



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 11 2019

OFFICE OF LAND AND  
EMERGENCY MANAGEMENT

OFFICE OF EMERGENCY MANAGEMENT

MEMORANDUM

SUBJECT: Request for Additional Funding and a Change in Scope for a Removal Action at the Hamburg Kaercher Creek Site in Hamburg, Berks County, Pennsylvania.

FROM: Gilberto Irizarry, Director  
Preparedness and Response Operations Division 

THRU: Reggie Cheatham, Director   
Office of Emergency Management

TO: Barry Breen, Acting Assistant Administrator  
Office of Land and Emergency Management

The purpose of the attached Action Memorandum is to obtain your approval of a Time-Critical Removal Action from Region 3 at the Hamburg Kaercher Creek Site (Site) located in Berks County, PA. The proposed removal action exceeds the \$2 million exemption under Delegation 14-2 and requires OLEM Assistant Administrator approval. The Action Memorandum requests a funding ceiling increase of \$9,264,000, of which \$7,400,000 is from the Regional Removal Allowance. The total project ceiling, if approved, will be \$14,587,677, of which \$11,560,320 is from the Regional Removal Allowance.

Both the Site and the surrounding town of Hamburg have had previous EPA removal actions to address lead contamination. It should be noted that the Price Battery NPL Site, which was listed due to lead contamination associated with the former plant, is located near the removal action Site. The delineation of EPA's remedial and removal actions for lead cleanups in Hamburg has been based on the source of contamination. Historically, the remedial program has addressed lead contamination via aerial disposition from the Price Battery Plant, while the removal program has addressed lead contamination tied to lead battery casings. This proposed removal action follows this established arrangement for Hamburg, PA area.

The additional \$9,264,000 requested for the Removal Action is to address the discovery of further lead contamination at the Site as well as addressing the degradation of environmental controls from two previous removal actions in 1993-1995 and 2003-2005 at the Site. The funds will be used to remove lead contamination, stabilize the cleanup area to minimize future site maintenance, disposed of hazardous materials, and return the Site to a suitable condition.

This removal action is the third for the Site, which includes the original 1993-1995 removal action to address lead contamination at Hamburg Fieldhouse parking lot (\$1.7M) as well as a

2003-2005 removal action to address lead contamination at the adjoining Kaercher Creek (\$3.5M). Additional information on the Site can be found in the attached fact sheet, the Action Memorandum, Figure 1 (map of the Site), the Enforcement Confidential Memo, and the Applicable or Relevant and Appropriate Requirements table.

The attached Action Memorandum, in addition to OEM review, has been reviewed by OGC and OSRE with no objections raised to the funding increase. Based on information from the Action Memorandum and discussions with Region 3, OSRE and OGC, I recommend that you approve the Action Memorandum as requested.

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Request for Additional Funding and a Change in Scope for a Removal Action at the Hamburg Kaercher Creek Site in Hamburg, Berks County, Pennsylvania.

FROM: Paul Leonard, Acting Division Director   
Hazardous Site Cleanup Division (3HSOO)

THRU: Reggie Cheatham, Director  
Office of Emergency Management (5104A)

TO: Barry Breen, Acting Assistant Administrator  
Office of Land and Emergency Management

I. PURPOSE

The purpose of this Action Memorandum is to request and document the need for additional funding and a change in scope in order to continue a removal action to mitigate the actual and threatened release of hazardous substances at the Hamburg Kaercher Creek Site (Site), located in Hamburg, Pennsylvania. The Site consists of portions of Kaercher Creek (Kaercher Creek or Creek), a stream that runs through Hamburg Borough, in close proximity to several lead sites in Hamburg. Battery wastes had been disposed of at several locations along the Creek, resulting in lead contamination on Creek banks and in the sediments. This Action Memo documents a Change in Scope to include as part of the Site a paved parking area located at the Hamburg Fieldhouse. This Action Memorandum is intended to address a damaged portion of the Removal Action at the Hamburg Kaercher Creek Site performed pursuant to the May 2004 Action Memorandum, as well as an increase in scope to address drainage problems associated with the nearby Hamburg Lead Site, pursuant to the August 1993 Action Memorandum.

Kaercher Creek was the subject of a Time-Critical Removal Action (Removal Action) undertaken by the U.S. Environmental Protection Agency (EPA) from 2003 to 2005, as documented in an Approval of a Funding Request for a Removal Action, dated May 13, 2003 (May 2003 Action Memorandum); a Change in Scope for a Removal Action, dated August 5, 2003; and a Request for Additional Funding, and Exemption from the 12-Month and \$2 Million Statutory Limits for a Removal Action, dated May 25, 2004 (May 2004 Action Memorandum). The Removal Action included removal and disposal of lead contaminated soils, sediment, and debris found at the surface of the Site, on Creek banks, and in stream beds; stabilization of environmentally sensitive areas from further exposure and effects from



lead waste, sediments and soils; and covering areas of the Site to prevent direct contact with lead-contaminated soils and debris below the surface if needed.

