

for money damages for loss or damage to property, or personal injury or death, on account of any act or omission, under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is the exclusive remedy, shall promptly deliver to the appropriate Federal agency all process and pleadings served on the covered person, or an attested true copy thereof. In addition, if prior to the covered person's receipt of such process or pleadings, the covered person receives information regarding the commencement of such a civil action or proceeding, he shall immediately so advise the appropriate Federal agency. The appropriate Federal agency shall provide to the United States Attorney for the district embracing the place where the action or proceeding is brought, and to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings.

§ 15.3 Agency report.

(a) The Federal employee's employing Federal agency shall submit to the United States Attorney for the district embracing the place where the civil action or proceeding is brought a report that fully addresses whether the employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose. The employing Federal agency shall send a copy of the report to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(b) The appropriate Federal agency shall submit to the United States Attorney for the district embracing the place where the civil action or proceeding is brought a report that fully addresses whether the person was acting as a covered person at the time of the incident out of which the suit arose. The appropriate Federal agency shall send a copy of the report to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(c) A report under this section shall be submitted at the earliest possible date, or within such time as shall be determined upon request by the United States Attorney or the responsible Branch Director of the Torts Branch.

§ 15.4 Removal and defense of suits.

(a) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division,

Department of Justice, is authorized to make the statutory certification that the Federal employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose.

(b) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division, Department of Justice, is authorized to make the statutory certification that the person was acting as a covered person at the time of the incident out of which the suit arose under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is the exclusive remedy.

(c) A certification under this section may be withdrawn if a further evaluation of the relevant facts or the consideration of new or additional evidence calls for such action. The making, withholding, or withdrawing of certifications, and the removal and defense of, or refusal to remove or defend, such civil actions or proceedings shall be subject to the instructions and supervision of the Assistant Attorney General in charge of the Civil Division or his designee.

Dated: October 16, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02-26832 Filed 10-21-02; 8:45 am]

BILLING CODE 4410-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7396-7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the West Virginia Ordnance Works Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete six areas of the West Virginia Ordnance Works (WVOW) National Priorities List (NPL) site from the NPL and requests public comment on this action. The areas are the Operable Unit 11 (OU-11) Sellite Plant, the OU-12 North and South Powerhouses and Vicinity, the Environmental Mitigation Area 6 (ENV-6), the Expanded Site Investigation 3 (ESI-3) Tract 21, the ESI-5 Refueling

Depot, and the ESI-9 Main and Outgoing Classification Yards. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

This proposal for partial deletion pertains only to OU-11, OU-12, ENV-6, ESI-3, ESI-5, and ESI-9. The U.S. Army Corps of Engineers (USACE), together with EPA, issued no further action Records of Decision (RODs) for OU-11 and OU-12. Wetlands were restored at ENV-6 in accordance with mitigation agreements, which were approved and signed by USACE and the West Virginia Division of Natural Resources (WVDNR). USACE and EPA issued no further action Decision Documents for ESIs-3, -5, and -9, which were concurred upon by the West Virginia Department of Environmental Protection (WVDEP). EPA bases its proposal to delete these six areas at WVOW on the determination by EPA, USACE, and WVDEP that all appropriate actions under CERCLA have been implemented to protect human health and the environment at OUs-11 and -12, ENV-6, and ESIs-3, -5, and -9.

This partial deletion pertains only to these areas of the WVOW site and does not include any other ESI or any OU. All other ESIs and OUs will remain on the NPL, and investigation and response activities will continue at those ESIs and OUs.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the **Federal Register** and publication of a notice of availability of this document in a newspaper of record.

ADDRESSES: Comments may be submitted to Mr. Jack Potosnak, PE, Remedial Project Manager, U.S. EPA, Region III (3HS13), 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, Telephone: (215) 814-3362.

Information Repositories: Comprehensive information on the WVOW site, information specific to this proposed partial deletion, the Administrative Record and the Deletion Docket for this partial deletion are available for review at the following WVOW site document/information repositories:

Mason County Public Library, 508 Viand Street, Point Pleasant, WV 25550, (304) 675-0894, Hours of Operation: Monday through Saturday 10 a.m.-5 p.m.

