



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF
ENVIRONMENTAL CLEANUP

June 12, 2017

MEMORANDUM

SUBJECT: Action Memorandum for the Treoil Industries Biorefinery Emergency Response Site

FROM: Brooks Stanfield, On-Scene Coordinator
Spill Prevention and Removal Unit
Emergency Management Program

THRU: Calvin Terada, Acting Program Manager
Emergency Management Program

TO: Sheryl Bilbrey, Director
Office of Environmental Cleanup

I. Purpose

The purpose of this memorandum is to document the decision to initiate emergency removal actions under the OSC's delegated authority and continue those activities beyond the OSC's delegated authority as described herein for the Treoil Industries Biorefinery Emergency Response Site (Site) located in Ferndale, Whatcom County, Washington under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

II. Site Information

A. Site Description

Site Name:	Treoil Industries Biorefinery
Superfund Site ID (SSID):	10PZ
NRC Case Number:	NA
CERCLIS Number:	WAH 000 050 091
Site Location:	4242 Aldergrove Road Ferndale, WA 98248
County:	Whatcom
Lat/Long:	Latitude: 48.8789186 Longitude: -122.7107528
Potentially Responsible Party (PRP):	Campbell Land Corporation
Access:	Signed access agreement
NPL Status:	Not listed or proposed for listing
Removal Start Date:	March 14, 2017

B. Site Background

1. Removal Site Evaluation

The Treoil Industries Biorefinery site has been the focus of numerous environmental inspections and compliance concerns since the late 1980s. The Washington Department of Ecology (Ecology) issued a Notice of Violation to facility operators for "the discharge of spilled material to a drainage ditch that eventually leads to the Strait of Georgia."¹ This spill occurred in October of 1991. The spill was described at that time as "pine oil" in Ecology's documents, but later has been referred to as "tall oil"² which is a byproduct of kraft processes and is used commercially as a component of rubber products, inks, adhesives, and is used as an emulsifier for asphalt. The facility operators were not aware of the approximately 1,000-gallon spill and had to be alerted by an adjacent facility. In Ecology's Notice of Violation, it was noted that this was the second instance in which this facility had spilled oil but failed to report the spill to the State, as required by state law. Also during this event it was discovered that the facility was discharging industrial waste water to the same ditch without an NPDES permit.

In 2000, the EPA conducted a Removal Site Evaluation to determine potential threats of discharge of oil to waters of the United States. EPA's Removal Site Evaluation report³ referenced Ecology's files showing "many years of poor housekeeping" at the site. At that time, the On-Scene Coordinator conducting the Removal Site Evaluation was led to believe that the tall oil in the above-ground storage tanks (ASTs) was solid. Based on this information, the OSC determined that there was not a threat of discharge of oil to waters of the United States. Despite this determination, in the final report the OSC outlined several suggested actions at the Site including:

- Removal and disposal of the remaining drums and contents;
- Removal of the sludge and water inside the secondary containment area;
- Removal of sandblast grit and rosin material left uncontained at various locations throughout the Site;
- Removal of chemical containers inside all buildings for disposal at a hazardous materials landfill or through the Industrial Materials Exchange Program when applicable; and,
- Excavation in the areas of other stained soils until analytical results indicate contamination below the appropriate MTCA cleanup level.

In 2014, the State received a formal complaint about the Site, which was followed up by several inspections by Whatcom County Health Department

¹ Recommendation for Notice of Violation No. DE 91WQ-N257 and Notice of Penalty No. DE 91WQ-N259 for Treoil Industries, LTD. December 12, 1991.

² The root of the industry name of "tall oil" comes from "tall", which is the Swedish word for "pine."

