

entered in *EDF v. Browner*, Civ. No. 89-0598 (D.D.C.) will be extended only to on or about January 19, 1996, at this time EPA is extending the comment period only until December 15, 1995.

Dated: November 22, 1995.

Michael H. Shapiro,  
Director, Office of Solid Waste.  
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#### 40 CFR Part 300

[FRL-5335-2]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent To Delete the Whitewood Creek Superfund Site From the National Priorities List: Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region VIII announces its intent to delete the Whitewood Creek Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of South Dakota (State) have determined that all appropriate CERCLA response actions have been implemented and that no further response actions are necessary at the Site except required operations and maintenance activities (O&M). Moreover, EPA and the State have determined that remedial activities conducted at the Site are protective of human health and the environment.

**DATES:** Comments concerning the proposed deletion of the Whitewood Creek Site may be submitted to EPA on or before January 2, 1996.

**ADDRESSES:** Comments may be mailed to: Mr. Michael H. McCeney, Remedial Project Manager, U.S. Environmental Protection Agency, Region VIII, Mail Code 8EPR/SR, 999 18th Street, Suite 500, Denver, CO 80202, Telephone: (303) 312-6226.

Comprehensive information on this site is available through EPA, Region VIII public docket, located at EPA, Region VIII, Superfund Records Center and is available for viewing from 8:00 AM to 4:30 PM, Monday through Friday excluding holidays. Requests for

documents should be directed to the EPA, Region VIII Superfund Records Center.

The address for the Region VIII Superfund Records Center is: Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, 5th Floor, Denver, CO 80202, Telephone: (303) 312-6473.

Background information from the Regional public docket is also available for viewing at the following location: Ms. Judy Meverden, Lawrence County Registry of Deeds Office, P.O. Box 565, Deadwood, South Dakota 57732-0565, Telephone: (605) 578-3930.

**FOR FURTHER INFORMATION CONTACT:** Michael H. McCeney (303) 312-6226.

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#### I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Whitewood Creek Site located in Butte, Meade, and Lawrence Counties, South Dakota, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Title 40 of the Code of Federal Regulations (40 CFR), as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action.

EPA intends to delete the Whitewood Creek Site from the NPL. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Whitewood Creek Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations with regard to an individual site. The NPL is designed primarily for informational

purposes and to assist EPA management.

#### II. NPL Deletion Criteria

The NPL 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. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further response action by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

For all Remedial Actions (RAs) which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, EPA shall review such action no less often than every five years after initiation of the selected RA.

#### III. Deletion Procedures

EPA, Region VIII will accept and evaluate public comments before making a final decision to delete the Whitewood Creek Site. The following procedures were used for the intended deletion of this Site:

(1) EPA, Region VIII has recommended deletion of the Whitewood Creek Site and has prepared the relevant documents;

(2) The State of South Dakota has concurred with EPA's recommendation for deletion;

(3) Concurrent with this National Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties; and

(4) EPA, Region VIII has made all relevant documents available in the Regional Office and local Site information repositories.

Comments received during the notice and comment period will be evaluated before making a final decision to delete. Region VIII will prepare a Responsiveness Summary, which will

address the comments received during the public comment period. After the public comment period, a deletion will occur after EPA publishes a Notice of Deletion in the Federal Register. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA Region VIII.

#### IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Whitewood Creek Superfund Site.

The Whitewood Creek Superfund Site is located in Butte, Meade and Lawrence Counties in western South Dakota. The Site includes the floodplain of an 18 mile stretch of Whitewood Creek between the Crook City Bridge and the confluence with the Belle Fourche River. The Site also includes areas surrounding the floodplain which fall within the 100 milligrams per kilogram (mg/kg) arsenic concentration isopleths as defined during remedial design (RD).

Disposal of mill tailings from area gold mines into Whitewood Creek for more than 100 years caused contamination at the Site. This practice ended in 1977. Homestake Mining Company (Homestake) of Lead, South Dakota was the largest contributor of this mine waste material. As Whitewood Creek flowed northeast out of the Black Hills, mine tailings were deposited on the banks of the creek and throughout the floodplain. An estimated 30 million tons of mill tailings were deposited within the Site. These tailings were found to contain elevated levels of arsenic and other heavy metals.