The Hamburg Fieldhouse parking area was the subject of a separate removal action conducted by EPA pursuant to a Funding Request for a Removal Action dated August 25, 1993 (August 1993 Action Memorandum) in connection with the nearby Hamburg Lead Site, to address lead contaminated soil and battery debris in the surface and sub-surface in the parking lot area at the Hamburg Field House.

On April 12, 2018, EPA conducted a removal site evaluation at the Site in accordance with Section 300.410 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.410, and identified a release of a hazardous substance, notably lead, into the environment. Based upon information obtained from the removal site evaluation, continuance of the Removal Action is necessary to mitigate threats posed by the release and/or substantial threat of release of a hazardous substance and/or pollutant or contaminant from the Site and to protect public health, welfare, and/or the environment.

As stated above, this Action Memorandum is intended to address a damaged portion of the Removal Action at the Hamburg Kaercher Creek Site performed pursuant to the May 2004 Action Memorandum, as well as an increase in scope to address drainage problems associated with the nearby Hamburg Lead Site, pursuant to the August 1993 Action Memorandum. This Action Memorandum will correct parking lot drainage issues, so that surface water drainage can be integrated into the adjoining Kaercher Creek bank stabilization work.

The EPA On-Scene Coordinator (OSC) finds that the Site continues to pose threats that meet the criteria for a removal action set forth in Section 300.415 of the NCP. These threats are further described in Section III of this Action Memorandum. To mitigate the continuing threats and minimize the possibility of future threats of continued release or exposure to lead contamination, additional funding and actions as set forth in this Action Memorandum will be necessary. The OSC has determined that the Site continues to meet the criteria for emergency exemption from both the \$2 Million and the 12-Month Statutory Limits for a Removal Action identified within the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C § 9604(c)(1)(A).

Additional CERCLA funding in the amount of \$9,264,000 is requested, of which an estimated \$7,400,000 is from the Regional Removal Allowance. The total project ceiling will be \$14,587,677, of which \$11,560,320 is from the Regional Removal Allowance. This additional funding is necessary to mitigate the threats identified in this Action Memorandum.

## II. SITE DESCRIPTION AND BACKGROUND

### A. Site Description

This action is intended to revisit and address erosion-damaged portions of the banks of Kaercher Creek near the Hamburg Fieldhouse and Hamburg Foundry Properties, and drainage issues associated with adjacent Hamburg Field House's asphalt parking lot, which drains into Kaercher Creek. The parking lot was resurfaced as part of EPA's 1993 – 1995 Hamburg Lead Site Removal Action, to address lead contaminated soil and battery debris in the surface and sub-surface in the parking lot area at the Hamburg Field House in Hamburg, PA. Of note, while this Site is located within the study area of the Price Battery NPL Site (listed April 27, 2005), this Removal Action's primary source of contamination is lead-containing battery debris, as opposed to aerial depositional of lead from fallout of the smoke stacks at the Price Battery facility. Historically, EPA Region III has used this source distinction (aerial depositional lead versus lead battery debris) in determining whether a site is addressed as a remedial (Price Battery) operable unit or as a removal action. Since lead contamination at this Site has been determined to be from lead-containing battery debris, this Site will continue to be addressed as a removal Site.

Kaercher Creek is a stream that runs through Hamburg, near several lead sites. Historically, battery wastes were disposed of in many locations along the Creek, resulting in lead contamination on the Creek's banks and Creek bed. Figure 1 shows the approximate location of the areas to be addressed through this action. Kaercher Creek passes through many privately-owned properties and some municipal properties. Portions of the Creek are accessible, while some areas have steep banks or are channelized. However, no portions of the Creek are completely inaccessible.

Kaercher Creek flows from Kaercher Creek Park, just outside the eastern boarder of Hamburg, past the Cornfield and Geary Drive Sites, past the Hamburg Fieldhouse, into town, under the former Price Battery Plant Site, and finally discharging into the Schuylkill River. EPA assessed these areas in the 2002 Removal Assessment and found them to have lead concentrations exceeding the established risk-based removal action level of 400 parts per million (except at the Geary Drive Site), resulting in EPA's performance of the May 2003 Action Memorandum. The proposed actions described in Section VI of this Action Memorandum would ensure that the erosion-damaged area of the lead-contaminated Creek bank (approximately 1,500 linear feet) will not act as a continuing or future source of lead contamination to other areas that have or will be addressed through future removal or remedial actions. The known impacted areas to be addressed through this Action Memorandum include the Hamburg Fieldhouse Property and the adjacent Hamburg Foundry Property (those portions of the creek banks located at these properties), as identified in Figure 1.

As discussed in the May 2004 Action Memorandum, there are approximately 567 homes within a .25-mile radius of the Site, making up a population of approximately 1,225 people who could potentially be impacted by lead contamination from the Site. About 1,104 houses are located within a .5-mile radius of the Site, with a potentially impacted population of 2,384 people.