³ Treoil Industries Site Trip Report. Region 10 START report to OSC Jeff Rodin regarding Site Removal Assessment. September 13, 2000.

and Ecology's Hazardous Waste and Water Quality programs^{4,5,6}. On September 23, 2015 Ecology issued an Amended Order⁷

to comply with State Dangerous Waste regulations. Numerous concerns reported during the several inspections included:

- Black oily residue visible under fresh gravel that was recently placed on the entire length of driveways on the property;
- Large quantities of oily residue released to the surface of the ground outside of the secondary containment structures;
- A large (10'x10'x4') pit located outside of the western property fence line heavily impacted by black oily substance;
- An oily substance was present in the secondary containment structures floating on at least one foot of water;
- Uncertainty regarding the integrity of tanks, pipes, and secondary containment;
- Numerous containers of chemicals that were being inappropriately stored and/or poorly managed; and
- Numerous totes with unknown liquids with no secondary containment and/or that were inappropriately stored.

In the year and half following issuance of Ecology's order #12892, state program officials became concerned by the lack of effort exhibited by the property owner to comply with the order. On February 15, 2017, the EPA met with the Washington Department of Ecology and Whatcom County Health Department at their request to determine EPA's ability evaluate and address potential threats of discharge of oil to waters of the United States as well as any potential releases of hazardous substances to the environment⁸. On March 8, 2017, the EPA received a photo log documenting a field visit that had been conducted by Ecology two days prior on March 8, 2017, which outlined a deterioration of many of the same safety and environmental conditions observed previously on the property including but not limited to: hazardous substances that had released from containers, improper storage and labeling of

⁴ Whatcom County Health Department Field Report. June 14, 2017. Initial Investigation in response to ERTS Number 648824. Submitted to Washington Department of Ecology.

⁵ The Washington Department of Ecology Dangerous Waste Compliance Inspection Report and Notice to Comply. October 22, 2014.

⁶ Ecology's Water Quality program conducted inspections on January 14 and 28, 2015. This was followed up by a letter requiring corrective actions for discharging industrial waste water without a permit on March 5, 2015.

⁷ Washington State Department of Ecology. Amended Administrative Order Docket # 12892 regarding Treoil Industries LTD. September 23, 2015.

⁸ Meeting at Washington Department of Ecology's Northwest Regional Office. Meeting notes available in Administrative Record. February 15, 2017.

chemical containers, oil being stored within failing secondary containment or no containment at all, and a complete lack of site security.

After the EPA's 2000 assessment, no tall oil processing activities are known to have occurred at the facility. Therefore, the presence of oily substances in 2015, described above, and the presence of thousands of gallons of liquid phase tall oil in 2017, described below, suggests that the information provided to the EPA at the time of the 2000 assessment may have been false.

On March 13, 2017, the EPA conducted another Removal Site Evaluation and confirmed the presence of numerous CERCLA hazardous substances and unknown

chemicals in several hundred containers ranging up to 275-gallon totes and two 6,700 gallon-capacity ASTs containing glycerin crude. The EPA observed evidence of releases of these chemicals from containers (as evident by odors and visible staining), threats of release, improper storage and labeling of containers, as well as failing secondary containment for the two ASTs. Containers were found to be structurally unsound, open and otherwise stored in precarious situations. In addition to these concerns, the EPA also discovered thousands of gallons of tall oil in drums, totes, and ASTs that were leaking, threatening to leak, and/or had no secondary containment. This oil was secured and removed separately under EPA's oil response authorities under the National Contingency Plan (40 CFR § 300.300).

The EPA inventory and sampling efforts confirmed that approximately 200 containers and drums contained CERCLA hazardous substances. Among the contaminants identified were: lead, sulfuric acid, potassium hydroxide, sodium hydroxide, ammonium chloride, formaldehyde, cupric sulfate, paradichlorobenzene, triethanolamine, glycol ether, xylene, toluene, friable asbestos, and other chemicals confirmed as RCRA characteristic hazardous waste. In addition, several large totes and the two 6,700-gallon ASTs contained a combined 7,050 gallons of glycerin crude. Contaminants covered six of nine Department of Transportation (DOT) hazard categories.

Two summary tables of chemicals removed from the Site – organized by hazard class – are included at the end of this memorandum (Attachment 1). Table 1 documents small containers that were packed together with other small containers into a larger container (a "labpack") for shipping. Table 2 documents chemicals in drums and cylinders that were removed. A detailed inventory of all chemicals is available in the Administrative Record.

