



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CONTAINS ENFORCEMENT-SENSITIVE INFORMATION

MEMORANDUM

DATE: August 25, 2020

SUBJ: Request for a Removal Action at the Cass Toy Company (Former) Site,
Athol, Worcester County, Massachusetts - **Action Memorandum**

FROM: Catherine Young, On-Scene Coordinator
Emergency Response and Removal Section II

THRU: William Lovely, Section Chief
Emergency Response and Removal Section II

Carol Tucker, Branch Chief
Emergency Planning & Response Branch

TO: Bryan Olson, Director
Superfund and Emergency Management Division

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the proposed removal action at the Cass Toy Company (Former) Site (the Site), which is located at 62 Canal Street, Athol, Worcester County, Massachusetts. Friable asbestos and asbestos containing materials (ACM) present at the Site, if not addressed by implementing the response actions selected in this Action Memorandum, will continue to pose a threat to human health and the environment. Since asbestos is the contaminant of concern, this action is potentially nationally significant or precedent setting, and the Action Memorandum has been sent to the U.S. Environmental Protection Agency (EPA) Director of the Office of Emergency Management for concurrence prior to approval. There has been no use of the OSC's \$200,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID#: MAN000103198
SITE ID#: 01QG
CATEGORY: Time-Critical

A. Site Description

1. Removal site evaluation

The former N.D. Cass Company manufactured products ranging from large pianos and drums to wooden toys from 1898 to 2003. On January 19, 2012, a large fire engulfed the building which resulted in several debris piles. In 2017, the Town of Athol collected samples from five debris piles on the Site for asbestos analysis. Two of the five debris piles came back indicating the presence of asbestos. On February 18, 2020, the Massachusetts Department of Environmental Protection (MassDEP) referred the Site to the EPA Emergency Planning and Response Branch (EPRB).

On March 6, 2020, EPA, accompanied by Region I Superfund Technical Assessment and Response Team (START), initiated the preliminary assessment and site investigation (PA/SI). During the investigation, approximately 100 cubic yards (cy) of ACM fire debris were observed in loose form as well as 250 cy of comingled fill material and fire debris. The piles of ACM were in various stages of degradation, exposed to the elements, and unsecured from nearby residents and the trespassers that were observed on the property. During the PA/SI, a total of 10 samples were collected for asbestos analysis (including one duplicate) from nine locations as well as a total of three soil samples for Resource Conservation and Recovery Act (RCRA 8) metals analysis (including one duplicate) were collected. The samples were field screened for bulk asbestos and RCRA 8 metals by an EPA Chemist in the EPA Mobile Laboratory. The samples were also delivered to EPA New England Regional Laboratory (NERL) for bulk asbestos and RCRA 8 analysis. Based upon the sampling results and the potential for further release of asbestos into the environment from the Site, a time-critical removal action was recommended in the Site Investigation Closure Memorandum dated July 28, 2020. (See lab results table in Section 4.)

In addition, on June 30, 2020 as part of the PA/SI, EPA collected nine surface soil samples from the abutting property, Parcel 023-114. These samples were analyzed at the EPA NERL for asbestos and RCRA 8 metals. All analytical results indicated that asbestos and metals were either non-detect or below EPA Removal Management Level screening values for determining potential risk. Hence, the determination was made that this parcel does not warrant removal action and will not be included within the Site boundary.

2. Physical location

Located at 62 Canal Street, in Athol, Worcester County, Massachusetts in an area which includes commercial and residential properties, the 1.3-acre Site is identified by the Athol Assessor's Office with the Parcel ID #023-105 and is recorded at the Worcester Registry of Deeds in Book 52991 on Page 60. The geographic coordinates of the property, as measured from the approximate center of the property, are:

Latitude: 42° 35' 30.1" North
Longitude: 72° 14' 14.6" West

The Site is a vacant lot bordered to the north by residential and commercial properties; to the east by Canal Street and residential properties; to the south by Mill Brook, residential properties and wooded areas; and to the west by the Millers River. The Site and surrounding properties are served by municipal water and sewer.

3. Site characteristics

The Site was formerly a portion of the 3.39-acre N.D. Cass Company property, which encompassed two parcels of land, now listed as Parcel 023-105 (the Site) and Parcel 023-114. The N.D. Cass Company manufactured products ranging from large pianos and drums to wooden toys from 1905 to 1997. Between 1997, when N.D. Cass Company sold the property, and 2012 when the building was destroyed by fire, portions of the structure were rented to various businesses, including a commercial sandblasting company, a kitchen hood cleaning company, a wood craftsman, and a blacksmith. The Site currently consists of abandoned concrete slab foundations and debris from the former factory structure.