U.S. EPA Region III Library, 1650 Arch Street, Philadelphia, PA 19103-2029, (215) 814-5254, Hours of Operation: Monday through Friday 8 a.m.-5p.m.
 U.S. Army Corps of Engineers, Huntington District, 502 8th Street, Huntington, WV 25701, (800) 822-8413 or (304) 529-5388, Hours of Operation: Monday through Friday 8 a.m.-4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Potosnak, PE, Remedial Project Manager, U.S. EPA Region III (3HS13), 1650 Arch Street, Philadelphia, PA 19103-2029, (215) 814-3362.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The United States Environmental Protection Agency (EPA) Region III announces its intent to delete a portion of the West Virginia Ordnance Works site (WVOW site) located in Mason County, West Virginia, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this proposal. This proposal for partial deletion pertains to OU-11, OU-12, ENV-6, ESI-3, ESI-5, and ESI-9.

The WVOW site is located on the east bank of the Ohio River, approximately six miles north of Point Pleasant, Mason County, West Virginia. Contamination of the WVOW site originated from the operation of a trinitrotoluene (TNT) manufacturing facility during World War II. Nitroaromatic (explosive) compounds are the primary contaminants of concern at the WVOW site.

The WVOW site, as added to the NPL in 1983 encompassed an entire area of approximately 8,323 acres. In 1994, after 11 years of investigation and other activities at the WVOW site that helped to determine where contamination at the site existed, EPA, USACE and WVDEP worked together to clarify the boundary of the WVOW site by developing a site boundary map delineating areas of known or suspected contamination. This clarification of the site boundary was undertaken in accordance with EPA's interpretation of "facility," which was defined by Congress in section 101(9)(B) of CERCLA, 42 U.S.C. 9601(9)(B), as "any site or area where a hazardous substance has been deposited, stored, disposed of, or placed or otherwise come to be

located * * * EPA has routinely explained how site boundaries are determined when notifying the public regarding additions to the NPL. See, e.g., National Priorities List for Uncontrolled Hazardous Waste Sites, 67 FR 56757, 56759, September 5, 2002. The current WVOW site boundary, as delineated in the 1994 mapping, encompasses approximately 2,700 acres.

All six areas proposed for deletion from the NPL are located within the current boundary for the WVOW site. The Clifton F. McClintic Wildlife Management Area (MWMA) occupies 2,788 acres of the 1983 site, and most of the MWMA is also within the current NPL boundary.

OU-11: Sellite Plant

In April 1990, a surface and subsurface investigation was undertaken at the Sellite Manufacturing Area. The results of this investigation indicated that neither nitroaromatic compounds nor organic compounds were detected. However, during a July 1990 sampling event, 2,4-dinitrotoluene was detected in a well but at a level below risk-based concentrations. A focused remedial investigation (RI) was conducted at OU-11 from January to March 1994 to verify and expand upon the April 1990 investigation.

One groundwater contaminant (bis(2-ethylhexyl)phthalate [DEHP]) found at OU-11 was present at a concentration exceeding the maximum contaminant level (MCL); however, according to the risk assessment, the risk to human health associated with DEHP was within an acceptable limit. In addition, lead was found in groundwater at OU-11 at a concentration exceeding EPA's action level; however, contamination was detected in only three out of seven monitoring wells and the lead level was above the action level for only one unfiltered sample. Filtration of this same sample resulted in a lead level below the action level. According to the risk assessment, the mean lead level was less than the mean background level of lead at the WVOW site and the mean lead level was found to correspond to an acceptably low probability that blood lead levels of any receptor would exceed a level of concern. For these reasons, neither DEHP nor lead were found to be contaminants of concern at OU-11.

After the RI, a risk assessment was performed. For groundwater, the site-related risk and hazards were found to be within the acceptable limits. For surface soil, aluminum, arsenic, beryllium and manganese were determined to be present due to

background rather than site-related activities.

In 1999, as a removal action, EPA disposed of 10 drums of hazardous and non-hazardous waste and excavated and disposed of 25 tons of non-hazardous waste soil. The drums of waste material disposed of as hazardous waste contained material contaminated with caustics or corrosives or with lead, likely from waste paints or coatings.

In May 2000, USACE and EPA issued a ROD for OU-11, which was concurred upon by WVDEP, finding that no remedial action was required at OU-11; however, the ROD stipulated that annual groundwater monitoring would be conducted over a period of 5 years to evaluate the trend of the concentrations of DEHP and lead to ensure that they remain within an acceptable range. The results of the monitoring thus far indicate that MCLs are no longer being exceeded.

OU-12: North and South Powerhouses and Vicinity

In 1994 and 1995, USACE undertook a removal to demolish both powerhouse buildings. An RI was conducted in 1995 at OU-12 to identify and evaluate the source, nature, and extent of environmental contamination in subsurface soil, groundwater, surface water, and sediment. Additional sampling of surface soil was conducted in December 1997 and November 2000.

