REDACTED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ACTION MEMORANDUM

SUBJECT: Request Ceiling Increase at the Removal Action at the L&R Oil Recovery Facility

FROM: Kevin Eichinger, Federal On-Scene Coordinator
Emergency Response, Removal, Prevention, and Preparedness Branch

THRU: James W. Webster, Ph.D., Chief
Emergency Response, Removal, Prevention, and Preparedness Branch 8/6/19

TO: Franklin E. Hill, Director
Superfund and Emergency Management Division

I. PURPOSE

The purpose of this Action Memorandum is to request and document additional funding to complete the emergency response actions described herein for the L&R Oil Recovery Facility (the Site) located at 501 Ruth Street, Shelby, Cleveland County, North Carolina. The Site continues to pose a threat to public health and the environment that meets the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) section 300.415(b) criteria for removal actions. Site activities were commenced under the attached Emergency Action Memorandum signed October 4, 2018. A ceiling increase is needed to transport and dispose of hazardous substances, including approximately 25,000 gallons of hazardous waste and 25,000 gallons of waste oil contaminated water contained on-site in totes and underground storage tanks. If approved, this ceiling increase will bring the total project ceiling to $872,000 which will be funded through the Regional Removal Allowance.

II. SITE INFORMATION

A. Site Description

Site Name: L&R Oil Recovery
Superfund Site ID (SSID): C466
NRC Case Number: 1224615
CERCLIS Number: NCR000169185
Site Location: 501 Ruth Street, Shelby, Cleveland County, North Carolina 28150
Lat/Long: 35.29957, -81.5287140
Potentially Responsible Party (PRP): L&R Oil Recovery LLC
NPL Status: Non-NPL
Removal Start Date: September 14, 2018

B. Site Background

1. Removal Site Evaluation

On September 14, 2018, the North Carolina Department of Environmental Quality (NCDEQ), the City of Shelby and Cleveland County officials responded to a report of an approximately 3,000-gallon spill of used/waste oil. A 6,500-gallon tanker-trailer used to store used/waste oil had been positioned behind the building and discharged its contents into the building via a hose placed through a window. The oil filled the building, ran out onto the property and onto Ruth Street. A nearby storm drain and several sections of the sanitary sewer system were impacted by the spill. The storm drain led to Hickory Creek which is a tributary of the Broad River. The facility is located directly adjacent to occupied residential structures. One residential property was impacted by the spill. Two samples of the spilled oil were obtained and sent to a laboratory for analytical testing. The analytical results indicated that the oil contained PCBs (Aroclor 1242) at 20.9 parts per million (ppm) and 18.3 ppm. The Site experienced significant rain from the outer rain bands of Hurricane Florence and is not located in a natural disaster declared county.

In addition to the 3,000-gallon PCB-contaminated oil release, the following threats exist on the Site:

- 42 - 275 and 330-gallon intermediate bulk containers (IBC) containing flammable and combustible material,
- 12 - 55-gallon drums containing flammable and combustible material,
- 1 - DOT 306AL tanker containing approximately 8,600 gallons of PCB containing waste oil (Note: The PRP provided analytical results for the material. The results indicated that the oil contained 25,613 ppm Aroclor 1242. The tanker is leaking from behind the shutoff valves. The leak cannot be secured.); and
- 1 - 6,500-gallon tanker used to store, used oil (Note: The tanker still contains approximately 1,000 gallons of PCB-contaminated used oil at 20.9 ppm.).
- 3 – Underground storage tanks (UST), containing 44,000 gallons of used oil and water mixture.

2. Physical Location and Site Characteristics

The Site is located at 501 Ruth Street in Shelby, North Carolina. The geographical coordinates are 35.29957, -81.5287140. The 1.14-acre Site was originally an oil trans-load facility. It is currently used as an used oil and spent oil filter recovery center. The Site consists of a 6,500-square foot single story building and a two-bay covered loading rack. The main building is dilapidated. The roof is not intact, and a section of the concrete floor is missing. The used oil is stored in tankers and then transported to a used oil recycling facility. The oil filters are drained into containers inside the building and then stored for disposal in a covered roll-off dumpster. Multiple IBCs and 55-gallon drums are stored inside and outside the building. Seven 20,000-gallon USTs are on the property. The PRP reports that two of the USTs contain an unknown amount of diesel

fuel and water. One oil recovery truck is stored in the loading rack. The Site is located directly adjacent to a residential community. The Site is fenced; however, there is evidence of trespassing and vandalism.

