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Doc #24600

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

JUL 1 2011

Mr. Cal Lundberg  
Supervisor, Uncontrolled Sites  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 E. 9th St.  
Des Moines, Iowa 50319

Dear Mr. Lundberg:

As you know, when the Environmental Protection Agency (EPA) and the State have concluded all investigative and/or cleanup activities at a site, that site becomes eligible for "Archiving" from the active Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) data base. Archiving represents a site-wide decision that based on available information that no further interest exists at the site under the federal Superfund program. It is a comprehensive decision that no further site assessment, remedial, removal, enforcement, cost recovery, or oversight activities are being planned or conducted at the site. Archiving requires concurrence from the responsible Remedial Project Manager (RPM)/On-Scene Coordinator (OSC)/Site Assessment Manager (SAM) for the site, the EPA's Cost Recovery Unit, the EPA's Site Assessment Team Leader, the State Environmental Department, and lastly from the EPA's Information Management Coordinator.

Archive Note Forms and site information for the following sites are enclosed for your review and signature:

	<u>SITE NAME</u>	<u>SITE ID #</u>
1.	Former Friths Battery Dump	IASFN0703534
2.	Mercury-California Street	IAN000704903
3.	Farmers' Mutual Cooperative	IAD022193577
4.	Reliance Battery Manufacturing Co.	IAD007262959

These Archive Note Forms have been signed by the RPM/OSC/SAM, the EPA's Site Assessment Team Leader and the EPA's Cost Recovery Unit. Please review the forms and sign them (in the location designated for State concurrence) if you concur with archival of these sites. If you do not believe archival of a site is appropriate, please respond with your reasons for not concurring on that site.

RECEIVED  
JUL 05 2011



The archiving of sites from the active CERCLIS data base is an important annual program measures for our Region. I would appreciate it if you could return these forms to me by November 30, 2011.

If you have any questions or comments, please call me at (913) 551-7568.

Sincerely

A handwritten signature in black ink, appearing to read 'Ron King', with a long horizontal flourish extending to the left.

Ronald King  
Site Assessment Team Leader  
Enforcement/Fund Lead Removal Branch  
Superfund Division

Enclosures: Archive Note Forms and site information

**ARCHIVE NOTE**  
**ARCHIVE DECISION -EPA REGION VII**

SITE NAME: Former Friths Battery Dump Site EPA ID#: IASFN0703534 SSID#: A750

Alias Site Names: \_\_\_\_\_

City: Sageville State: IA County or Parish: Dubuque Zip Code: 52001

**DECISION CHECKLIST:**

No Further Superfund Interest Exists at the Site based upon the following:

All CERCLIS Site work has been completed.

☒ Yes ☐ No ☐ N/A

{site assessment, RI/FS, RD, RA, O&M, All Monitoring, Closeout Report, 5-yr review, NPL Deletion, Removal(s)}:

All Enforcement actions have been completed.

☒ Yes ☐ No ☐ N/A

{PRP has complied with all aspects of enforcement document(s), All Orders and/or Consent Decrees have been closed out}

All Cost Recovery actions have been completed.

☒ Yes ☐ No ☐ N/A

{final billing sent & collected, referral completed, DD completed}

All existing monitoring wells closed in accordance with State Regulations.

☐ Yes ☐ No ☒ N/A

Date of final well closure: \_\_\_\_\_

*If any of the above questions have a no response, site does not qualify for archival.*

**DISCUSSION/RATIONALE FOR ARCHIVAL:**

The Former Friths Battery Dump Site is located at 11399 Route 52 North in Sageville, Iowa, just outside the city of Dubuque, Iowa. The Site property occupies approximately 15.69 acres. From approximately 1936 through 1957, an individual processed dry-cell or household batteries at the site. The owner processed the used batteries by heating the batteries to remove the zinc contained within them and then cast the extracted zinc into bars for sale to a company in Chicago for use in a metal-galvanizing process. A waste product generated during this operation was the remaining battery casings, the battery cores, and lead. After removing the zinc the waste battery casings were dumped into a swampy area on the property.

