



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: 8SEM-EMR

ACTION MEMORANDUM

SUBJECT: Approval and Funding for a Removal Action at the Crow Agency Tribal Office Site, Crow Agency, Big Horn County, Montana

FROM: Joyce Ackerman
Federal On-Scene Coordinator

THRU: Laura Williams, Chief
Emergency Response Section

Deirdre Rothery, Chief
Emergency Management Branch

TO: Betsy Smidinger, Director
Superfund and Emergency Management Division

Site ID#: B847

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the removal action described herein for the Crow Agency Tribal Office Site (Site) located in the town of Crow Agency, Big Horn County, Montana. This time-critical removal action involves the demolition, cleanup and proper disposal of debris from a partially collapsed building that is abandoned, damaged by a major fire, has been vandalized and weathered, and is known to contain friable asbestos.

The building is a former hospital and office building owned by the Crow Indian Tribe (Tribe) on the Crow Indian Reservation (Reservation). The Site was identified by the Tribe as a safety concern, posing a potential asbestos exposure threat to nearby residents, children, and community members. Conditions at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR § 300.415(b) of the National Contingency Plan (NCP).

This removal action is considered nationally significant or precedent-setting (NSPS) because it involves asbestos as the principal contaminant of concern and is occurring at a Tribally owned facility. This removal action will not establish any precedent for how future response actions will

be taken and will not commit the U.S. Environmental Protection Agency (EPA) to a course of action that could have a significant impact on future responses or resources.

II. SITE CONDITIONS AND BACKGROUND

Site Name:	Crow Agency Tribal Office Site
Superfund Site ID (SSID):	B847
NRC Case Number:	N/A
SEMS EPA I.D. Number:	MTN000821015
Site Location:	Crow Agency/Big Horn County/MT
Lat/Long:	45.6037/-107.4606
Potentially Responsible Party:	See Enforcement Addendum
National Priority List (NPL) Status:	Non-NPL
Removal Start Date:	Fall 2021

A. Site Description

1. Removal Site Evaluation

The Crow Agency Tribal Office is a single-level building of approximately 30,300 square feet with a 9,700 square foot finished basement and additional crawl space areas. The building is comprised of five sections of differing construction dates ranging from 1937 to 1974. The property historically operated as an Indian Health Service (IHS) Unit Hospital until being transferred to the Tribe for use as the Tribal Executive Office building. A fire occurred at the Site in May 2019 and consequently the building was vacated. The building is now abandoned and in a state of severe disrepair due to the collapsed roof over the section sustaining the greatest fire damage, vandalism, scavenging for materials, and weathering.

The EPA Region 8 Brownfields Program conducted a Phase II Environmental Site Assessment (ESA) at the Site in 2020 and determined that friable asbestos-containing materials (ACM) were present in the building. The ESA found numerous building materials containing ACM including roofing felt, floor tiles and/or mastic, ceiling tile, pipe insulation and fittings, mudded fittings, fire doors, and light insulation. Samples of building materials showed concentrations of chrysotile and amosite asbestos ranging from 4 percent to 75 percent. The ESA report is provided in the administrative record for this Site. Photographs of the building are provided in Attachment 2.

The contractors conducting the ESA reported that all doors to the building were open and people were observed removing materials from the building. An elementary school is located approximately 500 feet away and children were observed entering the building, according to the school principal.

There is a release of friable asbestos to the environment due to the collapsed roof and open doors and damage to interior ceilings and walls. There is continued

scavenging and vandalism by trespassers. There are no adequate restrictions to prevent children or other persons from accessing the Site. The Site is in a residential neighborhood, surrounded by homes on all sides.

The Tribe requested assistance from the EPA Response Unit for a cleanup and demolition of the building and proper disposal of the asbestos. The ongoing vandalism and damage to the building will continue to cause releases of asbestos to the environment which will be an inhalation threat to nearby residents and community members.

2. Physical Location

The Site is located in the town of Crow Agency, Big Horn County, Montana and is near the Little Bighorn National Monument. According to the 2010 census, the population of Crow Agency was 1,616. The trust land base of the Reservation comprises 3,593 square miles and the estimated Tribal enrollment is approximately 11,000 members, 7,900 of whom reside within the Reservation's boundaries. The Site is in a residential neighborhood surrounded by homes on all sides. There is an elementary school approximately 500 feet away. Winters in the area are reported to be freezing and windy. Annual average total precipitation is 15.4 inches and annual average snowfall is 41.2 inches (nonliquid equivalent). According to EPA's Environmental Justice (EJ) Screening and Mapping Tool, Crow Agency is in the 80th percentile of potential EJ areas nationally, and in the 95th percentile of potential EJ areas regionally and on a state-wide basis.