The Site is located within an Interim Wellhead Protection Area and Mapped Zone II for the Town of Athol Public Water Supply. The site is within 500 feet of surface water, and within 500 feet of an endangered species habitat.

According to the EPA Region I ArcGIS mapping tool, within 1/4 mile of the Site are:

- 637 residents;
- A Daycare center; and
- A Pre-K school.

Based on information in EPA's EJSCREEN environmental justice screening tool, 0 out of 11 Environmental Justice Indexes for the area within a one-mile radius of the Site exceed the 80th percentile on a national basis.

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

Sampling analysis by EPA determined that asbestos, a hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601(14), and 40 CFR § 302.4, has been released into the environment.

Approximately 100 cy of ACM fire debris were observed in loose form as well as 250 cy of comingled fill material and fire debris. The piles of ACM are exposed to the elements and during high winds will likely migrate from the Site and into the nearby residential properties. During the PA/SI, there was documented evidence of multiple trespassers walking through and living on the property. The Site is not secured by fencing and the materials are not secured, creating a risk of release to the public from weather events. Due to residential properties and public walkways being located within 50 feet of the property, the ACM is an inhalation health risk to anyone walking on, traveling by or living nearby. A total of 13 samples were collected for laboratory analyses. A summary of sampling results are as follows:

Sample ID	Analysis	Compound	Matrix	Concentration %	Comments
ASB-03	Bulk Asbestos Analysis by PLM*	Chrysotile	Bulk	1	Black roof material
ASB-05	Bulk Asbestos Analysis by PLM*	Chrysotile	Bulk	12	Cement-like board
ASB-105	Bulk Asbestos Analysis by PLM*	Chrysotile	Bulk	12	Cement-like board
ASB-06	Bulk Asbestos Analysis by PLM*	Chrysotile	Bulk	12	Cement-like board

*PLM – Polarized Light Microscopy

5. NPL status

The Site is not currently on the National Priorities List (NPL), nor has it been proposed for the NPL. The Site has not received a Hazardous Ranking System rating and referral to the NPL site assessment program is not anticipated.

6. Maps, pictures and other graphic representations

See Appendix A for photolog.

B. Other Actions to Date

1. Previous actions

Through an EPA Brownfields Grant, the Montachusett Regional Planning Commission hired BETA Group, Inc. (BETA) to conduct a Phase I Environmental Site Assessment in 2019. At the time of the inspection, the Site consisted of concrete slabs and foundations and piles of debris, rocks and solid waste. BETA's review at the Athol Building Department revealed that five debris piles on the Site were tested for asbestos in 2017. Results indicate that two out of the five piles of debris tested positive for asbestos. EPA EPRB has been involved with the Site to conduct a site investigation (the PA/SI) since MassDEP referral on February 18, 2020.

2. Current actions

The PA/SI has been completed and there are no other ongoing EPA activities.

C. State and Local Authorities' Roles

1. State and local actions to date

On January 19, 2012, MassDEP was notified by the Athol Fire Department (AFD) regarding potential petroleum and chemical releases due to a large fire at the former N.D. Cass Company, located at 62 Canal Street, Athol, MA. MassDEP responded to provide support to the incident. According to the MassDEP, there did not appear to be any release of petroleum or chemicals as a result of the fire. However, it was suspected that asbestos materials within the building may have been released during the fire. Due to the fire, the building was destroyed, resulting in five debris piles remaining on the Site. In 2017, the Town of Athol hired a contractor to sample the five debris piles for analysis of asbestos contamination. Of the five debris piles, two debris piles detected asbestos contamination.

2. Potential for continued State/local response

MassDEP and the Town of Athol both lack the resources to undertake the removal action proposed in this Action Memorandum.

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

The presence of asbestos and current conditions at the Site meet the criteria for a removal action, as set forth in 40 C.F.R. §300.415(b)(1), as "there is a threat to public health or welfare of the

United States or the environment,” and consideration of the factors set forth in 40 C.F.R. §300.415(b)(2) as described below.

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)];

Approximately 100 cy of ACM present a hazard to public health and the environment. Asbestos is a hazardous substance as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14) and 40 C.F.R. § 302.4. As the loose ACM and asbestos is located outside in piles, is not contained and is exposed to the elements, the asbestos can readily migrate offsite to adjacent properties, creating an inhalation threat to the surrounding community. As previously mentioned, within ¼ mile of the Site are residential/commercial properties, one school, and one daycare. Several residential properties are also located within close proximity to the Site and are at immediate risk of exposure to asbestos.

