

Frequently Asked Questions for Property Owners in Operable Unit 2

Colorado Smelter Superfund Site

Pueblo, Colorado

February 2025

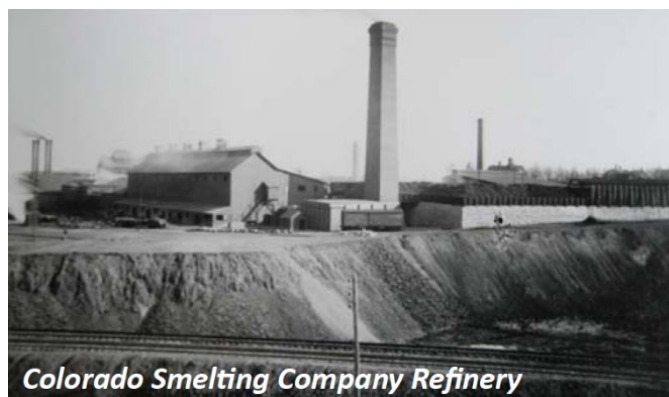


Introduction

The U.S. Environmental Protection Agency (EPA) is committed to protecting the health and safety of residents and workers by studying and cleaning up properties located within the Colorado Smelter Superfund site (Site) in Pueblo, Colorado. This fact sheet provides information for owners of property located within a section of the Site called Operable Unit 2 (see map on page 2). It is intended to help answer frequently asked questions for property owners related to the use or transfer of these properties.

Site Overview

Pueblo, like many communities across America, has a long industrial past. EPA is taking steps to address soil and dust contamination left over from operations at the Colorado Smelting Company refinery. The Colorado Smelter was a silver and lead smelter. It operated in the Eilers and Bessemer neighborhoods from 1883 to 1908.



In December 2014, EPA listed the Site on the federal Superfund program's National Priorities List (NPL) due to potential risks posed by high levels of arsenic and lead in smelter slag and neighborhood soils. For studying and cleanup purposes, EPA has divided the Site into two areas, called Operable Units (OUs) – OU1 (Community Properties) and OU2 (Former Smelter Area). Information regarding the progress of sampling and cleanup of OU1 residential properties is available on the Colorado Smelter website (see link below).

At OU2, the Former Smelter Area, EPA is in the remedial investigation stage of the superfund process where data is being collected and analyzed to determine the nature and extent of contamination. Samples such as slag/waste, surface and subsurface soil, surface water, sediment, biota and groundwater are being collected to investigate contamination levels at OU2 and to further understand the nature and extent of site contamination. The results will help inform how EPA will address OU2.

Selling or Leasing Properties Located Within a Superfund Site

Superfund cleanups are beneficial for communities and make a visible and lasting difference. They ensure that people can live and work in healthy, vibrant places. EPA has created tools and resources to help property owners who want to sell, or lease, properties located within Superfund sites, including participating in meetings with property owners, prospective purchasers, lessees, and lenders to discuss key site information such as cleanup status, any applicable property use restrictions, and liability protections.

EPA's goal is to clean up sites so that they are protective of human health and the environment. This ensures that site properties can be returned to productive and beneficial reuse.

Frequently Asked Questions for Properties in OU2

I own property in OU2. What does that mean?

Properties in OU2 are being studied under the federal Superfund law to determine the nature and extent of contamination. Property owners and the community will be kept informed of sampling results. They will also be invited to comment on the proposed cleanup plan and receive regular cleanup updates.