2. Physical location and Site characteristics

The Site is located on an industrial property in the northwestern portion of Whatcom County, approximately five miles northwest of the City of Ferndale,

Washington (Figure 1), eight miles south of the U.S. – Canadian border, and 4 miles north of the Lummi Nation Reservation. The biorefinery operations were located on an approximately 3.5-acre footprint on a 34-acre parcel. The developed portion of the property is surrounded by wetlands and other woodland/meadow habitat. A Burlington Northern Santa Fe rail line borders the property along its eastern and southern boundaries. Approximately 0.5 miles to the west are a small industrial gases facility and the 1.25 square-mile BP Cherry Point petroleum refinery, which is the largest such facility in the state of Washington. An area of low density residential land use is located 0.2 miles to the east and it is estimated that approximately 120 people live within a 1-mile radius of the Site.

Due to the high water table, there is significant surface water on the Site and in adjacent wetlands, especially during winter months. Surface water, particularly during rain events, flows generally southwesterly toward a wetland and a ditch. The ditch runs parallel with railroad tracks on the southern property boundary flowing west along the rail line and Aldergrove Road approximately one mile before turning south on Gulf Road, connecting with a wetland and an unnamed tributary before traveling a little more than one mile and discharging into the Strait of Georgia (Figure 1). This area of Strait of Georgia is home to numerous species of ecological and economic importance including the federally threatened marbled murrelet, streaked horned lark, yellow-billed cuckoo, and bull trout. The bald eagle, coho salmon, and Pacific herring are also species of concern. The area is also home to commercial, recreational and tribal fishing and shellfish harvesting. Because of the unique and sensitive ecological values this area provides, it has been designated as the Cherry Point Aquatic Reserve by the State of Washington. Finally, the Site is located in an area where there are several known pre-contact and historical archaeological sites associated with past tribal village sites that were common in this area⁹.

The majority of structures on the site are located within the 3.5-acre facility footprint (Figure 2). The Site consists of two primary warehouse buildings: a larger 6,400 square-foot warehouse oriented east to west and designated as “Warehouse A” for purposes of this response; and a smaller 3,600 square-foot warehouse oriented north to south and designated as “Warehouse B.” There are two separate tank farms with secondary containment: a larger north-south oriented tank farm once used for tall oil processing, which holds nine large tanks with a combined storage capacity of nearly 450,000 gallons; and a smaller east-west oriented tank farm once used for biodiesel production, which consists of two tanks with a combined storage capacity nearing 13,000 gallons. Also on the property are three shipping containers used for storage, three mobile home structures, numerous pieces of abandoned heavy equipment and 33 ASTs outside of secondary containment scattered throughout the property with a combined storage capacity of 553,000 gallons.

⁹ Lena Tso, Lummi Nation Historic Preservation Officer. Personal Communication. March 21, 2017.

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

Containers were stored on the Site inside and outside of buildings. Access to the structures was available to the EPA personnel and contractors, and potential trespassers, directly via the driveway and footpaths with entry available through unsecured doorways and partial fencing of the property. The Site was not being actively managed and was not secured and there were reports of vandalism on the property. Some containers were organized on shelves, while most were precariously stacked, discarded, or left in piles of debris on the floor. Some containers were left outdoors, others containing extremely high concentrations of lead and friable asbestos were left open.

Many chemicals identified at the Site were hazardous substances as defined by Section 101(14) of CERCLA. Hazardous substances observed included lead, sulfuric acid, potassium hydroxide, sodium hydroxide, ammonium chloride, formaldehyde, cupric sulfate, paradichlorobenzene, triethanolamine, glycol ether, xylene, toluene, and friable asbestos.

Over 700 abandoned containers were observed at the Site. Some chemicals had already been released through spills or container failure while many other chemicals posed threats of release through improper storage of containers, improper labeling, and the storage of incompatible chemicals next to one another. The EPA determined that the quantities, improper storage of the chemicals, and unsecure nature of the Site posed a threat of release into the environment and a threat to public health or welfare of the United States.