III. THREATS TO PUBLIC HEALTH, WELFARE OR THE ENVIRONMENT

A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants

PCBs are hazardous substances as defined by Section 101(14) of CERCLA. The large volume of PCB containing used oil at the Site along with releases of PCB-contaminated used oil to the environment constitute a threat to public health and the environment.

Actual or threatened releases of hazardous substances from this Site may present an imminent and substantial endangerment to public health, welfare or the environment.

B. Applicable factors which were considered in determining the appropriateness of a removal action (40 CFR 30.415)

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

Three thousand (3,000) gallons of PCB-contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker containing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking on-site. Unsecured drums, ICBs of hazardous substances and an additional tanker are stored on-site. A residential community is located directly across the street from the Site. These conditions represent an actual exposure to nearby human population, animals and the food chain from hazardous substances.

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

Multiple tankers, IBCs and 55-gallon drums are located on-site. Initial hazard categorization testing has determined that these materials are flammable and combustible. Multiple containers are unsecured and subject the release of hazardous substances.

Weather conditions that may cause hazardous substances or pollutants to migrate or to be released [300.315(b)(2)(v)]

Three thousand (3,000) gallons of PCB-contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker storing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking on-site. An additional tanker, drums and IBCs of hazardous substances are located on-site and are not secured. The roof is not intact. A weather event may cause the hazardous substances to be released or migrate off-site and impact the nearby residential community.

Threat of fire or explosion [300.415(b)(2)(vi)]

Initial hazard categorization testing has determined that these materials are flammable and combustible. The tankers and containers are unsecured and subject to a fire or explosion. Two tankers, IBCs, 55-gallon drums and other containers of unknown hazardous substances are located on-site and are not secured.

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

The PRP has stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. The NCDEQ requested EPA assistance.

Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)]

The facility is located near residential structures, and the PRP does not have the funding available to perform the necessary remedial actions needed to prevent further environmental harm, or to remove the PCB-contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad. There is also a concern that historical contamination has occurred.

IV. SELECTED REMOVAL ACTIONS AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Current Situation

   On September 14, 2018, the NCDEQ, local officials and the local fire department responded to secure the release. Sand and oil dry were spread to absorb and contain the spill. The City of Shelby contracted with an environmental services company and removed the oil from the storm drain. The NCDEQ's staff assessed the outfall to Hickory Creek and did not observe an oil sheen.

2. Removal Activities to Date

   a. Federal Government/Private Party

      Due to the urgency of the response, impending weather and travel time to the Site, the EPA utilized a contracting provision (Basic Ordering Agreement) to hire a local response contractor for initial site stabilization. The contractor was mobilized on September 14, 2018. The response contractor arrived on-scene with personnel, a vacuum truck and other response equipment to address the spill. Federal On-Scene Coordinator (FOSC) Englert coordinated the initial stabilization efforts from the Regional Operations Center. FOSC Eichinger responded and took over the Site on September 18, 2018. The EPA's Superfund Technical Assessment and Response Team (START) contractors were mobilized. FOSC Eichinger arrived on-scene and

met with the property owner and the response contractor. Response operations from the previous operations were reviewed. The property owner provided FOSC Eichinger with written access to perform the necessary response operations to stabilize the Site. During the previous and current operational periods, the response contractor performed or will perform the following operations:

1. Cleaned the road surface,
2. Excavated contaminated soil from the Site and one nearby residential property,
3. Removed bulked oil spilled inside the building and collected by earthen berms,
4. Used absorbent media to remove residual oil inside the building, and
5. Installed hay bales and oil absorbent boom around the perimeter fence line of the building to contain any residual oils.

START contractors conducted hazard categorization (HAZCAT) testing on the drums and the IBCs. Samples were obtained from the IBCs, drums and the two tankers and sent offsite for analysis (list tests). Soil samples were collected around the property and the nearby residential property impacted by the spill.

The EPA's Emergency and Rapid Response Services (ERRS) contractors were mobilized on September 18, 2018, to address the leaking tanker of PCB-containing oil. The PCB oil was transferred to IBCs and staged inside a secured storage container (CONEX box) pending approval of the waste profile and completion of disposal arrangements.

The waste generated by the emergency response operations is staged pending on-site approval of the waste profile and completion of disposal arrangements.

b. State/Local

State and local agencies responded and took initial emergency defensive actions to contain the spill.

