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Subject

H-2000-02 Environmental Site Assessments for Disposal of Real Property (PUBLIC)

1. Explanation of Materials Transmitted: The information in this Handbook describes an Environmental Site Assessment (ESA) process to comply with the "Notice" requirements of Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.* and 40 CFR part 373- Reporting Hazardous Substance Activity When Selling or Transferring Federal Property; and the "Disclosure" requirements of the Bureau of Land Management (BLM) policy to recognize environmental conditions, solid waste, physical hazards, and other issues that affect use of the property or that could impose liability on the conveyee identified during completion of ESAs for disposals of real property by the BLM. The BLM is required by law to consider whether property it proposes to transfer to third parties has contamination present. In addition, because the BLM will retain liability as a "past owner/operator" for lands transferred out of Federal ownership, it has a strong interest in understanding the condition of the property at the time of transfer.
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**ENVIRONMENTAL SITE ASSESSMENTS
FOR
DISPOSAL OF REAL PROPERTY**



Urban Federal land in Las Vegas, Nevada

BLM MANUAL HANDBOOK H-2000-02

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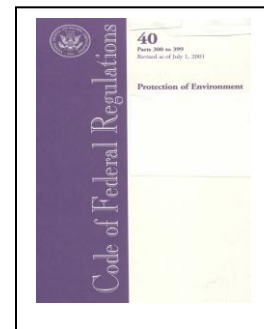
Chapter I – Introduction

Environmental Site Assessments (ESA) performed by the Bureau of Land Management (BLM) using the guidance provided in this handbook are intended to meet the agency requirements to comply with section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for *real property disposal*. This guidance is **not** intended to fulfill the requirements of 40 Code of Federal Regulations (CFR) part 312, Innocent Landowners Standards for Conducting All Appropriate Inquiries (AAI) which would allow the *conveyee* to qualify for any of the CERCLA Landowner Liability Protections (LLP).

A. *Policy Implementation*

This guidance describes an Environmental Site Assessment (ESA) process to implement:

1. Notice requirements of Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq. (hereafter referred to as CERCLA 120(h)), and 40 CFR part 373 – Reporting Hazardous Substance Activity When Selling or Transferring Federal Property (hereafter referred to as 40 CFR part 373).
2. Disclosure requirements of BLM policy of recognized environmental conditions, solid waste, physical hazards, and other issues affecting use of the property or that could impose liability on the conveyee that are identified during completion of ESAs for disposals of real property by the BLM.



CERCLA 120(h) and 40 CFR part 373 impose obligations on Federal agencies prior to the sale or other transfer of real property that is owned by the United States. For purposes of this handbook, *Real Property Disposal* is any action in which the BLM conveys or otherwise disposes of real property; *Conveyee* is the party who receives title to the real property conveyed by the BLM as part of the real property disposal process.

Alaska Native Claims Settlement Act (ANCSA) related disposals and mineral patents are exempt from the guidance provided in this handbook.

Prior to the disposal of any real property, the BLM will determine whether recognized environmental conditions (REC), solid waste, or physical hazards are present on the real property. It is BLM policy to include the requirements of Chapter III, Paragraph J of this handbook for transfers of real property from the BLM to other Departments and Agencies of the United States.

The BLM is required by law to consider whether property it proposes to transfer to third parties has contamination present. Conducting ESAs early in the disposal process allows the BLM to evaluate its potential liability under CERCLA as a past owner/operator. In addition, because the BLM may

retain liability as a “past owner/operator” for lands transferred out of Federal ownership, it has a strong interest in understanding the condition of the property at the time of transfer. Thus, the BLM’s interest in conducting ESAs for disposals is not only to satisfy legal requirements, but is important to establish an environmental baseline at the time of transfer so that the Department of the Interior (DOI, Department) can minimize its post-transfer liability for environmental conditions discovered on the property.

Although this handbook provides general information and useful guidance on the conduct of ESAs and the requirements under CERCLA and other Federal and state laws, it cannot be relied upon as legal advice and should not be substituted for the text of applicable laws and regulations or consultation with the Office of the Solicitor.

A glossary explaining terms used in this handbook is found at the end of the handbook.

B. Objectives of the Environmental Site Assessment (ESA)

The objectives of the ESA are to:

- Identify properties that may have recognized environmental conditions as early in the disposal process as possible.
- Determine if the requirements for Notice relating to storage, release, or disposal of hazardous substances are met and must be included in the contract or deed (conveyance) document.
- Ensure compliance with legal requirements for the identification of uncontaminated properties.
- Provide documentation of the property condition at the time of the transaction to establish baseline conditions in the event hazardous substances and/or petroleum products are found or conditions change after a property has been conveyed.
- Assist in the development of contracts and other documents that allocate the risk of environmental liability such as indemnifications, warranties, covenants, or other requirements.
- Determine the requirements for Disclosure for solid waste, petroleum products, physical hazards, or any other issues that could affect the use of the property or impose liability on the conveyee.

C. CERCLA and Real Property Disposals

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), enacted in 1980, established broad Federal authority to respond to releases or threats of releases of hazardous substances.

Key provisions of CERCLA include:

- Established broad Federal authority to respond to releases or threats of releases of hazardous substances.

- Required the development of a National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to establish procedures and standards for responding to releases of hazardous substances.
- Required development of a ranking system to prioritize waste sites for evaluation and cleanup.
- Required the promulgation of regulations to assess damages for injury to natural resources.

CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA).

Key provisions of SARA include:

- Required establishment of State Emergency Response Commissions (SERC) and emergency planning districts.
- Required development of local emergency response plans.
- Required reporting of hazardous chemical inventories.
- Required completion of toxic chemical release reports.
- Required notice of storage, release, or disposal of hazardous substances in conveyances of Federal land.
- Required Federal agencies to provide information and certain covenants concerning the presence of hazardous substances to purchasers of Federal lands.
- Required Federal agencies to covenant that all necessary remedial action has been taken before transferring lands out of U.S. ownership.

CERCLA was again amended in 1992 by the Community Environmental Response Facilitation Act (CERFA).

Key provisions of CERFA include:

- Required Federal agencies, in some instances, to identify uncontaminated Federal lands and provide purchasers with documentation that the property is free of hazardous substances and petroleum product contamination.
- Allowed Federal agencies to identify and transfer uncontaminated portions of larger parcels of land while the agency conducts response actions on contaminated portions.
- Clarified the covenant warranting that all response actions have been taken once an approved remedy has been implemented and shown to be operating properly.

In 1997, the CERCLA provisions relating to the transfer of Federal property were amended by the National Defense Authorization Act to authorize, under certain circumstances, the transfer of contaminated Federal property before the completion of required response actions.

CERCLA was again amended in January of 2002 by the Small Business Liability Relief and Brownfields Revitalization Act (The Brownfields Law).

Key provisions of The Brownfields Law include:

- Provided liability relief for certain categories of very small generators at National Priorities List sites (De Micromis Exemption).

- Provided liability relief for certain small generators of municipal solid waste at National Priorities List sites (Municipal Solid Waste Exemption).
- Provided liability relief for certain bona fide prospective purchasers of contaminated property who purchase such property after January 11, 2002 and satisfy the due diligence requirements of the Act.
- Provided liability relief for certain owners of property contiguous to contaminated property where such owners satisfy the due diligence and other requirements of the Act.
- Clarified the due diligence and other requirements necessary to qualify for the bona fide purchaser, contiguous property owner, or innocent landowner defenses.
- Required the Environmental Protection Agency (EPA) to promulgate regulations containing standards and practices for conducting such due diligence environmental investigations (EPA's regulations are now promulgated at 40 CFR part 312).

D. Liability under CERCLA

Any person who qualifies as a Potentially Responsible Party (PRP) may be held liable for the response actions incurred by another party. CERCLA provides for private party cost-recovery actions, in addition to government enforcement actions. The BLM's liability exposure likely arises from private party actions, not in actions initiated by EPA or another agency. These costs may include, but are not limited to, the costs for investigations, site monitoring, sampling, and contractor time and equipment. A PRP, as defined in CERCLA Section 107(a), is any "person" who may be held liable for the costs of cleaning up hazardous substances released into the environment. A "person" includes individuals, corporations, partnerships, municipalities, and state or Federal agencies that is a:

- *Current owner/operator* – A person who currently owns the land or operates the facility where hazardous substances have come to be located, regardless of whether the activity has occurred during the current owner/operator's involvement at the site.
- *Past Owner/Operator* – A person who owned or operated the land or facility at the time hazardous substances were disposed of, provided the disposal occurred during that person's ownership or operation.
- *Arranger/Generator* – A person who arranged for disposal or treatment of the hazardous substance at the site.
- *Transporter* – A person who accepted hazardous substances for transport to a disposal or treatment facility.

Liability under CERCLA is strict, which means liability can be imposed regardless of fault; and joint and several, which means any one PRP can be held solely responsible for all costs of cleanup, unless the PRP can show that the harm can be divided among parties. In addition, the PRP is also liable for activities that occurred prior to the enactment of CERCLA in 1980. PRPs may assert certain limited defenses to liability that include acts of God, war, or of an unrelated third party.

E. Petroleum Products

CERCLA liability covers releases and potential releases of hazardous substances. Petroleum products are specifically excluded from the definition of hazardous substances under CERCLA

Section 101(14). However, CERCLA Section 120(h)(4) includes petroleum products in the investigation requirements applicable to the identification of uncontaminated property. In addition, other laws require the cleanup of releases or spills of petroleum products. These authorities include the Resource Conservation and Recovery Act (RCRA), the Oil Pollution Act (OPA) of 1990, the Clean Water Act (CWA), and applicable state and local laws and regulations. It is BLM policy that all ESAs will include an inquiry into the presence of petroleum products.

F. Solid Waste Issues

During the site reconnaissance, solid waste issues must be identified, both to establish a baseline of the property's condition at the time of conveyance and also to identify conditions that may be subject to negotiations between the BLM and the party conveying the property. Solid wastes can be household garbage, tires, appliances, dead animals, abandoned automobiles, litter, debris, and similar items. Illegal dumpsites containing solid waste may also contain household hazardous waste such as asbestos, chemicals and paints, automotive fluids, and commercial or industrial products in violation of RCRA. Solid wastes are regulated under Federal, state, and local laws. It will be necessary to determine the precise statutory definition of solid wastes at your location.

Authorized solid waste uses will be identified and documented as part of the records search.

Unauthorized solid waste dump sites that are not given a case file serial number must be identified on lands managed by the BLM proposed for disposal. Negotiations can be initiated with the conveyee to determine who will complete the removal of the solid wastes. In most cases, solid wastes should be removed or remediated prior to conveyance but the conveyee may be willing to accept the property with solid wastes present. It is BLM policy that locations, including legal description, of sites must be identified on site maps, a detailed description be provided, and photo documentation be included in the ESA report.

G. Physical Hazards

During the site reconnaissance, physical hazards that could result in future liability must be identified. Physical hazards are man-caused situations, such as mine shafts, high walls, unsafe bridges, primitive roads, or similar features, where the potential exists for injury or death to visitors on the lands before the disposal is completed. Identification may require the assistance of safety officers, engineers, or others familiar with the type of physical hazards on the property. The BLM may be required to provide disclosure of physical hazards to the conveyee in the ESA, and both parties may negotiate mitigation of the hazard prior to conveyance of title to the property. It is BLM policy that locations of sites must be identified on site maps, a detailed description be provided, and photo documentation be included in the ESA report.

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Chapter II – Property Transferred by the Bureau of Land Management

A. General

This chapter will describe the requirements found in the following:

- Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); abbreviated as CERCLA 120(h) and found at United States Code, Title 42, Chapter 103, Subchapter I, § 9620(h); abbreviated as 42 U.S.C. 9620(h).
- Code of Federal Regulations (CFR), Title 40, Protection of the Environment, part 373, Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property; abbreviated as 40 CFR part 373.



For purposes of this chapter, definitions provided at 40 CFR part 373.4 will be utilized:

- *Hazardous Substance* – That group of substances defined as hazardous under CERCLA 101(14), and that appear at 40 CFR part 302.4.
- *Storage* – The holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.
- *Release* – Defined in CERCLA 101(22) which reads as follows: any spilling, leaking, discharging, injecting, pumping, pouring, emitting, escaping, leaching, dumping, or disposing into the environment, including abandoning or discarding barrels, containers, and any other closed receptacle containing any hazardous substance or pollutant or contaminant.
- *Disposal* – The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

Real property disposal procedures to be used by the BLM are described in Chapter III of this handbook.

B. Notice

Whenever an agency enters into any contract for the sale or other transfer of real property on which any hazardous substance was stored for 1 year or more, known to have been released, or disposed of, the agency must include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of the agency files. “Contract Notice” is a CERCLA 120(h) term; however, for most BLM conveyance actions there is no contract. This issue will be discussed in more detail in Chapter III. For BLM purposes, provisions for contract notice may be provided in the Agreement to Initiate an Exchange (ATI), Notice of Exchange Proposal (NOEP), and Notice of Decision (NOD) for exchanges; or a Notice of Realty Action (NORA), Offer Letter or High Bidder Letter for sales depending on whether the sale is a direct sale or a competitive sale. Other forms of formal notification may be appropriate for other conveyances including direct sales, Recreation and Public Purposes Act (R&PP), desert land entry, etc., where the identity of the prospective patentee may be known. Because the procedures for various conveyance actions are different, the timing of your contract notice may be different.

References: 42 U.S.C. 9620(h)(1); CERCLA 120(h)(1); 40 CFR part 373.1.

The Contract Notice must include the following:

Figure II – 1 Contract: Notice Requirements	
42 USC § 9620(h)(1); CERCLA 120(h)(1)	40 CFR PART 373.2
<p>The type and quantity of hazardous substance and notice of the time at which such storage, release, or disposal took place.</p>	<ul style="list-style-type: none"> • Storage of hazardous substances for 1 year or more applies when <ol style="list-style-type: none"> 1. Hazardous substances have been stored in quantities greater than or equal to 1,000 kilograms or the hazardous substance’s reportable quantity found at 40 CFR 302.4, whichever is greater. 2. Hazardous substances that are also listed under 40 CFR 261.30 as acutely hazardous waste, and that are stored for 1 year or more when stored in quantities greater than or equal to one kilogram. • Release of hazardous substances in quantities greater than or equal to the reportable quantity found at 40 CFR 302.4. • Disposal, no quantity amount specified.

The Content of the Notice must include the following:

Figure II – 2 Content of the Notice Requirements	
42 USC § 9620(h)(2); CERCLA 120(h)(2)	40 CFR part 373.3
Directing Environmental Protection Agency (EPA) to promulgate regulations governing the form and manner of the notice.	<ul style="list-style-type: none"> · Name of the hazardous substance. · Chemical Abstracts Services Registry Number (CASRN) where applicable Regulatory synonym for the hazardous substance, as listed in 40 CFR 302.4, where applicable. · RCRA hazardous waste number specified in 40 CFR 261.30. · Quantity in pounds and kilograms of the hazardous substance that has been stored for one year or more, or known to have been released, or disposed of · Dates that such storage, release, or disposal took place. · Following statement: “The information contained in this notice is required under the authority of regulations promulgated under Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or “Superfund”) 42 U.S.C. section 9620(h).”

C. Contents of Certain Deeds

CERCLA 120(h) uses the terminology of “Deed” for the transfer of property. In this handbook, reference is made to the conveyance document, which may include a patent, quitclaim, exchange deed, etc., and it is the BLM’s intent that “Deed” and “conveyance document” be used interchangeably. In the case of any real property owned by the United States on which any hazardous substance was stored for 1 year or more, known to have been released, or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity must contain, to the extent such information is available on the basis of a complete search of agency files:

- A notice of the type and quantity of such hazardous substances.
- Notice of the time at which such storage, release, or disposal took place.
- Description of the remedial action taken, if any.
- A covenant warranting that:
 - ✓ all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer, and
 - ✓ any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.
- A clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.

References: 42 U.S.C. 9620(h)(3); CERCLA 120(h)(3).

D. Identification of Uncontaminated Property

Requirements of this paragraph apply to any property owned by the United States and on which the United States plans to Terminate Federal Government Operations (TFGO). Refer to Chapter III., Paragraph H., and the Glossary for a discussion of TFGO.

References: 42 U.S.C. 120(h)(4)(A) and § 120(h)(4)(E); CERCLA 120(h)(4) and (h)(4)(E).

In the case of property involving the Termination of Federal Government Operations, the BLM (or other Federal agency with jurisdiction over the property) must identify the real property on which no hazardous substances and no petroleum products or their derivatives were known to have been released or disposed. Such identification must be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

The identification process consists, at a minimum, of the following steps:

- (1) Detailed search of Federal Government records pertaining to the property.
- (2) Examination of recorded chain of title documents regarding the property.
- (3) Review of aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through state or local government agencies.
- (4) Completion of a visual inspection of the real property and any buildings, structures, equipment, pipes, pipelines, or other improvements on the real property; and a visual inspection of properties immediately adjacent to the real property.
- (5) Completion of a physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.
- (6) Review of reasonably obtainable Federal, state, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum products or threat of a release of any hazardous substance or petroleum products on the real property.
- (7) Completion of interviews with current or former employees involved in operations on the real property.

Sampling: Such identification must also be based on sampling, if appropriate under the circumstances. The results of the identification must be provided immediately to the Administrator of the U.S. EPA and state and local government officials and be made available to the public.

References: 42 U.S.C. 9620(h)(4)(A); CERCLA 120(h)(4)(A).

Concurrence: The identification of uncontaminated property using the seven-step process for Termination of Federal Government Operations is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List (NPL), from the Administrator of the EPA, or, in the case of real property that is not part of a facility on the NPL, from the appropriate state official. The concurrence is deemed to be obtained if, within 90 days after receiving a request for concurrence, the state official has not acted (by either concurring or declining to concur) on the request for concurrence.

References: 42 U.S.C. 9620(h)(4)(B); CERCLA 120(h)(4)(B).

Covenants and Clauses: In the case of the sale or other transfer of any parcel of real property identified using these procedures, the deed entered into for the sale or transfer of such property by the United States to any other person or entity must contain covenants and clauses as follows:

- A covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer must be conducted by the United States.
- A clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date as such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

References: 42 U.S.C. 9620(h)(4)(D); CERCLA 120(h)(4)(D).

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Chapter III - Real Property Disposal Procedures

A. *General*

Disposal of real property is any action in which the United States conveys or otherwise disposes of real property.

Prior to the disposal of any real property, the BLM will determine the likelihood of hazardous substance, petroleum products, other environmental contamination, solid waste issues, or physical hazards on the real property. *Coordination between the realty specialist, hazardous materials specialist, and other disciplines is required.*

This chapter will describe procedures to be used to implement the requirements of 42 U.S.C. 9620(h), CERCLA 120(h), and 40 CFR part 373, to dispose of real property. Procedures will be described for different conveyance situations and the appropriate laws and regulations will be provided along with the policy to implement the legal requirements. Legal requirements and BLM policy are provided in the following paragraphs of this chapter:

1. Discussion of Notice
2. Contract Notice
3. Deed Notice
4. Disclosure
5. Conveyance of Uncontaminated Property
6. Conveyance of Contaminated Property
7. Termination of Federal Government Operations (TFGO)
8. Transfer of Contaminated Property Prior to Completion of Remediation
9. Transfer of Federal Property to another Federal Agency
10. Patenting Lands for another Federal Agency
11. Indemnification
12. Policy Statements

There are specific requirements in the laws and regulations related to each situation and type of conveyance and the following discussions will describe which procedures are based on laws and regulations and which are based on policy.

B. *Discussion of Notice*

As stated in Chapter II of this handbook, 42 U.S.C. 9620(h), CERCLA 120(h), and 40 CFR part 373 discuss Notice.

Because legal authorities applicable to the Notice requirements are not entirely clear, two issues need to be resolved:

1. What is the trigger for providing Notice for *disposal* of hazardous substance?

Notice requirements for *releases* of hazardous substances are based on the Reportable Quantity (RQ) of the hazardous substance found at 40 CFR part 302.4. While the definitions for *release* and *disposal* are similar, there is no specific regulatory trigger for providing Notice for *disposal* of hazardous substances. The term *disposal* was intended to mean placement of a hazardous substance in a permitted, intentional, regulated manner, and the BLM does not ordinarily dispose of hazardous substances through regulated means at BLM facilities. It is BLM policy that providing Notice for *disposal* will be based on any amount of the hazardous substance.