In 1981, at the request of the governor of South Dakota, the Site was placed on the "Interim NPL". Subsequently the Site was placed on the NPL on September 8, 1983 (48 Fed. Reg. 40658). The hazardous substance release pathways of concern at the Site were ground water and surface water. These pathways were used to develop the Site's hazard ranking system score. The hazardous substances of concern were arsenic, copper, zinc, selenium, and mercury.

Following placement of the Site on the Interim NPL, EPA, the State of South Dakota, and Homestake entered into a three-party agreement to perform studies to determine the nature and extent of contamination at the Site. In 1989, EPA determined that this study, combined with several others conducted between 1982 and 1986, constitutes the functional equivalent of a remedial investigation for the Site. The remedial

investigation reports, as well as any other reports referred to in this notice, can be found in the public docket for this Site.

Under an administrative agreement with EPA, Homestake conducted a feasibility study in 1989 to evaluate cleanup alternatives. The feasibility study and the remedial investigation reports concluded that the primary concern for human health and the environment at the Site was exposure to arsenic-contaminated tailings, soils, and groundwater.

EPA issued a Record of Decision (ROD) for the Whitewood Creek Site on March 30, 1990. The remedy selected for the Site was two-fold; (1) remove and/or cover tailings-contaminated soils in existing residential areas; and (2) implement institutional controls (ICs) to control access to the tailings and groundwater. To achieve a detailed understanding of the ROD, refer to the ROD dated March 30, 1990.

In August of 1990, EPA and Homestake signed a consent decree (CD) for Homestake to conduct remedial design and remedial action (RD/RA) at the Site. Under EPA oversight, Homestake, in coordination with Site residents, developed plans and specifications for removal and/or cover of arsenic-contaminated materials at sixteen residential yards.

Homestake conducted cleanup of the residential yards in 1991 and 1992. A total of 4,500 cubic yards of contaminated material was removed from the individual sites and placed in an on-site disposal facility.

Community relations activities throughout the Superfund process at the Site included:

- a. a public meeting followed by a comment period to present the preferred cleanup plan before issuing the ROD;
- b. a responsiveness summary to address comments received from the public regarding EPA's proposed clean up plan;
- c. regular site updates in the form of fact sheets mailed to the community;
- d. meetings with site residents to develop acceptable cleanup plans for residential yards; and
- e. community meetings.

Also as part of RD/RA, the following institutional controls have been implemented at the Site:

- (a) Butte, Meade, and Lawrence Counties adopted ordinances that: prohibit construction of any new residential or commercial structures on the tailings deposits; restrict future development in tailings-impacted areas of the Site; and prohibit the removal and

use of tailings from outside the tailings areas; however, mining would be allowed subject to South Dakota regulations. These ordinances were adopted in 1992 and 1993;

- (b) since 1993, Homestake has been distributing a Site fact sheet at least once a year to educate the public on Site hazards and ways to minimize the risk posed by residual contamination;

- (c) a State ban on shallow aquifer water supply wells in the floodplain of Whitewood Creek has been maintained.

Administration of the above institutional controls is on-going and will continue indefinitely. In addition, Homestake is responsible for several operations and maintenance (O&M) activities at the site including but not limited to:

- (1) monitoring the surface water quality of Whitewood Creek at least four times yearly for significant releases of remaining hazardous substances at the Site;
- (2) re-sampling the soil in residential yards at least once every five years to ensure that re-contamination has not occurred; in the event of unacceptable levels of recontamination, Homestake will remediate the yard; and
- (3) submitting reports to EPA on O&M activities four times yearly.

Further details of Homestake's O&M responsibilities at the Site can be found in the *Whitewood Creek Superfund Site, Post Closure Operations, Maintenance, and reporting Plan*, dated July 27, 1994. Deletion of the Site from the NPL in no way affects Homestake's continued obligations to perform O&M at the Site.

Because hazardous substances remain at this Site EPA must review Site conditions no less often than every five years from the start of remedial action at the Site to ensure that the remedy continues to remain protective of human health and the environment. The first five year review will begin no later than September 1996.

Dated: November 8, 1995.

William P. Yellowtail,  
Regional Administrator, U.S. E.P.A., Region VIII.

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