Based on analyses of the samples and a risk assessment, it was determined that cancer and non-cancer risks were within acceptable levels for all receptors. Iron found in subsurface soil was found unlikely to induce adverse effects in receptors exposed to subsurface soil. The highest iron ingestion rate for any OU-12 receptor was projected to be approximately 10 times less than the dose that is known to cause signs of mild toxicity in children who have ingested large quantities of supplemental iron tablets and 100 times less than a lethal dose. Moreover, the risk assessment deduced that the forms of iron in subsurface soil would likely be less toxic than iron found in nutritional supplements.

USACE and EPA issued a ROD in June 2002, which was concurred upon by the WVDEP, documenting the conclusion that no contaminants present in the soil, sediment, surface water or groundwater at OU-12 pose a threat to human health. The ROD also concluded that no remedial action was required at OU-12.

ENV-6: Wetlands Mitigation Area

Investigation in this area did not reveal any contamination in connection

with activities undertaken at WVOW. ENV-6 designates an area where wetlands were restored to mitigate for the loss of wetlands elsewhere within the WVOW site during remedial activities. In 2000, the wetlands restoration was completed, and no further work is required at ENV-6.

ESI-3: Tract 21

Extensive sampling and risk assessments were undertaken at ESI-3 and, except for an outdoor asbestos removal, no CERCLA response action was necessary. Based on these investigations, on September 28, 2000, USACE, EPA and WVDEP executed a Decision Document for ESI-3 stating that no further action is necessary to protect human health and the environment except for removal of asbestos-containing materials. The removal was completed in April 2001.

ESI-5: Refueling Depot

Based on the results of a geophysical survey, trenching, and soil and groundwater investigation, it was determined that ESI-5 does not pose an unacceptable risk to human health or the environment. This determination is based upon the following findings: (a) Chemicals in site soils were detected at background concentrations and/or at concentrations which do not present a risk to human health or ecological receptors; (b) ecological receptors are unlikely to contact subsurface soil; (c) site-related contaminants in the groundwater samples were detected at concentrations which do not present a risk to human health.

EPA, WVDEP and USACE executed a Decision Document on September 28, 2000 finding that no remedial action is required at ESI-5 because contaminant concentrations detected in the soil and groundwater do not present a significant risk to human health or ecological receptors.

ESI-9: Main and Outgoing Classification Yards

Environmental studies were conducted at ESI-9 in 1996, which included collection and analysis of surface and subsurface soil samples and groundwater samples from the main classification yard (MCY), surface water and sediment samples from water near the MCY, and subsurface soil samples from the outgoing classification yard (OCY). A human health risk evaluation was also conducted in 1996 based on analytical results of the sampling.

No unacceptable human health or environmental risks were identified for environmental media at the MCY or the OCY based on the risk evaluation and a

repeat analysis of the risk evaluation. It was determined that the only contaminant detected in groundwater underlying the OCY is likely attributable to the Red Water Reservoir, which is located to the south of ESI-9 and is being addressed as OU-4.

On July 12, 2001, USACE, EPA and WVDEP issued a Decision Document for ESI-9, which found that no further action was necessary. Unacceptable human health risks identified for the MCY groundwater were shown to be attributed to WVOW background conditions and not to WVOW activities. Contaminants at ESI-9, present due to WVOW activities, do not present a significant risk to human health and the environment.

II. NPL Deletion Criteria

This partial deletion of the WVOW site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55446 (Nov. 1, 1995).

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or
 Section 300.425(e)(1)(ii). All appropriate responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or
 Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent CERCLA actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that CERCLA actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede

agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke a person's rights or obligations. The NPL is designed primarily for informational purposes and to assist agency management. The following procedures were used for the proposed deletion of OUs-11 and -12, ENV-6, and ESIs-3, -5, and -9 at the WVOW site:

1. EPA has recommended the partial deletion and USACE has prepared the relevant documents.

2. The State of West Virginia through the West Virginia Department of Environmental Protection concur with this partial deletion.

3. Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a newspaper of record and has been distributed to appropriate federal, state, and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the **Federal Register** and publication of a notice of availability of this notice in a newspaper of record.

4. EPA and USACE have made all relevant documents available at the information repositories listed previously.

This **Federal Register** document, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete OUs-11 and -12, ENV-6, and ESIs-3, -5, and -9 of the WVOW site from the NPL. All critical documents needed to evaluate EPA's decision are included in the Deletion Docket and are available for review at the information repositories.