3. Site Characteristics

The building on the Site was previously used as an IHS hospital. ACMs were identified in 2008 and abated prior to the Tribe taking ownership but such action did not identify all ACMs and some remained in the building after transfer to the Tribe. The Tribe used the building for office space until it burned down in 2019. Since that time, the building has been vacant and is currently in a state of disrepair.

Trespassers regularly enter the building to scavenge building materials and children reportedly enter the building also.

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

The principal contaminant of concern at the Site is asbestos, which is a hazardous substance as defined by Section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As the remains of the building continue to deteriorate from weather events, vandalism, and structural collapse, there will be ongoing releases of asbestos fibers to the environment from ACM.

Asbestos is a solid material with a variety of forms, including chrysotile and amosite, which were found at the Site in several building materials. Asbestos is

highly resistant to heat and has exceptional tensile strength, both of which are characteristics that lend themselves to use in ordinary building materials. Asbestos tends to become brittle over time, shattering into fiber bundles due to age and weathering, and is then referred to as being friable. Subsequently, the friable fiber bundles can further degrade into microscopic fibers that can be distributed into the air.

An EPA On-Scene Coordinator determined that the Site poses a direct threat to public health and welfare because friable ACMs are present in the heavily vandalized, partially collapsed building and are being released into the environment due to the collapsed roof and open doors. Weather events including wind, rain and snow will continue to degrade the structure. Asbestos fibers will continue to be released into the environment as the ACMs weather and become friable due to ongoing exposure to wind, rain, and snow as well as damage caused by scavengers or vandalism. Asbestos fibers pose an inhalation threat to persons accessing the Site as well as nearby residents, community members, and children at the school 500 feet away from the Site. Human exposure to airborne asbestos fibers via inhalation has been proven to cause asbestosis, cancer, mesothelioma, and other respiratory diseases.

5. NPL Status

This Site is not on the NPL, nor is it currently proposed for inclusion on the NPL.

6. Maps, Pictures and Other Graphic Representations

A Site map is provided in Attachment 1 and photos are provided in Attachment 2.

B. Other Actions to Date

1. Previous Actions

A contractor for IHS performed an inspection in 2008 to identify ACM and lead-based paint. These materials were remediated by the IHS prior to transfer of the building to the Tribe. The inspection and remediation apparently missed some ACMs which were subsequently detected in EPA's 2020 ESA. Due to the 2019 fire, the building materials were severely damaged, causing the release of asbestos fibers to the environment. Subsequent acts of persons scavenging materials from the vacated building and weathering have caused ongoing releases of asbestos fibers to the environment.

2. Current Actions

There are no current activities at the Site.

C. Tribal and Local Authorities' Roles

1. Tribal and Local Actions to Date

The Tribe requested assistance from EPA Region 8's Response Section in a letter dated July 16, 2021, requesting an EPA cleanup at the property. The Tribe's limited resources are not sufficient to address the environmental exposures posed by the Site.

2. Potential for Continued Tribal/Local Response

Neither the Tribe nor the local authorities will have the resources to conduct the proposed removal action at the Site.

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

Conditions at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the NCP.

EPA has considered all the factors described in 40 CFR 300.415(b)(2) of the NCP and determined that the following factors apply at the Site:

“(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants or contaminants:”

The Site poses a direct threat to public health and welfare because friable ACMs are present in the heavily vandalized, partially collapsed building and are being released into the environment due to the collapsed roof and open doors. This may result in exposure to visitors to the Site and nearby community members. There are no access restrictions to prevent persons from entering the Site.

“(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released:”

The Site is a heavily damaged, partially collapsed building that is in poor condition and is completely open to the environment. Weather events including wind, rain and snow will cause continued degradation of the remaining portions of the structure. Asbestos fibers will continue to be released from the ACM as additional material continues to weather and becomes friable due to ongoing exposure to the elements.

“(vii) The availability of other appropriate federal or state mechanisms to respond to the release:”

No other local, tribal, state, or federal agency is in the position or has the resources to independently implement a timely, effective response action to address the ongoing threat presented by the Site.

IV. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

Due to the partial collapse of the building from fire damage and its lack of structural integrity, the EPA will demolish the building and dispose of all debris as ACM. In the few sections of the building not fully involved in the 2019 fire or collapsed due to weathering, such as the east addition, EPA will determine if any segregation of ACM and non-ACM can be conducted prior to demolition. All cleanup activities that will disturb ACM will be conducted using adequately wet methods to prevent the migration of asbestos fibers. No post-removal Site controls are anticipated to be necessary following the removal action. The EPA will identify the closest landfills allowed to accept ACM and which are in compliance with the CERCLA Off-Site Rule (40 CFR 300.440).