High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate [§300.415(b)(2)(iv)]

ACM was observed on the ground in loose form and in piles of fire debris across the property. The piles of ACM are exposed to the elements and during high winds will likely migrate from the Site and onto the nearby residential properties. During the PA/SI, there was documented evidence of multiple trespassers walking through and living on the property. The Site is not secured by fencing and the materials are not secured, creating a risk of release to the public from trespassers and weather events.

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

ACM is located throughout the Site. Due to the material being uncontained and located within piles outside and exposed to weather conditions, there is a potential threat that the asbestos may migrate onto nearby properties. Approximately 100 cy of ACM fire debris were observed in loose form and 250 cy of comingled fill material and fire debris.

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)];

MassDEP has indicated that they currently do not possess the resources to abate this potential imminent hazard. Therefore, they are requesting assistance from EPA to evaluate and dispose of the asbestos containing debris piles and soils.

IV. ENDANGERMENT DETERMINATION

Asbestos is a hazardous substance as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14) and 40 C.F.R. § 302.4. Actual or threatened releases of hazardous substances or pollutants or contaminants from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare, or the environment.

In accordance with OSWER Directive 9360.0-34 (August 19, 1993), an endangerment determination is made based on “appropriate Superfund policy or guidance, or on collaboration with a trained risk assessor,” which is outlined and discussed in Section III above. “Appropriate sources include, but are not limited to, relevant action level or clean-up standards, Agency for Toxic Substances and Disease Registry documents or personnel, or staff toxicologists.” In this case, EPA relied on the EPA’s National Emission Standards for Hazardous Air Pollutants (NESHAP)¹, for determining risk at the Site.

Hazardous Substances	EPA Investigation Highest Concentration
Asbestos (chrysotile)	12%

Asbestos- Exposure to asbestos occurs when the ACM is disturbed or damaged in some way to release particles and fibers into the air. Asbestos exposure can cause lung cancer; mesothelioma, a rare form of cancer that is found in the thin lining of the lung, chest and the abdomen and heart; and asbestosis, a serious progressive, long-term, non-cancer disease of the lungs².

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

The actions required to mitigate the threats of the release to public health, welfare, and the environment are outlined below. The proposed action will protect public health, welfare, and the environment by removing the hazardous substances from the Site. As outlined below, the proposed action, at a minimum, will involve the removal of the ACM debris. Additional soil may be excavated to remove ACM that is on the Site grounds. Confirmatory

¹ U.S. Environmental Protection Agency. <https://www.epa.gov/asbestos/overview-asbestos-national-emission-standards-hazardous-air-pollutants-neshap>

² Agency for Toxic Substances and Disease Registry (ATSDR), *Toxicological Profile for Asbestos*, September 2001

sampling will be conducted on the remaining footprint of the property where excavation took place. If necessary, the excavated areas will be backfilled to grade with clean soil.

To address the threat to public health and the environment, specific removal activities will include:

- ❖ Conducting a site walk with the Emergency and Rapid Response Services (ERRS) contractor to determine appropriate equipment and personnel needed to perform the response and ascertain the location of utilities;
- ❖ Conducting additional sampling as necessary to determine the presence of contamination in air, soil and potential ACM;
- ❖ Developing and implementing site-specific Health and Safety Plans;
- ❖ Developing site-specific work plans;
- ❖ Providing site security, as necessary, based on Site conditions;
- ❖ Mobilizing personnel and equipment;
- ❖ Delineating work zones and decontamination area;
- ❖ Conducting perimeter air monitoring and implementing dust control measures to ensure on-site safety and protection of the public;
- ❖ Removing and disposing contaminated debris and surface soils;
- ❖ Assessing and characterizing any additional hazardous substances and materials discovered during this action;
- ❖ Disposing of materials in accordance with 40 C.F.R. Part 300.440 *Procedures for Planning and Implementing Off-Site Response Actions*;
- ❖ Backfilling excavated areas with clean materials;
- ❖ Repairing response-related damage, as necessary; and
- ❖ Demobilizing resources.

Post Removal Site Control activities are not expected due to the removal of ACM from the piles and surface soils.

2. Community relations

EPA has assigned a Community Involvement Coordinator and will continue coordinating with MassDEP and the Town of Athol to prepare outreach materials as necessary to inform the public of EPA activities as they progress.

