

Index of Superfund Lien Filing Record

Valley Drive Abandoned Slurry Site

FILED

4/9/2024

12:55 PM

**U.S. EPA REGION 8
HEARING CLERK**

1. Documentation that PRP is Owner of Property, Parcel #0325250
 - a. Montana Cadastral Property Record Card
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 - c. Tax Records
 - d. Title Search
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Valley Drive Abandoned Slurry Site
Documentation that PRP is Owner of Property

Table of Contents:

- 1. Montana Cadastral Property Record Card
- 2. Legal Description of Property
- 3. Tax Records
- 4. Title Search
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 - b. 2007 Quitclaim Deed

Owner Type Owner
Owner SERIO, IRENE J
Mailing Address [REDACTED]
Phone Numbers [REDACTED]
Email: [REDACTED]
Tract_ID 2822X16-XXX-1AB
Assessor Number 0325250
Geocode 07396516102010000

Legal Description:

S16, T28 N, R22 W, TR 1AB IN SE4NE4, ASSR #0000325250

Appraisal History				
Tax Year	Land Value	Building Value	Total Value	Method
2022	67468	0	67468	COST
2021	67468	0	67468	COST
2020	69560	0	69560	COST

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Montana Cadastral Database Property Record Card: 185 West Valley Drive

Montana Cadastral Database results for 185 West Valley Drive, Kalispell, Montana 59901

The screenshot shows a web browser window displaying a Property Record Card. The card is titled "Property Record Card (Property)" and shows the following information:

General Information	
Property Number	07-3865-16-1-00-01-0000
Assessment Code	000025250
County	Flathead
Levy District	07-002400
Neighborhood	207 750 0
Site Address	185 WEST VALLEY DR, KALISPELL, MT 59901
Legal Description	S 16, T 28 N, R 22 W, TR 140 IN SEC 4NE 4, A050 40000375250
Owner Name	SERIO IRENE J
Property Last Updated	7/14/2022

Value History		
Year	Market Value	Taxable Value
2020	\$80,580	\$930
2021	\$87,480	\$911

1. Last paid tax bill: Irene J Serio PO Box [REDACTED]

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**FLATHEAD COUNTY
 2021 REAL ESTATE TAX BILL**

Adele Krantz, Treasurer
 305 1st Ave W Ste T Kalispell MT 59901
 (406) 758-9800
https://flathead.mt.gov/property_tax



IRENE J SERIO
 PO BOX 1256
 WHITEFISH MT 59937

ASSESSOR NUMBER: 0325250
 TAX BILL NUMBER: 202160893
 SCHOOL DISTRICT: 89
 GEO CODE: 07396516102010000

Property Location:
 384 WEST HILLVIEW DR
 KALISPELL MT 59901
 Property Description:
 16.28 2074 146 81 00000000

Parties with ownership interest as of January 1, 2021
 Owner of Record: IRENE J SERIO

Type of Property	Market Value	Taxable Value
Real Estate	67,468	611.00
NO Buildings Assessed	0	0
Totals	67,468	611.00

Description	Percentage	Amount
COUNTY FUNCTIONS	27.43%	141.65
EDUCATION	68.28%	251.29
Other	4.44%	27.95

SUMMARY OF TAXES, LEVIES & FEES

COUNTY	.063010	57.39	COUNTY LIBRARY	.005660	5.16
SHERIFF	.030000	27.33	CO PERM MED LEVY	.012880	11.73
NOXIOUS WEEDS	.001270	1.16	COUNTYWIDE MOSQUITO	.000910	0.82
911 GENER OBLIG BOND	.001350	1.23	PERM SRS LEVY	.000640	0.58
ROAD	.021890	19.76	COUNTY PLANNING	.001270	1.18
BOARD OF HEALTH	.004990	4.55	FECC SPECIAL DIST	.011820	10.77 *
SUBTOTAL - TAXES FOR COUNTY FUNCTIONS...			.155490	141.65	
STATE - UNIVERSITY	.006000	5.47	GENERAL SCHOOLS	.101010	92.02
STATE - SCHOOL AID	.040000	36.44	FLAT VAL COM COLLEGE	.013230	12.05
FLATHEAD HIGH SCHOOL	.092090	83.85	SMITH VALLEY ELEM 89	.126280	116.86
FVCC PERKINS MED LEVY	.005110	4.66			
SUBTOTAL - TAXES FOR EDUCATION.....			.385720	351.39	
SOIL & WATER CONSERV	.001520	1.38	SMITH VALLEY FIRE	.014210	12.95
SMITH VLY FIRE BOND	.009440	8.60			
SUBTOTAL - OTHER TAXES AND FEES.....			.025170	22.93	
Total Mills Levied	0.566380				

Taxes and Fees . . . \$15.97

30696 1st Installment due 11/30/2021 = 258.00
 2nd Installment due 05/31/2022 = 257.97

* - indicates newly voted levy

A tax lien is attached to this property. Failure to respond will result in loss of property.
 Contact the County Treasurer's office for more information.

Tax paid receipts will be mailed only if a self-addressed stamped envelope is enclosed.
 To pay or view taxes online, go to: https://flathead.mt.gov/property_tax.
 A 3% fee will be charged on all credit/debit card payments. There is no fee to pay by e-check.
 Payments made after 5:00 pm or postmarked after the due date must include 2% penalty & monthly interest of 5/6 of 1% (0.008333).
 Flathead County no longer accepts checks drawn on Canadian Banks

Keep upper portion for your records.

Return stub with payment. Payment must be hand delivered, paid online, or postmarked by 5:00 pm on:

MAY 31, 2022

Make checks payable to **FLATHEAD COUNTY TREASURER**

Please include your tax bill number on your check.

Pay by e-check, credit/debit card online at https://flathead.mt.gov/property_tax

DO NOT PAY THIS IF IT IS INCLUDED IN YOUR MORTGAGE PAYMENT

If your address has changed, please make corrections below.

IRENE J SERIO
 PO BOX 1256
 WHITEFISH MT 59937

ASSESSOR NUMBER: 0325250
 TAX BILL NUMBER: 202160893
 SCHOOL DISTRICT: 89

No additional notice will be sent for this installment.

Tax Amount Due: 257.97

2ND 2021 REAL ESTATE



Return stub with payment. Payment must be hand delivered, paid online, or postmarked by 5:00 pm on:

NOVEMBER 30, 2021

Make checks payable to **FLATHEAD COUNTY TREASURER**

Please include your tax bill number on your check.

Pay by e-check, credit/debit card online at https://flathead.mt.gov/property_tax

DO NOT PAY THIS IF IT IS INCLUDED IN YOUR MORTGAGE PAYMENT

ASSESSOR NUMBER: 0325250
 TAX BILL NUMBER: 202160893
 SCHOOL DISTRICT: 89

Tax Amount Due: 258.00

If your address has changed, please make corrections below.

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2. Title Record

2007 Quitclaim Deed

Return to Irene Serio
6726 Lawrence Woods Court
Lake Worth, FL 33462

0325250
APPROVED 8/30/2007

QUITCLAIM DEED
(Terminate Joint Tenancy)

FOR A VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned, Anthony J. Tony Serio and Irene J. Serio, husband and wife, hereby remise, release and quitclaim unto Irene J. Serio, and _____, husband and wife, of Kalispell Montana, _____, as tenants in common, real property in Flathead County, Montana, described as follows:

[Property Description]
A Tract of land - in the SE 1/4 NE 1/4 Described as follows:
Tract 1 of COS5467 16-28-22
TO HAVE AND TO HOLD unto the Grantees, and to their heirs and assigns, forever.

Dated: 8. 23, 2007

Anthony Serio
[Type Husband's name]
Irene Serio
[Type wife's name]

STATE OF MONTANA)
 : ss.
County of Flathead

On this 28 day of Aug, in the year 2007, before me, [insert name], Notary Public for the State of Montana, personally appeared Irene Serio, and Anthony J. Serio husband and wife, known to me [or proved to me on the oath of _____] to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

200700026620 Fees: \$22.00 by: VW
QUIT CLAIM DEED by IRENE J SERIO
Date 8/30/2007 Time 3:09 PM Page: 1 of 2
Paula Robinson, Flathead County Montana

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.



(OFFICIAL SEAL)

Pat Miller
Notary Public for the State of Montana
Residing at *Helena* Montana
My Commission expires: *7/26/2010*



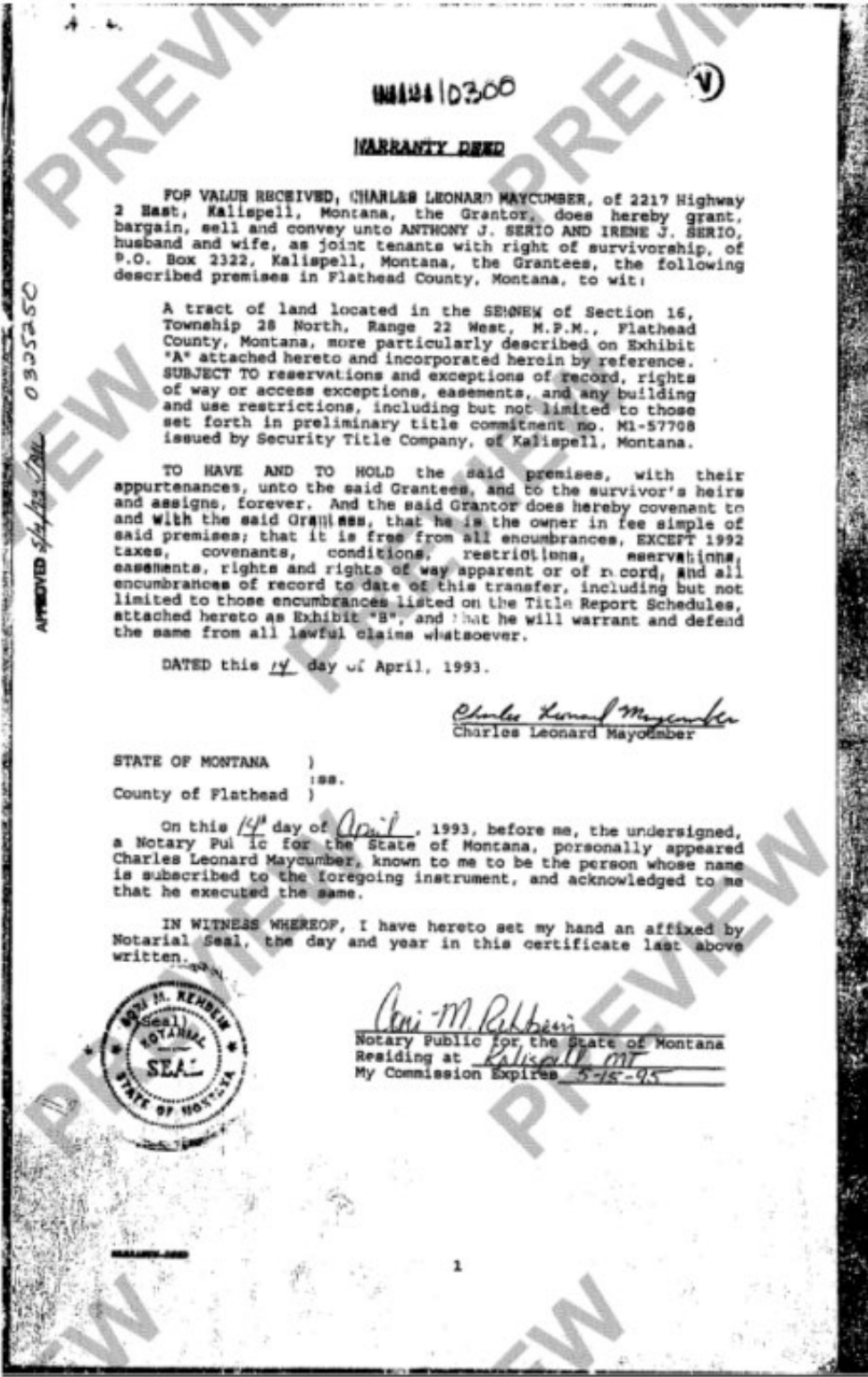
Document Number: 200700026620
Page: 2

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1993 Warranty Deed



10300



WARRANTY DEED

FOR VALUE RECEIVED, CHARLES LEONARD MAYCUMBER, of 2217 Highway 2 East, Kalispell, Montana, the Grantor, does hereby grant, bargain, sell and convey unto ANTHONY J. SERIO AND IRENE J. SERIO, husband and wife, as joint tenants with right of survivorship, of P.O. Box 2322, Kalispell, Montana, the Grantees, the following described premises in Flathead County, Montana, to wit:

A tract of land located in the SE1/4 of Section 16, Township 28 North, Range 22 West, M.P.M., Flathead County, Montana, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. SUBJECT TO reservations and exceptions of record, rights of way or access exceptions, easements, and any building and use restrictions, including but not limited to those set forth in preliminary title commitment no. M1-57708 issued by Security Title Company, of Kalispell, Montana.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantees, and to the survivor's heirs and assigns, forever. And the said Grantor does hereby covenant to and with the said Grantees, that he is the owner in fee simple of said premises; that it is free from all encumbrances, EXCEPT 1992 taxes, covenants, conditions, restrictions, reservations, easements, rights and rights of way apparent or of record, and all encumbrances of record to date of this transfer, including but not limited to those encumbrances listed on the Title Report Schedules, attached hereto as Exhibit "B", and that he will warrant and defend the same from all lawful claims whatsoever.

DATED this 14 day of April, 1993.

Charles Leonard Maycumber
Charles Leonard Maycumber

STATE OF MONTANA)
) ss.
County of Flathead)

On this 14th day of April, 1993, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Charles Leonard Maycumber, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed by Notarial Seal, the day and year in this certificate last above written.



Ani M. Robbins
Notary Public for the State of Montana
Residing at Kalispell, MT
My Commission Expires 5-15-95

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EXHIBIT "A"

93124 10300

COMMITMENT FOR TITLE INSURANCE

SCHEDULE C

File No.: M1-87708

The land referred to in this Commitment is described as follows:

A tract of land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 28 North, Range 22 West, N.P.M., Flathead County, Montana, described as follows:

Commencing at the East quarter corner of said Section 16; thence North 01°21'00" East along the East line of said Section 16 a distance of 673.47 feet to the Point of Beginning of the tract being described; thence North 89°38'00" West a distance of 16.32 feet to a point in the centerline of a 60.00 foot Declared County Road; thence the following courses along the centerline of said County Road North 05°21'52" East a distance of 140.16 feet to the beginning of a 198.50 foot radius curve; thence along said curve, a distance of 139.89 feet through a central angle of 40°22'40" to the left; thence North 35°00'48" West a distance of 121.28 feet to a point; thence North 48°06'55" West a distance of 254.47 feet to the beginning of a 182.00 radius curve; thence along said curve a distance of 11.35 feet through a central angle of 03°34'19" to the right; thence leaving the centerline of said County Road North 01°21'00" East a distance of 129.33 feet to a point; thence South 89°04'00" East a distance of 318.37 feet to the Northeast corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence South 01°21'00" West along the West line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 673.47 feet to the Point of Beginning.

EXCEPTING THEREFROM Public Roads and Rights of Way.

Tract 1 on Certificate of Survey No. 5467.

EXCEPTING liability as to all minerals in or under said land including but not limited to metals, oil, gas, coal, stone, and mineral rights, mining rights and easement rights or other relating thereto, whether expressed or implied.

SCHEDULE C
ALTA Commitment-1998
Recorder Form No. 11124

STATE OF MONTANA, }
County of Flathead }

Recorded at the request of P. Springer
this 4 day of May 1993 at 10:30 o'clock AM and recorded in
the records of Flathead County, State of Montana.

Fee \$ 12- Pd.

RECEPTION NO. 93124 10300
RETURN TO Robert M Springer
PO Box 1112
Kal. Mt. 59903-1112

Sharon A. Haden Field
Flathead County Clerk and Recorder
DKrausfle
Deputy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Ref: ORC-C

July 27, 2022

SENT VIA REGULAR MAIL and UPS DELIVERY

Ms. Irene Serio

[Redacted]

Ms. Irene Serio

[Redacted]

Ms. Irene Serio

[Redacted]

Ms. Irene Serio

[Redacted]

Ms. Irene Serio

[Redacted]

Ms. Irene Serio

[Redacted]

RE: Leaking Tanks at 185 West Valley Drive, Kalispell, Montana
Request for Access to Property

Dear Ms. Serio,

On July 14, 2022, EPA received a report via the National Response Center of 11 large, abandoned, leaking tanks containing possibly 50,000 gallons of an asphalt sealer in Kalispell, Montana. Photos of the tanks are available at: https://response.epa.gov/site/site_profile.aspx?site_id=15686. EPA has identified the property where the tanks are located as 185 West Valley Drive, Kalispell, Montana (parcel number 0325250) (“Property”). Montana property records indicate that you are the current owner of the Property.

EPA has reason to believe that the tanks contain “Tac Oil,” which is a black viscous bitumen product that is used as a binder for road surfacing and roofing, and photos show that some of the tanks have begun leaking. In reviewing data provided to EPA by the Montana Department of Environmental Quality (MDEQ) the Tac Oil appears to be a combination of large, straight-chained aliphatic compounds, as well multi-ringed aromatic compounds. These include several chemicals that are identified as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). For example, the MDEQ data documents the presence of xylene, ethylbenzene, and naphthalene as part of the oil mixture. These compounds are known human carcinogens. In addition, the Tac Oil poses a direct threat to waters of the United States. The drainage from the Site leads directly into Ashley Creek, which feeds into the Flathead River and Flathead Lake. If the leaking continues or if a catastrophic failure of one of the degrading tanks occurs there will be a

direct impact on water quality and aquatic life in the watershed system.

EPA is planning to deploy a response team to investigate and address the abandoned tanks pursuant to its authority provided under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 9601, the Clean Water Act (“CWA”), 33 U.S.C. §1251 et seq. (1972), and the Oil Pollution Act (“OPA”), 33 U.S.C. §2701 et seq. (1990).

Please sign and return the enclosed Consent for Access to Property form, which will allow EPA and its contractors to investigate and address the tanks on your Property. You can email to me a scanned copy or a photo image of the signed form and, thereafter, send the original to me in the enclosed self-addressed envelope. Please use the following email address: Rae.Sarah@epa.gov.

We need to act quickly. If we do not hear back from you within the next seven days, we will assume that you are denying access and will consider requesting access from the federal district court in Montana. If you have any questions, please contact me at (303) 312-6839 or Rae.Sarah@epa.gov. If you are represented by legal counsel, please provide me with the name of your attorney and contact information. Please give this matter your immediate attention. We appreciate your cooperation in this matter.

Sincerely,

SARAH RAE Digitally signed by
SARAH RAE
Date: 2022.07.27
10:56:33 -06'00'

Sarah Rae
Enforcement Attorney
EPA Region 8, Office of Regional Counsel

Enclosures: Consent for Access Form
Self-Addressed Return Envelope

cc: Paul Peronard, EPA On-Scene Coordinator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Phone 800-227-8917
<http://www.epa.gov/region08>

CONSENT FOR ACCESS TO PROPERTY

Name of Property Owner: Irene Serio

Location of Property: 185 West Valley Drive, Kalispell, Montana

The legal description of the Property: S16, T28 N, R22 W, TR 1AB IN SE4NE4, ASSR #0000325250

I hereby give my consent to officers, employees, and authorized representatives of the United States Environmental Protection Agency (EPA) entering and having continued access to the above referenced Property for the following purposes:

1. Conducting field inspections and investigations;
2. Taking samples of soil, surface water, ground water, or air or any materials stored on or disposed of on the Property as may be determined to be necessary;
3. Other actions related to the investigation of surface or subsurface contamination; and
4. Taking a response action at the Property.

I recognize that these actions are undertaken by the EPA pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, as amended, the Clean Water Act (CWA), 33 U.S.C. §1251 *et seq.* (1972), and the Oil Pollution Act (OPA), 33 U.S.C. §2701 *et seq.* (1990).

Signature of Property Owner

Date



KARLA E. PAINTER
Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 8329
Missoula, MT 59807
101 East Front Street, Suite 401
Missoula, MT 59802
Phone: (406) 542-8851
FAX: (406) 542-1476
E-mail: Karla.Painter@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

IN THE MATTER OF 185 WEST
VALLEY DRIVE, KALISPELL,
MONTANA

Case No. MJ-22- -M-KLD

EX PARTE APPLICATION OF
THE UNITED STATES FOR
ADMINISTRATIVE WARRANT
TO ENTER AND ACCESS
PROPERTY

The United States of America, on behalf of the United States Environmental Protection Agency (EPA), seeks a civil, administrative warrant authorizing EPA and its representatives to enter and access, for a period of 12 weeks, an unoccupied property located at 185 West Valley Drive, Kalispell, Montana (the Property). In July 2022, EPA received a report of a substance leaking from abandoned tanks on the Property and has identified hazardous substances including polynuclear

aromatic hydrocarbons (PAHs), xylene, ethylbenzene, and naphthalene at the Property. EPA has determined that entry on the Property is necessary to conduct further investigation, including sampling of the substance and the tanks' contents, and to take action to remove the hazardous substances.

By this Application, the United States requests authority to enter onto, move about, and remain on the Property so that EPA and its authorized representatives can undertake investigatory, response, and removal actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as follows:

- Perform site preparations, including clearing debris and vegetation to establish a work area and creating vehicle access to the 11 tanks;
- Inspect and assess property conditions;
- Inspect and obtain samples and analysis from the tanks and the surrounding area, including soil, surface water, and groundwater, as needed;
- Remove and recycle and/or dispose of the contents of the tanks;
- Recycle and/or dispose of the tanks and debris;
- Excavate and remove any contaminated soils and materials;
- Restore disturbed areas;
- Take photographs and video to document the above activities; and

- Conduct other actions as needed to respond to the release or threatened release of hazardous substances, pollutants, or contaminants.

These activities are described in greater detail in the Declaration of Paul Peronard attached to this Application as Exhibit 1 (Peronard Declaration). EPA estimates that the work on the Property will take approximately 11-12 weeks. Weather and other factors may cause delays to this timeline. The United States is seeking access for 12 weeks. Should EPA require more than 12 weeks to conduct the work authorized in the Administrative Warrant, the United States will return to the Court to seek an extension.

