



## REGION 2

EDISON, NJ 08837

September 23, 2024

### **ACTION MEMORANDUM – RV2**

**SUBJECT:** Request for Approval of the 12-Month Exemption, and Confirmation of a Verbal Authorization Action Memorandum for a Time-Critical Removal Action (RV2) at Three East Trenton Public Parks, Historic Potteries Site, City of Trenton, Mercer County, New Jersey

**FROM:** Jonathan Byk, On-Scene Coordinator  
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**THRU:** Joseph D. Rotola, Supervisor  
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**TO:** Pat Evangelista, Director  
Superfund and Emergency Management Division

#### **I. PURPOSE**

The purpose of this Action Memorandum is to request an exemption from the 12-month statutory limitation and to confirm a verbal authorization of funding granted by the Director of the Superfund and Emergency Management Division (SEMD) for a removal action being performed by the United States Environmental Protection Agency (EPA), Region 2, at the Historic Potteries Site (Site), located in City of Trenton, Mercer County, New Jersey.

On February 14, 2024, the SEMD Director verbally authorized \$1,300,000, of which \$1,200,000 was for mitigation contracting for the RV1 removal action to mitigate the threat of exposure to lead in soil at the Ulysses S. Grant Intermediate School (Grant School) located at 159 North Clinton Avenue, Trenton NJ. On May 1, 2024 for this RV2 removal action, the SEMD Director verbally authorized an additional \$1,200,000, of which \$1,000,000 is for mitigation contracting, to mitigate the threat of lead exposure at three public parks in the East Trenton neighborhood of Trenton, NJ. The total funding authorized to date for this Site which includes the Grant School and three East Trenton parks is \$2,500,000, of which \$2,200,000 is for mitigation contracting. A \$2 million exemption is unnecessary because this action itself does not exceed that threshold. The RV2 removal action field work began on April 16, 2024, and is ongoing.

Conditions at the Site meet the criteria for a removal action under the Comprehensive Environmental Resource, Compensation, and Liability Act (CERCLA) and Section 300.415(b) of the National

Contingency Plan (NCP), 40 C.F.R. §300.415(b).

The Site is not on the National Priorities List (NPL), but was proposed to the NPL on September 5, 2024. There are no nationally significant or precedent setting issues associated with this removal action.

## **II. SITE CONDITIONS AND BACKGROUND**

The Superfund Enterprise Management System identification number for this Site is NJN000203535.

### **A. Site Description**

#### **1. Removal Site Evaluation**

The Site was discovered during a Removal Site Evaluation (RSE) of the L.H. Mitchell Site, a former small solder manufacturer, where elevated levels of lead were found in soil on residential properties in the surrounding neighborhood. The L.H. Mitchell Company operated for several decades in the late 20<sup>th</sup> century at 216 Klagg Avenue in the East Trenton neighborhood of Trenton, New Jersey. Between October 2018 and April 2019, EPA conducted assessment sampling at the L.H. Mitchell Site to determine if the former facility's operations had released lead into surrounding residential areas. Soil samples were collected from approximately 40 properties within a six-block radius of the former L.H. Mitchell facility.

EPA collected a total of 408 composite soil samples, including field duplicates, from 69 sampling locations on 33 properties throughout the sampling area. The analytical results indicated lead levels exceeded 400 milligram/kilogram (mg/kg),<sup>1</sup> the applicable EPA Removal Management Level (RML) at the time, in 291 of 408 samples. Lead levels exceeded 1,200 mg/kg at 26 of the 33 properties sampled. Overall lead levels above the EPA RML were found at all properties sampled, except for one property located upwind that was sampled to establish background levels. Despite the discovery of elevated concentrations of lead in the East Trenton neighborhood, the RSE documented several reasons why the contamination was not attributable to the L.H. Mitchell facility (Attachment 1).