3. Contribution to remedial performance

The cleanup proposed in this Action Memorandum is designed to mitigate the threats to human health and the environment posed by the Site. The actions taken will be consistent with, and not impede, any future responses.

4. Description of innovative technologies and sustainable approaches

In accordance with the December 23, 2013 Memorandum, updated August 2, 2016, issued by Office of Land and Emergency Management as well as the Region 1 Clean and Greener Policy for Contaminated Sites, greener cleanup practices should be considered for all cleanup projects. Greener cleanup is the practice of incorporating practices that minimize the environmental impacts of cleanup actions and maximize environmental and human benefit. Alternative technologies and sustainable approaches will be considered and incorporated, as appropriate, throughout the implementation of the removal action. EPA will implement recycling practices including recycling of paper, plastic, metal debris, etc. The use of alternative technologies regarding disposal options will be further examined as the site work progresses. On-site field screening and analytical techniques may be utilized during the removal action.

5. Applicable or relevant and appropriate requirements (ARARs)

The federal cleanup standards, standards of control, guidance, and other substantive requirements include but are not limited to:

Federal ARARs:

Toxic Substances Control Act (Transport and Disposal of Asbestos Waste), 40 C.F.R. Subpart E, Appendix D: Provides standards for transport and disposal of materials that contain asbestos. Requires proper wetting and containerization. Asbestos will be managed in compliance with these standards.

Clean Air Act, 40 C.F.R. Part 61: 42 U.S.C. Section 112(b)(1): National Emission Standard for controlling dust. The regulations establish emissions standards for 189 hazardous air pollutants. Asbestos is one of the hazardous air pollutants. Standards have been set for dust and release sources. The removal action will implement measures to meet these standards.

To be considered (TBC): Framework for Investigating Asbestos-Contaminated Superfund Sites, OSWER Directive #9200.0-68 (Sept. 2008): Guidance on investigating and characterizing the potential human exposure from asbestos contamination in outdoor soil at Superfund sites.

State ARARs:

40 C.F.R. Parts 260-262 and 264 Resource Conservation and Recovery Act, Subtitle C-Hazardous Waste Identification and Listing Regulations; Generator and Handler Requirements, Closure and Post-Closure - Massachusetts has been delegated the authority to administer these RCRA standards through its state hazardous waste management

regulations. Waste generated will be tested to determine whether it exceeds hazardous waste thresholds and, if so, the hazardous waste will be managed on-site and until such time as it is shipped to an EPA-approved off-site disposal location.

310 CMR 30.100: Hazardous Waste Rules for Identification and Listing of Hazardous Wastes 310 CMR 30.101 through 30.199, cited collectively as 310 CMR 30.100, identify or otherwise describe those wastes which are subject to 310 CMR 30.000, establish provisions for classifying waste as non-hazardous, and prescribe testing methods and procedures.

310 CMR 30.300: Hazardous Waste Management Rules - Requirements for Generators 30.301: Purpose, Scope, and Applicability (1) 310 CMR 30.301 through 30.399, cited collectively as 310 CMR 30.300, prescribe standards for generators of hazardous waste.

310 CMR 30.680: Hazardous Waste Rules - Containers 310 CMR 30.681 through 30.689, cited collectively as 310 CMR 30.680, prescribe requirements which apply to owners and operators of all facilities that use containers to store hazardous waste.

The OSC will coordinate with State officials to identify additional State ARARs, if any. In accordance with the National Contingency Plan and EPA Guidance Documents, the OSC will determine the applicability and practicability of complying with each ARAR that is identified in a timely manner.

6. Project schedule

Duration of this removal action shall be approximately two months from the day of EPA ERRS contractor mobilization.

B. Estimated Costs

COST CATEGORY		CEILING
<i>REGIONAL REMOVAL ALLOWANCE COSTS:</i>		
ERRS Contractor		\$250,000.00
Interagency Agreement		\$ 0.00
<i>OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE:</i>		
START Contractor		\$150,000.00
Extramural Subtotal		\$400,000.00
Extramural Contingency	20%	\$80,000.00
TOTAL, REMOVAL ACTION CEILING		\$480,000.00

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

A delayed removal action or the absence of a removal action described herein will cause conditions at the Site to remain unaddressed. This will result in the continued release or threat of release of hazardous substances into the environment, which pose a threat to human health and the environment.

VII. OUTSTANDING POLICY ISSUES

Since asbestos is the main contaminant of concern at the Site, it was necessary to get the concurrence of the EPA Office of Emergency Management Director prior to approval of this Action Memorandum, as asbestos removals are considered nationally significant or precedent setting.

