

**Community Fill Plan
Using Metals-Impacted Materials within the ICP Boundary
07-31-2013**

Background

The United States Environmental Protection Agency (USEPA) issued Records of Decision (RODs) outlining remedial actions for community areas of the Bunker Hill Superfund Site (Site) in 1991, 1992 and 2002. Generally, the chosen remedy has called for partial removal of contaminated materials where they pose unacceptable risks to human health, disposal in constructed repositories, and replacement with clean materials. Constructed repositories are used for waste disposal at this and many other Superfund sites since they are subject to engineering controls, institutional controls, long term operation and maintenance, and monitoring to ensure long term protection and integrity of the remedy.

Since the remedy for residential yards and commercial properties is typically only a partial removal and contaminated materials lie beneath the clean soil barriers throughout most communities, the respective RODs called for an institutional controls program as an integral part of the remedy to ensure that barriers were protected and constructed as development and re-development occurred within the Site. Because of geographic and jurisdictional considerations, the Idaho Department of Environmental Quality (IDEQ) called upon Panhandle Health District (PHD), acting through its local board of health, to promulgate rules designed to govern long-term Site-related contaminant management. The locally-adopted rules or collectively the "Institutional Control Program" (ICP), were developed to implement and enforce practices that establish and sustain barriers to prevent human exposure to contaminants and maintain records of compliance with the remedy prescribed by the respective RODs.

The result is that contaminated materials are managed and disposed of in a variety of ways. In some cases, wastes are transported to repositories by hazardous waste contractors. In other cases, wastes are hauled by homeowners to repositories or placed in other areas on their property and capped in compliance with the ICP. All of these methods are designed to protect human health and prevent contaminant migration into areas that are not contaminated.

Purpose

During the course of the cleanup, the agencies have continued to hear concerns from the local communities about the space the repositories take up in a valley with limited flat ground for development. In lieu of disposal of all ICP-generated waste in constructed repositories, there has been a desire to fill in low lying areas within the Site with contaminated material followed by construction of protective barriers overlying the contaminated material as required by the ICP. To that end and in compliance with the ICP rules and practices, Panhandle Health District has approved the use of ICP wastes as construction fill. The purpose of this Community Fill Plan (CFP) is to formally recognize this activity and identify additional procedures to be required when greater than 1,000 cubic yards of contaminated materials will be moved from property to property within the ICP Administrative Boundary. This CFP also acknowledges the jurisdiction of USEPA and the State of Idaho in implementation of the ICP as a portion of the selected remedy of the RODs, and recognizes that larger scale fills may warrant additional evaluation due to their size and potential impact to human health and the environment. Nothing in the CFP contravenes any provision of the ICP as it is, and has been, administered by PHD. Records for all fill projects will be maintained in PHD's records repository.

This plan is intended to provide an alternative to disposal in constructed repositories for some ICP waste and to establish a reserve of properties ready to receive fill from future construction projects when they are identified. Cleanup actions conducted by EPA or DEQ as part of remedy implementation may occur over extended periods of time and in some cases contain significant volumes of highly contaminated material. For these reasons this waste will continue to go to constructed repositories which are sited in accordance with a four-step process identified in the 2002 ROD. The continued use of constructed repositories in combination with this CFP will help preserve space in repositories for both cleanup and ICP waste for the long-term while helping the local community maximize the opportunity to create developable land.

Agency Roles and Responsibilities

PHD will continue its permitting and record-keeping activities as authorized by IDAPA 41.01.01, rules adopted by the District Board of Health and affirmed by the Idaho Legislature. Pursuant to the rules it has adopted, PHD issues no-fee permits, provides contractor licensing, oversees performance of excavation, grading, construction, barrier requirements, Best Management Practices, health and safety, and provides specific requirements for certain interior remodeling projects. PHD also licenses and trains contractors who perform such activities within the ICP Boundary. In most cases to date, waste generated by the ICP program has gone to constructed repositories in the Box and Basin.