Upon completion of the thirty (30) day comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are encouraged to contact EPA Region III to obtain a copy of the Responsiveness Summary. If, after review of all public comments, EPA determines that the

partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the areas does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of OU-11, OU-12, ENV-6, ESI-3, ESI-5, and ESI-9 from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The WVOW site is located on the east bank of the Ohio River, approximately six miles north of Point Pleasant, Mason County, West Virginia. The WVOW site, as added to the NPL in 1983, encompassed a land mass of approximately 8,323 acres. As explained in section I, earlier in this Notice, the NPL boundary was clarified in 1994, and the WVOW site now encompasses approximately 2,700 acres. The Clinton F. McClintic Wildlife Management Area (MWMA) occupies 2,788 acres of the original site, and is mostly included in the current site boundary.

Contamination of the WVOW site originated from the operation of a trinitrotoluene (TNT) manufacturing facility during World War II. Nitroaromatic (explosive) compounds are the primary contaminants of concern at the WVOW site. To expedite CERCLA response actions at this large site, the WVOW site is divided into 13 Operable Units (OUs) and 10 Expanded Site Investigations (ESIs):

OU-1: TNT Manufacturing Area, Burning Grounds, and Waste Water Process Lines
 OU-2: Red Water Reservoir
 OU-3: Yellow Water Reservoir
 OU-4: Groundwater Extraction and Treatment for OUs 2 and 3
 OU-5: Pond 13/Wet Well Area
 ENV-6: Wetlands Mitigation Area
 OU-7: Point Pleasant Landfill
 OU-8: TNT Manufacturing Area Soils
 OU-9: TNT Manufacturing Area Groundwater
 OU-10: South Acids Area and Toluene Storage Areas
 OU-11: Sellite Plant
 OU-12: North and South Powerhouses
 OU-13: Pantasote Plant
 ESI-1: Magazine Area
 ESI-2: Acid Dock
 ESI-3: Tract 21
 ESI-4: Red Water Sewer Outfall
 ESI-5: Refueling Depot
 ESI-6: Motorpool and Maintenance Area

ESI-7: Sewage Treatment Plant Outfall
 ESI-8: Dump Site Adjacent to the TNT Manufacturing Area
 ESI-9: Classification Yards
 ESI-10: Various Areas of Concern

USACE has been investigating and conducting human health risk evaluations and assessments for each OU and ESI separately. Once investigations and assessments are complete, USACE and EPA together have made CERCLA response action decisions, with the concurrence of WVDEP.

The WVOW was established in 1942 as a government-owned, contractor-operated plant for the manufacture of TNT from toluene, nitric acid, and sulfuric acid. The WVOW plant was operated by the General Defense Corporation of New York from October 1942 through August 1945. The plant had the capacity to produce 720,000 pounds of TNT each day, utilizing 12 manufacturing lines; however, it has been reported that only lines 1 through 10 were operated, and the plant never reached full capacity.

The facility was constructed on approximately 5,800 acres, of which more than 2,000 acres were used as a safety zone between the plant and other properties. The plant includes the 12 TNT manufacturing lines; two acid manufacturing areas; two coal-fired power plants; a Sellite manufacturing plant; pumping stations; a sewage treatment plant; 100 concrete TNT storage magazines; and various administrative, shop, and housing facilities.

In 1945, the production of TNT ceased, and shutdown of the WVOW plant was initiated. The production of TNT had resulted in soil contamination from nitroaromatic compounds in the manufacturing areas, process facilities, and wastewater disposal facilities. Partial decontamination actions were performed, such as flashing the TNT lines and draining and capping the Red and Yellow Water Reservoirs, and the property was transferred from the U.S. War Department to the U.S. War Assets Administration in late 1946.

Numerous site visits and investigations beginning in 1947 and continuing through the 1950s determined that additional contamination not previously identified was present at the site. In addition, several tracts of land that had received decontamination certificates were determined to be contaminated. Because the site could not be completely decontaminated, a portion of the site was not released for private ownership and was transferred to the State of West

Virginia as a wildlife management area in 1949.

In 1981, a red water seepage was discovered at Pond 13, later designated as OU-5. Subsequent investigations led the State of West Virginia to nominate the WVOW site for inclusion on the NPL; ultimately the WVOW site was ranked as 84th. A memorandum of understanding was signed in 1983 between EPA Headquarters and the Department of Defense to establish responsibilities for remediating the site. For the Department, the U.S. Army Toxic and Hazardous Materials Agency began the first remedial investigation and feasibility study in 1984. Initially, only two operable units were established, and Records of Decision (RODs) and Interagency Agreements (IAGs) were signed to address these areas. Later, more operable units were created until the current total of thirteen was reached.