3. Enforcement

The PRP stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. NCDEQ requested EPA assistance. FOSC Eichinger will work with EPA Enforcement to identify PRPs. The current property owner is identified in the attached enforcement addendum.

B. Planned Removal Actions

1. The site management will be transitioned to a potential time-critical removal action. The PRP stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. On September 17, 2018, the NCDEQ Hazardous Waste Section formally referred the Site to the EPA Emergency Response, Removal and Prevention Branch for Time-Critical Removal Action consideration. The facility is located near residential structures and does not have the funding available to perform the necessary

remedial actions needed to prevent further environmental harm, or to remove the PCB-contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad and historical contamination may have occurred.

2. Anticipated immediate removal activities for the Site include, but are not limited to, the following:

   a. Ship waste generated for the response off-site for proper waste disposal.

   b. Implement removal actions to abate the threat to human health and the environment based on the results of the further investigation.

3. Contribution to Remedial Performance

   Any potential long-term remedial actions will be coordinated with the appropriate state and federal programs and will be consistent with the Remedial Design for the Site.

4. ARARs

   In accordance with the NCP at 40 CFR 300.415(j), on-site removal actions conducted under the CERCLA are required to attain ARARs to the extent practicable considering the exigencies of the situation or provide grounds for invoking a CERCLA waiver under Section 121(d)(4). In determining whether compliance with ARARs is practicable, the lead agency may consider appropriate factors, including (1) the urgency of the situation; and (2) scope of the removal action to be conducted. Additionally, under 40 CFR 300.405(g)(3), other advisories, criteria or guidance may also be considered when conducting the removal action. ARARs include only federal and state environmental or facility siting laws/regulations and do not include occupational safety or worker protection requirements. Compliance with OSHA standards is required by 40 CFR 300.150. ARARs are typically divided into three categories: (1) chemical-specific; (2) location-specific; and (3) action-specific.

   Under CERCLA Section 121(e)(1), federal, state or local permits are not required for the portion of any removal or remedial action conducted entirely on-site as defined in 40 CFR § 300.5. See also 40 CFR §§ 300.400(e)(1) & (2). On-site means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action. On-site response actions must comply, to the extent practicable, with substantive but not administrative requirements of ARARs. Off-site activities such as transportation and disposal of wastes are required to comply with all applicable requirements, including the administrative portions.

   As provided in CERCLA Section 121(d)(3) and the Off-site Rule at 40 CFR 300.440 *et seq.* the off-site transfer of any hazardous substance, pollutant or contaminant generated during the response action will be sent to a treatment, storage or disposal facility that is in compliance with applicable federal and state laws and has been approved by the EPA for acceptance of CERCLA waste.

C. Estimated Costs

Extramural costs:	Current Ceiling	Proposed Increase	Proposed Ceiling
Contractor costs (ERRS)	$577,000	$200,000	$777,000
Contractor costs (START)	$ 45,000	$ 0	$ 45,000
Contingency costs	$ 0	$ 50,000	$ 50,000
Total Removal Project Ceiling	**$622,000**	**$250,000**	**$872,000**

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

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

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

VI. OUTSTANDING POLICY ISSUES

None.

VII. RECOMMENDATION

This decision document represents the selected removal action for the L & R Oil Recovery Site in Shelby, North Carolina developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

Conditions at the Site continue to meet the NCP Section 300.415(b) criteria for a removal action. I recommend your approval for the proposed action to allow continued removal response. The total projected ceiling, if approved, will be $872,000.

APPROVED: _____ DATE: 8/6/19

Franklin E. Hill, Director
Superfund & Emergency Management Division

DISAPPROVED: _____ DATE: _____

Franklin E. Hill, Director
Superfund & Emergency Management Division

Attachments: September 19, 2018 Emergency Action Memo
December 4, 2018 Ceiling Increase Action Memo

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

$250,000 EMERGENCY ACTION MEMORANDUM

DATE: September 19, 2018

SUBJECT: Action Memorandum for an Emergency Response Removal Action at the L&R Oil Recovery Facility pursuant to the Federal On-Scene Coordinator's delegated authority under CERCLA Section 104

FROM: Kevin Eichinger, Federal On-Scene Coordinator
Emergency Response, Removal and Prevention Branch

THRU: James W. Webster, Ph.D., Chief
Emergency Response, Removal and Prevention Branch

10/04/2018

TO: Site File

I. PURPOSE

The purpose of this memorandum is to document the decision to initiate the emergency response actions described herein for the L&R Oil Recovery Facility (the Site) located at 501 Ruth Street, Shelby, Cleveland County, North Carolina pursuant to the Federal On-Scene Coordinator's (FOSC) delegated authority under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 104.