2. What information should be included in the Notice?

Although 42 U.S.C. 9620(h), CERCLA 120(h), and 40 CFR part 373, address Notice at the Contract stage, only 42 U.S.C. 9620 and CERCLA 120(h), address Notice in the deed. As a result, the requirements of 40 CFR part 373 are not specifically required for the Deed Notice. It is BLM policy that the Notice at the contract stage and deed Notice must be identical.

C. Contract Notice

For most conveyance actions of the BLM, there is no contract. The likely documents in which the Contract Notice would be provided include Notice of Realty Action, Notice of Exchange Proposal, Agreement to Initiate a Land Exchange, etc. For sales, the regulations specify that no contractual or other rights can exist before final payment by the prospective patentee (basically at the end of the process). For exchanges, the regulations specify the Agreement to Initiate a Land Exchange is a non-binding agreement, and the Exchange Agreement, which can be considered a binding contract, is also near the end of the process. In any case, any “contract” prior to the decision on the action being issued would be pre-decisional. It should be clarified that “contract” as used in this handbook refers to “contract” as used in CERCLA 120(h) and other laws, is intended to refer to disclosure and/or notice requirements before actual conveyance, and does not change regulatory or procedural requirements for the various conveyance actions undertaken by the BLM. Whenever the BLM advises interested parties or the public in advance with documentation of the sale or other transfer of real property on which any hazardous substance was stored for 1 year or more, known to have been released, or disposed of, it must include in such documentation, Notice of the type and quantity of such hazardous substance and Notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of BLM files.

The document used to provide CERCLA Notice at the contract stage must include one of the following statements:

- Parcels without hazardous substance or petroleum product concerns:
“An Environmental Site Assessment has been performed and is available for review.”
- Parcels with hazardous substance or petroleum concerns that do not exceed the threshold for providing the statutory Notice:
“An Environmental Site Assessment (ESA) has been performed and has identified hazardous substances which were stored, or released, in quantities not exceeding the threshold for notice, and/or petroleum products on the parcel. The ESA is available for review.”
- Parcels with hazardous substance and/or petroleum product concerns that require Notice:
“A search of agency files reveals that storage, release, or disposal of the following substances has occurred on the parcel. Notice is provided as follows:
[provide the information required in Chapter II, Paragraph B and as shown in Appendix 1.] Prospective purchasers should review the Environmental Site Assessment prior to bidding or accepting patent on the parcel.”

The intent of this process is to comply with the law requiring notice at the contract stage. In addition, the BLM will provide all known or suspected issues related to hazardous substances and/or petroleum products to the conveyee as early in the disposal process as possible.

An example of Contract Notice is provided as Appendix 1.

D. Deed Notice

As previously noted, CERCLA 120(h) uses the terminology of Deed for the transfer of property. In this handbook, reference is made to the conveyance document, and it is BLM’s intent that “deed” and “conveyance” be used interchangeably.

Whenever the BLM transfers real property on which any hazardous substance was stored for 1 year or more, known to have been released, or disposed of, the BLM must include in the deed (1) notice of the type and quantity of such hazardous substance and (2) notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

The Notice will include the following information:

- Type and quantity of such hazardous substance.
- Notice of the time at which such storage, release, or disposal took place.
- Description of the remedial action taken, if any.

The deed will include both of the following covenants:

- All remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer.
- Any additional remedial action found to be necessary after the date of such transfer must be conducted by the United States.

The deed will contain a clause under which:

- The United States will be granted access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.

An example of a Deed Notice containing a sample access clause is provided as Appendix 2.

E. Disclosure

Disclosure will be made by the BLM of any information related to past or current uses of the property that could affect the use of the property. Examples include disclosure of petroleum product contamination not required by CERCLA, solid waste, physical hazards, and any other items that could affect use of the property or impose liability on the conveyee. The ESA will also address storage and releases below the amount that require Notice.

It is BLM policy to provide disclosure of any threat of a release or release of a petroleum product or its derivatives, including aviation fuel and motor oil not required by CERCLA 120(h). It is BLM policy to provide disclosure of solid waste, physical hazards, and other items prior to conveyance of the property.

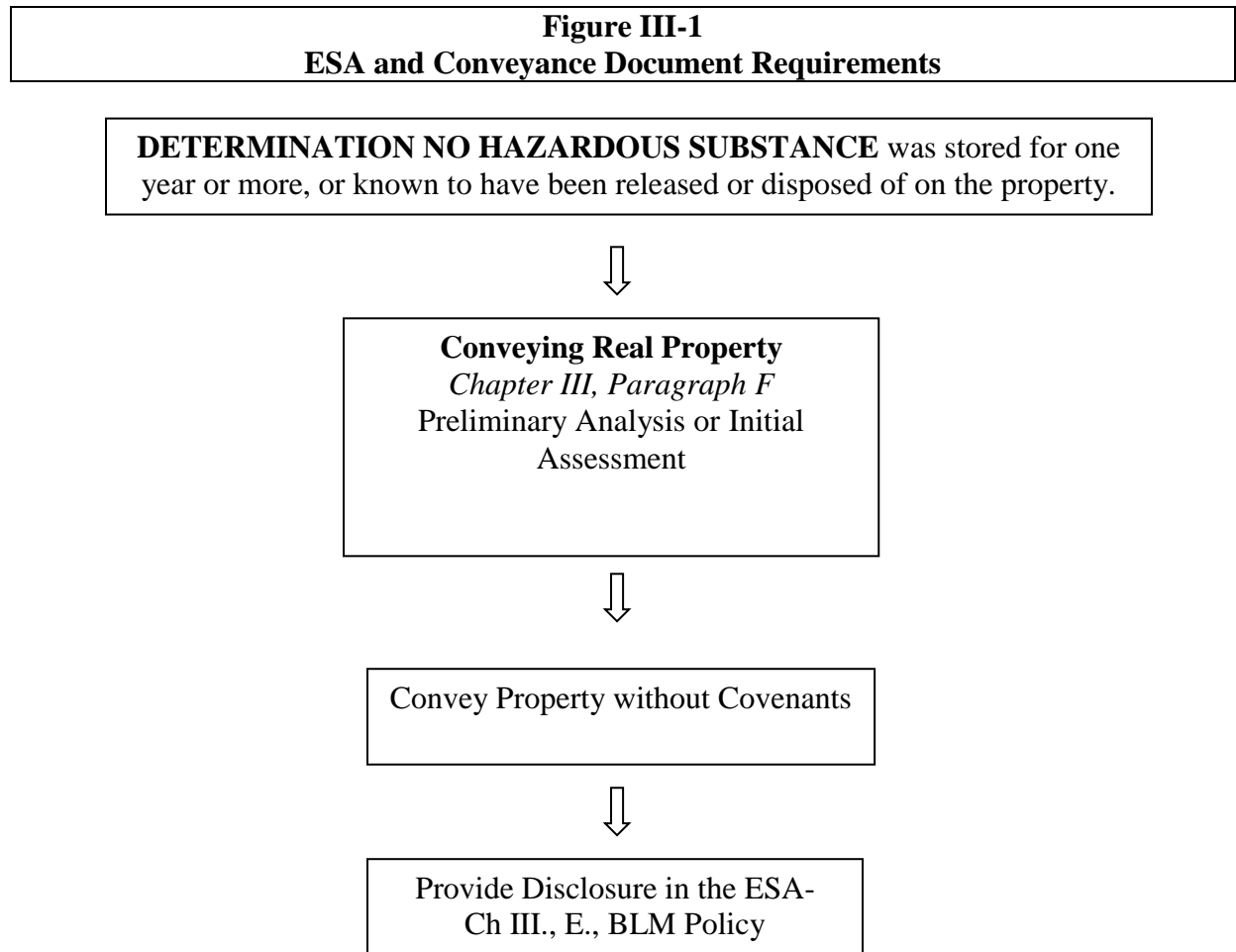
Disclosure will be made by documentation in the ESA and should be made available as early in the process as possible such as in a brochure or notice of realty action. A copy of the ESA will be given to the conveyee. Disclosure information is generally not provided in the deed or other conveyance document. The BLM must conduct an ESA on the real property prior to conveyance to determine if any of the above conditions are present now or have occurred in the past.

F. Conveyance of Uncontaminated Property

If the ESA indicates no hazardous substances were stored for 1 year or more or known to have been released or disposed of on the property, and the property does not involve a Termination of Federal Government Operations (TFGO), then CERCLA 120(h) does not require any covenants in the conveyance document.

However, the Environmental Site Assessment should provide disclosure of any petroleum contamination not required by CERCLA 120(h), solid waste, physical hazards, or any other conditions that could affect use of the property.

The following figure shows the previously described procedures:



G. Conveyance of Contaminated Property

1. Options for Dealing with Conveyance of Contaminated Property

CERCLA 120(h) and 40 CFR part 373 establish certain requirements for the United States to convey property. However, the BLM has some discretion in the process provided conveyance is made pursuant to all applicable laws, regulations, and policies relating to the conveyance.

When property to be conveyed is known or suspected to be contaminated, the BLM has several options available. These options include:

- Clean up the property prior to conveyance.
- Drop the parcel or select portions of the parcel from the disposal action.
- Conveyee agrees to be responsible for cleanup pursuant to an agreement entered into with the BLM .
- The BLM enters into a cleanup agreement with the conveyee where the BLM agrees to clean up the property after conveyance subject to the appropriation of funding.

Ordinarily, the BLM will elect to cleanup all contamination from a parcel prior to conveyance. In that way, BLM will be assured that the property presents no threat to public health or the environment at the time of conveyance. Moreover, in the event that contamination is discovered in the future, BLM will be able to document that, at the time of conveyance, the property was clean and that any subsequently discovered contamination was caused by other parties. The BLM will also obtain, from the conveyee, an indemnification for cleanup costs and other damage arising from environmental conditions caused or contributed to by the conveyee. If the BLM decides to clean up all contamination prior to transfer, the actual cleanup could be conducted by either the BLM or the conveyee. Ordinarily, however, the BLM will conduct the cleanup itself to ensure that the response actions are thorough and complete and that all environmental contamination has been addressed.

In cases where the conveyee determines that acceptance of the parcel is not acceptable under any circumstances, the parcel or portion of the parcel may be eliminated from the disposal action. This action will not reduce the BLM's liability or need to clean up the parcel.

The conveyee may be willing to accept title without the BLM conducting cleanup prior to conveyance and may agree to complete the cleanup. An "early transfer" should only be considered after consultation with the Solicitor. Furthermore, early transfer must be conducted pursuant to the detailed provisions for covenant deferral in CERCLA section 120(h)(3). In that event, the BLM need not provide, prior to transfer, the covenant that all remedial action has been taken. However, if the conveyee agrees to conduct the cleanup, the BLM must provide to EPA or the appropriate state official, among other things, assurances that the transferee has both the technical capacity to perform necessary response actions and the financial capability to execute the cleanup. In any event, the BLM remains responsible for ensuring that, in the event the transferee become unable or unwilling to complete the cleanup, the BLM will complete the cleanup. In addition, following completion of the cleanup, the BLM must then execute and deliver to the transferee the covenant that all response action has been taken.

A conveyee may also be willing to accept title without cleanup being completed if the BLM agrees to complete cleanup after conveyance pending appropriation of funds to accomplish the cleanup. This also would require that the BLM comply with the covenant "deferral" provisions of CERCLA section 120(h)(3), including notice to EPA or the appropriate state and would be accomplished with Solicitor review of the process and the language included in the deed or other conveyance document.

2. Situations and Types of Conveyances Covered in this Section

The remainder of this section will discuss conveyance of contaminated property. Use the following figure to determine the Situation and Type of Conveyance then go to the paragraph number listed in Figure III-2 to determine the correct procedures.

Figure III-2 Situations and Types of Conveyances		
Paragraph No.	Situation	Type of Conveyance
G. 3.	Conveying Previously Contaminated Property to a Non-Federal Party NOT a PRP	(1) Conveyance of a Non-TFGO property where Notice Requirements are to be included in the contract and conveyance document AND (2) The property was contaminated but cleanup has been accomplished AND (3) Conveyance is to a Non-Federal Party NOT a PRP
G. 4.	Conveying Contaminated Property to a PRP	(1) Conveyance of property where Notice requirements are to be included in the contract and conveyance document AND (2) Conveyee is the PRP AND (3) Conveyance will be made without completion of cleanup prior to conveyance

3. Conveying Previously Contaminated Property to a Non-Federal Party NOT a PRP

If, during the ESA process, it is determined that hazardous substances were stored for 1 year or more or known to have been released or disposed of on the Federal property to be conveyed, the contamination will be cleaned up before the conveyance can take place, unless the property meets the requirements of CERCLA 120(h)(3)(B)/Remedial Design or CERCLA 120(h)(3)(C)/Deferral, discussed in Paragraph I of this chapter.

If the property does not meet the requirements for Remedial Design or Deferral, Notice must be provided as follows:

- Contract Notice: as required in Paragraph C of this chapter.
- Deed Notice: as required in Paragraph D of this chapter.

The conveyance document must also contain the following covenants:

- All response actions necessary to protect human health and environment, with respect to the hazardous substance remaining on the property, have been taken before the conveyance.
- Any additional response action found to be necessary after the date of such conveyance will be conducted by the United States.
- The United States is granted access to the property to conduct any additional response action found to be necessary after the date of the conveyance.

It is BLM policy to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by the conveyee on the

property after the property is conveyed. An example of indemnification language is provided as Appendix 3.

Provide disclosure in the ESA of any petroleum contamination not required by CERCLA 120(h), solid waste, physical hazards, or any other conditions that could affect use of the property.

4. Conveying Contaminated Property to a PRP

Property that is known or suspected to be contaminated with hazardous substances or petroleum products may be conveyed to the PRP without cleanup being accomplished prior to the transfer.

PRP(s) may be identified by a search of agency files or a PRP search as described in BLM Handbook 1703-1, *BLM Response Actions Handbook* (NCP/CERCLA). It is necessary to identify the PRP(s) prior to initiating conveyance of the property.

Notice must be provided in NORA and the conveyance document must still contain a description of the known contamination pursuant to the Notice requirements of Sections 120(h)(3)(A)(i), Paragraphs I-III as follows:

- Notice of the type and quantity of the hazardous substances that were stored on the property for more than one year, released on the property, or disposed of on the property.
- Notice of the time at which the storage, release, or disposal took place.
- A description of the response taken, if any.

The conveyance document to the PRP must contain site specific negotiated agreement language acknowledging the contamination and addressing such issues as responsibility for and conduct of response actions, as well as indemnities holding the the United States harmless from any damage, loss, claims, liability, and costs relating to the United States' ownership of the property. It may not always be appropriate for the PRP to conduct the response action, or to indemnify the United States; for example, when the PRP is only the prior lessee and not responsible for causing the contamination, or where the PRP is responsible for only a *de minimis* amount of contamination. The BLM would not be required to give the covenant, but the BLM also ordinarily would not impose the entirety of cleanup costs on the PRP or necessarily seek an indemnity from CERCLA liability. Each agreement would be negotiated based on the party's relative culpability. It is BLM policy to include site specific negotiated language in the conveyance document. Once again, the Solicitor must be involved in this process.

It is also BLM policy that contaminated property will not be conveyed to a PRP unless the PRP can demonstrate technical and financial capability to develop and complete remediation at the site. For situations such as trespass, where the PRP may not be viable, consultation with the Solicitor and a management decision should be made to dispose of the property or retain it in BLM ownership to ensure cleanup is completed. In these situations, the state or Federal regulatory agency may also become involved through a legal procedure between the agency and the PRP.

The ESA must also provide disclosure of any petroleum contamination not required by CERCLA 120(h), solid waste, physical hazards, or any other conditions that could affect use of the property.

Figure III-3 summarizes the conveyance document and ESA requirements described in the previous paragraphs:

Figure III-3
Conveyance Document and ESA Requirements
(Non-Federal Party NOT a PRP vs. PRP)
Procedural requirements if there is a determination that hazardous substances were stored for 1 year or more or known to have been released or disposed of on the property

Conveying Previously Contaminated Property to a Non-Federal Party NOT a PRP <i>(Chapter III, Paragraph G.3.)</i>	Conveying Contaminated Property to a PRP <i>(Chapter III, Paragraph G.4.)</i>
Contract Notice: Provide Notice in the NORA [42 USC § 9620 (h)(1)] [CERCLA 120(h)(1)] [40 CFR part 373.1]	Contract Notice: Provide Notice in the NORA [42 USC § 9620 (h)(1)] [CERCLA 120(h)(1)] [40 CFR part 373.1]
Conveyance Document: Provide Notice [42 USC § 9620(h)(3)] [CERCLA 120(h)(3)]	Conveyance Document: Provide Notice [42 USC § 9620(h)(3)] [CERCLA 120(h)(3)]
Conveyance Document: All response actions necessary to protect human health and environment, with respect to the hazardous substance remaining on the property, have been taken before the conveyance [CERCLA 120(h)(3)(A)(i)(I-III)]	
Conveyance Document: Any additional response action found to be necessary after the date of such conveyance will be conducted by the United States [CERCLA 120(h)(3)(A)(i)(I-III)]	
Conveyance Document: The United States is granted access to the property to conduct any additional response action found to be necessary after the date of the conveyance [CERCLA 120(h)(3)(A)(i)(I-III)]	
Conveyance Document: Indemnification Language [BLM Policy]	Conveyance Document: Site specific Indemnification Language [BLM Policy]
ESA: Provide Disclosure petroleum products, solid waste, physical hazards or any other conditions that could affect use of the property [BLM Policy]	ESA: Provide Disclosure petroleum products, solid waste, physical hazards or any other conditions that could affect use of the property [BLM Policy]

H. Termination of Federal Government Operations (TFGO)

1. Uncontaminated Property (TFGO)

CERCLA 120(h) provides different requirements based on whether or not the property to be conveyed involves the TFGO. Because of the different requirements, it is important to understand what constitutes a TFGO and how to determine which requirements apply.

TFGO applies to facilities owned or operated by the BLM. Examples of facilities include office buildings, fire stations, road maintenance shops, air strips, administrative sites, seed orchards, and similar operations.

TFGO does not apply to the following:

- Undeveloped lands.
- Property containing timber roads or utilities/improvements developed by private companies.
- Federal lands on which private entities such as permittees or mining claimants conducted operations.

If the property to be conveyed involves the TFGO, the BLM must conduct an investigation on the real property to determine or discover the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product on the real property. The following paragraphs describe procedures:

The identification process consists, at a minimum, of the following steps:

- (1) Detailed search of Federal Government records pertaining to the property.
- (2) Examination of recorded chain of title documents regarding the property.
- (3) Review of aerial photographs that may reflect prior uses of the real property and adjacent property and that are reasonably obtainable through state or local government agencies.
- (4) Completion of a visual inspection of the real property and any buildings, structures, equipment, pipes, pipelines, or other improvements on the real property and a visual inspection of properties immediately adjacent to the real property.
- (5) Completion of a physical inspection of property adjacent to the real property to the extent permitted by owners or operators of such property.
- (6) Review of reasonably obtainable Federal, state, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum products or threat of a release of any hazardous substance or petroleum products on the real property.
- (7) Completion of interviews with current or former employees involved in operations on the real property.

Such identification must also be based on sampling, if appropriate under the circumstances. The results of the identification must be provided immediately to the EPA Administrator and state and local government officials and made available to the public.

It is BLM policy to provide disclosure related to the storage of hazardous substances or petroleum products even though the amounts stored were below the reportable quantity and were stored for less than 1 year. This information will be included in the report, but will not be included in the conveyance document.

Storage may have taken place without a release or disposal occurring. If a release or disposal occurred on the property, procedures described in Conveyance of Contaminated Property will be utilized. In addition, disclosure will be provided in the ESA of any petroleum contamination not required by CERCLA 120(h), solid waste, physical hazards, or any other conditions that could affect use of the property.

Concurrence by state or EPA: If the property to be conveyed involves the TFGO, concurrence of findings must be obtained. If the site is on the NPL, concurrence must be obtained from the EPA. For all other sites, the concurrence will be obtained from the appropriate state agency. A sample letter is provided as Appendix 4. The letter requesting concurrence should:

- Address the location of the property.
- Include documentation (ESA).
- Specify property is uncontaminated.
- Ask for concurrence In Accordance With (IAW) Section 120(h)(4)(B) of CERCLA.
- In the case of concurrence from a state official, include a statement that concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the state official has not acted on the request for concurrence.
- CERCLA 120(h)(4)(B) does not provide for 90-day concurrence by the EPA, however, a letter to the EPA should contain the same statement as the letter to the state.