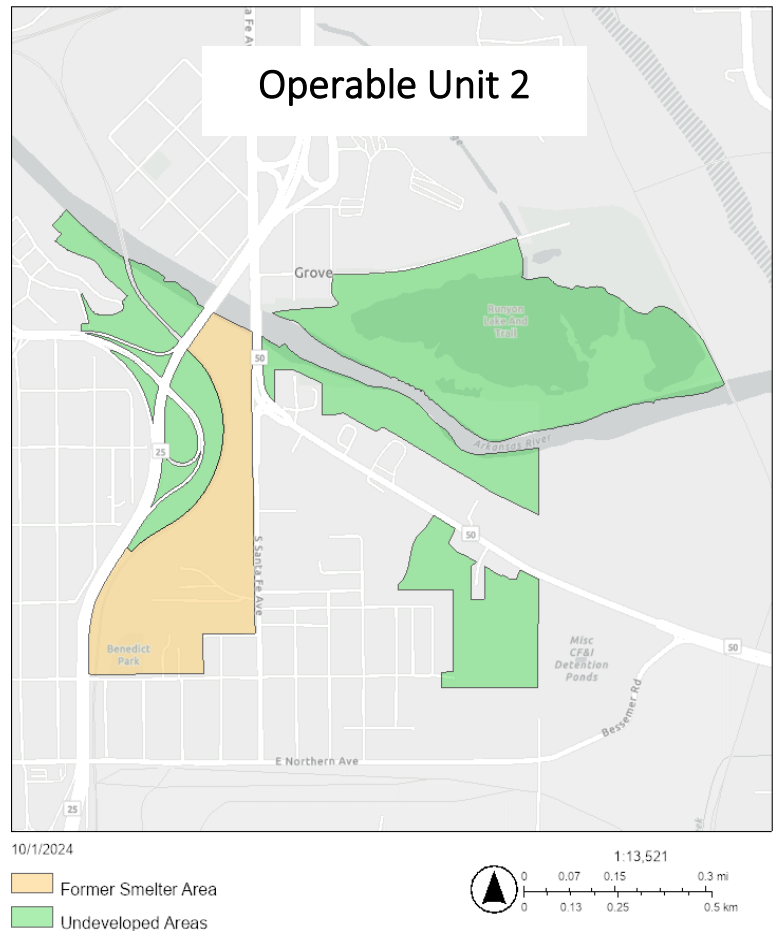
Under EPA's Superfund authority, the agency has an obligation to conduct a comprehensive investigation of any parties that may have contributed waste to the site, or that may have liability through ownership. This process ensures that the burden of paying for costly cleanups does not fall solely on the general public.

Can I sell or lease my property located within the Site?

Yes. EPA's activities do not prohibit property owners at the Site from selling or leasing their properties at any time.

Should I contact EPA and the state if I am considering selling or leasing my property?

Contacting EPA is not required. However, EPA encourages property owners who are considering selling or leasing their properties to contact EPA to discuss important topics such as the Site's status, cleanup plans, and any applicable property use restrictions. EPA also has resources and tools to help facilitate the cleanup, reuse, and redevelopment of properties at Superfund sites.



What do prospective purchasers or lessees need to know before they buy or lease my property? Should they contact EPA?

Colorado state law may require property owners to disclose certain information about a property when trying to sell it, especially if sampling for contamination was done, contaminants were found, or a cleanup is underway or occurred.

Prospective purchasers and lessees should also research available liability protections before they buy or lease the property. This is important because under the federal Superfund law, current property owners and lessees are identified as one of the four classes of Superfund liable parties (Potentially Responsible Parties or PRPs). PRPs are potentially liable for cleanup costs, costs of certain health assessments, and performing a cleanup. EPA encourages property owners who are considering selling or leasing their properties, as well as prospective purchasers and lessees, to contact EPA to discuss important issues such as future cleanup plans, any applicable property use restrictions, and liability protections.

Property owners, prospective buyers and lessees are encouraged to contact EPA to schedule a meeting to discuss the status of the Site, future cleanup plans, any applicable property use restrictions and liability protections.

Will a prospective purchaser or lessee be responsible for any of the cleanup or response costs at the property?

Non-Residential Properties

Prospective purchasers or lessees should research available liability protections before they buy or lease the property because the Superfund law can hold current owners and lessees responsible for cleanup costs. Generally, if a buyer or lessee can achieve and maintain one of the statutory landowner liability protections, such as Bona Fide Prospective Purchaser status (see below), they will not be responsible for Superfund cleanup costs for existing contamination.

Residential Properties

Generally, EPA will not require residential homeowners to pay for cleanup if they did not cause or worsen the release or spread of contamination on the property. This is consistent with EPA's Policy Toward Residential Property Owners at Superfund Sites.

What is the most common Superfund liability protection for prospective purchasers and lessees?

Bona Fide Prospective Purchaser (BFPP) status is the most common Superfund liability protection. The federal Superfund law states that a purchaser or lessee with BFPP status will be protected from liability as the owner of property within a Superfund site. A prospective buyer or lessee must attain BFPP status before they purchase or lease the site property and must maintain BFPP status for as long as potential liability exists. BFPP status requires compliance with two threshold criteria and six continuing obligations, which are outlined in the Superfund law. One of the threshold criteria is conducting a property evaluation prior to purchase that complies with EPA's final rule on All Appropriate Inquiries (AAI). Failing to attain and maintain the statutory criteria could result in the loss of the liability protection and BFPP status.

