



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**ACTION MEMORANDUM**

**SUBJECT:** Request for a Time-Critical Removal Action at the Dempster Industries Site, Beatrice, Gage County, Nebraska

**FROM:** Kirk Mammoliti, On-Scene Coordinator  
Assessment, Emergency Response and Removal Branch

**THRU:** Adam Ruiz, Chief  
Assessment, Emergency Response and Removal Branch

**TO:** Robert D. Jurgens, Director  
Superfund and Emergency Management Division

SITE ID#: 07LF

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the proposed time-critical removal action at the Dempster Industries Site (Site) in Beatrice, Gage County, Nebraska. The time-critical removal action proposed herein is necessary to mitigate threats to public health, welfare, and the environment posed by the presence of uncontrolled hazardous substances at the Site. Laboratory analyses of samples collected from numerous containers at the Site identified the presence of hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The suspected source of contamination is an abandoned former metals manufacturing facility which occupies the Site.

The primary objective of this removal action is to eliminate or reduce potential exposure to and offsite migration of various CERCLA hazardous substances found in drums and containers at the Site, as described in Section 2 below. The U.S. Environmental Protection Agency will secure the site, stabilize hazardous substances identified and transport the waste for disposal. This action will be taken pursuant to Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1), and Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.415. There are no nationally significant or precedent-setting issues associated with the proposed response at this non-National Priority List (NPL) Site.

**II. SITE CONDITIONS AND BACKGROUND**

Site Name:	Dempster Industries
Superfund Site ID (SSID):	07LF
NRC Case Number:	N/A
CERCLIS Number:	NED007282486



CERCLIS Sequence #:	RV002
Site Location:	Beatrice, Gage County, Nebraska
Address:	711 South 6 <sup>th</sup> Street
Lat./Long.:	40.251000, -96.747222
Potentially Responsible Party:	None
NPL Status:	Non-NPL
Removal Category:	Time-Critical
Nationally Significant:	No

## **A. Site Description**

### **1. Removal site evaluation**

Phase I and II Environmental Site Assessments (ESAs) were conducted on the property in 2017 and 2018 by the Nebraska Department of Energy and Environment (NDEE) and its contractors to support potential redevelopment by the city of Beatrice. The Phase II assessments identified soil and groundwater contaminated with metals, volatile organic compounds (VOCs), and semi-volatile organic compounds, and soil gas contaminated with VOCs.

NDEE conducted additional Phase I ESA activities in 2020 during which several on-site abandoned transformers were found to have been vandalized, resulting in multiple releases of transformer oils containing polychlorinated biphenyls (PCBs) within the site building. A total of 15 transformers were identified at the property. Based on 1985 analytical results provided by the city of Beatrice's Electric Superintendent, the PCB concentrations ranged from 54 parts per million (ppm) to 484,100 ppm. Due to the PCB concentrations in the transformer oils and the Site's close proximity and potential for release to the Big Blue River, NDEE collected three soil samples to assess whether PCBs had potentially impacted the soils and sediments of the drainage pathway and collected multiple wipe samples from the building interior. The wipe and soil samples each identified the presence of PCBs.

In February 2021, the Region 7 EPA Toxic Substances Control Act (TSCA) program was notified by NDEE of the PCB-related issues at the Site. Due to the release or threat of release of the PCBs at the Site, the TSCA program referred the Site to the Assessment, Emergency Response and Removal (AERR) Branch for further investigation and potential response on June 29, 2021. AERR conducted a time-critical removal action in November 2021 to secure and properly dispose of the PCB waste materials, including large transformers and capacitors. These pieces of electrical equipment had been vandalized for the copper they contained, causing releases of the PCB-containing oils they housed. That removal action was completed on July 15, 2022. During the time-critical removal action to address PCBs, the EPA observed numerous containers at the Site with unknown contents or that were labeled as chemicals.

In April 2022, the EPA conducted a removal site evaluation to inventory containers and sample pits and free materials at the Site. The EPA identified approximately 500 small containers (8 ounces to less than 5 gallons in size), 70 5-gallon containers, 25 drums less than 55 gallons, 20 55-gallon drums, and a

partially full 10-cubic-yard vat. The small containers were grouped into suspected waste streams based on labels, if available. All other containers were sampled, field screened, and categorized into like-waste streams for representative sampling. Field screening of containers identified the following waste streams: basic liquids, basic solids, flammable liquids, flammable solids, neutral liquids, neutral solids, organic halides, organic liquids, and organic solids. Bench-scale compatibility tests were conducted prior to waste profile sampling. Field screening of containers identified characteristically corrosive liquids and CERCLA-listed hazardous substances including ammonium hydroxide, tetrachloroethene, phosphoric acid, and sulfuric acid. Laboratory results confirmed that CERCLA hazardous substances and Resource Conservation and Recovery Act (RCRA) hazardous waste for tetrachloroethylene, a D039-listed waste, are present at the Site. Analysis of a sample collected from the 10-cubic-yard vat indicated the presence of the CERCLA-listed hazardous substances cyanide compounds, o-Cresol, m-Cresol, and p-Cresol.