EPA determined that lead detected at residential properties in the vicinity of the L.H. Mitchell Site must be from other historic anthropogenic sources including, but not limited to, historic fill, leaded gasoline, lead-based paint, coal combustion, and potentially the pottery industry that was prevalent in Trenton during the late 19<sup>th</sup> and early 20<sup>th</sup> century. Research into the historic potteries industry revealed that Trenton was a major industrial ceramic manufacturing center in the United States beginning in the 1850s. The industry in Trenton grew considerably throughout the remainder of the century and was at its peak between 1880 and 1920. According to historic resources, including the Potteries of Trenton Society online database and Sanborn Fire Insurance Maps (Sanborns), at least 78 pottery manufacturing locations existed throughout the City of Trenton (Figure 1). At least 30 locations that manufactured ceramics operated within the East Trenton neighborhood, of which at least five were large-scale

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<sup>1</sup> On January 17, 2024, EPA released new guidance updating the RML for lead in residential soils: "Updated Residential Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities," which establishes an RML of 200 mg/kg, lowering it from the previous EPA residential RML of 400 mg/kg.

operations with more than five kilns. Additional research indicated that lead was a common component of glazes used by historic potteries in the 19<sup>th</sup> century, such as those in Trenton. Furthermore, EPA reviewed several scientific journal articles that documented the potential for airborne lead emissions resulting from the firing of lead-glazed items in kilns, including significant releases of lead particles from uncontrolled kiln operations, including particles as small as 10 nanometers. Other studies have shown elevated blood lead levels in those living nearby ceramics facilities and lead-contaminated soil near ceramic facilities, with levels decreasing as distance from the facility increases. A study conducted in a historically heavily industrialized city in the United Kingdom found elevated lead contamination in soil samples which researchers attributed primarily to the region's pottery industry.

This information prompted EPA to consult with the New Jersey Department of Environmental Protection (NJDEP). The focus of discussion was the possibility that the historically pervasive pottery operations in the area could be a unique source of lead deposition and loading to the soils of Trenton. On January 9, 2020, EPA received a referral (Attachment 2) from the NJDEP to conduct an Integrated Assessment (IA) specifically related to the historical presence of pottery facilities and the lead contaminated soil identified in East Trenton. NJDEP also requested an assessment of six other areas of Trenton where significant historical pottery operations took place to determine if the East Trenton neighborhood alone or in combination with the six other areas qualifies for placement on the NPL and/or warrants a CERCLA removal action.

In response to the referral, EPA initiated an extensive attribution study as part of the IA. The study aimed to determine whether lead in soils discovered in the East Trenton area could be attributed to a release from the historic potteries. The attribution study included several specialized laboratory data analyses with assistance from the EPA Office of Research and Development (ORD) as well as the EPA Environmental Response Team. The attribution study sampling was conducted between October 2020 and July 2022. The soil sampling included both occupied and vacant residential properties in East Trenton that were previously assessed during the L.H. Mitchel Site investigation. Soil samples were also collected from other areas of Trenton where significant potteries historically operated, denoted HP001 through HP007 (Figure 1). The current study area for the IA consists of two main former pottery areas; HP001, which includes part of East Trenton and Top Road, and HP002, which encompasses the remaining portion of East Trenton.

As part of the attribution study 1,239 discrete soil samples and 84 composite samples were collected from residential properties, commercial properties, vacant lots, and parks. Analytical lead results for the discrete soil samples ranged from 3.52 to 50,900 mg/kg. Of the 298 samples from residential properties, 104 exceeded the 400 mg/kg lead threshold. For the composite soil samples lead levels ranged from 23.1 to 2,390 mg/kg. Notably, 34 of 84 composite soil samples exceeded 400 mg/kg for lead.

As described in a Technical Memo prepared by ORD and the Historic Potteries RSE (Attachment 1) multiple lines of evidence indicate the historic pottery industry significantly contributed to the elevated lead levels found in residential soil in East Trenton. The attribution study data indicate that the elevated lead levels primarily result from two sources: airborne releases during firing of ceramics in upwind kilns and leaching of lead from pottery sherds located in the soils. Although other sources have likely also contributed over time, including lead paint, leaded gasoline, coal combustion, and other localized industry (smelters, foundries, rubber facilities), the potteries appear to be the most significant contributor to the elevated lead levels.

As part of the ongoing IA, soil sampling and analysis of residential properties, parks, and schools within the Top Road and East Trenton neighborhoods was conducted throughout fall and early winter of 2023/2024. As the Site is considered for the NPL, further investigations of occupied residential properties will continue in areas of Trenton where significant historical pottery operations took place. Between October 2023 and January 2024, 1,028 composite samples were collected from 98 occupied residential properties, two public schools (Darlene McKnight Elementary School and Grant School, and three public parks (Breunig Avenue Park, Sonny Vereen Playground, Grant Avenue Playground) within the East Trenton study area (Figure 2).