III. Threats to Public Health Welfare or the Environment

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

The conditions at the Site met the following factors which indicate that the Site was a threat to public health or welfare of the United States or the environment and removal action is appropriate under 40 C.F.R. § 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

B. Applicable factors (from 40 C.F.R. § 300.415) which were considered in determining the appropriateness of a removal action:

1. 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)].

Hazardous substances at the Site were not secure from access by visitors to the property or trespassers. The facility was not in operation and not being actively

managed, fencing was limited, and all buildings on the property, apart from two shipping containers, were unlocked or open. Some chemicals were left outdoors. Access to the Site and chemicals was unrestricted.

Some chemicals had already been released through spills or container failure. Friable asbestos was found discarded to the ground inside and outside of buildings. The large quantity of flammable, oxidizing, and corrosive substances at the Site presented a threat of exposure to visitors to this property and visitors and residents at adjacent properties. The same factors also presented a threat of exposure to animals or the food chain through animals either coming into direct contact with chemicals on site or through the off-site migration of chemicals by way of surface water drainage. Chemicals migrating via surface water would reach an unnamed creek on their way to the Cherry Point Aquatic Reserve area of the Georgia Strait. Migrating chemicals would likely come into direct contact with bull trout, salmon, Pacific herring, and shellfish which supports large recreational, commercial (both tribal and non-tribal), and tribal ceremonial and subsistence fisheries.

2. Actual or potential contamination of drinking water supplies or sensitive ecosystem [300.415(b)(2)(ii)]

Approximately 200 of the over 700 containers discovered on the property contained CERCLA hazardous substances and due to their deteriorated condition and lack of proper controls, presented a potential threat to sensitive ecosystems as described in Section II. B. 2. of this memorandum. The EPA noted staining, chemical odors, and other signs of release of chemicals from these containers to cement floors and bare soil. Analysis of sediment samples collected from the concrete trench located inside Warehouse B had such high concentrations of lead it required disposal as RCRA hazardous waste. Sediment samples from the concrete trench in Warehouse A contained petroleum, toxic metals, Volatile Organic Compounds (VOCs) and Semi-Volatile Organic Compounds (SVOCs). A pipe was observed to be leading from the endpoint of Warehouse B's trench extending west outside the building creating potential concerns for the spread of contaminants found in the trench sediment to the adjacent wetland. After some investigation, crews could not determine the exact route this pipe takes once it leaves the building (or whether it leaves the building at all). There is also a potential connection from the trench in Warehouse A to the environment outside.

All surface water from the Site flows generally southwest until it reaches a drainage ditch. The ditch flows west from the Site approximately one mile where it connects with a wetland and unnamed creek. The creek flows another mile and a half before ultimately discharging directly into an area of the Georgia Strait that has been designated by the State of Washington as the Cherry Point Aquatic Reserve.

Cherry Point has a unique marine and freshwater ecosystem that supports a variety of natural resources, fish and wildlife. Aquatic diversity along this area is very high with cobble intertidal habitat, large rocks and boulders, sandy beaches, eelgrass beds, and kelp. At one time, Cherry Point provided spawning habitat for the largest

herring population of Puget Sound and the Strait of Juan de Fuca. The area is a nearshore migratory corridor for juvenile salmon, and provides significant habitat and foraging areas for marine seabirds and migratory waterfowl populations. Five species of salmon— sockeye, Chinook, coho, chum, and pink —and three species of forage fish: Pacific herring, sand lance, and surf smelt rely upon these habitats¹⁰.

3. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release [300.415(b)(2)(iii)].

The EPA inventoried CERCLA hazardous substances and unknown chemicals in several hundred containers ranging from small laboratory bottles up to 275-gallon totes and two 6,700 gallon-ASTs. The team observed evidence of releases of these chemicals from containers (as evident by odors and visible soil staining), threats to release, improper storage and labeling of containers, and failing secondary containment for the two ASTs. Containers were found to be structurally unsound, open and otherwise stored in a dangerous manner. Among the chemicals identified were: lead, sulfuric acid, potassium hydroxide, sodium hydroxide, ammonium chloride, formaldehyde, cupric sulfate, paradichlorobenzene, triethanolamine, glycol ether, xylene, toluene, and friable asbestos. Chemicals recovered and removed from the Site represented six of nine DOT hazard categories.