All of the abandoned containers and the hazardous substances within were stabilized, segregated, and secured during the removal site evaluation. Containers between 30 and 55 gallons were overpacked into 85-gallon steel overpacks and smaller containers were placed within individual spill containment areas inside. All of the abandoned containers and the hazardous substances within were stabilized, segregated, and secured during the removal site evaluation. A locked, 6-foot chain-link fence was constructed around the spill containment area.

Additional liquid and solid phase samples were collected from three pits and two piles of free materials (piles of unknown solids) observed inside the site building. Analytical results from those samples did not indicate the presence of any CERCLA hazardous substance or RCRA hazardous waste that warrant removal.

The Site is currently surrounded by a locked, chain-link fence; however, access is currently uncontrolled as the fence has been cut through at multiple locations. The business is no longer active, and the facility has been abandoned. City of Beatrice personnel have reported frequent trespassing, which has presumably resulted in releases of chemicals from containers located at the Site. Additional assessment may be conducted to determine response actions which may be needed to mitigate other potential hazards at the Site, including vapor intrusion into buildings and direct exposure to contaminated soil and sediments.

## **2. Physical location**

The facility is located at 711 South 6th Street in Beatrice, Gage County, Nebraska and covers approximately 10 acres. The Site is bounded to the north by a public walking path with commercial and industrial properties beyond; to the east by South 6<sup>th</sup> Street, with a public walking path, mixed parking, commercial, and industrial properties beyond; to the south by a commercial property, with a public park and the Big Blue River beyond; and to the west by South 4<sup>th</sup> Street and residential properties, with an industrial property and railroad tracks beyond. The closest residential properties are located approximately 40 feet directly west of the Site. The Big Blue River is approximately 800 feet south of the Site.

The EPA has conducted an environmental justice review of the community where the Site is located using EJSCREEN, the EPA's EJ mapping and screening tool. According to the EJSCREEN, the data does not indicate any potential areas of EJ concern. EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. The EPA uses EJSCREEN to evaluate a community where a Superfund site is located to determine whether additional consideration or analysis is needed, as determined by the site team, as the EPA plans for and conducts response actions in the community. The EJSCREEN for this Site is included in the Administrative Record for the Site.

### **3. Site characteristics**

The facility served as a metal manufacturer for over 100 years and went out of business in the early 2010s. All property parcels associated with 711 South 6<sup>th</sup> Street were put into tax foreclosure on August 31, 2017, and records show no ownership change since. Dempster Industries LLC, an Ohio company that was dissolved in December of 2013, remains as the owner of record. The Site has 19 buildings totaling approximately 250,000 square feet.

Based on the topography and surface water flow directions, it is anticipated that the primary site-specific groundwater flow direction is to the south/southwest. An unnamed drainage ditch connecting to the Big Blue River runs through the property adjacent to the southwest of the Site.

### **4. Release or threatened release into the environment of hazardous substances, pollutants, or contaminants**

A release or threat of release of hazardous substances, pollutants, or contaminants is present at the Site. Field screening and laboratory results confirm that numerous CERCLA hazardous substances and RCRA hazardous wastes (tetrachloroethylene) are present at the Site. During the removal site evaluation, the EPA discovered significant quantities and types of hazardous substances in damaged, corroded, leaking, and open containers as described in Section 2 above. The Site is uncontrolled, and the city has reported frequent cases of trespassing. The site buildings are at risk of trespassers, fire, and structural degradation that could release the hazardous substances, pollutants, or contaminants from the building to the environment.

### **5. National Priority List (NPL) status**

This Site is not being considered for listing on the NPL at this time. A Hazard Ranking System evaluation will be performed in support of the integrated assessment planned for the Site.

### **6. Maps, pictures, and other graphic representations**

See Figure 1 – Site Location Map, and Figure 2 – Site Layout Map (attached).

## **B. Other Actions to Date**

### **1. Previous actions**

The EPA Region 7 RCRA Oversight, Authorization Grants and PCB Branch submitted a memorandum of referral to Superfund for the PCB waste, which was accepted and signed on June 29, 2021. The AERR Branch conducted a time-critical removal action in October-November 2021 to secure and dispose of the PCB waste materials. That action was completed in July 2022.

### **2. Current actions**

There are no current ongoing response actions to address the contamination at this Site.