Analytical lead results for the composite soil samples from the 1,028 samples collected ranged from 10 to 7,760 mg/kg, with an average concentration of 580 mg/kg. Of these samples, 719 exceeded the recently updated EPA RML of 200 mg/kg (see FN1). Every property sampled except for one (HP001-P121, Darlene McKnight Elementary School) had at least one sample with a lead concentration above the 200 mg/kg RML. Furthermore, 161 samples from 70 properties sampled contained lead levels exceeding 1,000 mg/kg.

Five-point composite soil samples were collected at two public school properties in East Trenton; the Darlene McKnight Elementary School located at 175 Girard Avenue, Trenton, NJ and the Grant School located 159 North Clinton Avenue, Trenton, NJ.

The Darlene McKnight Elementary School occupies three-quarters of a city block. However, as most of the property is covered with asphalt pavement, the risk of potential exposure to lead-contaminated soil is limited. The assessment focused on a small grassy area along Girard Avenue that contains several raised garden beds. A total of eleven composite soil samples were collected from three quadrants on the property, including the soil from the raised garden beds. Analytical results indicated that all samples were below the EPA's RML of 200 mg/kg for lead.

The Grant School property contains a large athletic field and other grassy areas used by students. EPA analysis of 82 composite soil samples from 16 quadrants revealed lead concentrations exceeding the RML for lead throughout the property, with surface soil lead levels reaching 653 mg/kg. The highest concentrations were typically found in the top six inches of soil, decreasing with depth, suggesting airborne deposition from the former local pottery industry. The average lead concentration in surface soil (0-2") across the property was 312 mg/kg, while high-use play areas averaged 224 mg/kg. A removal action (RV1) is currently in progress to address lead contamination at the Grant School.

In January 2024, three heavily used community parks in East Trenton were assessed as part of the IA sampling effort: Sonny Vereen Playground, Breunig Avenue Park, and Grant Avenue Playground. All three parks showed elevated lead concentrations above the 200 mg/kg RML with varying levels of contamination.

The Sonny Vereen Playground, situated in the middle of a residential neighborhood between Fillmore Avenue and Poplar Street, encompasses approximately 68,000 square feet. This expansive property includes several large grassy fields, multiple picnic table areas, playground equipment, and an asphalt basketball court. EPA analysis of 55 composite soil samples from 11 quadrants revealed lead concentrations exceeding the RML for lead throughout the property, with surface soil lead levels

reaching 642 mg/kg and as high as 3,080 mg/kg at depth. Lead concentrations exceeding the RMLs were detected in the top two inches of soil from nine of eleven sampled quadrants on the property.

Spanning approximately 17,000 square feet between Breunig Avenue and Saint Joes Avenue, the Breunig Avenue Park features three small grassy areas with benches and picnic tables, playground equipment, and an asphalt basketball court. Lead was detected exceeding the RMLs in surficial soil samples from all three quadrants sampled on the property. Lead was detected as high as 443 mg/kg in the top two inches of soil, and as high as 757 mg/kg at depth.

The Grant Avenue Playground, encompassing approximately 12,000 square feet along Grant Avenue, consists of a large grassy area with bare soil sections, benches, picnic tables, and an asphalt basketball court. While all three sampled quadrants had lead levels exceeding the RMLs at depths below 2 inches, with a maximum of 553 mg/kg, the samples collected from the top 0-2 inches did not exceed the RML for lead.

This action memo (RV2) specifically addresses the threat of lead exposure at the Sonny Vereen Playground, Grant Avenue Playground, and Breunig Avenue Park. Additional removal actions are anticipated to address lead contaminated soil at residential properties in East Trenton, and potentially other parts of the City. The removal action at three East Trenton parks has been prioritized due to the risk of direct lead exposure to a large and sensitive population. This risk affects the public, and especially young children, who may use the properties. The threat is primarily from human exposure by direct contact, ingestion, and inhalation of lead-contaminated soil. Gardening, landscaping, and soil agitation during maintenance activities by City employees may also increase the risk of exposure to lead. The threat is increased when bare soil is present, which is a condition observed widely across Sonny Vereen Playground and Breunig Avenue Park. Foot traffic through the lead-contaminated soils may result in lead being tracked into indoor areas.