Construction of the OU-1 remedy was completed in 1988 before the site was transferred from the U.S. Army Toxic and Hazardous Materials Agency to USACE, Baltimore District, in 1991. OU-1 remediation included capping of the burning grounds and the 10 TNT manufacturing lines that had been operated in the 1940s and excavation and flaming of process waste water lines. Construction on OU-2, which included draining and capping of the Red and Yellow Water Reservoirs, was completed in 1992 before the site administration was transferred to USACE, Huntington District, where it remains. Portions of OU-2 were later divided into OU-3, OU-4, and OU-5 to simplify management. The construction of the OU-4 remedy was completed in 1997, and the two groundwater treatment plants are currently operational. OU-6 was re-designated as ENV-6, and construction of wetlands has been completed. OU-7 and OU-13, the Point Pleasant landfill and the Pantasote plant, respectively, have been designated by EPA as potentially responsible party sites, and EPA is the lead agency for addressing these areas. Buildings were demolished and debris removed at OU-11 and OU-12. Asbestos-containing material has been removed from ESI-3, which was the only hazard posed on that area. An underground storage tank (UST) was removed from ESI-6. Asbestos materials and other debris were removed and capped at ESI-8.

OU-11: Sellite Plant

The former Sellite manufacturing area is centrally located in the WVOW site and lies northwest of the former TNT manufacturing area. OU-11 is situated

on the south side of County Road 12 (Wadsworth Road), approximately 1.5 miles southeast of State Route 62. Sellite (sodium sulfite) was manufactured at the Sellite Manufacturing Plant from 1942 to 1945 by the U.S. Army. Supporting facilities consisted of the soda ash storage building and a sulfur storage facility. In addition, a box factory and storage facility were located at OU-11.

During the manufacture of TNT at WVOW, Sellite was used for the washing and purification of tri-oil as one of the final steps in producing TNT. Sellite was manufactured by combining soda ash and sulfur, which involved the use of a sulfur melting pit and a sulfur furnace. The materials were combined in two batch tanks within the Sellite plant, and the liquor produced was pumped to two Sellite storage tanks located southeast of the plant.

During the initial operation of WVOW, Sellite solution was transported from the storage tanks to the TNT Manufacturing Area by truck. However, because of the inefficiencies of this operation, a 4-inch-diameter steel line was installed in 1944 to supply Sellite to the washer/flaker houses in the TNT Manufacturing Area, and the trucks were taken out of service.

Since the suspension of TNT manufacturing at WVOW in August of 1945, and the declaration of the WVOW site as surplus in December of 1945, the former Sellite Manufacturing Area has had several uses. OU-11 was initially used by the Mason Furniture Company for the manufacture of furniture from 1948 through the mid-1970s. The property was most recently leased from the landowner by the West Virginia Mulch Company for the manufacture of mulch. Site activities included the receipt of raw materials, manufacture and storage of mulch, packaging of mulch, and the loading of tractor trailers for transport of packaged mulch. These operations ceased in 1996, and the property is currently vacant. In 1999, EPA discovered drums of unknown materials on the property. EPA removed 10 drums of hazardous and non-hazardous materials and 25 tons of contaminated soil.

A focused remedial investigation (RI) was conducted at OU-11 from January to March 1994 to verify and expand the database established in the April 1990.

After the RI, a risk assessment was performed. For groundwater, the site-related risk and hazard are within the acceptable limits of the background risk and hazard. For surface soil, aluminum, arsenic, beryllium and manganese were determined to be present due to background rather than site-related

activities. Total residential cancer risk and noncancer hazard from exposure to groundwater and soil were found to be within acceptable limits. On May 9, 2000, USACE and EPA issued a ROD, concurred upon by WVDEP, finding that actual or threatened releases of hazardous substances from OU-11 were not found to be an imminent and substantial or future endangerment to public health and welfare or the environment and that no remedial action was required at OU-11. In addition, the ROD stipulated that annual groundwater monitoring would be conducted over a period of 5 years to evaluate the trend of the concentrations of bis(2-ethylhexyl)phthalate and lead to assure that they remain within an acceptable range. The monitoring program is nearly complete and all results indicate that maximum contaminant levels are no longer being exceeded.

OU-12: North and South Powerhouses and Vicinity

OU-12 encompasses the former North and South Powerhouses. The North Powerhouse (NPH) site is located northeast of and adjacent to the Mason County Fairgrounds in the northeast part of the administrative/maintenance area of the WVOW in the upland area above the Ohio River floodplain. The South Powerhouse (SPH) site is located in the southwest part of the former administrative/maintenance area of the WVOW. It is southwest of and adjacent to the Mason County Fairgrounds. Both the NPH and SPH sites are on property currently owned by Mason County, West Virginia.