In April 1999, the IDNR conducted the Initial Site Investigation of the former battery dump site after receiving an anonymous complaint about the site. The investigation revealed an area, approximately an acre in size, that was lacking vegetation and was approximately 85% covered with battery cores. The soil was black in the area of the battery cores. Plastic items found in the vicinity of the cores appeared to be deteriorating, possibly due to site-specific conditions. Soil and surface water samples were collected by IDNR during the visit. Analytical results of the soil samples detected concentrations of lead up to 17,000 mg/kg, zinc up to 98,000 mg/kg, manganese up to 310,000 mg/kg, and arsenic up to 270 mg/kg. The TCLP analysis for lead revealed a concentration of 16 mg/L.

In July 1999, IDNR conducted an Extended Site Screening at the site. Soil, sediment, and on-site ground water samples were collected. Analytical results from the soil samples detected lead up to 1,500 mg/kg, zinc up to 100,000 mg/kg, manganese up to 1,800 mg/kg and arsenic up to 180 mg/kg. A sediment sample was collected approximately 2 feet from the shoreline of an on-site pond. Battery casings were present in the sample. The results of the sediment sample analyses were: lead 3,900 mg/kg; zinc 160,000 mg/kg; manganese 24,000 mg/kg; and arsenic 110 mg/kg. It did not appear that ground water was impacted by the contamination.

The Site was referred to EPA by the IDNR. The EPA, through its contractor, conducted an integrated preliminary assessment/site inspection/removal assessment (PA/SI/RA) at the site. The field work for the PA/SI/RA was conducted the week of June 19, 2000. Based on the initial findings of the PA/SI/RA it was determined that the contamination at the site posed a threat to human health and the environment.

continue

On July 7, 2000, the EPA issued an Action Memorandum to request and document approval and funding to conduct a time-critical removal at the Site. Based on initial information, the primary contaminant of concern was lead. However, the June 2000 sampling indicated that arsenic also posed a threat. As a result, additional investigative work was performed during the removal in early September 2000 to define the extent of the arsenic contamination. Results of the PA/SI/RA and site conditions discovered after the initiation of clean-up activities indicated that the extent and depth of the contamination at the site was greater than originally anticipated.

Site removal activities began on September 8, 2000. The removal consisted of three phases: Phase 1, soil excavation; Phase 2, soil disposal and backfilling; and Phase 3, site remediation. Soil excavation began on September 11, 2000, and continued until October 18, 2000. The action level for arsenic was 31.1 mg/kg and the action level for lead was 1,611 mg/kg. Soils at the Site were excavated to a level of four feet below ground surface. Phase 2 soil disposal and backfilling overlapped Phase 1. Transportation of excavated materials began on September 29, 2000, and concluded on October 27, 2000. Excavated materials were sampled for various contaminants to ensure satisfaction of land filling requirements. The results from the analyses demonstrated that the excavated soils did not exceed requirements. A total of 8,376 tons of contaminated soil was transported from the site to the Prairie Hill RDF landfill in Morrison, Illinois. Phase 3, the restoration process, continued through the last week in October 2000. Site demobilization occurred on November 4, 2000. The Final Pollution Report for the Site was issued on December 19, 2000.

All removal activities have been completed. No known monitoring wells were installed under the authority of the Comprehensive Environmental Response, Compensation and Liability Act/Superfund Amendments and Reauthorization Act (CERCLA/SARA).

No further response under CERCLA/SARA is required and archiving is appropriate.

Site Reviewed and Approved by

SAM/RPM/OSC, if applicable:

Site Assessment Team Leader:

Cost Recovery Unit concurrence:

DMC Review of site data in CERCLIS:

State concurrence:

Date:

Date:

Date:

Date:

Date:



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

MAR 14 2008

## MEMORANDUM

SUBJECT: Former Frith Battery Dump Site, Sageville, Iowa  
Decision Document Not to Pursue Cost Recovery

FROM: Diane Easley, Chief   
MOKANS Branch

TO: Cecilia Tapia, Director  
Superfund Division

12.0

40288789



Superfund

## SITE DESCRIPTION AND BACKGROUND

The Former Frith Battery Dump Superfund Site (Site) is located in Sageville, Iowa, just outside the city of Dubuque. The Site is within a flood plain identified as Couler Valley. The nearest off-site residences are located 400 feet east of the Site on the bluff above the flood plain. The Site property occupies approximately 15.69 acres. Nearly an acre of this property prior to removal was devoid of vegetation and was about 85% covered with battery cores. The area of contamination extended around and into an on-site pond. The pond and its adjacent areas, including a portion of the contaminated area, were classified as a wetland by the Iowa Department of Natural Resources (IDNR). There is a bike/snow trail which lies on an abandoned road bed adjacent to the edge of the pond opposite the contaminated area.