As detailed in the Peronard Declaration, EPA used its best efforts to obtain consent from the owner to enter and access the Property. Despite these efforts, EPA was unable to obtain consent from the owner to access the Property.

For the reasons set forth in this Application, the United States respectfully requests that the Court issue the attached Administrative Warrant for entry and access to the Property pursuant to CERCLA, 42 U.S.C. § 9604(e).

STATUTORY BACKGROUND

CERCLA authorizes this Court to allow EPA to engage in investigations at the Property. Congress enacted CERCLA in response to widespread concern over the serious environmental and health hazards posed by industrial pollution. *See United States v. Bestfoods*, 524 U.S. 51, 55 (1998). CERCLA's purpose "is to

facilitate the prompt clean-up of hazardous waste sites.” *In re Bell Petrol. Servs.*, 3 F.3d 889, 894 (5th Cir. 1993); *see also Burlington N. & Santa Fe Ry. v. United States*, 556 U.S. 599, 602 (2009). To further that purpose, Congress provided EPA with “the authority and the funds necessary to respond expeditiously to serious hazards without being stopped in its tracks by legal entanglement before or during the hazard clean-up.” *Boarhead Corp. v. Erickson*, 923 F.2d 1011, 1019 (3d Cir. 1991); *see also J.V. Peters & Co. v. EPA*, 767 F.2d 263, 264 (6th Cir. 1985). One of the agency’s tools for prompt and effective response action is the access and information gathering authority of CERCLA, 42 U.S.C § 9604(e).

“As its name implies, CERCLA is a comprehensive statute that grants the President broad power to command government agencies and private parties to clean up hazardous waste sites.” *Key Tronic Corp. v. United States*, 511 U.S. 809, 814 (1994); *see also New Jersey Dep’t of Env’t Prot. v. Briar Lake Dev. Corp.*, 736 F. Supp. 62, 66 (D.N.J. 1990) (recognizing that property access for remediation is one of the “tools necessary for a prompt and effective response to the problems of national magnitude resulting from hazardous waste disposal”). Specifically, CERCLA provides that any officer, employee, or representative of the EPA is authorized to take actions, including sampling and inspection, “at a vessel, facility, establishment, place, property, or location” if there is “a reasonable basis to believe there may be a release or threat of release of a hazardous substance or

pollutant or contaminant.” 42 U.S.C. § 9604(e)(1). CERCLA further provides than any officer, employee, or representative of EPA is authorized to enter at reasonable times any “vessel, facility, establishment, or other place or property where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this title,” and is further authorized to inspect and obtain samples from any such location or property. *Id.* § 9604(e)(3)-(4).

If consent is not granted regarding any request for access under CERCLA, EPA may issue an order directing compliance with the request or ask the Attorney General to commence a civil action to compel compliance with the request. *Id.* § 9604(e)(5). Notably, CERCLA states that EPA may “secur[e] access or obtain[] information in any other lawful manner.” *Id.* § 9604(e)(6). A court may thus issue an ex parte administrative warrant for access and entry when EPA is unable to obtain consent to access property from an owner. *In re Yoder’s Slaughterhouse Site*, 519 F. Supp. 2d 574, 579 (D. Md. 2007); *Bunker Hill Co. Lead & Zinc Smelter v. EPA*, 658 F.2d 1280, 1285 (9th Cir. 1981).

FACTUAL BACKGROUND

A. The Property

The Property consists of a single parcel (assessor number 0325250) located at 185 West Valley Drive in Kalispell, Montana and owned by Irene Serio.

Peronard Declaration ¶¶ 5, 7. The Property is a vacant field with some trees and does not contain a residence. *Id.* ¶ 26. Several residences are located within a few hundred feet of the Property. *Id.* ¶ 27. The Property is uphill of Ashley Creek, which feeds into the Flathead River and Flathead Lake. *Id.* ¶¶ 6, 32.

B. Response to Contamination

On July 14, 2022, a neighbor called the National Response Center¹ and reported that 11 large, abandoned tanks containing possibly 50,000 gallons of materials were at the Property and leaking. *Id.* ¶¶ 5-6. The reporting party expressed concern about the leak reaching well water and a nearby waterway. *Id.* ¶ 6. The report was conveyed to EPA, which assigned an EPA On-Scene Coordinator (OSC) to investigate the size and nature of the contamination and assess the need for preventive actions and cleanup. *Id.* ¶¶ 3, 5-6.

EPA promptly gathered information about the Property from state and local authorities. The Montana Department of Environmental Quality (MDEQ) provided EPA with sampling data taken at the Property in 2018 that documented the presence of PAHs, xylene, ethylbenzene, and naphthalene. *Id.* ¶¶ 11, 16. Exposure to these hazardous substances can harm the respiratory system and central nervous system and has been linked to cancer. *Id.* ¶ 18. MDEQ believed

¹ The National Response Center provides a 24-hour hotline staffed by the U.S. Coast Guard for reporting oil and chemical spills into the environment anywhere in the United States. See <https://www.epa.gov/emergency-response/national-response-center>.

the property owner, Irene Serio, likely kept tack oil—a substance used as a binder for pavement surfacing—at the Property. *Id.* ¶¶ 14-15. MDEQ had conducted prior investigations related to the Property and Ms. Serio’s road dust suppression business and had found that she had handled crude oil tank bottoms and various industrial wastes. *Id.* ¶ 13. MDEQ had previously attempted to contact Ms. Serio on multiple occasions through mail, family members, a process server, and social media but was unsuccessful. *Id.* ¶ 12.

Flathead County previously issued a notice of violation of a community ordinance to Ms. Serio for trash and debris on the Property. *Id.* ¶ 9. The County attempted to contact Ms. Serio on multiple occasions in 2018, 2019, and 2020 through mail, and by posting a notice on the Property, but was unsuccessful. *Id.*

The EPA OSC visited the Property on August 2 and 3, 2022, and observed conditions without entering the Property. *Id.* ¶ 26. Tanks were visibly degrading and unstable or leaning and lacked any secondary containment for a spill. *Id.* ¶ 28. The largest tank was located on the top of a small rise, a few feet from the road, and was visibly leaning and in danger of rolling on to the road. *Id.* ¶¶ 28, 30. A dark substance was leaking from the largest tank and pooling on the ground. *Id.* ¶ 29. The leaking substance was sampled without entering the Property, and it contained PAHs. *Id.*

Based on the above information, the OSC determined there will be a direct impact on the watershed if the leaking continues or if a catastrophic failure of one of the degrading tanks occurs. *Id.* ¶ 31. He further determined that EPA needs access to the Property to investigate and cleanup the leaking tanks. *Id.* ¶¶ 33-35.

C. EPA's Attempts to Obtain Consensual Access

EPA has repeatedly attempted to obtain consent from Ms. Serio to access the Property to investigate and address the leaking tanks. The OSC attempted to contact Ms. Serio by telephone, placing six calls for her and leaving messages where possible. *Id.* ¶ 21. On July 27, 2022, the OSC spoke by phone with Ms. Serio and requested consent to access the Property to investigate and respond to the leaking tanks. *Id.* ¶ 22. Ms. Serio stated her refusal to consent. *Id.* Ms. Serio stated that she kept tack oil and pine resin at the Property and was not afraid of EPA, and that EPA “couldn't do s***” on her property. *Id.* In addition, on July 27, 2022, in response to an email requesting consent to access the property, Ms. Serio's husband Anthony Serio wrote “f*** you and the horse you rode in on.” *Id.* ¶ 23.

EPA also mailed six letters requesting consent to the last known addresses associated with Ms. Serio in Montana and Florida, including the Property. *Id.* ¶ 24. The letters included a standard consent to access form. *Id.* EPA received

confirmation that the letter sent to a Columbia Falls, Montana address was received and signed for by Ms. Serio or her agent. *Id.* ¶ 25.

D. The Planned Field Work on the Property

To investigate and cleanup the leaking tanks located on the Property, EPA and its representatives need access and entry to the Property to conduct planned field work authorized by CERCLA. The activities for which entry is required are:

- Perform site preparations, including clearing debris and vegetation to establish a work area and creating vehicle access to the 11 tanks;
- Inspect and assess property conditions;
- Inspect and obtain samples and analysis from the tanks and the surrounding area, including soil, surface water, and groundwater, as needed;
- Remove and recycle and/or dispose of the contents of the tanks;
- Recycle and/or dispose of the tanks and debris;
- Excavate and remove any contaminated soils and materials;
- Restore disturbed areas;
- Take photographs and video to document the above activities; and
- Conduct other actions as needed to respond to the release or threatened release of hazardous substances, pollutants, or contaminants.

Id. ¶ 35.

Completion of this work on the Property should take no longer than 11-12 weeks. *Id.* ¶ 43. Due to potential weather delays and other factors that may cause delay, it is not possible to predict a precise timeframe for completing the field work on the Property. *Id.* ¶ 44. Should EPA require more than 12 weeks to conduct the field work on the Property, the United States would return to the Court to seek an extension. *Id.*

ARGUMENT

The United States applies to this Court to enforce its right to enter the Property to evaluate and address the release or threat of release of hazardous substances, pollutants, or contaminants. The EPA has a reasonable basis to believe that hazardous substances, including PAHs, xylene, ethylbenzene, and naphthalene, were released at the Property and may be present in soils at the Property, and that active leaks and the deteriorated and unstable condition of the tanks pose a threat of further releases.

As discussed above, EPA made extensive efforts to obtain consensual access to the Property. The Court should grant EPA an ex parte warrant to ensure that EPA can promptly carry out necessary field work at the Property to assess the contamination and threat of release and take appropriate response actions to remove the hazardous substances and prevent further release.

A. Issuance of the Requested Ex Parte Administrative Warrant is Authorized by Law

CERCLA grants EPA and its representatives a right to enter and access property associated with a release or threat of release of hazardous substances, pollutants, or contaminants, including property where entry is needed to determine the appropriate response or to effectuate a response action. 42 U.S.C.

§ 9604(e)(1), (3). EPA’s access authority under CERCLA is broad, and not limited to the statutory procedures and methods specifically set forth in Section 9604(e)(1)-(5). Rather, Section 9604(e)(6) provides that “[n]othing in this subsection shall preclude [EPA] from securing access . . . in any other lawful manner.”

The Supreme Court has recognized that “[w]hen Congress invests an agency with enforcement and investigatory authority, it is not necessary to identify explicitly each and every technique that may be used in the course of executing” that authority. *Dow Chem. Co. v. United States*, 476 U.S. 227, 233 (1986).

Federal courts routinely enforce EPA’s right of access under environmental statutes—including CERCLA—even where those statutes do not expressly provide for warrant authority. *See, e.g., Koppers Indus. Inc. v. EPA*, 902 F.2d 756 (9th Cir. 1990) (affirming district court’s denial of motion to quash warrant issued under CERCLA); *Nat’l-Standard Co. v. Adamkus*, 881 F.2d 352 (7th Cir. 1989) (upholding issuance of warrant to EPA under analogous statute, the Resource

Conservation and Recovery Act); *Mobil Oil Corp. v. EPA*, 716 F.2d 1187 (7th Cir. 1983) (upholding issuance of warrant to EPA under the Clean Water Act); *Pub. Serv. Co. of Ind. v. EPA*, 682 F.2d 626 (7th Cir. 1982), cert. denied, 459 U.S. 1127 (1983) (upholding issuance of warrant to EPA under the Clean Air Act).

Further, the probable cause standard for issuance of civil administrative warrants is less stringent than the criminal probable cause standard. As the United States Supreme Court has stated,

Whether the Secretary proceeds to secure a warrant or other process, with or without prior notice, his entitlement to inspect will not depend on his demonstrating probable cause to believe that conditions in violation of OSHA exist on the premises. **Probable cause in the criminal sense is not required. For the purposes of an administrative search such as this, probable cause justifying the issuance of a warrant may be based not only on specific evidence of an existing violation but also on a showing that “reasonable legislative or administrative standards for conducting an . . . inspection are satisfied** with respect to a particular [establishment].”

Marshall v. Barlow’s, Inc., 436 U.S. 307, 320-21 (1978) (emphasis added) (quoting *Camara v. Mun. Court of S.F.*, 387 U.S. 523, 538 (1967)). Determining “cause” to support the issuance of an administrative warrant does not require a showing of probability of a violation, but only of specific evidence that is sufficient to support a “reasonable suspicion” of circumstances designated by statute. See *W. Point-Pepperell, Inc. v. Donovan*, 689 F.2d 950, 958 (11th Cir. 1982).

B. EPA Has Satisfied the Warrant Requirements Under CERCLA

The standard for EPA to obtain an administrative warrant under CERCLA is satisfied here. *United States v. Tarkowski*, 248 F.3d 596, 599 (7th Cir. 2001) (“[t]he requirement of reasonable basis is easily satisfied”); *United States v. Fisher*, 864 F.2d 434, 438 (7th Cir. 1988) (the standard is “undemanding”). EPA need only show that “there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance or pollutant or contaminant.” 42 U.S.C. § 9604(e)(1). Further, EPA need not prove that any minimum amount of hazardous substances have been, or are threatened to be released. *United States v. Mountaineering Ref. Co.*, 886 F. Supp. 824, 828 (D. Wyo. 1995); *Tarkowski*, 248 F.3d at 599 (“there is nothing in [CERCLA] about magnitude”). Here, EPA has shown through a sworn declaration, sampling information, and photos that PAHs, xylene, ethylbenzene, and naphthalene have been detected at the Property, that a large tank is leaking a substance containing PAHs on the ground, and that the degrading and leaning tanks threaten further releases to the environment. Peronard Decl. ¶¶ 16, 28-32. PAHs, xylene, ethylbenzene, and naphthalene are listed hazardous substances under CERCLA. 40 C.F.R. § 302.4; Peronard Decl. ¶ 17.

C. The Court Should Issue the Warrant Ex Parte

This Court has the authority to issue the warrant ex parte under CERCLA where, as here, the “owner will not consent to the EPA’s proposed activities,” and

the EPA has a reasonable basis to believe there may be a release or threat of release of a hazardous substance at the property. *In re Yoder's Slaughterhouse*, 519 F. Supp. 2d at 579; *see also Bunker Hill*, 658 F.2d at 1285; *Nat'l-Standard*, 685 F. Supp. at 1048-49 (ex parte warrant issued to EPA to perform inspections under analogous federal environmental statute); *In re Search Warrant*, No. MISC.NO.04-00079-MPT, 2004 WL 1368848, at *4 (D. Del. June 10, 2004) (concluding that ex parte application for warrant under Clean Water Act was proper and not indicative of bad faith by EPA).

Here, EPA has produced sufficient evidence to justify issuance of the administrative warrant ex parte pursuant to CERCLA. As described above, EPA has undertaken extensive efforts to communicate with the owner of the Property and has been unable to obtain consensual access. Peronard Decl. ¶¶ 20-25. Further, the Property is vacant and unoccupied, and the planned field work will not interfere with any ongoing activity at the Property or with the use and enjoyment of neighboring properties. Under these circumstances and in view of the valid public interest to be served by EPA's entry onto the Property, the issuance of an administrative warrant is justified. The Court should issue the warrant ex parte for a period of 12 weeks for EPA to conduct the necessary field work at the Property.

CONCLUSION

For the reasons stated, the Court should grant the Application of the United States and issue the requested ex parte warrant.

JESSE A. LASLOVICH
Acting United States Attorney

/s/ Karla E. Painter
KARLA E. PAINTER
Assistant U.S. Attorney

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

/s/ Nicholas Morales
NICHOLAS MORALES
Trial Attorney
Environment and Natural Resources Division
Environmental Enforcement Section
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 616-8860
E-mail: nicholas.morales@usdoj.gov

Exhibit 1
to Application for Warrant
(Declaration of Paul Peronard)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**IN THE MATTER OF 185 WEST
VALLEY DRIVE, KALISPELL,
MONTANA**

Case No. MJ-22- -M-KLD

DECLARATION OF PAUL PERONARD

DECLARATION OF PAUL PERONARD

I, PAUL PERONARD, in accordance with 28 U.S.C. § 1746, declare as follows:

Background

1. I am an On-Scene Coordinator (“OSC”) with the U.S. Environmental Protection Agency (“EPA”), Region 8, in Denver, Colorado.
2. I have worked for EPA for 37 years and for EPA Region 8’s Superfund/CERCLA Program for the last 24 years overseeing and performing environmental investigation and cleanup activities. I have a bachelor’s degree in chemical engineering from Georgia Institute of Technology.
3. As an OSC, I am responsible for coordinating the investigation and cleanup of sites contaminated with hazardous substances, pollutants or contaminants, and oil pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq* and the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq*.
4. I am familiar with the records and files in EPA’s possession relating to the leaking tanks located at 185 West Valley Drive, Kalispell, Montana. I either have personal knowledge of the matters stated herein, have discussed these matters with others at EPA with personal knowledge, or have reviewed documents in EPA’s files relating to these matters created and maintained in the ordinary course of its business activities.
5. On July 14, 2022, EPA received a report via the National Response Center of 11 large, abandoned tanks located at 185 West Valley Drive, Kalispell, Montana containing possibly 50,000 gallons of various oils. The reporting party was a private citizen who stated that there was a present discharge of oils from these tanks.
6. After receiving the report from the National Response Center, EPA reached out to the reporting party via phone and email to gather additional information. The reporting party provided EPA with photos of the tanks located at 185 West Valley Drive, Kalispell, Montana. The reporting party stated that he lives near the property and expressed concern about the leaking tanks contaminating the nearby well water and the nearby creek. The

reporting party explained that the tanks are located uphill from the nearby creek. The reporting party also explained that Flathead County has been trying to contact the property owner to address the tanks, but the County has not had any luck tracking down the property owner.

7. The Montana Cadastral database, a 2007 Quitclaim Deed, and a 1993 Warranty Deed show that Irene J Serio is the current owner of the property located at 185 West Valley Drive, Kalispell, Montana (assessor number 0000325250) (“Serio Property”). See Exhibit A.
8. On July 18, 2022, I reached out to Travis Ahern, the Flathead County Attorney, via email to inquire about the Serio Property.
9. On July 20, 2022, Mr. Ahern provided me with the following information via email and advised that I also reach out to the Montana Department of Environmental Quality (“MDEQ”):
 - a. Flathead County received a complaint regarding the trash and debris on the Serio Property in the summer of 2018.
 - b. Flathead County made efforts to contact Irene Serio via mail to issue a notice of violation of the County’s decay ordinance. The County’s efforts were unsuccessful.
 - c. Flathead County conducted site visits at the Serio Property in summer of 2018, summer of 2019, January 2020, February 2020, and July 2020.
 - d. Flathead County posted a notice of violation on the property in 2020 with no response from Irene Serio.
 - e. Flathead County provided a list of potential addresses for Irene Serio.
10. On July 18, 2022, I reached out to MDEQ via email to inquire about the Serio Property.
11. On July 18, 2022, MDEQ provided EPA with its case files regarding the Serio Property, including various potential contact information for Irene Serio and data from MDEQ’s August 22, 2018 sampling event on the Serio Property (“MDEQ Sampling Data”).
12. MDEQ’s case files summarize MDEQ’s efforts in 2005 and from 2011 through 2017 to contact the property owner, Irene Serio, on multiple occasions through process server, mail, family members, and social media. MDEQ’s attempts to contact Irene Serio were unsuccessful.
13. MDEQ’s case files included Field Investigation Reports relating to the Serio Property dated July 18, 1996 and November 12, 2013. The 1996 report notes that Irene Serio and her husband operated Sure-Seal, a road dust suppression business, from the Serio Property. The 1996 report also notes that they were picking up crude oil tank bottoms from local businesses and veneer dryer precipitation residue from wood product plants. The 2013 report notes that one of the tanks on the Serio Property had a “Road Oiling” label.
14. Based on the MDEQ Sampling Data, MDEQ concluded that the material leaking from the tanks on the Serio Property is likely tack oil.

15. Tack oil is a black viscous product that is used as a binder for pavement surfacing.
16. I have reviewed the MDEQ Sampling Data and noted that MDEQ sampled the tanks on the Serio Property. The sampling results showed the presence of polynuclear aromatic hydrocarbons (“PAHs”), xylene, ethylbenzene, and naphthalene.
17. PAHs, xylene, ethylbenzene, and naphthalene are listed as “Hazardous Substances” under CERCLA.
18. The following health effects are associated with exposure to PAHs, xylene, ethylbenzene, and naphthalene.
 - a. Exposure to PAHs has been linked to lung, skin, and stomach cancer.
 - b. Exposure to xylene can cause irritation of the skin, eyes, nose, and throat; difficulty in breathing; impaired function of the lungs; impaired memory; stomach discomfort; possible changes in the liver and kidneys; headaches; lack of muscle coordination; dizziness; confusion; and changes in one's sense of balance. Some people exposed to very high levels of xylene for a short period of time have died.
 - c. Exposure to ethylbenzene has been linked to an increased risk of leukemia and hematopoietic cancers.
 - d. Exposure to naphthalene can result in hemolytic anemia, cataracts, and respiratory toxicity.
19. The MDEQ Sampling Data also showed that the material sampled had a combination of straight-chained aliphatic compounds and multi-ringed aromatic compounds, which is commonly characteristic of a material that is derived from coal.

EPA’s Efforts to Obtain Consensual Access to the Serio Property

20. EPA has sought to obtain consensual access to the Serio Property from Irene Serio (“Property Owner”), multiple times for the purposes of investigating and responding to conditions.
21. On July 27, 2022, I attempted to contact Irene Serio by telephone, placing six phone calls to six different phone numbers:
 - a. I called a phone number with a 406 area code at 12:55p MT, an operator stated “call could not be completed as dialed”
 - b. I called a phone number with a 561 area code at 12:59p MT, an operator stated “number disconnected or not in service”
 - c. I called a phone number with a 561 area code at 1:00p MT, an operator stated “number disconnected or not in service”
 - d. I called a phone number with a 561 area code at 1:00p MT, no one answered, and I received a message that the voicemail box was full.