The two powerhouses were operational from 1942 through 1945 in support of the manufacture of TNT. They were primarily used for the production of low-pressure and high-pressure steam for industrial purposes and heating at the WVOW but were also reportedly used as standby sources of electrical power. Power-generating equipment was removed after WVOW shut down in 1945, and the two areas have had no known use since that time. Both powerhouse buildings were removed during a removal action carried out by the USACE in 1994 and 1995. Each powerhouse had an associated coal storage area and ash disposal area. The ash disposal pits were used to dispose of ash from the coal-fired boilers and were situated on the east side of each powerhouse. Part of the ash pit for the SPH is currently a pond. It is the only pond located at OU-12 and is designated as Pond 2.

An RI was conducted in 1995 at OU-12 to identify and evaluate the source,

nature, and extent of environmental contamination in subsurface soil, groundwater, surface water, and sediment. At the request of EPA Region III, additional subsurface soil and sediment samples were collected from the former ash pit in December 1997. Samples of the various media were collected and analyzed in the vicinity of both the NPH and SPH. Initially, surface soil samples were not collected because the original surface soil was replaced with clean fill during removal of the powerhouse buildings. However, surface soil samples were collected in November 2000 in response to concerns raised by WVDEP.

During the RI, soil samples, groundwater and surface water samples, and sediment samples were analyzed for likely contaminants and a risk assessment was performed using the outcome of the sampling analysis. Cancer risks were found to be within acceptable limits for all receptors at OU-12. Exposure to groundwater, surface water, or sediment does not pose any site-related risks. Elevated levels of iron were found in OU-12 subsurface soils; however, the conclusion of the risk assessment was that iron is not expected to induce adverse effects in receptors exposed to subsurface soil. On June 14, 2002, USACE and EPA issued a ROD for OU-12, which was concurred upon by WVDEP, making the finding that no remedial action was necessary at OU-12.

ENV-6: Wetlands Mitigation Area

ENV-6 is located near the eastern boundary of the McClintic Wildlife Management Area along Oldtown Creek, just south of County Route 12. The area includes Ponds 21 through 23 and other areas (Pond 6 and a portion of Pond 17A) that are not areas of environmental concern.

During remedial activity for OU-1, Pond 16 was drained and could not be refilled because the pond dam had been damaged, which resulted in loss of wetlands in and around Pond 16. As a separate event, during remedial activity for OU-2, Ponds 1 and 2 (which were the Red Water Reservoir) were drained and capped, also resulting in loss of wetlands. To compensate for these two separate losses of wetlands, USACE and the State together decided that it would be more efficient, due to other remedial activity ongoing at the WVOW site, to construct a dam at Ponds 21 through 23 rather than re-construct the Pond 16 dam. USACE performed pre-construction testing of the areas proposed to be made into aquatic habitat or wetlands to ensure that, when flooded, contaminants in the soil (if

any) would not leach into the wetlands and contaminate the ponds. The pre-construction sampling and analysis indicated that the soil was not contaminated and could be flooded. USACE provided partial funding to the State for a replacement dam and fish lost at Pond 16. Investigation in this area did not reveal any concerns about contamination related to WVOW activity.

ESI-3: Tract 21

ESI-3 is bounded on the north by Camp Conley Road, on the south by Oldtown Creek, and on the east and west by privately-owned properties. Historic records from the operation of WVOW indicate no activities conducted at the Tract 21 area, which covers approximately 36 acres. However, after the closure of WVOW, disposal of WVOW waste and possibly civilian waste may have occurred on approximately 15 acres of Tract 21. This area of probable disposal was designated as AOC-16. ESI-3 is now privately-owned and includes an agricultural field, a wooded area, and a small family cemetery.

Pre-remedial investigation activities were conducted at ESI-3 in 1995. Because the current use of the site is agricultural, activities such as tilling have disrupted the surface soil. Thus, field investigations consisted of sampling and analysis of soil beneath the zone of agricultural disruption; the investigations also included sampling of groundwater and seep water at Tract 21 and surface water and sediment from Oldtown Creek, which borders Tract 21 to the south. The samples were analyzed for the presence of possible contaminants. The data from these field investigations and analyses were screened to evaluate whether the site presented unacceptable risk to human health and/or the environment. Subsequent human health risk evaluations were performed to assess contaminant levels and pathways for potential risk to human receptors, and an ecological risk assessment was performed to evaluate contaminant levels and pathways for potential risk to ecological receptors.

