



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 1
 1 CONGRESS STREET, SUITE 1100
 BOSTON, MASSACHUSETTS 02114-2023

Superfund Records Center
 SITE: AEROVOX
 BREAK:
 OTHER: 275599



SDMS DocID 246599

CONTAINS ENFORCEMENT-SENSITIVE INFORMATION

MEMORANDUM

DATE: March 29, 2004

SUBJ: Request for a Removal Action at the Aerovox Incorporated Site,
 New Bedford, Bristol County, Massachusetts - **Action Memorandum**

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 Emergency Response and Removal Section II *MCP*

THRU: Steven R. Novick, Chief *SRN*
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TO: *SS* Susan Studlien, Director
 Office of Site Remediation and Restoration *SS*

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the proposed removal action at the Aerovox Incorporated Site, (the Site), which is located at 740 Belleville Avenue in New Bedford, Bristol County, Massachusetts. Hazardous substances present in drums and containers in the abandoned facility, 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. There are no nationally significant or precedent-setting issues associated with this Site, and there has been no use of the OSC's \$50,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID# : MAN000103307
SITE ID# : 0120
CATEGORY : Time Critical

A. Site Description

1. Removal site evaluation

The Aerovox, Incorporated facility filed for bankruptcy in June 2001 after entering into an Administrative Order On Consent (AOC) with EPA. As part of the terms of the AOC, Aerovox was required to develop a trust fund to establish funding that would be used to demolish and cap the Site. As a result of the bankruptcy proceedings, EPA reached a settlement with Aerovox. The settlement money was deposited into a special account that may only be used for necessary maintenance and remediation activities conducted at the Site. Currently, the City of New Bedford maintains the electricity at the facility with a portion of the funds from the settlement.

On Monday, February 2, 2004 a meeting was held with members of the Remediation and Restoration I Branch, Office of Environmental Stewardship, and the Removal Program concerning the Aerovox Site. The meeting was held to discuss what portion, if any, of the current Site may meet the criteria for a time-critical removal action.

A Preliminary Assessment/Site Investigation was conducted on Wednesday, February 18, 2004 with two On-Scene Coordinators (OSCs), a representative from the EPA Toxic Substances Control Act (TSCA) Program, the Remedial Program Manager (RPM) for the New Bedford Harbor National Priorities List (NPL) Site, and representatives from the Massachusetts Department of Environmental Protection (MADEP) and the City of New Bedford. The group conducted a survey of the Site and found various drums, compressed gas cylinders and containers throughout the building, along with tanks and vats contaminated with PCBs. Since 2001, the building has been subject to flooding due to a malfunction in the sprinkler system. There have been a total of three floods, with the most recent resulting in significant water damage to the floor and walls of the building. This has also been a contributor to the deteriorating condition of the drums in the building. The City of New Bedford repaired the system by maintaining a small section of functioning sprinklers and disconnecting the others throughout the building. This small section contains a heating system that prevents the pipes from freezing and bursting.

Another area of concern is the capped area at the eastern end of the facility which had been containing PCB-contaminated soil at greater than 50ppm. The cap's integrity is deteriorating, with cracks in the pavement and vegetation pushing through the barrier. The site investigation was closed on February 25, 2004 with the recommendation that a time critical removal action be conducted.

2. Physical location

The Site is located at 740 Belleville Ave in New Bedford, Massachusetts at 41°40.466' north latitude and 70°55.216' west longitude. The Site is bordered to the north by the Acushnet

Rubber Co., to the south by Titleist and Foot Joy Worldwide, to the east by New Bedford Harbor, and to the west by Belleville Avenue.

3. Site characteristics

From 1978 to 2001, Aerovox manufactured electrical capacitors at the facility. The plant is a three-floor, flat-roof, brick building containing approximately 450,000 square feet. The first floor was generally used for storage, and the second and third floors were used for capacitor manufacturing. All use of PCB-contaminated oil occurred prior to 1978, before Aerovox owned and operated the facility. In 2001, operations relocated to a new facility pursuant to an Administrative Order On Consent (AOC) entered into with EPA in September 1999.