From approximately 1936 through 1957, an individual named Otto Wieres (deceased) processed dry-cell or household batteries at the Site. The property was owned at the time by the E.E. Frith Company who operated a rendering plant. Based upon witness interviews, it appears that the E.E. Frith Company did not receive financial gain from the activities of Otto Wieres nor was Mr. Wieres an employee of the company.

Mr. Wieres processed the used batteries by heating the batteries to remove the zinc contained within them. Mr. Wieres then cast the extracted zinc into bars for sale to a company in Chicago for use in a metal-galvanizing process. A waste product generated during this operation was the remaining battery casings, the battery cores, and lead. After removing the zinc, Mr. Wieres loaded the waste battery casings in a wheelbarrow and dumped them in a swampy area on the property.

The source of the batteries was General Dry Batteries, Inc (General Dry). General Dry operated a plant in Dubuque that manufactured dry-cell or household batteries, the type that was processed at the Site. The General Dry plant was located a little more than a mile from the Site.

General Dry was the only manufacturer of these types of batteries in the Dubuque area. Reportedly, General Dry employed approximately 1,600 people annually and produced approximately one million pounds of batteries weekly. The company's headquarters was based in Cleveland, Ohio, and operated at 3200 Jackson Street, Dubuque, Iowa.

The high demand for batteries during World War II led the federal government to force P.R. Mallory Company ("Mallory") to license General Dry with its patented mercury-cell process. In 1956, Mallory purchased substantially all of the properties and assets of General Dry, including its good will and right to use General Dry's name, ostensibly to regain its monopoly. Mallory closed the Dubuque facility in 1958. The acquisition of General Dry by Mallory included an assumption by Mallory of all indebtedness, liabilities, and obligations. P.R. Mallory later changed its name to Duracell Inc. and subsequently merged with Gillette.

The E.E. Frith Company operated an animal rendering plant on the property from approximately 1859 to 1965. The property was owned by the E.E. Frith Company during the period batteries were processed at the Site, approximately 1937 to 1965. In 1965, the E.E. Frith Company transferred the property to Donald J. Hess by quitclaim deed. Donald J. Hess and others transferred the property to Raymond J. Hess (unrelated) by warranty deed in 1990. In January 2000, Raymond J. Hess transferred the property to his son, Randall Paul Hess by warranty deed. The property is currently owned by Randall Hess where he resides with his family. The Site is used as a residence and to graze livestock.

In April 1999, the IDNR conducted the Initial Site Investigation of the former battery dump site after receiving an anonymous complaint about the Site. The investigation revealed an area, approximately an acre in size, that was lacking vegetation and was approximately 85% covered with battery cores. The soil was black in the area of the battery cores. Plastic items found in the vicinity of the cores appeared to be deteriorating, possibly due to site-specific conditions. Soil and surface water samples were collected by IDNR during the visit. Analytical results of the soil samples detected concentrations of lead up to 17,000 mg/kg, zinc up to 98,000 mg/kg, manganese up to 310,000 mg/kg, and arsenic up to 270 mg/kg. The TCLP analysis for lead revealed a concentration of 16 mg/L.

In July 1999, IDNR conducted an Extended Site Screening at the site. Soil, sediment, and on-site ground water samples were collected. Analytical results from the soil samples detected lead up to 1500 mg/kg, zinc up to 100,000 mg/kg, manganese up to 1,800 mg/kg, and arsenic up to 180 mg/kg. A sediment sample was collected approximately 2 feet from the shoreline of an on-site pond. Battery casings were present in the sample. The results of the sediment sample analyses were: lead 3,900 mg/kg; zinc 160,000 mg/kg; manganese 24,000 mg/kg; and arsenic 110 mg/kg. It did not appear that ground water was impacted by the contamination.

The Site was referred to EPA by the IDNR. The EPA, through its contractor, conducted an integrated preliminary assessment/site inspection/removal assessment ("PA/SI/RA") at the site. The field work for the PA/SI/RA was conducted the week of June 19, 2000. Based on the

initial findings of the PA/SI/RA it was determined that the contamination at the Site posed a threat to human health and the environment.