Based on the outcome of the evaluations and assessment, EPA, WVDEP, and USACE issued a Decision Document on September 28, 2000, finding that ESI-3 required an asbestos removal action where the disposal activities likely occurred, but otherwise no further CERCLA response action. The removal action for potentially friable asbestos-containing material on the ground surface at ESI-3 was completed in April 2001.

ESI-5: Refueling Depot

ESI-5 is a 6.3-acre parcel located northeast of the Sellite Manufacturing Area (OU-11) on the north side of County Road 12 (Wadsworth Road); most of ESI-5 is located within the MWMA. During the operation of WVOW, the ESI-5 was used as a gasoline refueling station and probably contained an underground storage tank for storing gasoline.

In 1994, an initial investigation was conducted which included a geophysical survey and subsurface soil sample collection. Surficial soil samples were not collected at ESI-5 because petroleum products evaporate over time and, thus, would not remain in surface soils more than 50 years after any potential release. The purpose of the geophysical survey was to locate and map underground storage tanks, if any. In 1997, groundwater samples were collected and analyzed for petroleum-related hazardous substances and other contaminants. In 1999, a supplemental investigation was undertaken to further investigate magnetic anomalies detected in the 1994 geophysical survey and to otherwise confirm whether any underground storage tanks existed at ESI-5. Certain locations within ESI-5 were trenched to physically search for underground storage tanks, but none were found.

On September 28, 2000, USACE, EPA and WVDEP issued a Decision Document which concluded that ESI-5 does not pose an unacceptable risk to human health or the environment. This conclusion was based on the following investigation findings: (a) Chemicals found in ESI-5 soils were detected at background concentrations and/or at concentrations which do not present a risk to human health or ecological receptors; (b) ecological receptors are unlikely to contact subsurface soil; (c) site-related contaminants found in groundwater were detected at concentrations which do not present a risk to human health.

ESI-9: Main and Outgoing Classification Yards

From 1942 to 1945, when WVOW was in operation, the Main Classification Yard (MCY) and the Outgoing Classification Yard (OCY) consisted primarily of railroad sidings where incoming and outgoing freight were inventoried. In the mid-1960s, the railroad tracks were removed and construction of the Mason County Airport began. The airport became operational in 1967.

The MCY is located at the current Mason County Airport, southwest of the

location of the former South Powerhouse (OU-12) and outside of the MWMA. The Mason County Airport runway and terminal area are located on the former MCY railbed.

Prior to the ESI-9 investigation, the following chemicals were of potential concern, based on historic use of the MCY: inorganics, volatile and semivolatile organic compounds, pesticides, polychlorinated biphenyls, and asbestos. Petroleum products and other associated chemicals used by Mason County Airport and chemicals associated with agricultural activities conducted at ESI-9 after WVOW operations ceased and construction of the airport also may have contaminated the MCY.

The OCY is situated within the MWMA along Potters Creek Road (County Road 11), north of the former Red Water Reservoir and adjacent to the MWMA boundary. The OCY tracks ran parallel to Potters Creek Road. During WVOW operations, the OCY was used to facilitate loading of the finished product, TNT, to outgoing freight and had a capacity of 30 railcars per day. The only structure located in this area during WVOW operations was the track scale. The track scale pit has been filled in, and the tracks have been removed from the site. The Red Water Reservoir groundwater extraction wells, a component of the OU-4 groundwater extraction system, are currently located where the OCY used to be. Prior to site investigation, the following chemicals were of potential concern, based on historic use of the OCY: nitroaromatic compounds, inorganics, volatile and semi-volatile organic compounds, pesticides, PCBs, and asbestos.

In 1996, an investigation included collection of surface and subsurface soil samples from the MCY, collocated surface water and sediment samples from the MCY, groundwater samples from monitoring wells in conjunction with the study of the MCY, and subsurface soil samples from the OCY. After analysis of the sampling, a human health risk evaluation was conducted.

On July 12, 2001, USACE, EPA and WVDEP issued a Decision Document finding that: (a) no unacceptable risks were identified for MCY or OCY environmental media based on the human health risk evaluation or repeat evaluation; and (b) the only contaminant detected in groundwater underlying the OCY is likely attributable to the Red Water Reservoir, which is being addressed as OU-4.

Response Actions

At OU-11 and OU-12, building demolition and debris removal were

performed to eliminate hazards. Also, at OU-11, a removal action was taken to remove unsecured drums and some contaminated soil. At ESI-3, an asbestos removal was performed to remove asbestos-containing debris.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and Section 117, 42 U.S.C. 9617.