Attachment 3 includes figures showing the sampling locations and results at the three parks. Attachment 4 contains with the laboratory result tables.

## **2. Physical location**

The current Site boundaries encompass part of the East Trenton neighborhood where potteries historically operated within Trenton city limits in Mercer County, New Jersey (Figure 3). The Site as currently defined encompasses approximately 0.38 square miles of occupied residential properties and communal spaces such as schools and parks in East Trenton, north and south of North Clinton Avenue, north of the Assunpink Creek, east of Lincoln Avenue, and west of Plum Street. This removal action focuses specifically on three public park properties: Sonny Vereen Playground, Breunig Avenue Park, and Grant Avenue Playground located in Trenton, NJ.

The parks are located in areas zoned for residential use. The Sonny Vereen Playground is located on Fillmore Street in Trenton. The park is bounded by residential properties and Poplar Street to the west, residential properties and North Clinton Avenue to the north, Fillmore Street to the east, and residential properties and Taylor Street to the south. Breunig Avenue Park is bounded by Breunig Avenue to the north, residential properties and Girard Avenue to the west, residential properties and St. Joes Avenue to the south, and residential properties to the east. Grant Avenue Park is located on

Grant Avenue and bound by residential properties to the south, east, and west.

The Site boundaries may expand as more assessment activities are conducted in all seven areas of Trenton where significant historical pottery operations took place.

### **3. Site characteristics**

There are over 900 occupied housing units with a population greater than 1,800 people within the current Site boundaries in the East Trenton neighborhood. Most of the residences are single- or multi-family rowhomes with backyards, and renters are a large portion of the community. Many of the homes were constructed in the late 1800s and early 1900s. Most of the residential properties include bare soil and/or vegetated areas. In addition, there are many abandoned houses and vacant lots. A large portion of the population is Spanish-speaking, and the area has been identified as a community with environmental justice concerns. Within the current Site boundaries, using EPA's Environmental Justice Screening and Mapping Tool (EJ Screen), 10 of 13 environmental justice indexes and 8 of 13 supplemental environmental justice indexes exceed a 90<sup>th</sup> percentile.

The Assunpink Creek (Assunpink) is located 80 feet to the southeast of the Site. Hamilton Township begins on the other side of the creek. Available wind rose charts indicate that prevailing winds were from the north-northwest, northwest, west-northwest, west-southwest, and southwest while potteries were historically operating.

The United States Department of Agriculture Natural Resources Conservation Service has classified the soil in the area as udorthents which indicates that the soils have been altered by excavating or filling. Due to its proximity to water, a likely scenario is that the area was filled and leveled out prior to development in the mid-1800s. Topographic maps are only available from year 1888 onward, so this could not be confirmed. The Assunpink Creek holds historical significance in American history due to its role in the Revolutionary War. The Second Battle of Trenton was fought along the Assunpink Creek on January 2, 1777, between American and British forces.

The area's development began in the mid-1700s primarily as an apple orchard (prior to the use of lead-arsenate pesticides) and as a site for grist mills along the Assunpink. Beginning in the 1850s, the pottery industry began to emerge with most of the potteries locating along the Delaware and Raritan Canal (D&R Canal) which separates East Trenton and Top Road. At the same time, rubber companies began to locate near and along the Assunpink. The residential neighborhood between the canal and creek was developed over the next 50 years to support the growing industries. The D&R Canal is currently owned and managed by the NJDEP Division of Parks and Forestry, State Park Service as a state park. The D&R Canal in Trenton is now a source of drinking water for more than one million residents of central New Jersey. The canal is managed by the New Jersey Water Supply Authority (NJWSA), which is responsible for maintaining the canal to ensure it can continue to function as a source of raw drinking water. The NJWSA pumps out about 75 million gallons of water a day from the canal's water transmission complex.

Historical records, including Sanborn fire insurance maps, indicate that the three properties now serving as parks and subject to the current removal action (RV2) have undergone varying degrees of development since the late 19th century.

Sonny Vereen Playground, located on Fillmore Street in Trenton, NJ, was established in the 1970s. This recreational space sits in a residential area of East Trenton, occupying the former site of the George B. McClellan Public School No. 8. The school, constructed in 1904, served the community for nearly six decades before its demolition in the early 1960s. The layout and size of the park has remained relatively unchanged since its construction.