- e. I called a phone number with a 406 area code at 1:09p MT, no one answered, and I left a voicemail message containing my contact information.
 - f. I called a phone number with a 406 area code at 1:10p MT, an individual answered and identified himself as the son of Irene Serio. This individual requested that I contact his father and provided me with an @aol.com email address.
22. On July 27, 2022, Irene Serio called me. During this conversation, I verbally requested that she sign EPA's Consent for Access form to allow EPA access to the Serio Property to investigate and cleanup the leaking tanks. Irene Serio stated that she bought the tack oil and pine resin that is in the tanks from a local timber company and that she and her husband planned to use the material in their paving business. She also stated that she was not afraid of the EPA and that "the EPA cannot do s****" and hung up on me.
23. On July 27, 2022, EPA emailed Irene Serio and her husband requesting access to the Serio Property. Her husband responded via email saying, "f*** you and the horse you rode in on".
24. On August 1, 2022, EPA mailed six letters addressed to Irene Serio to the following addresses requesting access to the Serio Property. The letters included a standard Consent for Access Form:
- a. An address in Kalispell, Montana,
 - b. An address in Columbia Falls, Montana,
 - c. An address in Bigfork, Montana,
 - d. A post office box in Whitefish, Montana,
 - e. An address in Lake Worth, Florida, and
 - f. A post office box in Lake Worth, Florida.
25. EPA received confirmation from USPS that the letter that was sent to Irene Serio at a Columbia Falls, Montana address was successfully delivered on August 6, 2022 and "Serio" signed the USPS delivery receipt as "an agent" for Irene Serio.

EPA's Need for Access to the Serio Property

26. I visited the Serio Property on August 2 and 3, 2022, and observed the property conditions from the public right of way without entering the property. The property was mostly grass and trees and was scattered with debris. There was no visible house located on the property. I observed an abandoned trailer that did not look to be habitable.
27. I also observed several residences located within a few hundred feet of the Serio Property as well as children in the area.
28. I observed the 11 tanks on the Serio Property. They were visibly degrading and noticeably lacked any form of secondary containment. I observed rusting on the tanks and some of the tanks appeared to be unstable or leaning. The largest tank was visibly leaning and seemed to be propped up by the nearby fence post. This tank was located on the top of a small rise, just

a few feet from the nearby road, West Valley Drive. Photos of the tanks are included as Exhibit B.

29. I observed a dark material leaking from the large tank that was leaning on the fence post. This material was pooling on the ground in the public right of way. My team sampled this material. The sampling data shows that the material contains a large number of PAHs. The sampling data also shows that the Total Petroleum Hydrocarbons are 10,000 mg/kg, which is approximately 1%. This low ratio indicates that the material is likely a coal-tar-based pavement sealcoat, such as tack oil.
30. Based on my observations and the current state of the degrading tanks, I am concerned that the tanks are at risk of failing. I am concerned that the large tank that is leaning on the fence post will become unstable, roll onto the public right of way, crack, and empty its contents onto the road. I am also concerned that the other tanks will continue to deteriorate, and the amount of material leaking from these tanks will increase.
31. I believe that there will be a direct impact on the nearby watershed system if the leaking continues or if a catastrophic failure of one of the degrading tanks occurs.
32. The Serio Property is located approximately 1/3 of a mile from Ashley Creek. Ashley Creek is a tributary to Flathead River. The Flathead River flows into Flathead Lake.
33. EPA employees, agents, contractors, and other representatives need unrestricted access and entry to the Serio Property to perform the field work described below.
34. Access is needed for approximately twelve-week period, starting on the date the Warrant is issued.

Nature of Field Work

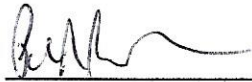
35. To investigate and cleanup the leaking tanks that are located on the Serio Property, EPA and its contractors and subcontractors need access to the Serio Property to conduct certain field work. Specifically, this field work will involve:
 - a. Performing site preparations;
 - b. Inspecting and assessing property conditions;
 - c. Inspecting and obtaining samples and analysis from the tanks and the surrounding area, including soil, surface water, and groundwater, as needed;
 - d. Removing and recycling and/or disposing of the contents of the tanks;
 - e. Recycling and/or disposing of the tanks and debris;
 - f. Excavating and removing any contaminated soils and materials;
 - g. Restoring disturbed areas;

- h. Taking photographs and video to document the above activities; and
 - i. Conduct other actions as needed to respond to the release or threatened release of hazardous substances, pollutants, or contaminants.
36. Performing site preparations will involve clearing debris and vegetation to establish a work area, creating vehicle access to the 11 tanks and reinforcing the dirt driveway to support the vehicles and equipment that will be needed.
 37. Inspecting and assessing property conditions will involve assessing the integrity and functionality of the tanks to determine the best method for extracting the material from the tanks.
 38. Inspecting and obtaining samples and analysis from the tanks will involve sampling each of the tanks individually and assessing whether the materials contain any halogenated or chlorinated solvents and/or polychlorinated biphenyls (PCBs).
 39. Removing and recycling and/or disposing of the contents of the tanks will involve bringing in a suitable tanker to heat and pump the material out of the tanks and into the transportation vehicle. The material will either be taken to a recycling facility, or the material will be solidified and properly disposed of.
 40. Recycling and/or disposing of the tanks and debris will involve cutting the tanks into smaller, moveable pieces and transporting them to a metal recycler.
 41. If necessary, EPA will excavate and remove any contaminated soils and materials.
 42. Restoring the disturbed areas will involve leveling out the area and reseeded and controlling for noxious weeds.
 43. EPA plans to start its field work at the Serio Property as soon as the Warrant is issued. The initial phase of the field work will involve performing site preparations, inspecting site conditions, and obtaining samples. I anticipate that the initial phase of field work will take approximately one week. It is expected to take 3 days to perform site preparations and 2 days to inspect site conditions and obtain initial samples. The second phase of the field work will involve emptying the contents of the tanks, and recycling and/or disposing of the tanks, tank contents, and debris. I anticipate that the second phase of the field work will take approximately eight weeks. It is expected to take 2-4 days to empty the contents of each of the tanks; assuming that all 11 of the tanks are full, this could take up to 45 days to complete. It is expected to take 15 days to recycle and/or dispose of the tanks, tank contents, and debris. The final phase of field work will involve excavating and removing contaminated soils and materials and restoring disturbed areas. I anticipate that the final phase of the field work will take approximately 2-3 weeks.

44. Due to potential weather delays and other factors that may cause delay, it is not possible for me to predict the precise timeframe for completing the field work on the Serio Property. However, I anticipate completing entry and field work within the twelve-week access period requested in the United States' Application. If EPA needs to conduct field work beyond the twelve-week period requested, it will return to the Court to seek an extension.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 1, 2022



Paul Peronard
On Scene Coordinator
Region 8, U.S. EPA

Exhibit A

Montana Cadastral Database results for 185 West Valley Drive, Kalispell, Montana 59901

Property Record Card | Property

07-3965-16-1-02-01-0000

General Information	
Property Number	07-3965-16-1-02-01-0000
Assessment Code	0000325250
County	Flathead
Levy District	07-032403
Neighborhood	207.150.0
Situs Address	185 WEST VALLEY DR, KALISPELL, MT 59901
Legal Description	S16, T28 N, R22 W, TR 1AB IN SE4NE4, ASSR #0000325250
Owner Name	SERIO IRENE J
Property Last Updated	7/14/2022

Value History		
Year	Market Value	Taxable Value
2020	\$69,560	\$939
2021	\$67,468	\$911

M

2007 Quitclaim Deed

Return to
Irene Serio
6726 Lawrence Woods
court
Lake Worth, FL 33462

QUITCLAIM DEED
(Terminate Joint Tenancy)

FOR A VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned, Anthony J. Serio and Irene J. Serio, husband and wife, hereby remise, release and quitclaim unto Irene J. Serio, and _____, husband and wife, of Kalispell Montana, _____, as tenants in common, real property in Flathead County, Montana, described as follows:

0325250
APPROVED 8/30/07

[Property Description]
a Tract of land - in the SE 1/4 NE 1/4 Described as follows:
Tract 1 of COS5467 16-28-22
TO HAVE AND TO HOLD unto the Grantees, and to their heirs and assigns, forever.

Dated: 8. 23, 2007

Anthony Serio
[Type husband's name]
Irene Serio
[Type wife's name]

STATE OF MONTANA)
: ss.
County of Flathead

On this 23 day of Aug, in the year 2007, before me, [insert name], Notary Public for the State of Montana, personally appeared Irene Serio, and Anthony J. Serio husband and wife, known to me [or proved to me on the oath of _____] to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

200700026620 Fees: \$22.00 by: VW
QUIT CLAIM DEED by IRENE J SERIO
Date 8/30/2007 Time 3:09 PM Page: 1 of 2
Paula Robinson, Flathead County Montana

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.



(NOTARIAL SEAL)

Pat Miller
Notary Public for the State of Montana
Residing at *Bellevue* Montana
My Commission expires: *7/26/2010*



Document Number: 200700026620
Page: 2

1993 Warranty Deed

1993 0306

V

WARRANTY DEED

FOR VALUE RECEIVED, CHARLES LEONARD MAYCUMBER, of 2217 Highway 2 East, Kalispell, Montana, the Grantor, does hereby grant, bargain, sell and convey unto ANTHONY J. SERIO AND IRENE J. SERIO, husband and wife, as joint tenants with right of survivorship, of P.O. Box 2322, Kalispell, Montana, the Grantees, the following described premises in Flathead County, Montana, to wit:

A tract of land located in the SE1/4 of Section 16, Township 28 North, Range 22 West, M.P.M., Flathead County, Montana, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. SUBJECT TO reservations and exceptions of record, rights of way or access exceptions, easements, and any building and use restrictions, including but not limited to those set forth in preliminary title commitment no. M1-57708 issued by Security Title Company, of Kalispell, Montana.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantees, and to the survivor's heirs and assigns, forever. And the said Grantor does hereby covenant to and with the said Grantees, that he is the owner in fee simple of said premises; that it is free from all encumbrances, EXCEPT 1992 taxes, covenants, conditions, restrictions, reservations, easements, rights and rights of way apparent or of record, and all encumbrances of record to date of this transfer, including but not limited to those encumbrances listed on the Title Report Schedules, attached hereto as Exhibit "B", and that he will warrant and defend the same from all lawful claims whatsoever.

DATED this 14 day of April, 1993.

Charles Leonard Maycumber
Charles Leonard Maycumber

STATE OF MONTANA)
) ss.
County of Flathead)

On this 14th day of April, 1993, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Charles Leonard Maycumber, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed by Notarial Seal, the day and year in this certificate last above written.



Ron M. Rendell
Notary Public for the State of Montana
Residing at Kalispell, MT
My Commission Expires 5-15-95

0305250
APPROVED 5/14/93 JDL

EXHIBIT "A"

93124 10300

COMMITMENT FOR TITLE INSURANCE

SCHEDULE C

File No.: MI-87708

The land referred to in this Commitment is described as follows:

A tract of land located in the SE 1/4 of Section 16, Township 28 North, Range 22 West, M.P.M., Flathead County, Montana, described as follows:

Commencing at the East quarter corner of said Section 16; thence North 01°21'00" East along the East line of said Section 16 a distance of 673.47 feet to the Point of Beginning of the tract being described; thence North 89°38'00" West a distance of 16.32 feet to a point in the centerline of a 60.00 foot declared County Road; thence the following courses along the centerline of said County Road North 05°21'52" East a distance of 140.18 feet to the beginning of a 198.50 foot radius curve; thence along said curve, a distance of 139.89 feet through a central angle of 40°22'40" to the left; thence North 35°00'48" West a distance of 121.28 feet to a point; thence North 48°06'55" West a distance of 254.47 feet to the beginning of a 182.00 radius curve; thence along said curve a distance of 11.35 feet through a central angle of 03°34'19" to the right; thence leaving the centerline of said County Road North 01°21'00" East a distance of 129.33 feet to a point; thence South 89°04'00" East a distance of 318.37 feet to the Northeast corner of said SE 1/4; thence South 01°21'00" West along the East line of said SE 1/4 a distance of 673.47 feet to the Point of Beginning.

EXCEPTING THEREFROM Public Roads and Rights of Way.

Tract 1 on Certificate of Survey No. 5467.

EXCEPTING liability as to all minerals in or under said land including but not limited to metals, oil, gas, coal, stone, and mineral rights, mining rights and easement rights or other relating thereto, whether expressed or implied.

SCHEDULE C
ALTA Commitment-1958
Recorder Form No. 11724

STATE OF MONTANA, }
County of Flathead } ss

Recorded at the request of P. Springer
this 4 day of May 1993 at 10:30 o'clock AM and recorded in
the records of Flathead County, State of Montana.

Fee \$ 12 Pd.

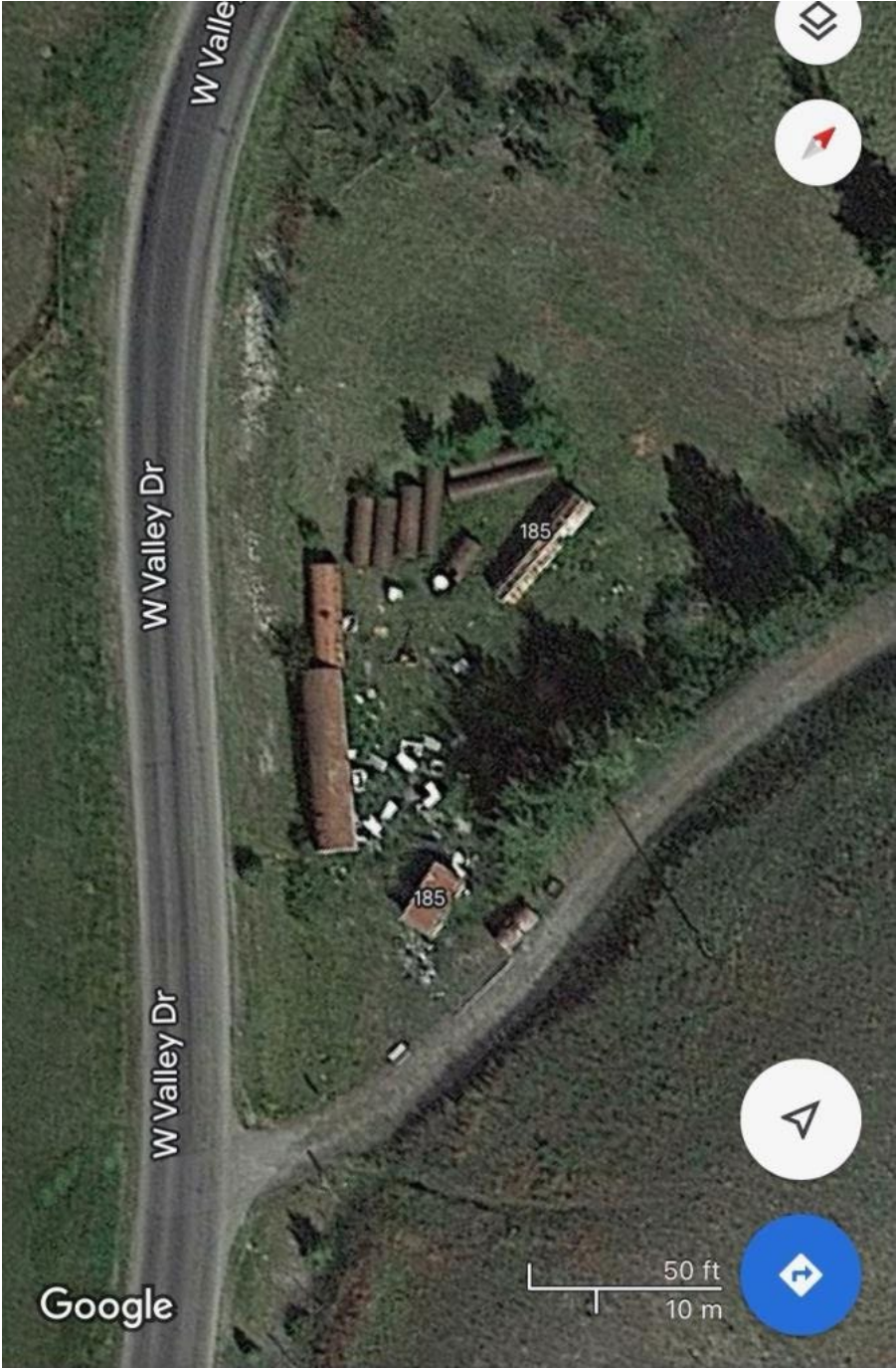
RECEPTION NO. 93124 10300

RETURN TO Patrick M Springer
PO Box 1112
Kal. Mt. 59903-1112

Susan H. Kasper
Flathead County Clerk and Recorder
W. Kasper
Deputy

Exhibit B

Overhead view of the tanks



View of the tanks from West Valley Drive



Close up view of the hydrocarbon product that has been released or discharged from a tank into the right a way drainage pathway along West Valley Drive (Photo taken on August 2, 2022)



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**IN THE MATTER OF 185 WEST
VALLEY DRIVE, KALISPELL,
MONTANA**

Case No. MC-22-18-M-KLD

**ADMINISTRATIVE WARRANT
TO ENTER AND ACCESS
PROPERTY**

To: Any employee, contractor, subcontractor, or representative of the United States Environmental Protection Agency (EPA), and any United States Marshal for the District of Montana:

The Court finds that an Ex Parte Application for an Administrative Warrant has been submitted on behalf of the United States Environmental Protection Agency (EPA), and that the Application demonstrates sufficient justification for entry onto and remaining on the property located at 185 West Valley Drive in Kalispell, Montana, assessor number 0325250 (the Property), for EPA to implement the investigation, response, and removal actions discussed below.

The Court finds entry is authorized by Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e), and is for the purpose of conducting response activities pursuant to CERCLA. The response activities to be taken at the Property include entry, inspection, sampling, removal, and performing response actions, and activities related thereto. These activities to be taken at the Property are for the purpose of

responding to the release or threatened release of hazardous substances, pollutants, or contaminants on or from the Property.

The Court further finds good cause to issue this Administrative Warrant; that this Warrant is reasonable; and that there is a reasonable basis to believe that authorizing entry to implement response activities under CERCLA is appropriate and that the actions discussed below are authorized.

NOW, THEREFORE, YOU ARE HEREBY AUTHORIZED TO:

Enter on and into, move about, remain on or about, and re-enter as necessary, the Property at all reasonable times for the purpose of conducting inspection, sampling, removal and other response activities pursuant to 42 U.S.C. § 9604 of CERCLA, as follows:

- Perform site preparations, including clearing debris and vegetation to establish a work area and creating vehicle access to the 11 tanks;
- Inspect and assess property conditions;
- Inspect and obtain samples and analysis from the tanks and the surrounding area, including soil, surface water, and groundwater, as needed;
- Remove and recycle and/or dispose of the contents of the tanks;
- Recycle and/or dispose of the tanks and debris;
- Excavate and remove any contaminated soils and materials;
- Restore disturbed areas;

- Take photographs and video to document the above activities; and
- Conduct other actions as needed to respond to the release or threatened release of hazardous substances, pollutants, or contaminants.

All owners, occupants, and persons in control of the Property shall permit the persons specified above to enter the Property for the purposes specified above.

A copy of this Warrant shall be sent via overnight mail to the owner of the Property and/or her agent at the Columbia Falls, Montana address last used to contact her.

An electronic copy of this Warrant shall be sent to the owner of the Property via the email address last used to contact her.

A copy of this Warrant shall be delivered to the occupant, if any, of the Property at the time of entry.

The duration of the entry, investigation, and activity authorized by this Warrant shall be 12 weeks, beginning immediately upon signing of the Warrant. If the United States is unable to complete the above-described activities within the specified time, the United States may return to this Court to seek an appropriate extension of the Warrant.

The United States Marshal is authorized to assist EPA in such manner as may be reasonably necessary and appropriate to execute this Warrant.

Upon completion of the above-described activities, a prompt return of this Warrant shall be made to this Court showing that the Warrant has been executed and that the entry has been completed within the specified time period above.

Dated this 7th day of September, 2022.



Honorable Kathleen L. DeSoto
United States Magistrate Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**IN THE MATTER OF 185 WEST
VALLEY DRIVE, KALISPELL,
MONTANA**

Case No. 9:22-MC-18-KLD

RETURN OF SERVICE OF WARRANT

The Administrative Warrant to Enter and Access Property dated September 7, 2022, was received by me on September 8, 2022. I have been informed by an employee of the United States Environmental Protection Agency (EPA) that a copy of the warrant was sent via overnight US mail to an address in Columbia Falls, Montana at which EPA had previously made contact with the property owner or her agent. Further, an electronic copy of the warrant was emailed to an @AOL.com email address at which EPA had previously made contact with the property owner or her husband. The property owner responded via email on September 23, 2022 and requested that for any physical samples collected at the property, split samples be mailed to a Bigfork, Montana address. EPA mailed the split samples to the property owner via FedEx on September 27, 2022.

A complete statement of entry is as follows: Between September 15, 2022 and October 27, 2022, personnel from EPA and EPA contractors accessed the property at 185 West Valley Drive, Kalispell, Montana (the Property) to conduct inspection, sampling, removal and other response activities associated with the investigation and cleanup of leaking tanks on the Property. EPA personnel included: Paul Peronard, EPA On-Scene Coordinator, Megan Schutte, EPA On-Scene Coordinator, and Taylor Bowker, EPA On-Scene Coordinator.

The following activities were performed on the Property from Thursday, September 15, 2022 through Saturday, September 24, 2022:

- Mobilization of equipment and personnel.
- The Property was cleared of trash and debris.
- All tanks were sampled.
- Two stabilization pits were installed.
- Tank work began on September 19, 2022.
- One roll-off box of solidified waste was shipped off-site for proper disposal.
- Two roll-off boxes of steel were sent off-site for recycling.
- Tanks 1-5 were drained and disassembled.
- All material from the emptied tanks was stabilized.

The following activities were performed on the Property from Monday, September 26, 2022 through Saturday, October 1, 2022:

- Tanks 6-8 were drained and disassembled.
- Commenced draining and disassembling tank 9.
- All material from the emptied tanks was stabilized.
- 11 roll-off boxes of solidified waste were shipped off-site for proper disposal.
- 2 roll-off boxes of scrap metal were shipped off-site for recycling.

The following activities were performed on the Property from Monday, October 3, 2022 through Saturday, October 8, 2022:

- Tanks 9-12 were drained and disassembled.
- Commenced draining and disassembling tank 13.
- All material from the emptied tanks was stabilized.

- 10 roll-off boxes and 13 dump truck loads of solidified waste were shipped off-site for proper disposal.
- 2 roll-off boxes of scrap metal were shipped off-site for recycling.