## B. Site Background

In October 2001, EPA was notified of the presence of battery casings along Kaercher Creek near the Hamburg Fieldhouse Property. In 2002, Tetra Tech EM Inc., under the direction of the OSC, performed removal assessments along Kaercher Creek from Kaercher Lake to Kaercher Creek's confluence with the Schuylkill River. The Agency for Toxic Substances and Disease Registry (ATSDR) reviewed the Site assessment reports and issued a Health Consultation that recommended an immediate CERCLA removal action to protect human health.

EPA approved funding for the Removal Action at the Site, originally defined to include Kaercher Creek and Mill Creek, both streams that run thorough Hamburg Borough, pursuant to the May 2003 Action Memorandum. On August 5, 2003, EPA approved a Change of Scope of the Removal Action, removing Mill Creek (to be addressed as a separate action) from the Removal Action for the Site. The objective of the Removal Action was to determine the extent of lead contamination in the sediment and surface soils of the Creek bed and banks of Kaercher Creek, as well as to conduct limited removal and disposal of lead contaminated soil and debris, to install a cover over the remaining lead contaminated soil and debris, and to perform Creek bank stabilization measures. Cover material consisted of clean soil, coir logs and/or matting, small rip rap, and other fill material.

Between August 2003 and May 2004, EPA addressed a total of 5,470 feet of Kaercher Creek during the Removal Action. EPA approved the May 2004 Action Memorandum in order to allow for the completion of the Removal Action in 2004. Between August 1993 and August 1995, EPA addressed the adjacent Hamburg Field House Parking Lot with the installation of a permanent asphalt cover to prevent exposure to lead-contaminated surface and subsurface soils.

In November 2017, as part of a Focused Remedial Investigation for the Price Battery Plant Site, Operable Unit 3 (OU-3), the EPA Remedial Project Manager (RPM) directed the remedial contractor, CDM Smith (CDM), to assess the condition of the cover (rip rap, geotextile, soil, etc.) installed by EPA's Removal Program at the Site as part of the Removal Action on the portion of Kaercher Creek between Route 61 and the Schuylkill River. CDM observed and documented that the rip rap, geotextile fabric, and soil cover were in poor condition in many areas, including the portion of Kaercher Creek at and near the Hamburg Fieldhouse, previously addressed through the Removal Action. Documentation of the erosion-damaged rip rap, soil, and geotextile cover is included in an August 17, 2018 email from EPA RPM John Banks to EPA OSC Todd Richardson with its attachments: Figures 1 and 2, and Attachment A. The drainage problems of the Fieldhouse parking lot are documented in the email correspondence of October 11, 2018 from Troy Hatt, Fire Code Official/Fire Marshal/Plans Examiner, Township of Spring, Borough of Wyomissing

From April through August 2018, the OSC conducted Site visits to confirm reported erosion-damaged areas of the Creek bank and to screen some of these areas for lead contamination using an X-ray fluorescence instrument (XRF). During these removal assessment Site visits, many areas of erosion damage and exposed battery debris were observed, and XRF screening of the erosion damaged areas revealed lead concentrations ranging from 2,600 ppm to 2,800 ppm. Photo documentation and XRF screening data are included in the August 14, 2018 Memo to File,

Documentation of Hamburg Kaercher Creek Fieldhouse – Bank Erosion Damage Evaluation document.

*See* May 2004 Action Memorandum, Section II.B., for additional Site Background information prior to the 2003-2004 Removal Action time period. Also, *see* August 1993 Action Memorandum, Section II.B. for Site Background information on the Fieldhouse parking lot.

### C. Quantities and Types of Substances Present

As documented in the May 2004 Action Memorandum and its supporting administrative record documents, lead contamination has occurred at this Site due to disposal of lead contaminated battery casings on properties along Kaercher Creek (including the area of the Creek near the Hamburg Fieldhouse) and from downstream migration of lead from other disposal areas and the former Price Battery Plant. Due to the heterogeneity of the battery debris fill material, an accurate approximation of contaminated material remains unknown, however, an estimated 10,000 to 15,000 tons of lead contaminated soil is present at or near the surface (in the first 2 ft. to 3 ft. below ground surface) along an approximate 1,500 linear foot stretch of Creek bank.