Conveyance Document Provisions: Include the following provisions in the conveyance document:

- A covenant requiring that any response action or corrective action found to be necessary after the date of such sale or transfer must be conducted by the United States in accordance with CERCLA 120(h)(4)(D)(i) and (ii).
- A clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

It is also BLM policy to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by grantee on the property after the property is conveyed. An example of indemnification language is provided as Appendix 3.

References: 42 U.S.C. 9620(h)(4)(E)(i) I; 42 U.S.C. 9620(h)(4)(A) and CERCLA 120(h)(4)(E)(i) (I); CERCLA 120(h)(4)(A).

2. Contaminated Property (TFGO)

If, during the ESA, it is determined that hazardous substances were stored for 1 year or more or known to have been released or disposed of on the Federal property to be conveyed, the contamination must be cleaned up before the conveyance can take place.

Notice must be provided as follows:

- Contract Notice: as required in Paragraph C of this chapter.
- Deed Notice: as required in Paragraph D of this chapter.

The conveyance document must also contain the following covenants:

- All response actions necessary to protect human health and environment, with respect to the hazardous substance remaining on the property, have been taken before the conveyance.
- Any additional response action found to be necessary after the date of such conveyance will be conducted by the United States.
- The United States is granted access to the property to conduct any additional response action found to be necessary after the date of the conveyance.

References: CERCLA 120(h)(3)(A) and 40 CFR part 373.3.

It is BLM policy to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by conveyee on the property after the property is conveyed. An example of indemnification language is provided as Appendix 3.

Provide disclosure in the ESA of any petroleum contamination not required by CERCLA 120(h), solid waste, physical hazards, or any other conditions that could affect use of the property. A table showing the previously described procedures is provided in Figure III-4.

Figure III-4	
Conveyance Document and ESA Requirements for Termination of Federal Government Operations (TFGO)	
Uncontaminated Property Phase I Environmental Site Assessment <i>Chapter III, Paragraph H.1</i>	Contaminated Property Phase I Environmental Site Assessment <i>Chapter III, Paragraph H.2</i>
Complete Identification Process 1. Search Government Records 2. Examine Recorded Chain of Title Documents 3. Review Aerial Photographs 4. Complete Visual Inspection of Property 5. Inspect Adjacent Property 6. Review Other Records 7. Complete Interviews Sampling	Complete Identification Process 1. Search Government Records 2. Examine Recorded Chain of Title Documents 3. Review Aerial Photographs 4. Complete Visual Inspection of Property 5. Inspect Adjacent Property 6. Review Other Records 7. Complete Interviews Sampling
Provide Disclosure for hazardous substances and petroleum products in ESA when not required in Notice - BLM Policy	Provide Contract Notice Provide Deed Notice
Obtain Concurrence from Administrator or Appropriate State Official	Provide Disclosure for hazardous substances and petroleum products in ESA when not required in Notice - BLM Policy
Convey Property with: A. Covenant warranting that BLM will take any future response action found to be necessary B. Clause guaranteeing access to BLM if necessary to undertake a response action. Include indemnification language	Convey Property with: A. Covenant warranting that all remedial action necessary to protect public health and environment has been taken B. Any additional response action found to be necessary after the date of conveyance will be conducted by the United States C. Clause guaranteeing access to BLM if necessary to undertake a response action Include indemnification language

I. Transfer of Contaminated Property Prior to Completion of Remediation

Although CERCLA Section 120(h) ordinarily requires cleanup of contaminated property prior to transfer from Federal ownership, such property may be conveyed prior to completion of remediation in two situations: (1) the remedy is working successfully or (2) the conditions for deferral of the covenant, as provided in section 120(h)(3)(C), have been satisfied.

CERCLA 120(h)(3)(B) provides for a process to allow the transfer of property that has known contamination by the United States prior to completion of remediation. Under this process, all remedial action has been taken if (1) the construction and installation of an approved remedial design has been completed and (2) the remedy has been demonstrated to be operating properly and successfully. For example, the long-term pumping and treating, operation, or maintenance of a remedial action, after the remedy has been demonstrated to be operating properly and successfully, does not preclude the transfer of the property.

CERCLA 120(h)(3)(C) describes a deferral process where property transfer can take place without remediation having been completed. EPA guidance entitled “Guidance for Evaluation of Federal Agency Demonstrations that Remedial Actions are Operating Properly and Successfully under CERCLA Section 120(h)(3) (August 1996)” and “EPA Guidance on the Transfer of Federal Property by Deed Before All Necessary Response Action Has Been Taken Pursuant to CERCLA Section 120(h)(3) (Early Transfer Authority Guidance) (June 1998)” should be referenced.

The two processes described in the previous paragraphs frequently are associated with military base closures and/or long-term pump and treat remedies. The BLM may desire, on occasion, to transfer property before cleanup to a willing transferee even where the remedy is mundane, because of legislative expectations or other factors.

These two types of disposal actions are expected to occur infrequently as they are related to large sites, primarily related to military use. If either of these types of early transfers is being considered, management, various staff specialists, and the Solicitor must be involved to protect the interests of all parties involved.

The two types of disposal actions are:

1. Remedial Design Constructed and Operating

- Contaminated property may be conveyed to a non-PRP if a remedial design has been constructed and is operating successfully. Thus, long-term remediation such as pumping and treatment of groundwater does not have to be completed in order for a transfer of property ownership to take place.
- Reference: CERCLA 120(h)(3)(B).

2. Deferral

- Contaminated property may be conveyed to a non-PRP by a Federal agency prior to the achievement of a successful cleanup under the following conditions:
 - ✓ Pursuant to 120(h)(3)(C)(i), the EPA Administrator (for real property at a Federal facility that is on the NPL) in concurrence with the governor of the state in which the facility is located, or the governor for non-NPL sites, may defer the cleanup requirement, if the Administrator or governor determines the following:

- (1) The property is suitable for the intended use of the transferee, and the intended use is consistent with the protection of human health and the environment.
 - (2) The deed or other instrument proposed to govern the transfer between the United States and the transferee of the property contains adequate assurances (as set forth below).
 - (3) The Federal agency requesting deferral has provided notice, by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer and the opportunity for the public to submit within a period of not less than 30 days after the date of the notice, written comments on the suitability of the property for transfer.
 - (4) The deferral and transfer of the property will not substantially delay the necessary response action at the property.
- ✓ Pursuant to 120(h)(3)(C)(ii), if the above findings have been made, the transfer can take place only if the deed or other instrument governing the transfer contains the following assurances:
- (1) Provide for any necessary restrictions on the use of property to ensure the protection of human health and the environment.
 - (2) Provide that there will be restrictions on use necessary to ensure that required remedial investigations, response action, and oversight activities will not be disrupted.
 - (3) Provide that all necessary response action will be taken and identify the schedules for investigation and completion of all necessary response action as approved by the appropriate regulatory agency.
 - (4) Provide that the Federal agency responsible for the property subject to transfer will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules for investigation and completion of all necessary action, subject to congressional authorizations and appropriations.
- ✓ Pursuant to 120(h)(3)(C)(iii), the transferring agency, upon completing the response actions on the transferred property where cleanup had been deferred, must execute a warranty certifying that all necessary response action has been taken and provide such warranty to the transferee.

Note that any such deferral as provided for above does not in any way affect the rights or obligations of the transferring agency with respect to the property.

J. Transfer of Federal Property to Another Federal Agency

CERCLA Section 120(h) does not apply to property transferred to another Federal agency. However, it is BLM policy to identify any storage, release, or disposal of hazardous substances based on a complete search of BLM records when real property is transferred to other Federal agencies. Any necessary cleanup of such property will be governed by the terms of a

memorandum of agreement between the agencies, or by the statute authorizing the transfer. The Solicitor must be involved in developing the conveyance document.

K. Patenting Lands for Another Federal Agency

Unless provided by law or agreement, when patenting lands for another Federal agency, prior to the conveyance action, the other Federal agency is required to comply with all provisions of CERCLA 120(h) and 40 CFR part 373. The documentation provided by the other Federal agency to the BLM will include a CERCLA Section 120(h) Certification Statement. An example of the Certification Statement is provided as Appendix 5.

L. Indemnification

It is BLM policy to require indemnification language in disposal actions.

The BLM has found that, by using indemnification language similar to that required in Recreation and Public Purposes Act (R&PP) patents of landfills, the United States' position is enhanced and protection from future liability is increased. This language not only covers the BLM's potential liability from any future actions based on hazardous substances, it also protects the United States from claims arising from physical hazards. The Office of the Solicitor recognizes that using indemnification language is now a common and best business practice where the United States should be no less vigilant than private parties. The Solicitor should be consulted early in the process.

Indemnification language should be negotiated early in the process and included in the Notice of Realty Action or Notice of Exchange Proposal. The indemnification language may be subject to negotiation of specific terms and conditions depending on the circumstances. Solicitor review and possibly negotiation is required under the Delegation of Authority (DM 1203) Manual as are certain reviews and/or negotiations should a CERCLA remedial action or a RCRA corrective action be required. In addition, site specific language may need negotiation if the disposal action is to a state, county or local governmental jurisdiction as they may be limited under their laws, rules, or regulations.

If the land disposal is mandated by legislation, indemnification language should be negotiated and included in the act whenever possible, otherwise negotiation after the fact is more difficult. Indemnification language is still required. Early coordination with the Solicitor and the Washington Office is again critical.

An example of an indemnification agreement is provided as Appendix 3. The example was negotiated and should not be used verbatim without Solicitor concurrence. The BLM may want to initiate negotiation parameters more extensive than given in this example.

M. Policy Statements

Chapters I and III describe several BLM policy requirements to implement the regulatory requirements of CERCLA 120(h) and 40 CFR part 373 while implementing the requirements of the American Society for Testing Materials (ASTM) Standards. The policy requirements are summarized in the following table:

Figure III-5 BLM Policy Requirements		
Application	Policy Statement: “It is BLM Policy”	Handbook Reference
Solid Waste Issues	- that location of sites must be identified on site maps, a detailed description provided, and photo documentation be provided in the ESA report.	Chapter I Paragraph F.
Physical Hazards	- that location of sites must be identified on site maps, a detailed description provided, and photo documentation be provided in the ESA report.	Chapter I Paragraph G.
Discussion of Notice	- that providing Notice for disposal will be based on any amount of the hazardous substance. - that the Notice at the contract stage and deed Notice must be identical.	Chapter III Paragraph B.
Disclosure	- to provide disclosure of any threat of a release or release of a petroleum product or its derivatives, including aviation fuel and motor oil not required by CERCLA 120(h). - to provide disclosure of solid waste, physical hazards, and other items to the conveyee prior to conveyance of the property.	Chapter III Paragraph E.
Conveying Previously Contaminated Property to a Non-Federal Party Not a PRP	- to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by the conveyee on the property after the property is conveyed.	Chapter III Paragraph G.3.
Conveying Contaminated Property to a PRP	- to include site specific negotiated language in the conveyance document. - that contaminated property should not be conveyed to a PRP unless the PRP can demonstrate technical and financial capability to develop and complete remediation at the site.	Chapter III Paragraph G.4.
TFGO - Uncontaminated Property	- to provide disclosure related to the storage of hazardous substances or petroleum products even though the amounts stored were below the reportable quantity and were stored for less than one year. - to include a statement warranting the BLM has followed CERCLA 120(h) requirements. - to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by the conveyee on the property after the property is conveyed.	Chapter III Paragraph H. 1.
TFGO - Contaminated Property	- to include indemnification language in the conveyance document whereby the conveyee agrees to hold harmless the United States from actions taken by the conveyee on the property after the property is conveyed.	Chapter III Paragraph H. 2.
Transfer of Federal Property to Another Federal Agency	- to identify any storage, release, or disposal of hazardous substances based on a complete search of BLM records.	Chapter III Paragraph J.
Indemnification	- to consider indemnification language in disposal actions.	Chapter III Paragraph L.

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Chapter IV - Environmental Site Assessment Process Overview

A. *Introduction*

The procedures in this chapter will combine the requirements of CERCLA 120(h), ASTM Standards, and BLM policy, but impose the stricter requirements of the ASTM Standards for all property being conveyed by the BLM to a non-Federal party. Specifically, the ASTM Standard E1527-05 or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres) requires the identification of the presence or likely presence of any hazardous substance or petroleum products on the property. Further, as CERCLA 120(h) does not impose specific requirements for all of the procedures to be used in assessing sites to be conveyed, the BLM has some discretion in the development of the ESA process.



The BLM intends these procedures be used as a guide. Specific situations may require reasonable changes. Coordination between the realty specialist, hazardous materials specialist, and other disciplines should be completed when required.

B. *Adaptation of ASTM Standards*

The BLM has adapted these ASTM standards to comply with Section 120(h) of CERCLA:

- Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process (E1527-05) or (E2247-08) for Forestland and Rural Properties (greater than 120 acres).
- Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process (E1903).

Additional work beyond the requirements identified in this section should be performed when necessary. Deviations from the standards may be acceptable if documented in the decision process. All BLM employees involved in the disposal ESA process are expected to be familiar with the ASTM standards through available training (BLM or private) and applicable laws, regulations, and policies.

C. *Environmental Site Assessment Process Strategy*

ESAs may utilize information from other reports as long as the information is current and accurate. Information gathered for these documents can be expanded beyond their scope to include those elements needed to satisfy the requirements of the disposal action.

Both office and field work should, where possible, employ a team approach. The ESA report must be certified by that member of the group who has the required qualifications. If additional expertise is required, assistance may be requested from a BLM specialist who has the training and experience necessary to complete the assessment. Assistance may also be requested from the National Science and Technology Center (NSTC) in Denver, technical support contractors, and other agencies.

The ESA process is a critical step that can affect the entire disposal process. It is important that BLM management either approve the finding or choose alternatives within the scope of their authority. Managers also must understand both the environmental risks and liabilities involved. For this reason, managers must document their reasons if they choose a course of action that deviates from the ESA recommendation(s). However, all disposal decisions must, at a minimum, comply with the requirements of CERCLA 120(h).

Either the BLM or the conveyee may use a qualified private consultant to perform some or all of the assessment. However, all assessments must meet the requirements of this handbook. The ESAs must be reviewed and approved by qualified BLM personnel. Before approving the use of consultants, the BLM will review their qualifications and work samples to ensure that they have demonstrated the appropriate knowledge and experience necessary to prepare a report that will meet BLM requirements. Refer to Chapter IX of this handbook for additional discussion related to the use of consultants.

Some BLM state offices may have additional requirements so it will be necessary to refer to your specific state office's requirements.

D. *Environmental Assessment Levels of Analysis*

There are five levels of analyses that comprise the ESA process. The performance of each succeeding level further reduces the uncertainties in the evaluation process. The appropriate level at which to begin the process may vary depending on the circumstances.

The **first level** of analysis is the **Preliminary Analysis (PA)**. This is a basic level of review that is only appropriate to use when the likelihood of contamination is very low. This level should be used only when the BLM is disposing of an interest in land where there has been no apparent human intrusion on the land that could result in a Recognized Environmental Condition (REC) on the subject property. This level cannot be used for Termination of Federal Government Operations (TFGO).

The **second level** of analysis consists of an **Initial Assessment (IA)**. It is a screening level evaluation to determine if a Phase I ESA is needed. An Initial Assessment is used when the likelihood of contamination is low but there is a potential that human intrusion may have resulted in a REC being present. If the result of the Initial Assessment indicates no contamination on the site, a Phase I ESA is not needed. This level cannot be used for TFGO.

The **third level** of analysis is the **Phase I ESA**. A Phase I ESA will be performed if either of the following conditions is met:

- The Preliminary Analysis or Initial Assessment indicates there is a potential for contamination or RECs being present onsite.
- The land being proposed for disposal involves a TFGO.

The **fourth level** of analysis is the **Phase II Site Investigation**. If significant potential for contamination from hazardous substances or petroleum products is identified on the site and when proper approvals are obtained, a site investigation will be performed. During this phase, samples may be taken from the site and analyzed to determine the nature and extent of the contamination.

The **fifth level** of analysis is the **Phase III Cleanup**. If the Phase II site investigation indicates that hazardous substances or petroleum products are present above regulatory levels or in concentrations that could affect human health or the environment, a cleanup action will be undertaken only when proper approvals have been obtained. A Phase III Cleanup involves full site characterization and cleanup consistent with state law, RCRA corrective actions, OPA, or the NCP found at 40 CFR part 300 and BLM Response Actions (NCP/CERCLA) Handbook, H-1703-1. Proper approvals must be obtained prior to initiating Phase III activities.

The Levels of Analysis and their objectives are as follows:

<u>Phase</u>	<u>Objective</u>
Preliminary Analysis	Provide a quick determination whether an IA or a Phase I ESA is required.
Initial Assessment	Determine whether a Phase I ESA is necessary.
ESA (Phase I)	Identify RECs in connection with the property.
Site Investigation (Phase II)	Identify the nature and extent of contamination.
Cleanup (Phase III)	Site characterization and cleanup.

E. Level of Analysis Selection Criteria

Figure IV-1 summarizes the criteria for selecting the Appropriate Level of Analysis:

Figure IV-1 Levels of Analysis/Selection Criteria		
Level of Analysis	Selection Criteria	Property Condition
Preliminary Analysis	<ol style="list-style-type: none"> 1. Disposal of Uncontaminated Property 2. Likelihood of contamination is low 3. No apparent human intrusion that could have resulted in a REC 4. Cannot be used for TFGO 	Uncontaminated Non-TFGO
Initial Assessment	<ol style="list-style-type: none"> 1. Disposal of Uncontaminated Property 2. Likelihood of contamination is low 3. Potential for human intrusion that could result in REC 4. Cannot be used for TFGO 	Uncontaminated Non-TFGO
Phase I ESA	<ol style="list-style-type: none"> 1. Disposal of Uncontaminated Property/Contaminated Property 2. Known or suspected REC identified on the property 3. Must be used for TFGO 	Uncontaminated TFGO Contaminated TFGO Contaminated Non-PRP Contaminated PRP
Phase II Site Investigation	<ol style="list-style-type: none"> 1. Disposal of Known/Suspected Contaminated Property 2. Verify findings of Phase I 3. Intrusive study of soil and groundwater 	Contaminated
Phase III Cleanup	<ol style="list-style-type: none"> 1. Disposal of Contaminated Property 2. Fully characterize the vertical and lateral extent of contamination 3. Identify and implement the most appropriate cleanup activities 	Contaminated

F. Multiple Parcel Disposals

Multiple-parcel disposals may be completed and documented in a single report. Information that is parcel-specific should be described separately. For example, each parcel should be listed separately in the description of real estate and site reconnaissance within the ESA. Information that is generic and applies to all parcels need not be described separately. For example, if record searches do not reveal any evidence of RECs on any of the parcels, it would be appropriate to combine the information about the parcels into a single descriptive sentence/paragraph/section.

This process eliminates specific parcels from a proposed disposal if RECs were discovered on a parcel. A PA or IA should be completed on uncontaminated parcels. A Phase I ESA is required on parcels with known or suspected contamination. If some parcels are determined to be contaminated, a decision can be made to (1) convey subject to an agreement with the transferee, (2) defer until cleanup is completed, or (3) retain in BLM ownership.

G. *Qualifications*

The approving official/manager who signs a disposal document is responsible for ensuring that the training qualifications shown in Figure IV-2 are completed by employees responsible for the various tasks identified. The disposal document must be conducted and reviewed by a qualified individual as shown on Figure IV-2, Training Requirements, which identifies the minimum training required to perform different levels of investigation.

Figure IV-2 Training Requirements			
Level of Disposal ESA	Required Training to Conduct	Reviewer	Approving Official
Preliminary Analysis Initial Assessment	First Responder Awareness (29 CFR 1910.120) Refresher Training per WO Policy; and NTC's ESA course for AEPs or other training based on the current Acquisition and Disposal Handbooks	40 Hour - Advanced ESA Training	As Provided in BLM Manual 1203 - Delegation of Authority
Phase I	First Responder Awareness (29 CFR 1910.120) Refresher Training per WO Policy; and 40 Hour - Advanced ESA Training	Environmental Professional	Manual 1203

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Chapter V – Preliminary Analysis

A. *Significance and Use*

The Preliminary Analysis is a simplified process that may be used only when there is little likelihood that a property has been impacted by hazardous substances and/or petroleum products.

The Preliminary Analysis may only be used where:

- There has been no apparent human intrusion on the property that could have resulted in a REC being present.
- The likelihood of contamination is low.
- Uncontaminated property.



The Preliminary Analysis cannot be used if the property involves the Termination of Federal Government Operations (TFGO).

The Preliminary Analysis consists of the following actions:

- Conduct a complete records and historical source review:

Records to be reviewed will depend on the site location and past and current uses. For example, environmental records are generally not available for rural isolated areas. If the investigator has reason to believe records may be available, a records review should be conducted. Historical sources to be reviewed must include, at a minimum, the most recent aerial photograph.