Breunig Avenue Park, located between Breunig Avenue and St. Joe's Avenue, is surrounded by historic residential row houses dating back to the late 19th and early 20th centuries. The park's footprint encompasses five former residential lots, most of which remained undeveloped until the park's creation. Only one of these lots contained a small dwelling, which was razed in the 1960s. The park facilities were established by the City in the early 1970s.

Grant Avenue Park, located on Grant Avenue, is flanked by residential properties on three sides that date back to the mid-19<sup>th</sup> century. The property was first developed by the City of Trenton in 1872 when the U.S. Grant School was constructed. This institution was separate from the Grant School located on North Clinton Avenue. For almost a century, the school building stood relatively unchanged. Following its demolition in the late 1960s, the property was repurposed as a public park.

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

Sampling and analysis conducted at the Sonny Vereen Playground, Breunig Avenue Park, and Grant Avenue Playground identified the presence of significantly elevated lead concentrations in surficial soil throughout the properties. Lead is a CERCLA hazardous substance as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and listed at 40 C.F.R. § 302.4. The statutory source for designation of lead as a hazardous substance under CERCLA is identified below.

The Site is a “facility” as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). Hazardous substances, pollutants, or contaminants present at the Site represent a threat to the public health and welfare as defined by Section 300.415(b)(2) of the National Contingency Plan (NCP), in that there is a potential human exposure at the Site via inhalation, ingestion, and/or direct human contact.

<b>Substances Identified</b>	<b>Maximum Concentration</b>	<b>Statutory Source for Designation as a Hazardous Substance</b>
Lead	3,080 mg/kg	Clean Water Act Section 307(a)

#### **5. National Priorities List status**

The Site was proposed for inclusion on the NPL on September 5, 2024.

#### **6. Maps, pictures, and other graphic representations**

A site location and analytical results maps of the Sonny Vereen Playground, Breunig Avenue Park and Grant Avenue Playground is included as Attachment 3. A copy of the analytical results tables from soil samples collected at each park is provided in Attachment 4.

## **B. Other Actions to Date**

### **1. Previous actions**

The Site was referred to EPA by the NJDEP on January 9, 2020. EPA issued a Verbal Authorization for an Emergency Removal Action (RV1) on February 14, 2024, to address lead contaminated surficial soil at the Grant School that posed a threat to public health. There have been no other removal activities taken by other government or private parties on the residential properties prior to this request.

### **2. Current actions**

On April 5, 2024, EPA notified the mayor's office of the elevated detections of lead in surficial soil at Sonny Vereen Playground, Breunig Avenue Park, and Grant Avenue Playground. EPA proposed a multifaceted approach to address the lead contamination while keeping the valuable community spaces accessible to residents. The plan included three key elements: installing risk communication signs, educating the public about lead exposure risks and prevention methods, and installation of temporary measures to reduce contact with contaminated soil. Subsequently, on April 16, 2024, EPA posted lead awareness signs at all three parks to alert residents about the elevated lead concentrations found in the soil. Door to door canvassing to provide public education to residents in East Trenton was completed from April 17 to April 26, 2024.

A second Verbal Authorization (RV2) was issued by the SEMD Director on May 1, 2024, for mitigation contracting to address the threat of exposure to lead in soil at the three public parks in East Trenton.

On July 23, 2024, a formal scope of work (SOW) detailing the proposed temporary soil cover specifications for each impacted area was submitted to the City of Trenton for review. The Director of Recreation, Natural Resources, and Culture from the City of Trenton agreed with EPA's proposed SOW on August 19, 2024.

The SOW for this removal action will include maintaining risk communication signage at each of the three parks, and the installation of temporary controls to dissociate the residents from the lead impacted surficial soil at Sonny Vereen Playground and Breunig Avenue Park. Proposed temporary controls include fencing to restrict access to impacted areas, as well as placement of soil, sod, wood chips, sand, sod and/or comparable clean cover material over high use areas so that the public can resume normal use of the public space (Attachment 5).

Temporary dissociation controls are not warranted at the Grant Avenue Playground because lead contamination was not detected in the top two inches of soil at the property. During normal park activities there is no immediate risk of lead exposure through direct contact or inhalation. However, elevated levels of lead were detected at depths greater than two inches, presenting a risk of lead exposure if the soil is disturbed beyond the surface. To protect public health while maintaining park accessibility, permanent signage will be installed and maintained at Grant Avenue Playground to educate visitors about the potential hazards of digging or excavating beyond the 2-inch surface layer.