Also, as indicated in the May 2004 Action Memorandum, an extent of contamination evaluation conducted as part of a 2002 removal assessment for the Site included the collection of 86 soil samples and 38 sediment samples, of which, 49 soil samples and 21 sediment samples exceeded the 400 ppm risk-based action level for lead. The highest lead concentrations were found in samples collected near the Fieldhouse on the creek banks at 23,590 ppm, along the tops of the creek banks on the Fieldhouse Property at 45,184 ppm, and in the creek sediment at 2,148 ppm. As previously stated in Section II.B. of this Action Memorandum, while this area was addressed during the 2003-2004 Removal Action activities, through limited (minimal) excavation, cover and bank stabilization measures, extensive erosion has occurred since then, resulting in current and future potential threats of exposure to unsafe concentrations of lead contamination. The actions proposed in this Action Memorandum would repair the existing damage and provide a more durable and permanent remedy to protect against erosion and to prevent exposure to and migration of lead contamination. The August 1993 Action Memorandum discusses an assessment in 1992 that found lead concentrations exceeding 1,000 ppm in the parking lot. Results show levels as high as 28,900 ppm.

### D. Actions to Date

*See* May 2004 Action Memorandum, Section II.B., for additional Site Background information, and Section IV., for a description of actions undertaken prior to the 2003-2005 Removal Action. *See also* August 1993 Action Memorandum, Section II.B. for description of actions in the Fieldhouse area.

### E. State and Local Authorities

EPA has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), as well as Borough of Hamburg officials, regarding the actions proposed to address the erosion damage at this Site. The Borough of Hamburg does not have the resources to address this Site. PADEP funding is also not available to address this Site, as funding is currently being utilized for other State priorities.

### III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT

Chronic exposure to lead concentrations present in surface soils at the Site poses a significant threat to human health. Section 300.415(b) of the NCP lists factors to be considered in determining the appropriateness of a Removal Action. Paragraphs (b)(2)(i), (iv), (v), and (vii) of Section 300.415 directly apply as follows to the conditions as they exist at the Site.

A. **300.415(b)(2)(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;**

There have been reports of children playing on the creek banks of the Fieldhouse property since the completion of the 2003-2004 removal action. Due to erosion, in several exposed areas along the Fieldhouse creek bank, with lead concentrations in the surface soil, far exceed the risk-based removal action level of 400 parts per million with concentrations detected during the 2018 assessment activities ranged between 2,600 ppm and 2,800 ppm. *See* May 2004 Action Memorandum, Section III.

B. **300.415 (b)(2)(iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;**

*See* May 2004 Action Memorandum, Section III. Due to extensive erosion since the completion of the 2003-2004 Removal Action, there is a significant risk of high levels of lead contaminated soil and debris, at or near the surface, to migrate.

C. **300.415 (b)(2)(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; and**

As previously stated in Section II.A. of this Action Memorandum, this Site requires additional actions to mitigate the threat posed by exposure to lead contaminated soil and debris that has resulted from significant erosion of the banks of Kaercher Creek near the Hamburg Fieldhouse, and Foundry properties. The erosion that has occurred at this Site has resulted from storm events and flooding to which this area is prone. Without adequate counter measures, erosion will continue to worsen, exposing larger areas of lead contamination and increasing the chances of this contamination migrating to other areas. In addition, if unaddressed, drainage problems associated with the parking lot may contribute to erosion of lead contaminated soils.

**D. 300.415 (b)(2)(vii) The availability of other appropriate Federal or State response mechanisms to respond to the release.**

EPA has coordinated with PADEP, as well as Borough of Hamburg officials, regarding the actions proposed to address the erosion damage at this Site. The Borough of Hamburg does not have the resources to address this Site. PADEP funding is also not available to address this Site.

**IV. ENDANGERMENT DETERMINATION**

This Site continues to release lead, a CERCLA hazardous substance, that if not addressed by implementing the response actions outlined in this Action Memorandum, may present an imminent and substantial endangerment to the public health, welfare or the environment.

**V. EXEMPTION FROM STATUTORY LIMITS**

This Removal Action continues to require exemptions from the \$2 Million funding ceiling and the 12-Month statutory limits in accordance with the emergency exemption criteria to protect public health and environment. The high levels of lead from the disposed battery casings pose an immediate risk to public health or welfare and demonstrate that the removal meets the emergency exemption under CERCLA Section 104(c)(1)(A), 42 U.S.C. § 9604(c)(1)(A).

**A. Emergency Exemption from the \$2 Million Statutory Limit**

**1. Section 104(c)(1)(A)(i) Continued response actions are immediately required to prevent, limit or mitigate an emergency.**

There is insufficient funding available under the previous Removal Action ceiling to mitigate the emergency associated with exposure to high levels of lead. Additional funding of this Removal Action will allow EPA to perform the proposed actions set forth in this Action Memorandum to eliminate the immediate threats posed to the public health and the environment from exposure to lead-contaminated soil, sediment, and debris, which has resulted from significant erosion of the banks of Kaercher Creek near the Hamburg Fieldhouse and Hamburg Foundry. There have been reports of children playing on the creek banks of the Fieldhouse property since the completion of the 2003-2004 removal action. In addition, Kaercher Creek has been subjected to increased flooding during significant seasonal storms. The storms have eroded EPA's protective cap. Unaddressed, the Site poses a significant threat to human health via direct exposure, as well as by presenting a potential threat of migration of contaminants downstream to other receptors, and ultimately the Schuylkill River. In addition, if

unaddressed, drainage problems associated with the parking lot may contribute to erosion of lead contaminated soils.