The following activities were performed on the Property from Monday, October 10, 2022 through Saturday, October 15, 2022:

- Tank 13 was drained and disassembled.
- Commenced draining and disassembling tank 14.
- 10 roll-off boxes and 14 dump truck loads of solidified waste were shipped off-site for proper disposal.
- Solidification Pit #1 was closed, backfilled, and prepped for final grading.

The following activities were performed on the Property from Monday, October 17, 2022 through Saturday, October 29, 2022:

- Tank 14 was drained and disassembled.
- Two roll-off boxes and five dump truck loads of solidified waste were hauled off-site for proper disposal.
- In total, approximately 508 tons of solidified waste were hauled off-site for proper disposal.
- Three roll-off boxes of scrap metal were hauled off-site for recycling.
- In total, approximately 270 cubic yards of scrap metal was hauled off-site for recycling.
- The ground surface was graded to promote proper precipitation drainage and seeded for revegetation.
- Soil sampling was completed.
- Site equipment was decontaminated and demobilized.

- EPA personnel and EPA contractors were demobilized.

Entry has been completed within the 12-week period specified by the warrant.

Dated this _____ day of _____, 2022.

**PAUL
PERONARD**
Paul Peronard
On Scene Coordinator
Region 8, U.S. EPA

Digitally signed by PAUL
PERONARD
Date: 2022.11.01 12:14:55
-06'00'



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

Ref: 8SEM-EMR

ACTION MEMORANDUM

SUBJECT: Approval and Funding for an Emergency Removal Action at the Valley Drive Abandoned Slurry Site, Kalispell, Flathead County, Montana

FROM: Paul R. Peronard
Federal On-Scene Coordinator

THRU: Kerry Guy, Supervisor
Emergency Response Section

Deirdre Rothery, Manager
Emergency Management Branch

TO: Betsy Smidinger, Director
Superfund and Emergency Management Division

Site ID#: D5B4

I. PURPOSE

The purpose of this Action Memorandum is to document verbal approval received on Monday September 12, 2022, from the Superfund and Emergency Management Division Director, Betsy Smidinger to initiate the emergency removal action, request, document approval, and funding to continue the emergency removal action described herein for the Valley Drive Abandoned Slurry Site (Site) located in Kalispell, Flathead County, Montana. This emergency removal action involves the cleanup and proper disposal of hydrocarbon waste and debris abandoned by a former construction company. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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). In July and August 2022, the U.S. Environmental Protection Agency (EPA) requested access from the property owner via phone, email, and mail to inspect and conduct cleanup activities on-site (Property). However, these requests were denied. As a result, the EPA, via the Department of Justice (DOJ), sought an Administrative Warrant for Access from the U.S. District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022.

This emergency removal action is not considered nationally significant or precedent-setting. This removal action will not establish any precedent for how future response actions will be taken and will not commit the EPA to a course of action that could have a significant impact on future responses or resources.

II. SITE CONDITIONS AND BACKGROUND

Site Name:	Valley Drive Abandoned Slurry Site
Superfund Site ID (SSID):	B8D5
NRC Case Number:	1341537
SEMS Number:	MTN0008211537
Site Location:	Kalispell, Flathead County, Montana
Lat/Long:	48.19233477/ -114.3959344
National Priorities List (NPL) Status:	Non-NPL
Expected Removal Start Date:	September 2022

A. Site Description

1. Removal Site Evaluation

On July 14, 2022, the EPA received a report (NRC-1341537) via the National Response Center of 11 large, abandoned tanks containing possibly 50,000 gallons of an asphalt sealer in Kalispell, Montana. The EPA identified the property where the abandoned tanks are located as 185 West Valley Drive, Kalispell, Montana (parcel number 0325250) (“Property”). The reporting party stated that several of the tanks were leaking. In a follow up conversation with the reporting party, the EPA Phone Duty Officer (Martin McComb) was told that the tanks had been abandoned on the property for a long period of time, and that both Flathead County and the MDEQ had attempted to contact the Property owner to require a cleanup of the property.

In follow up to the NRC call, an EPA On-Scene Coordinator (OSC) contacted the Flathead County Attorney’s Office for information on July 18, 2022. The OSC spoke to Mr. Travis Ahern, Flathead County Attorney. On July 20, 2022, Mr. Ahern provided the EPA with the following information via email and advised that EPA also reach out to the Montana Department of Environmental Quality (“MDEQ”):

- a. Flathead County received a complaint regarding the trash and debris on the Property in the summer of 2018.
- b. Flathead County made efforts to contact the Property owner via mail to issue a notice of violation of the County’s decay ordinance. The County’s efforts were unsuccessful.
- c. Flathead County conducted site visits at the Property in summer of 2018, summer of 2019, January 2020, February 2020, and July 2020.

- d. Flathead County posted a notice of violation on the property in 2020 with no response from the Property owner.
- e. Flathead County provided a list of potential addresses for the Property owner.

On July 18, 2022, MDEQ provided the EPA with its case files regarding the Property, including various potential contact information for the Property owner and data from MDEQ's August 22, 2018, sampling event on the Property ("MDEQ Sampling Data"). MDEQ's case files summarize their efforts in 2005 and from 2011 through 2017 to contact the property owner on multiple occasions through process server, mail, family members, and social media. MDEQ's attempts to contact the Property owner were unsuccessful.

MDEQ's case files included Field Investigation Reports relating to the Property dated July 18, 1996, and November 12, 2013. The 1996 report notes that the Property owner and her husband operated Sure-Seal, a road dust suppression business, from the Property. The 1996 report also notes that they were picking up crude oil tank bottoms from local businesses and veneer dryer precipitation residue from wood product plants. The 2013 report notes that one of the tanks on the Property had a "Road Oiling" label. Based on the MDEQ Sampling Data, MDEQ concluded that the material leaking from the tanks on the Property was likely tack oil. Tack oil is a black viscous product that is used as a binder for pavement surfacing. The MDEQ sampling results showed the presence of polynuclear aromatic hydrocarbons ("PAHs"), xylene, ethylbenzene, and naphthalene. PAHs, xylene, ethylbenzene, and naphthalene are listed as "Hazardous Substances" in Section 101 of CERCLA.

On July 27, 2022, an EPA OSC attempted to reach the Property owner by phone by calling six different phone numbers that are associated with the Property owner. Eventually, the EPA OSC successfully contacted the Property owner via telephone to discuss the situation at the Site. After a truncated conversation the Property owner informed the OSC that "...EPA couldn't do s***." And hung up. In addition, the EPA sent written requests for access to the property to several addresses associated with the Property owner and via email. In response, the EPA received the response "f*** you and the horse you rode in on."

On August 2 and 3, 2022 an EPA OSC and START contractor conducted a brief Removal Site Inspection (RSI). This inspection included viewing the property from the County right-of-way without entering the property; sampling a black, viscous material that had leaked from one of the tanks onto the County right-of-way, assessing the area in the vicinity of the Site, and walking the potential drainage path from the property to nearby Ashley Creek. The OSC observed that several of the tanks were leaking, including the largest tank, which appeared to be leaning against fence posts adjacent to the right-of-way. The drainage system along the right-of-way leads toward Ashley Creek, via a mixture of residential and commercial properties. Sampling results from the EPA investigation were consistent with the MDEQ's investigations and confirmed the presence of the PAHs, xylene, ethylbenzene, and naphthalene (see Administrative Record).

During the August RSI the OSC noted that although the Site was partially enclosed by a barbwire fence, it was easily passible, and the driveway into the Site open. There were numerous instances of graffiti on several of the tanks, and a smattering of clothes and other human detritus that indicated that some human entry to the Site was ongoing. During the August 2022 RSI, children were observed playing in and about the adjacent residential properties.

Photos of the Site and tanks are available in Attachment 2 and at: https://response.epa.gov/site/site_profile.aspx?site_id=15686

2. Physical Location

The Site consists of a single property located on the outskirts of Kalispell, Flathead County, Montana. Flathead County is a rural county located in northwestern Montana. In 2020 the US Census reported that Kalispell, MT had a population of 24,558. Kalispell is the county seat for Flathead County which reported a population of 104,357 as of the 2020 census. A Site map is provided in Attachment 2.

The area surrounding the Site is a mixture of residential and commercial properties. The Site is near the 80th percentile of potential Environmental Justice areas regionally and on a state-wide basis.

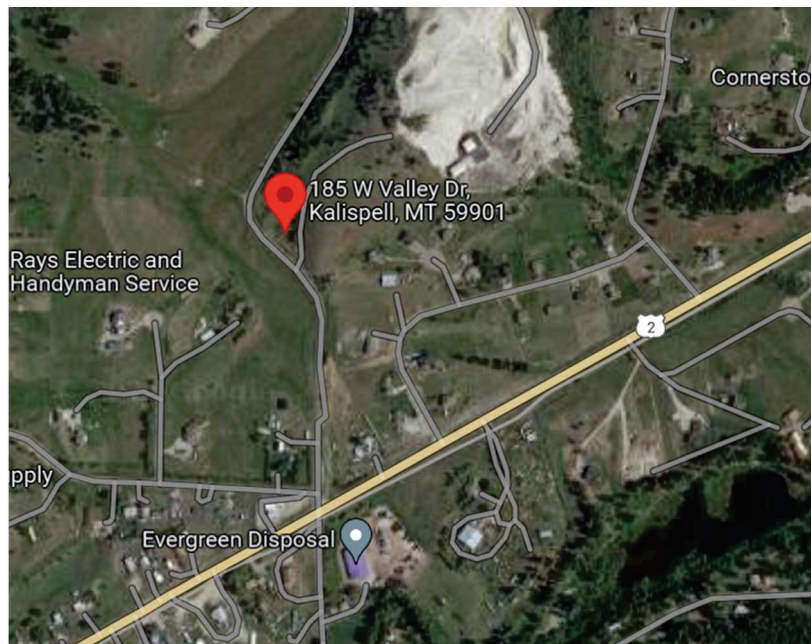


Figure 1-Site Aerial Photograph

3. Site Characteristics

The Site consists of an approximately ½-acre lot that holds 11 abandoned tanks ranging up to 20,000 gallons in size. The Site is also littered with trash and other debris, such as discarded refrigerators and a ramshackle trailer. The Site drains to the southwest into a drainage ditch that runs along West Valley drive and flows into Ashley Creek. Ashley Creek is a tributary to the Flathead River, which

subsequently flows into Flathead Lake. To the south and east of the Site is a largely residential area consisting of single-family homes. To the west is a large open field where horses were seen grazing, and to the southwest a mixture of residential and commercial properties. To the immediate north is a gravel quarry. According to the National Oceanographic and Atmospheric Administration website Kalispell has a “warm- summer humid continental climate,” characterized with long, cold, and moderately snowy winters, hot and dry summers, and short springs and autumns. Snow usually occurs from late October to March. Due to the temperature extremes and precipitation, ongoing weathering is expected to continue to physically degrade the abandoned tanks

Climate data for Kalispell, Montana (Glacier Park International Airport), 1981–2010 normals, ^[19] extremes 1899–present													[hide]
Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Year
Record high °F (°C)	56 (13)	64 (18)	73 (23)	85 (29)	95 (35)	102 (39)	104 (40)	105 (41)	99 (37)	86 (30)	69 (21)	58 (14)	105 (41)
Mean maximum °F (°C)	44.9 (7.2)	48.3 (9.1)	60.6 (15.9)	73.6 (23.1)	82.4 (28.0)	87.2 (30.7)	93.6 (34.2)	94.1 (34.5)	85.4 (29.7)	71.7 (22.1)	55.1 (12.8)	44.8 (7.1)	96.1 (35.6)
Average high °F (°C)	31.2 (-0.4)	36.0 (2.2)	45.6 (7.6)	56.1 (13.4)	65.1 (18.4)	72.0 (22.2)	81.4 (27.4)	81.4 (27.4)	69.9 (21.1)	54.9 (12.7)	39.6 (4.2)	29.7 (-1.3)	55.3 (12.9)
Average low °F (°C)	16.4 (-8.7)	18.2 (-7.7)	25.1 (-3.8)	31.2 (-0.4)	38.5 (3.6)	44.5 (6.9)	48.0 (8.9)	46.5 (8.1)	38.4 (3.6)	29.4 (-1.4)	24.0 (-4.4)	15.8 (-9.0)	31.4 (-0.3)
Mean minimum °F (°C)	-8.8 (-22.7)	-3.4 (-19.7)	10.1 (-12.2)	20.0 (-6.7)	26.0 (-3.3)	32.7 (0.4)	37.4 (3.0)	36.1 (2.3)	27.4 (-2.6)	15.1 (-9.4)	5.0 (-15.0)	-6.6 (-21.4)	-18.0 (-27.8)
Record low °F (°C)	-38 (-39)	-36 (-38)	-29 (-34)	-5 (-21)	17 (-8)	26 (-3)	30 (-1)	30 (-1)	7 (-14)	-4 (-20)	-22 (-30)	-35 (-37)	-38 (-39)
Average precipitation inches (mm)	1.33 (34)	0.97 (25)	1.09 (28)	1.24 (31)	1.98 (50)	2.56 (65)	1.45 (37)	0.99 (25)	1.38 (35)	1.01 (26)	1.43 (36)	1.56 (40)	16.99 (432)
Average snowfall inches (cm)	12.7 (32)	7.9 (20)	5.7 (14)	2.2 (5.6)	0.2 (0.51)	0.3 (0.76)	0 (0)	0 (0)	trace	1.1 (2.8)	9.3 (24)	16.3 (41)	55.7 (141)
Average precipitation days (≥ 0.01 in)	13.7	10.8	11.8	10.7	12.4	12.5	7.7	7.3	8.2	9.3	13.0	14.4	131.8
Average snowy days (≥ 0.1 in)	10.5	7.7	5.2	2.7	0.3	0.1	0	0	0	1.2	7.4	11.8	46.9

Source: NOAA,^{[20][21]}

Figure 2-NOAA Weather Data for Kalispell, MT.

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

The known contaminants of concern at the Site are PAHs, xylene, naphthalene, and ethylbenzene, which are hazardous substances as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). There has been a release of these hazardous substances in the form of both the abandoned tanks, and the direct leaking of their contents on to the ground. Based on the MDEQ inspections it is estimated that the tanks contain a total of between 50,000 to 100,000 gallons of the purported “tack oil.” As the tanks continue to deteriorate from weather, vandalism, and structural degradation, there is a threat of a catastrophic failure of one or more of the tanks. In addition, because of its physical setting, it is possible if one of the fence posts holding up the largest tank collapses, the tank itself will roll onto West Valley Drive and break open. Montana, like much of the Mountain West, has also seen an increase in wildfires. For example, during the August 2022 RSI the “Elmo Fire” burned over 20,000 acres within 15 miles of the Site (see <https://inciweb.nwcg.gov/incident/8289>). A wildfire through this area could potentially cause the release of the entirety of the contents of the tanks.

A brief discussion of the harmful effects of the hazardous substances identified at the Site is provided herein:

PAHs

Polycyclic aromatic hydrocarbons (PAHs) are a group of over 100 different chemicals that are formed during the incomplete burning of coal, oil and gas, garbage, or other organic substances like tobacco or charbroiled meat. PAHs are usually found as a mixture containing two or more of these compounds, such as soot.¹

Health impacts

Mice that were fed high levels of one PAH during pregnancy had difficulty reproducing and so did their offspring. These offspring also had higher rates of birth defects and lower body weights. It is not known whether these effects occur in people. Animal studies have also shown that PAHs can cause harmful effects on the skin, body fluids, and ability to fight disease after both short- and long-term exposure. But these effects have not been seen in people. The Department of Health and Human Services (DHHS) has determined that some PAHs may reasonably be expected to be carcinogens. Some people who have breathed or touched mixtures of PAHs and other chemicals for long periods of time have developed cancer. Some PAHs have caused cancer in laboratory animals when they breathed air containing them (lung cancer), ingested them in food (stomach cancer), or had them applied to their skin (skin cancer).² In humans, occupational exposure to complex mixtures containing PAHs has been strongly associated with lung cancer, bladder cancer, and modestly to breast cancer.³

The formation of DNA adducts (a segment of DNA bound to a cancer-causing chemical) is a key event in mutagenicity and carcinogenicity by PAHs. Several PAHs are mutagenic and genotoxic (mutations in cancer genes and DNA damage), and induce DNA adduct formation in vitro and in vivo; they generally be regarded as genotoxic carcinogens. PAHs also promote tumor development. The species that have developed tumors after exposure to PAHs include mice, rats, rabbits, hamsters and monkeys. Tumor induction is not restricted to the site of administration. After oral exposure to PAHs, tumors have been observed typically in the liver, forestomach, lungs and mammary glands. PAHs painted onto skin have caused skin papillomas and carcinomas but also lung and liver tumors.⁴

PAHs are immunotoxic and cause immunosuppression. PAHs are also teratogenic, an agent that can disturb the development of the embryo or fetus.; teratogens halt the pregnancy or produce a congenital malformation (a birth

¹ Agency for Toxic Substances and Disease Registry (ATSDR). “Polycyclic Aromatic Hydrocarbons (PAHs) - ToxFAQs™” <https://www.atsdr.cdc.gov/toxfaqs/tfacts69.pdf>.

² *Ibid.*

³ Choi H, Harrison R, Komulainen H, et al. Polycyclic aromatic hydrocarbons. In: WHO Guidelines for Indoor Air Quality: Selected Pollutants. Geneva: World Health Organization; 2010. 6. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK138709/>

⁴ *Ibid.*

defect). Studies have shown prenatal exposure to particle-bound PAHs may increase the risk of bronchitis, asthma, and asthma like symptoms as well as a greater likelihood of cognitive development delay.⁵

Environmental fate

PAHs enter the air mostly as releases from volcanoes, forest fires, burning coal, and automobile exhaust. PAHs can occur in air attached to dust particles. Some PAH particles can readily evaporate into the air from soil or surface waters. PAHs can break down by reacting with sunlight and other chemicals in the air, over a period of days to weeks. PAHs enter water through discharges from industrial and wastewater treatment plants. Most PAHs do not dissolve easily in water. They stick to solid particles and settle to the bottoms of lakes or rivers. Microorganisms can break down PAHs in soil or water after a period of weeks to months. In soils, PAHs are most likely to stick tightly to particles; certain PAHs move through soil to contaminate underground water. PAH contents of plants and animals may be much higher than PAH contents of soil or water in which they live.⁶

Releases of PAHs to the atmosphere (volatilization) from freshly coal-tar-sealed pavement are tens of thousands of times higher than from unsealed pavement. Volatilization is a potential human-health concern because inhalation is an important pathway for human exposure to PAHs. Volatilization of sealed surfaces is highest just after application and decreases rapidly over the following weeks. Nonetheless, volatilization continues long after application—PAH releases to the atmosphere from parking lots sealed from 3 to 8 years prior to sampling were on average 60 times higher than PAH releases from unsealed pavement. The results suggest that PAH emissions from new coal-tar-based sealcoat applications each year nationwide (~1000 Mg) are larger than annual vehicle emissions of PAHs.⁷

Aquatic life impacts

Runoff from coal-tar-seal coated pavement is acutely toxic to aquatic biota. Exposure to runoff from coal-tar-sealed pavement collected as much as 42 days after sealcoat application resulted in 100 percent mortality to two commonly tested laboratory organisms: day-old fathead minnows and water fleas. In contrast, minnows and water fleas exposed to runoff from unsealed pavement experience no more than 10 percent mortality. When the minnows and water fleas were also exposed to simulated sunlight, which intensifies the toxicity of some PAHs, runoff collected 111 days (more than 3 months) after sealcoat application caused 100 percent mortality to both species and caused 100 percent mortality to water fleas even when diluted to 10 percent of its original strength. These results demonstrate that runoff from coal-tar-seal coated pavement continues to be toxic from aquatic organisms long after the 24- to 48-hour curing time. A subsequent collaborative study by researchers at the National Oceanic and Atmospheric

⁵ *Ibid.*

⁶ Agency for Toxic Substances and Disease Registry (ATSDR). 1995. “[Polycyclic Aromatic Hydrocarbons \(PAHs\) - ToxFAQs™](https://www.atsdr.cdc.gov/toxfaqs/tfacts69.pdf)” <https://www.atsdr.cdc.gov/toxfaqs/tfacts69.pdf>.

⁷ Water Resources. 2019. “Coal-Tar-Based Pavement Sealcoat, PAHs, and Environmental Health.” USGS. <https://www.usgs.gov/mission-areas/water-resources/science/coal-tar-based-pavement-sealcoat-pahs-and-environmental>. March.

Administration (NOAA), U.S. Fish and Wildlife Service, and University of Washington reported that coal-tar-sealcoat runoff is acutely lethal to juvenile coho salmon (*Oncorhynchus kisutch*) and causes a wide spectrum of abnormalities to zebrafish embryos. The study also reported that filtration of the runoff through a bioretention system substantially reduced toxicity.⁸

PAHs can be accumulated in aquatic organisms from water, sediments, and food. In fish and crustaceans Bioconcentration Factors have generally been reported in the range of 10-10,000. In general, bioconcentration was greater for the higher molecular weight compounds than for the lower molecular weight compounds. Fish and crustaceans readily assimilate PAHs from contaminated food, whereas mollusks and polychaete worms have limited assimilation. Biomagnification has not been reported because of the tendency of many aquatic organisms to eliminate these compounds rapidly. Sediment-associated PAHs can be accumulated by bottom-dwelling invertebrates and fish.⁹ In some areas of the United States, fish consumption advisories have been issued based on elevated concentrations of PAHs found in locally caught fish or shellfish.¹⁰

Summation

PAHs cause cancer, mutations, birth defects, and/or death in fish, wildlife, and invertebrates. Several PAHs are photoactivated, meaning that their toxic effects are greatly intensified when exposed to sunlight. The EPA has classified seven PAHs as probable human carcinogens, and 16 PAHs as Priority Pollutants.¹¹

Xylene

Scientists have found that the three forms of xylene have very similar effects on health. No health effects have been noted at the background levels that people are exposed to daily. Short-term exposure of people to high levels of xylene can cause irritation of the skin, eyes, nose, and throat; difficulty in breathing; impaired function of the lungs; delayed response to a visual stimulus; impaired memory; stomach discomfort; and possible changes in the liver and kidneys. Both short- and long-term exposure to high concentrations of xylene can also cause several effects on the nervous system, such as headaches, lack of muscle coordination, dizziness, confusion, and changes in one's sense of balance. Some people exposed to very high levels of xylene for a short period of time have died.¹² The mechanism of toxicity and interactions with endocrine system should be followed up, which is the main threat to human health.¹³ Xylene may produce reproductive

⁸ *Ibid.*

⁹ Agency for Toxic Substances and Disease Registry (ATSDR). 1995. "Toxicological Profile for Polycyclic Aromatic Hydrocarbons" <https://www.atsdr.cdc.gov/toxprofiles/tp69.pdf>. Pages 236-245

¹⁰ Agency for Toxic Substances and Disease Registry (ATSDR). <https://www.atsdr.cdc.gov/toxprofiles/tp69.pdf>. Pages 286.