Further actions are planned to address lead-contaminated soil at residential properties in East Trenton,



as well as other potential occupied residential properties and community spaces in other portions of Trenton.

### **State and Local Authorities' role**

#### **State and local actions to date**

There are no current or ongoing removal activities being taken by government or private parties.

#### **Potential for continued State/local response**

Neither NJDEP nor the City of Trenton has the resources available to respond to the lead contamination at the Site. These organizations will act in a supporting role throughout the removal action. EPA's Removal Program plans to conduct maintenance of the removal action components at the properties for several months. Thereafter, maintenance responsibilities are expected to be transferred to the City of Trenton.

### **III. THREAT TO PUBLIC HEALTH, OR WELFARE, OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

Conditions at the Site that met the requirements of 40 CFR 300.415(b)(2) of the NCP for undertaking a CERCLA removal action include:

- 1) 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)];
- 2) high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate [300.415(b)(2)(iv)];
- 3) weather conditions that may cause hazardous substances, or pollutants, or contaminants to migrate or be released [300.415(b)(2)(v)]; and
- 4) the availability of other appropriate Federal or State response mechanisms to respond to the release [300.415(b)(2)(vii)].

#### **A. Threats to Public Health or Welfare**

EPA has identified conditions at the Site that meet the criteria of the NCP at 40 C.F.R. § 300.415(b)(2), which indicate that a removal action is warranted. Site conditions that correspond to factors that provide a basis for a removal action include:

1. **Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants [40 C.F.R. § 300.415(b)(2)(i)]**

Residents, especially young children, have potential direct contact exposure to lead through ingestion via their hands or soil-laden objects or through inhalation of airborne dust. Gardening, recreating, and

frequent use of the grass and exposed soil areas may also increase the risk of exposure to lead. The Sonny Vereen Playground and Breunig Avenue Playground property each contain a large play area with largely bare soil and several other vegetated areas that are used as walkways by the public. The parks are open to the general public for unrestricted use.

Lead exposure poses a significant threat to human health, affecting individuals across all age groups, but particularly children and pregnant women. Lead can severely damage a child's developing brain and nervous system, potentially leading to lifelong challenges. Lead exposure can lower a child's IQ and diminish their ability to focus. In adults lead exposure can increase blood pressure and the risk of hypertension, potentially leading to cardiovascular problems. It can also impair kidney function and cause reproductive issues in both men and women. Pregnant women face additional risks, as lead exposure can hinder fetal growth and potentially result in premature birth.

**2. High levels of hazardous substances, or pollutants, or contaminants in soils largely at or near the surface that may migrate [40 C.F.R. § 300.415(b)(2)(iv)]**

Analytical data indicate that elevated levels of lead are present at the surface soil at two of the three parks (Sonny Vereen Playground and Breunig Ave Park) at concentrations exceeding the residential RML. Lead was identified in soil at the surface as high as 433 mg/kg at Breunig Avenue Playground and 642 mg/kg at Sonny Vereen Playground, well above the current RML of 200 mg/kg. The soil can potentially become airborne and/or migrate when disturbed under dry conditions; and may migrate during heavy rain events.

**3. Weather conditions that may cause hazardous substances, or pollutants, or contaminants to migrate or be released [40 C.F.R. § 300.415(b)(2)(v)]**

Weather conditions may cause hazardous substances to migrate or to be released particularly through surface water run-off from precipitation potentially entering the storm drains. Under dry conditions, the soil can potentially become airborne and/or migrate when disturbed, potentially impacting indoor residential areas.

**4. The availability of other appropriate Federal or State response mechanisms to respond to the release [40 C.F.R. § 300.415(b)(2)(vii)].**

There are no other appropriate federal or state response mechanisms available to respond to the release. The State of New Jersey is not currently able to take timely and appropriate action to respond to the threat posed by the presence of hazardous substances at the Site. NJDEP has requested EPA's assistance to mitigate the threats posed by the conditions at Site.