2. **Section 104(c)(1)(A)(ii) There is an immediate risk to public health or welfare or the environment.**

There is an immediate risk to public health or welfare due to current, ongoing potential exposure to high levels of lead at the Site. The maximum detected lead concentration is 45,100 ppm, which exceeds the Site-specific risk-based action level of 400 ppm by a factor of 100 times and is clearly unacceptable. Exposure to lead can have many health effects. Depending on the level of exposure, lead can harm the nervous system, kidney function, immune system, reproductive system, cognitive development, and cardiovascular system. Infants and young children are especially sensitive to low levels of lead, which may contribute to behavioral problems, learning deficits, and lowered IQ.

3. **Section 104(c)(1)(A)(iii) Assistance will not otherwise be provided on a timely basis.**

If this Action Memorandum is not approved, assistance will not otherwise be provided on a timely basis. The erosion of the lead contaminated banks of Kaercher Creek will persist and likely worsen, increasing the threat posed to surrounding populations from exposure to unsafe lead concentrations, as well as remaining a continuing source of lead contamination to downstream receptors via migration of lead contamination in surface water.

Neither the Borough of Hamburg, nor the State, nor any other federal programs or agencies are able to provide assistance on a timely basis. In addition, the EPA Removal Program is the most appropriate program to address this Site, as this action is intended to repair a previous EPA Removal Program Action.

## VI. PROPOSED ACTIONS AND ESTIMATED COSTS

The proposed action is intended to mitigate the threat posed to the public health and welfare and the environment by the release and continued threat of release of a hazardous substance from the Site. This Removal Action continues to require exemptions to exceed the \$2 Million funding ceiling and the 12-Month statutory limit, in accordance with the emergency exemption criteria as provided in CERCLA Section 104(a)(1)(A).

The type of action used for any area will necessarily depend upon specific conditions such as slope, ground cover (e.g., soil type), tree cover, environmental sensitivity (e.g., aquatic habitat), the presence of battery fragments, in-situ treatability and the concentration of hazardous substances. Additional characterization may be required prior to addressing certain areas of the Site. The proposed removal action will meet engineering specifications intended to withstand significant precipitation and/or flood events with minimal erosion and, therefore, post removal site

controls are expected to require mainly annual inspections and reports. Deed restrictions will be recorded to ensure the cover material is undisturbed by future owners.

#### **A. Proposed Actions**

1. Mobilize personnel/equipment to/from the Site;
2. Setup and maintain Command Post, and Staging Areas;
3. Provide for safety of public during non-working hours by securing hazardous substances from the public using covers, temporary high visibility construction fencing, and/or security guards during the Removal Action;
4. Install and maintain temporary erosion and sedimentation controls to minimize the potential for migration of hazardous substances from the Site, including damming and/or pumping the Creek as necessary;
5. Conduct additional removal assessment sampling (soil, sediment, groundwater, and surface water) to further delineate hazardous substances and Site conditions as necessary;
6. Conduct any additional necessary property survey, and/or prepare additional professional engineering plans/drawings including post removal as-built drawings;
7. Remove debris and vegetation impeding the implementation of the Removal Action;
8. If feasible, blend soil amendments/stabilizers with excavated soil contaminated with lead at concentrations exceeding 5000 ppm to stabilize the lead, reducing the leachability so that the soil can be disposed of as non-hazardous waste;
9. Excavate and remove contaminated soil to a minimum of 24 inches below ground surface from the Creek bank at areas: a) where visible erosion has occurred, or is likely to occur in the future; b) in Lead-Contaminated Areas, that is areas where lead concentrations are in excess of 400 mg/kg (300 ppm in-situ, to account for variations in accuracy of XRF readings due to in-situ soil variations, such as moisture content), and/or where visible battery fragments are located. Excavation and removal will be conducted as set forth in this paragraph where technically practicable based on considerations of slope, ground cover (e.g., soil type), tree cover, environmental sensitivity (e.g., aquatic habitat), the presence of battery fragments, and the concentration of hazardous substances;
10. In excavated areas and in Lead-Contaminated Areas where excavation is determined to be impracticable based on considerations (as discussed in Item #9), which may include areas where soils were treated and consolidated as described in Item #8, install a clean fill soil cover and/or permanently encapsulate, along with necessary erosion controls measures (e.g., erosion control mats, bank stabilization measures such as rip rap – up to R-5, low-permeability clay, and/or similar engineered material, clean backfill/cover, and vegetative cover);
11. Prepare the debris, battery fragments, and excavated soils for appropriate off-Site disposal pursuant to Section 121(d)(3) of CERCLA and 40 CFR 300.440;
12. Dispose off-Site all soils and battery fragments excavated from the Site in accordance with Section 121(d)(3) of CERCLA and 40 C.F.R. 300.440;
13. Re-grade the parking lot area and/or install additional drainage infrastructure (e.g. storm drains) to correct and improve surface water drainage into Kaercher Creek; and

14. Coordinate with State and local government to implement post-removal site controls and institutional controls to protect the integrity of the cover/engineered bank stabilization (e.g., soil, rip rap, erosion control matting) over the lead-contaminated areas and notify potential future owners of the presence of lead-contaminated areas and the cover. EPA will pursue an environmental covenant under the Pennsylvania Uniform Environmental Covenants Act to incorporate both the post removal site and institutional controls.