II. SITE INFORMATION

A. Site Description

Site Name: L&R Oil Recovery
Superfund Site ID (SSID): C466
NRC Case Number: 1224615
CERCLIS Number: NCR000169185
Site Location: 501 Ruth Street, Shelby, Cleveland County, North Carolina 28150
Lat/Long: 35.29957, -81.5287140
Potentially Responsible Party (PRP): L&R Oil Recovery LLC.
NPL Status: Non-NPL
Removal Start Date: September 14, 2018

B. Site Background

1. Removal Site Evaluation

On September 14, the North Carolina Department of Environmental Quality (NCDEQ), the City of Shelby and Cleveland County officials responded to a report of an approximately 3,000-gallon spill of used/waste oil. A 6,500-gallon tanker-trailer used to store used/waste oil had been positioned behind the building and discharged its contents into the building via a hose placed through a window. The oil filled the building, ran out onto the property and onto Ruth Street. A nearby storm drain and several sections of the sanitary sewer system were impacted by the spill. The storm drain led to Hickory Creek which is a tributary of the Broad River. The facility is located directly adjacent to occupied residential structures. One residential property was impacted by the spill. Two samples of the spilled oil were obtained and sent to a laboratory for analytical testing. The analytical results indicated that the oil contained PCBs (Aroclor 1242) at 20.9 ppm and 18.3 ppm. The Site experienced significant rain from the outer rain bands of Hurricane Florence and is not located in a natural disaster declared county.

In addition to the 3,000-gallon PCB-contaminated oil release, the following threats exist on the Site:

- 42 - 275 and 330-gallon intermediate bulk containers (IBC) containing flammable and combustible material,
- 12 - 55-gallon drums containing flammable and combustible material,
- 1 - DOT 306AL tanker containing approximately 8,600-gallons of PCB containing waste oil (Note: The PRP provided analytical results for the material. The results indicated that the oil contained 25,613 ppm Aroclor 1242. The tanker is leaking from behind the shutoff valves. The leak cannot be secured.); and
- 1 - 6,500-gallon tanker used to store, used oil (Note: The tanker still contains approximately 1,000 gallons of PCB contaminated used oil at 20.9 ppm.).

2. Physical Location and Site Characteristics

The Site is located at 501 Ruth Street in Shelby, North Carolina. The geographical coordinates are 35.29957, -81.5287140. The 1.14-acre site was originally an oil trans-load facility. It is currently used as an used oil and spent oil filter recovery center. The Site consists of a 6,500-square foot single story building and a two-bay covered loading rack. The main building is dilapidated. The roof is not intact, and a section of the concrete floor is missing. The used oil is stored in tankers and then transported to a used oil recycling facility. The oil filters are drained into containers inside the building and then stored for disposal in a covered roll-off dumpster. Multiple IBCs and 55-gallon drums are stored inside and outside the building. There are seven 20,000-gallon underground storage tanks (UST) on the property. The PRP reports that two of the USTs contain an unknown amount of diesel fuel and water. One oil recovery truck is stored in the loading rack. The Site is located directly adjacent to a residential community. The Site is fenced; however, there is evidence of trespassing and vandalism.

III. THREATS TO PUBLIC HEALTH, WELFARE OR THE ENVIRONMENT

A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants

PCBs are hazardous substances as defined by Section 101(14) of CERCLA. The large volume of PCB containing used oil at the Site along with releases of PCB contaminated used oil to the environment constitute a threat to public health and the environment.

B. Applicable factors which were considered in determining the appropriateness of a removal action (40 CFR 30.415)

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

3,000 gallons of PCB contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker containing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking onsite. Unsecured drums, ICBs of hazardous substances and an additional tanker are stored onsite. A residential community is located directly across the street from the Site. These conditions represent an actual exposure to nearby human population, animals and the food chain from hazardous substances.

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

Multiple tankers, IBCs and 55-gallon drums are located on the site. Initial hazard categorization testing has determined that these materials are flammable and combustible. Multiple containers are unsecured and subject the release of hazardous substances.