**IV. ENDANGERMENT DETERMINATION**

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

**V. EXEMPTION FROM STATUTORY LIMITS**

**A. Consistency Exemption**

**1. Continued response actions are otherwise appropriate and consistent with the remedial actions to be taken.**

The proposed response actions are appropriate and consistent with any remedial actions to be taken. The proposed removal actions are also appropriate because they quickly prevented direct human contact with any lead contaminated soils, as well as controlled potential offsite migration of contamination, achieving an expeditious elimination of potential exposure risks. The installation of temporary soil covers at the three parks will not limit any conceivable future remedial action. This proposed removal therefore warrants exemption from the 12-month statutory limitation.

**VI. PROPOSED ACTIONS AND ESTIMATED COSTS**

**A. Proposed Actions**

**1. Proposed Action Description**

The SOW for the removal action at the Sonny Vereen Playground, Breunig Avenue Park, and Grant Avenue Playground includes the installation of temporary fencing and signage to control access to lead impacted areas by the public and city maintenance workers. Additional interim controls to dissociate the public from the lead-impacted soil will include the placement of soil, wood chips, sod and/or comparable clean cover material at the Sonny Vereen Playground and Breunig Avenue Playground. The placement of clean cover materials over areas of lead-contaminated soil provide an effective barrier to mitigate potential lead exposure pathways. By capping the impacted soil, the contaminated soils are physically isolated. This prevents dispersion of contaminated particulates into the air, thereby eliminating inhalation exposure risks. The cover materials also create a stable buffer separating the contaminants from direct human contact, which blocks inadvertent ingestion pathways. The appropriate actions will be selected in coordination with City of Trenton so that selected measures are best for use-specific requirements. Lead hazard awareness signs will be maintained at Grant Avenue Playground.

This is a temporary interim action intended to prevent direct contact and inhalation of lead contaminated soils until a permanent action can be taken to address the contaminated soils. The Site is currently being considered for placement on the NPL. If listed, the remedial program will determine an appropriate long-term remedy.

The following activities will be conducted to achieve the removal action objectives:

- i. prepare Site Plans: Health and Safety Plan, Work Plan, Quality Assurance Project Plan, and Community Air Monitoring Plan;
- ii. obtain consent for access to the three park properties;

- iii. set up support areas: command post, break/security trailers, parking, and staging areas;
- iv. conduct a landscape inventory of the property and document existing conditions prior to removal activities;
- v. removal of any debris and landscape as necessary to complete the removal action;
- vi. place up to 6" of topsoil, woodchips, , or similar cover material on the areas identified with elevated lead concentrations within the surface soils;
- vii. implement dust suppression measures to prevent the generation of dust during removal activities;
- viii. conduct perimeter air monitoring for particulates and community air sampling for lead during any earth moving activities to determine the effectiveness of dust suppression;
- ix. characterize and dispose of any wastes generated during the removal action. All wastes will be transported off-site for disposal at a facility that complies with the EPA Off-Site Rule;
- x. restoration of the impacted areas;
- xi. demobilize following the completion of the removal and restoration action; and
- xii. maintain lead hazard awareness signs at Grant Avenue Playground

EPA's Removal Program plans to conduct maintenance of the removal action components at the property for several months. Thereafter, maintenance responsibilities are expected to be transferred to the City of Trenton. The final long-term future of the soil covers (including maintenance) will depend upon the outcome of the proposed NPL listing.

## **2. Contribution to remedial performance**

The response measures documented in this Action Memorandum will address the immediate threat of exposure to lead at the three public park properties. The action is consistent with the requirement of Section 104(a)(2) of CERCLA, 42 U.S.C. § 9604(a)(2), in that it will contribute to the efficient performance of any long-term remedial approach. The planned removal action would also be consistent with any future remedial action.

## **3. Applicable or Relevant and Appropriate Requirements**

Applicable or relevant and appropriate requirements (ARARs) within the scope of the project, including CERCLA, RCRA, and Department of Transportation regulations that pertain to the transportation and disposal of contaminated materials, including hazardous substances and hazardous wastes, will be met to the extent practicable considering the exigencies of the situation. Other ARARs may be identified by

NJDEP in response to EPA's July 29, 2024, letter requesting that NJDEP identify state ARARs for the removal action.

#### **4. Project Schedule**

The installation of protective soil covers at the Sonny Vereen Playground and Breunig Avenue Park will begin in September 2024. The work is expected to take three weeks to complete. EPA expects to maintain and repair these covers for several months following the signing of the verbal authorization. Final maintenance schedule will be determined following the NPL listing.