#### B. Contribution to Remedial Performance

The actions proposed in this Action Memorandum will not interfere with any remedial actions that may occur in the future and any actions will be consistent with the requirement of Section 104(a)(2) of CERCLA, 42 U.S.C. § 104(a)(2), which states that a removal action should contribute to the efficient performance of any long-term remedial action with respect to the release or threatened release concerned. Institutional controls will likely apply to this property.

#### C. Compliance with ARARs

The proposed Removal Action will comply with Federal and State applicable or relevant and appropriate requirements (ARARs) to the extent practicable considering the exigencies of the situation. All federal and state ARARs will be considered during this removal action.

The OSC will coordinate with PADEP in the installation of erosion and sedimentation controls in accordance with established practices in Pennsylvania. The OSC's PADEP contacts are aware of the scope of work to be completed for this removal action. PADEP provided ARARs in an email dated September 20, 2018. EPA has developed a list of site-specific Federal and State ARARs that are included in Attachment 2.

#### D. Estimated Cost

Extramural Costs	Hamburg Lead Site 1993	Hamburg Kaercher Creek Site 2003-2004	This Request	Ceiling
Regional Allowance Costs (This cost category includes estimates for ERRS contractors, subcontractors, letter contracts, orders for services, notices to proceed, alternative technology contracts, and inter-agency agreements with other Federal Agencies)	\$1,285,500 \$128,550- (%10 contingency ERCS)	\$2,746,270	\$7,400,000	\$11,560,320
Other Extramural Costs Not Funded from the Regional Allowance START Contractor	\$120,000	\$220,000	\$320,000	\$660,000
Subtotal, Extramural Costs	\$1,534,050	\$2,966,270	\$7,720,000	\$12,220,320
Extramural Costs Contingency (20% of Subtotal, Extramural Costs)	\$230,107 (%15 contingency)	\$593,250	\$1,544,000	\$2,367,357
<b>TOTAL REMOVAL PROJECT CEILING</b>	\$1,764,157	\$3,559,520	\$9,264,000	\$14,587,677

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

If the actions described in this Action Memorandum are not conducted, the release and/or threat of release of hazardous substances or pollutants or contaminants will continue to exist at the Site. Without immediate actions to mitigate the release and potential release of hazardous substances or pollutants or contaminants at the Site, potential threats posed to human and ecological receptors may increase. Unaddressed, extremely high lead concentrations, confirmed to be present on the Site in surface soil on the eroding banks of Kaercher Creek near the Hamburg Fieldhouse, may continue to pose a significant potential threat to public health in and near Hamburg, PA.

VIII. OUTSTANDING POLICY ISSUES

There are no outstanding policy issues pertaining to the Site.

## IX. ENFORCEMENT STATUS

The OSC has provided the EPA HSCD Cost Recovery Branch with information available to pursue any and all enforcement actions pertaining to the Site. See attached Confidential Enforcement Addendum (Attachment 3).

The total cumulative EPA costs for this Removal Action, based on full cost accounting practices that will be eligible for cost recovery are estimated below as:

Direct Extramural Cost:	\$ 14,587,677
Direct Intramural Costs:	\$ 939,220
Subtotal	\$ 15,526,897
Indirect Costs (64.22% of above)	\$ 9,971,373
Estimated EPA Costs for the Removal Action:	\$ 25,498,270

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 \$25,498,270.<sup>1</sup>

## X. RECOMMENDATION

This Action Memorandum represents the selected Removal Action for the Hamburg Kaercher Creek Site in Hamburg, Pennsylvania, developed in accordance with CERCLA and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

By signing this Action Memorandum, you are also hereby establishing the documents listed below as the Administrative Record supporting the issuance of this Action Memorandum, pursuant to Section 113 (k) of CERCLA and EPA Delegation No. 14-22.

