

Chapter 5

Community Involvement

5.1 Introduction

The purpose of this chapter is to discuss community involvement planning for restoration and cleanup work at mine waste sites. Community involvement planning should parallel all aspects of the site cleanup process from the onset of scoping to conclusion of site work. While the relevant public participation requirements of the statutes under which the cleanup is taking place must be met, these activities represent only a starting point for community involvement at many sites. Additional guidance on Superfund community involvement requirements and other community involvement activities can be found in the *Superfund Community Involvement Handbook & Toolkit*¹. This chapter presents the role of community involvement based on a Superfund site, however the information and issues presented here are also relevant at a non-Superfund mining site.

5.2 Considerations for Community Involvement at Mine Waste Sites

While every community is unique, there are circumstances at many mine waste sites that may require special consideration when planning community involvement. This section will discuss these considerations and suggest community involvement approaches for them.

5.2.1 Community Values and Culture

It is important for the site team to learn about the communities that will be affected by the site cleanup since the values and unique culture of each community impact how area residents react to cleanup efforts. Residents in many communities located near mine waste sites either are currently mining as an occupation or have ties to mining. They are proud of their mining heritage. They may view mine wastes not as eyesores or sources of risk, but as signs of economic vitality--a reminder of the "good old days". Relics of mining--tailings piles and ponds, waste rock piles, cribbing, drainage tunnels--are considered valuable historical features.

Residents in mining communities, like the residents in many other communities, are reluctant to trust agencies and individuals that they are unfamiliar with. It is important to establish contact with local government and community groups as early as possible and to maintain clear and candid communications.

Highlight 5-1 Butte and Walkerville

The Butte Area portion of the Silver Bow Creek/Butte Area site was added to the NPL in 1987. The people of Butte were extremely unhappy about Butte and Walkerville being listed on the NPL. One of the residents' main concerns was that EPA would conduct years of study and they would see no action. Residents believe that EPA comes into a community and states that there are potential health concerns posed by the presence of heavy metals in residential areas and then studies the site for several years. The people of the community, especially parents, are thrown into denial and angry stages of the "grieving" process. However, as EPA conducts the studies and remediation, particularly expedited response actions, the communities concerns are reduced and they begin to cooperate with the Agency and a partnership between the Agency and the residents can develop.

¹U.S. Environmental Protection Agency (EPA), December 1998. *Superfund Community Involvement Handbook and Toolkit*. Washington, D.C. Office of Emergency and Remedial Response.

Community Involvement Tips:

These tips presented in this chapter are important to all communities, whether or not the site is a Superfund site. Following these tips will help alleviate the community's concerns about any economic impacts.

Know and Respect the Community. There is no substitute for knowing the community. Rather than taking an inflexible stance that will increase public alienation, the team should focus on joint problem-solving with the community. Spend time in the community so residents get to know team members. Interview residents. Identify the formal and informal opinion-shapers in the community and pay special attention to them. Appreciate the community's heritage. Recognize the mining industry's importance to the community and the nation. One RPM said, "I have memorized the names of all the local mines and read books about local mining history. I've learned the lingo and even joined 'Women in Mining'."

Establish an Ongoing, Accessible EPA Presence. Because these sites frequently are located in areas distant from the EPA regional office, serious consideration should be given to providing for an ongoing EPA presence in the community. At some sites EPA has staffed an office so that it is easily accessible to area residents.

Maintain Ongoing Communication. While no amount of good communication can make up for poor technical decisions and project management, communication can prevent misunderstandings and build credibility when the technical and management decisions are sound. Early, accurate, balanced, and frequent two-way communication should be planned. The site team can benefit from the good will and credibility generated by frequent contact, by the same site manager and other team members, with the community groups, task forces, and individual residents. Generally, one-to-one and small group discussions work best in small mining communities. While it is vital to work with local elected officials, it is also important to identify and communicate through the community's informal networks using unofficial community caretakers and opinion-makers. It takes time to identify the networks and the caretakers that are at their hub, but communicating through these sources is often more effective than through more formal efforts.

Pay Special Attention to Historic Preservation Concerns. Involve the community from the onset in designing the historic preservation plan. Encourage them to participate in historic resource surveys and to prioritize the historic resources identified. Tailor cleanup plans, to the extent possible, to preserving priority historic resources.

Empower the Community; Use Local Expertise. In most communities there is a vast untapped resource of knowledge. Former miners know a great deal about the geology, hydrology and historic mining practices in the area. Staff can profit from this expertise and should encourage the local community to take advantage of its own experts. At some sites, local representatives help agency staff design and implement sampling and monitoring plans.