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

Sampling conducted by the Potentially Responsible Party (PRP) has documented the presence of PCB contamination in the rinse water used to decontaminate various pieces of machinery previously in the building. The rinse water data indicates concentrations as high as 170 parts per million (ppm). The rinse water is presently stored in drums staged in the shipping and receiving area of the facility. Other hazardous materials present in the drums include PCB contaminated personal protective gear, solvents, acids, etc. In addition, there are some compressed gas cylinders located throughout the facility. The impregnation room contains vats with PCB waste residue and general PCB contamination throughout the room. The cap on the eastern end of the facility is cracked with vegetation growing through it. The contaminated soil underneath has the potential to be exposed and cause a direct contact threat.

5. NPL status

The Site is not currently on the National Priorities List.

B. Other Actions to Date

1. Previous actions

In the summer of 1982, the soil at the eastern end of the Site was sampled and found to contain PCB-contaminated soil exceeding 50ppm. The area was capped in the Fall of 1983, and a sheet pile cutoff wall was installed to serve as a seawall for the New Bedford Harbor.

On May 29, 1997, EPA conducted a routine inspection of the plant for compliance with TSCA. During the inspection, EPA representatives observed heavy oil staining in several areas, including the impregnation tank room and a nearby capacitor degreasing room. EPA reviewed the

Aerovox analytical data on Site and learned that there were concentrations of PCBs in several waste streams up to 170ppm.

On June 25 and June 26, 1997, EPA inspectors took 20 wood floor shavings samples from the impregnation tank room. Test results indicated that the wood shavings contained PCB concentrations of 1,180 to 31,000ppm.

In October 1997, Aerovox conducted sampling in the plant by collecting 93 standard wipe samples for PCB analysis. The analytical results of the wipe samples indicated widespread PCB contamination above the action level of 10 microgram/100 square centimeters (the applicable TSCA Spill Cleanup Policy cleanup standard) within the plant.

In November 1998, Aerovox completed an Engineering Evaluation/Cost Analysis (EE/CA) pursuant to the National Contingency Plan (NCP), 40 C.F.R. 300.415 with the intention of performing the cleanup as a non-time critical removal action. Aerovox proposed to demolish the building, leaving the building slab in place and to cap the contaminated soil. EPA agreed with the EE/CA, along with a long term groundwater monitoring program.

In September 1999, EPA and Aerovox executed an AOC Docket No. RCRA-1-99-0054 pursuant to Section 7003 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6973.

Aerovox implemented a protocol to reduce the PCB daily exposure of its employees and relocated to a new facility in New Bedford. A security plan was implemented at the closed facility and the initial deposit of \$750,000 was made into a trust fund consistent with the terms of the AOC. In early June of 2001 before the second payment was made, Aerovox filed for bankruptcy.

EPA's settlement claim was approved in October 2003. EPA has received a bankruptcy administrative claim of \$250,000 and approximately \$817,000 from a trust fund Aerovox previously established pursuant to a RCRA settlement agreement. A general unsecured claim of about \$8.2 million which, when liquidated, will yield a cash payment of approximately \$2.25 million, will be received at the close of all bankruptcy procedures.

New Bedford Harbor abuts the eastern side of the Aerovox property. The New Bedford Harbor Superfund Site was included into the National Priorities List on September 8, 1983. The New Bedford Harbor Site is an 18,000 acre urban estuary reaching from the upper Acushnet River into Buzzards Bay. Its sediment is highly contaminated with PCBs and heavy metals. The cleanup plan for New Bedford Harbor calls for the dredging, dewatering, and disposal of PCB-contaminated sediment at an off-site licensed landfill and in three shoreline confined disposal facilities. An estimated 500,000 cubic yards of contaminated sediments will be dredged.

Construction of the waterfront bulkheads for the dewatering facility is underway and dredging of the harbor is scheduled to begin in 2004.

2. Current actions

There is no current activity on the Site at this time.

C. State and Local Authorities' Roles

1. State and local actions to date

MADEP and the City of New Bedford have been coordinating with EPA's efforts at the Site. The City has been controlling access to the Site by means of a locked gate and has been maintaining the sprinkler system and the electricity in the building.

2. Potential for continued State/local response

The MADEP will assist the EPA's removal action by providing Applicable or Relevant and Appropriate Regulations (ARARs) and technical support.