### **WORK AUTHORIZED AND CONDUCTED AND ASSOCIATED COSTS**

On July 7, 2000, the EPA issued an Action Memorandum ("Action Memo") to request and document approval and funding to conduct a time-critical removal at the Site. Based on initial information, the primary contaminant of concern was lead. However, the June 2000 sampling indicated that arsenic also posed a threat. As a result, additional investigative work was performed during the removal in early September 2000 to define the extent of the arsenic contamination. Results of the PA/SI/RA and site conditions discovered after the initiation of clean-up activities indicated that the extent and depth of the contamination at the Site was greater than originally anticipated.

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### **DISCUSSION OF BASIS NOT TO PURSUE COST RECOVERY**

Region 7 referred this case to the Department of Justice in September 2003 to seek recovery of approximately \$1,000,000 in past costs from the Gillette Company because Gillette is a corporate successor of the General Dry Battery Company. EPA, DOJ, and Gillette entered into negotiations to resolve the past costs claim. On August 17, 2006, a consent decree was entered by the United States District Court for the District of Northern Iowa. The consent decree resolved past cost liability by requiring the Settling Defendant to pay past costs of \$750,000 in exchange for covenants not to sue and contribution protection. EPA and DOJ evaluated the litigation risk involved in taking the case to trial and determined that it was appropriate to settle for less than the full claim. No further response activities were necessary and there were no operation and maintenance requirements at the Site.

In its effort to establish that Gillette was a liable party EPA conducted an exhaustive potentially responsible party (PRP) search and was unable to identify any additional viable parties. During the search EPA identified the following PRPs:

Mr. Otto Wieres was the individual that processed the used batteries at the Site. He would clearly be liable as an operator under Section 107(a)(1), however, he passed away decades ago. His son, Sylvester Weires, helped process the batteries and was therefore an operator. Because he was a minor at the time, it is not appropriate to seek cost recovery from him.

The current owner of the property is Randall Hess. He purchased the property from his father, Raymond Hess, on January 10, 2000. There is no evidence that Randall Hess or his father contributed to or exacerbated the contamination at the Site. As the current owner of the Site, Randall Hess is liable under CERCLA § 107(a)(1). However, it is EPA's opinion that Randall Hess does not have the financial ability to pay EPA's response costs. Randall Hess completed and returned an Individual Ability to Pay Claim Financial Data Request Form to EPA. Based on the financial information provided, EPA determined that Randall Hess does not have the ability to pay for the actions taken at the Site.

Donald Hess (unrelated to Raymond or Randall Hess) owned the property between 1965 when he, and others, purchased the property under foreclosure from the E.E. Frith Company. The EPA, however, does not have evidence that Donald Hess or the others that co-owned the property contributed to or exacerbated the contamination at the Site.

The E.E. Frith Company, Inc., owned the property from 1859 to 1965. The E.E. Frith Company dissolved in 1965. The surviving president of the company, Eugene Frith, controlled the company from 1950 to 1965 after his father, Emil Frith, passed away around 1950. Apparently it was Emil Frith that gave Otto Weires permission to process the batteries at the property. Eugene Frith apparently allowed the practice to continue when he took over stewardship of the company. A more accurate assessment is that he did not take any steps to change the arrangements already in place that allowed Otto Wieres to process the batteries at the Site. As stated above, the property was owned by the E.E. Frith Company. More to the point, Eugene Frith did not personally own the property and therefore he was not an owner at the time of disposal. Due to the amount of time that has passed since the E.E. Frith Company dissolved and the applicable caselaw on officer liability, it would be extremely difficult to establish that Eugene Frith, the president of the company at the time of disposal, is personally liable for costs related to the Site.


In summary, other than Gillette, there are no viable potentially responsible parties at this site.

## **CONCLUSION**

EPA has determined that Gillette is the sole viable PRP at this site. Because we have settled Gillette's liability and there are no other viable PRPs for the Site, it is recommended that cost recovery should not be pursued for the remaining uncollected past costs.



**APPROVAL:**

  
\_\_\_\_\_  
Cecilia Tapia, Director  
Superfund Division

3/14/08  
Date



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY L. PEDERSON, LT. GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

JEFFREY R. VONK, DIRECTOR

March 11, 2002

Don Hamera  
Enforcement/Fund-Lead Removal Branch  
Superfund Division  
EPA Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

Site: Lower Frith Battery  
ID #: ASEC-7-2-21  
Rank: 1.6  
Other: \_\_\_\_\_

Subject: Former Frith Battery Dump Site, Sageville, Iowa – PA/SI and HRS Scoring Report

Dear Mr. Hamera:


The Iowa Department of Natural Resources, Contaminated Sites Section, has had the opportunity to review the PA/SI report on the former Frith Battery Dump site at Sageville, near Dubuque, Iowa.