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

With the exception of the 3.5-acre footprint of the former biorefinery facility, the Site is defined as a wetland under Whatcom County's Critical Areas Ordinance¹¹. Because of the high water table, during heavy rains surface water accumulates on the ground surface within the footprint of the facility and within the adjacent undeveloped wetland areas and flows generally to the southwest toward the Aldergrove Road drainage ditch. The 2016-2017 winter season broke several records for rainfall in western Washington¹², leading to nearly 45 inches of rainfall –50% more than average – between October and April. Wet weather heightened concerns over the risk of potential migration of hazardous substances off the Treoil property. Increased rainfall increases risk of contaminant migration directly through the creation of surface water flow paths and indirectly through its degradation of chemical containers exposed to the elements, filling/over-filling of secondary containment areas with rain, and potentially through groundwater infiltration.

The latter concern is exacerbated by presence of siphon hoses drawing down accumulated water within secondary containment structures and discharging to the ground surface as well as the overall lack of active management of the facility.

5. Threat of fire or explosion [300.415(b)(2)(vi)].

¹⁰ Cherry Point Environmental Aquatic Reserve Management Plan - 2010 (Amended January 2017). Washington Department of Natural Resources. http://file.dnr.wa.gov/publications/aqr_resv_cp_mgmtplan_amend_201702.pdf

¹¹ Wetlands Map. Title 16.16.610; The Whatcom County Critical Areas Ordinance, effective September 30, 2005.

¹² <https://www.usnews.com/news/us/articles/2017-04-25/soggy-seattle-lives-up-to-name-breaks-another-rain-record>

The unsecured status of the buildings along with the presence of incompatible flammable and oxidizing substances that were stored in close proximity to each other and not actively managed presented a threat of fire or explosion to the facility and adjacent properties. The lack of nearby fire hydrants, wells, or municipal water service to the site would have made fighting fires much more difficult.

6. The availability of other appropriate federal or state response mechanisms to respond to the release [300.415(b)(2)(vii)].

State and local authorities exhausted enforcement authorities attempting to compel action on the part of the property owners and past operators. These agencies did not have the available resources or appropriate authorities to remove the chemical hazards from the Site. State and local authorities requested EPA assistance because there were no known other appropriate federal or state response mechanisms capable of providing the appropriate resources in the prompt manner needed to address the potential human health and environmental threats described herein.

IV. Endangerment Determination

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may have presented an imminent and substantial endangerment to public health, or welfare, or the environment.

V. Selected Removal Action and Estimated Costs

A. Situation and Removal Activities to Date

1. Current Situation

A total of 732 containers of oil and chemicals (not including ASTs) were observed at the Site. The President and only known officer of the corporation that holds title to the property – Campbell Land Corporation – resides in Canada, is reportedly unable to actively manage the property, and has not been actively managing the property for at least ten years. The property has been for sale for several years and the President has expressed in verbal communications with the EPA that he is not interested in managing or investing in the facility going forward¹³.

2. Removal activities to date

An EPA Removal Site Evaluation was conducted in 2000. Based on information provided at that time, it was determined that a removal action was not required; however, several suggested actions were provided to the property owners by the Federal On-Scene Coordinator at the conclusion of that assessment. It is unclear if any of the suggested actions were ever completed.

Oil in several drums, 275-gallon totes, and ASTs was secured and removed separately under EPA's oil response authorities under the National Contingency Plan (40 CFR § 300.300).

¹³ Personal Communication. April 28, 2017.

3. Enforcement

See attached confidential enforcement addendum.

