

Winter 2014

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VCP Spurs Development on Morgan Hanauer

The former Morgan Hanauer Smelter property in Murray previously housed a smelter, an asphalt plant, a battery salvage operation, and other commercial uses.

In 2005, the property was purchased by a private developer who subsequently entered the Voluntary Cleanup Program (VCP). Site characterization efforts revealed lead and arsenic as the primary contaminants. Petroleum impacts, though limited, were also found on the northwest portion of the site. Upon completion of the site characterization, a remedy was implemented to address contamination across the site. Metals-impacted soils were consolidated under future parking areas and a risk assessment was performed on the petroleum-impacted soils, which led to the management of the material in place. A Certificate of Completion (COC) was issued in August 2008 requiring on-going site management.



In 2012, a healthcare company acquired the northwest portion of the property with the goal of constructing a long term acute care hospital (LTACH). The company requested



assistance from the Division of Environmental Response and Remediation (DERR) prior to development to ensure proper disposal of impacted soils and to design and install a vapor intrusion system.

The future operator of the LTACH applied for an Enforceable Written Assurance (EWA). The DERR reviewed the application, worked with the applicant to establish Reasonable Steps and issued an EWA in July 2013. The new LTACH facility further promotes the reuse of the Morgan Hanauer Smelter property.

Job Training Grants:

Environmental Workforce Development and Job Training (EWDJT) grants are provided to recruit, train, and place the unemployed and underemployed, including low-income and minority residents historically affected by hazardous and solid waste sites and facilities, with the skills needed to secure full-time, sustainable employment in environmental assessment and cleanup work taking place in their communities.

EPA is currently accepting proposals from nonprofit organizations and other eligible entities. Applications are due February 13, 2014. For more information, visit: <http://www.epa.gov/brownfields/job.htm>

Technical Assistance to Brownfields:

EPA's Technical Assistance to Brownfields (TAB) Program funds technical assistance to communities and other stakeholders on Brownfields issues with the goal of increasing understanding and involvement in Brownfield cleanup and revitalization, and helping to move Brownfields sites forward toward cleanup and reuse.

Kansas State University (KSU) received a grant in 2013 to provide TAB services in EPA Regions 5, 6, 7 and 8, which includes Utah. For more information about KSU's TAB Program, please visit: www.ksutab.org/

Tools to Return Property to Beneficial Use

Environmental contamination is often an impediment to economic and community development or perhaps a higher or more sustainable use of property. As such, many contaminated properties or potentially contaminated properties, known as Brownfields, sit idle or underutilized due to the perceived or real threat of environmental contamination. Brownfields include abandoned gas stations, former maintenance garages, old industrial properties and mine-scarred lands, to name a few. Brownfields are present in both rural and large communities. The following are tools available through the Division of Environmental Response and Remediation to address Brownfields.

Voluntary Cleanup Program

The Utah State Legislature passed the Voluntary Release Cleanup Program statute during the 1997 legislative session. The purpose of the program is to encourage the investigation and cleanup of sites where there is a suspected or confirmed contaminant release, threatening public health and the environment and creating a stigma potentially blocking economic redevelopment. Successful completion of a project under the VCP results in the applicant receiving a Certificate of Completion, which provides a release of liability as outlined in the statute and may help clear the way for the property to be returned to beneficial use. The VCP is not just limited to Brownfields properties.

Technical Assistance and Targeted Brownfields Assessments

DERR assists local governments and other qualified parties with Brownfields as well as applications and support letters for EPA Assessment, Revolving Loan Fund and Cleanup (ARC) grants. These grants can help fund activities such as site assessment and cleanup. The DERR can also conduct Targeted Brownfields Assessments (TBAs) for eligible communities, governments and non-profit groups. TBAs are not grants, but rather assessments of property providing information that may assist local governments with future planning and development.

Enforceable Written Assurances

The Executive Director of the Department of Environmental Quality (DEQ) may issue an Enforceable Written Assurance to a bona fide prospective purchaser. This term is defined by the federal Comprehensive Environmental Response, Compensation, and Liability Act and incorporated in the Hazardous Substances Mitigation Act. The DEQ will not bring an enforcement action under the Hazardous Substances Mitigation Act against the holder of an Enforceable Written Assurance, provided the holder continues to satisfy ongoing obligations associated with the written assurance. The requirements for an Enforceable Written Assurance are outlined in R311-600 Utah Administrative Code.

For further information about these programs or to schedule a pre-application meeting, please contact the Voluntary Cleanup Program/Brownfields coordinator at (801) 536-4100 or visit our web site: <http://www.superfund.utah.gov/vcp.htm>

Elsinore Petroleum Brownfield Assessment

In January 2005, officials from the rural, central Utah town of Elsinore contacted the DERR concerning an abandoned service station in the heart of their community. The abandoned service station was a community eyesore with a dilapidated and significantly decaying building and unkempt landscaping. The property was an unsafe blight located on Main Street near the town's entrance to Interstate 70.

