on the information known to date regarding the conditions at the site. As additional information is gathered, further actions may be necessary. The State of Oregon has secured approximately \$50,000 to assist EPA with the disposal of non-hazardous debris.

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

The following Removal options were evaluated:

1. Installation of a fence around the property to reduce the risk to trespassers. Limited Removal and off-site disposal of polychlorinated biphenyl soil contamination and backfilling with native soils. Limited removal and off-site disposal of asbestos insulation surrounding the steam pipes, boilers, and associated piping. Limited demolition, removal and on-site disposal of building materials from buildings, containing hazardous substances, that are in danger of imminent collapse.
2. Demolition, removal, and off-site disposal of all building materials containing hazardous substances that are in danger of imminent collapse ; Demolition, removal and off-site disposal of building materials containing non-hazardous substances (Oregon Department of Environmental Quality will fund this effort); Removal and off-site disposal of asbestos insulation surrounding the steam pipes, boilers, and associated piping; Excavation and off-site disposal of polychlorinated biphenyl-contaminated surface soils; Evaluation of the need for further sampling to determine extent of asbestos and polychlorinated biphenyl contamination; and backfill excavated areas.
3. No action.

Alternative #2 was selected, as this was determined to be the most protective, while still

being cost effective in addressing the threat of a release from the building materials, insulation, and surface soil contamination on site. Alternative #1 and #3 do not fully meet the objectives of the NCP or CERCLA. Alternative #1 would be protective of human health and the environment by limiting the spread of contamination by direct human contact, however, would still leave the potential for communication workers to potentially be exposed via wind dispersion and inhalation pathway to the remaining asbestos associated with the tiles. In addition, the State of Oregon has expressed concerns over on-site burial of asbestos containing debris and concerns about the feasibility of constructing an effective fence line to keep trespassers out. Alternative #3 was not selected as this did not address the threats to human health and the environment whatsoever, and left hazardous substances in place. This alternative was not protective because it did not provide for protection of the communication workers, trespassers, or the environment.

**2. Contribution to Remedial Performance**

Sampling conducted during the removal action will be coordinated with EPA's Site Assessment Program, to aid in further evaluation of the site.

**3. Description of Alternative Technologies**

Recycling and/or reuse of non-contaminated soils as backfill was identified as an alternative methods to reduce cost. The use of field support laboratories and field analytical equipment was identified as an alternative to some commercial laboratory analysis to help reduce costs.

**4. EE/CA**

This applies only to non-time critical responses. This is a time critical removal action.

**5. Applicable or Relevant and Appropriate Requirements (ARARs)**

The proposed removal action will attain or exceed all ARARs to the extent practicable. Two factors will be applied to determine whether the identification and attainment of ARARs is practicable: (1) the exigencies of the situation; and (2) the scope of the removal action to be taken.

Federal ARARs

The following is a summary of federal ARARs identified to date for the proposed removal action:

*National Emission Standards for Hazardous Air Pollutants*, specifically the National Emission Standard for Asbestos, 40 CFR, Part 61.

*Resource Conservation and Recovery Act*, as amended (RCRA), 42 U.S.C. §§ 6901 et

seq., and its implementing regulations codified in Chapters 260 through 265, and 268 of the Code of Federal Regulations (CFR), including but not limited to the following specific requirements identified at this time:

40 CFR §§ 261.10 and 261.24, relating to characteristics of hazardous wastes including the toxicity characteristic. May be needed to characterize some of the wastes on site.

40 CFR §§ 262.20, 262.21, 262.22, 262.23, 262.30,

262.31, and 262.32, relating to hazardous waste manifesting and labeling requirements prior to transportation of hazardous waste containers off-site;

40 CFR §§ 263.20 and 263.21, relating to off-site transport of hazardous waste (handling and manifesting requirements);

40 CFR §§ 265.117(a)(1) and (c), 40 CFR § 265.310(a) and (b), relating to capping contaminated soils;

40 CFR §§ 265.272(a-e), relating to prevention of surface water run-on and collection and control of surface water run-off at a land treatment unit;

40 CFR §§ 268, and 40 CFR §§ 268.5 relating to off-site and on-site land disposal restrictions for hazardous wastes; and

40 CFR §§ 300.440, relating to the CERCLA “Off-Site Rule.”

*Migratory Bird Treaty Act (MBTA)*, 16 USC 703 et seq. The MBTA makes it unlawful to “hunt, take, capture, kill” or take various other actions adversely affecting a broad range of migratory birds, including tundra swans, hawks, falcons, songbirds, without prior approval by the U.S. Fish and Wildlife Service. (See 50 CFR 10.13 for the list of birds protected under the MBTA.) Under the MBTA, permits may be issued for take (e.g., for research) or killing of migratory birds (e.g., hunting licenses). The mortality of migratory birds due to building demolition is not a permitted take under the MBTA. The MBTA and its implementing regulations are relevant and appropriate for protecting migratory bird species identified within the Burns Site. The Burns Site is located within the Pacific migratory flyway and is 17 miles from the Malheur National Wildlife Refuge that provides important habitat for migratory waterfowl. The selected removal action will be carried out in a manner that avoids the taking or killing of protected migratory bird species, including individual birds or their nests or eggs.