1. Request for Additional Funding, and Exemption from the 12 Month Statutory Limits for a Removal Action, Hamburg Kaercher Creek Site, May 25, 2004;
2. Removal Action Change in Scope, Hamburg Lead Kaercher Creek Site, August 5, 2003;
3. Approval for Funding for a Removal Action, Hamburg Kaercher Creek, May 13, 2003;
4. Approval of a Funding Request for a Removal Action, Hamburg Lead Site, August 25, 1993;
5. Email correspondence of August 17, 2018 from J. Banks, EPA Region III, Background Information and Assumptions for Addressing the Optional Portion of Kaercher Creek at the Field House Property,

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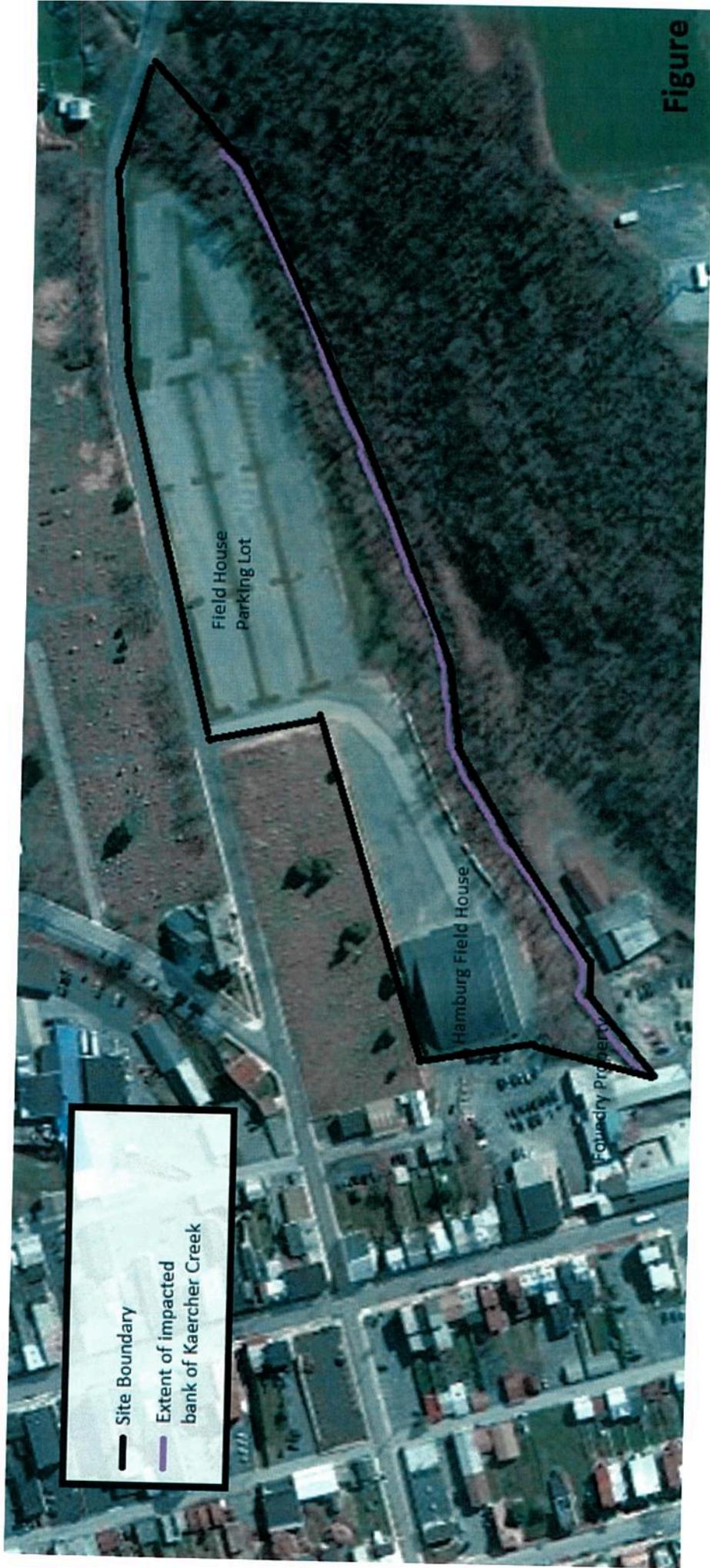
<sup>1</sup> Direct Costs include direct extramural and direct intramural costs. Indirect Costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates 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 costs from this estimate will affect the United States' right to cost recovery.

6. Email correspondence of October 11, 2018 from Troy Hatt, Fire Code Official/Fire Marshal/Plans Examiner, Township of Spring, Borough of Wyomissing;
7. Memo to File, Documentation of Hamburg Kaercher Creek Fieldhouse – Bank Erosion Damage Evaluation – Photo Documentation and XRF Data, August 14, 2018;
8. PADEP representative David Hrobuchak’s email of September 20, 2018.

Because conditions at the Hamburg Kaercher Creek Site meet the removal action requirements of the NCP, I recommend your approval of the proposed Removal Action. The total Removal Action Project Ceiling, if approved, will be \$14,587,677. Of this, an estimated \$11,560,320 comes from the Regional Removal Allowance. Please indicate your approval or disapproval below.

