Vasquez Boulevard & Interstate 70 (VB/I-70)
Communication Strategy

Explanation of Significant Differences to the Record of Decision
&
Second Five -Year Review Report

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Issue: In September 2014, EPA finalized two significant documents for the Vasquez Boulevard & Interstate 70 (VB/I-70) Superfund Site:

(1) An Explanation of Significant Differences (ESD) to the 2003 Record of Decision for operable unit 1 (OU1), and

(2) The second Five-Year Review Report.

The ESD was issued to describe the institutional controls that EPA implemented for approximately 69 properties within the site boundaries. The ESD documents a significant change to the site remedy described in the 2003 Record of Decision. The change to the remedy described in this ESD is the result of the EPA's findings in the 2009 first Five-Year Review Report. The 2009 report indicated that the remedy at the residential portion of the site (OU1) is not protective at a small number of properties where EPA was not able to gain access from the owners to sample or cleanup. Those properties were left with potential or known contamination that does not permit unrestricted exposure/unlimited use. The ESD documents EPA's decision to implement institutional controls for those properties.

The ESD adds an informational institutional control in the form of a notice of environmental conditions in the property files of those properties at the city and county of Denver Clerk and Recorder's office. There are two versions of the notice, one describing potential environmental contamination where EPA did not sample, and one describing known environmental contamination where EPA sampled, but did not clean up. The notices were filed in June and July 2014 with the city and county of Denver Clerk and Recorder's office.

The ESD also adds an informational institutional control in the form of a letter mailed annually to the property addresses and the property owner addresses, if different. The letter will be sent annually, beginning in 2015, to each owner address, and to each property address, if different. The letter is meant to inform residents at those properties

about the possible or known soil contamination and to provide information on how to avoid being exposed to contaminants in soil.

With these institutional controls in place, the second Five-Year Review determined: *The remedy at OU1 is protective of human health and the environment. Contaminated soils in residential yards have been excavated and disposed off-site and institutional controls have been implemented for the small number of residential properties where access to sample and/or cleanup was not granted.*

Visibility/Controversy: The institutional controls implemented as described in the ESD likely will not invite much public attention or controversy. EPA is placing the institutional controls on just 69 properties, about one percent of the total properties within the site boundaries. In addition, all stakeholders that EPA has been interacting with throughout this effort since 2012 are already aware that this is occurring (city council, mayor's office, etc…). The second Five-Year Review Report is similarly unlikely to draw much attention or controversy. The protectiveness statement in the report states that the remedy at VB/I-70 OU1 is protective for human health and the environment. Also, there are no issues or recommendations for follow up in the report.

Spokespersons:

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Main Messages:

ESD (notices and annual letters):

- **EPA is filing notices of environmental conditions for 69 properties.**
- **The notices are not liens. They are informational only. They do not restrict use of the property in any way.**
- **This is not a newly-identified issue. EPA began investigating soils in the VB/I-70 area in 1998. To date, EPA has sampled more than 4,500 properties in the area and cleaned up close to 800.**
- **EPA has the authority to take these measures under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) as**

implemented by the National Contingency Plan (NCP) in the interest of protecting human health and the environment.

- **These informational measures respect the property owner's decision to not participate, but also informs and protects the health of current and future residents.**

- **With these informational measures in place, the VB/I-70 remedy is protective for all residential properties. This is necessary for EPA to remove the Superfund designation from these neighborhoods. This will be a welcome benefit to the community, particularly to the 99 percent of property owners who participated in this cleanup.**

Second Five-Year Review Report:

- **The second Five-Year Review Report in 2014 determined that the remedy implemented at VB/I-70 is protective of human health and the environment at all properties in the residential portion of the site.**

- **EPA routinely conducts reviews of Superfund cleanups every five years to ensure that the remedy remains protective of human health and the environment.**

- **The report does not identify any further issues or recommendations.**

- **Future five-year reviews will only review the properties in OU1 which are subject to the informational measures called institutional controls.**

Potential Questions to Consider:

1. What is the problem?
Despite sampling 99 percent of the residential yards within the VB/I-70 Superfund site boundaries, EPA was not able to obtain access from a small number of property owners to sample and/or cleanup 69 properties. These properties have potential or known lead and/or arsenic contamination in their yard soils that could pose a risk to residents there.