Involve the Community in Planning and Implementing the Cleanup. At NPL listed sites, encourage residents to apply for a Technical Assistance Grant (TAG). At non-Superfund sites, stakeholder groups might apply for grants like the Regional Geographic Initiative to help fund community-based participation. Technical Outreach Services for Communities (TOSC) is also available for non-Superfund sites. Some communities form Community Advisory Groups (CAG) that take an active role in deciding whether and how wastes in the area should be addressed. It is important that EPA demonstrate its willingness to share control with local groups and be responsive to recommendations from these groups. This is the heart of community-based environmental decision-making. At many sites, staff meet regularly with stakeholder groups

that include representatives from the community, PRPs, state, EPA and other stakeholders to discuss site plans and reach informal consensus on them.

Conduct a Demonstration Project. The team should consider a demonstration project in cases where the EPA is proposing soil remediation in residential areas. Residential cleanups are intrusive. Lawns are torn up, trees are leveled, and prized flowers and gardens are uprooted. Property owners' fears about the disruptive nature of the project sometimes are even greater than the reality. They worry about the dust, mud, noise, and mess that the construction will create. They fear that the end result will be a barren yard. Often a small scale demonstration can calm some of these fears. Such a trial run may also result in lessons that can be applied to the full scale cleanup.

Encourage Neighbors to Mentor Neighbors. As residential soil cleanups progress, encourage residents whose properties have been cleaned up to serve as mentors to homeowners whose properties are slated for remediation.

5.3 Risk Perception

At some sites the perceived contradiction between EPA's assessment of a site's potential risk and health tests, like blood lead tests, causes area residents to be skeptical of EPA's contention that mining and mineral processing sites pose a threat to human health. These wastes are familiar, they have been around for years and, in some cases, there is no visible evidence of negative health effects in the community. Yet, EPA risk assessments indicate the wastes pose a *potential* threat. The use of a computer model instead of blood lead tests for determining the need for remediation is unacceptable to some communities. Residents contend that EPA refuses to consider real concrete evidence and, instead, focuses on theoretical abstractions based on assumptions and uncertainty. Sometimes citizens argue that the proposed cleanup will pose more of a health threat than leaving the soil or wastes undisturbed.

Community Involvement Tips:

Use Skilled Risk Communicators. Good risk communication is especially important at mining sites. Site staff should be trained risk communicators.

Provide Early Metals-Awareness Education. It is important to inform citizens of precautions to take in order to reduce exposure to metals, particularly if it will be many years before a cleanup takes place. It is necessary to take measures to protect the public health and to demonstrate the agency's commitment to reducing health risks for the local community. Providing metals-awareness education to local health professionals, educators, day care providers and parents will both help reduce exposure and remind citizens that mine wastes may be a potential threat to health. Educational efforts may include workshops, seminars for college credit, parent-teacher meetings, distribution of flyers to parents and coloring books to children. At one site, a day-care facility teacher developed a song about being safe around lead and taught it to the children.

Work with Local Health Officials. EPA should encourage local health departments, health professionals, and educators to take the lead in educating the community about site risks. In fact, EPA should collaborate wherever possible with local and state environmental officials. EPA can assist the effort by providing both general and site-specific information. However, it is best if local health professionals actually design the program and disseminate the information.

Reduce Immediate Risks. Because the Superfund process can take a long time at large and complicated sites, the time between identification of risk and actual cleanup may be several years. To deal with the perception that the risk is not real because EPA is slow to begin action and to reduce immediate health threats, the team should consider some interim actions such as removals, interim remedial actions, or other expedited cleanups to show tangible results. Removals have been very effectively used at some of the large mining sites in Montana and Idaho.

Involve the Community in Assessing Site Risks. Local residents should help design risk assessments--especially exposure scenarios. They know how their lives might bring them in contact with mine wastes. Local land use plans may help predict future uses of property where mine wastes are located. Exposure scenarios must reflect reality or the community will reject the conclusions of the risk assessment. If health studies have been conducted in the community, relate them to the risk assessment. There are many communication tools that may help explain how risk assessments work including workshops, fact sheets, and presentations to TAG or TOSC groups or CAGs.

5.4 Liability

Fear of liability under the Clean Water Act may prevent stakeholders who are not legally responsible for cleaning up an abandoned mine waste site including governmental entities ("Good Samaritans") from volunteering to participate in discussions or undertake cleanup activities that will provide incremental improvements in water quality. They fear that if their cleanup actions do not result in water quality that meets Clean Water Act standards, they will be held liable. While there is not a legislative remedy for this concern today, the Western Governors' Association is working with Congress on amendments to the Clean Water Act that will address the concern.

There may be Superfund liability concerns at mining and mineral processing sites. The law holds those who generated the wastes potentially liable for cleanup costs. At mining and mineral processing sites, however, many of the generators of historic wastes cannot be located. EPA may pursue mining companies that operated the mine in the past as well as the mining company that currently operates the mine, that may be a major employer in the area, for cleanup costs. This may not seem fair to local residents.