*National Historic Preservation Act (NHPA)*, 16 U.S.C. § 470f, 36 CFR Parts 60, 63, and 800. The NHPA and implementing regulations require agencies to consider the possible

effects on historic sites or structures of actions proposed for federal funding or approval. Historic sites or structures are those included on or eligible for the National Register of Historic Places, generally older than 50 years. If an agency finds a potential adverse effect on historic sites or structures, such agency must evaluate alternatives to “avoid, minimize, or mitigate” the impact, in consultation with the State Historic Preservation Office (SHPO). The NHPA and implementing regulations are applicable to selected remedial activities such as building demolition and soil excavation which could disturb historical sites or structures. In consultation with the SHPO, unavoidable impacts on historic sites or structures may be mitigated through such means as taking photographs and collecting historical records.

*Archaeological Resources Protection Act (ARPA), 16 U.S.C. § 470aa et. seq., 43 CFR Part 7.* ARPA and implementing regulations prohibit the unauthorized disturbance of archaeological resources on public and Indian lands. Archaeological resources are “any material remains of past human life and activities which are of archaeological interest,” including pottery, baskets, tools, and human skeletal remains. The unauthorized removal of archaeological resources from public or Indian lands is, and any archaeological investigations at a site must be conducted by a professional archaeologist. ARPA and implementing regulations are applicable for the conduct of any selected removal actions that may result in ground disturbance.

*Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. § 3001 et. seq. , 43 CFR Part 10.* NAGPRA and implementing regulations are intended to protect Native American graves from desecration through the removal and trafficking of human remains and “cultural items” including funerary and sacred objects. To protect Native American burials and cultural items, the regulations require that if such items are inadvertently discovered during excavation, the excavation must cease and the affiliated tribes must be notified and consulted. This program is applicable to ground disturbing activities such as soil grading and removal.

*U.S. Department of Transportation, 49 CFR Parts 171-180,* relating to transportation of hazardous materials to off-site disposal facilities.

#### State ARARs

The following is a summary of *state ARARs* identified to date that may be applicable, or relevant and appropriate, to the proposed removal action:

*Asbestos Requirements of Oregon Administrative Rules Chapter 340, Division 248.*

*State of Oregon Hazardous Waste Management Rules (HWM) and its implementing rules codified at OAR Chapter 340, division 093 to 0190, OAR division 340 032-0120, OAR division 032-5590 to -5650.* Because the State of Oregon has been authorized by EPA to implement HWM regulations in lieu of the federal RCRA regulations, the applicable RCRA regulations for this removal action shall be those EPA-authorized state regulations which are the counterparts to the federal RCRA regulations which were listed above. If no state rule counterpart exists, then the federal RCRA regulations listed above shall

apply.

## **6. Project Schedule**

The selected removal action is estimated to require approximately two and a half weeks time to complete on-site removal and two months time to complete transportation and disposal. Removal may commence upon signature of this Action Memorandum.

### **B. Estimated Costs**

#### **1. Extramural Costs**

ERRS	\$ 400,000
START	\$ 150,000
Subtotal	\$ 550,000
15% Contingency	\$ 82,500
Extramural Subtotal	\$ 632,500

#### **2. Intramural Costs**

EPA Direct	\$ 15,000
USCG Strike Team	\$ 30,000
Subtotal	\$ 45,000
Subtotal of Extr/Intramural	\$ 677,500
10% Project Contingency	\$ 67,750
Project Ceiling	\$ 745,250

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

Delay or disapproval of the proposed action will allow the continued release of CERCLA hazardous substances into the environment and increase the risk of exposure to communication workers, tribal members, and trespassers. Failure to act will increase/prolong the threats to human health and the environment described above.

**VII. OUTSTANDING POLICY ISSUES - NONE**

**VIII. ENFORCEMENT-** See confidential Enforcement Addendum.

**IX. RECOMMENDATION**

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 total project ceiling if approved will be \$745,250. Approximately \$400,000 will be for Extramural cleanup contractor funding, all of which will be from the regional removal funds. An additional \$50,000 will be used by Oregon Department of Environmental Quality to dispose or recycle the non-hazardous debris

APPROVED

DISAPPROVED

\_\_\_\_\_

\_\_\_\_\_

Kathryn M. Davidson, Acting Director

Kathryn M. Davidson, Acting Director

Office of Environmental Cleanup

Office of Environmental Cleanup

Date:\_\_\_\_\_

Date:\_\_\_\_\_

CONCURRENCE
-------------

SIGNATURE				
SURNAME	Michael Szerlog	Chris Field	Clifford Villa	Lori Cohen
	On-Scene Coordinator	Unit Manager	Assistant Regional Counsel	Associate Director
DATE				



## REFERENCES

Oregon Department of Environmental Quality. Request for EPA Removal Support - Burns Air Force Site, Burns, Oregon ECSI No. 1703. (April 2004).

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US Army Corps of Engineers. Site File for DERP-FUDS Site No. F100R016300, Burns Air Force Station, OR. Seattle District Corps of Engineers

\_\_\_\_\_, US ACE, (May 2004) Fact Sheet, Burns AFS, Burns OR, DERP-FUDS. Prepared by Jonathan A. Maas, CENWS-PM-EM.

US Bureau of Land Management. Steens Mountain Cooperative Management & Protection Area Environmental Assessment, Burns District Office, Burns, Or (May 2004).

US Environmental Protection Agency. Letter to Brett Mc Knight, Cleanup Manager, ODEQ from Dan Heister, On-Scene Coordinator, EPA (February 2003).