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

### **1. State and local actions to date**

State and local actions to date, including preparation of Phase I and II ESAs, are summarized above. Assistance in responding to this threat of release is unavailable from state or local authorities.

### **2. Potential for continued state/local response**

The EPA will continue to coordinate with the city of Beatrice and the state of Nebraska and will keep NDEE informed of site work activities.

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

The EPA has determined, in accordance with section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1), and based on the following factors set forth in the NCP at 40 C.F.R. § 300.415(b)(2), that there is a threat to the public health or welfare or the environment as a result of the release, or substantial threat of a release, into the environment of hazardous substances at the Site.

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

As previously noted, field screening results and laboratory analyses from the removal site evaluation conducted in April 2022 indicate that CERCLA hazardous substances and RCRA-listed hazardous wastes were confirmed to be present at the Site and represent a potential exposure threat to nearby human populations.

Possible exposure routes for hazardous substances include dermal contact with materials in drums, vats, containers, or from leaking and spillage of hazardous substances onto the floor or other surfaces; incidental ingestion of material following dermal contact; inhalation of volatile materials in open containers; inhalation via fugitive dust generation; and inhalation of toxic vapors released into the air via fire. Potential human receptors include trespassers, emergency

response workers, and nearby residents. The Site is located adjacent to a residential area and residential properties are located within 40 feet. Approximately 4,536 people live within a one-mile radius of the Site.

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

During the removal site evaluation, the EPA inventoried approximately 500 small containers (8 ounces to less than 5 gallons in size), 70 5-gallon containers, 25 drums less than 55 gallons, 20 55-gallon drums, and a partially full 10-cubic-yard vat at the Site, many of which were found to contain CERCLA hazardous substances. Several containers were also found to hold high concentrations of tetrachloroethylene, a RCRA-listed hazardous waste.

Many of the containers at the Site were documented to be in poor condition, including damaged, corroded, and leaking containers, and containers missing lids. The vat does not contain a lid and is stored outside of the building. There is a threat of release of hazardous substances from the containers, particularly by vandalism at the Site and through continued weathering and degradation of site buildings. There have been documented events of trespassing at the Site that have resulted in releases of PCB materials. Any trespassers who enter the building may be exposed to hazardous substances and may cause these materials to be released from the building. As the building continues to sit vacant, the risk of it being damaged and less secure increases.

**300.415(b)(2)(v) - Weather conditions exist that may cause hazardous substances to migrate or be released.**

The Site is no longer occupied and is no longer maintained. The buildings are in poor condition, including multiple areas in the building where sections of wall, floor, or roof have collapsed. There are multiple areas of the buildings where doors and windows are missing. The vat is stored outside, under a covered awning but exposed to all current ambient weather conditions including temperature fluctuations, winds, and precipitation. The buildings will likely continue to deteriorate. The roof collapses will continue to allow snow, rain, and other precipitation into the interior of the building. Precipitation that enters the buildings through this and other ingress points can overflow open drums and other containers and release their contents, as well as wash existing spills throughout the building and beyond through floor drains and other migration routes. Water accumulation may also cause or accelerate the corrosion of the metal containers and weaken their structure, which may lead to a release of their contents. Winds can cause solids such as powders to easily migrate. During cold weather, freeze/thaw cycles can stress the drums and could potentially cause them to rupture or burst. There is a possibility that water-reactive chemicals exist on the Site.

**300.415(b)(2)(vi) - Threat of fire or explosion.**

Field screening results from the April 2022 removal site evaluation indicate that multiple containers contain flammable liquids and solids. The flammable substances represent a threat of fire or explosion. The property is located adjacent to a residential area, with the nearest residential property located within 40 feet of the building. Approximately 4,536 people live within a one-mile radius of the Site. If a fire occurred at the property, contaminants could become airborne and affect the nearby population and responders. A fire at the site, while being

exacerbated by flammable hazardous substances, would cause the release of other non-flammable hazardous substances.

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

There are no other known federal, state, or local mechanisms available to conduct an appropriate response at the Site.

**IV. ENDANGERMENT DETERMINATION**

Given the site conditions, the nature of the known and suspected hazardous substances at the Site, and the potential exposure pathways described in Sections II and III above, actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare, or the environment.

**V. PROPOSED ACTIONS AND ESTIMATED COSTS**

**A. Proposed Actions**

**1. Proposed action description**

The EPA will maintain the current stabilization and security methods for the containerized hazardous substances at the Site. It is anticipated that all wastes will be transported off site by an approved and qualified hazardous waste transporter to an approved, qualified CERCLA off-site-compliant hazardous waste disposal facility.

If additional response actions are determined to be warranted and practicable, based on additional sampling activities discussed above, this Action Memorandum may be amended to provide for such measures.