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

A. Threats to Public Health or Welfare

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)]:

The Site is located between the Acushnet Rubber Company and the Titleist and Foot Joy Worldwide Corporation. Both of these are actively operating facilities with employee parking lots that abut the Site. The drums at the facility contain PCB-contaminated solvents and rinse water along with other various containers of waste. The facility is prone to flooding due to insufficient drainage. The contents of the drums and containers, if released, may pose a direct contact threat to those who work in the buildings next to the Site, as well as potential trespassers. A release may also pose a threat to the marine life in the Harbor, located to the east of the Site.

In 1982, PCB contaminated soil was found on the eastern side of the facility. The area was covered with an asphalt cap to prevent a direct contact threat and off-site migration of the soil. The condition of the cap has deteriorated, resulting in cracks and potential soil exposure. The

contaminated soil, if exposed, may migrate into the Harbor. In addition, the exposed soil may present a direct contact threat and under certain weather conditions, may become air borne.

PCBs

PCBs are known to cause acne-like lesions and rashes known as chloracne. They may also cause developmental and reproductive problems. PCBs are probable human carcinogens, suspected of causing liver cancer.¹

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

In the shipping and receiving area of the facility, there are approximately 120 drums staged on pallets. At this time the drums appear to be in fair condition. However, the lids on many of the drums are beginning to rust. The facility is prone to flooding, posing a significant threat of release as the drums become susceptible to water damage. There are assorted containers and compressed gas cylinders distributed around the facility. The condition of the assorted small containers and cylinders varies, while most appear to be rusted. The condition of the drums and containers will continue to deteriorate over time.

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)];

The PCB contamination is present at high levels underneath the capped area. As the cap further deteriorates, contaminated soils will become exposed. These conditions may promote contaminant migration via runoff or airborne dust.

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

With the cap deteriorating further with adverse weather conditions, the contaminated soils underneath the cap will eventually be exposed to the elements. The PCBs in the soils may migrate via wind or surface water run-off. Adverse weather conditions also contribute to the further compromise the building's structural integrity.

¹ ATSDR, U.S. Department of Health and Human Services, Public Health Service, *Toxicological Profile for Polychlorinated Biphenyls*, November 2000.

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

Through a recent settlement among EPA, the Commonwealth of Massachusetts, the City of New Bedford, and Aerovox's bankruptcy estate, funds have been set aside in a special account and will be used to perform this removal action.

B. Threats to the Environment

Actual or potential contamination of drinking water supplies or sensitive ecosystems; [§300.415(b)(2)(ii)];

The Site is located on the shore of the New Bedford Harbor. New Bedford Harbor is a major commercial fishing port and industrial center in southeastern Massachusetts on Buzzards Bay. Currently, the remediation of the harbor is the center of the New Bedford Harbor Superfund Site. The cleanup plan for New Bedford Harbor calls for the dredging, dewatering, and disposal of PCB-contaminated sediment at an off-site licensed landfill and in three shoreline confined disposal facilities. An estimated 500,000 cubic yards of contaminated sediments will be dredged. Construction of the waterfront bulkheads for the dewatering facility is underway and dredging of the harbor is scheduled to begin in 2004. The drums at the Aerovox facility contain PCB-contaminated solvents and rinse water along with various containers of waste. The contents of the drums and containers, if released, may flow into the Harbor, resulting in further contamination of the waters, sediments and biota. This threat of a release has the potential to undermine the current remediation efforts on the Harbor.

Long terms effects of contamination to the Harbor include reproductive impairment and death of marine life throughout the estuary, along with loss of marine biodiversity. The contaminated soil currently under the deteriorating cap, if exposed, may migrate into the Harbor, resulting in further contamination of the waters, sediments and biota.

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

The asphalt cap was placed over the contaminated soils in 1982. Due to numerous years of exposure to various weather conditions, the condition of the cap has deteriorated, resulting in cracks and potential soil exposure. Rain events provoke flooding of the building, contributing to the deterioration of the drums and containers inside, as well as spreading the contamination through runoff water pathways. The contaminated soil, if exposed, may migrate into the Harbor, resulting in further contamination of the waters, sediments and biota.

IV. ENDANGERMENT DETERMINATION

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

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

The proposed actions will protect public health, welfare and the environment by removing the source of potential contamination. Removal activities will include a Site walk with the Emergency Rapid Response Service (ERRS) contractor, sampling the drums, containers, vats and tanks for waste characterization, repackaging of the hazardous wastes as necessary, removing the drums and cylinders from the facility, and off-site disposal of hazardous substances at approved disposal facilities. General repairs will be made to the pavement cap located on the backside of the facility. The contamination within the impregnation room will be addressed if it meets removal criteria.