We note that EPA has conducted a soil removal at the site. The removal was reported to be unqualified. Even though removal was **not considered** in scoring, the site score was 21.6, which is lower than the 28.5 required for the site to proceed for further action. An adjacent pond reportedly had concentrations of lead and zinc in water that exceeded the Ambient Water Quality Criteria (AWQC) but no fish tissues were tested. Manganese concentration exceeded three times its background level though manganese does not have AWQC at present.

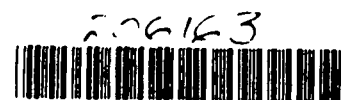
The pond is privately owned. Therefore, the department will not take action. Based on the data presented, the department would recommend that EPA, as lead agency, write a letter to the owner of the pond informing him of the potential for fish tissue contamination in the pond. The department will not object to assigning NFRAP (no further remedial action planned) designation to this site. Please copy us on any future correspondence on this site.

If you have any questions, please contact me at 515-281-4117.

Sincerely,

  
Lambert A. Nnadi  
Environmental Specialist Sr., Contaminated Sites Section

CC: Cal Lundberg, Acting Supervisor, CSS  
Field Office 1, Manchester, IA  
Charles Barton, Iowa Department of Public Health



S00213996  
SUPERFUND RECORDS

## Site Name: FORMER FRITHS BATTERY DUMP SITE

S	▲	C	OU	Action Name	Sq	Ld	Planned				Actual		Takeover Phased	SCAP Note	EPA Person
							Start	FYQ	Complete	FYQ	Start	Complete			
			00	REMOVAL ASSESSMENT	001	F	00/00/0000		12/31/2000	2001/1	09/30/1999	08/09/2000			
			00	LITIGATION (GENERIC)	001	FE	09/30/2004	2004/4	10/01/2005	2006/1	11/07/2003	04/13/2006			
			00	DISCOVERY	001	F	00/00/0000		00/00/0000		00/00/0000	09/17/1999			
			00	BULK FUNDING	001	F	00/00/0000		00/00/0000		12/08/2003	00/00/0000			
			00	REMOVAL	001	F	09/05/2000	2000/4	12/31/2000	2001/1	09/05/2000	11/04/2000		C	
			00	Approval Of Action Memo	001	F	00/00/0000		09/30/2000	2000/4	00/00/0000	07/07/2000			
			00	OSC Report	001	F	00/00/0000		12/31/2001	2002/1	00/00/0000	12/19/2000			
			00	ADMINISTRATIVE RECORDS	001	F	00/00/0000		00/00/0000		10/27/2000	00/00/0000			
		C	00	COMBINED PA/SI	001	F	00/00/0000		12/30/2001	2002/1	09/05/2000	03/21/2002		N	Report dtd 12/21/01
			00	Final Disposition	002		00/00/0000		00/00/0000		00/00/0000	03/21/2002			Form 9100-3
			00	NON-NPL PRP SEARCH	001	FE	00/00/0000		12/31/2005	2006/1	09/01/2000	04/13/2006			
			00	Title Search	001	FE	00/00/0000		00/00/0000		00/00/0000	12/13/2000			
			00	ISSUE REQ LTTRS (104e)	001	FE	00/00/0000		00/00/0000		00/00/0000	04/16/2003			
			00	DEMAND LETTERS ISSUED	001	FE	00/00/0000		00/00/0000		00/00/0000	10/17/2003			
			00	PREPARATION OF COST DOCM	001	FE	00/00/0000		09/30/2006	2006/4	10/28/2003	04/13/2006			
			00	RECORDS MANAGEMENT	001	F	00/00/0000		09/30/2010	2010/4	01/04/2004	00/00/0000			
			00	CONSENT DECREE	001	FE	00/00/0000		12/31/2006	2007/1	00/00/0000	08/17/2006			RSLT OF LT1-Gillette
			00	Entered By Court	001	FE	00/00/0000		00/00/0000		00/00/0000	08/17/2006			
			00	Lodged By DOJ	001	FE	00/00/0000		00/00/0000		00/00/0000	06/08/2006			
		2008/	00	COST RECVRY DECSN DOCMT-	001	FE	00/00/0000		03/30/2008	2008/2	00/00/0000	03/14/2008			