2. Why is the EPA coming back to these properties now, knowing for the past six years that these properties were out there?
In 2006, EPA determined it had done all it could do to gain access from property owners. However, EPA conducts reviews of many Superfund site remedies every five years. In its first review of the VB/I-70 OU1 remedy in 2009, EPA determined the remedy must be

improved because it was not protective of human health and the environment at all properties within the site boundaries.

3. Can the EPA really impose restrictions on a private property? Isn't this a takings?
The EPA has broad authority under CERCLA to take actions that ensure that current and future residents at these properties are protected. However, the notice that EPA is proposing here does not restrict the use of these properties – the notice is informational only.

4. Many of the property owners in the area are elderly and poor. Recording the notices in their property files may harm their property values and those of the surrounding homes. Why can't the EPA just keep going back to these properties every now and then until access is granted? What is the hurry?

- It is uncertain if the EPA will have the funds and the resources in the future.
- It is more expensive to keep coming back to sample and/or clean up a few properties at a time.
- This would prevent the deletion of the site from the Superfund list, which is beneficial to the vast majority of property owners in these neighborhoods.

5. Did the public have a right to comment on these ICs?
There is no formal comment period for the general public, but each affected property owner was provided a certain amount of time to comment on the specific notice for their property before the notice was recorded.

6. What if someone in the future would like to have the property sampled or cleaned up? Who would they call? Who would conduct the work? Would the property owner have to pay for it? Could they eventually have the IC removed?
There is contact information on the property notice in the property file as part of the institutional control. If someone in the future should call and request sampling or cleanup, the EPA would explore available options with the state of Colorado and the city and county of Denver. Should the sampling and/or cleanup occur at the property in a manner that is satisfactory, the EPA would prepare and record a withdrawal notice with this new information in the property file.

7. If my yard requires a cleanup, how can I keep my family from being exposed to contamination until it's cleaned up?
The main risk is from breathing in dust from contaminated soils. This can be reduced by maintaining a cover such as sod or pavement; removing shoes and dirty clothing when you enter the home; washing hands frequently; and damp-dusting inside surfaces.

Children sometimes ingest contaminated dirt when playing, so it's important to watch that they do not play in bare dirt areas and put dirty toys and hands in their mouths. The EPA has much more information about this that we will provide to you.

8. Can EPA re-sample a property that was sampled in the earlier effort?
No. EPA has only limited resources. In addition, EPA does not think it necessary to resample because we are confident in the initial sampling that was conducted.

9. I was very unhappy with the cleanup action EPA conducted at my property during the initial remedial action. Can EPA re-do the cleanup at my property?
No. EPA has only limited resources. If you were unhappy with the cleanup conducted at your property, the issue needed to be addressed at that time.

Outreach Matrix:

WHAT	WHO	WHEN	NOTES
Place notice of environmental conditions in property files	**Richard and city and county of Denver personnel**	**June – July DONE**	
Send copy of notice with cover letter to affected property owners	**Paula**	**June-July DONE**	
Finalize 2014 Five-Year Review Report and ESD	**Paula/Richard**	**September 2014**	
Draft and finalize communication strategy.	**Jennifer and Paula**	**November DONE**	**Send to DDEH and CDPHE for review and FYI**
Update Website	**Jennifer**	**December DONE**	**Send to DDEH and CDPHE for review and FYI**
Send email update to stakeholders.	**Jennifer**	**December**	**Send to DDEH and CDPHE for review and FYI**

Place Public Notice announcing ESD and 5YR availability in Denver Post	**Jennifer with team review**	**December 15**	**Required**
Update site fact sheet	**Jennifer**	**January**	**Send to DDEH and CDPHE for review and FYI**

Background

The Vasquez Boulevard and Interstate 70 (VB/I-70) Superfund site is an area of approximately four square miles located in north-central Denver. Historically, this area was a major smelting center for the Rocky Mountain West. Three smelting plants: Omaha & Grant, Argo, and Globe, operated in the area for varying lengths of time, beginning as early as 1870, refining gold, silver, copper, lead and zinc.