- Observe site conditions.

A field review must be conducted for all disposals. Emphasis should be placed on areas of potential contamination such as landings, spur roads, and areas accessible by vehicles.

The adjacent and surrounding areas must also be inspected.

- Use of a Contaminant Survey Questionnaire and/or interviews is optional.

For isolated tracts in remote locations, a Contaminant Survey Questionnaire or interviews is normally not required.

An interview may be conducted to verify observations or to gain information about the subject property or adjoining land.

- A blank Preliminary Analysis Checklist is provided as Appendix 6.

B. Findings and Conclusions

Upon completion of the Preliminary Analysis, the report will summarize the findings and provide one of the following conclusions:

- This Preliminary Analysis has not revealed any evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. No further inquiry is needed; therefore, this real property is suitable for disposal.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is recommended this real property **not** be considered for disposal. This realty action has been referred to the hazardous materials specialist for further action.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, a Phase I Environmental Site Assessment is recommended.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions will be excluded: (describe).

C. Who May Conduct and Review

The Preliminary Assessment may only be conducted by an individual who has completed, at a minimum, First Responder Awareness Training (FRA), the required refresher training as prescribed by BLM policy, and NTC's ESA course for AEPs or other training based on the current Acquisition and Disposal Handbooks.

The Preliminary Analysis should be reviewed by an individual who has completed 40-hour ESA Training.

D. Timing

The Preliminary Analysis must be completed within 12 months prior to the date of the disposal. An update must be completed if the Preliminary Analysis is over 1 year old. The Preliminary Analysis must be completed prior to publication of the notice document so the information is available to prospective applicant/purchasers and the general public. It is also recommended the Preliminary Analysis be completed before the appraisal is requested. It is a requirement that a visual inspection of the property to be conveyed is completed within 30 days, preferably within 7-10 days, of title conveyance to determine if any conditions on the property have changed. Documentation will be submitted to the state office.

E. Approval Authority

Refer to BLM Manual 1203 - Delegation of Authority; Subject Function Classification Code Reference 1703 to determine the delegated approval/signature level for the proposed action. Also refer to specific state guidance for delegation of authority manual supplements.

F. Example

An example of a completed Preliminary Analysis is provided as Appendix 7.

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Chapter VI - Initial Assessment

A. *Significance and Use*

The Initial Assessment is a process designed to identify RECs in connection with a property. An Initial Assessment is used when the likelihood of contamination is low, but there is a potential that human intrusion may have resulted in a REC being present on the property.

A Phase I ESA may be conducted without a documented Preliminary Analysis or Initial Assessment when it is apparent that a Phase I will be needed, unless managers desire to have a multi-phase decision process.



The Initial Assessment cannot be used if the property involves the Termination of Federal Government Operations.

The Initial Assessment consists of the following actions:

- Use an employee or ex-employee if available who has knowledge about the property.
- Provide a Contaminant Survey Questionnaire; an example is provided as Appendix 8. Use of this form is optional. If not used, reasons for not using the form must be documented. Alternate forms/questions may be utilized and documented.
- Conduct a complete search of BLM records, certain government records, and standard historical sources as described in ASTM Standard E-1528 5.1; an example is provided as Appendix 9.
- Observe site conditions at the property using the Site Conditions Observation; an example is provided as Appendix 8.
- Complete a report; the format is discussed in Section F of this chapter.

B. *Findings and Conclusions*

Upon completion of the Initial Assessment, the report must summarize the findings and offer one of the following conclusions.

1. This Initial Assessment has not revealed any evidence of hazardous substances, petroleum products, or environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. No further inquiry is needed to assess recognized environmental conditions; therefore, this real property is suitable for disposal.
2. This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is

- recommended this real property **not** be considered for disposal. This realty action has been referred to the hazardous materials specialist for further action.
3. This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, a Phase I ESA is recommended.
 4. This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions should be excluded: (describe).

If the Initial Assessment identifies a minor concern, limited additional work may be conducted to determine if a REC is present.

For example, research of state/local environmental records could indicate that Underground Storage Tanks (UST) are present on adjoining property. As part of the Initial Assessment, records could be reviewed to determine if the USTs affect the property proposed for disposal. A Phase I ESA would not be required if the USTs do not affect the property.

If further inquiry is needed to determine if RECs or CERCLA 120(h) concerns are present on the property after completion of the Initial Assessment, a Phase I ESA will be conducted as described in Chapter VII.

C. Who May Conduct and Review

The Initial Assessment may only be conducted by an individual who has completed FRA Training, required refresher training as prescribed by BLM policy and NTC's ESA course for AEPs, or other training based on the current Acquisition and Disposal Handbooks.

The Initial Assessment should be reviewed by an individual who has completed the 40-hour ESA Training.

D. Timing

The Initial Assessment must be completed within 12 months prior to the date of the disposal. An update must be completed if the Initial Assessment is over 1 year old. The Initial Assessment must be completed prior to publication of the notice document so the information is available to prospective applicant/purchasers and the general public. It is also recommended the Initial Assessment be completed before the appraisal is requested. It is a requirement that a visual inspection of the property to be conveyed is completed within 30 days, preferably within 7-10 days, of title conveyance to determine if any conditions on the property have changed. Documentation will be submitted to the state office.

E. Approval Authority

Refer to BLM Manual 1203 - Delegation of Authority; Subject Function Classification Code Reference 1703 to determine the delegated approval/signature level for the proposed action. Also refer to specific state guidance for delegation of authority manual supplements.

F. Initial Assessment Report Outline

1. Opening Sections

- a. Title Page: Identifies the project, office, date, legal description, acreage, case number, etc.
- b. Table of Contents: Follows the outline format where required.
- c. Summary: Brief description of the type of disposal, investigative work completed, concerns, and the recommendation(s).
- d. Introduction: Purpose of the assessment, description of the real property, and limitations of the report.

2. Contaminant Survey Questionnaire

- a. BLM Concerns: Describe any known or suspected RECs.
- b. Questionnaire Not Used: If the questionnaire was not used, provide an explanation and the alternative documentation.

3. Government Records and Historical Sources Research

- a. Records Search: Briefly describe the records searched.
- b. Historical Sources: Briefly describe the historical sources researched.
- c. REC: Describe any RECs identified during the research. If none, so state.

4. Site Reconnaissance

- a. Subject Property Conditions: Describe the conditions on the subject property with emphasis on RECs and CERCLA 120(h) concerns that are affecting or could affect the property.
- b. Adjacent/Surrounding Property Conditions: Describe the conditions on adjacent and surrounding property that could affect or are affecting the subject property.

- c. REC: Describe any RECs identified during the site reconnaissance that are affecting or could affect the subject property. If none, so state.
 - d. Solid Waste and Physical Hazards: Describe and provide maps and photographs.
5. Closing Sections
- a. Conclusions: Provide a description of the conclusions that resulted from the information compiled during the investigation.
 - b. Recommendations: The recommendation statement must be one of the following:
 - (1) This Initial Assessment has not revealed any evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. No further inquiry is needed; therefore, this real property is suitable for disposal.
 - (2) This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is recommended this real property **not** be considered for disposal. This realty action has been referred to the hazardous materials specialist for further action.
 - (3) This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, a Phase I ESA is recommended.
 - (4) This Initial Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions are not suitable for disposal: (describe).
 - c. Approvals: The report should be signed by the preparer, reviewer, and the manager.
6. Appendix
- a. Required Documents: Site map/vicinity maps, landowner contaminant survey, government records and historical sources research, site condition observations, and site photographs are the minimum documents generally required.
 - b. Other Documents: Include other documents used in the investigation to form the conclusions and recommendations. If the documents are lengthy, consider incorporating them by reference in the report text or only include the applicable portions.

G. Example

An example of an Initial Assessment Report is provided as Appendix 10 (Reserved).

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Chapter VII - Phase I Environmental Site Assessment

A. *Significance and Use*

The purpose of the Phase I ESA is to identify RECs in connection with the property, to the extent feasible pursuant to the process described in ASTM Standard E1527-05, or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres).

The Phase I process will be used when:

- There are known or suspected RECs in connection with the property.
- The property involves TFGO.



A Phase I ESA consists of four components:

- Records Review
- Site Reconnaissance
- Interviews
- Report

B. *Who May Conduct and Review*

The Phase I ESA will be conducted or supervised by an individual who has completed the 40-hour ESA Training, and will be reviewed by an Environmental Professional as defined in 40 CFR part 312.10. In most cases, the BLM will employ consultants to complete a Phase I ESA as discussed in Chapter IX of this handbook.

C. *Timing*

The Phase I ESA must be completed within 12 months prior to the date of the disposal. ASTM standards E1527-05, or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres), require that an ESA be updated – for most data elements – if the ESA is more than 180 days old. EPA’s regulations for due diligence audits also require the updating of an ESA – for most data elements – if the ESA is more than 180 days old. The Phase I ESA must be completed prior to publication of the notice document so the information is available to prospective applicant/purchasers and the general public. It is also recommended the Phase I ESA be completed before the appraisal is requested. It is a requirement that a visual inspection of the property to be conveyed is completed within 30 days, preferably within 7-10 days, of title conveyance to determine if any conditions on the property have changed. Documentation will be submitted to the state office.

D. Approval Authority

Refer to BLM Manual 1203 - Delegation of Authority; Subject Function Classification Code Reference 1703, to determine the delegated approval/signature level for the proposed action. Also refer to specific state office guidance for delegation of authority manual supplements.

E. Phase I Report Outline

The Phase I outline is designed for the most complex types of disposal actions. ASTM Standard E 1527 provides a recommended table of contents and report format for acquisition of real property. The format must be modified to comply with BLM policy and to satisfy the legal requirements of CERCLA 120(h) and 40 CFR part 373.

The following outline combines ASTM and BLM requirements. The ASTM requirements are described in ASTM Standard E 1527 or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres) and information related to those requirements can be obtained by referring to the Standard. **The BLM requirements with additional explanation are shown in BOLD TEXT.**

- 1. Cover Sheet:** The cover sheet must include text indicating the office, type of report, legal description, case number, date, and name of the person who prepared the report.
- 2. Table of Contents:** The table of contents will identify major sections of the report and include a listing of appendices.
- 3. Summary:** The summary will include the main points of the disposal action to include a description of the property, the reason for the disposal, brief synopsis of the findings, conclusions, and presentation of the recommendation(s).
- 4. Introduction**
 - Purpose
 - Detailed Scope of Services
 - Significant Assumptions
 - Limitations and Exceptions may include special conditions for the report
 - Special Terms and Conditions that may be considerations or exceptions that are not part of a typical ESA that should be documented
 - User Reliance**This section may be modified to meet the specific needs of the disposal action.**

5. Site Description

- Location and legal description may be brief, but must be sufficient to locate the subject property. If cumbersome, a complete legal description may be placed in the appendix. A map showing the location should also be placed in the appendix
- Site and vicinity general characteristics
- Current use of the property
- Descriptions of structures, roads, and other improvements on the site
- Current uses of the adjoining properties

This section may be modified to meet the specific needs of the disposal action.

6. User Provided Information

- Title Records
- Environmental liens or activity and use limitations
- Specialized knowledge
- Owner, property manager, and occupant information
- Reason for performing Phase I
- Other

This section may be modified to meet the specific needs of the disposal action.

7. Records Review

- Standard environmental record sources
- Additional environmental record sources
- Physical setting sources(s)
- Historical use information on the property
- Historical use information on adjoining properties
- BLM Records

This section may be modified to meet the specific needs of the disposal action.

8. Site Reconnaissance

- Methodology and limiting conditions
- General site setting
- Exterior observations
- Interior observations
- Sampling: Sampling to determine the extent of the contamination should not be done in a Phase I ESA. However, limited sampling may be used to confirm or deny the presence of a contaminant

Sampling during a Phase I might be appropriate to identify a small area of suspected soil contamination. The presence or absence of contamination could be determined by limited sampling. If the BLM funds the sampling and testing, this limited work is defined as costing less than \$10,000 per site while sampling and testing by the BLM beyond the \$10,000 amount may require the next level of site investigation. Sampling must be completed by qualified individuals using proper sampling protocols.

- Solid Waste and Physical Hazards: Describe and provide site maps and photographs
This section may be modified to meet the specific needs of the disposal action.

9. Interviews

- Interview with owner
- Interview with site manager
- Interviews with occupants
- Interviews with local government officials
- Interviews with others

This section may be modified to meet the specific needs of the disposal action.

10. Recognized Environmental Conditions/Historical Recognized Environmental Conditions

This section will include a discussion of the recognized environmental conditions and/or historical recognized environmental conditions on the subject property or on adjacent property or in the surrounding area that could affect the subject property.

The discussion will include all relevant information to include the physical setting, pathways, contaminants of concern, and other information as needed.

11. CERCLA 120(h)/40 CFR part 373 Requirements for Notice

This section will describe Notice requirements and complete an analysis of hazardous substances and/or petroleum products identified in Section 10 to determine if Notice is required in the conveyance document.

12. Findings

The findings section summarizes known or suspected environmental conditions, historical recognized environmental conditions, *de minimis* conditions, and other conditions that affect the subject property.

13. Opinions

The report must include the environmental professional's opinion(s) of the impact on the property of known or suspect environmental conditions identified in the findings section.

14. Conclusions

The report must include a conclusions section that summarizes all recognized environmental conditions connected with the property and the impact of these recognized environmental conditions on the property.

15. American Society for Testing and Materials (ASTM) Statement

The report must include one of the following statements:

- “We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 (or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)) of [insert address or legal description] the property. Any exceptions to, or deletions from, this practice are described in Section [describe if appropriate] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property,”
or;
- “We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 (or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)) of [insert address or legal description] the property. Any exceptions to, or deletions from, this practice are described in Section [] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property, except for the following: (list).”

16. Deviations

All deletions and deviations from this practice (if any) must be listed individually and in detail and all additions should be listed.

17. References

Include citations for any reference sources used in the report.

18. Recommendations

The report must include one of the following recommendations:

- (1) This Assessment has revealed no evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns on this real property. No further inquiry is needed for purposes of appropriate inquiry; therefore, this real property is suitable for disposal.
- (2) This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is recommended this real property not be considered for disposal. This realty action has been referred to the hazardous material specialist for further action.
- (3) This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions should be excluded: (describe).

- (4) This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns and will be conveyed to the Potentially Responsible Party (PRP).

19. Approvals

This section must include the signature of the person who prepared the report, person recommending the report, and the manager who must approve the report.

If the report is prepared by a consultant, a summary sheet prepared by the BLM must be attached to the consultant report with recommendations and signatures for approvals.

20. Qualifications of report preparer based on 40 CFR part 312.10(a)

Include all relevant experience and qualifications if the report is prepared by a consultant.

21. Appendices

- Required Documents: Site map/vicinity maps, landowner contaminant survey, government records and historical sources research, site condition observations, and site photographs are the required minimum documents.
- Other Documents: Include other documents used in the investigation to form the conclusions and recommendations. If the documents are lengthy, consider incorporating them by reference in the report text or only include the applicable portions.

F. Example

An example of a Phase I ESA prepared by the BLM is provided as Appendix 11.

Chapter VIII - Beyond Phase I

A. *Introduction*

A Phase II Site Investigation may be required if the Phase I ESA identifies known or suspected RECs on the property, adjacent property, or in the surrounding area that could affect the property proposed for disposal. In addition, a Phase III cleanup may be completed at the site prior to disposal of the property.

The nature and amount of suspected contamination will determine the regulatory requirements, involvement of Federal and/or state regulatory agencies, and other requirements for the site investigation and potential cleanup action to be taken.

Because of the complexity of the situation, if known or suspected contamination is discovered on property proposed for disposal, the field office/state office hazardous materials specialist or equivalent must be contacted immediately upon discovery.

B. *Regulatory Requirements*

Federal legislation (CERCLA/SARA) created National policy and procedures to identify and cleanup sites contaminated with releases of hazardous substances listed in the legislation. The BLM has been delegated authority to accomplish CERCLA cleanup actions pursuant to requirements of the NCP. Detailed requirements are provided in the *BLM Response Actions Handbook* (NCP/CERCLA).

Petroleum product contamination is generally excluded from CERCLA/SARA, but is regulated under the Resource Conservation and Recovery Act (RCRA), Federal CWA, and the Federal Oil Pollution Act of 1990 (OPA). Identification of petroleum product contamination is required by ASTM as part of the RECs to be documented.

Many states have enacted solid and hazardous waste laws that grant to state regulators the authority to compel cleanup. Some of these laws may be stricter than, or contain requirements in addition to, those imposed under Federal law.

C. *Release Reporting*

A release of a hazardous substance or a petroleum product exceeding the reportable quantities within a 24-hour period requires a Notification (Report) to the National Response Center. In addition, many states also have enacted their own laws governing reporting of hazardous



substance and petroleum releases. Many of these laws impose civil and criminal penalties for failing to report releases.

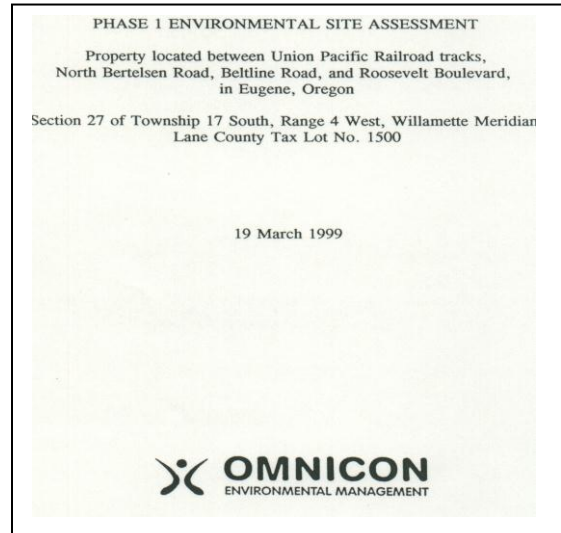
Federal and state laws vary greatly in their requirements; some broadly require reporting by “any person with knowledge.” Reporting under most laws typically is the responsibility of the owner of the property or operator of the facility where the release occurred. In some cases on property proposed for disposal, the discovery of a known or suspected release may be identified from the records search or during the site inspection. The hazardous materials specialist must be contacted immediately to make a determination if notifications to Federal and state regulators are required. In the event that a non-Federal operating entity fails to report, the BLM will report.

Chapter IX - Use of a Consultant for ESAs

A. *Introduction*

A qualified consultant who is an Environmental Professional may be used to complete the ESA work under any circumstance but is frequently engaged when:

- Completion is time critical or there is a budget/workload consideration.
- There is known or suspected contamination.
- The Phase I may identify a release that could result in a CERCLA response action either by the United States or the responsible party.
- A potential exists for future litigation.



B. *Contracting Actions*

A Statement of Work (SOW) must be completed for an ESA. Care must be taken when writing the SOW to ensure that the product will generate the information needed for the disposal action. A simple statement that the ESA will be performed in accordance with the ASTM standards may not produce the desired results. For example, the ASTM standards do not address solid waste or physical hazard issues. If this is a desired result, the requirement must be written into the SOW. Any specific requirements related to the property, such as desired completion date, special requirements, location of records, suggested persons to be interviewed, etc., must be included in the SOW. An example of a SOW for a (Disposal) Phase I Environmental Site Assessment contract is provided in Appendix 12.

A government estimate must be prepared based on the SOW. Based on funding availability, adjustments may have to be made to the SOW to allow completion of the work by a contractor. In these cases, the work completed by the BLM must be integrated into the final report related to the property.

Some states, such as California and Nevada, require that contractors who complete ESAs be certified by the state while others do not. The SOW must include requirements for contractor qualifications (state certifications, if applicable) and provide for a bidder to submit references for evaluation so the BLM may determine if the contractor is qualified.

The contract should also provide an opportunity for the BLM to review the contractor's ESA in draft form. It is critical to ensure that the BLM agrees with the language used by the contractor, and that RECs identified in the report are clearly RECs or identified as possible RECs. The

BLM must also review the consultant's report to determine if it meets all requirements specified in the SOW and clearly meets the requirements of the ASTM Standards. A BLM EP will be involved in the ESA process when consultants are used.

Chapter X - Request to State Office for Issuance of Conveyance Document

A. *Introduction*

The realty specialist transmits a request to the state office to issue the conveyance document for the Federal lands. In addition to the normal requirements, the request for conveyance document must include all indemnification, and covenants as required by CERCLA 120(h) and BLM policy. These requirements are summarized in the following paragraphs.