2. Contribution to Remedial Performance

This effort will, to the extent practical, contribute to any future remedial effort at the Site. However, no further federal action is anticipated at this time.

3. Engineering Evaluation/Cost Analysis (EE/CA)

An EE/CA is not required for a time-critical removal action.

4. Applicable or Relevant and Appropriate Requirements (ARARs)

Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable considering the exigencies of the situation. In determining whether compliance with ARARs is practicable, the lead agency may consider appropriate factors including the urgency of the situation and the scope of the removal action to be conducted. The ARARs are identified in Attachment 3.

5. Project Schedule

The removal action is anticipated to begin in the fall of 2021. All removal activities should be completed within six weeks of the beginning of on-Site activities.

B. Estimated Costs*

Contractor Costs	Estimated Costs
ERRS contractor	\$1,475,000
START contractor	\$65,000
SUBTOTAL	\$1,540,000
Contingency Costs (20 % of subtotal)	\$308,000
Total Removal Project Ceiling	\$1,848,000

*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.

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

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

VI. OUTSTANDING POLICY ISSUES

According to the EPA's Superfund Removal Guidance for Preparing Action Memoranda, September 2009, non-NPL removal actions involving contamination that may affect other sovereign nations, including Indian Tribes, or involving asbestos as a principal contaminant are considered NSPS, and therefore require EPA Headquarters concurrence.

For removals involving contamination that may affect Indian Tribes, EPA Headquarters concurrence will facilitate the execution of proper coordination with the affected Indian Tribe, the Bureau of Indian Affairs, the IHS, and other appropriate organizations, where applicable. For removals involving asbestos when it is the principal contaminant of concern, such concurrence is necessary because action levels for response have not yet been set and determinations are being made on a case-by-case basis (see OSWER 9345.4-05).

VII. ENFORCEMENT

A separate Enforcement Addendum has been prepared providing a confidential summary of current and potential future enforcement activities.

VIII. RECOMMENDATIONS

This decision document represents the selected removal action for the Crow Agency Tribal Office Site, in the town of Crow Agency, Montana, developed in accordance with CERCLA as amended, and is 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 I recommend your approval of the proposed removal action. The total project ceiling, if approved, will be \$1,848,000; this amount will be funded from the Regional removal allowance.

APPROVE

for

Betsy Smidinger, Director
Superfund and Emergency Management Division

Date

DISAPPROVE

Betsy Smidinger, Director
Superfund and Emergency Management Division

Date

Attachments:

Attachment 1: Site Map

Attachment 2: Site Photos

Attachment 3: ARARs Table

Attachment 1

Site Map





Attachment 2

Site Photos

		PHOTOGRAPH LOG													
Project Name: Crow Tribal Building		Site Location: Crow Agency, MT													
		Project No. 0003/2001-02													
<table border="1"> <tr> <td>Photo No. 11</td> <td>Date: 02/14/2020</td> </tr> <tr> <td colspan="2">Photo Coordinates</td> </tr> <tr> <td>Lat</td> <td>45.6037</td> </tr> <tr> <td>Long</td> <td>-107.490461</td> </tr> <tr> <td colspan="2">Direction Photo Taken: 287.684408179686</td> </tr> <tr> <td colspan="2"> Description: Former roof of the Original Construction. Asbestos roofing felt has collapsed into the building. </td> </tr> </table>		Photo No. 11	Date: 02/14/2020	Photo Coordinates		Lat	45.6037	Long	-107.490461	Direction Photo Taken: 287.684408179686		Description: Former roof of the Original Construction. Asbestos roofing felt has collapsed into the building.			
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PHOTOGRAPH LOG

Project Name:
Crow Tribal Building

Site Location:
Crow Agency, MT

Project No.
0003/2001-02

Photo No.
15

Date:
02/16/2020

Photo Coordinates

Lat 46.603553

Long -107.461167

Direction Photo Taken:
64.4161625730466

Description:

Hallway leading to the Original Construction section.



Photo No.
16

Date:
02/16/2020

Photo Coordinates

Lat 46.603553

Long -107.460747

Direction Photo Taken:
46.5662487662513

Description:

Original Construction section with collapsed roof.



Attachment 3

ARARs Table

Standard, Requirement, Criteria or Limitation	Citation	Description	Applicable <u>or</u> Relevant and Appropriate	Comments
FEDERAL				
National Emissions Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Asbestos	40 CFR Part 61 Subpart M, including but not limited to 61.145(a)(c), and 61.150.	Addresses regulations for abatement and/or demolition of asbestos-contaminated structures.	Applicable	Best Management Practices will be implemented to comply with the requirements of NESHAP and protect public health, including keeping asbestos-contaminated debris adequately wet until disposed of as ACM.