¹¹ Water Resources. 2019. "Coal-Tar-Based Pavement Sealcoat, PAHs, and Environmental Health." USGS. <https://www.usgs.gov/mission-areas/water-resources/science/coal-tar-based-pavement-sealcoat-pahs-and-environmental>. March.

¹² Agency for Toxic Substances and Disease Registry (ATSDR). 2007. "Toxicological Profile for Xylene." <https://www.atsdr.cdc.gov/toxprofiles/tp71.pdf>. Page 5. August.

¹³ Niaz, Kamal. et al. 2005. "A review of environmental and occupational exposure to xylene and its health concerns." NIH. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4743476/>. November.

adverse effects; especially when exposures are chronic at low to high concentrations.¹⁴

Results of studies in animals indicate that large amounts of xylene can cause changes in the liver and harmful effects on the kidneys, lungs, heart, and nervous system. Short-term exposure to very high concentrations of xylene causes death in animals, as well as muscular spasms, incoordination, hearing loss, changes in behavior, changes in organ weights, and changes in enzyme activity. Animals that were exposed to xylene on their skin had irritation and inflammation of the skin. Long-term exposure of animals to low concentrations of xylene has not been well studied, but there is some information that long-term exposure of animals can cause harmful effects on the kidney (with oral exposure) or on the nervous system (with inhalation exposure).¹⁵

Information from animal studies is not adequate to determine whether xylene causes cancer in humans. Both the International Agency for Research on Cancer and EPA have found that there is insufficient information to determine whether xylene is carcinogenic and consider xylene not classifiable as to its human carcinogenicity.¹⁶ Associations between occupational exposure to xylenes and increased risk of leukemia, non-Hodgkin's lymphoma, and cancer of the rectum, colon, or nervous system have been reported.¹⁷ Lowengart et al. (1987) reported that children born to parents working in industries having xylene are at high risk for leukemia.¹⁸

Environmental Fate

The environmental fate of xylene has been well studied. After releasing into the environment xylene may be leached into groundwater and enter the human food chain.¹⁹ Volatilization of xylene is the dominant fate process. Xylene also adsorbs to soils and sediments and leaches into groundwater. Biodegradation is likely to be the only significant degradation process for xylene in subsurface soils and aquatic systems. Additional data on the partitioning of xylene released to soil and on longevity and the rates of biotransformation in soils and sediments, are important to further define potential pathways of human exposure.²⁰

Aquatic life impacts

¹⁴ Masekameni MD, Moolla R, Gulumian M, Brouwer D. Risk Assessment of Benzene, Toluene, Ethyl Benzene, and Xylene Concentrations from the Combustion of Coal in a Controlled Laboratory Environment. *Int J Environ Res Public Health*. 2018 Dec 31;16(1):95. doi: 10.3390/ijerph16010095. PMID: 30602669; PMCID: PMC6339150.

¹⁵ Agency for Toxic Substances and Disease Registry (ATSDR). 2007. "Toxicological Profile for Xylene." <https://www.atsdr.cdc.gov/toxprofiles/tp71.pdf>. Page 6. August.

¹⁶ *Ibid.*

¹⁷ IRIS. "Xylenes: CASRN 1330-20-7." https://iris.epa.gov/static/pdfs/0270_summary.pdf. Page 21.

¹⁸ Niaz, Kamal. et al. 2005. "A review of environmental and occupational exposure to xylene and its health concerns." NIH. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4743476/>. November.

¹⁹ *Ibid.*

²⁰ Agency for Toxic Substances and Disease Registry (ATSDR).2007. "Toxicological Profile for Xylene." <https://www.atsdr.cdc.gov/toxprofiles/tp71.pdf>. Page 255. August.

Xylenes are bioconcentrated in aquatic organisms to a limited extent. The degree of concentration is believed to be limited by the rapid metabolism and excretion of xylene from some aquatic species. However, additional data on the bioconcentration of xylene by aquatic organisms from contaminated surface waters and sediments would be useful. No information was found in the literature regarding the bioconcentration of xylene in plants or biomagnification of xylene among food chain trophic levels. Although bioconcentration has been predicted for all isomers of xylene because of their tendency to partition into the octanol phase of the octanol-water system, the rapid oxidation of xylene during metabolism seems to preclude bioconcentration in higher animal systems. Thus, biomagnification is not expected to be important for xylene. However, data on the bioaccumulation of xylene in commercially important fish and shellfish are needed since consumption of contaminated fish and shellfish may be a potential source of human exposure.²¹

Naphthalene

Naphthalene is produced from coal tar fractions by distillation and crystallization. The major constituent of creosote, used for timber impregnation, is naphthalene and its alkyl homologues.²² It is the most abundant single constituent of coal tar.²³

Health impacts

Human health hazards of concern from exposure to naphthalene include hemolytic anemia, cataracts, and respiratory toxicity towards the respiratory tract (both noncancer and cancer effects). Available data are inadequate to establish a causal association between exposure to naphthalene and cancer in humans; however naphthalene is a component of several complex mixtures associated with human cancer, including tobacco smoke and emissions from coal and wood combustion that have caused laryngeal carcinomas, epipharyngeal cancer, nasal carcinoma as well as colorectal cancer,²⁴ and household use of mothballs increased the risk of non-Hodgkin's Lymphoma²⁵; however, exposure of humans to naphthalene alone has not been studied for an association with the occurrence of cancer.²⁶

²¹ Agency for Toxic Substances and Disease Registry (ATSDR). 2007. "Toxicological Profile for Xylene." <https://www.atsdr.cdc.gov/toxprofiles/tp71.pdf>. Page 255.

²² Choi H, Harrison R, Komulainen H, et al. Polycyclic aromatic hydrocarbons. In: WHO Guidelines for Indoor Air Quality: Selected Pollutants. Geneva: World Health Organization; 2010. 6. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK138709/>

²³ U.S. EPA 1980. "Ambient Water Quality Criteria for Naphthalene." <https://www.epa.gov/sites/default/files/2019-03/documents/ambient-wqc-naphthalene-1980.pdf>.

²⁴ Agency for Toxic Substances and Disease Registry (ATSDR).. 2005. "Toxicological Profile for Naphthalene, 1-Methylnaphthalene, and 2-Methylnaphthalene." <https://www.atsdr.cdc.gov/toxprofiles/tp67.pdf>

²⁵ Choi H, Harrison R, Komulainen H, et al. Polycyclic aromatic hydrocarbons. In: WHO Guidelines for Indoor Air Quality: Selected Pollutants. Geneva: World Health Organization; 2010. 6. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK138709/>

²⁶ U.S. EPA. 1998. "Toxicological Review of Naphthalene." https://cfpub.epa.gov/ncea/iris/iris_documents/documents/toxreviews/0436tr.pdf. Pages 25-.34, 40. August.

In animals, nasal and pulmonary effects are identified as the critical effects from chronic inhalation exposure to naphthalene. Weight decreases, depression of the central nervous system, organ weight changes, and fetal developmental toxicity have also been observed in animals after subacute or subchronic oral exposure.²⁷ When mice or rats breathed in naphthalene vapors daily throughout their lives (2 years), cells in the lining of their noses or lungs were damaged. Some exposed female mice also developed lung tumors. Some exposed male and female rats developed nose tumors. When mice or rats were fed naphthalene in their food for 13 weeks, no tumors or other tissue changes were found. The only effect found was decreased body weight in rats that were fed naphthalene. Based on these results from animal studies, the U.S. Department of Health and Human Services concluded that naphthalene is reasonably anticipated to be a human carcinogen. The International Agency for Research on Cancer concluded that naphthalene is possibly carcinogenic to humans because there is enough evidence that naphthalene causes cancer in animals, but not enough evidence about such an effect in humans. Under the EPA 1986 cancer guidelines, naphthalene was assigned to Group C – possible human carcinogen.²⁸

Environmental Fate

Direct releases to the air account for more than 90% of the naphthalene entering environmental media. The primary discharge source is residential combustion of wood and fossil fuels. A small fraction (less than 10%) of naphthalene in water will be associated with particulate matter and will settle into sediments. Naphthalene that remains in surface water will be degraded through photolysis and biodegradation processes. Naphthalene undergoing photolysis has a half-life of about 71 hours. Biodegradation of this chemical also occurs quite rapidly, although degradation time will vary with naphthalene concentration, water temperature, and the availability of nutrients. Based on this value, significant bioaccumulation of naphthalene in the food-chain is not expected to occur.²⁹

Aquatic life impacts

The available data for naphthalene indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 2,300 and 620 $\mu\text{g/l}$, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.³⁰

²⁷ U.S. EPA. 1998. “Toxicological Review of Naphthalene.”

https://cfpub.epa.gov/ncea/iris/iris_documents/documents/toxreviews/0436tr.pdf. Pages 10-32. August.

²⁸ Agency for Toxic Substances and Disease Registry (ATSDR). 2005. “Public Health Statement for Naphthalene, 1-Methylnaphthalene, and 2-Methylnaphthalene.”

<https://www.atsdr.cdc.gov/ToxProfiles/tp67-c1-b.pdf>.

²⁹ U.S. EPA. 2003. “Health Effects Support Document for Naphthalene.”

https://www.epa.gov/sites/default/files/2014-09/documents/support_cc1_naphthalene_healtheffects.pdf. 9-9. February.

³⁰ U.S. EPA 1980. “Ambient Water Quality Criteria for Naphthalene.”

<https://www.epa.gov/sites/default/files/2019-03/documents/ambient-wqc-naphthalene-1980.pdf>.

Ethylbenzene

Exposure to high levels of ethylbenzene in air for short periods can cause eye and throat irritation. Exposure to higher levels can result in dizziness. Irreversible damage to the inner ear and hearing has been observed in animals exposed to relatively low concentrations of ethylbenzene for several days to weeks. Exposure to relatively low concentrations of ethylbenzene in air for several months to years causes kidney damage in animals. The International Agency for Research on Cancer (IARC) has determined that ethylbenzene is a possible human carcinogen, Group 2B. Benzene and ethylbenzene exposure is linked with an increased risk of leukemia and hematopoietic cancers.³¹ There are no studies evaluating the effects of ethylbenzene exposure on children or immature animals. It is likely that children would have the same health effects as adults. It is not known whether children would be more sensitive than adults to the effects of ethylbenzene. It is not known if ethylbenzene will cause birth defects in humans. Minor birth defects, including increased skeletal variations and decreases in growth, have occurred in newborn animals whose mothers were exposed to ethylbenzene in air during pregnancy.^{32,33}

Environmental Fate

Ethylbenzene is primarily partitioned to and transported in air. The partitioning and transport processes in water, soil, and aquatic life are also well characterized. In surface water, most of the ethylbenzene will evaporate. The remaining ethylbenzene is broken down through photooxidation and biodegradation. Ethylbenzene is moderately mobile and biodegrades in soil.³⁴ Limited data suggests that ethylbenzene does not bioconcentrate in aquatic organisms and is not likely to bioaccumulate in aquatic or terrestrial food chains. However, little information on food residues in commercially important fish and shellfish species is currently available. Additional monitoring data regarding the levels of ethylbenzene would be helpful for several commercially important fish and shellfish species.³⁵

Aquatic life impacts

The available data for ethylbenzene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 32,000 µg/l and would occur at lower concentrations among species that are more sensitive than those tested.³⁶

³¹ Masekameni MD, Moolla R, Gulumian M, Brouwer D. Risk Assessment of Benzene, Toluene, Ethyl Benzene, and Xylene Concentrations from the Combustion of Coal in a Controlled Laboratory Environment. *Int J Environ Res Public Health*. 2018 Dec 31;16(1):95. doi: 10.3390/ijerph16010095. PMID: 30602669; PMCID: PMC6339150.

³² Agency for Toxic Substances and Disease Registry (ATSDR). “ToxFAQs™ for Ethylbenzene.” <https://www.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=382&toxid=66>.

³³ Agency for Toxic Substances and Disease Registry (ATSDR). “ToxGuide.” <https://www.atsdr.cdc.gov/toxguides/toxguide-110.pdf>.

³⁴ *Ibid.*

³⁵ Agency for Toxic Substances and Disease Registry (ATSDR). 2010. “Toxicological Profile for Ethylbenzene.” <https://www.atsdr.cdc.gov/ToxProfiles/tp110.pdf>. Pages 195-196,

³⁶ U.S. EPA. 1980. “Ambient Water Quality Criteria for Ethylbenzene.” <https://www.epa.gov/sites/default/files/2019-03/documents/ambient-wqc-ethylbenzene-1980.pdf>.

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. Site Photos are provided in Attachment 2.

B. Other Actions to Date

1. Previous Actions

There are no previous EPA actions on the Site.

2. Current Actions

There are no current activities on the Site.

C. State and Local Authorities' Roles

1. State and Local Actions to Date

The MDEQ and Flathead County have made numerous unsuccessful attempts to contact the Property owner regarding the Property. Neither the state nor the local authorities have taken actions to remediate the Site.

2. Potential for Continued State/Tribal/Local Response

Neither the state, county, nor the municipality has sufficient resources to complete the cleanup at this Site in a timely fashion.

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 criteria under 40 CFR 300.415(b)(2) for each of the properties and have determined the following five criteria apply to the property.

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

The Site is adjacent to and offers relatively unfettered access to the nearby residential properties in the area. Though partially fenced, there is ample evidence of direct human contact with the Site is taking place on a regular basis. The hazardous substances found within the abandoned tanks and being spilled onto the ground pose a direct threat to public health and welfare

because children, trespassers, and other community members could be exposed to them. There are no adequate access restrictions at the Site to prevent community members from accessing the Site and encountering potential exposure to the hazardous substances. In addition, because there does not appear to be any regular maintenance of the facility there is a possibility of a catastrophic release of the entire contents of one or more of the tanks. This would not only affect the nearby population, but also impact the watershed leading to Ashley Creek and the Flathead River.

“(iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release.”

Based on the MDEQ and Flathead County enforcement investigations and efforts, it appears that the eleven tanks found on the property may have been abandoned there for over 20 years. These tanks have been shown to contain CERCLA hazardous substances, including PAHs, xylene, ethylbenzene, and naphthalene. These tanks are deteriorating over time and have already begun to leak. Their condition will not improve over time, and the leaks will get worse.

“(iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate:”

As can be seen in numerous Site photos provided by MDEQ and taken by the EPA, there have already been leaks of the material to the ground in and around the Site. EPA’s sample was collected in the public right-of-way along West Valley Drive. As the leaks continue, these releases to the drainage paths will continue to move downhill toward the nearby residential properties and Ashley Creek.

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

The climate in Kalispell provides a wide range of temperature fluctuations, including several freeze/thaw cycles each year. These will accelerate the degradation of the tanks. Snow and snowmelt will also tend to exacerbate the migration of the contaminants in, around, and off the Site. Also, the threat of a grass or wildfire in the area could result in the catastrophic failure of all the tanks found on-site.

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

Both the MDEQ and Flathead County have exhausted their enforcement efforts. No other local, 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

EPA intends to start work on September 15, 2022, following this outline of work:

- i. Performing site preparations.
- ii. Inspecting and assessing property conditions.
- iii. Inspecting and obtaining samples and analysis from the tanks and the surrounding area, including soil, surface water, and groundwater, as needed.
- iv. Removing and recycling and/or disposing of the contents of the tanks.
- v. Recycling and/or disposing of the tanks and debris.
- vi. Excavating and removing any contaminated soils and materials.
- vii. Restoring disturbed areas.

2. Contribution to Remedial Performance

This effort will, to the extent practical, contribute to any future remedial effort at the property. However, no remedial 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)

Emergency response actions conducted under CERCLA are required, to the extent practicable considering the exigencies of the situation, to attain ARARs. EPA OSC has requested ARARs from the State of MDEQ. In accordance with the NCP, all ARARs for the Site will be attained to the extent practicable given the scope of the project and the urgency of the situation.

5. Project Schedule

The removal action is anticipated to begin on September 15, 2022. All removal activities should be completed by November 30, 2022, which is the date the Administrative Warrant for Access and Entry will expire. EPA will return to the Court if an extension is necessary.

B. Estimated Costs*

	Estimated Costs
ERRS contractor	\$850,000
START Contractor	\$90,000
SUBTOTAL	\$940,000
Contingency Costs (20 % of subtotal)	\$188,000
Total Removal Project Ceiling	\$1,128,000

*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 the Site would increase the actual or potential threats to the public health and/or the environment associated with the release of PAHs, xylene, ethylbenzene, and naphthalene from the Site.

VI. OUTSTANDING POLICY ISSUES

None. No further actions are required at the Site following the completion of this emergency removal action.

VII. ENFORCEMENT

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

VIII. RECOMMENDATIONS

This decision document represents the selected removal action for the Valley Drive Abandoned Slurry Site, in the City of Kalispell, Flathead County, 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 \$1,128,000; this amount will be funded from the Regional removal allowance.

APPROVE

BETSY SMIDINGER  Digitally signed by BETSY SMIDINGER
Date: 2022.09.15 19:33:56 -06'00'

Betsy Smidinger, Director
Superfund and Emergency Management Division

Date

DISAPPROVE

Betsy Smidinger, Director
Superfund and Emergency Management Division

Date

Footnotes

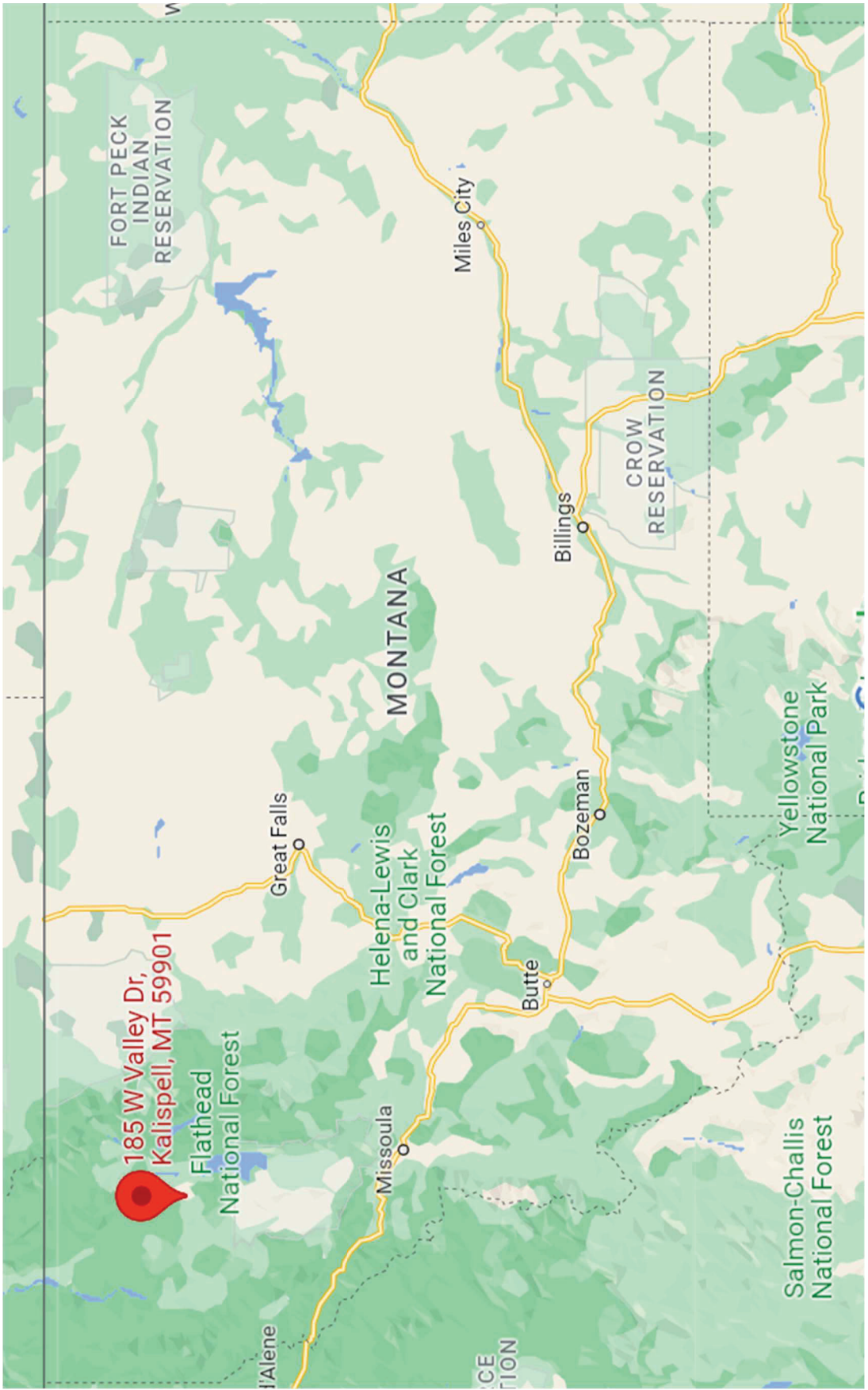
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2. *Ibid.*
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32. *Ibid.*
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35. U.S. EPA. 1980. "Ambient Water Quality Criteria for Ethylbenzene."
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Attachments:

- Attachment 1: Site Map
- Attachment 2: Site Photos

Attachment 1
Site Map



185 W Valley Dr,
Kalispell, MT 59901

FORT PECK
INDIAN
RESERVATION

CROW
RESERVATION

MONTANA

Flathead
National Forest

Helena-Lewis
and Clark
National Forest

Salmon-Challis
National Forest

Yellowstone
National Park

Great Falls

Miles City

Billings

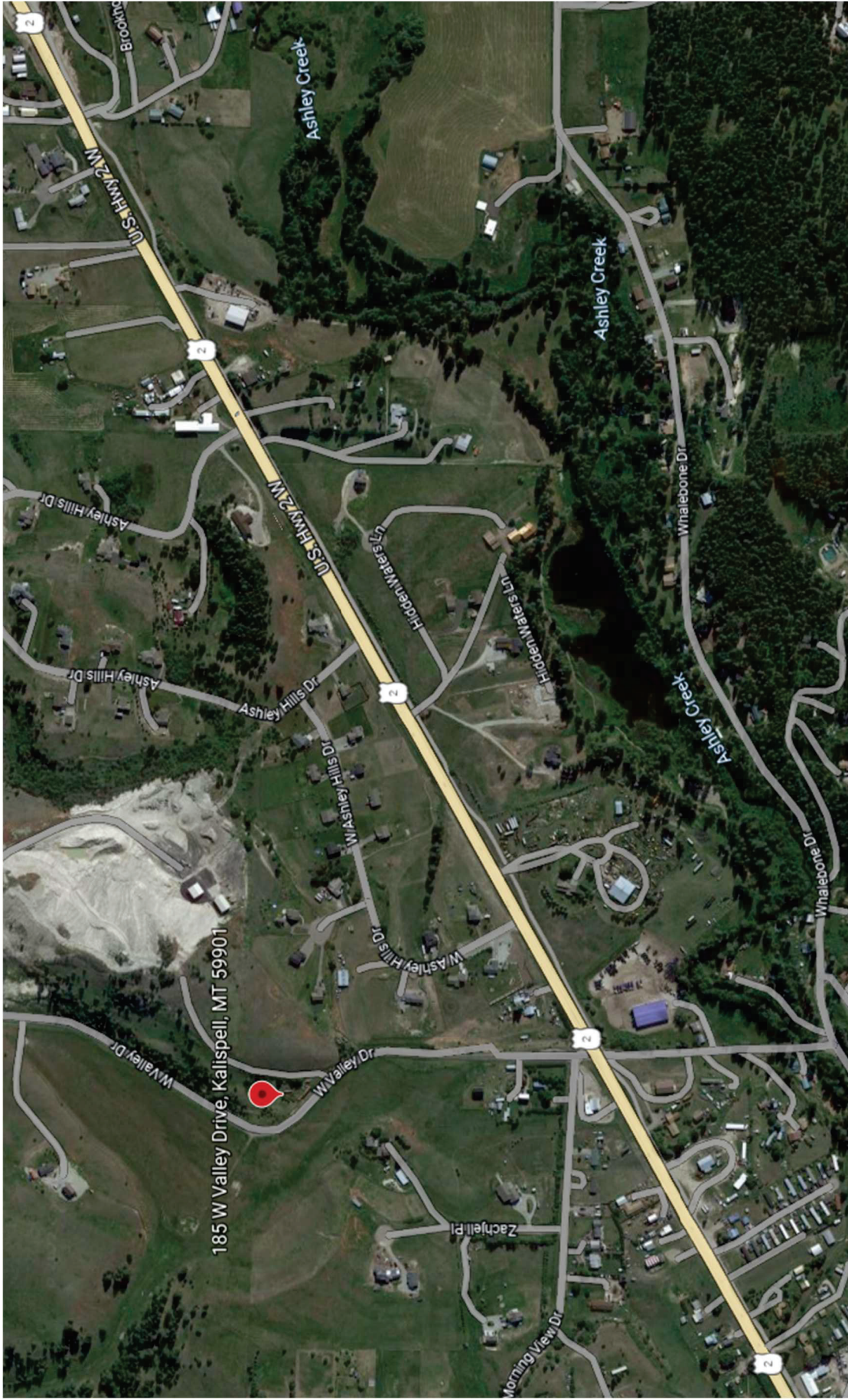
Bozeman

Butte

Missoula

Alene

CE
TION



Attachment 2
Site Photos

Valley Drive Abandoned Slurry

Photo Log

Description: View of discarded refrigerators and appliances located on the site. Facing southeast

Category: Assessment Latitude: 48.1926319444444

Date Taken: 8/3/2022 Longitude: -114.396375916667

Tags:



Description: View of site facing southeast

Category: Assessment Latitude: 48.1926404166667

Date Taken: 8/3/2022 Longitude: -114.396402194444

Tags:



Description: View of the tank on site that has released or discharged hydrocarbon product into the right a way drainage pathway along West Valley Drive. Facing northeast

Category: Assessment Latitude: 48.1923925416667

Date Taken: 8/3/2022 Longitude: -114.396236972222

Tags:



Description: View of site facing northwest.

Category: Assessment Latitude: 48.1923347777778

Date Taken: 8/3/2022 Longitude: -114.395934444444

Tags:

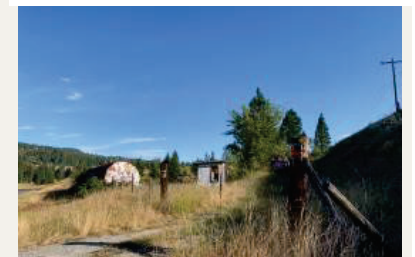


Description: View of site facing north

Category: Assessment Latitude: 48.1922294444444

Date Taken: 8/3/2022 Longitude: -114.395782222222

Tags:



Valley Drive Abandoned Slurry

Photo Log

Description: View of tanks located on the northern portion of the site. Facing east

Category: Assessment Latitude: 48.1925963888889

Date Taken: 8/2/2022 Longitude: -114.396402222222

Tags:



Description: View of the right a way drainage pathway along the southwest property line. Facing southeast

Category: Assessment Latitude: 48.1925821277778

Date Taken: 8/2/2022 Longitude: -114.396454722222

Tags:



Description: View of the pathway that the hydrocarbon product that has been released or discharged from a tank into the right a way drainage pathway along West Valley Drive. Facing East

Category: Assessment Latitude: 48.1923773611111

Date Taken: 8/2/2022 Longitude: -114.396073611111

Tags:



Description: Close up view of the hydrocarbon product that has been released or discharged from a tank into the right a way drainage pathway along West Valley Drive.

Category: Assessment Latitude: 48.1923831666667

Date Taken: 8/2/2022 Longitude: -114.396062055556

Tags:



Valley Drive Abandoned Slurry

Photo Log

Description: View of the hydrocarbon product that has been released or discharged from a tank into the right a way drainage pathway along West Valley Drive.

Category: Assessment

Latitude: 48.1923879583333

Date Taken: 8/2/2022

Longitude: -114.396068916667

Tags:



Description: View of the site facing northeast

Category: Assessment

Latitude: 48.1922372055556

Date Taken: 8/2/2022

Longitude: -114.396014555556

Tags:



Description: View of the site facing North

Category: Assessment

Latitude: 48.1921307111111

Date Taken: 8/2/2022

Longitude: -114.395788555556

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

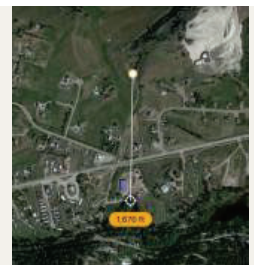
Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Valley Drive Abandoned Slurry

Photo Log

Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



Valley Drive Abandoned Slurry

Photo Log

Description: Image of Site received by EPA on July 14, 2022 from party who reported the incident to the NRC.

Category: 00 Initial Report

Latitude:

Date Taken: 7/14/2022

Longitude:

Tags:



U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION/SITUATION REPORT
Valley Drive Abandoned Slurry - Removal Polrep
Initial and Final Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region VIII

Subject: POLREP #1
Initial/Final Polrep
Valley Drive Abandoned Slurry
B8D5
Kalispell, MT
Latitude: 48.1925389 Longitude: -114.3961555

To: Deirdre Rothery, EPA
Betsy Smidinger, EPA
Ben Bielenberg, EPA

From: Paul Peronard, On-Scene Coordinator

Date: 11/1/2022

Reporting Period: September 15-October 27, 2022

1. Introduction

1.1 Background

Site Number:	B8D5	Contract Number:	
D.O. Number:		Action Memo Date:	9/15/2022
Response Authority:	CERCLA	Response Type:	Time-Critical
Response Lead:	EPA	Incident Category:	Removal Action
NPL Status:	Non NPL	Operable Unit:	RS
Mobilization Date:	9/15/2022	Start Date:	9/16/2022
Demob Date:	10/27/2022	Completion Date:	10/27/2022
CERCLIS ID:		RCRIS ID:	
ERNS No.:		State Notification:	
FPN#:		Reimbursable Account #:	

1.1.1 Incident Category

The Site posed a release or threat of release of hydrocarbon waste containing numerous Polynuclear Aromatic Compounds (PAHs) and debris abandoned by a former construction company. The cleanup was conducted as a Time Critical Removal Action under CERCLA.

1.1.2 Site Description

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involved the cleanup and proper disposal of hydrocarbon waste and debris at private property in Kalispell, Montana. The waste contained numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. Conditions at the Site presented a threat to public health and the environment and met the criteria for initiating a removal action under 40 CFR § 300.415(b) of the National Contingency Plan (NCP).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.

1.1.2.1 Location

The Site consists of an approximately 2 acre lot located on the Western outskirts of Kalispell, Flathead County, Montana. Flathead County is a rural county located in northwestern Montana. In 2020 the US Census reported that Kalispell, MT had a population of 24,558. Kalispell is the county seat for Flathead County which reported a population of 104,357 as of the 2020 census.

The area surrounding the Site is a mixture of residential and commercial properties. The Site is near the 80th percentile of potential Environmental Justice areas regionally and on a state-wide basis.

1.1.2.2 Description of Threat

The known contaminants of concern at the Site are Poly Aromatic Hydrocarbons (PAHs), xylene, naphthalene, and ethylbenzene, which are hazardous substances as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

There had been a release of these hazardous substances in the form of both the abandoned tanks, and the direct leaking of their contents on to the ground. Based on the MDEQ inspections it is estimated that the tanks contain a total of between 50,000 to 100,000 gallons of the purported "tack oil." As the tanks continued to deteriorate from weather, vandalism, and structural degradation, there was a threat of a catastrophic failure of one or more of the tanks.

Additionally, the largest tank is positioned on a small hill adjacent to West Valley Drive. It is possible that this tank could have rolled onto West Valley Drive and potentially break open and collide with traffic if one of the fence posts holding it up collapsed.

There was also risk of wildfires exacerbating the threat posed by the Site as the tanks sits in an area surrounded by dry grass and vegetation.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

On August 2 and 3, 2022 an EPA OSC and START contractor conducted a brief Removal Site Inspection (RSI). This inspection included viewing the property from the County right-of-way without entering the property; sampling a black, viscous material that had leaked from one of the tanks onto the County right-of-way, assessing the area in the vicinity of the Site, and walking the potential drainage path from the property to nearby Ashley Creek.

The RSI revealed that several of the tanks were leaking, including the largest tank, which appeared to be leaning against fence posts adjacent to the right-of-way. The drainage system along the right-of-way leads toward Ashley Creek, via a mixture of residential and commercial properties. Sampling results from the EPA investigation were consistent with the MDEQ's investigations and confirmed the presence of the PAHs, xylene, ethylbenzene, and naphthalene (see Administrative Record).

During the August RSI the OSC also noted that although the Site was partially enclosed by a barbwire fence, it was easily passible, and the driveway into the Site open. There were numerous instances of graffiti on several of the tanks, and a smattering of clothes and other human detritus that indicated that some human entry to the Site was ongoing. During the August 2022 RSI, children were observed playing in and about the adjacent residential properties.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

On July 14, 2022, the EPA received a report via the National Response Center of 11 large, abandoned and potentially leaking tanks containing possibly 50,000 gallons of an asphalt sealer in Kalispell, Montana. The EPA identified the property where the abandoned tanks are located as 185 West Valley Drive, Kalispell, Montana.

After contacting the Flathead County Attorney and Montana Department of Environmental Quality, the OSC was informed of the PRPs information and prior violations with the county. MDEQ had also shared the results of a sampling events conducted in 1996 and 2013 indicating that the material leaking from these tanks was most likely stored tack oil remnant of a road dust suppression business. The MDEQ sampling results also showed the presence of polynuclear aromatic hydrocarbons ("PAHs"), xylene, ethylbenzene, and naphthalene. PAHs, xylene, ethylbenzene, and naphthalene are listed as "Hazardous Substances" defined in Section 101 of CERCLA.

The EPA OSC successfully contacted the Property owner via telephone to discuss the situation at the Site. After a truncated conversation, the Property owner informed the OSC that "...EPA couldn't do s***." And hung up. In addition, the EPA sent written requests for access to the property to several addresses associated with the Property owner and via email. In response, the EPA received the response "f*** you and the horse you rode in on."

On August 2 and 3, 2022 an EPA OSC and START contractor conducted a Removal Site Inspection (RSI). This inspection included viewing the property from the County right-of-way without entering the property; sampling a black, viscous material that had leaked from one of the tanks onto the County right-of-way, assessing the area in the vicinity of the Site, and walking the potential drainage path from the property to the nearby Ashley Creek. The OSC observed the dilapidated state of the tanks, signs of human entry and that several of the tanks were leaking. Sampling results from the EPA investigation were consistent with the MDEQ's investigations and confirmed the presence of the PAHs, xylene, ethylbenzene, and naphthalene (see Administrative Record). Also, the EPA identified that there were in fact 14 tanks on the property.

2.1.2 Response Actions to Date

EPA obtained a warrant to enter the property and conduct a Removal Action on September 7, 2022. EPA mobilized to the Site on September 15, 2022. Response operations were conducted through October 24, 2022, with all resources demobilized by October 27, 2022. All hydrocarbon waste has been drained from the tanks, solidified and disposed of at the Republic Services Disposal Facility near Missoula, Montana. The 14 tanks holding the hydrocarbon waste have been disassembled and recycled. Contaminated soil was also removed, and the Site graded and seeded.

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

A PRP has been identified and letters notifying them of potential liability under Section 107(a) of CERCLA

are being prepared by the Removal Enforcement Section.

2.1.4 Progress Metrics

<i>Waste Stream</i>	<i>Medium</i>	<i>Quantity (Approximate)</i>	<i>Units</i>	<i>Treatment</i>	<i>Disposal</i>
Hydrocarbon Waste	Liquid	100,000	Gallons	Solidified	
Solidified Waste	Solid	586 tons	Tons		Landfilled
Scrap Steel	Solid	270	Cubic Yards	Recycled	
Debris	Solid	200	Cubic Yards		Landfilled
Sharps (needles)	Med Waste	1	Drum	Incinerated	

2.2 Planning Section

2.2.1 Anticipated Activities

None. The Removal Action is complete.

2.2.1.1 Planned Response Activities

None. The Removal Action is complete.

2.2.1.2 Next Steps

None. The Removal Action is complete.

2.2.2 Issues

None.

2.3 Logistics Section

N/A

2.4 Finance Section

2.4.1 Narrative

The Removal Action is complete. However, there are some trailing costs, such as final disposal invoices and sub-contracts that will need to be definitized. The Summary table below is an estimate of the final costs.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
ERRS - Cleanup Contractor	\$500,000.00	\$300,000.00	\$200,000.00	40.00%
TAT/START	\$75,000.00	\$55,000.00	\$20,000.00	26.67%
Intramural Costs				
USEPA - Direct	\$40,000.00	\$20,000.00	\$20,000.00	50.00%
USEPA - InDirect	\$40,000.00	\$0.00	\$40,000.00	100.00%
Total Site Costs				
	\$655,000.00	\$375,000.00	\$280,000.00	42.75%

* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

2.5 Other Command Staff

2.5.1 Safety Officer

NA

2.5.2 Liaison Officer

NA

2.5.3 Information Officer

NA

3. Participating Entities

3.1 Unified Command

NA

3.2 Cooperating Agencies

Montana Department of Environmental Quality

Flathead County

US Department of Justice

US Marshal Service

4. Personnel On Site

The maximum census on-site was :

7 ERRS

1 START

2 EPA

However, all personnel have been demobilized.

5. Definition of Terms

START Superfund Technical Assessment and Response Team

ERRS Emergency Response and Removal Services

PAH Polycyclic Aromatic Hydrocarbons

EPA Environmental Protection Agency

OSC On-Scene Coordinator

MDEQ Montana Department of Environmental Quality

6. Additional sources of information

6.1 Internet location of additional information/report

https://response.epa.gov/site/site_profile.aspx?site_id=15686

6.2 Reporting Schedule

7. Situational Reference Materials

No information available at this time.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 01:

Thursday, September 15th, 2022 – Saturday, September 24th, 2022

SITE DESCRIPTION

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involves the cleanup and proper disposal of hydrocarbon waste and debris abandoned by a former construction company. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.



Southeast Side of Site



Northeast Side of Site



Hydrocarbon Waste Product

SAFETY MESSAGE

- Always watch out for yourself and the coworkers/public around you.
- Always protect yourself, coworkers and public from exposure to contaminants.
- Prevent contamination from spreading beyond work area.
- Discuss site conditions daily.
- Conduct daily safety checks on equipment and general site conditions.
- Remove, mark or remedy hazards when you see them. Notify OSC of all hazards.

OPERATIONAL OBJECTIVES

1. Mobilize response team on September 15, 2022.
2. Mobilize equipment as needed beginning on September 15, 2022.
3. Clear debris and trash from property.
4. Ship debris and trash off-site for proper disposal.
5. Construct solidification pit.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 01:

Thursday, September 15th, 2022 – Saturday, September 24th, 2022

OPERATIONAL OBJECTIVES (Continued)

6. Obtain sawdust to be used as stabilization agent.
7. Begin opening and draining hydrocarbon waste from tanks.
8. Solidify/stabilize drained hydrocarbon waste.
9. Begin shipping solidified hydrocarbon waste off-site for proper disposal.
10. Begin cutting and sizing tanks for scrap metal recycling.
11. Begin shipping scrapped tanks for recycling.

CURRENT ACTIVITIES

1. Completed the mobilization of equipment and personnel
2. The Site was cleared of trash and debris by September 17, 2022.
3. The stabilization pit was completed and bedded with sawdust by September 17, 2022.
4. Sawdust delivery started on September 16, 2022.
5. Tank work began on September 19, 2022. As of September 24, 2022, five tanks have been emptied and disassembled.
6. The hydrocarbon waste from the emptied tanks has been stabilized.
7. One roll-off box (approximately 10 yds³) of solidified waste was shipped off-site on September 23, 2022.
8. Two roll-off box (approximately 60 yds³) of steel was sent off-site for recycling.
9. The ERRS crews continue to process tanks.

PLANNED ACTIVITIES

For the Operational Period is September 25th – October 1st, 2022, the following operations are planned:

1. Keep a supply of sawdust to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.
5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped tanks for recycling.

WEBSITE

For additional information please visit the EPA Valley Drive Abandoned Slurry Response page:

https://response.epa.gov/site/site_profile.aspx?site_id=15686



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 01:

Thursday, September 15th, 2022 – Saturday, September 24th, 2022

OPERATIONAL PERIOD 01 HIGHLIGHT PHOTOS:



Consolidated white goods and debris



Laying of sawdust in solidification pit



Draining of tank #1



Draining of tank #2



Removal of first roll-off carrying solidified waste



Loading of first roll-off for metal recycling



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 02:

Monday, September 26th, 2022 – Saturday, October 1st, 2022

SITE DESCRIPTION

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involves the cleanup and proper disposal of hydrocarbon waste and debris at private property in Kalispell, Montana. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.



Southeast Side of Site



Northeast Side of Site



Hydrocarbon Waste Product

SAFETY MESSAGE

- Always watch out for yourself and the coworkers/public around you.
- Always protect yourself, coworkers and public from exposure to contaminants.
- Prevent contamination from spreading beyond work area.
- Discuss site conditions daily.
- Conduct daily safety checks on equipment and general site conditions.
- Remove, mark or remedy hazards when you see them. Notify OSC of all hazards.

OPERATIONAL OBJECTIVES

1. Keep a supply of sawdust onsite to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.
5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped metal from tanks for recycling.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 02:

Monday, September 26th, 2022 – Saturday, October 1st, 2022

ACCOMPLISHMENTS

1. 80 yds³ of sawdust was delivered to the Site.
2. Tanks #6 thru #8 were drained and disassembled.
3. Work on draining and disassembling tank #9 was started.
4. All drained hydrocarbon waste has been stabilized (approximately 27,000 gallons).
5. 11 roll-off boxes of stabilized hydrocarbon waste were shipped off-site for disposal. This totaled 115 tons of waste for the period, and 125 tons to date.
6. 2 roll-off boxes of scrap metal were shipped off-site for recycling. This totaled 60 yds³ for the period, and 120 yds³ to date.

PLANNED ACTIVITIES

For the Operational Period 03, October 3rd - 8th, 2022, the following operations are planned:

1. Keep a supply of sawdust onsite to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.
5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped tanks for recycling.
7. Procure appropriate native grass seed mix for revegetation.
8. Procure 2 more dump trucks to be used for additional waste hauling.

WEBSITE

For additional information please visit the EPA Valley Drive Abandoned Slurry Response page:

https://response.epa.gov/site/site_profile.aspx?site_id=15686



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 02:

Monday, September 26th, 2022 – Saturday, October 1st, 2022

OPERATIONAL PERIOD 02 HIGHLIGHT PHOTOS:



Adding poly liner to roll-off box #4



Overview of site with tanks 1-6 removed



Draining of tank #7



Cutting of tank #7



Loading scrap metal from tank #6 and #7



Draining of tank #8



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 03:

Monday, October 3rd, 2022 – Saturday, October 8th, 2022

SITE DESCRIPTION

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involves the cleanup and proper disposal of hydrocarbon waste and debris at private property in Kalispell, Montana. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.



Southeast Side of Site



Northeast Side of Site



Hydrocarbon Waste Product

SAFETY MESSAGE

- Always watch out for yourself and the coworkers/public around you.
- Always protect yourself, coworkers and public from exposure to contaminants.
- Prevent contamination from spreading beyond work area.
- Discuss site conditions daily.
- Conduct daily safety checks on equipment and general site conditions.
- Remove, mark or remedy hazards when you see them. Notify OSC of all hazards.