B. *Conveying Uncontaminated Property*

If processing a Termination of Federal Government Operations (TFGO), refer to section E., otherwise, the conveyance document must include the following: No indemnification, warranties, and covenants are required. (Refer to Chapter III, Paragraph F.)

C. *Conveying Previously Contaminated Property to a Non-Federal Party NOT a PRP*

The conveyance document must include the following:

- Notice as required by CERCLA 120(h)(3)(i) and 40 CFR part 373.3.
- Covenants that read:
 - ✓ “The United States has taken all response actions necessary to protect human health and environment, with respect to the hazardous substance remaining on the property, before the conveyance.” (CERCLA 120(h) Requirement)
 - ✓ “The United States will conduct any additional response action after the date of conveyance.” (CERCLA 120(h) Requirement)
 - ✓ “The United States will be granted access to the property to conduct any additional response action found to be necessary after the date of the conveyance.” (CERCLA 120(h) Requirement)
- Indemnification language (BLM Policy Requirement).

(Refer to Chapter III, Paragraph G.3.)

D. *Conveying Contaminated Property to a PRP*

The conveyance document must include the following:

- Description of known contamination as follows:
 - ✓ Notice of the type and quantity of the hazardous substances or petroleum products that were stored on the property for more than one year, released on the property, or disposed of on the property.
 - ✓ Notice of the time at which the storage, release, or disposal took place.

- ✓ A description of the response taken, if any (CERCLA 120(h) Requirement).
 - A site-specific negotiated response action to be taken by the conveyee (BLM Policy Requirement).
 - A site specific negotiated indemnification language (BLM Policy Requirement).
- (Refer to Chapter III, Paragraph G.4.)

E. Termination of Federal Government Operations (TFGO) Uncontaminated Property

The conveyance document must include the following:

- A covenant that reads:
 - ✓ “The United States shall conduct any response action or corrective action found to be necessary after the date of transfer.” (CERCLA 120(h) Requirement).
 - A clause that reads:
 - ✓ “(Name of Conveyee, and assigns) shall grant the United States access to the property in any case in which a remedial action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.” (CERCLA 120(h) Requirement).
 - Indemnification language (BLM Policy Requirement).
- (Refer to Chapter III, Paragraph H.1.)

F. Termination of Federal Government Operations (TFGO) – Contaminated Property

The conveyance document must include the following:

- Notice as required by CERCLA 120(h)(3)(i) and 40 CFR part 373.3.
 - Covenants that read:
 - ✓ “The United States has taken all response actions necessary to protect human health and environment, with respect to the hazardous substance remaining on the property, before the conveyance.” (CERCLA 120(h) Requirement).
 - ✓ “The United States will conduct any additional response action after the date of conveyance.” (CERCLA 120(h) Requirement)
 - ✓ “The United States will be granted access to the property to conduct any additional response action found to be necessary after the date of the conveyance.” (CERCLA 120(h) Requirement).
 - Indemnification language (BLM Policy Requirement).
- (Refer to Chapter III, Paragraph H.2.)

Appendices

- Appendix 1. Example of a Contract Notice
- Appendix 2. Example of a Deed Notice
- Appendix 3. Example of Indemnification Agreement
- Appendix 4. Example of Letter to State – TFGO
- Appendix 5. Example of Certification Statement for Patenting Lands for another Federal Agency
- Appendix 6. Example of Blank Preliminary Analysis
- Appendix 7. Example of Completed Preliminary Analysis
- Appendix 8. Example of Blank Contaminant Survey Questionnaire / Site Conditions Observations Form
- Appendix 9. Government Records and Historical Sources Research Sample Format
- Appendix 10. Example of Initial Assessment Report (Reserved)
- Appendix 11. Example of Completed Phase I Environmental Site Assessment Report, Real Property Disposal
- Appendix 12. Example of a Statement of Work (SOW) for a contracted Phase I ESA

Appendix 1. Example of a Contract Notice

Pursuant to the requirements of 42 U.S.C. 9620(h), CERCLA 120(h), and 40 CFR part 373, as to the following lands:

T. XX S., R. XX W.
 Sec. XX, Lot X
 XXXXXXXXXXXX Meridian

A complete search of Agency files has revealed the following:

Storage at the site of the following hazardous substance occurred on the above lands for 1 year or more:

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Stored at Site	Dates of Storage
Lindane	58-89-9	None	U129	One pound	2,500 pounds 1,140 kilograms	1975 to 1988

Quantity released at the site: None known or documented.

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Released at Site	Dates of Release
Lindane	58-89-9	None	U129	One pound	None	Not Applicable

Quantity disposed of at the site: None known or documented.

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Disposed of at Site	Dates of Disposal
Lindane	58-89-9	None	U129	One pound	None	Not Applicable

The information contained in this notice is required under the authority of regulations promulgated under Section 120(h) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA or “Superfund” 42 U.S.C. section 9620(h).

Appendix 2. Example of a Deed Notice**CERCLA Notice and Covenant Regarding Hazardous Substances:**

Pursuant to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9620(h) and CERCLA 120(h), as to the following lands:

T. XX S., R. XX W., Sec. XX, Lot X, XXXXXXXXXXXX Meridian

A complete search of Agency files has revealed the following:

Storage at the site of the following hazardous substance occurred on the above lands for one year or more:

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Stored at Site	Dates of Storage
Creosote	n/a	None	U051	One pound	1,000 pounds 454 kilograms	1961 to 1976

Quantity released at the site of the following Hazardous Substance occurred on the above lands:

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Released at Site	Date(s) of Release
Creosote	n/a	None	U051	One pound	Unknown	Oct 1973

Remedial Action Taken: 300 cubic yards of creosote impacted soil was removed and disposed of at an offsite licensed disposal facility. A No Further Action Letter was issued (on date) by the (State) Department of Environmental Quality.

Quantity disposed of at the site: None known or documented.

Name of the Hazardous Substance	Chemical Abstracts Services Registry Number (CASRN)	Regulatory Synonym	RCRA Hazardous Waste Number	Reportable Quantity 40 CFR Part 302.4	Quantity Disposed of at Site	Date(s) of Disposal
Creosote	n/a	None	U051	One pound	None	Not Applicable

The information contained in this notice is required under the authority of regulations promulgated under Section 120(h) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA or “Superfund” 42 U.S.C. section 9620(h).

Access Clause:

“Conveyee covenants that it shall allow and shall require its lessees and licensees to allow, the United States and its agents or contractors access to the Property to undertake, or to oversee the undertaking of, all remedial or corrective actions determined by the United States to be necessary after conveyance of the Property where such remediation or correction addresses contamination on the Property as of the date of Transfer. Such access shall include the authority to enter the Property at all reasonable times; the authority to collect samples and to conduct testing on the Property; the authority to remove, and to dispose of solid or hazardous waste; and the authority to take all other actions which are reasonably incident to or necessary to the conduct of response actions or corrective actions.”

Indemnification Language (BLM Policy Requirement): Refer to Appendix 3 for example.

Appendix 3. Example of Indemnification Agreement

By accepting this (conveyance document) and, to the extent allowed by law, (the conveyee) agrees to indemnify, defend, and hold harmless the United States from any cost, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from past, present, and future acts or omissions of the (Conveyee), its employees, agents, contractors, or lessees, or any third party, arising out of, or in connection with the (Conveyee) use, occupancy, or operations on the real property that has already resulted or does hereafter result in:

- 1) Violations of Federal, state, and local laws and regulations that are now, or may in the future, become applicable to the real property;
- 2) Judgments, claims, and demands of any kind assessed against the United States;
- 3) Cost, expense, or damages of any kind incurred by the United States;
- 4) Other releases or threatened releases on, into, or under land, property and other interests of the United States by solid or hazardous waste(s) or substance(s) as defined by Federal and state law;
- 5) Natural resource damages as defined by Federal and state law; or
- 6) Other activities by which solid or hazardous substances or wastes, as defined by Federal and state law, were generated, used, stored, released, or otherwise disposed of on the real property, and any cleanup, response, or remedial action, or other action related in any manner to said solid or hazardous substances or wastes.

This covenant will be construed as running with the real property, and may be enforced by the United States in a court of competent jurisdiction.

Appendix 4. Example of Letter to State – TFGO

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

TO: [Appropriate State Official]

As part of a proposed [type of disposal] with [Name of Conveyee], the Bureau of Land Management (BLM) has identified the real property in the enclosed Environmental Site Assessment Report as uncontaminated. Based on the work completed as part of the Report, the BLM has found no evidence of hazardous substances or petroleum products on this property.

Under Section 120 (h)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C § 9620(h), the BLM is required to seek the concurrence of the appropriate state official when identifying uncontaminated Federal lands for disposal. By this letter, the BLM requests concurrence. Please note that, under section 120(h)(4)(B), your concurrence is deemed to be obtained if you have not acted within 90 days of receiving this request.

Thank you in advance for your consideration. If you have any questions, you may contact [].

Enclosure

Environmental Site Assessment Report

cc: Environmental Protection Agency

Appendix 5. Example of Certification Statement for Patenting Lands for another Federal Agency

In accordance with the provisions of Section 9620(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), and its implementing regulations of 40 Code of Federal Regulations (CFR) part 373 with regard to the land in the possession of the United States Department of Agriculture, Forest Service (USDA Forest Service) to be patented by the Bureau of Land Management, as described [describe property]. The USDA Forest Service certifies that it has fully complied with all applicable requirements of section 120(h) of CERCLA and 40 CFR part 373. The USDA Forest Service represents that the undersigned individual is authorized to provide such certification.

Signature Block

Appendix 6. Example of Blank Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Property Description

Serial No.

Name:

Location/Tax Lot Number:

Owner:

Name

Phone No.

Type and Purpose of Disposal:

Site Inspection

Date:

Inspection Item	None	Onsite	Nearby
Surface disturbance			
Vegetative differences, stress differences from surroundings			
Sterile/modified water bodies			
Stained areas/discolored stream banks			
Oil slicks/unusual colors on water			
Dump areas (solid waste)			
Structures			
Physical Hazards			
ONSITE existence of any of the above features will require further investigation by proceeding to an Initial Assessment or Phase I unless justified in the comments section.			
Past Uses of the Property:			
Current Uses of the Property:			

Example of a Blank Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Records Search/Historical Sources: RECs Present.

Date:

Type of Record	RECs Present		If yes, Describe
	Yes	No	
BLM Records			
Landfills/Dumps			
USTs/LUSTs			
MTP			

Any YES answers to the above questions will require further investigation by proceeding to an Initial Assessment or a Phase I.

Aerial Photos - Years Reviewed:

Description of What Can Be Observed:

Anomalies/Recognized Environmental Conditions:

Questionnaire/Interviews (Optional)

BLM:

Other:

Comments:

Example of a Blank Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Recommendation (Check 1): The FEDERAL real property is land on which no Federal Government Operations have been conducted or terminated.

- This Preliminary Analysis has not revealed any evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. No further inquiry is needed; therefore, this real property is suitable for disposal.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is recommended this real property **not** be considered for disposal. This realty action has been referred to the hazardous materials specialist for further action.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, a Phase I Environmental Site Assessment is recommended.
- This Preliminary Analysis has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions should be excluded: (describe).

Approvals

Prepared By:			
Name:		Date:	
Signature:		Title:	
Reviewed By:			
Name:		Date:	
Signature:		Title:	
Recommended By:			
Name:		Date:	
Signature:		Title:	
Approved By:			
Name:		Date:	
Signature:		Title:	

Attachments:

		Site Map
		Aerial Photograph
		Site Photographs

Appendix 7. Example of Completed Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Property Description

Serial No. OR [REDACTED]

Conveyance To: To be sold as competitive sale.

Location/Tax Lot No.: [REDACTED]; T. [REDACTED] S., R. [REDACTED] W., sec. [REDACTED], lots [REDACTED] and [REDACTED], W.M.

Purpose of Disposal: Land Sale - Disposal of Unmanageable Lands

Site Inspection

Date: August 29, 2001

Inspection Item	None	Onsite	Nearby
Surface disturbance		XXX	
Vegetative differences, stress differences from surroundings		XXX	
Sterile/modified water bodies	XXX		
Stained areas/discolored stream banks	XXX		
Oil Slicks/unusual colors on water	XXX		
Dump areas	XXX		
Structures		XXX	
Any ONSITE presence of any of the above features will require further investigation by proceeding to an Initial Assessment or Phase I unless justified in the comments section.			
Past Uses of the Property: <u>Gravel road, structures, forest lands, pastures, power line, right-of-way</u>			
Current Uses of the Property: <u>Gravel road, structures, forest lands, pastures, power line, right-of-way</u>			

Example of a Completed Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Records Search/Historical Sources

Date: August 29, 2001

Type of Record	RECs Present		If yes, Describe
	Yes	No	
BLM Records		XXX	
Landfills/Dumps		XXX	
USTs/LUSTs		XXX	
MTP		XXX	

Any YES answers to the above questions will require further investigation by proceeding to an Initial Assessment or a Phase I.

Aerial Photos - Years Reviewed: 2000

Description of What Can Be Observed: There is a gravel road extending from the east edge of the parcel [REDACTED] approximately 620 feet west to provide access to homes on tax lot [REDACTED] and [REDACTED]. The western end of the parcel has a Bonneville Power Administration (BPA) power transmission line with cleared vegetation. There is also some second growth timber on the western end of the parcel.

Anomalies/Recognized Environmental Conditions: None observed.

Interviews

During the site inspection, the resident at tax lot [REDACTED] was interviewed about the contents of the structure on the parcel. He stated it was used for vehicle parking and there were no hazardous materials stored inside except that normally associated with general household use.

Comments:Site Inspection:

The site inspection was conducted by [REDACTED] on August 29, 2001. The parcel is generally flat for a distance of about 620 feet west from [REDACTED] Road. There is a gravel road on this portion with two separate residences north of the gravel road. The western most residence includes a vehicle parking structure on the parcel. From there, the terrain climbs uphill to the western end at the crest of the ridge. There is a gravel road that is part of the BPA right-of-way access that continues nearly to the western end of the parcel. There is logged over second growth on portions of the western end of the property. There were three sheep and a cow grazing on the parcel during the inspection.

Example of a Completed Preliminary Analysis

**Environmental Preliminary Analysis
Real Property Disposal**

Recommendation:

This Preliminary Analysis has not revealed any evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. No further inquiry is needed; therefore, this real property is suitable for disposal.
--

Approvals

Prepared By:			
Name:		Date:	
Signature:		Title:	Env. Prot. Specialist
Recommended By:			
Name:		Date:	
Signature:		Title:	South Valley Field Manager
Approved By:			
Name:		Date:	
Signature:		Title:	District Manager

Attachments:

XXX		Site Map
XXX		Aerial Photograph
XXX		Site Photographs

Appendix 8. Example of Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

U.S. Department of the Interior
BUREAU OF LAND MANAGEMENT

CONTAMINANT SURVEY QUESTIONNAIRE/
SITE CONDITIONS OBSERVATIONS
OF PROPOSED REAL ESTATE DISPOSAL

INSTRUCTIONS:

This form may be used by both the BLM as Owner/Occupant and by the BLM Site Inspector or Contractor completing the Site Conditions Observations Inspection. If the form is to be completed by the BLM as the owner/occupant, the form should be completed prior to the site inspection to allow visual confirmation of the information provided.

If a response to a question is YES, comment in the space provided. If additional space is needed, use separate sheets of paper referencing the paragraph number. The preparer(s) will sign and date the appropriate blocks on the final page.

Property Data

Name: _____ Serial No. _____
Address/Legal Description: _____
City: _____ County: _____ State: _____ Zip: _____

BLM/Operator/Representative for Questionnaire

Name: _____ Address: _____
Date Prepared: _____ Phone: _____
Organization: _____

Site Inspector for Site Conditions Observation

Name: _____ Title: _____
Date Prepared: _____ Phone: _____
Organization: _____

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

ISSUES

1. Is the <i>property</i> or any <i>adjoining property</i> currently used for an industrial use?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

2. To the best of your knowledge, has the <i>property</i> or any <i>adjoining property</i> been used for an industrial use in the past?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

3. Is the <i>property</i> or any <i>adjoining property</i> currently used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard, landfill, as a waste treatment, storage, disposal, processing, mine or mineral processing facility (mill site), or recycling facility?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

4. To the best of your knowledge, has the <i>property</i> or any <i>adjoining property</i> been used in the past as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard, landfill, waste treatment, storage, disposal, processing, mine or mineral processing facility (mill site), or recycling facility?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

LAND ISSUES

5. Are there currently or, to the best of your knowledge, have there been previously any damaged or discarded automotive or industrial batteries, or pesticides, paints, or other chemicals in individual containers of greater than 5 gallons (19 L) in volume or 50 gallons (190 L) in the aggregate, stored on or used at the *property* or at the facility.

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

6. Are there currently or, to the best of your knowledge, have there been previously any industrial *drums* (typically, 55 gallons (208 L)) or sacks of chemicals located on the *property* or at the facility?

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

7. Has *fill dirt* been brought onto the *property* that originated from a contaminated site or that is of an unknown origin?

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

8. Are there currently or, to the best of your knowledge, have there been previously any *pits, ponds, or lagoons* located on the *property* in connection with waste treatment or waste disposal?

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

9. Is there currently or, to the best of your knowledge, has there been previously any *stained soil* on the *property*?

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

10. Are there currently or, to the best of your knowledge, have there been previously any registered or unregistered *storage tanks* (above or underground) located on the *property*?

Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

11. Are there currently or, to the best of your knowledge, have there been previously any <i>vent pipes, fill pipes, or access ways</i> indicating an underground storage tank on the <i>property</i> or adjacent to any structure located on the <i>property</i> ?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

STRUCTURE ISSUES

12. Are there currently or, to the best of your knowledge, have there been previously any <i>flooring, drains, or walls</i> located within the facility that are stained by substances other than water or are emitting foul odors?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

13. Are there any lead paint, asbestos, fluorescent lights, PCBs, or related issues?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

OTHER ISSUES

14. If the <i>property</i> is served by a private well or nonpublic water system, have contaminants been identified in the well or system that exceed guidelines applicable to the water system or has the well been designated as contaminated by any government environmental/health agency?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

15. Does the <i>owner or occupant</i> of the <i>property</i> have any knowledge of <i>environmental liens</i> or governmental notification relating to past or current violations of environmental laws with respect to the <i>property</i> or any facility located on the <i>property</i> ?			
Owner/Occupant:	_____ Yes	_____ No	_____ Unknown
Comments:			
Observed During Site Visit	_____ Yes	_____ No	_____ Unknown
Comments:			

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

16. Has the <i>owner or occupant</i> of the <i>property</i> been informed of the past or current existence of <i>hazardous substances or petroleum products</i> or environmental violations with respect to the <i>property</i> or any facility on the <i>property</i> ?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

17. Does the <i>owner or occupant</i> of the <i>property</i> have any knowledge of any <i>environmental site assessment</i> of the property or facility that indicated the presence of <i>hazardous substances or petroleum products</i> on, or contamination of, the <i>property</i> or recommended further assessment of the <i>property</i> ?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

18. Does the <i>owner or occupant</i> of the <i>property</i> know of any past, threatened, or pending lawsuits or administrative proceedings concerning a release or threatened release of any <i>hazardous substance or petroleum products</i> involving the <i>property</i> by any owner or occupant of the <i>property</i> ?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

19. Does the <i>property</i> discharge waste water on or adjacent to the <i>property</i> , other than storm water, into a sanitary sewer system?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

20. To the best of your knowledge, have any <i>hazardous substances or petroleum products</i> , unidentified waste materials, tires, automotive or industrial batteries, or any other waste materials been dumped above grade, buried, and/or burned on the <i>property</i> ?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

21. Is there a <i>transformer, capacitor, or any hydraulic equipment</i> for which there are any records indicating the presence of PCBs?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form

22. To the best of your knowledge, has there been a spill or release of a hazardous substance, including oil and petroleum products, on the property?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

23. To the best of your knowledge, has there been a spill or release of a hazardous substance, including oil and petroleum products, on the adjoining properties?			
Owner/Occupant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			
Observed During Site Visit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Comments:			

Additional issues that could result in Recognized Environmental Conditions on the Subject Property or on adjacent property or in the surrounding area that could affect the Subject Property:

Example of a Blank Contaminant Survey Questionnaire/Site Conditions Observations Form
--