Weather conditions that may cause hazardous substances or pollutants to migrate or to be released [300.315(b)(2)(v)]

3,000 gallons of PCB contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker storing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking onsite. An additional tanker, drums and IBCs of hazardous substances are located onsite and are not secured. The roof is not intact. A weather event may cause the hazardous substances to be release or migrate off-site and impact the nearby residential community.

Threat of fire or explosion [300.415(b)(2)(vi)]

Initial hazard categorization testing has determined that these materials are flammable and combustible. The tankers and containers are unsecured and subject to a fire or explosion. Two tankers, IBCs, 55-gallon drums and other containers of unknown hazardous substances are located onsite and are not secured.

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

The Potential Responsible Party (PRP) has stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. The NCDEQ requested EPA assistance.

Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)].

The facility is located near residential structures, and the PRP does not have the funding available to perform the necessary remedial actions needed to prevent further environmental harm, or to remove the PCB contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad. There is also a concern that historical contamination has occurred.

IV. SELECTED REMOVAL ACTIONS AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Current Situation

On September 14, 2018, the NCDEQ, local officials, and the local fire department responded to secure the release. Sand and oil dry were spread to absorb and contain the spill. The City of Shelby contracted with an environmental services company and removed the oil from the storm drain. The NCDEQ's staff assessed the outfall to Hickory Creek and did not observe an oil sheen.

2. Removal Activities to Date

a. Federal Government/Private Party

Due to the urgency of the response, impending weather and travel time to the Site, the EPA utilized a contracting provision (Basic Ordering Agreement) to hire a local response contractor for initial site stabilization. The contractor was mobilized on September 14. The response contractor arrived on scene with personnel, a vacuum truck and other response equipment to address the spill. FOSC Englert coordinated the initial stabilization efforts from the Regional Operations Center (REOC). FOSC Eichinger responded and took over the Site on September 18. EPA's Superfund Emergency Response and Response Training (START) contractors were mobilized. FOSC Eichinger arrived on scene and met with the property owner and the response contractor. Response operations from the previous operations were reviewed. The property owner provided FOSC Eichinger with written access to perform the necessary response operations to stabilize the Site. During the previous and current operational periods, the response contractor performed or will perform the following operations:

1. Cleaned the road surface.
2. Excavated contaminated soil from the Site and one nearby residential property.
3. Removed bulked oil spilled inside the building and collected by earthen berms.
4. Used absorbent media to remove residual oil inside the building. and
5. Installed hay bales and oil absorbent boom around the perimeter fence line of the building to contain any residual oils.

START contractors conducted hazard categorization (HAZCAT) testing on the drums and the IBCs. Samples were obtained from the IBCs, drums and the two tankers and sent offsite for analysis (list tests). Soil samples were collected around the property and the nearby residential property impacted by the spill.

The EPA's Emergency and Rapid Removal Services (ERRS) contractors were mobilized on September 18 to address the leaking tanker of PCB containing oil. The PCB oil was transferred to IBCs and staged inside a secured storage container (CONEX box) pending approval of the waste profile and completion of disposal arrangements.

The waste generated by the emergency response operations will be staged pending on-site approval of the waste profile and completion of disposal arrangements.

b. State/Local

State and Local Agencies responded and took initial emergency defensive actions to contain the spill.

3. Enforcement

The Potential Responsible Party (PRP) stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. NCDEQ requested EPA assistance. FOSC Eichinger will work with EPA Enforcement to identify PRPs. The current property owner is identified in the attached enforcement addendum.

B. Planned Removal Actions

1. The site management will be transitioned to a time-critical removal action. The Potential Responsible Party (PRP) stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. On September 17, the NCDEQ Hazardous Waste Section formally referred the Site to the EPA Emergency Response, Removal and Prevention Branch for Time-Critical Removal Action consideration. The facility is located near residential structures and does not have the funding available to perform the necessary remedial actions needed to prevent further environmental harm, or to remove the PCB contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad and historical contamination may have occurred.

2. Anticipated immediate removal activities for the Site include, but are not limited to, the following:

   a. Continue the disposal approval process for the waste material generated during the initial emergency response. The PCB concentration of this material is less than 50 ppm.

   b. Begin the disposal approval process for the waste material that previously existed on the Site. This process will begin when the analytical sample results are received.

   c. Collect and replace oil absorbent materials used to collect residual oils that may be released from the Site after each rain event.

   d. Conduct further studies to determine additional threats to human health and the environment, and

   e. Implement removal actions to abate the threat to human health and the environment based on the results of the further studies.

