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Cleanup Enforcement in Action: Addressing Community Needs in Cortland, New York

The Value of Environmental Enforcement

At the Buckbee-Mears site in Cortland, New York, EPA's environmental enforcement mechanisms and resources have played a vital role in protecting public health, achieving environmental restoration, and supporting reuse. These outcomes are providing long-term community benefits for the City of Cortland and Cortland County.

Following a time-critical removal action, EPA's environmental enforcement program facilitated the completion of two innovative settlement agreements that were critical in resolving competing liens filed against the property. These efforts by EPA enforcement staff resulted in clear title to the property, sale of the property at auction by the Bank of India, and additional restoration work by a new owner to prepare the site for future use. EPA also funded a study documenting the site's cleanup status, helping to clarify which portions of the property would be suitable for varying types of reuse and providing recommendations on how to address potential reuse barriers.

Today, those plans have been realized. The settlement agreements and documentation of the site's cleanup status have helped to transform an abandoned and contaminated burden into a refurbished industrial park capable of supporting the community's economic development goals. Thousands of gallons of unsecured and hazardous chemicals at the former manufacturing facility had threatened public health. Now well secured and maintained by a new owner, the property will soon be home to a wood pellet manufacturing operation.

Environmental Enforcement Benefits the Community

Environmental and public health impacts affect people most significantly where they live. EPA works to provide strong, effective enforcement support to all communities. As the Agency implements environmental and public health improvements across the country, EPA is looking for new ways to assist communities in environmentally overburdened, underserved, and economically distressed areas where the needs are greatest.

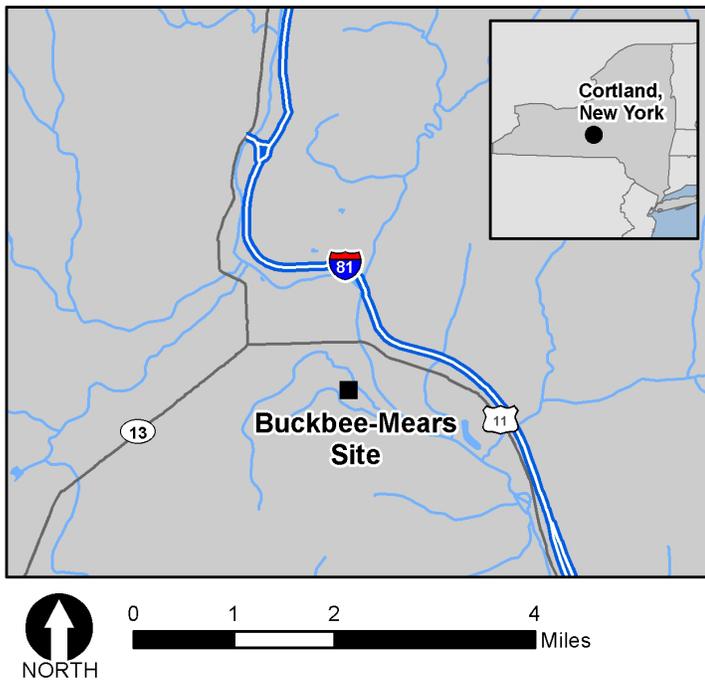
Innovative Enforcement Actions Support Reuse

EPA's cleanup enforcement program supports community revitalization by providing guidance materials and site-specific enforcement tools that help stakeholders address liability concerns and plan for future reuse. EPA works with diverse stakeholders to ensure the long-term protectiveness of public health and the environment. At the Buckbee-Mears site, EPA staff worked creatively with the city and county to pursue settlement agreements that resolved several competing liens on the property in order to allow future potential reuse.



Once an abandoned and vandalized property, this site now provides economic development opportunities for the community.

The site's location in Cortland, New York.



Sources: Esri, DeLorme, AND, Tele Atlas, First American, UNEP-WCMC and USGS.