PHD will also continue to serve as the local lead agency for maintaining records, communicating with landowners and developers, issuing permits, ensuring compliance with permits, and responding to inquiries associated with fill projects. Records maintained by PHD are available for public inspection, subject to privacy limitations imposed by the state public records act, in order to support the transfer of interests in real estate and other activities that sustain commerce in the Silver Valley. ICP records are also made available to IDEQ for purposes of contract management and to both IDEQ and USEPA for periodic oversight reviews. At a minimum, the PHD will be responsible for tracking and documenting the following information for all community fill projects.

- Soil source and fill sites, using assessor parcel numbers and maps to identify each property
- Soil source and fill sites owners and addresses
- Approximate quantity of borrow and fill based on truck counts
- Soil sample analytical results for both source and fill areas
- Other information used to determine metal concentration and the presence of other contaminants of source and fill areas
- Planned duration of fill activity – subject to change and interim revision.
- Description of the ICP barrier to be placed on the fill and verified by site inspections.
- Agreement from the landowner in the permit application to maintain the filled area in accordance with the ICP. Acknowledgement will also include language that the responsibility for complying with other applicable regulations lies with the permit applicant.

On an annual basis or as otherwise requested, this information will be provided to IDEQ and EPA in summary form.

For fill sites within the ICP Boundary that have a receiving capacity in excess of 10,000 cubic yards¹, PHD will refer applicants seeking to fill on such a scale to USEPA and IDEQ for their evaluation. USEPA and IDEQ will review the suitability of such potential fill locations based upon criteria developed by the agencies pursuant to legal authority that allows them to take additional steps to protect human health

and the environment. General authority for such actions is found in CERCLA Section 104(a) (42 U.S.C. 9604(a)). A list of the criteria to be used by the USEPA and DEQ to evaluate sites is attached in Appendix A. This list may be modified in the future. In addition to the items above, PHD will also maintain records and supplemental information provided by DEQ and EPA as a result of their evaluation and recommendations, on sites that exceed 10,000 cubic yards in volume. Approval of fill plans will be in writing, addressing possible conditions, recommendations, or issues of concern, recognizing that PHD has only such powers as may be granted by Idaho statute and PHD-adopted rules. It is the agencies' expectations that the implementation of the CFP with PHD's oversight and enforcement will be at least as protective of human health as disposal in a repository.

Fill Sites and Materials

Excavated ICP waste including soils, waste rock, concrete and asphalt grindings with lead concentrations between 350 and 20,000 ppm and arsenic levels between 100 ppm and 15,000 ppm are eligible for transfer from sources and to fill locations within the ICP administrative boundary under the terms of this CFP. Material from within the ICP Boundary that exceeds these concentrations cannot be used for CFP projects and must go to a constructed repository. Additionally, soils containing petroleum hydrocarbons, chlorinated hydrocarbons, pesticides, herbicides or other hazardous materials above regulatory threshold concentrations are ineligible for CFP use.

Soil testing will generally be required if data is not available for the source site materials. In the event that scheduling and logistics do not provide the opportunity for sampling at CFP source receiving areas less than 1,000 cubic yards visual observations in combination with institutional knowledge, sampling results from adjacent properties, and/or location of soils in some cases may provide adequate information to determine relative metals concentrations of the materials in question. If sample data is not available and samples are not collected to support permitting of a CFP project, PHD will document specific information relied upon in determining relative metals concentrations of the materials in question in the permit file. It is expected that lack of sampling data will be the exception and not the rule. In any event, the PHD will make the determination that the material is eligible to be used as fill prior to allowing a CFP project to proceed. Soil testing will be required, unless previous results are available, on the source and receiving location of all projects that exceed 1,000 cubic yards.

The PHD will implement the CFP without notification to USEPA and DEQ for CFP projects with a receiving capacity of less than 1,000 cubic yards of material. The PHD will provide notification to EPA and DEQ for CFP projects with source or receiving capacity between 1,000 and 10,000 cubic yards. The USEPA and DEQ are not obligated to respond to these projects unless the PHD requests their participation. The purpose of the notification is to make the two agencies aware of the expected work. For fill sites within the ICP Boundary that have a receiving capacity in excess of 10,000 cubic yards, PHD will refer applicants seeking to fill on such a scale to USEPA and IDEQ for their evaluation. USEPA and IDEQ will review the suitability of such potential fill locations based upon criteria developed by the agencies as discussed above.