3. Contribution to Remedial Performance

   Any potential long-term remedial actions will be coordinated with the appropriate state and federal programs and will be consistent with the Remedial Design for the Site.

4. ARARs

   Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable. In determining whether compliance with ARARs is practicable, the FOSC may consider appropriate factors, including the urgency of the situation and the scope of the removal action to be conducted.

C. Estimated Costs

Contractor costs (ERRS)	$ 200,000
Contractor costs (START)	$ 30,000
Contingency costs	$ 20,000
Total Removal Project Ceiling	**$ 250,000**

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

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

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

VI. OUTSTANDING POLICY ISSUES

None.

VII. APPROVALS

This decision document represents the selected removal action for this Site, developed in accordance with CERCLA as amended, and not inconsistent with the National Contingency Plan. 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 through this document, I am approving the proposed removal actions. The total project ceiling is $250,000, and $200,000 of this amount will be funded from the Regional Removal Allowance.

Kevin M. Eichinger
Federal On-Scene Coordinator

October 4, 2018
Date

(b) (7)(A)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 04 2018

ACTION MEMORANDUM

DATE: December 3, 2018

SUBJECT: Request Ceiling Increase at Emergency Response Removal Action at the L&R Oil Recovery Facility pursuant to the Federal On-Scene Coordinator's delegated authority under CERCLA Section 104

FROM: Kevin Eichinger, Federal On-Scene Coordinator
Emergency Response, Removal and Prevention Branch

THRU: James W. Webster, Ph.D., Chief
Emergency Response, Removal and Prevention Branch

TO: Franklin E. Hill, Director
Superfund Division

I. PURPOSE

The purpose of this Action Memorandum is to request and document additional funding to continue the emergency response actions described herein for the L&R Oil Recovery Facility (the Site) located at 501 Ruth Street, Shelby, Cleveland County, North Carolina. The Site continues to pose a threat to public health and the environment that meets the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) section 300.415(b) criteria for removal actions. Site activities were commenced under the attached Emergency Action Memorandum signed October 4, 2018. A ceiling increase is needed to transport and dispose of hazardous substances, including PCB containing wastes with a PCB concentration of approximately 37,000 parts per million (PPM), generated during the emergency cleanup operations. If approved, this ceiling increase will bring the total project ceiling to $622,000 of which $510,000 will be funded through the Regional Removal Allowance.

II. SITE INFORMATION

A. Site Description

Site Name: L&R Oil Recovery
Superfund Site ID (SSID): C466
NRC Case Number: 1224615
CERCLIS Number: NCR000169185
Site Location: 501 Ruth Street, Shelby, Cleveland County, North Carolina 28150
Lat/Long: 35.29957, -81.5287140
Potentially Responsible Party (PRP): L&R Oil Recovery LLC.

NPL Status: Non-NPL
Removal Start Date: September 14, 2018

B. Site Background

1. Removal Site Evaluation

On September 14, the North Carolina Department of Environmental Quality (NCDEQ), the City of Shelby and Cleveland County officials responded to a report of an approximately 3,000-gallon spill of used/waste oil. A 6,500-gallon tanker-trailer used to store used/waste oil had been positioned behind the building and discharged its contents into the building via a hose placed through a window. The oil filled the building, ran out onto the property and onto Ruth Street. A nearby storm drain and several sections of the sanitary sewer system were impacted by the spill. The storm drain led to Hickory Creek which is a tributary of the Broad River. The facility is located directly adjacent to occupied residential structures. One residential property was impacted by the spill. Two samples of the spilled oil were obtained and sent to a laboratory for analytical testing. The analytical results indicated that the oil contained PCBs (Aroclor 1242) at 20.9 ppm and 18.3 ppm. The Site experienced significant rain from the outer rain bands of Hurricane Florence and is not located in a natural disaster declared county.