BLM as Owner/Occupant Inquiry and Response	
Preparer represents that to the best of the preparer's knowledge the above statements and facts are true and correct and, to the best of the preparer's actual knowledge, no material facts have been suppressed or misstated	
Signature:	Date:
Name (Printed):	
Title/Organization (If Appropriate):	
Phone Number:	
Site Conditions Observations	
The <i>preparer</i> of the <i>questionnaire</i> must complete and sign the following statement:	
Preparer represents that to the best of the preparer's knowledge the above statements and facts are true and correct and to the best of the preparer's actual knowledge no material facts have been suppressed or misstated.	
Signature:	Date:
Name (Printed):	
Title/Organization (If Appropriate):	
Phone Number:	

Appendix 9. Government Records and Historical Sources Research Sample Format

Government Records and
Historical Sources Research

Description of Site:				
1. Environmental Records Reviewed				
Records Reviewed*	Minimum Search Distance from Property Boundary	Agency*	YES	NO
Emergency Response Notification System (ERNS)	On the Property	EPA		
State Superfund as Appropriate	1 Mile	DEQ		
National Priority List (NPL)	1 Mile	EPA		
Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS)	0.5 Mile	DEQ		
Treatment, Storage, and Disposal Facilities (TSDF)	1 Mile	DEQ		
Resource Conservation and Recovery Act generators (RCRA)	On or adjacent to the property	Internet or DEQ		
Emergency Response Reports (SARA 304)	On or adjacent to the property	DEQ		
Underground Storage Tanks (UST)	On or adjacent to the property	DEQ		
Leaking UST (LUST)	0.5 Mile	DEQ		
Landfills and Dumps	0.5 Mile	DEQ/BLM/County		
Contaminated Well Records	On or adjacent to the property	DWR/DEQ		

* Records name and agency will vary from state to state

Government Records and Historical Sources Research Sample Format
--

Government Records and
Historical Sources Research

Description of Site:		
2. Historical Sources. At least one historical source dating back to 1940 must be used		
Aerial Photographs	_____ to _____	(Describe past uses of the property and adjoining property)
Recorded Land Title Records:		
Building Department Records:		
Zoning/Lane Use Records:		
Other (Describe):		

Government Records and Historical Sources Research Sample Format

BLM RECORDS REVIEW

Yes	No	Have there been any special use permits, leases, or concessionaire activities including mining, landfills, solid waste transfer facilities, log transfer facilities, small arms ranges, lodges, resorts, campgrounds, or similar activities associate with this property? If yes, comment.
		Comment:

Yes	No	Have activities on the property (BLM or other) included any of the following: nurseries, warehouse, vehicle maintenance, or mixing of chemicals, paints, pesticides, petroleum products or wastes? If yes, comment.
		Comment:

Yes	No	<p>Have any of the following conditions been met:</p> <ol style="list-style-type: none"> 1. Any hazardous substance was stored for 1 year or more: <ol style="list-style-type: none"> a. In quantities greater than or equal to 1000 kilograms (2,205 pounds) or the hazardous substances that are of CERCLA reportable quantity found at 40 CFR part 302.4, whichever is greater. b. Hazardous substances that are also listed under 40 CFR part 261.30 as acutely hazardous wastes when stored in quantities equal to or exceeding 1 kilogram (2.2 pounds). 2. Release of hazardous substances in quantities equal to or exceeding substances reportable quantity found at 40 CFR part 302.4. 3. Disposal of any hazardous substance, regardless of quantity on the property. 4. Any threat of a release of hazardous substance or release of a petroleum product or its derivatives, including aviation fuel and motor oil, excluding <i>de minimus</i> quantities.
		Comment:

Appendix 10. Example of Initial Assessment Report (Reserved)

Appendix 11. Example of Completed Phase I Environmental Site Assessment Report, Real Property Disposal

**U.S. Department of the Interior
Bureau of Land Management
Eugene District**

**Phase I Environmental Site Assessment
Report
Real Property Disposal**

**XXXXX XXXX
STXXXXX**

Date

**Prepared By
XXXX X. XXXXXX
Env. Prot. Spec.**

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Appendices Not Included in this Document

Executive Summary

This real property disposal action is to resolve an occupancy trespass that has occurred at XXXXX Smith Creek Road. The tract of land is located in Township XX South, Range X West, Section X, Government Lot X, Willamette Meridian, along BLM Road Number XX-X-X, approximately 10 miles east of Cottage Grove, in Lane County, Oregon.

The tract of land is approximately 0.45 acres in size and is located to the north of the property owned by Mr. XXXXX XXXX. The subject property has a wood structure identified as the workshop, half of a garage, and a graveled parking area.

During completion of this Environmental Site Assessment, it was discovered the workshop had been used for the manufacture of illegal drugs in 1991. Lane County Land Management Division issued a letter to Mr. XXXX advising him the property was “Unfit for Use”. Subsequent research determined the building in question was on lands managed by the Bureau of Land Management (BLM) and had been used to manufacture illegal drugs. The current landowner stated he had purchased the property without knowledge of the trespass or past use of the building.

The BLM hired a state-licensed contractor, Lucky Strike Environmental, to accomplish pre-sampling, decontamination, and post-sampling in the structure in compliance with regulatory requirements. Work was accomplished and the State of Oregon issued a Certificate of Fitness indicating cleanup had been accomplished to state standards. Cleanup has been completed on the subject property.

Disposal of this real property is recommended.

Introduction

Purpose

The purpose of this Environmental Site Assessment (ESA) for *real property disposal* is to evaluate past and current practices at the site which may have resulted in an environmental impact to the property. An additional purpose of this ESA is to determine if Notice as specified in Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act ((CERCLA 120(h)) and 40 CFR (Code of Federal Regulations) part 373 would be required.

Use of ASTM Standards

Departmental Manual 602, Chapter 2, requires Bureaus to adapt the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process E 1527 for acquisition of real property. The Department does not currently provide guidance for completion of a report related to *real property disposal*. However, ASTM E 1527-00 was used as a guideline for the preparation of this ESA with modifications to meet requirements of CERCLA 120(h) and 40 CFR part 373.

ASTM E 1527-00 provides the following definitions of terms that are used in this ESA:

1. *Recognized environmental conditions*: the presence or likely presence of any *hazardous substances* or *petroleum products* on a *property* under conditions that indicate an existing release, a past release, or a material threat of a release of any *hazardous substances* or *petroleum products* into structures on the property or into the ground, ground water, or surface water of the *property*. The term includes *hazardous substances* or *petroleum products* even under conditions in compliance with the law. The term is not intended to include *de minimis* conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be *de minimis* are not *recognized environmental conditions*. (Reference ASTM E 1527-00 3.3.31)
2. *Historical recognized environmental condition*: environmental condition which in the past would have been considered a *recognized environmental condition*, but which may or may not be considered a *recognized environmental condition* currently. The final decision rests with the *environmental professional* and will be influenced by the current impact of the *historical recognized environmental condition* on the property. If a past release of any hazardous substances or petroleum products has occurred in connection with the property and has been remediated, with such remediation accepted by the responsible regulatory agency (for example, as evidenced by the issuance of a no further action letter or equivalent), this condition shall be considered an *historical recognized environmental condition* and included in the findings section of the Phase I *Environmental Site Assessment* report. The

environmental professional shall provide an opinion of the current impact on the property of this *historical recognized environmental condition* in the opinion section of the report. If this *historical recognized environmental condition* is determined to be a *recognized environmental condition* at the time the Phase I *Environmental Site Assessment* is conducted, the condition shall be identified as such and listed in the conclusions section of the report. (Reference ASTM E 1527-00 3.3.16)

Non-Scope Considerations

This ESA does not address non-scope considerations as discussed in ASTM E 1527-00, Paragraph 12. These limitations included but are not limited to asbestos-containing-materials, radon, drinking water quality, and other similar items.

Limitations

The purpose of a Phase I Environmental Site Assessment is to reasonably evaluate the potential impact of past and current uses of the subject property or adjacent and surrounding property that could impact the subject property. Every effort was made through interviews, records searches, and site reconnaissance to identify concerns associated with this property.

In addition, reliance was placed upon government agency records and employees of government agencies to ensure BLM compliance with state and county laws, regulations, and codes.

This report was prepared over a specific period of time. Site conditions may have changed or the current owner may have taken actions at the site after the work was completed.

Hazardous Materials Case File

A Hazardous Materials Case File is maintained as an official file for this site in the Environmental Protection Specialist's locking fireproof safe. Additional information is contained in the Hazardous Materials Case File.

The Name of the file is: XXXXX XXXX Disposal: Methamphetamine Decontamination of Structure at XXXXXX Smith Creek ST XXXXX and the Subject Code is: 1703 04-01.

Site Description

Location and Legal Description

The subject property is located approximately 10 miles of east of Cottage Grove in Lane County, Oregon. The tract of land is located in Township XX South, Range X West, Section X, Government Lot X, Willamette Meridian, along Smith Creek Road, Road Number XX-X-X.

Vicinity and Site Characteristics

The site/subject property is currently a gravel parking lot with a structure and a portion of another structure. The vicinity is primarily forested timber lands with another residence approximately one-half mile to the west. The area is rural in nature with little development. Travel to the site is via a logging road that provides access to private and Federal lands being managed for forest use. A vicinity map is provided as Appendix 1 and a site map is provided as Appendix 2.

Current use of the Property

The subject property and adjacent property was surveyed in 1941. The adjacent property line was surveyed by Weyerhaeuser to establish the cutting line prior to logging. It was discovered that a trespass onto BLM and Weyerhaeuser lands from the property identified as XXXXX Smith Creek Road, currently owned by XXXXX X. XXXX, had occurred.

The subject property is to the north of the property currently owned by Mr. XXXX. It has been graveled and is currently being used to store vehicles, off-road vehicles, bulky solid wastes, and a variety of other items. At the southeast corner is a structure identified as a workshop. At the southwest corner is a structure identified as the garage that is constructed approximately one-half on Mr. XXXX's property and one-half on BLM-managed property. This area is 0.45 acres in size.

Descriptions of Structures, Roads, Other Improvements on the Site

The road leading to the site is a one-lane gravel road/turnout that has been paved immediately in front of the residence as a dust control measure.

The workshop is a two-story wood structure with an attached carport. It is being used for general storage and has a workbench with power tool storage. It has electricity but the sewer line running to the septic tank system has been disconnected. The second floor contains a small room which appears to be used as a bedroom. This structure has been identified as the site of illegal drug manufacturing which will be discussed in subsequent portions of this report.

The garage is a wood-frame structure used for vehicle parking and storage.

The graveled area is irregular in shape. The southern boundary extends east from the logging road 150.38 feet east to a point just east of the workshop. The boundary then extends north 119.02 feet, then 111.26 feet west, back to the logging road, then 176.40 feet south back to the point of beginning. The area is primarily gravel with a small grass edge between the gravel and boundary along portions the east and north boundary. The graveled area is currently being used to store several vehicles, both complete and incomplete, several off-road vehicles, a trailer house, aboveground tanks, wood materials, bulky wastes, and other miscellaneous items.

Current Uses of the Adjoining Properties

The area to the west and north is forested and managed by the BLM. The area to the south is owned by Mr. XXXX and includes a manufactured home, lawns, and another graveled driveway. The area to the east is on land managed by the BLM, and there has been surface disturbance to include work in and along Smith Creek. A pond has been constructed to the south east which is on [REDACTED] land. Overall, lands in the surrounding area are being used for timber management.

Records Review

Standard Environmental Record Sources

The subject property is located approximately 10 miles east of Cottage Grove in a rural/forested area. Records in this area extremely limited. For example, there are no National Priorities List (NPL), Oregon Confirmed Release List Sites, underground storage tanks/leaking underground storage tanks, or similar records that identify any sites of concern within the minimum search distances that could affect the subject property. In addition, there were no landfill/dumps or solid waste transfer stations identified that would affect the subject property.

Additional Environmental Record Sources

The following report was also reviewed: Methamphetamine Lab/Address Tracking Report (Updated 3/18/03) for Lane County. This report lists vehicles, RVS and trailers, and land and residential sites in Lane County that have been utilized for the manufacture of methamphetamine when a law enforcement investigation has been conducted. This list has been developed by the Oregon Department of Human Services (DHS) who administers the program on a state-wide basis. In Lane County, compliance is administered by the Lane County Land Management Division. The report reviewed concerns Lane County only and included the following site:

XXXXX Smith Creek Road, Cottage Grove, with a notification date of 03/13/1991 and a notation was taken from ODH Unfit for Use List 3/21/2001.

This is the address of XXXXX X. XXXX Property. The significance of this listing will be addressed in the Historical Recognized Environmental Conditions section of this report.

Historical Use Information on the Property

On November 5, 2003, an attempt was made to review the records related to the demolition and removal of the original house, placement of the existing manufactured home, and construction of the existing garage on the property which appears to have taken place in 1995. These records are in the custody of Lane County Department of Public Works, Land Management Division, in Eugene, Oregon. Lane County was unable to locate these records and therefore they were not reviewed. Refer to the interview with Xxx Xxxx, Compliance Officer, dated November 5, 2003, in the Interview Section of this Report. Additional information related to improvements are provided in the interview with XXXXX XXXX, dated August 21, 2003, also in the Interview Section of this report.

Aerial Photographs

Aerial photographs were examined to assist in determining past and current uses of the property. To assist in the interpretation, all the photos show two driveways, one to the south and one to the north. The **south driveway** is still present and provided the main access to the original house which is no longer on the property. The **north driveway** provides the main access to the current manufactured home, garage, workshop, and the graveled parking area, currently in trespass. Aerial photographs are provided as Appendix 3.

- 1969 South Driveway is in and house is present. Land has been cleared to the north.
- 1979 South Driveway provides access to the large house. There is also a small structure at the end of the driveway south of the house. North Driveway, the workshop is present. There is a path leading from the house to the workshop. Another structure is present north of the workshop. There are lawns between the house and workshop.
- 1984 No change.
- 1990 South Driveway, very little change. Trees have grown closer to house from Smith Creek. North Driveway, workshop still present. Structure identified in 1979 photo is gone but another closer to workshop has appeared. Cleared area has expanded to north. The lawns identified on the 1979 photo are not as defined as grass and may be more field-like.
- 1995 The house accessed by the south driveway is gone and there is nothing in its place. Other structures in this area are also gone. The tree line extending from Smith Creek to the edge of the cleared property is the same as the 1990 photo. At the north driveway, the workshop is still present. All other structures have been removed. The driveway leads directly to the workshop and the cleared area appears to be returning to vegetation. The field areas that were previously lawns have been mowed.
- 2000 The photo was taken on May 21, 2000, and shows a manufactured home present at the approximate location of the old house, which was present in the 1990 photo but missing in the 1995 photo. The south driveway is still present but has been widened and a structure is visible at the east end of the driveway.

The row of trees between Smith Creek and the cleared area has been removed. A pond has been constructed adjacent to Smith Creek, east of the manufactured home and southeast of the workshop.

The north drive has been expanded into a gravel area extending to the north with objects in place on the gravel. The workshop is still present. A row of trees remains just east of the workshop, but vegetation has been removed adjacent to Smith Creek. A garage has been constructed with access from the north driveway. Most of the cleared area is grass lawns and well-maintained.

Physical Setting Sources

The physical setting was not a concern for this disposal action. A Phase I Environmental Site Assessment for this disposal action was required because of the past use of the workshop for the manufacture of illegal drugs.

The four pathways for contamination include soil contact, surface water, groundwater, and air. No evidence was identified during this assessment that indicated a release or disposal of hazardous substances or petroleum products had occurred on the subject property. Since there was no evidence of a release or disposal occurring on the subject property, the pathways were not reviewed.

Interviews

Objective

The objective of interviews is to obtain information indicating *recognized environmental conditions* related to the subject property. In order to accomplish that objective, this portion of the report will discuss interviews, email correspondence, and other forms of communication related to the subject property.

Email from Larry (BLM Realty Specialist) to Curley (Ranger) dated 03/27/2003

Larry stated that while visiting Mr. XXXX at the site with Xxxx XXXXXXXX (Appraiser), Mr. XXXX provided him with a letter from Lane County advising the property was “Unfit for Use” due to past illegal drug manufacturing that took place in one of the buildings on the property. The letter was signed by Xxx Xxxx/Compliance Officer Lane County Public Works Department.

Larry contacted Xxx Xxxx. According to the information in the email, Xxx Xxxx stated the date of the meth manufacturing was 3/13/1991, but he did not know which building was involved and that information would have to come from police records, i.e. INET.

Larry requested Curley to follow up with INET to determine which building was contaminated.

Site Visit 04/02/2003

Curley and Moe (Hazardous Materials Coordinator) met with Dxxx Fxxxxxxx, Cottage Grove Police Department at XXXXX Smith Creek Road. Officer Fxxxxxxx was present at the property when the arrest and investigation took place in 1991. He identified the existing older structure located on the BLM-managed property as the building when the meth cooking took place. Officer Fxxxxxxx stated they were not actually cooking at the time of the bust, but drugs were present both inside and outside the structure. He could not remember the type or quantity of drugs seized.

The structure identified as being used for cooking was located on the BLM-managed property and identified on the site maps as the workshop.

Telephone Interview on 4/15/2003: Moe with Dxx Wxxx (Compliance Officer Lane County Public Works Department)

Dxx Wxxx stated INET deemed the property contaminated and sent the address to him and he does the follow-up. He had no information about the chemicals at the site. He agreed to provide, via email, a listing of known sites in Lane County.

**Telephone Interview on 4/15/2003: Moe with Txx Mxxxxxxx (Oregon Health Division
Clandestine Drug Lab Cleanup Program**

Txx Mxxxxxxx had a three-page report that listed the chemicals and locations where they were located. He agreed to FAX the report.

The Oregon State Police Report included the following information:

- A. Lab located in single family home/living area.
- B. Stored lab chemicals in sealed containers.
- C. All chemicals were liquid and included the following:
 - Methylamine - 1 gallon
 - Hydrochloric Acid - 2 pints
 - Methamphetamine Sludge - 1 quart
 - Chloroform - 1 quart
 - Acetone - 1 pint
 - Iosphophol Alcohol - 2 ½ gallons
- D. Acetone, alcohol, and meth sludge found inside the structure, the remainder approximately 100 yards south of the structure.

Contact with Lucky Strike Environmental - Initial Contact was 5/12/ 2003

Lucky Strike Environmental (Lucky Strike), a contractor on the Oregon Department of Health Services list of Licensed Contractors for performing drug lab decontamination, was contacted to discuss requirements at this site. Documentation related to that effort is provided in Historical Recognized Environmental Conditions Section of this Report.

Lucky Strike performed work at the site as follows:

- E. 5/29/2003 Initial Site Evaluation
- A. 5/29/2003 Sampling From Inside the Structure
- B. 9/15/2003 Site Decontamination
- C. 9/15/2003 Post Sampling

**Telephone Interview on 8/12/2003: Moe with Txx Mxxxxxxx/Oregon Health Division
Clandestine Drug Lab Cleanup Program**

We discussed the samples taken on 5/29/2003 as narrowly exceeding the cleanup standards for lead. Txx Mxxxxxxx stated the state would require cleanup and would not grant any variations to the standards as there was no guarantee that the structure would not be used/occupied by children in the future. He further stated the written reports from the contractors are reviewed without written comments. Because of their small staff, the only written response would be the final acceptance of work completed.

In Person Interview on 8/21/2003 at the site: Moe with XXXXX XXXX

Mr. XXXX had a partial file with documents related to past work at the site.

Permit No. XXXX-XX permitted the placement of the manufactured home that is currently in place. It also required the existing (old) septic tank be pumped and filled with sand and a new septic tank be installed.

Demolition Permit XXX-XX provided for the demolition of the existing single family structure. Mr. XXXX's file contained a photograph of the old house in poor condition. That house is now gone and the manufactured home is in the same location.

He further stated the flood of 1995-96 washed out the sewer line from the workshop (structure where the meth lab was located), and the sewer line is not connected to the septic tank.

In Person Interview on 11/05/2003 at Lane County: Moe with Xxx Xxxx, Compliance Officer with the Lane County Department of Public Works, Land Management Division

Lane County Staff and Xxx Xxxx were unable to locate Permit XXXX-XX or Demo Permit XXX-XX. Mr. XXXX was unable to locate these files but we discussed the site. He stated he was not pursuing the enforcement action as he knew the BLM was proceeding with the cleanup. Moe explained we had completed all work at the site and were waiting for the Certificate of Fitness from the Oregon Department of Health Services.