B. Planned Removal Actions

1. Proposed action description

CERCLA Chemical Containers

The emergency removal action described herein was initiated on March 13, 2017 and completed on April 7, 2017. The EPA directed contractors to characterize, segregate, and secure compatible materials and arrange for transportation and proper disposal of all CERCLA hazardous substances. CERCLA hazardous substances that were in factory sealed containers and clearly labeled were segregated for direct disposal, while all other suspected hazardous substances were analyzed using field testing techniques and categorized into appropriate hazard classifications. A total of 345 unknown chemicals were categorized by field chemists. A total of 128 CERCLA chemical containers (Attachment 1) were placed into 15 labpacks. These smaller containers, along with several dozen drums of chemicals, were removed from the Site and transported to a disposal facility on March 31, 2016.

Glycerin Crude

Response contractors worked with a professional from the biodiesel industry to recycle of approximately 7,050 gallons of glycerin crude found abandoned in totes and ASTs. Glycerin crude is a residual product left over from biodiesel production and contains methanol, salts,

and varying concentrations of water. The last of the glycerin crude was transported off the property on March 27, 2017.

Contaminated Sediment

All water and sediments from warehouse drain trenches were pumped and/or excavated. Excavated sediments from the two warehouse trenches were packed in drums for proper disposal.

Asbestos Containing Material (ACM)

The EPA directed contractors to sample material suspected of containing asbestos. Approximately eight cubic yards of material testing positive as Asbestos Containing Material (ACM) was staged for a licensed abatement professional to remove and transport the material to a disposal facility. The last of the ACM was transported off site on April 6, 2017.

2. Contribution to remedial performance

The Site is not listed or proposed for listing on the National Priorities List (NPL). The subject response action described in this memorandum is an emergency response removal to remove hazardous substances at the Site. The interim action will not impede any future removal or remedial action at the Site should new information indicate such an action is needed in the future.

3. ARARs

The NCP requires that removal actions attain Applicable or Relevant and Appropriate Requirements (ARARs) under federal or state environmental or facility siting laws, to the extent practicable. In determining whether compliance with ARARs is practicable, the EPA may consider the scope of the removal action and the urgency of the situation [40 CFR §300.415(j)].

Resource Conservation and Recovery Act (RCRA) [42 U.S.C. § 6901], Subtitle C - Hazardous Waste Management [40 C.F.R. Parts 260 to 279] and State of Washington Dangerous Waste Regulations [Chapter 173-303 WAC]. Federal hazardous waste regulations specify hazardous waste identification, management, and disposal requirements. For the management of RCRA hazardous wastes that are not Bevill-exempt, applicability of Subtitle C provisions depend on whether the waste is managed within an Area of Contamination (AOC). 55 FR 8760 (Mar. 8, 1990). Applicable or relevant and appropriate requirements of RCRA Subtitle C (or the state equivalent) may be satisfied by off-site disposal, consistent with the Off-Site Rule, 40 C.F.R. § 300.440. RCRA Subtitle C also provides treatment standards for debris contaminated with hazardous waste ("hazardous debris"), 40 C.F.R. § 268.45, although the lead agency may determine that such debris is no longer hazardous, consistent with 40 C.F.R. § 261.3(f)(2), or equivalent state regulations.

WAC 173-303 implements Chapter 70.105 Revised Code of Washington (RCW) and Subtitle C of the federal Resource Conservation and Recovery Act (RCRA). RCW 70.105 gives Ecology's hazardous waste program authority to adopt regulations for dangerous waste management.

The EPA consulted frequently with hazardous waste officials from the State of Washington to ensure that different kinds of waste encountered on the site was being disposed of in accordance with RCRA and the State of Washington's Dangerous Waste regulations. As a direct result of these consultations, the EPA was able to recycle several thousand gallons of glycerin crude as a non-hazardous waste with a local recycler, while determining that several thousand gallons of abandoned tall oil would need to be disposed of as a hazardous waste by a licensed disposal facility.

Endangered Species Act (ESA) [16 U.S.C. §§ 1531- 1544; 50 C.F.R Parts 17 and 402]. The Endangered Species Act (ESA) protects species of fish, wildlife, and plants that are listed as threatened or endangered of extinction. It also protects designated critical habitat for listed species. The ESA outlines procedures for federal agencies to follow when taking actions that may jeopardize listed species, including consultation with resource agencies. The requirements of ESA are potentially applicable to the Site since listed threatened or endangered species and their habitat areas will or could be impacted.