Will there be any limitations on how a prospective purchaser or lessee can use the property?

In some situations, residual contamination may remain on site properties after cleanup. When this happens, EPA may be required to put protocols in place to protect human health and prevent the spread of contamination. A tool called an institutional control (IC) may be used to limit or restrict types of land uses or activities in the area (e.g., restrictions on moving soil or leveling an area). Institutional controls will likely be needed for some properties at the Site. One of the BFPP continuing obligations is complying with land use restrictions and not impeding the effectiveness or integrity of IC.

Can I or a new buyer conduct investigations or cleanup on the property?

If a property owner wants to accelerate investigations or cleanup on their property, it may be possible for the property owner to undertake some investigation and/or cleanup work with EPA oversight. It is important to contact EPA before doing any cleanup or making property improvements that could spread or worsen the contamination.

All Appropriate Inquiries (AAI) is the process of evaluating a property's environmental condition. Some aspects of AAI must be conducted or updated within one year before the date of acquisition of a property and other aspects within 180 days before the date of acquisition. If AAI is conducted more than 180 days before the acquisition date, certain aspects of the inquiries must be updated. EPA has established acceptable standards for conducting AAI:

- EPA's All Appropriate Inquiries Rule (40 CFR part 312)
- ASTM E1527-13 "Standard Practice for Phase I Environmental Site Assessments,"
- ASTM E2247-16 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property,"
- ASTM E1527-21 standard

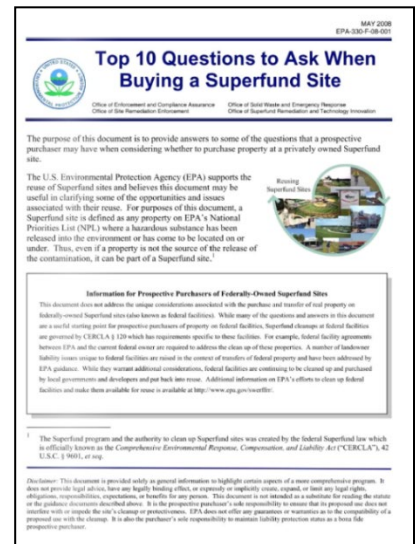
What role can EPA play to help prospective purchasers or lessees who might run into difficulties getting financing to buy the property or make improvements?

EPA has tools to address lender concerns about financing for site properties, including guidance documents and comfort/status letters. During site investigations and cleanup activities, EPA has used a range of approaches to help property owners address the potential impacts of lending stigma. They include providing information for property owners, prospective buyers, lenders, appraisers, and real estate professionals to learn about liability protections offered under the Superfund law. EPA also plans to develop sampling maps showing properties where sampling is anticipated, properties sampled to date, and cleaned-up properties. EPA is willing to work with buyers and their lenders to address issues and concerns related to properties located within the Site.

What other opportunities are there to get involved?

EPA is planning to facilitate a community visioning effort to explore potential future uses for all or part of OU2. The goal of this effort will be to help community members share their priorities for potential future uses, which can inform EPA's cleanup planning. EPA wants to hear your opinions and hopes you will join these visioning efforts in the future. As mentioned above, EPA encourages property owners, as well as prospective purchasers and lessees, to contact EPA to discuss important issues such as future cleanup plans, potential property restrictions and liability protections.

If you're interested in regular updates from EPA, please consider joining the monthly Community Advisory Group meetings on the second Tuesday of the month. Contact EPA's Beth Archer at (720) 512-1917 for information.



EPA Tools and Resources

EPA's Colorado Smelter Superfund Site Website:

www.epa.gov/superfund/colorado-smelter

Top Ten Questions to Ask When Buying a Superfund Site:

www.epa.gov/superfund-redevelopment/top-10-questions-ask-when-buying-superfund-site

EPA Comfort/Status Letters:

www.epa.gov/enforcement/comfortstatus-letters-guidance

EPA Common Elements Guidance (BFPP Status):

www.epa.gov/enforcement/common-elements-guidance

Updated Questions and Answers on the CERCLA Lender Liability Exemption:

www.epa.gov/enforcement/fact-sheet-updated-questions-and-answers-cercla-lender-liability-exemption

Policy Towards Residential Property Owners at Superfund Sites:

www.epa.gov/enforcement/guidance-owners-residential-property-superfund-sites

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