Site Reconnaissance

Because of the complexity of this site, multiple site visits were made. The property to be conveyed includes the following:

- Existing two-story wood frame wood structure identified as the workshop with an attached carport. The structure has electricity and water but does not have sewer. This structure is in trespass and will be conveyed as part of this disposal action.
- Approximately half of a two-car garage is on the property. The garage is being used for vehicle parking and storage of standard items found in most garages.
- The bulk of the property included in the disposal is a gravel parking lot. The area adjacent to the workshop and garage is basically open area. The area to the north and west of the two structures is being used for vehicle parking, vehicle storage, solid waste piles, and a collection of miscellaneous items including ATVs, heavy equipment, lumber, aboveground storage tanks, a small trailer house, and propane cylinders.

Because of the type of items currently stored on the gravel area, the area was inspected for evidence of petroleum contamination. There was no sheen on any of the standing water puddles on the site. In addition, only very small areas of potential petroleum staining were identified on the gravel. By definition, the stained areas would be considered *de minimis* quantities. However, a detailed inspection of the graveled area was not conducted due to the number and type of vehicles stored on the property and other items which could have obscured contamination present on the gravel.

The adjacent property to the northwest includes lawn on the BLM-managed property and Smith Creek. This area has been cleared with equipment and includes a small pond located on [REDACTED] property. There is also surface disturbance between the workshop and Smith Creek on the BLM-managed property that is not being conveyed as part of this disposal action. The surrounding area is used primarily as rural and timber lands.

Site photographs are provided in Appendix 4.

Historical Recognized Environmental Conditions

Regulatory Requirements

The State of Oregon has promulgated laws and rules related to the decontamination of illegal drug manufacturing sites. The Statutory Authority is contained in Oregon Revised Statutes (ORS) 453.864 and rules are contained in Oregon Administrative Rules (OAR) Division 40 Decontamination of Illegal Drug Manufacturing Sites. The Health Department of the Department of Human Services is charged with the enforcement of the ORS and OAR related to these requirements.

The process begins with a determination that a property is unfit for use and applies to any property that is known to have been used as an illegal drug manufacturing site, or for which there are reasonable grounds to believe that the property has been used as an illegal drug manufacturing site. An Unfit for Use Listing is maintained by the State Department of Consumer and Business Services-Building Codes Division. Generally, sites are placed on this listing as a result of a police action and subsequent reporting to the Department.

The owner of property determined to be unfit must:

- A. Prevent by reasonable means the entry, occupancy, or use whatsoever by anyone of the property in question until the property has been issued a Certificate of Fitness.
- B. Retain a contractor licensed by the State to supervise the decontamination effort, including:
 - performing a site assessment
 - supervising site sampling by an independent third party
 - submitting a work plan for approval
 - decontaminating the property/supervising site confirmation sampling by an independent third party
 - submit final report for approval and request Certificate of Fitness

Decontamination and Issuance of the Certificate of Fitness

The Department of Human Services provides a list of contractors licensed to perform decontamination work. The list dated February 4, 2003, was consulted to determine which potential contractors were available in the local area. Lucky Strike Environmental Company appeared on the list and had been used for environmental cleanup in the past and was determined to be an appropriate contact.

Lucky Strike Environmental was contacted by Moe on May 12/13/ 2003, to discuss decontamination of the site. Mr. JXX XXXXX, Project Manager, became the contact for completion of the work. Information included the data from the Unfit for Use Letter, location, and types of chemicals found at the site. Mr. XXXXX stated he would contact the state and obtain the list, determine requirements, and submit a cost proposal for doing the sampling. On Monday, May 19, 2003, JXX XXXXX, Larry, and Moe met MXXXX XXXX at the site and the structure was examined to determine requirements and assist JXX XXXXX in preparation of a cost estimate.

Lucky Strike submitted a Cost Estimate Proposal, TASK I - Initial Site Evaluation and Pre-Sampling, dated May 21, 2003, for Total Cost Estimate of \$1,800. The Proposal was accepted on May 22, 2003.

On Thursday, May 29, 2003, JXX XXXXX, DXXXX JXXX/independent sampler, and Moe went to the XXXX property. Samples were taken from the workbench, floor, walls, upstairs floor, and from soil in the carport. Samples were tested for lead and mercury.

The Site Evaluation and Pre-Sampling Report was received at the Eugene District Office on June 26, 2003 and is provided as Appendix 5. The sample results were as follows:

Sample ID	Sample Collection Area	Lead		Mercury	
		Results ug/sq ft	Cleanup Standards ug/sq ft	Results ug/sq ft	Cleanup Standard s ug/sq ft
A-1	Main Floor: Floor Area	15.8	>10.0	<0.005	>0.05
B-1	First Floor: Bench and Wall	21.2	>10.0	<0.005	>0.05
C-1	Second Floor: Floor	2.6	>10.0	<0.005	>0.05

Pre-sampling laboratory analysis results indicated that lead contamination exceeded DHS acceptable levels at Sample A-1 and B-1 shown in bold and enlarged on the above table.

On June 20, 2003, JXX XXXXX and Moe discussed the report. Mr. XXXXX had submitted the report to the Department of Human Services (DHS) with a recommendation the site be closed without decontamination or additional sampling as the elevated levels of lead could be from past uses not drug lab-related. He stated he had contacted Txx Mxxxxxxx/DHS to determine if the recommendation would be accepted.

On August 12, 2003, JXX XXXXX advised Moe that Txx Mxxxxxxx would not accept the recommendation and decontamination and additional sampling would be required. Mr. XXXXX stated the following work would be needed:

- A. Remove personal items from the structure.
- B. Lucky Strike employees complete decontamination by washing inside of structure.
- C. Take confirmation samples.
- D. Submit written report to DHS and submit written request for Certificate for Fitness.

On August 14, 2003, JXX XXXXX and Moe discussed the Cost Estimate Proposal for the remaining work. It was determined the Proposal would be as follows:

- TASK II - Written Work Plan and Decontamination
- TASK III - Post Sampling, DHS Program Fees, Closure Report, and Request for Certificate of Fitness

On August 15, 2003, the Cost Estimate Proposal was received and approved by the BLM. Costs were as follows:

TASK II - \$2,000 TASK III - \$2,300

On August 18, 2003, JXX XXXXX advised Moe that Txx Mxxxxxxx wanted the septic tank pumped and a receipt showing the work had been completed. The septic tank was discussed with Mr. XXXX on August 21, 2003, who produced evidence the original septic tank had been pumped and filled with sand.

Lucky Strike submitted the Proposed Decontamination and Post-Sampling Plan, provided as Appendix 6, to the DHS with a copy to the BLM. Lucky Strike also submitted Amendment No. 1, provided as Appendix 7, and Amendment No. 2, provided as Appendix 8, to the report, copies were also provided to the BLM.

On August 26, 2003, Moe advised JXX XXXXX the old septic tank had already been pumped and filled with sand. Mr. XXXXX stated he would contact Txx Mxxxxxxx who agreed the septic tank would not have to be pumped. During this telephone interview, Mr. XXXXX also provided the following information:

- Based on experience, the rinsate from the decontamination would not be hazardous waste.
- He would schedule the decontamination and post sampling as quickly as possible.

On September 15, 2003, Lucky Strike completed the decontamination and post-sampling work at the site. Post-sampling indicated contamination levels were below DHS acceptable limits. Lucky Strike submitted a written report, Request for Site Closure and Certificate of Fitness, provided as Appendix 9, to DHS dated October 15, 2003.

On November 17, 2003, the Certificate of Fitness from DHS, provided as Appendix 10, was received at the BLM Office.

On November 24, 2003, the Notification of REMOVAL FROM DRUG LAB LIST from Oregon Department of Consumer and Business Services/Building Codes Division, provided as Appendix 11, was received at the BLM Office.

CERCLA 120(h)/40 CFR part 373 Requirements for Notice

Notice related to hazardous substances and petroleum products may be required to be made to the conveyee in the conveyance document, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 120(h) and 40 CFR part 373, whenever any agency of the United States enters into a contract for the sale or other transfer of real property.

Notice is required when any of the following conditions are met:

- A. Any hazardous substance was stored for 1 year or more:
 1. In quantities greater than or equal to 1000 kilograms (2205 pounds) or the hazardous substances reportable quantity (RQ) found at 40 CFR part 302.4, whichever is greater.
 2. Hazardous substances that are also listed under 40 CFR part 261.30 as acutely hazardous wastes when stored in quantities equal to or exceeding 1 kilogram (2.2 pounds).
- B. There was known to have been a release of hazardous substances in quantities equal to or exceeding substances reportable quantity (RQ) found at 40 CFR part 302.4.
- C. There was known to have been a disposal of any hazardous substance, regardless of quantity, on the property.

An analysis of the chemicals identified in the police report and **Notice** requirements are summarized as follows:

CHEMICALS - Notice							
Chemical			Stored				Notice Required
Name	Amt	Location	40 CFR 302.4 RQ	40 CFR 261.302 >2.2 lbs	Released	Disposal	
Methamphetamine Sludge	1 qt	Structure	Not on List	Not on List	No	No	NO
Acetone	1 pt	Structure	5,000 lbs	Not on List	No	No	NO
Iosphophol Alcohol	2 ½ g	Structure	Not on List	Not on List	No	No	NO
Methylamine	1 g	Woods	N/A	N/A	N/A	N/A	N/A
Hydrochloric Acid	2 pts	Woods	N/A	N/A	N/A	N/A	N/A
Chloroform	1 qt	Woods	N/A	N/A	N/A	N/A	N/A

Based on review of records and interviews, it does not appear that Notice as described in CERCLA 120(h) and 40 CFR part 373 is required in the conveyance document for this real property disposal.

The chemicals identified as located in the woods were approximately 100 yards to the south of the structure on property not to be conveyed. In addition, the police report identified the containers as being sealed with no evidence of contamination.

Although a possibility, there is no evidence to indicate a release as a result of these chemicals being present. Again, it is important to recognize that this disposal action is not affected by the presence of these chemicals.

The chemicals identified as being in the structure are of concern, as follows:

- Methamphetamine Sludge: This chemical does not appear on 302.4 or 261.30. Therefore, Notice for storage, release, or disposal is not required.
- Acetone: The reportable quantity for acetone is 5,000 pounds. Therefore, Notice for Storage and Release is not required as there was only 1 pint at the structure. Notice for disposal is not required as there is no evidence that acetone was disposed of in or around the structure as the police report indicates the container was sealed and there was no evidence of contamination.
- Iosphophol Alcohol: This chemical does not appear on 302.4 or 261.30. Therefore Notice for storage, release, or disposal is not required.

Findings

Based on records search, interviews, site reconnaissance, and other efforts related to the subject property, findings are as follows:

- A. *Recognized environmental conditions:* None identified.
- B. *Historical recognized environmental conditions:* Use of structure identified as the workshop was the site of illegal drug manufacturing in 1991. The structure was subsequently decontaminated by a licensed contractor and a “Certificate of Fitness” obtained from the State of Oregon Department of Health Services.
- C. *De minimis conditions:* None identified.
- D. *Other conditions:* The graveled area is currently used for storage of a wide variety of vehicles, equipment, ATVs, storage tanks, solid wastes, and other materials. At the time of site inspections, there were no environmental concerns identified on the subject property.

Opinions

It is the opinion of the preparer of this report that the only concern associated with the subject property is the *historical recognized environmental condition* associated with the use of the workshop as the site of illegal drug manufacturing.

Pre-sampling, decontamination, and post-sampling of the structure was accomplished by a licensed contractor and a Certificate of Fitness has been obtained. Levels of lead contamination were only slightly elevated above the Department of Health Services (DHS) acceptable levels. Decontamination was accomplished and post-sampling indicated the lead contamination had been removed to levels found acceptable by DHS.

The State of Oregon DHS has recognized the decontamination effort as successful as evidenced by the issuance of a Certificate of Fitness. The Certificate of Fitness states (in part):

Based on the information submitted, the decontamination requirements of the Department of Human Services have been met and this property is now considered fit for use.

Therefore, the past illegal drug manufacturing should not result in an impact to human health or the environment.

Conclusions

The only concern associated with the subject property is the *historical recognized environmental condition* associated with the use of the workshop as the site of illegal drug manufacturing.

Pre-sampling, decontamination, and post-sampling of the structure was accomplished by a licensed contractor and a Certificate of Fitness has been obtained.

American Society for Testing and Materials (ASTM) Statement

“We have performed a Phase I *Environmental Site Assessment* in conformance with the scope and limitations of ASTM Practice E 1527 of Township XX South, Range X West, Section X, Government Lot X, Willamette Meridian. Any exceptions to, or deletions from, this practice are described in Section [NONE] of this report. This assessment has revealed no evidence of *recognized environmental conditions* in connection with this property.”

References

ASTM Standard 1527-00
Oregon Revised Statutes 453.864
Oregon Administrative Rules Division 40
Lane County Code - Administrative Enforcement
Comprehensive Environmental Response, Compensation, and Liability Act; Section 120(h)
40 CFR part 373
BLM Manual Handbook H-2000-01 *Preacquisition Environmental Site Assessments*
BLM Manual Handbook H-2000-02 *Environmental Site Assessments for Disposal of Real Property*
Hazardous Material Case File 1703 04-01

Qualifications of Report Preparer

Recommendation

No evidence of hazardous substances, petroleum products, or *recognized environmental conditions* and/or CERCLA 120(h) concerns was identified on this property; except for: Historical recognized environmental condition associated with illegal drug manufacturing in the workshop on the subject property, which has been mitigated.

No further inquiry is needed for purposes of appropriate inquiry; therefore: Disposal of this real property is recommended.

Approvals

Prepared By	
Name:	Date:
Signature:	Title: Environmental Protection Specialist

Recommended By	
Name:	Date:
Signature:	Title: Field Manager - Upper Willamette

Approved By	
Name:	Date:
Signature:	Title: District Manger

Appendix 12. Sample Statement of Work (SOW) for contracted Phase I ESA (Disposal)

**Statement of Work
for
(Phase 1) Environmental Site Assessment
of the ***** Property/Site *****, State**

Scope. The Contractor must furnish all labor, equipment, transportation, permits, testing, and incidentals necessary for the performance of the work specified in this Statement of Work.

The work consists of the following tasks:

- (1) Conduct an (Phase 1) Environmental Site Assessment (ESA) in accordance with ASTM Standard 1527-05 *or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)* on the parcels listed in the Background Section of this Statement of Work. The overall purpose of the (Phase 1) ESA is to provide the Agency knowledge of the full range of “environmental issues and liabilities” associated with the parcel(s) identified for disposal by the United States and satisfy the Notice requirements of Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 et seq. (hereafter referred to as CERCLA 120(h)), and 40 CFR part 373 – Reporting Hazardous Substance Activity When Selling or Transferring Federal Property (hereafter referred to as 40 CFR part 373).

Through the (Phase 1) Environmental Site Assessment, the Bureau of Land Management (BLM) will have knowledge of the environmental conditions identified with the parcel beyond those associated with Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) liabilities and petroleum products. This includes, but is not limited to, environmental issues and conditions under the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), the Clean Water Act (CWA), the Toxic Substance Control Act (TSCA), etc. These environmental issues and conditions are typically considered as “Non-Scope Consideration” issues under the ASTM Standard. Non-Scope Consideration issues include, but are not limited to, asbestos containing material, radon, lead-based paint, non-hazardous solid waste disposal areas, waste water disposal systems, drinking water systems, drinking water and/or other wells, physical hazards, etc.

In conducting the (Phase 1) Environmental Site Assessment, the Contractor must pay close attention to the proposed future land use of the parcel(s) in question. Some Non-Scope Consideration issues/conditions, which typically may be *de minimis* under the ASTM Standard, are not *de minimis* when the (buyer’s/ Patentee’s/etc.) planned future land use (example, home site development) is taken into account.

****** *Include the following if disposal involves a TFGO.* **** *If the property to be conveyed involves the Termination of Federal Government Operations (TFGO), the investigation on the real property must determine or discover the presence or likely***

presence of a release or threatened release of any hazardous substance or any petroleum product on the real property. The following paragraphs describe procedures:

The identification process consists, at a minimum, of the following steps:

- (a) Detailed search of Federal Government records pertaining to the property.*
- (b) Examination of recorded chain of title documents regarding the property.*
- (c) Review of aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through state or local government agencies.*
- (d) Completion of a visual inspection of the real property and any buildings, structures, equipment, pipes, pipelines, or other improvements on the real property and a visual inspection of properties immediately adjacent to the real property.*
- (e) Completion of a physical inspection of property adjacent to the real property to the extent permitted by owners or operators of such property.*
- (f) Review of reasonably obtainable Federal, state, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum products or threat of a release of any hazardous substance or petroleum products on the real property.*
- (g) Completion of interviews with current or former employees involved in operations on the real property.*

- (2) A separate report must be prepared for each parcel *(if multiple parcels are being conveyed)*.

This work will be performed in accordance with _____ Environmental Response Action Contract _____.

Background. *****Provide project background, any known information regarding the parcel(s), land use, BLM operations, etc. *****

Location. *****Provide parcel(s) location and descriptions. Include map(s)*****

Fees. The Contractor must, without expense to the Government, pay all Federal, state, county, and municipal fees applicable to the performance of the work (i.e. completion of a (Phase 1) Environmental Site Assessment).

Submittals. Work plans and Final Reports will be required. Three copies of the work plan and ****** copies of the Final Report must be submitted.

The work plan shall contain the following information:

- Procedure for conducting the (Phase 1) Environmental Site Assessment.
- Quality assurance/quality control used in the review of the (Phase 1) Environmental Site Assessment prior to its submittal for BLM review and comment.

- Contractor's internal risk management program to manage the risk associated with the conduct of the (Phase 1) Environmental Site Assessment.
- Contractor's standard terms and conditions including any limitations to liability.
- The Contractor's errors and omissions professional liability insurance policy.
- Resume of personnel conducting the (Phase 1) Environmental Site Assessment.

The report must follow the table of contents and report format included as an attachment at the end of this statement of work *****and must contain the following information:*****

***** Insert here any additional information that is to be included in the report that is not covered in the standard report format *****

Schedule of Work. The Contractor is required to conduct field visits to the parcel(s) identified in this SOW as a component of conducting the (Phase 1) Environmental Site Assessment.

The Contractor must submit a work plan within ******* days of the contract award. The BLM will provide review and written comments on the work plan within ******* days of receipt of the work plan.

The Contractor must submit a draft report within ******* days of the contract award. The BLM will review and provide comments within ******* days of the receipt of the draft report. The Contractor will revise the draft report and prepare a final report for the BLM within ******* days of receipt of the BLM's comments on the draft report.

Search Distances. Search distances that are modified because of property-specific and state-specific conditions must be documented. Rationale must be provided to support modifying the search distances as well as assurance that the modification will meet the objective of CERCLA 120(h) (42 USC § 9620(h)) and 40 CFR part 373.

Search distances for local records must be documented if they are different from the minimum search distances specified by the United States Environmental Protection Agency.

Data Base Searches. All information contained in data base searches that is more than 4 months old must be verified independently by contacting the source of the information.

Historical Information (Records Review). If historical documents and records are available more frequently than 5-year intervals, all of the historical information must be reviewed and included in the (Phase 1) ESA.

Site Reconnaissance. If the contractor is unable to gain access to the site, the reasons must be documented and included in the (Phase 1) ESA report.

Interviews. Interviews of owner/occupants, Federal government officials, state and local government officials adjoining land owners, and members of the public must be included to determine the presence and significance of any environmental issues and liabilities on the lands being investigated. Information obtained through interviews must be verified using external sources of data.

Data Gaps. Any data gaps must be identified. The significance of data gaps must be documented in the final report. The BLM will determine if sampling and analysis is necessary to address data gaps. If no data gaps are identified this must be documented in the final report.

Applicable Codes. The Phase 1 Environmental Site Assessment must be conducted in accordance with the following:

- Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); abbreviated as CERCLA 120(h) (42 USC § 9620(h))
- Standards and Practices for Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property, 40 CFR part 373
- Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process E 1527-05 *or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)*
- Applicable Associated Federal, state and local environmental laws and regulations

Government Provided Materials. *****Identify information to be provided by the BLM (title reports etc.). *****

If the BLM fails to provide this information to the Contractor within 60 days of the contract award, the contract will be extended accordingly.

Site Access

The Contractor must have access to the parcels *****(Specify the hours that the contractor can access the parcel.)***** The BLM must provide access to all buildings and storage facilities upon request by the Contractor. ****** days prior to requiring access, the Contractor must contact ****** to arrange access to buildings and storage facilities.