The EPA consulted with the United States Department of Interior on February 8, 2017 and the National Oceanic and Atmospheric Administration on March 11,

2017 on the potential presence of federally listed species and their habitats. The list of species provided guided the EPA in conducting response actions in a way that would not affect these species.

National Historic Preservation Act (NHPA) [16 U.S.C. § 470f; 36 C.F.R. 60, 63, 800] Section 106 of the NHPA requires that federal agencies take into account the effects of their undertakings on historic properties and seek ways to avoid, minimize, or mitigate any adverse effects on those properties. This include archeological sites, historic sites, and cultural properties that eligible for placement on the National Register of Historic Places.

The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and affected parties, commencing at the early stages of project planning. The EPA is the lead agency responsible for

ensuring that all work is conducted in compliance with Section 106 of the NHPA. The EPA will consult with parties that have an interest in the effects of a planned undertaking and provide them with a reasonable opportunity to comment on such undertakings. These parties include but are not limited to the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officers (THPOs).

The EPA communicated with representatives from the Washington SHPO on March 16, 2017 and the Lummi Nation THPO on March 21, 2017 in order to gather information about cultural or historic resources at the Site and determine if any ongoing or planned response actions may have an effect on these resources. Through these communications, the EPA learned that the Cherry Point area was historically home to many pre-contact village sites and encountering cultural artefacts buried in soil was possible. As a result, the EPA determined that any assessment or removal of stained surface soils would not take place without an archeological survey.

The Migratory Bird Treaty Act (MBTA), [16 U.S.C. §§ 703–712]. The MBTA implement the convention for the protection of migratory birds between the United States and Great Britain (acting on behalf of Canada). The statute makes it unlawful without a waiver to pursue, hunt, take, capture, kill or sell birds listed therein ("migratory birds"). The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs and nests. Over 800 species are currently on the list.

Because much of the United States is subject to this act, the EPA ensured that any observed nesting birds are documented and a determination is made whether ongoing on planned response actions may have an effect on these animals in consultation with the United States Fish and Wildlife Service.

4. Project Schedule

The emergency response removal action needed to be initiated as soon as possible. The presence of chemical containers that were improperly stored, not actively managed, and stored in unsecured structures necessitated immediate action. The EPA mobilized to the Site on March 13, 2017 and completed all removal activities by April 7, 2017.

C. Estimated Costs*

Contractor costs (ERRS/START staff, travel, equipment)	\$188,000
Other Extramural Costs (Strike Team, other Fed Agencies)	
Contingency costs (20% of subtotal)	\$37,600
Total Removal Project Ceiling	\$225,600

*EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

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

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


VII. Outstanding Policy Issues

None.

VIII. Approvals

This decision document represents the selected emergency response removal action for this Site, developed in accordance with CERCLA, and 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) criteria for a removal action and through this document, I am approving the proposed removal actions described herein. The total project ceiling is \$225,600. This amount will be funded from the Regional removal allowance.