2. Community relations

Community interest for this project is expected to be low. EPA will coordinate closely with the State and Town officials throughout the cleanup. Community relations activities likely to be useful for this project include a press release and a fact sheet.

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 at the Site would be consistent with and will not impede any future responses.

4. Description of alternative technologies

The use of alternative technologies with regard to disposal options will be further examined as the site work progresses.

5. Applicable or relevant and appropriate requirements (ARARs)

Federal ARARs:

29 CFR Parts 1910, 1926, and 1904: OSHA Health and Safety Regulations

40 CFR Part 761.65 (a) - (c) - TSCA Requirements for Storage of PCBs

40 CFR Part 262 Standards Applicable to Generators of Hazardous Waste:

Subpart B - The Manifest

262.20 : General requirements for manifesting

262.21 : Acquisition of manifests

262.22 : Number of copies of manifests

262.23 : Use of the manifest

Subpart C - Pre-Transport Requirements

262.30 : Packaging

262.31 : Labeling

262.32 : Marking

Subpart D - Recordkeeping and Reporting

262.40 : Recordkeeping

40 CFR Part 264 Standards for Owners and Operators of Hazardous waste Treatment, Storage, and Disposal Facilities:

Subpart I - Use and Management of Containers

264.171 : Condition of containers

264.172 : Compatibility of waste with containers

264.173 : Management of containers

264.174 : Inspections

264.175 : Containment

40 CFR Part 268 Hazardous and Solid Waste Amendments Land Disposal Restrictions Rule

Subpart C - Prohibitions on Land Disposal

268.34 : Waste specific prohibitions - toxicity characteristic metal wastes

Subpart D - Treatment Standards

Subpart F - Prohibitions on Storage

268.50 : Prohibitions on storage of restricted wastes

40 CFR Part 300.440 Procedures for Planning and Implementing Off-Site Response Actions (Off-Site Rule)

49 CFR Parts 171-179 : Department of Transportation Regulations for Transport of Hazardous Materials

State ARARs:

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 which is identified in a timely manner.

6. Project schedule

Assuming availability of funds, the project is expected to begin within three weeks of approval. The total project duration is estimated at three months.

B. Estimated Costs

Special Account Costs:	
ERRS ² Contractor	\$250,000
START ³	\$100,000
Subtotal, Extramural Costs	\$350,000
Extramural Costs Contingency (20%)	\$ 70,000
Total, Removal Action Project Ceiling	\$420,000

² Emergency Rapid Response Services

³ Superfund Technical Assistance and Response Team

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

In the absence of the response action described herein, conditions at the Site can be expected to continue to deteriorate, and the threats associated with the presence of hazardous substances will persist.

VII. OUTSTANDING POLICY ISSUES

There are no precedent setting policy issues associated with this site.

VIII. ENFORCEMENT ... For Internal Distribution Only

See attached Enforcement Strategy.

The total EPA costs for this removal action based on full-time accounting practices that will be eligible for cost recovery are estimated to be $\$420,000 + \$75,000 = \$495,000 \times 1.2702$ (regional indirect rate) = **\$628,749⁴**.

IX. RECOMMENDATION

This decision document represents the selected removal action for the Aerovox Incorporated Site in New Bedford, Massachusetts, developed in accordance with CERCLA as amended, and not inconsistent with the National Contingency Plan. The basis for this decision will be documented in the administrative record to be established for the Site.

⁴ Direct Costs include direct extramural costs [\$420,000] and direct intramural costs [\$75,000]. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific costs [27.02% x \$495,000], consistent with the full 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 total costs from this estimate will affect the United States' right to cost recovery.

Conditions as 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)];

Actual or potential contamination of drinking water supplies or sensitive ecosystems [§300.415(b)(2)(ii)];

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

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)]; and

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 removal action project ceiling if approved will be \$420,000. The funding for this Removal Action will come from the Aerovox Incorporated Special Account designated to the Site.

APPROVAL:  DATE: 4-8-04

DISAPPROVAL: _____ DATE: _____