#### **Estimated Costs**

A summary of estimated costs for the action is presented below. A confidential independent government cost estimate is included as Attachment 6.

<b>Direct Extramural Costs</b>	<b>RV1 Ceiling</b>	<b>RV2 Ceiling</b>	<b>Total Funding Authorized and Requested</b>
Regional Allowance Costs (Total clean-up contractor cost including labor, equipment, and materials including 20% contingency)	\$1,200,000	\$1,000,000	\$2,200,000
Other Extramural Costs (START V)	\$100,000	\$100,000	\$200,000
Subtotal, Extramural Costs	\$1,300,000	\$1,100,000	\$2,400,000
Extramural Cost Contingency	\$000,000	\$100,000	\$100,000
Total Direct Extramural Costs	\$1,300,000	\$1,200,000	\$2,500,000

#### **VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

Should the proposed actions described in this Action Memorandum not be implemented, the exposure threats posed by the lead will persist and the public will continue to come into direct contact with lead contaminated soil, which will increase their risk of lead exposure.

#### **VIII. OUTSTANDING POLICY ISSUES**

There are no known outstanding policy issues associated with this Site at the present time.

#### **IX. ENFORCEMENT**

Efforts are underway to identify potentially responsible parties (PRPs). The On-Scene Coordinator is

working with the Office of Regional Counsel to evaluate potential viable PRPs to pursue for cost recovery. Due to the time critical nature of this action, EPA will undertake the removal work and seek to recover costs from any viable PRPs at a future date.

## **ENFORCEMENT COST ESTIMATE**

The total cost for the two removal actions at this Site (RV1 and RV2), based on full-cost accounting practices that will be eligible for cost recovery, is estimated to be \$3,952,433 and was calculated as follows:

<b>COST CATEGORY</b>	<b>AMOUNT</b>
Direct Extramural Cost	\$2,500,000
Direct Intramural Cost	\$275,000
Subtotal Direct Costs	\$2,775,000
Indirect Costs (Indirect Regional Cost Rate 42.43%)	\$1,177,433
Estimated EPA Costs Eligible for Cost Recovery	\$3,952,433

Note: Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site- specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual costs from this estimate will affect the United States' right to cost recovery.

## **X. RECOMMENDATION**

This decision document represents the selected removal action for three East Trenton parks which are part of Historic Potteries Site located in the City of Trenton, Mercer County, New Jersey. This document has been developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. This decision is based on the administrative record for the Site.

Conditions at the Site meet the criteria for CERCLA Section 104(c) consistency exemption and I recommend your approval of the exemption from the 12-month limitation. The total project ceiling requested in this Action Memorandum is \$1,200,000 of Direct Extramural Funds, of which \$1,000,000 will funded from the Regional Removal Advice of Allowance. The total funding authorized to date for this Site which includes the Grant School (RV1) and three East Trenton neighborhood parks (RV2) is \$2,500,000, of which \$2,200,000 is for mitigation contracting. There are sufficient monies in the Advice of Allowance to fund the project.

Please indicate your formal authorization for the removal action at the Historic Potteries Site, as per current Delegation of Authority, by signing below.

Approved: \_\_\_\_\_  
Pat Evangelista, Director  
Superfund and Emergency Management Division

Date: \_\_\_\_\_

Disapproved: \_\_\_\_\_  
Pat Evangelista, Director  
Superfund and Emergency Management Division

Date: \_\_\_\_\_

cc: (upon approval)

J. Prince, SEMD-DD

E. Wilson, SEMD-DD

J. Rotola, SEMD-RAB

D. Gaughan, SEMD-RAB

B. Grealish, SEMD-RAB

J. Johnson, SEMD-NJRB

R. Puvogel, SEMD-NJRB

J. Petty, SEMD-NJRB

S. Flanagan, ORC-NJSB

D. Fischer, ORC-NJSB

K. Ganow, ORC-NJSB

M. Mears, PAO

J. Waddell, EJCEERD-CEEJB

B. Schlieger, OLEM-OEM

H. Freeman, OPM-GCMB

C.K. Lo, OIG

A. Raddant, USDOJ

L. Rosman, NOAA

G. Zervas, NJDEP

T. Benton, START

Region 2 Records Center