Sheryl Bilbrey, Director
Office of Environmental Cleanup


Date

Figure 1: Treoil Industries Site Location and Vicinity

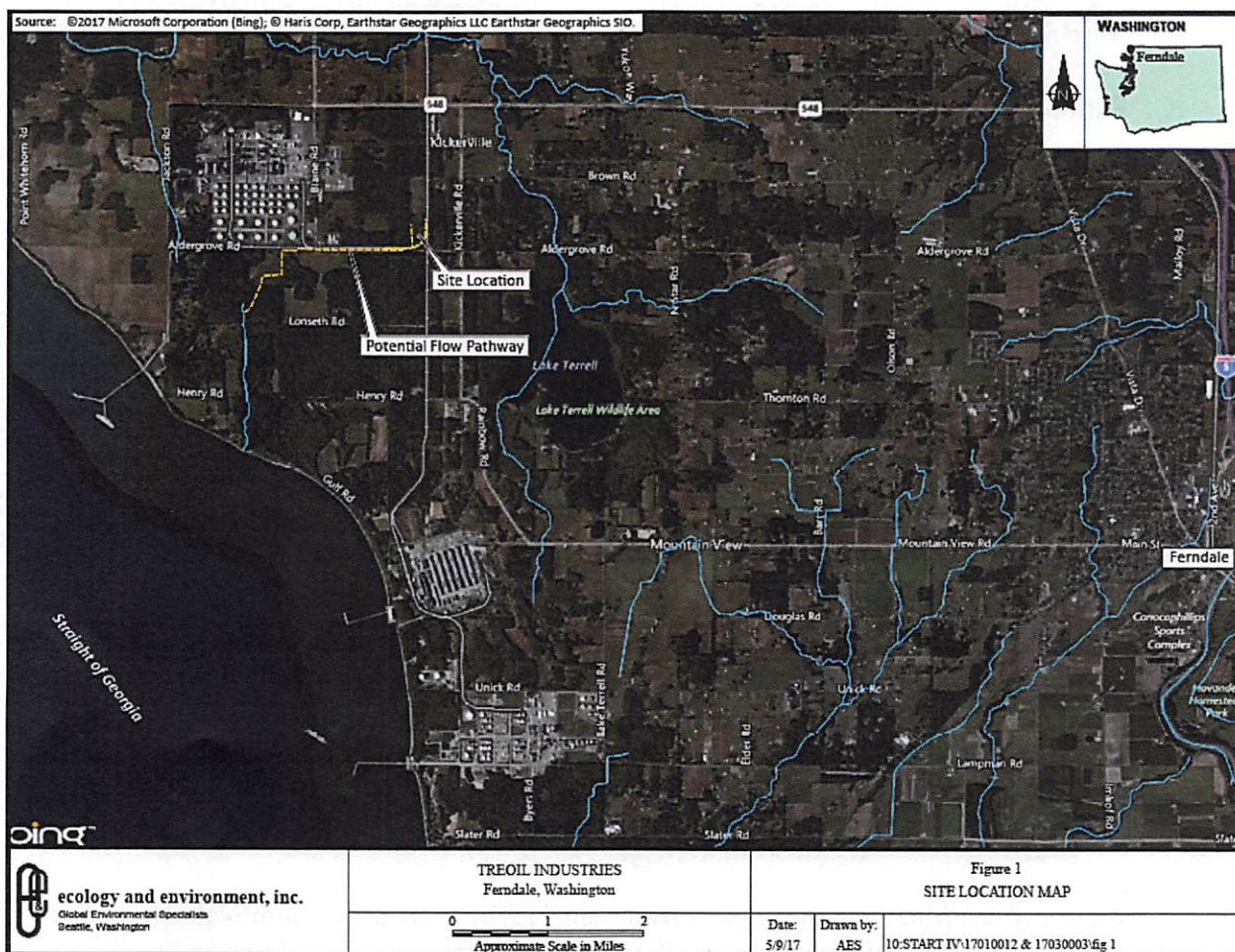


Figure 2: Treoil Industries Site Layout

Attachment 1:
Treoil Industries Summary of CERCLA Chemicals Removed

Table 1: "Labpack" Chemicals Removed

Hazard Class	Hazard Class Description	Container Total	Overpack Total
3	Flammable Liquid	16	1
5.1	Oxidizer	4	1
6.1	Toxic and Infectious Substance	53	6
6.1 (8)	Toxic and Infectious Substance, (Corrosive)	1	1
8A	Corrosive Acid	17	3
8B	Corrosive Base	33	2
9	Miscellaneous	4	1
	TOTAL	128	15

Table 2: Drums and Cylinders Removed

Hazard Class	Hazard Class Description	Drums	Cylinders
3	Flammable Liquid	11	
2.1	Flammable Gas		9
5.1	Oxidizer	3	
6.1	Toxic and Infectious Substance	7	
5.1 (8)	Oxidizer, Corrosive	1	
8A	Corrosive Acid	7	
8B	Corrosive Base	9	
9	Miscellaneous	16	
	TOTAL	54	9