Site and Community Overview

Cortland, a small city of about 19,000 people in the southern tier of New York, is located about 30 miles south of Syracuse. For more than a century, the area was a major industrial and manufacturing hub. The Buckbee-Mears plant was a vital part of the local economy in the second half of the 20th century; the facility employed as many as 1,100 people. Beginning in the late 1970s, however, changes in the global economy hit the community hard. Industry and manufacturing jobs moved overseas, taking away cornerstones of the region's economy. The city and county continue to struggle as additional companies have closed, relocated, or consolidated in other places. Economic development remains a longstanding priority for both localities.

The Buckbee-Mears site is part of a larger 75-acre property, occupying 50.6-acres. The property also includes an adjacent 24.8-acre parcel which is located in the Town of Cortlandville. This smaller parcel did not require any cleanup by EPA. The site is situated in a commercial and residential area; the closest homes are

about 500 feet away. About 1,900 people live within a half-mile of the site.

From 1974 until 2004, the Buckbee-Mears Company (BMC) made aperture masks, a key component in color television picture tubes and computer monitors, along with other photochemically-etched metal products. After BMC filed for bankruptcy, India-based International Electron Devices-USA, LLC (IED) acquired the property and manufacturing facility in 2004. IED resumed making aperture masks for cathode ray tubes and sheet metal components for picture tubes and computer monitors. IED ceased operations and abandoned the facility in 2005 due to financial challenges.

Large quantities of hazardous wastes were discovered on site in 2006 after the Cortland Police Department responded to a report of vandalism. Acids and other chemicals were found stored in drums, tanks, process piping, and small containers across the facility. The police notified the New York State Department of Environmental Conservation (NYSDEC). NYSDEC confirmed the presence of numerous hazardous substances, including sulfuric acid, nitric acid, methanol, chromium trioxide, ammonium hydroxide and chlorine gas. NYSDEC requested that EPA conduct a short-term cleanup, or time-critical removal action. The absence of site security, disconnected utilities, flammable materials and the potential for a release of hazardous substances meant that a response action was necessary.

Project History

2006 – 2008 Establishing Roles and Responsibilities

EPA enforcement staff negotiated with IED, the site's responsible party, and issued the company an administrative order to perform and pay for the required Superfund cleanup activities. IED initially complied with the order, identifying a cleanup contractor and putting site security in place. During a follow-up visit, however, EPA found that the security firm was no longer active and that contractors had stopped all cleanup work due to a lack of payment from IED. Several EPA attempts to contact the company were unsuccessful. EPA informed IED that the Agency would commence



Cleanup of a sulfuric acid tank at the site (above) and the removal of chromic acid stored on the site (below).



Removal actions included demolishing structurally damaged and contaminated buildings.

the necessary cleanup work at the site because of IED's failure to comply with the administrative order. Through a series of Action Memoranda, EPA authorized removal cleanup activities at the site.

2007 – 2009 Protecting Public Health, Cleaning up the Site

EPA conducted a Superfund time-critical removal action at the site. Activities included the sampling of containers abandoned on site; removing and disposing or recycling hazardous materials in bulk storage tanks; draining, cutting, and removing 200,000 linear feet of contaminated chemical feed lines; and removing potential radiation sources in instrumentation units. Removal actions also included disposing of mercury switches; demolishing and disposing of structurally damaged and contaminated buildings; salvaging or recycling metal waste; and capping the concrete foundation slabs left after building demolition.