The uncertainty of who will be responsible for cleanup costs weighs heavily on communities. Because entire communities may be within the site boundaries, owners of small businesses and small mining claims may fall within the broad Superfund definition of PRP because they are the current owners of contaminated property. Local governments may own contaminated land or, as is the case at some sites, may have moved or used mining and mineral processing wastes, thus incurring potential liability.

Homeowners may fear that they will be liable for the costs of cleaning up contaminated soils on their property or ground water under it. Lenders may be reluctant to make loans for fear that if they foreclose and take over the property, they will be responsible for cleaning it up. It is prudent to address these concerns up-front.

Community Involvement Tips:

Resolve Liability Quickly. It helps if EPA can resolve the liability question early. Settle as soon as possible with small waste contributors. Let small mining claim owners and owners of contaminated property who did not cause the contamination know where they stand at the onset. The use of prospective purchaser agreements should be considered so that economic activity can continue.

Address Property Concerns. It is important that project staff be sensitive to the community's liability concerns and take steps to respond quickly to clarify liability issues as they arise. Information should be provided to local realtors and lenders describing the cleanup process, lender responsibilities and protections, and EPA's ground-water and residential property owner policies. Staff will need to work with the lending and real estate community at each site to identify the best ways to address concerns about property values and liability. The team may want to consider workshops and/or clearly written fact sheets to explain liability issues, precautions to take before proceeding with property transactions, and options for dealing with contaminated property in property transactions. At some sites, EPA has used 'comfort letters' to ease liability concerns.

5.5 Economic Impacts

Superfund frequently is viewed as a threat to the community's economic well-being. If EPA has named a major employer as a PRP, this contributes to economic concerns. Citizens fear that the additional burden of Superfund may force the company out of business. Current mining and mineral processing activities may, in fact, be hindered. Companies may be reluctant to acquire mining claims and initiate new mining and reprocessing ventures because of the fear of liability.

Many mining and mineral processing sites are abandoned facilities which have been dormant for years. The attention Superfund brings to them may cause both perceived and real economic concerns to a currently thriving community. The perceived stigma may stifle economic growth in a number of ways. Contaminated property may not be desirable for further business development. Banks may be reluctant to lend money for development of such properties because of liability concerns. Federal home mortgage and lending agencies such as the

Department of Housing and Urban Development (HUD) and Fannie Mae also may be cautious making loans on contaminated property, contributing to a drop in property values. Proposed cleanup actions may threaten the historic mining features of the area, thus jeopardizing efforts to encourage tourism, a fledgling industry in mining areas. These economic concerns sometimes outweigh EPA's claim that the ultimate remediation of contamination will result in economic benefit to the community in the future by improving property values and eliminating threats to waterways and other scenic areas.

Economic concerns can easily become the focus of a great deal of tension between site remediation teams and the local community. Recognizing and attempting to address economic concerns can be crucial to carrying out remedial activities. In many communities the concerns identified above have been addressed by EPA and communities have been able to function normally, notwithstanding Superfund concerns, but it takes work and commitment by EPA and the local community.

Highlight 5-2 Silver Mountain Ski Area

The community of Kellogg, ID, wanted to develop a gondola base for the Silver Mountain Ski area within the boundaries of the Bunker Hill Superfund site. The community was concerned about any future liabilities they may incur because of their economic development action for the ski area. EPA negotiated a prospective purchaser agreement with the community that limited their liability and helped facilitate economic development with the Superfund site.

Community Involvement Tips:

Use Local Businesses Where Possible. EPA can help local workers get the OSHA 40-hour Health and Safety at Hazardous Waste Sites training and can show local businesses how to bid on Superfund contracts if they are not already familiar with the procedure. At some sites proposed work has been divided up into smaller contracts so that local business can bid competitively on the work.

Explore Partial Deletions from the National Priorities List (NPL). EPA policy allows sites, or portions of sites that meet the standard provided in the NCP (i.e., no further response is appropriate), to be the subject of entire or partial deletion from the NPL (60 FR 55466). A portion of a site to be deleted may be a defined geographic unit of the site, perhaps as small as a residential unit, or may be a specific medium at the site such as ground water, depending on the nature or extent of the release(s). To reduce the site-wide Superfund "stigma," properties within the Superfund site that are known to be free of contamination should be publicly identified.

Resolve Land Use Issues. EPA's Brownfield's Initiative provides mechanisms for removing some of the barriers to economic redevelopment. EPA staff should work with the community to address and resolve future land use issues as early as possible so that cleanup plans can be tailored to the projected future land use.² Prospective purchaser agreements may be beneficial both to those who are interested in redeveloping the property and to EPA.³

Establish a Process for Responding Realtors and Lenders. Identify a contact person who will respond to inquiries from realtors and lenders about specific properties. Whenever possible, provide comfort letters to property owners whose property has been cleaned up or will not require remediation. Negotiate prospective purchaser agreements with buyers who are willing to undertake cleanup work. These activities take time but the return in community good will is worth it.