In addition to the 3,000-gallon PCB-contaminated oil release, the following threats exist on the Site:

- 42 - 275 and 330-gallon intermediate bulk containers (IBC) containing flammable and combustible material,
- 12 - 55-gallon drums containing flammable and combustible material,
- 1 - DOT 306AL tanker containing approximately 8,600-gallons of PCB containing waste oil (Note: The PRP provided analytical results for the material. The results indicated that the oil contained 25,613 ppm Aroclor 1242. The tanker is leaking from behind the shutoff valves. The leak cannot be secured.); and
- 1 - 6,500-gallon tanker used to store, used oil (Note: The tanker still contains approximately 1,000 gallons of PCB contaminated used oil at 20.9 ppm.).
- 3 – Underground storage tanks, containing 44,000 gallons of used oil and water mixture.

2. Physical Location and Site Characteristics

The Site is located at 501 Ruth Street in Shelby, North Carolina. The geographical coordinates are 35.29957, -81.5287140. The 1.14-acre site was originally an oil trans-load facility. It is currently used as an used oil and spent oil filter recovery center. The Site consists of a 6,500-square foot single story building and a two-bay covered loading rack. The main building is dilapidated. The roof is not intact, and a section of the concrete floor is missing. The used oil is stored in tankers and then transported to a used oil recycling facility. The oil filters are drained into containers inside the building and then stored for disposal in a covered roll-off dumpster. Multiple IBCs and 55-gallon drums are stored inside and outside the building. Seven 20,000-gallon underground

storage tanks (UST) are on the property. The PRP reports that two of the USTs contain an unknown amount of diesel fuel and water. One oil recovery truck is stored in the loading rack. The Site is located directly adjacent to a residential community. The Site is fenced; however, there is evidence of trespassing and vandalism

III. THREATS TO PUBLIC HEALTH, WELFARE OR THE ENVIRONMENT

A. Nature of Actual or Threatened Release of Hazardous Substances, Pollutants or Contaminants

PCBs are hazardous substances as defined by Section 101(14) of CERCLA. The large volume of PCB containing used oil at the Site along with releases of PCB contaminated used oil to the environment constitute a threat to public health and the environment.

Actual or threatened releases of hazardous substances from this site may present an imminent and substantial endangerment to public health, or welfare, or the environment.

B. Applicable factors which were considered in determining the appropriateness of a removal action (40 CFR 30.415)

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

3,000 gallons of PCB contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker containing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking onsite. Unsecured drums, ICBs of hazardous substances and an additional tanker are stored onsite. A residential community is located directly across the street from the Site. These conditions represent an actual exposure to nearby human population, animals and the food chain from hazardous substances.

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

Multiple tankers, IBCs and 55-gallon drums are located on the site. Initial hazard categorization testing has determined that these materials are flammable and combustible. Multiple containers are unsecured and subject the release of hazardous substances.

Weather conditions that may cause hazardous substances or pollutants to migrate or to be released [300.315(b)(2)(v)]

3,000 gallons of PCB contaminated used oil was released to the environment from the Site. This spill migrated off-site and onto a residential property. A tanker storing 8,600 gallons of PCB containing used oil (25,613 ppm) is leaking onsite. An additional tanker, drums and IBCs of hazardous substances are located onsite and are not secured. The roof is not intact. A weather event may cause the hazardous substances to be release or migrate off-site and impact the nearby residential community.

Threat of fire or explosion [300.415(b)(2)(vi)]

Initial hazard categorization testing has determined that these materials are flammable and combustible. The tankers and containers are unsecured and subject to a fire or explosion. Two tankers, IBCs, 55-gallon drums and other containers of unknown hazardous substances are located onsite and are not secured.

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

The Potential Responsible Party (PRP) has stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. The NCDEQ requested EPA assistance.

Other situations or factors that may pose threats to the public health or welfare of the United States or the environment [300.415(b)(2)(viii)].

The facility is located near residential structures, and the PRP does not have the funding available to perform the necessary remedial actions needed to prevent further environmental harm, or to remove the PCB contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad. There is also a concern that historical contamination has occurred.

IV. SELECTED REMOVAL ACTIONS AND ESTIMATED COSTS

A. Situation and Removal Activities to Date

1. Current Situation

On September 14, 2018, the NCDEQ, local officials, and the local fire department responded to secure the release. Sand and oil dry were spread to absorb and contain the spill. The City of Shelby contracted with an environmental services company and removed the oil from the storm drain. The NCDEQ's staff assessed the outfall to Hickory Creek and did not observe an oil sheen.