Excavated soils from within the ICP Boundary shall not be placed on lands outside of the ICP-administered boundary, unless such soils are being placed in a constructed repository in accordance with the RODs. Other environmental regulations may restrict use of areas for fill sites within the ICP Boundary, including wetlands, areas below the Ordinary High Water Mark on surface water bodies, and some floodplain locations. It will be the responsibility of the landowner to obtain the necessary authorizations or permits. Areas where large-scale remediation is planned or has been completed shall not be used as fill sites for CFP projects without the prior written approval of USEPA and IDEQ in order

to avoid adverse impacts upon the planned or previously implemented remedy. The agencies implementing or overseeing the CFP in no way warrant the suitability of the fill for intended or other purposes and that responsibility rests with the landowner.

Contaminated waste that results from Remedial Action implementation by EPA, IDEQ or other agencies shall not be used in the CFP. On a case by case basis to the extent that verifiable non-contaminated materials can be accurately and consistently separated from contaminated underlying materials, the non-contaminated materials may be disposed of either at an ICP repository, a Community Fill Project, or recycled if desirable upon approval from the Implementing Agency.

Revision to the Plan

This Plan will be modified and adjusted over time as appropriate. Implementation during the initial year will help identify effective and workable procedures to meet the needs of both the community and agencies. The three agencies will continue to evaluate the most effective way to implement the CFP. After one year of plan implementation, PHD will provide to both DEQ and USEPA a summary of CFP records compiled in the previous year. The agencies will then determine if modification of the Plan is needed.

ⁱ **The 10,000 cubic yard receiving capacity volume threshold shall be reviewed on an annual basis by PHD, IDEQ, and EPA to assist in an evaluation of whether it is an appropriate or whether the threshold amount shall be modified.**

Appendix A

CFP Large Fill Site Evaluation Checklist

Site Location:

Property Owner Name:

Date Evaluated:

Threshold Criteria must be met for a site to be used as a CFP fill location. All criteria need to be answered with a yes for a site to be eligible.

Threshold Criteria	Check if yes	Comments
Owner of fill site is willing to have contaminated soil placed on property for fill		
Property owner agrees to maintain the filled area in compliance with the ICP		
Fill site is located within ICP Boundary		
Fill site is in a contaminated area		
Fill site is not in an area of future remediation where fill materials would increase RA costs		
Fill site is not in a floodway		
Fill site is not a wetland		
Fill site does not have the potential to impact drinking water wells		
Fill site is above the Ordinary High Water Mark on surface water bodies		

Balancing Criteria are used to help assess the overall suitability of a fill site. Some of the criteria are not directly related to Bunker Hill Superfund cleanup issues, but could impact overall suitability/implementability of a CFP project. These criteria can be used to provide recommendations to fill project proponents, place conditions on a project, or if significant enough, to determine that a site is unsuitable for a CFP project. If conditions are placed on CFP fill site or if a CFP site is determined unsuitable, the agencies will provide a written explanation to the PHD and property owner citing the reasons and appropriate regulatory authority.

Balancing Criteria	Discussion
Property owner is aware of and understands other local, state, and federal regulatory requirements, and is willing to meet those regulatory requirements	
Site Access limitations/concerns	
Proximity to residential areas or other sensitive population uses (for example day care sites)	
What type of public notification is required by local governments? Are there other outreach needs?	
Future use of property	
Development schedule	
Special recommendations for interim cap	
Are there special measures that should be taken to ensure protection of human health and the environment?	
Duration of fill activities? Will extended duration cause any concerns that will not be covered by the ICP?	

 DEQ Evaluator – name, title

 Date

 EPA Evaluator – name, title

 Date