VIII. ENFORCEMENT ... For Internal Distribution Only

See attached Confidential Enforcement Strategy.

The total EPA costs for this removal action that will be eligible for cost recovery are estimated to be \$480,000 (extramural costs) + \$100,000 (EPA intramural costs) = \$580,000 x 1.4104 (regional indirect rate) = \$818,032³.

IX. RECOMMENDATION

This decision document represents the selected removal action for the Cass Toy Company (Former) Site in Athol, MA, developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. The basis for this decision will be documented in the administrative record to be established for the Site.

Conditions at the Site meet the NCP Section 300.415 (b) (2) criteria for a removal action due to the following:

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)];

³ Direct Costs include direct extramural costs \$480,000 and direct intramural costs \$100,000. Indirect costs are calculated by using regional indirect rate in effect at time cost estimate is prepared and is expressed as a percentage of the direct costs 41.04% x \$580,000, consistent with EPA's full cost accounting methodology effective October 01, 2019. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

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

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

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)];

I recommend that you approve the proposed removal action. The total extramural removal action project ceiling if approved will be \$480,000.

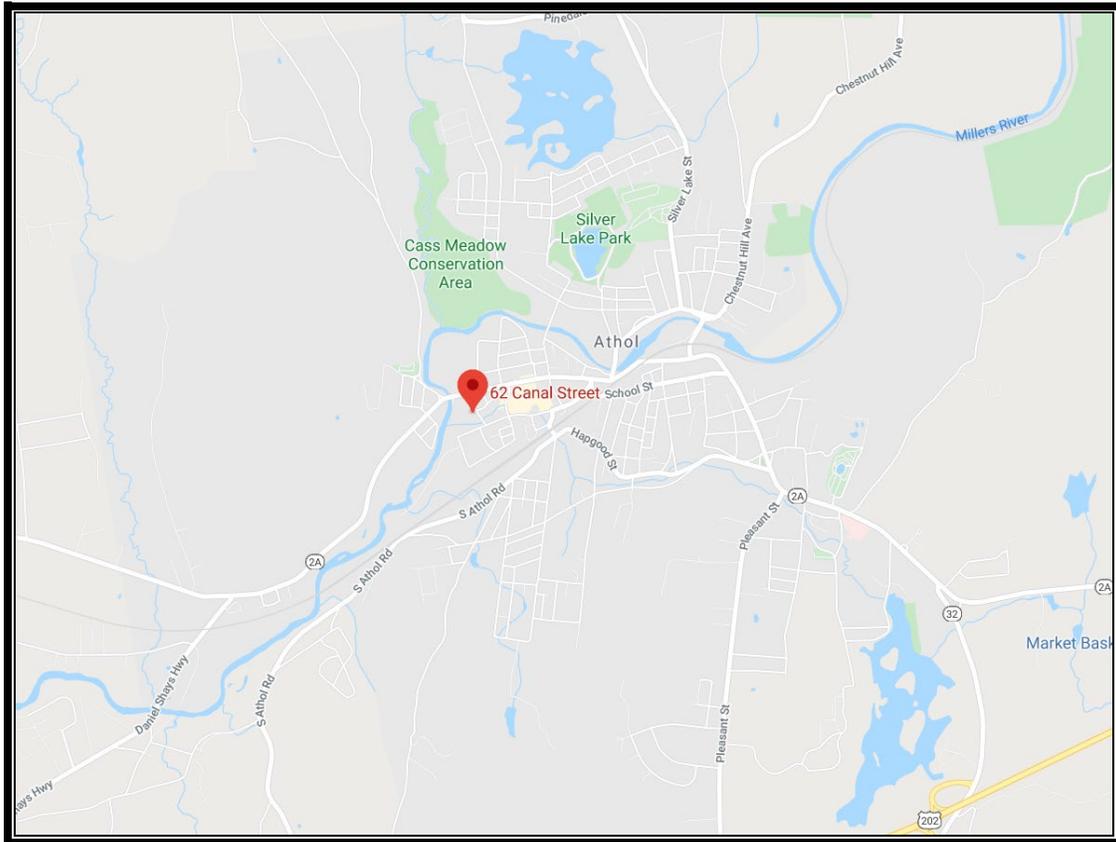
APPROVAL: _____

DATE: _____

DISAPPROVAL: _____

DATE: _____

Appendix A





Area outlined in red indicates the Site, blue line indicates Mill Brook.