OU-11: Sellite Plant

A copy of the RI report and the Proposed Plan were placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia. Notice of the availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on April 8, 1999. USACE established a 30-day public comment period beginning April 15, 1999 and ending May 15, 1999. A public meeting was held on April 15, 1999 at the Army National Guard Armory in Point Pleasant, West Virginia to answer any questions concerning OU-11 and the selected remedy. Representatives of EPA, WVDEP, and USACE were present at the public meeting. No members of the public attended the meeting, nor were any comments received during the public comment period.

OU-12: North and South Powerhouses and Vicinity

A copy of the RI report and the Proposed Plan were placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia. Notice of the availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on October 31, 2001. USACE established a public comment period beginning November 6, 2001 and ending December 11, 2001. A public meeting was held on November 7, 2001 at the Mason County Public Library to answer any questions concerning OU-12 and the selected remedy. Representatives of EPA, WVDEP, and USACE were present at the public meeting. No comments were received during the public comment period.

ENV-6: Wetlands Mitigation Area

Periodic updates on wetland construction at ENV-6 were given during the WVOW site Restoration Advisory Board meetings. Because there was no environmental investigation, no other public involvement was required. The Restoration Advisory Board is a group consisting of USACE, State and

EPA remedial project managers and interested local participants who meet as needed to discuss the ongoing environmental work and plans for future work at the WVOW site.

ESI-3: Tract 21

The ESI-3 Decision Document was released to the public on November 8, 2000. This document, as well as other documents and information EPA relied on or considered in concurring with USACE that no further action was necessary at ESI-3, were made available to the public on or before November 8, 2000 by placing the documents in the public repository at the Mason County Public Library, Point Pleasant, West Virginia. Notice of the availability of the Decision Document and supporting documents was published in The Point Pleasant Register on November 8, 2000. A public comment period was held from November 8, 2000 through December 19, 2000. A public meeting was held on November 8, 2000, to announce the release of the Decision Document and to summarize its conclusions. Representatives from EPA, WVDEP, and USACE were present to address any questions. No questions or comments on the Decision Document were received from the public.

ESI-5: Refueling Depot

The ESI-5 Decision Document was released to the public on November 8, 2000. This document as well as other documents and information EPA relied on or considered in concurring that no further action was necessary at ESI-5 were made available to the public on or before November 8, 2000 by placing the documents in the public repository at the Mason County Public Library, Point Pleasant, West Virginia. Notice of the availability of the Decision Document and supporting documents was published in The Point Pleasant Register on November 8, 2000. The public comment period was held from November 8, 2000 through December 19, 2000. A public meeting was held on November 8, 2000, to announce the release of the Decision Document and to summarize its conclusions. Representatives from EPA, WVDEP, and USACE were present to address any questions. No questions or comments on the Decision Document were received from the public.

ESI-9: Main and Outgoing Classification Yards

A copy of the Decision Document was placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia on or before November 6, 2001. Notice of the

availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on October 31, 2001. USACE established a public comment period beginning November 6, 2001 and ending December 11, 2001. A public meeting was held on November 7, 2001 to answer any questions concerning the Main and Outgoing Classification Yards. Representatives of EPA, WVDEP, and USACE were available to the public at that meeting held at the Mason County Public Library. No comments were received during the public comment period.

Current Status

Removals at OU-11, OU-12 and ESI-3 and wetlands mitigation at ENV-6 have been successfully completed. No further response action is planned or scheduled for OU-12, ENV-6, ESI-3, ESI-5, or ESI-9. Pursuant to the NCP, a five-year review will not need to be performed at any of these five areas. Five annual groundwater sampling events at OU-11 have been completed; upon completion of the analysis of the last set of samples, no further response action is planned or scheduled for OU-11.

While EPA does not believe that any future response actions will be needed at these six areas, if future conditions warrant such action, the proposed deletion areas of the WVOW site remain eligible for future response actions. Furthermore, this partial deletion does not alter the status of any other OUs or ESIs at the WVOW site that are not proposed for deletion and remain on the NPL.

EPA, together with USACE and with concurrence from the State of West Virginia, has determined that all appropriate CERCLA response actions have been completed at OU-11, OU-12, ENV-6, ESI-3, ESI-5, and ESI-9 and protection of human health and the environment has been achieved in these areas. Therefore, EPA makes this proposal to delete OU-11, OU-12, ENV-6, ESI-3, ESI-5, and ESI-9 of the WVOW site from the NPL.

Dated: September 30, 2002.

Thomas Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.
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