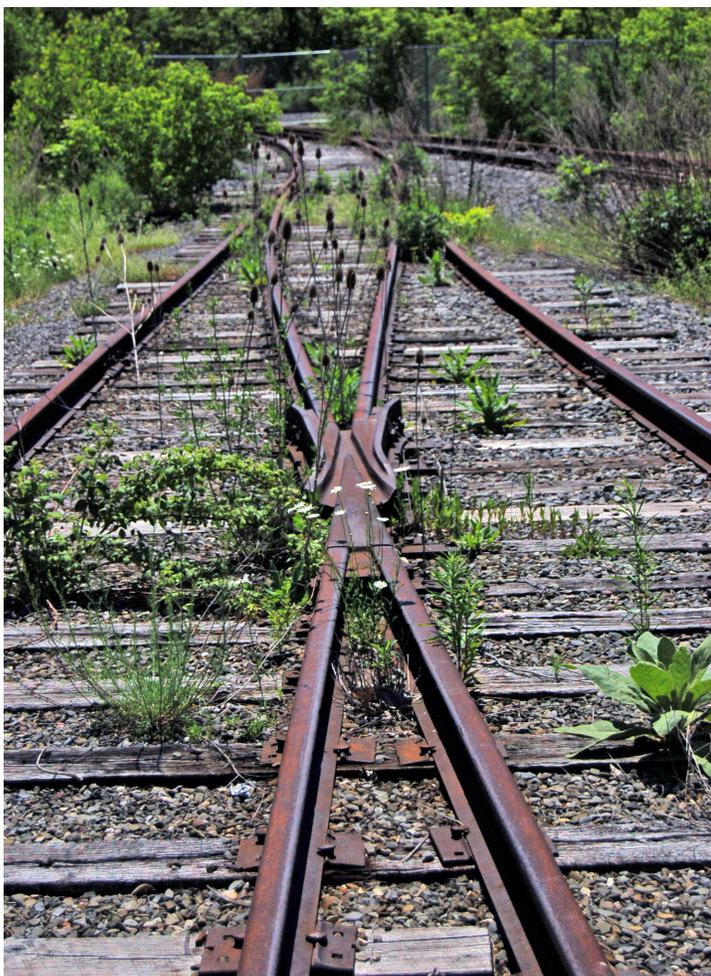
Two buildings on site – a 30,000-square-foot warehouse and an adjacent, 210,000-square-foot factory building – did not need to be demolished. In addition, the factory building, Building #5, had a black mold problem that EPA could not address under Superfund. Site infrastructure – an electric substation, a rail spur and a wastewater treatment plant – also remained on site after cleanup. EPA's removal action successfully addressed the risks to public health and the environment and allows for commercial and industrial uses. EPA spent over \$8 million on the cleanup and filed a Superfund lien on the property to recover EPA cleanup costs.

2008 – 2012 Pursuing Innovative Settlement Agreements

After the unsuccessful effort to contact IED, EPA, the city, county, and the State Bank of India, as the mortgage holder for the property, entered into settlement discussions. The parties sought to resolve the several competing liens on the property (the site and adjacent parcel), enabling the potential reuse of the area in the future. In addition to EPA's \$8.3-million Superfund lien, the city and county had tax liens of \$1.2 million and the bank had a mortgage of \$8.4 million. Over \$17.6 million in liens were filed against a property with an assessed value of \$2.1 million.

CERCLA Liens

EPA uses two types of liens that may impact a property at a Superfund site: federal liens for response costs and windfall liens. A CERCLA § 107(l) Superfund lien applies to properties owned or once owned by potentially responsible parties (PRPs) and entitles EPA to recover cleanup costs it has incurred. A CERCLA § 107(r) windfall lien is a statutory lien on a property for either the increase in the fair market value of that property attributable to EPA's cleanup efforts or unrecovered response costs, whichever is less. Unlike a CERCLA § 107(l) lien, the windfall lien is not a lien for all of EPA's unrecovered response costs. The windfall lien applies to properties that are or may be acquired by bona fide prospective purchasers (BFPPs) as described in CERCLA § 101(40).



Site infrastructure that EPA left in place after cleanup included an on-site rail spur.

EPA enforcement staff approached the State Bank of India about a three-party administrative settlement among the Agency, the bank and IED. IED never responded to EPA and the bank pursued its own actions against IED. In 2008, after meeting with the bank's legal counsel and learning that IED no longer had a U.S. presence, EPA decided to negotiate solely with the bank and began what turned into several years of settlement negotiations. As EPA enforcement staff worked on finalizing settlement negotiations with the bank, EPA also reached out to the city and county to address their liens and facilitate the foreclosure, sale, and redevelopment of the site.