**2. Contribution to remedial performance**

It is expected that the removal action provided for herein would contribute to any potential remedial action at the Site and would not adversely affect any future remedial performance for the Site.

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

Not applicable.

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

Section 300.415(j) of the NCP, 40 C.F.R. § 300.415(j), provides that removal actions shall, to the extent practicable considering the exigencies of the situation, comply with ARARs under federal environmental or state environmental facility siting laws.

## **Federal**

- Subtitle C of RCRA, section 3001, et seq., 42 U.S.C. § 6921, et seq., Hazardous Waste Management and implementing federal and state regulations.
- Subtitle D of RCRA, section 4001, et seq., 42 U.S.C. § 6941, et seq., State or Regional Solid Waste Plans and implementing federal and state regulations.
- 40 C.F.R. Part 261: Identification and Listing of Hazardous Wastes.
  - Subpart A - General
  - Subpart C - Characteristics of Hazardous Waste (§§ 261.20 - 261.24)
  - Subpart D - Lists of Hazardous Wastes (§§ 261.30 - 261.35)
- 40 C.F.R. Part 262: Standards Applicable to Generators of Hazardous Waste.
  - Subpart A - General (§§ 262.1 - 262.18)
  - Subpart B - Manifest Requirements Applicable to Small and Large Quantity Generators (§§ 262.20 - 262.27)
  - Subpart C - Pre-Transport Requirements Applicable to Small and Large Quantity Generators (§§ 262.30 - 262.35)
  - Subpart D - Recordkeeping and Reporting Applicable to Small and Large Quantity Generators (§§ 262.40 - 262.44)
- 40 C.F.R. Part 263: Standards Applicable to Transporters of Hazardous Waste.
  - Subpart A - General (§§ 263.10 - 263.12)
  - Subpart B - Compliance with the Manifest System and Recordkeeping (§§ 263.20 - 263.25)
  - Subpart C - Hazardous Waste Discharges (§§ 263.30 - 263.31)
- 40 C.F.R. Part 268: RCRA Land Disposal Restrictions.
- 49 U.S.C. § 5101 et seq.: Federal Hazardous Materials Transportation Law and/or 49 C.F.R. Parts 107, 171-177.
- The Off-Site Rule (40 C.F.R. § 300.440) applies to the off-site transfer of any hazardous substance, pollutant, or contaminant. The off-site transfer of any hazardous substance, pollutant or contaminant during this removal action will be conducted in accordance with the Off-Site Rule.
- Water quality criteria established under section 304 or 303 of the Clean Water Act [33 U.S.C. §§ 1314, 1313].
- 16 U.S.C. 1531, et seq. Endangered Species Act
- 16 U.S.C. 470, et seq., National Historic Preservation Act

## **State**

To the extent practicable considering the exigencies of the situation, the EPA will comply with state ARARs during this action. On August 19, 2022, the agency sent a letter to the state requesting that it identify ARARs for the Site. ARARs proposed by NDEE will be evaluated by the EPA and will be complied with to the extent practicable considering the exigencies of the situation.



## 5. Project Schedule

This time-critical removal action will begin as soon as practicable upon approval of this Action Memorandum.

### B. Estimated Costs

The costs associated with this removal action were estimated giving consideration to the scope of additional assessment required at the Site.

#### Extramural Costs:

Removal Costs	\$ 412,000
Contingency (20% of removal costs)	<u>82,400</u>
Removal Ceiling	\$ 494,400

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Refer to the enforcement section for a breakout of these costs.

## VI. ENFORCEMENT

See the Confidential Enforcement Addendum for this Site. For NCP consistency purposes, it is not a part of this Action Memorandum. The total EPA costs for this removal action based on full cost-accounting practices are estimated to be:

Direct Extramural Costs	\$ 494,000
Direct Intramural Costs	75,000
EPA Indirect (42.31% of all costs)	<u>240,913</u>
Total Project Costs	\$ 809,913

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 prejudgment 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.

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

The actions proposed herein for the Site should be initiated immediately. Should these actions be delayed, the potential threats to human health and the environment will continue and adverse risk effects may increase.

## VIII. OUTSTANDING POLICY ISSUES

None.

## **X. RECOMMENDATION**

This decision document represents the selected time-critical removal action for the Dempster Industries Site located in Beatrice, Gage County, Nebraska, developed in accordance with CERCLA, as amended, and not inconsistent with the NCP. The decision is based upon the Administrative Record for the Site. The total removal project ceiling is \$494,000, which comes from the Regional Removal Allowance. I recommend your approval of the proposed action.

Approved:

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Robert D. Jurgens, Director  
Superfund and Emergency Management Division

Attachments