2. Removal Activities to Date

a. Federal Government/Private Party

Due to the urgency of the response, impending weather and travel time to the Site, the EPA utilized a contracting provision (Basic Ordering Agreement) to hire a local response contractor for initial site stabilization. The contractor was mobilized on September 14. The response contractor arrived on scene with personnel, a vacuum truck and other response equipment to address the spill. FOSC Englert coordinated the initial stabilization efforts from the Regional Operations Center (REOC). FOSC Eichinger responded and took over the Site on September 18. EPA's Superfund Emergency Response and Response Training (START) contractors were mobilized.

FOSC Eichinger arrived on scene and met with the property owner and the response contractor. Response operations from the previous operations were reviewed. The property owner provided FOSC Eichinger with written access to perform the necessary response operations to stabilize the Site. During the previous and current operational periods, the response contractor performed or will perform the following operations:

1. Cleaned the road surface,
2. Excavated contaminated soil from the Site and one nearby residential property,
3. Removed bulked oil spilled inside the building and collected by earthen berms,
4. Used absorbent media to remove residual oil inside the building, and
5. Installed hay bales and oil absorbent boom around the perimeter fence line of the building to contain any residual oils.

START contractors conducted hazard categorization (HAZCAT) testing on the drums and the IBCs. Samples were obtained from the IBCs, drums and the two tankers and sent offsite for analysis (list tests). Soil samples were collected around the property and the nearby residential property impacted by the spill.

The EPA's Emergency and Rapid Removal Services (ERRS) contractors were mobilized on September 18 to address the leaking tanker of PCB containing oil. The PCB oil was transferred to IBCs and staged inside a secured storage container (CONEX box) pending approval of the waste profile and completion of disposal arrangements.

The waste generated by the emergency response operations is staged pending on-site approval of the waste profile and completion of disposal arrangements.

b. State/Local

State and Local Agencies responded and took initial emergency defensive actions to contain the spill.

3. Enforcement

The Potential Responsible Party (PRP) stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. NCDEQ requested EPA assistance. FOSC Eichinger will work with EPA Enforcement to identify PRPs. The current property owner is identified in the attached enforcement addendum.

B. Planned Removal Actions

1. The site management will be transitioned to a potential time-critical removal action. The Potential Responsible Party (PRP) stated that he did not have the funds available to respond to the spill or perform any of the required cleanups. On September 17, the NCDEQ Hazardous Waste Section formally referred the Site to the EPA Emergency Response, Removal and Prevention Branch for Time-Critical Removal Action consideration. The facility is located near residential structures and does not have the

funding available to perform the necessary remedial actions needed to prevent further environmental harm, or to remove the PCB contaminated waste oil. Substantial remediation of the Site may be necessary as oil may have contaminated the soil underneath the building pad and historical contamination may have occurred.

2. Anticipated immediate removal activities for the Site include, but are not limited to, the following:

   a. Ship waste generated for the response offsite for proper waste disposal.

   b. Collect and replace oil absorbent materials used to collect residual oils that may be released from the Site after each rain event,

   c. Implement removal actions to abate the threat to human health and the environment based on the results of the further investigation.

3. Contribution to Remedial Performance

   Any potential long-term remedial actions will be coordinated with the appropriate state and federal programs and will be consistent with the Remedial Design for the Site.

4. ARARs

   Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable. In determining whether compliance with ARARs is practicable, the FOSC may consider appropriate factors, including the urgency of the situation and the scope of the removal action to be conducted.

C. Estimated Costs

Extramural costs:	**Current Ceiling**	**Proposed Increase**	**Proposed Ceiling**
Contractor costs (ERRS)	$200,000	$310.000	$510,000
Contractor costs (START)	$40,000	$0	$40,000
Contingency costs	$10,000	$62,000	$72,000
Total Removal Project Ceiling	**$ 250,000**	**$372,000**	**$622,000**

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

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

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

VI. OUTSTANDING POLICY ISSUES

None.

VII. RECOMMENDATION

This decision document represents the selected removal action for the L & R Oil Recovery Site in Shelby, North Carolina developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

Conditions at the Site continue to meet the NCP Section 300.415(b) criteria for a removal action. I recommend your approval for the proposed action to allow continued removal response. The total projected ceiling, if approved, will be $622,000 of which an estimated $510,000 comes from the Regional Removal Allowance.

APPROVED: _____ DATE: 12/4/2018

Franklin E. Hill, Director
Superfund Division

DISAPPROVED: _____ DATE: _____

Franklin E. Hill, Director
Superfund Division