Elsinore officials had a direct interest in redeveloping the property and were pursuing an opportunity to purchase the property. The town's main obstacle to completing the purchase of the property was the potential liability and perceived risk related to petroleum contamination from the former service station operations.

DERR was able to utilize existing Brownfields grant funding to conduct a TBA in April 2005. The DERR performed subsurface soil sampling to determine if any past petroleum releases had impacted the property. The results of the sampling indicated only a small area of petroleum-contaminated soils existed beneath the station. The town officials managed the contamination with an environmental covenant on the property to prohibit construction of any buildings over the contaminated area.

In 2009, Elsinore completed the construction of a new park, town hall and fire station on the property. The park was built over the portion of the property where the contamination was left in-place and is used by townspeople and visitors as a picnic area. The Town is grateful to have a modern space to conduct government business and various community functions in the new town hall. The 3-bay fire station is now centrally located and is used by its volunteer fire department. The redevelopment of this former community eyesore was a greatly needed improvement for this rural town.



VCP Information: Site Characterization

Site characterization is an important part of the VCP and is performed to determine areas and contaminants of concern and to delineate the nature and extent of contamination at a site. Characterization efforts focus on both current and historical uses of the property to ensure a VCP applicant is assessing the appropriate contaminants at the appropriate depths and locations. Each site is different and should be evaluated site-specifically. Site characterization activities are memorialized in workplans/reports prepared by the VCP applicant and are important to the success of any cleanup conducted under the program.

DERR Community Outreach:

The DERR has a long standing history of reaching out to communities, helping them identify Brownfields and working with them in partnership to find solutions to Brownfields related matters. This is done through outreach efforts such as meetings, workshops, and this newsletter. Furthermore, the DERR is a technical resource available to answer questions and provide assistance. The DERR also encourages eligible entities to submit an EWA or VCP application, if these tools are necessary to meet the goals of the project.

If your community is interested in meeting with the DERR to discuss Brownfields or would like to request a workshop or presentation to learn about the tools and resources available to address Brownfields in Utah, please contact Bill Rees at [801-536-4167](tel:801-536-4167).

Voluntary Cleanup Program Statistics:

79 VCP applications have been received and 41 Certificates of Completion have been issued since the program began in 1997. Approximately 967 acres have been returned to a state of beneficial re-use.

Enforceable Written Assurance Statistics:

The DERR has received 73 EWA applications and issued 60 EWAs since the program began in 2006.

VCP Certificate of Completion:

Successful completion of a site cleanup results in DERR issuing a Certificate of Completion.

The Certificate of Completion provides a release of liability as described in Utah Code Annotated (UCA), subsection (3)(a) 19-8-113. The certificate is transferable to future property owners. It also protects future lenders from state liability for the contamination addressed under the Voluntary Cleanup Agreement.

While there are no guarantees, a successful voluntary cleanup may reduce the potential of federal environmental liability.



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Amendment to All Appropriate Inquiries

The EPA took final action on December 30, 2013 to amend the standards and practices for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to reference a standard practice recently made available by ASTM International. Specifically, EPA's action amends the "All Appropriate Inquiries Rule" at 40 CFR Part 312 to reference ASTM International's E1527-13 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and makes clear that persons conducting all appropriate inquiries may use the procedures included in this standard to comply with the All Appropriate Inquiries rule.

The recent action offers parties the option of using an additional ASTM International standard to conduct all appropriate inquiries. Parties purchasing potentially

contaminated properties may use the ASTM E1527-13 standard practice when conducting all appropriate inquiries pursuant to CERCLA. However, the new rule does not require that any party use this standard. Any party who wants to conduct all appropriate inquiries under CERCLA may follow the All Appropriate Inquiries Rule at 40 CFR Part 312 or use the new standard recognized in EPA's final rule published on December 30, 2013.

Parties potentially affected by this action are those who may choose to use the newly referenced ASTM standard to perform all appropriate inquiries and include public and private parties who, as bona fide prospective purchasers, contiguous property owners, or innocent landowners, are purchasing potentially contaminated properties and intend to claim a limitation on CERCLA liability in conjunction with the property purchase.

For more information, please see:

www.epa.gov/brownfields/news/index.htm#fy2013_aairu

About Our Organization

The VCP/Brownfields Program is administered through the Division of Environmental Response and Remediation, Superfund Branch. The DERR is charged with protecting public health and Utah's environment through cleanup of chemically contaminated sites, by ensuring that underground storage tanks are used properly and by providing chemical usage and emission data to the public and local response agencies. For more information about us, please see our website.

We're on the Web!

www.environmentalresponse.utah.gov