OPERATIONAL OBJECTIVES

1. Keep a supply of sawdust onsite to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.
5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped tanks for recycling.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 03:

Monday, October 3rd, 2022 – Saturday, October 8th, 2022

OPERATIONAL OBJECTIVES (Continued)

7. Procure appropriate native grass seed mix for revegetation.
8. Procure 2 dump trucks to be used for additional waste hauling.

ACCOMPLISHMENTS

1. 60 yds³ of sawdust was delivered to the Site.
2. Tanks #9 thru #12 were drained and disassembled.
3. Work on draining and disassembling tank #13 was started.
4. All drained hydrocarbon waste has been stabilized (approximately 45,000 gallons).
5. 10 roll-off boxes and 13 dump truck loads of stabilized hydrocarbon waste were shipped off-site for disposal. This totaled 108.01 tons of waste for the period, and 323.01 tons to date.
6. 2 roll-off boxes of scrap metal were shipped off-site for recycling. This totaled 60 yds³ for the period, and 180 yds³ to date.

PLANNED ACTIVITIES

For the Operational Period 04, October 10th - 15th, 2022, the following operations are planned:

1. Keep a supply of sawdust to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
 - a. Continue working on Tank #13
 - b. Start working on Tank #14
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.
5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped tanks for recycling.
7. Continue using dump trucks for hauling waste and sawdust.

WEBSITE

For additional information please visit the EPA Valley Drive Abandoned Slurry Response page:

https://response.epa.gov/site/site_profile.aspx?site_id=15686



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 03:

Monday, October 3rd, 2022 – Saturday, October 8th, 2022

OPERATIONAL PERIOD 03 HIGHLIGHT PHOTOS:



Emptying tank #9 and #10



Stabilizing hydrocarbon waste with sawdust



ERRS crew delivering sawdust



Emptying tank #12



ERRS crew cutting tank #12



Tank #13 drains in solidification pit



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 04:

Monday, October 10th, 2022 – Saturday, October 15th, 2022

SITE DESCRIPTION

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involves the cleanup and proper disposal of hydrocarbon waste and debris at private property in Kalispell, Montana. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.



Southeast Side of Site



Northeast Side of Site



Hydrocarbon Waste Product

SAFETY MESSAGE

- Always watch out for yourself and the coworkers/public around you.
- Always protect yourself, coworkers and public from exposure to contaminants.
- Prevent contamination from spreading beyond work area.
- Discuss site conditions daily.
- Conduct daily safety checks on equipment and general site conditions.
- Remove, mark or remedy hazards when you see them. Notify OSC of all hazards.

OPERATIONAL OBJECTIVES

1. Keep a supply of sawdust to be used as stabilization agent.
2. Continue the opening and draining hydrocarbon waste from tanks.
 - a. Continue working on Tank #13
 - b. Start working on Tank #14.
3. Solidify/stabilize drained hydrocarbon waste.
4. Continue shipping solidified hydrocarbon waste off-site for proper disposal.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 04:

Monday, October 10th, 2022 – Saturday, October 15th, 2022

OPERATIONAL OBJECTIVES (Continued)

5. Continue cutting and sizing tanks for scrap metal recycling.
6. Continue shipping scrapped tanks for recycling.
7. Continue using dump trucks for hauling waste and sawdust.

ACCOMPLISHMENTS

1. 130 cubic yards of sawdust have been delivered to the Site.
2. Tank #13 was drained of hydrocarbon waste (approximately 15,000 gallons) and disassembled.
3. Tank #14 was opened on October 12, 2022 and is being drained of hydrocarbon waste. Work on disassembling tank #14 is underway.
4. 10 roll-off boxes and 14 dump truck loads of stabilized hydrocarbon waste were shipped off-site for disposal. This totaled approximately 230 tons of waste for the period, and approximately 544 tons to date.
5. No steel was shipped off-site this period. A total of 180 cubic yards of steel has been shipped to date.
6. Solidification Pit #1 has been closed, backfilled, and prepped for final grading.

PLANNED ACTIVITIES

For the Operational Period 05, October 17th – 22nd, 2022, the following operations are planned:

1. Finish draining Tank #14.
2. Finish disassembling Tank #14.
3. Continue shipping stabilized hydrocarbon waste off-site.
4. Begin decontaminating and demobilizing Site equipment as appropriate.
5. Conduct final removal soil sampling
6. Begin Site restoration.

WEBSITE

For additional information please visit the EPA Valley Drive Abandoned Slurry Response page:

https://response.epa.gov/site/site_profile.aspx?site_id=15686

OPERATIONAL PERIOD 04 HIGHLIGHT PHOTOS:



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 04:

Monday, October 10th, 2022 – Saturday, October 15th, 2022



Tank #13 draining into solidification pit #2



ERRS crew scraping remnants of tank #13



ERRS crew cutting tank #14



Emptying tank #14



ERRS crew closing out solidification pit #1



Site overview on Thursday, October 13th



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 05:

Monday, October 17th, 2022 – Saturday, October 22nd, 2022

STORY MAP

[Valley Drive Abandoned Slurry Story Map](#)

SITE DESCRIPTION

The Valley Drive Abandoned Slurry Site is located at 185 West Valley Drive, Kalispell, Montana. This Removal Action involves the cleanup and proper disposal of hydrocarbon waste and debris at private property in Kalispell, Montana. The waste contains numerous Polynuclear Aromatic Compounds (PAHs); ethylbenzene, xylene, and naphthalene. The Site was identified through a report by a private citizen to the National Response Center (NRC) and has been the subject of attempts by both Flathead County and the Montana Department of Environmental Quality to compel cleanup by the property owner. 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).

In July 2022 the U.S. Environmental Protection Agency (EPA) requested access to inspect and conduct cleanup activities on-site. However, this request was denied by the property owner. As a result, the EPA, via the Department of Justice (DOJ), sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the requested warrant on September 7, 2022 and EPA mobilized to the Site on September 15, 2022. The warrant expires on November 30, 2022.



Southeast Side of Site



Northeast Side of Site



Hydrocarbon Waste Product

SAFETY MESSAGE

- Always watch out for yourself and the coworkers/public around you.
- Always protect yourself, coworkers and public from exposure to contaminants.
- Prevent contamination from spreading beyond work area.
- Discuss site conditions daily.
- Conduct daily safety checks on equipment and general site conditions.
- Remove, mark or remedy hazards when you see them. Notify OSC of all hazards.

OPERATIONAL OBJECTIVES

1. Completely drain and disassemble tank 14.
2. Solidify/stabilize all of the drained hydrocarbon waste.



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 05:

Monday, October 17th, 2022 – Saturday, October 22nd, 2022

OPERATIONAL OBJECTIVES (Continued)

3. Properly dispose of all of the solidified hydrocarbon waste.
4. Haul all of the remaining scrap metal for recycling.
5. Complete grading of soil to promote proper precipitation drainage.
6. Seed the graded soil for revegetation.
7. Conduct post removal soil sampling.
8. Decontaminate and demobilize site equipment and personnel.

ACCOMPLISHMENTS

1. Tank 14 has been completely drained of all hydrocarbon waste (approximately 20,000 gallons) and completely disassembled.
2. Two roll-off boxes and five dump truck loads of stabilized hydrocarbon waste were hauled off-site for disposal. This totaled approximately 76 tons of waste for this period and approximately 586 tons to date.
3. Three roll-off boxes of scrap metal were hauled off-site for recycling. This totaled approximately 90 cubic yards for the period, and 270 cubic yards to date.
4. All hydrocarbon waste on the site has been solidified and properly disposed of.
5. All scrap metal from all 14 tanks has been hauled off site to be recycled.
6. The ground surface has been graded to promote proper precipitation drainage.
7. The graded soil has been seeded for revegetation.
8. Post removal soil sampling has been completed.
9. Site equipment has been decontaminated and demobilized.
10. EPA and ERRS crew have been demobilized.

PLANNED ACTIVITIES

All removal objectives for this site have been completed including the demobilization of personnel and equipment. Notices for further planned activities or future maintenance will be provided as necessary.

WEBSITE

For additional information please visit the EPA Valley Drive Abandoned Slurry Response page:

https://response.epa.gov/site/site_profile.aspx?site_id=15686



Valley Drive Abandoned Slurry Site Update

USEPA Region 8

Operational Period 05:

Monday, October 17th, 2022 – Saturday, October 22nd, 2022

OPERATIONAL PERIOD 05 HIGHLIGHT PHOTOS:



ERRS crew adds dirt for fire suppression



ERRS crew continue cutting tank #14



ERRS crew loading scrap metal for offsite recycling



ERRS crew work on grading site



Site overview on October 21st, post seeding



Staged equipment for demobilization



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

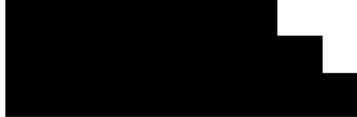
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

May 19, 2023

Ref: 8ORC-LE-C

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Ms. Irene Serio



Re: Demand for Reimbursement of Costs Expended at the Valley Drive Abandoned Slurry Site in Kalispell, Montana

Dear Ms. Serio:

Under CERCLA, the EPA is responsible for responding to a release or threat of a release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the Valley Drive Abandoned Slurry Site (Site). The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available, the EPA has determined that you may be a potentially responsible party (PRP) under CERCLA for cleanup of the Site or for costs the EPA has incurred in cleaning up the Site.

Explanation of Potential Liability

Under Section 107(a) of CERCLA, PRPs may be held liable for all costs incurred by the EPA (including interest) in responding to any release or threatened release of hazardous substances at the Site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. PRPs include current and former owners and operators of the Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that you may be liable under Section 107(a) of CERCLA with respect to the Valley Drive Abandoned Slurry Site, as a current owner and/or operator of the Site. Specifically, the EPA has reason to believe that you contributed polynuclear aromatic hydrocarbons (PAHs), xylene, ethylbenzene, and naphthalene to the Site as an owner/operator.

To date, the EPA has taken response action at the Site under the authority of the Superfund Program. Specifically, the EPA conducted a Removal Action at the Site to reduce any immediate threat to the environment or human health. As a part of the Removal Action, the EPA inspected and obtained

samples and analysis from the 14 tanks and the surrounding area and properly disposed of the contents of the tanks.

Demand for Reimbursement of Costs

In accordance with Section 104 of CERCLA, the EPA has already taken certain response actions, which are listed above, and incurred certain costs in response to conditions at the Site. The EPA is seeking to recover from you its response costs and all interest authorized to be recovered under Section 107(a) of CERCLA. To date, the approximate total response costs identified through December 31, 2022, for the Site are \$386,552.83. Under Section 107(a) of CERCLA, the EPA hereby makes a demand for payment from you for the above amount plus all interest authorized to be recovered under Section 107(a). A summary of these costs is enclosed.

While this letter demands that you reimburse the EPA for all funds spent at the Site, the EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within this category, please contact the Site Attorney, Sarah Rae, by phone at (303) 312-6839 or by email at rae.sarah@epa.gov for information on ability to pay settlements. In response, you will receive a package of information about such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including personal federal tax returns. If the EPA concludes that you have a legitimate inability to pay the full amount, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to you. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of your first contact with the Valley Drive Abandoned Slurry Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

Please send a written response to this cost recovery demand, within thirty (30) days, to:

Sarah Rae, Site Attorney
US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202
Mail Code: 8ORC-LE-C
rae.sarah@epa.gov

If a response from you is not received within 30 days, the EPA will assume that you have declined to reimburse the Superfund for the Site expenditures, and pursuant to CERCLA, the EPA may pursue civil litigation.

Also, please note that, because the EPA has a potential claim against you, you must include the EPA as a creditor if you file for bankruptcy. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf> and review EPA guidances regarding these exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>.

In addition, if you are a “service station dealer” who accepts used oil for recycling, you may qualify for an exemption from liability under Section 114(c) of CERCLA. The EPA guidance regarding this exemption can be found on the Agency’s website at <http://www.epa.gov/enforcement/guidance-superfunds-service-station-dealers-exemption>. If you believe you may qualify for the exemption, please contact the Site Attorney, Sarah Rae, by phone at (303) 312-6839 or by email at rae.sarah@epa.gov to request an application/information request specifically designed for service station dealers.

The EPA has created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses>. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, which is enclosed with this letter and available on the Agency’s website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact the Site Attorney, Sarah Rae, by phone at (303) 312-6839 or by email at rae.sarah@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,

CHRISTOPHE
R THOMPSON

Digitally signed by
CHRISTOPHER THOMPSON
Date: 2023.05.23 08:57:47
-06'00'

Christopher Thompson
Associate Regional Counsel for Enforcement
EPA Region 8, Office of Regional Counsel

Enclosures

cc: Paul Peronard– 8SEM-EM
Sarah Rae– 8ORC-LE-C
Crystal Kotowski-Edmunds – 8SEM-PA

Itemized Cost Summary

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
COSTS FROM 10/01/1980 THROUGH 12/31/2022

Regional Payroll Costs	\$34,475.16
Regional Travel Costs	\$16,449.60
EMERGENCY AND RAPID RESPONSE SERVICE (ERRS)	
ENVIRONMENTAL RESTORATION, L.L.C. (68-HE-0820D0002)	\$194,235.84
START CONTRACTS	
TETRA TECH, INC. (68-HE-0820D0001)	\$7,109.06
EPA Indirect Costs (Summary) / (Details)	\$134,283.17
Total Site Costs:	\$386,552.83

Regional Payroll Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
COSTS FROM 10/01/1980 THROUGH 12/31/2022

Employee Name	Fiscal Year	Pay Period	Payroll Hours	Payroll Costs
BOWKER, JOHN ENVIRONMENTAL ENGINEER	2023	02	95.00	\$3,975.09
		Total	95.00	\$5,023.59
PERONARD, PAUL ENVIRONMENTAL SCIENTIST	2022	26	72.00	\$8,310.88
		27	40.00	\$4,617.17
PERONARD, PAUL ENVIRONMENTAL SCIENTIST	2023	02	32.00	\$3,409.93
		Total	144.00	\$16,337.98
RAE, SARAH ATTORNEY-ADVISER	2022	22	17.00	\$1,530.48
		23	11.50	\$1,035.02
		24	23.50	\$2,115.16
		25	32.00	\$2,880.23
		26	9.00	\$810.07
		27	5.00	\$450.04
RAE, SARAH ATTORNEY-ADVISER	2023	02	3.00	\$270.03
		03	4.00	\$360.06
		05	2.00	\$180.01
		07	2.50	\$225.04
		Total	109.50	\$9,856.14
SCHUETTE, MEGAN ENVIRONMENTAL ENGINEER (OSC)	2023	01	51.00	\$4,305.95
		Total	51.00	\$4,963.97
Total			399.50	\$34,475.16

Notes

Regional Travel Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
COSTS FROM 10/01/1980 THROUGH 12/31/2022

Traveler/Vendor Name	Travel Number	Treasury Schedule	Treasury Schedule Date	Travel Costs
BOWKER, JOHN ENVIRONMENTAL ENGINEER	TAA09IS3	AMP230026	11/08/2022	\$879.75
	TAA09IS3	AVC230031	11/08/2022	\$3,630.54
			Total	\$4,510.29
PERONARD, PAUL ENVIRONMENTAL SCIENTIST	TAA09A5B	AVC220223	08/17/2022	\$1,598.16
	TAA09FYV	AMP230010	10/17/2022	\$433.05
	TAA09FYV	AVC230012	10/17/2022	\$3,759.09
	TAA09IRT	AMP230024	11/04/2022	\$39.14
	TAA09IRT	AVC230029	11/04/2022	\$2,964.45
			Total	\$8,793.89
SCHUETTE, MEGAN ENVIRONMENTAL ENGINEER (OSC)	TAA09I68	AMP230012	10/19/2022	\$416.00
	TAA09I68	AVC230014	10/19/2022	\$2,729.42
			Total	\$3,145.42
			Total	\$16,449.60

Notes

Contract Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
 COSTS FROM 10/01/1980 THROUGH 12/31/2022

EMERGENCY AND RAPID RESPONSE SERVICE (ERRS)

Contractor Name: ENVIRONMENTAL RESTORATION, L.L.C.

EPA Contract Number: 68-HE-0820D0002

Project Officer(s): VILLA, ANGELICA

Dates of Service: From: 09/12/2022 To: 10/16/2022

Summary of service:

Total Costs: \$194,235.84

Voucher Number	Voucher Date	Voucher Amount	Treasury Number	Schedule Date	Site Amount	Annual Allocation
822008-03	11/21/2022	\$185,953.29	AVC230056	12/02/2022	\$185,953.29	\$8,282.55
Subtotal for :					\$185,953.29	\$8,282.55
Total:					\$185,953.29	\$8,282.55

Voucher Number	Schedule Number	Rate Type	Annual Allocation Rate
822008-03	AVC230056	Class	0.044541

Contract Information

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Contract Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
 COSTS FROM 10/01/1980 THROUGH 12/31/2022

START CONTRACTS

Contractor Name: TETRA TECH, INC.

EPA Contract Number: 68-HE-0820D0001

Project Officer(s): ACKERMAN, JOYCE

Dates of Service: From: 07/02/2022 To: 08/26/2022

Summary of service:

Total Costs: \$7,109.06

Voucher Number	Voucher Date	Voucher Amount	Treasury Number	Schedule Date	Site Amount	Annual Allocation
C20F0071-22	09/13/2022	\$137,438.82	AVC220259	09/28/2022	\$1,574.85	\$454.79
C20F0071-23	10/14/2022	\$234,884.02	AVC230021	10/27/2022	\$3,941.26	\$1,138.16
Subtotal for :					\$5,516.11	\$1,592.95
Total:					\$5,516.11	\$1,592.95

Voucher Number	Schedule Number	Rate Type	Annual Allocation Rate
C20F0071-22	AVC220259	Class	0.288782
C20F0071-23	AVC230021	Class	0.288782

Contract Information

~

EPA Indirect Costs Summary

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
 COSTS FROM 10/01/1980 THROUGH 12/31/2022

Fiscal Year	Direct Costs	Indirect Rate (%)	Indirect Cost
2022	24,922.06	53.23%	13,508.10
2023	217,472.10	53.23%	120,775.07
	242,394.16		

Total EPA Indirect Costs	\$134,283.17
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EPA Indirect Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
EXPENDITURURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493
COSTS FROM 10/01/1980 THROUGH 12/31/2022

PAYROLL DIRECT COSTS

Employee Name	Fiscal Year	Pay Period	Payroll Costs	Ind. Rate (%)	Indirect Costs
PERONARD, PAUL	2022	26	\$8,310.88	53.23%	\$4,423.88
		27	\$4,617.17	53.23%	\$2,457.72
			\$12,928.05		\$6,881.60
RAE, SARAH	2022	22	\$1,530.48	53.23%	\$814.67
		23	\$1,035.02	53.23%	\$550.94
		24	\$2,115.16	53.23%	\$1,125.90
		25	\$2,880.23	53.23%	\$1,533.15
		26	\$810.07	53.23%	\$431.20
		27	\$450.04	53.23%	\$239.56
	\$8,821.00		\$4,695.42		
Total Fiscal Year 2022 Payroll Direct Costs:			\$21,749.05		\$11,577.02

TRAVEL DIRECT COSTS

Traveler/Vendor Name	Travel Number	Treasury Schedule Date	Travel Costs	Ind. Rate (%)	Indirect Costs
PERONARD, PAUL	TAA09A5B	08/17/2022	\$1,598.16	53.23%	\$850.70
			\$1,598.16		\$850.70
Total Fiscal Year 2022 Travel Direct Costs:			\$1,598.16		\$850.70

OTHER DIRECT COSTS

Contract, IAG, SCA, Misc. NO	Voucher Number	Treasury Schedule Date	Site Amount	Annual/SMO Allocation Costs	Ind. Rate (%)	Indirect Costs
68-HE-0820D0001	C20F0071-22	09/28/2022	1,574.85	454.79	53.23%	1,080.38
			\$1,574.85	\$454.79		\$1,080.38

Total Fiscal Year 2022 Other Direct Costs:	\$1,574.85	\$454.79	\$1,080.38
Total Fiscal Year 2022	\$24,922.06	\$13,508.10	

PAYROLL DIRECT COSTS

Employee Name	Fiscal Year	Pay Period	Payroll Costs	Ind. Rate (%)	Indirect Costs
BOWKER, JOHN	2023	02	\$3,975.09	53.23%	\$2,115.94
			\$3,975.09		\$2,115.94
PERONARD, PAUL	2023	02	\$3,409.93	53.23%	\$1,815.11
			\$3,409.93		\$1,815.11
RAE, SARAH	2023	02	\$270.03	53.23%	\$143.74
		03	\$360.06	53.23%	\$191.66
		05	\$180.01	53.23%	\$95.82
		07	\$225.04	53.23%	\$119.79
			\$1,035.14		\$551.01
SCHUETTE, MEGAN	2023	01	\$4,305.95	53.23%	\$2,292.06
			\$4,305.95		\$2,292.06
Total Fiscal Year 2023 Payroll Direct Costs:			\$12,726.11		\$6,774.12

TRAVEL DIRECT COSTS

Traveler/Vendor Name	Travel Number	Treasury Schedule Date	Travel Costs	Ind. Rate (%)	Indirect Costs
BOWKER, JOHN	TAA09IS3	11/08/2022	\$4,510.29	53.23%	\$2,400.83
			\$4,510.29		\$2,400.83
PERONARD, PAUL	TAA09FYV	10/17/2022	\$4,192.14	53.23%	\$2,231.48
	TAA09IRT		\$3,003.59	53.23%	\$1,598.81
			\$7,195.73		\$3,830.29
SCHUETTE, MEGAN	TAA09I68	10/19/2022	\$3,145.42	53.23%	\$1,674.31

\$3,145.42 \$1,674.31

Total Fiscal Year 2023 Travel Direct Costs: **\$14,851.44** **\$7,905.43**

OTHER DIRECT COSTS

Contract, IAG, SCA, Misc. NO	Voucher Number	Treasury Schedule Date	Site Amount	Annual/SMO Allocation Costs	Ind. Rate (%)	Indirect Costs
68-HE-0820D0001	C20F0071-23	10/27/2022	3,941.26	1,138.16	53.23%	2,703.78
			\$3,941.26	\$1,138.16		\$2,703.78
68-HE-0820D0002	822008-03	12/02/2022	185,953.29	8,282.55	53.23%	103,391.74
			\$185,953.29	\$8,282.55		\$103,391.74
Total Fiscal Year 2023 Other Direct Costs:			\$189,894.55	\$9,420.71		\$106,095.52