Action by the Approving Official:

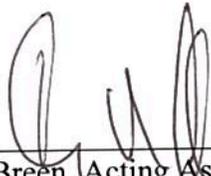
I have reviewed the above-stated facts and based upon those facts and the information compiled in the documents described above, I hereby determine that the release or threatened release of hazardous substances at and/or from the Site presents or may present an imminent and substantial endangerment to the public health or welfare or to the environment. I concur with the recommended removal action as outlined.







**APPROVED:** \_\_\_\_\_



Date 4/16/2019

Barry N. Breen, Acting Assistant Administrator  
Office of Land and Emergency Management

**DISAPPROVED:** \_\_\_\_\_

Date \_\_\_\_\_

Barry N. Breen, Acting Assistant Administrator  
Office of Land and Emergency Management

**ATTACHMENTS:**

1. Figure 1
2. Federal and State ARARs
3. Enforcement Confidential Memo

## Schlieger, Brian

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**From:** Ronquillo, Manuel  
**Sent:** Thursday, March 7, 2019 1:30 PM  
**To:** Kulpan, Bruce  
**Cc:** Schlieger, Brian  
**Subject:** RE: For Review: Action Memo for Hamburg Kaercher Creek Site (R3)

Brian,

My apologies for not getting back to you sooner on this. I spoke with Bruce yesterday, and we have no concerns with this moving forward. Thanks.

Manuel Ronquillo  
Ph: (202) 564-6065

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**From:** Kulpan, Bruce  
**Sent:** Thursday, February 28, 2019 10:59 AM  
**To:** Ronquillo, Manuel <Ronquillo.Manuel@epa.gov>  
**Cc:** Schlieger, Brian <schlieger.brian@epa.gov>; Kulpan, Bruce <Kulpan.Bruce@epa.gov>  
**Subject:** FW: For Review: Action Memo for Hamburg Kaercher Creek Site (R3)

Hi Manuel,

If you could please the review of the attached Enforcement Addendum to this ceiling increase for \$10 million and contact the R3 case attorney if you have any questions regarding the regions enforcement strategy for this site.

When you are finished reviewing the enforcement attachment please schedule half an hour with me to discuss your findings before sending a response to OEM. I am also available if you would like to discuss the Enforcement Addendum during your review.

Thanks,

Bruce

Bruce Kulpan  
Chief, Regions 3, 4 & 8 Branch  
Regional Supprt Division  
Office of Site Remediation Enforcement (Mail Code-2271A)  
1200 Pennsylvania Ave., N.W. (Room-WJC 5206)  
Washington, DC 20460  
202 564-4252 (Office Line)

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**From:** Schlieger, Brian  
**Sent:** Thursday, February 28, 2019 10:23 AM  
**To:** Kulpan, Bruce <Kulpan.Bruce@epa.gov>  
**Cc:** Baldwin, Mark <Baldwin.Mark@epa.gov>  
**Subject:** FW: For Review: Action Memo for Hamburg Kaercher Creek Site (R3)

Bruce, please find the Hamburg Kaercher Creek AM for OSRE consultation, since it is increasing by \$10 MM. Sorry for the size of the attachments, but the site has been around since the early 90s and it is somewhat complex. Please let me know if you need anything additional from the Region.

Thanks,  
Brian

**From:** Baldwin, Mark  
**Sent:** Tuesday, February 19, 2019 9:59 AM  
**To:** Tyner, Lee <tyner.lee@epa.gov>  
**Cc:** Schlieger, Brian <schlieger.brian@epa.gov>  
**Subject:** For Review: Action Memo for Hamburg Kaercher Creek Site (R3)

Lee,

Attached, for your review, is the draft action memo (AM) for Hamburg Kaercher Creek Site located in Hamburg, PA from Region 3. The AM is requesting additional funding of \$9.26 million to address the deterioration of contamination controls from a previous removal actions at the site as well as addressing newly discovered lead contamination. An additional complexifier for the proposed removal action is that site is located nearby the former Price Battery Plant site, which is an NPL site listed for lead contamination.

As explained by R3, and noted in the AM, the delineation between the remedial cleanup and the removal actions is based on the deposition of the lead. Remedial has address all aerial deposited lead contamination while the removal program has addressed contamination attributable to lead battery debris. The lead contamination at the Kaercher Creek Site, the area subject to this AM, has been determined to be from lead battery debris.

In addition to the draft AM, I have attached the previous AMs for the Hamburg Kaercher Creek Site (note that there was a "change in scope" at the site during a previous removal action) as well as the enforcement confidential memo. As you know, the memo will need to be approved by OLEM AA (currently Barry Breen as the Acting AA) and thus SWERLO's leadership will need to signoff and OSRE will also get a chance to review.

Once you get a chance to look over the package please let me know when you might be able to complete your review.

Regards,

Mark Baldwin  
Preparedness and Removal Team  
U.S. EPA, Office of Emergency Management  
Desk: 202-564-4351  
Cell: 202-809-5911