EPA and the State Bank of India finalized an administrative settlement agreement (Bank Agreement). In brief, under its terms, the bank would foreclose on the property and attempt to sell it at a foreclosure auction. EPA and the two local taxing authorities (the City of Cortland and Cortland County) would then lift their respective liens on the property and the parties would share property sale revenue after the auction. The Bank of India received a covenant not to sue and contribution protection from EPA for existing contamination at the site.

EPA also entered into Memoranda of Agreements (MOAs) with the city and county. Collectively referred to as the "Municipal Settlements," they provided that if the bank was not able to sell the property during the foreclosure action, the city would have the right to foreclose on and facilitate the sale of the property and the bank would no longer be entitled to any proceeds from the sale. If the city foreclosed, it would pay EPA 50 percent of the proceeds from the sale after the city and county received up to \$150,000 to cover transaction costs.

To further support the site's redevelopment, EPA agreed to release its Superfund lien and waive any post-sale windfall lien as part of the settlement agreements.

2012 Clarifying Site Status and Reuse Opportunities

Knowing that comprehensive and clear documentation of the site's cleanup and current status would be helpful for any parties considering on-site redevelopment projects, EPA funded a reuse analysis. It documented

the site's status, clarified areas well suited for different land uses, and provided recommendations on ways to address remaining reuse challenges. Examples of these challenges included residual contamination in soils below concrete slabs, mold remediation requirements, and renovation of the on-site rail spur and electrical infrastructure.

The reuse analysis also fully delineated property boundaries, summarized cleanup activities and locations, and mapped all site features and infrastructure – from buildings to wetlands to monitoring wells – that might present opportunities or limitations for future development at the site. The reuse analysis became part of the outreach materials used by the city, county and local economic development organizations to facilitate marketing efforts for the property.

2013 – 2014 Moving Forward with Bank Foreclosure and Property Sale

The Bank of India obtained an order of foreclosure and worked with a real estate company to market the property for sale. The property sold at a foreclosure auction to David Yaman, a local developer. The site now had an engaged steward; an owner facilitating the safe and beneficial reuse of the property.



Map summarizing removal action cleanup activities at the site, created as part of an EPA-funded reuse analysis.

Area Revitalization Efforts

In 2013, the City of Cortland received a \$359,500 Brownfield Opportunity Area (BOA) grant from NYSDEC to investigate the redevelopment of former industrial areas – including the former Buckbee-Mears site – in the southeastern part of the city.

The BOA Program provides resources to New York communities to establish revitalization strategies that return dormant or blighted parcels to productive use. The grant is funding preliminary analysis work as a first step in the city potentially receiving a BOA designation from NYSDEC. BOA designation provides additional funding and tax credits to support revitalization efforts across southeast Cortland.



The rear of Manufacturing Building #5 at the Buckbee-Mears site. (Source: David Yaman Realty Services)

2014 – Present Rehabilitating the Property, Marketing the Area for Reuse

The developer spent nearly \$800,000 rehabilitating the property, including cleaning up mold contamination that EPA was unable to address under Superfund. The developer gutted and renovated two on-site buildings, transforming a once-abandoned, neglected property into a valuable economic asset for the community.

The eyesore that once prompted calls to the police and required federal cleanup is now protective of public health and ready for reuse. The property is now known as the Cortland Industrial Center. The owner/developer identified a tenant for the property in late 2016 and is in the process of finalizing a long-term lease agreement. Once a lease is finalized, Building #5 will be upgraded and reconfigured to enable the new tenant to manufacture industrial grade wood pellets.

Enforcement Makes a Difference

EPA's environmental enforcement program has helped make a difference in thousands of communities impacted by hazardous waste contamination. At sites such as the Buckbee-Mears site, the program played a central role in facilitating the site's cleanup and reuse by bringing key parties together to negotiate innovative settlement agreements and resolve competing liens. From cleanup to final settlement agreements, EPA's work in Cortland, New York, has positioned the site to advance economic development opportunities throughout the community.



Scenes from the Cortland Industrial Center
(Source: David Yaman Reality Services)

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