Total Fiscal Year 2023 **\$217,472.10** **\$120,775.07**

Total EPA Indirect Costs **\$134,283.17**

Itemized Cost Summary

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
COSTS FROM 10/01/1980 THROUGH 09/30/2023

Regional Payroll Costs	\$37,462.25
Regional Travel Costs	\$16,449.60
EMERGENCY AND RAPID RESPONSE SERVICE (ERRS)	
ENVIRONMENTAL RESTORATION, L.L.C. (68-HE-0820D0002)	\$359,082.27
START CONTRACTS	
TETRA TECH, INC. (68-HE-0820D0001)	\$37,741.84
EPA Indirect Costs (Summary) / (Details)	\$254,273.61
Total Site Costs:	\$705,009.57

Regional Payroll Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5

EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
COSTS FROM 10/01/1980 THROUGH 09/30/2023

Employee Name	Fiscal Year	Pay Period	Payroll Hours	Payroll Costs
<u>BOWKER, JOHN</u> ENVIRONMENTAL ENGINEER	2023	02	95.00	\$3,975.09
		Total	95.00	\$3,975.09
<u>EDMUNDS, CRYSTAL</u> ENVIRONMENTAL PROTECTION SPECIALIST	2023	26	1.00	\$59.63
		Total	1.00	\$59.63
<u>JOHNSON, KARREN</u> <u>TUGGLE, KARREN</u> SUPERVISORY ACCOUNTANT	2023	12	3.00	\$270.93
		13	3.50	\$350.27
		19	1.00	\$107.51
		20	2.00	\$214.78
		24	5.00	\$536.77
		Total	14.50	\$1,480.26
<u>MOORE, JANE</u> ACCOUNTANT	2023	19	11.00	\$552.03
		Total	11.00	\$552.03
<u>PERONARD, PAUL</u> ENVIRONMENTAL SCIENTIST	2022	26	72.00	\$8,310.88
		27	40.00	\$4,617.17
<u>PERONARD, PAUL</u> ENVIRONMENTAL SCIENTIST	2023	02	32.00	\$3,409.93
		Total	144.00	\$16,337.98
<u>RAE, SARAH</u> ATTORNEY-ADVISER	2022	22	17.00	\$1,530.48
		23	11.50	\$1,035.02
		24	23.50	\$2,115.16
		25	32.00	\$2,880.23
		26	9.00	\$810.07
		27	5.00	\$450.04
<u>RAE, SARAH</u>				

ATTORNEY-ADVISER	2023	02	3.00	\$270.03
		03	4.00	\$360.06
		05	2.00	\$180.01
		07	2.50	\$225.04
		11	1.00	\$94.23
		12	0.50	\$47.11
		14	2.50	\$235.58
		15	1.00	\$94.23
		17	1.00	\$94.23
		18	1.00	\$94.23
		23	1.00	\$94.22
		25	0.50	\$47.11
		26	1.00	\$94.23
		Total	119.00	\$10,751.31
SCHUETTE, MEGAN BRUNKHORST, MEGAN ENVIRONMENTAL ENGINEER (OSC)	2023	01	51.00	\$4,305.95
		Total	51.00	\$4,305.95
Total			435.50	\$37,462.25

Notes

Regional Travel Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
 COSTS FROM 10/01/1980 THROUGH 09/30/2023

Traveler/Vendor Name	Travel Number	Treasury Schedule	Treasury Schedule Date	Travel Costs
BOWKER, JOHN ENVIRONMENTAL ENGINEER	TAA09IS3	AMP230026	11/08/2022	\$879.75
	TAA09IS3	AVC230031	11/08/2022	\$3,630.54
			Total	\$4,510.29
PERONARD, PAUL ENVIRONMENTAL SCIENTIST	TAA09A5B	AVC220223	08/17/2022	\$1,598.16
	TAA09FYV	AMP230010	10/17/2022	\$433.05
	TAA09FYV	AVC230012	10/17/2022	\$3,759.09
	TAA09IRT	AMP230024	11/04/2022	\$39.14
	TAA09IRT	AVC230029	11/04/2022	\$2,964.45
			Total	\$8,793.89
SCHUETTE, MEGAN BRUNKHORST, MEGAN ENVIRONMENTAL ENGINEER (OSC)	TAA09I68	AMP230012	10/19/2022	\$416.00
	TAA09I68	AVC230014	10/19/2022	\$2,729.42
			Total	\$3,145.42
Total				\$16,449.60

Notes

Contract Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
 COSTS FROM 10/01/1980 THROUGH 09/30/2023

EMERGENCY AND RAPID RESPONSE SERVICE (ERRS)

Contractor Name: ENVIRONMENTAL RESTORATION, L.L.C.

EPA Contract Number: 68-HE-0820D0002

Project Officer(s): VILLA, ANGELICA

Dates of Service: From: 09/09/2022 To: 12/07/2022

Summary of service:

Total Costs: \$359,082.27

Voucher Number	Voucher Date	Voucher Amount	Treasury Number	Schedule Date	Site Amount
822008-03	11/21/2022	\$185,953.29	AVC230056	12/02/2022	\$185,953.29
822008-12	01/18/2023	\$55,696.95	AVC230100	01/31/2023	\$55,696.95
822008-21	03/29/2023	\$117,432.03	AVC230161	04/11/2023	\$117,432.03
Subtotal for :					\$359,082.27
<hr/>					Total: \$359,082.27

Contract Information

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Contract Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
 COSTS FROM 10/01/1980 THROUGH 09/30/2023

START CONTRACTS

Contractor Name: TETRA TECH, INC.
 EPA Contract Number: 68-HE-0820D0001
 Project Officer(s): ACKERMAN, JOYCE
 ACKERMAN, JOYCE MARYMEE
 ~

Dates of Service: From: 07/02/2022 To: 10/28/2022
 Summary of service:
 Total Costs: \$37,741.84

Voucher Number	Voucher Date	Voucher Amount	Treasury Number	Schedule Date	Site Amount
C20F0071-22	09/13/2022	\$137,438.82	AVC220259	09/28/2022	\$1,574.85
C20F0071-23	10/14/2022	\$234,884.02	AVC230021	10/27/2022	\$3,941.26
C20F0071-24	11/17/2022	\$300,330.78	AVC230053	11/30/2022	\$9,597.67
C20F0071-25	12/21/2022	\$220,571.93	AVC230078	01/03/2023	\$12,951.64
C20F0071-26	01/06/2023	\$155,802.42	AVC230093	01/24/2023	\$8,242.26
C20F0071-28	03/08/2023	\$68,983.62	AVC230142	03/22/2023	\$310.82
C20F0071-27		\$0.00	JV	08/04/2023	\$841.61
C20F0071-31	06/05/2023	\$89,643.33	AVC230211	09/20/2023	\$281.73
Subtotal for :					\$37,741.84
Total:					\$37,741.84

Contract Information
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EPA Indirect Costs Summary

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
 COSTS FROM 10/01/1980 THROUGH 09/30/2023

Fiscal Year	Direct Costs	Indirect Rate (%)	Indirect Cost
2022	24,922.06	57.66%	14,370.05
2023	425,813.90	56.34%	239,903.56
	450,735.96		

Total EPA Indirect Costs	\$254,273.61
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EPA Indirect Costs

VALLEY DRIVE ABANDONED SLURRY, SITE ID = B8D5
 EXPENDITURE SUMMARY REPORT - ALL INCLUSIVE - CRP# 236493, 238560 & 239257
 COSTS FROM 10/01/1980 THROUGH 09/30/2023

PAYROLL DIRECT COSTS

Employee Name	Fiscal Year	Pay Period	Payroll Costs	Ind. Rate (%)	Indirect Costs
PERONARD, PAUL	2022	26	\$8,310.88	57.66%	\$4,792.05
		27	\$4,617.17	57.66%	\$2,662.26
			\$12,928.05		\$7,454.31
RAE, SARAH	2022	22	\$1,530.48	57.66%	\$882.47
		23	\$1,035.02	57.66%	\$596.79
		24	\$2,115.16	57.66%	\$1,219.60
		25	\$2,880.23	57.66%	\$1,660.74
		26	\$810.07	57.66%	\$467.09
		27	\$450.04	57.66%	\$259.49
			\$8,821.00		\$5,086.18
Total Fiscal Year 2022 Payroll Direct Costs:			\$21,749.05		\$12,540.49

TRAVEL DIRECT COSTS

Traveler/Vendor Name	Travel Number	Treasury Schedule Date	Travel Costs	Ind. Rate (%)	Indirect Costs
PERONARD, PAUL	TAA09A5B	08/17/2022	\$1,598.16	57.66%	\$921.50
			\$1,598.16		\$921.50
Total Fiscal Year 2022 Travel Direct Costs:			\$1,598.16		\$921.50

OTHER DIRECT COSTS

Contract, IAG, SCA, Misc. NO	Voucher Number	Treasury Schedule Date	Site Amount	Annual/SMO Allocation Costs	Ind. Rate (%)	Indirect Costs
68-HE-0820D0001	C20F0071-22	09/28/2022	1,574.85	0.00	57.66%	908.06
			\$1,574.85	\$0.00		\$908.06

Total Fiscal Year 2022 Other Direct Costs:	\$1,574.85	\$0.00	\$908.06
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Total Fiscal Year 2022	\$24,922.06	\$14,370.05
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PAYROLL DIRECT COSTS

Employee Name	Fiscal Year	Pay Period	Payroll Costs	Ind. Rate (%)	Indirect Costs
BOWKER, JOHN	2023	02	\$3,975.09	56.34%	\$2,239.57
			\$3,975.09		\$2,239.57
EDMUNDS, CRYSTAL	2023	26	\$59.63	56.34%	\$33.60
			\$59.63		\$33.60
JOHNSON, KARREN	2023	12	\$270.93	56.34%	\$152.64
		13	\$350.27	56.34%	\$197.34
		19	\$107.51	56.34%	\$60.57
		20	\$214.78	56.34%	\$121.01
		24	\$536.77	56.34%	\$302.42
			\$1,480.26		\$833.98
MOORE, JANE E	2023	19	\$552.03	56.34%	\$311.01
			\$552.03		\$311.01
PERONARD, PAUL	2023	02	\$3,409.93	56.34%	\$1,921.15
			\$3,409.93		\$1,921.15
RAE, SARAH	2023	02	\$270.03	56.34%	\$152.13
		03	\$360.06	56.34%	\$202.86
		05	\$180.01	56.34%	\$101.42
		07	\$225.04	56.34%	\$126.79
		11	\$94.23	56.34%	\$53.09
		12	\$47.11	56.34%	\$26.54
		14	\$235.58	56.34%	\$132.73
		15	\$94.23	56.34%	\$53.09
		17	\$94.23	56.34%	\$53.09
		18	\$94.23	56.34%	\$53.09
		23	\$94.22	56.34%	\$53.08
		25	\$47.11	56.34%	\$26.54
		26	\$94.23	56.34%	\$53.09

			\$1,930.31		\$1,087.54
SCHUETTE, MEGAN	2023	01	\$4,305.95	56.34%	\$2,425.97
			\$4,305.95		\$2,425.97
Total Fiscal Year 2023 Payroll Direct Costs:			\$15,713.20		\$8,852.82

TRAVEL DIRECT COSTS

Traveler/Vendor Name	Travel Number	Treasury Schedule Date	Travel Costs	Ind. Rate (%)	Indirect Costs
BOWKER, JOHN	TAA09IS3	11/08/2022	\$4,510.29	56.34%	\$2,541.10
			\$4,510.29		\$2,541.10
PERONARD, PAUL	TAA09FYV	10/17/2022	\$4,192.14	56.34%	\$2,361.85
	TAA09IRT		\$3,003.59	56.34%	\$1,692.22
			\$7,195.73		\$4,054.07
SCHUETTE, MEGAN	TAA09I68	10/19/2022	\$3,145.42	56.34%	\$1,772.13
			\$3,145.42		\$1,772.13
Total Fiscal Year 2023 Travel Direct Costs:			\$14,851.44		\$8,367.30

OTHER DIRECT COSTS

Contract, IAG, SCA, Misc. NO	Voucher Number	Treasury Schedule Date	Site Amount	Annual/SMO Allocation Costs	Ind. Rate (%)	Indirect Costs
68-HE-0820D0001	C20F0071-23	10/27/2022	3,941.26	0.00	56.34%	2,220.51
	C20F0071-24	11/30/2022	9,597.67	0.00	56.34%	5,407.33
	C20F0071-25	01/03/2023	12,951.64	0.00	56.34%	7,296.95
	C20F0071-26	01/24/2023	8,242.26	0.00	56.34%	4,643.69
	C20F0071-28	03/22/2023	310.82	0.00	56.34%	175.12
	C20F0071-27	08/04/2023	841.61	0.00	56.34%	474.16
	C20F0071-31	09/20/2023	281.73	0.00	56.34%	158.73
			\$36,166.99	\$0.00		\$20,376.49
68-HE-0820D0002	822008-03	12/02/2022	185,953.29	0.00	56.34%	104,766.08
	822008-12	01/31/2023	55,696.95	0.00	56.34%	31,379.66
	822008-21	04/11/2023	117,432.03	0.00	56.34%	66,161.21

\$359,082.27

\$0.00

\$202,306.95

Total Fiscal Year 2023 Other Direct Costs:

\$395,249.26

\$0.00

\$222,683.44

**Total Fiscal Year
2023**

\$425,813.90

\$239,903.56

Total EPA Indirect Costs

\$254,273.61

| 2022 | 2023 |



REGION 8

DENVER, CO 80202

December 12, 2023

Ref: 8ORC-LE-C

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Irene Serio



Re: Notice of Potential Liability and Intent to Perfect a Lien
Valley Drive Abandoned Slurry Site, Kalispell, Flathead County, Montana

Dear Ms. Serio:

This letter serves to provide notice of potential liability and intent to perfect a Superfund lien with regard to the property located at 185 West Valley Drive, Kalispell, Montana 59901 (Valley Drive Abandoned Slurry Site). The U.S. Environmental Protection Agency (EPA) is charged with responding to the release or threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA, commonly referred to as Superfund), 42 U.S.C. §§ 9601-9675.

Site History

The EPA has documented the release and threatened release of hazardous substances into the environment at the Valley Drive Abandoned Slurry Site (Site) located in Kalispell, Montana. In response to the release and threatened release of hazardous substances at the Site, the EPA has spent public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. These actions have been taken by the EPA pursuant to CERCLA.

EPA identified the Site through a report by a private citizen to the National Response Center. In July 2022, EPA contacted you and requested access to the property to inspect and conduct cleanup activities. However, this request was denied. As a result, the EPA, via the Department of Justice, sought a Warrant for Access through the Federal District Court for the District of Montana. The Court issued the warrant on September 7, 2022. Between September 15, 2022 and October 29, 2022, EPA accessed the property at 185 West Valley Drive, Kalispell, Montana to conduct inspection, sampling, removal, and other response activities associated with the investigation and cleanup of leaking tanks.

Notice of Potential Liability

Under CERCLA, the Agency's mission is to protect human health and the environment from the actual or potential risks posed by exposure to contaminated or potentially contaminated land and other media. Accordingly, the Agency has an obligation to conduct a comprehensive investigation of any hazardous substances, pollutants and contaminants that may be present in the vicinity of a Superfund site and any parties that may be liable under CERCLA. Responsible parties under CERCLA Section 107(a), 42 U.S.C. §9607(a), include, among others, owners or operators at the time of disposal of any hazardous substance, as well as current owners or operators. If a person or entity falls within the categories of responsible parties defined by CERCLA §107(a), then they may be held strictly liable, which means that liability can be imposed without a finding of fault or culpability. Responsible parties may be held liable for monies expended by the federal government in taking response actions, including investigative, planning, removal, remedial and enforcement actions at and around sites where hazardous substances have been released. Responsible parties may also be subject to orders requiring them to take response actions themselves.

By this letter, we notify you that the EPA has reason to believe that you are the current owners of 185 West Valley Drive, Kailispell, Montana. Accordingly, you may be liable with respect to the Site under Section 107(a) of CERCLA.

Financial Concerns/Ability to Pay Settlements

The EPA is open to exploring settlement options with potentially responsible parties to resolve their CERCLA liability. The EPA is aware that the financial ability of some potentially responsible parties to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact EPA Region 8 Enforcement Attorney Sarah Rae by phone at (303) 312-6839 or by email at Rae.Sarah@epa.gov for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for these settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including federal income tax returns. If the EPA concludes that you have a legitimate inability to pay the full amount of the EPA's costs, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Notification of Intent to Perfect Superfund Lien

CERCLA gives the EPA the funds and authority to clean up contaminated sites. Pursuant to CERCLA Section 107(l), 42 U.S.C. §9607(l), a Superfund lien arises on a property where the United States has expended public funds to clean up contamination at the property. A Superfund lien allows the United States to recover response costs from parties liable under CERCLA Section 107(a) and replenish the Superfund Trust Fund. The lien continues until the liability for the EPA's response costs has been satisfied or has become unenforceable through the operation of the statute of limitations provided in CERCLA Section 113(g), 42 U.S.C. §9613(g).

As stated above, the EPA has expended public funds in taking response activities pursuant to CERCLA at the Site. The EPA understands that 185 West Valley Drive, Kalispell, Montana was conveyed accordingly:

Geocode 7396516102010000: from Anthony J Serio and Irene J Serio to Irene J Serio by Quitclaim Deed dated August 30, 2007, which deed was recorded in the Flathead County Clerk's Office.

As also stated above, the EPA has reason to believe that you are liable under CERCLA Section 107(a) to reimburse the United States for funds that the EPA expends in addressing hazardous substances at the Site.

The EPA has assembled a Lien Filing Record consisting of records or documents relating to and supporting the filing of a lien. A copy of the index to the Lien Filing Record is enclosed with this letter and you may receive a copy of the documents in the Lien Filing Record by requesting them from EPA Enforcement Attorney Sarah Rae by phone at (303) 312-6839 or by email at Rae.Sarah@epa.gov. The EPA has reviewed the information in the Lien Filing Record and believes that the statutory elements for perfecting a lien exist. Accordingly, the EPA intends to perfect a lien by filing a Notice of Federal Lien in the Flathead County Clerk's Office as provided in CERCLA Section 107(l)(3), 42 U.S.C. §9607(l)(3).

You may, within 14 days from the date of this letter, object to the perfection of the lien if you believe that the EPA is in error concerning matters of fact or law relied upon by the EPA for the establishment of the lien. An objection should be in writing and should describe your basis for contending that the EPA does not have a statutory basis to perfect the lien pursuant to Section 107(l) of CERCLA. You may request an appearance before a neutral EPA official to present the information that you believe would contradict the EPA's right to assert or perfect the CERCLA lien. The written objection and/or request for a conference should be sent by you or by your representative, together with any supporting documentation, to EPA Region 8 Enforcement Attorney Sarah Rae, via mail or email at:

Sarah Rae (Mail Code: ORC-LE-C)
Office of Regional Counsel
US EPA – Region 8
1595 Wynkoop Street
Denver, CO 80202
Rae.Sarah@epa.gov

EPA staff will review any written submission by or on behalf of you. If, after the review, EPA staff agrees that the Agency does not have a reasonable basis to perfect the lien, the EPA will forbear from perfecting the lien and will notify you of this determination. However, if after this review, EPA staff still believes that the EPA has liens pursuant to CERCLA Section 107(l), then EPA staff will refer the written submission to a neutral EPA official selected for the purpose of reviewing both i) the written submission and ii) the EPA's Lien Filing Record.

If you or your representative requests a conference as provided above, the EPA will contact the requester to schedule it. You may attend a conference by phone or virtual meeting platform, such as Microsoft Teams. At the conference, the EPA will be represented by enforcement staff, including a representative from the Office of Regional Counsel, and you may be represented by your counsel or other representative. The conference will be an informal hearing in which you may provide the EPA with information and/or documentation supporting why you dispute the EPA's conclusions with respect to

the lien. The conference is not an evidentiary hearing and would not constitute a proceeding for a legally binding determination of liability for the response costs incurred by the EPA in connection with the Site. No official stenographic record will be made, and the conference will not be conducted using rules of evidence or formal administrative procedures. The sole issue to be addressed at the conference would be whether the EPA has a reasonable basis to perfect its lien under Section 107(l) of CERCLA with regard to the property located at 195 West Valley Drive, Kalispell, Montana.

After reviewing the written submissions and after conducting a conference (if one is requested), the neutral EPA official will issue a recommended decision based upon the Lien Filing Record and the other information received. The recommended decision will state whether the EPA has a reasonable basis to perfect the lien and the decision will be forwarded for action to the EPA official delegated to execute liens. You will be provided with a copy of the recommended decision and will be notified of EPA's action.

Neither you nor the EPA shall be deemed to have waived any rights nor shall either be prohibited from asserting any claim or defense in any subsequent legal or administrative proceeding by reason of participation in the lien processes described in this letter, whether on account of the submission of any objection to the lien, the request for or participation in a conference, the submission of documents or information, or the issuance of a recommended decision by EPA staff or a neutral EPA official.

Information to Assist You

For additional Site information, we direct your attention to the Site webpage at:
https://response.epa.gov/site/site_profile.aspx?site_id=15686.

Please give these matters your immediate attention and consider consulting with an attorney. The EPA is extending to you an opportunity to meet with the Agency to discuss any legal, technical, or environmental questions you may have. To schedule the meeting please call or have your attorney contact EPA Region 8 Enforcement Attorney Sarah Rae by phone at (303) 312-6839 or by email at Rae.Sarah@epa.gov.

Sincerely,

CHRISTOPHE
R THOMPSON

Digitally signed by
CHRISTOPHER THOMPSON
Date: 2023.12.12 09:14:02
-07'00'

Christopher Thompson
Associate Regional Counsel for Enforcement
EPA Region 8, Office of Regional Counsel

Enclosure - Index of Lien Filing Record

cc: Ben Bielenberg, EPA, Acting Director, Superfund and Emergency Management Division
Karissa Roskind, EPA, Attorney, Office of Site Remediation
Paul Peronard, EPA, On-Scene Coordinator
Sarah Rae, EPA, Enforcement Attorney