The state of Colorado led an investigation and cleanup of soil contamination around the Globe smelter in the neighborhood of Globeville in the 1990s. Discovering that the contamination likely extended beyond Globeville boundaries, the EPA initiated an environmental investigation in the adjacent neighborhoods of Cole, Clayton, Swansea/Elyria, southwest Globeville and a small section of northern Curtis Park. These neighborhoods, covering four square miles and more than 4,500 residential homes, were eventually included within the VB/I-70 Superfund site. The EPA placed the site on the National Priorities List of Superfund sites in 1999.

VB/I-70 was divided into three Operable Units (OUs) for the purposes of better managing the project. OU1 focuses on residential soils. OU2 is the site of the former Omaha & Grant Smelter near the Denver Coliseum, where the EPA is focused mainly on groundwater contamination. OU3 is the site of the former Argo Smelter near the intersection of Interstate 25 and Interstate 70, where EPA is investigating buried smelter wastes and the impacts to groundwater.

At OU1, residential soils, the EPA investigations beginning in 1998 showed that lead and arsenic were the heavy metals of concern and sampling results showed elevated lead and arsenic concentrations in some yards. EPA conducted a removal action in 1998 to address yards posing immediate health concerns to residents. A large-scale residential soils investigation and cleanup ensued with considerable community involvement throughout. The effort included more than 4,500 properties in the neighborhoods of Cole, Clayton, Swansea/Elyria, and a small northern section of Curtis Park. Through multiple outreach efforts, the EPA was able to gain voluntary access from property owners to sample approximately 97 percent of the properties. Approximately 800 properties had levels of lead and/or arsenic above the cleanup standards (400 ppm lead and 70 ppm arsenic), requiring the EPA to remove and replace the top 12 inches of yard soil and relandscape their yards.

In 2006, the EPA declared construction complete (though a few more properties were cleaned up in 2008). Despite all efforts, approximately 180 properties, or three percent of the total, continued to have potential or known lead and/or arsenic contamination in the soil because EPA could not gain access from the property owners to sample or cleanup. The 2003 Record of Decision for VB/I-70 OU1 did not discuss institutional controls, so EPA did not implement them for these remaining properties at the time.

In 2009, the EPA issued the first Five-Year Review Report of the VB/I-70 Superfund site. The review concluded that the residential portion of the VB/I-70 site remedy was not protective of human health for those properties where remedial action could not be completed due to access issues. The report stated that actions should be taken to ensure protectiveness at those remaining properties, and the actions should be the institutional controls described in an earlier Remedial Action Report, including a notification process for current owners; a notification process for properties that have changed ownership since completion of the remedial action and for future property owners; and a change to the Record of Decision to incorporate institutional control requirements.

In 2012, the EPA determined that nearly 50 percent of the remaining properties had been sold to new owners since 2006. Therefore, the EPA recognized that it would be unfair to place institutional controls on properties at which the owners were new and would not have had the opportunity during the earlier remedial action to give the EPA access to sample or cleanup their property. Further, none of the property owners were informed that the consequence of giving the EPA access to sample and/or cleanup would be institutional controls.

As a result, in 2012-2014, the EPA embarked on a renewed outreach effort to all of the remaining properties, whether they had new owners or not, giving the property owners another chance to have their property either sampled or cleaned up. The EPA's outreach efforts resulted in more than 100 new access agreements. In 2014 EPA placed notices of environmental conditions at the city and county of Denver Clerk and Recorder Office for 69 properties, about 1 percent of the total. EPA will also mail the first annual letters to these properties and to the owners of these properties, if the addresses are different, to inform residents and owners of known or potential contamination at these properties and to provide steps to avoid exposure. The state of Colorado will assume responsibility for operation and maintenance of the remedy at OU1, including subsequent annual mailings.

The EPA coordinated closely with the Colorado Department of Public Health, the Denver Department of Environmental Health, and held briefings for city councilors regarding proposed institutional controls. These institutional control measures will allow the EPA to declare the remedy protective for all properties within the site boundaries and to eventually delete the properties within the OU1 boundaries from the National Priorities List of Superfund Sites.

The institutional controls are described in detail in an Explanation of Significant Differences (ESD) to the Record of Decision. The ESD was finalized at the same time the second Five-Year Review Report for VB/I-70 was finalized in September 2014.

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