5.6 Fiscal Impacts on Local Government

A cleanup may put special strains on the budget of local government. Reduced assessed property valuations lead to decreased property taxes and reduced local government revenues, while cleanup activities may necessitate the expenditure of local dollars for such things as street repairs, street cleaning, and institutional controls. Institutional controls such as land use restrictions are frequently a component of remedies at mining and mineral processing sites. These restrictions may affect the marketability of local properties. Institutional controls may also place limits on excavations, require maintenance of grass cover, etc. Such land use restrictions require long-term public education. Local governments may balk at being responsible for this long-term outreach.

Community Involvement Tips:

Set Up a Trust Fund. At some sites, EPA has required the company responsible for the cleanup to establish a trust fund for long-term monitoring and outreach. At other sites, the agencies have helped establish trust funds to aid the local government.

² See OSWER Directive 9355.7-04, May, 1995. "Land Use in the CERCLA Remedy Selection Process."

³ U. S. Environmental Protection Agency (EPA), June, 1989. *Guidance on Landowner Liability Under Section 107(a)(1) of CERCLA, De Minimis Settlements Under Section 122(g)(1)(b) of CERCLA, and Settlements with Prospective Purchasers of Contaminated Properties.*

Identify Opportunities for Cleanup to Benefit Local Government. At some sites, agency-generated Geographic Information Systems (GIS) data can also provide maps and other information that local government can use for land use planning and property assessment purposes. Aerial surveys used for cleanup planning have also been useful to local governments and other stakeholders for purposes unrelated to the cleanup. At one site where the cleanup called for capping mine wastes, a portion of the cap was used for an asphalt bicycle trail and another section will be a city-maintained sledding hill.

Meet the Political Needs of Local Officials. Small communities expect that their local officials will look after their interests. Local officials feel a responsibility for and receive political benefit from close oversight of agency work. Staff must remember to keep local officials informed and involved throughout the cleanup process.

5.7 *Federal Land Managers*

Many abandoned mine waste sites are located on federal lands or a mixture of federal and private lands--Forest Service, Bureau of Land Management, National Park Service, U.S Fish and Wildlife Service. When this is the case, federal land managers will be important players in the cleanup process. Sometimes, in fact, they will be the lead agency responsible for overseeing all or a portion of the cleanup using CERCLA authority. In other cases, they may be liable for some of the cleanup work. In still other cases, they are the trustees for natural resources. Multiplicity of roles for multiple agencies may cause confusion in the community unless there is a close working relationship among the federal agencies involved at the site and each agency's role is carefully explained. To gain a better understanding of the authority of land managing agencies and EPA under CERCLA read Executive Orders 12580 and 13016.

Community Involvement Tips:

Involve Stakeholders in Decisions on the Cleanup Process. When a wide range of options are available for addressing the cleanup--different laws, different agencies taking the lead, a combination of private and public responsibilities, etc.--it is important to carefully explain the options and involve the community in the decisions on the cleanup plan.

Clarify Agencies' Roles. Carefully explain the role each federal agency will play at each step in the process.

Include Federal Land Managers in Stakeholder Groups. If a stakeholder advisory group is formed, include federal land managers in the group.

5.8 *Uncertainty*

The cleanup process can be slow and it may take some time before there is evidence of actual cleanup. Because property values and marketability are sometimes affected, residents want to know whether their properties are in or out of the site boundaries. EPA is frequently unable to give an answer to this question until studies are complete and all data are available.

Citizens want to know if their property will require remediation. They feel they must defer decisions on remodeling, landscaping, gardening, and other activities until they know whether their property is contaminated or when it will be remediated. Again, EPA may not have an immediate answer to their questions. This increases the sense of uncertainty and frustration of the local community.

Community Involvement Tips:

Establish Site Boundaries Early. While making it clear that new information may change the boundaries, the team should clearly describe the areas that are under investigation and should provide information on the location of contaminated areas. When information is not available, residents should be told when it will be collected and made public.

Identify and Reduce Areas of Uncertainty. Staff should clearly identify areas of uncertainty, whether it be extent of contamination, nature of cleanup planned, site risks or liability. They should explain how and when uncertainties will be resolved and immediately communicate new information that will remove uncertainty. Where uncertainties remain, the site team should explain how cleanup plans will be adjusted to take the uncertainties into account.

5.9 Additional Sources of Information

Additional information concerning EPA's Superfund community involvement programs, including a list of publications available can be found on the EPA website at:
<http://www.epa.gov/superfund/tools/index.htm>.