Point of Contact

***** Insert name and number of government point of contact for this site. *****

Contractor Qualifications. The Contractor must employ professional personnel to perform the work required under this Statement of Work. **** Following is required for ESA reports in California. *** The Contractor conducting the work required under this Statement of Work must also be a California Registered Environmental Assessor. A substitution may not be made without the approval of the BLM.*

Photos _____ Facilities:

TABLE OF CONTENTS AND REPORT FORMAT

(Based on ASTM 1527-05 or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres))

1 Cover Sheet

2 Table of Contents

3 Summary

4 Introduction

- 4.1 Purpose
- 4.2 Detailed Scope-of-Services
- 4.3 Significant Assumptions
- 4.4 Limitations and Exceptions
- 4.5 Special Terms and Conditions
- 4.6 User Reliance

5 Site Description

- 5.1 Location and Legal Description
- 5.2 Site and Vicinity General Characteristics
- 5.3 Current Use of the Property
- 5.4 Descriptions of Structures, Roads, Other Improvements on the Site (including heating/cooling system, sewage disposal, source of potable water)
- 5.5 Current Uses of the Adjoining Properties

6 User Provided Information

- 6.1 Title Records
- 6.2 Environmental Liens or Activity and Use Limitations
- 6.3 Specialized Knowledge
- 6.4 Commonly Known or Reasonably Ascertainable Information
- 6.5 Valuation Reduction for Environmental Issues
- 6.6 Owner, Property Manager, and Occupant Information
- 6.7 Reason for Performing Assessment
- 6.8 Other

7 Records Review

- 7.1 Standard Environmental Record Sources
- 7.2 Additional Environmental Record Sources
- 7.3 Physical Setting Source(s)
- 7.4 Historical Use Information on the Property
- 7.5 Historical Use Information on Adjoining Properties

8 Site Reconnaissance

- 8.1 Methodology and Limiting Conditions
- 8.2 General Site Setting
- 8.3 Exterior Observations
- 8.4 Interior Observations

9 Interviews

- 9.1 Interview with Owner
- 9.2 Interview with Site Manager
- 9.3 Interviews with Occupants
- 9.4 Interviews with Local Government Officials
- 9.5 Interviews with Others

10 Recognized Environmental Conditions/Historical Recognized Environmental Conditions**11 CERCLA 120(h)/40 CFR Part 373 Requirements for Notice****12 Findings****13 Opinions**

Include the following statement:

I offer the following opinion as to the impact on the subject property of any identified conditions indicative of releases or threatened releases of hazardous substances, pollutants, contaminants, petroleum and petroleum products, and controlled substances...

13.1 Additional Investigations (if recommended)

14 Conclusions**15 American Society of Testing and Materials (ASTM) Statement**

The report must include one of the following statements:

We have performed a (Phase 1) Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 (or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)) of [insert address or legal description] the property. Any exceptions to, or deletions from, this practice are described in Section [describe if appropriate] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property.

Or;

We have performed a (Phase 1) Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 (or ASTM Standard E2247-08 for Forestland and Rural Properties (greater than 120 acres)) of [insert address or legal description] the property. Any exceptions to, or deletions from, this practice are described in Section [] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property, except for the following: (list).

16 Deviations**17 References****18 Recommendations**

The report must include one of the following recommendations:

- (1) *This Assessment has revealed no evidence of hazardous substances, petroleum products, or recognized environmental conditions and/or CERCLA 120(h) concerns on this real property. No further inquiry is needed for purposes of appropriate inquiry; therefore, this real property is suitable for disposal.*
- (2) *This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property; therefore, it is recommended this real property not be considered for disposal. This realty action has been referred to the hazardous material specialist for further action.*
- (3) *This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns in connection with this real property. Only (describe) is suitable for disposal. The following portions will be excluded: (describe).*
- (4) *This Assessment has revealed evidence of recognized environmental conditions and/or CERCLA 120(h) concerns and will be conveyed to the Potentially Responsible Party (PRP).*

19 Signature(s) of Environmental Contractor(s)

20 Qualifications of report preparer based on 40 CFR Part 312.10(a)

21 Appendices

- 21.1 Site (Vicinity) Map
- 21.2 Site Plan
- 21.3 Site Photographs
- 21.4 Record Search Documentation
- 21.5 Interview Documentation
- 21.6 Site Reconnaissance Documentation
- 21.7 Additional Services/Non-Scope Considerations Documentation
- 21.8 Special Contractual Conditions between User and Environmental Contractor

Glossary

Aboveground Storage Tank (AST) – A tank located aboveground that is regulated because it contains petroleum products or hazardous substances. See Underground Storage Tank (UST) Leaking Underground Storage Tank (LUST) and Leaking Aboveground Storage Tank (LAST).

Acutely Hazardous Waste – Hazardous Wastes from nonspecific sources (F Listed Wastes) identified at 40 CFR parts 260.30 and 261.30 as Acute Hazardous Waste (H Code).

All Appropriate Inquiry(AAI) – That inquiry constituting “all appropriate inquiry” into the previous ownership and uses of the property consistent with good commercial practice that will qualify a party for one of threshold criteria for satisfying the Landowner Liability Protections (LLPs) to CERCLA liability.

American Society for Testing and Materials (ASTM) – A private, not-for-profit, standards-writing organization chartered with development and publication of specifications, tests, and practices concerning engineering materials, manufacturing products, and the environment.

Assistant Environmental Professional (AEP) – A person who does not qualify as an environmental professional (EP) under the EP definition who may assist in the conduct of all appropriate inquiries if such person is under the supervision or responsible charge of a person meeting the definition of an environmental professional when conducting such activities. The AEP may assist the EP in the conduct of the ESA (see also EP and Responsible Charge).

Bona Fide Prospective Purchaser Liability Protection – A CERCLA landowner liability protection available if a prospective purchaser made “all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.” A Purchaser who acquires property after January 11, 2002, may purchase property with known contamination after performing all appropriate inquiries provided the purchaser complies with all the statutory requirements of CERCLA Section 101(40).

Brownfields – With certain legal exclusions and additions, the term “brownfields site” means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Brownfields also includes lands contaminated by petroleum or petroleum products, lands contaminated by controlled substances, and mine-scarred lands.

Code of Federal Regulations (CFR) – Codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies in the Federal Government (see also Federal Register).

Clean Water Act (CWA) – Originally enacted in 1948 and significantly amended in 1972, 1977, and 1987, the CWA provides regulatory requirements for water pollution control and water quality management in the United States.

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) – Enacted in 1980, it establishes broad Federal authority to respond to releases or threats of releases of hazardous substances.

CERCLA 120(h) – Subjects Federal Facilities to the provisions of CERCLA and imposes an additional set of regulations related to site studies and to notices for sale and other transfers of Federal real property.

Comprehensive Environmental Response Compensation List (CERCLIS) – EPA’s comprehensive data base and data management system that inventories and tracks releases addressed or needing to be addressed by the Superfund program.

Comprehensive Environmental Response Compensation List No Further Response Action Planned (CERCLIS NFRAP) – No additional Federal steps under CERCLA will be taken unless future information so warrants.

Community Environmental Response Facilitation Act (CERFA) – A 1992 amendment to CERCLA dealing with identification of uncontaminated Federal lands and provisions for documentation to purchasers that the property is free of hazardous substance and petroleum product contamination.

Contaminant – See Pollutant or Contaminant.

Contamination – A general term for any undesirable substance not normally present in the environment. Examples include but are not limited to CERCLA hazardous substances and/or petroleum products. This term is not the same as Pollutant or Contaminant (see also Pollutant or Contaminant).

Contiguous Property Owner Liability Protection – A CERCLA landowner liability protection available if a party owns real property that is contiguous to and that is or may be contaminated by hazardous substances from other real property not owned by that person. This defense is available only if the person conducted all appropriate inquiries at the time of acquisition and did not know or have reason to know the property was or could be contaminated by hazardous substances from the contiguous property.

Contract – Refers to “contract” as used in CERCLA 120(h) and other laws, is intended to refer to disclosure and/or notice requirements before actual conveyance, and does not change regulatory or procedural requirements for the various conveyance actions undertaken by the BLM. For most conveyance actions, there is no contract. For sales, the regulations specify that no contractual or other rights can exist before final payment by the prospective patentee (basically at the end of the process). For exchanges, the regulations specify the Agreement to Initiate a Land Exchange is a non-binding agreement, and the Exchange Agreement, which can be considered a binding contract, is also near the end of the process. In any case, any “contract” prior to the decision on the action being issued would be pre-decisional.

Conveyance Document – May include a Patent, Quitclaim, exchange deed, etc.

Conveyee – The party who receives title to lands conveyed by the BLM as part of the real property disposal process.

Data Gaps – A lack of or inability to obtain information required by the standards and practices listed in 40 CFR part 312, despite good faith efforts by the environmental professional or the prospective landowner to gather such information. The EP will be required to identify data gaps, address them when possible, and document their significance.

Delisted National Priority List (NPL) – Sites removed from the NPL because investigations or other actions indicated the likelihood of hazardous substances being present on the site were unlikely (see also NPL).

De Minimis Quantities – Conditions that do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate government agencies.

Disclosure – Information provided by the BLM to the conveyee pertaining to past and current uses of the property to be conveyed relating to petroleum products, solid wastes, physical hazards or other concerns, which could affect the use of the property, that is not required under the provisions of CERCLA 120 (h) (see Notice) or other regulatory requirements.

Disposal – The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

Due Diligence – Comes from judicial law and establishes the standard for ESAs under the innocent landowner defense as acquiring and analyzing all reasonable ascertainable records related to or that may affect a site. It is the process of inquiring into the environmental characteristics of a parcel of real estate. The degree and level of effort vary for different properties and differing purposes.

Emergency Response Notification System (ERNS) List – EPA's emergency response notification system list of reported CERCLA hazardous substances releases or spills in quantities greater than the reportable quantity, as maintained at the National Response Center.

Environmental Lien – Recorded environmental cleanup liens are encumbrances on property for the recovery of incurred cleanup costs on the part of a state, tribal, or Federal government agency or other third party. These liens provide an indication that environmental conditions currently exist or previously existed on a property that indicate a release of hazardous substances or petroleum products that affect the property.

Environmental Professional (EP) –

- (1) A person who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases (see § 312.1(c)) on, at, or to a property, sufficient to meet the objectives and performance factors in § 312.20(e) and (f).
- (2) Such a person must
 - (i) Hold a current Professional Engineer's or Professional Geologist's license or registration from a state, tribe, or U.S. Territory (or the Commonwealth of Puerto Rico) and have the equivalent of three (3) years full-time relevant experience; or
 - (ii) Be licensed or certified by the federal government, a state, tribe, or U.S. Territory (or the Commonwealth of Puerto Rico) to perform environmental site inquiries as defined in §312.21 and have the equivalent of three (3) years full-time relevant experience; or
 - (iii) Have a Baccalaureate or higher degree from an accredited Institution of higher education in a discipline of engineering or science and the equivalent of five (5) years of full-time relevant experience.
 - (iv) Have the equivalent of ten (10) years of full time relevant experience.
- (3) An environmental professional should remain current in his or her field through participation in continuing education or other activities.
- (4) The definition of environmental professional provided above does not preempt state professional licensing or registration requirements such as those for a professional geologist, engineer, or site remediation professional. Before commencing work, a person should determine the applicability of state professional licensing or registration laws to the activities to be undertaken as part of the inquiry identified in § 312.21(b).
- (5) A person who does not qualify as an environmental professional under the foregoing definition may assist in the conduct of all appropriate inquiries in accordance with this part if such person is under the supervision or responsible charge of a person meeting the definition of an environmental professional provided above when conducting such activities. (See also AEP)

Environmental Protection Agency (EPA) – The Federal agency responsible for enforcement of Federal Environmental Protection laws and regulations. Each state has a corresponding regulatory agency.

Environmental Site Assessment (ESA) – As defined in 602 DM 2, an environmental site assessment, prior to acquisition, to determine the potential of and extent of liability for hazardous substances or other environmental remediation injury. This includes, but is not limited to, a determination of the absence or presence of hazardous substances or conditions that indicate an existing or past release, or a material threat of a release on the real property, into the air, soil, sediment, groundwater, surface water, or any structures located on the real property.

Federal Register (FR) – Publication of the United States containing all proposed and final regulations and some other activities of the Federal Government. When regulations become final, they are included in the Code of Federal Regulations (CFR) (see also CFR).

Hazardous Substance – As defined in Section 101(14) of CERCLA, any substance listed as a hazardous substance in various laws including CERCLA, CWA, RCRA, CAA, and TSCA. A list of CERCLA hazardous substances can be found at 40 CFR part 302.4.

Historical Recognized Environmental Condition (HREC) – Environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently as defined in ASTM Standard E 1527.

Hazardous Wastes – See 40 CFR part 261.3.

Historical Sources – Sources that provide information about past uses of the site. Sources generally include aerial photographs, property tax files, recorded land title records, and similar records/sources.

Indemnification Language – A written promise by one party that it will not hold another party liable. The language is not a viable option unless the guarantor has the financial resources to fulfill the obligations undertaken under the indemnity.

Innocent Landowner Defense (ILD) – One of the LLPs to CERCLA whereby a person may qualify as one of the three types of innocent landowner: (1) a person who did not know or have reason to know that contamination existed on the property at the time the purchaser acquired the property, (2) a government entity which acquired the property by escheat, or through any other involuntary transfer or acquisition, or exercise of eminent domain authority by purchase or condemnation, or (3) a person who acquired the facility by inheritance or bequest. To qualify for (1), such person must have conducted AAI before the date of purchase.

Landowner Liabilities Protections (LLPs) – Landowner liability protections under CERCLA that include innocent landowner defense, bona fide prospective purchaser, and contiguous property owner.

Leaking Underground Storage Tank (LUST)/Leaking Aboveground Storage Tank (LAST) – Underground/Aboveground storage tanks containing petroleum products and or hazardous substances that have a confirmed release of product into the environment. See Underground Storage Tank (UST) and Aboveground Storage Tanks (AST).

Liability (CERCLA) – CERCLA’s liability provisions impose strict, joint, several, and retroactive liability for cleanup of a contaminated site. The process is intended to hold financially liable for site cleanup all parties who contributed (even to a very small degree) to contamination of a property unless such parties can demonstrate that the harm is divisible.

Strict Liability: Allows a property owner to be held liable even though the property owner was not negligent.

Joint and Several Liability: Provides that one or several parties may be held responsible for the entirety of cleanup costs. Commonly called “deep pockets,” an agency or other responsible party may be required to pay more than its “fair share” where other responsible parties are non-viable or otherwise immune from suit.

Retroactive Liability: Provides that a party or parties may be held liable for the cleanup of contamination that occurred before the enactment of current legislation.

National Oil and Hazardous Substances Pollution Contingency Plan (NCP) – The Federal regulation that guides determinations of the sites to be corrected under the Superfund program; the program to prevent or control spills into surface waters or other portions of the environment. The NCP is found at 40 CFR 300.

National Priority List (NPL) – List of hazardous substance release sites in the United States that are priorities for long term remedial evaluation and response.

National Response Center (NRC) – The Federal operations center that receives notifications of all releases of oil and hazardous substances into the environment. The center, open 24 hours a day and operated by the U. S. Coast Guard, evaluates all reports and notifies the appropriate agencies. Most states have an equivalent organization who receives the same report.

National Science and Technology Center (NSTC) – A BLM organization located in Denver, Colorado that provides direct and contracted service in hazardous materials site evaluation, risk assessment, facility audits, cost recovery/potentially responsible party searches, and natural resource damage assessment and restoration services to field offices.

No Further Action Letter (NFA) – A letter issued by a regulatory agency, generally a state, at the conclusion of a property cleanup effort. The letter generally states that all information submitted by the responsible party has been reviewed, and based on that information no further cleanup action is required at the site. The letter will also state that if additional information becomes available, additional cleanup actions may be required.

Notice – CERCLA stipulation that requires an agency of the United States to provide information about past and current uses of property relating to the storage, release, or disposal of hazardous substances and, in some cases, petroleum products to the party who receives title to the property. Notice is required at the time the BLM enters into a contract for transfer of the property and in the deed (conveyance document) for the property (see Disclosure)

Notification (Release Reporting) – A report of a pollution incident to the National Response Center and equivalent state agency. See also National Response Center and Release.

Occupational Safety and Health Act (OSHA) and EPA – EPA and U.S. Occupational Safety and Health Administration (OSHA) promulgated identical health and safety standards to protect workers engaged in hazardous waste operations and emergency response. This act established several requirements. However, for ESAs the most important is the establishment of five levels of training for entry into hazardous waste sites. The first level is Level 1, First Responder Awareness, required by BLM policy for employees who enter any property proposed for acquisition.

Oil Pollution Act of 1990 (OPA) – The OPA was the initial congressional response to the Exxon Valdez oil spill of March 1989. The purpose of the Act was to ensure that future oil spills are minimized, that effective responses are made to those that do occur, and that those responsible pay for the damage and are subject to severe penalties.

Pathways – Medium through which hazardous substances and/or petroleum products move through the environment. The four pathways are generally soil (direct contact), surface water, groundwater, and air. The term *fate and transport* is also used, which refers to how the materials are affected as they move through the environment. The pathways of most concern during the ESA are soil and groundwater. See also Targets.

Pest – An insect, rodent, nematode, fungus, weed, or other form of terrestrial or aquatic plant or animal life or virus, bacteria, or microorganism that is injurious to health or the environment.

Pesticide – Any substance, organic or inorganic, used to destroy or inhibit the action of plant or animal pests; thus, the term includes insecticides, herbicides, rodenticides, miticides, etc.

Petroleum Exclusion to CERCLA – Excludes from the scope of CERCLA liability petroleum, including crude oil or any fraction thereof and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel.

Petroleum Product – Substances included within the meaning of the petroleum exclusion to CERCLA and fractions of crude oil that may include gasoline, kerosene, diesel oil, jet fuels, and fuel oil.

Pollutant or Contaminant – Includes but not limited to any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism may be reasonably expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, or physical deformations, in such organisms or their offspring. The term does not include petroleum products.

Potentially Responsible Party (PRP) – A CERCLA concept that includes extensive provisions to identify parties responsible for site contamination. Through these provisions, efforts are made to establish who is responsible for payment of costs related to the cleanup of a site.

Resource Conservation and Recovery Act (RCRA) – The Solid Waste Disposal Act, which was amended in 1976, becoming RCRA. This Act regulates solid waste and hazardous waste. The RCRA regulations seek to manage hazardous wastes from “cradle to grave,” that is, from point of generation to ultimate disposal.

RCRA CORRACTS Facilities List – Facilities subject to corrective action under RCRA.

RCRA non-CORRACTS TSD Facilities List – A list of facilities that are permitted under RCRA for the treatment, storage, or disposal of hazardous wastes.

RCRA Generators List – A list of facilities that generate hazardous waste.

Real Property – Any land or an interest therein, and all buildings, structures, and improvements affixed to the land managed by the BLM.

Real Property Acquisition – Real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States for any period of time, however short.

Real Property Disposal – Any action in which the United States conveys or otherwise disposes of any real property.

Recognized Environmental Condition (REC) – The presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

Records Review – The review of records that will help identify recognized environmental conditions in association with the property. These records may be located at Federal, state, and local jurisdictions. Examples include National Priority-listed sites, state-listed sites, underground storage tanks, leaking underground storage tanks, BLM historical indices, and any other records that might indicate potential problems on a parcel of property.

Release – As defined in 40 CFR part 300 and CERCLA Section 101(22). Includes any “spilling, leaking, discharging, injecting, pumping, pouring, emitting, escaping, leaching, dumping, or disposing into the environment, including abandoning or discarding barrels, containers, and any other closed receptacles containing any hazardous substance or pollutant or contaminant.”

Response Actions Under CERCLA – CERCLA includes two basic types of response actions:

Removal action is an immediate action taken over the short-term to address a release or threatened release of a hazardous substance or petroleum product.

Remedial action selects remedies that are protective of human health and the environment, maintain protection over time, and minimize untreated wastes. A remedial action takes a longer time to implement than a removal action.

Responsible Charge – Responsible charge does not require the Environmental Professional to be the direct supervisor of the Assistant Environmental Professional, but does mean direct oversight, direction and control over the scope, performance, and ultimate quality of the work performed (see also Environmental Professional and Assistant Environmental Professional). NOTE: This definition developed by Washington Office Workgroup to implement requirements of 40 CFR part 312.

Superfund Amendments and Reauthorization Act (SARA) – 1986 Amendment to CERCLA that required the establishment of State Emergency Response Commissions and emergency planning districts, development of local emergency response plans, reporting of hazardous chemical inventories, and completion of toxic chemical release reports.

Site Reconnaissance – The process for physically observing a parcel, adjacent property, and the surrounding area to obtain information indicating the likelihood of identifying recognized environmental conditions in connection with the property.

Safe Water Drinking Act (SWDA) – Required EPA to set national standards for contaminant levels in drinking water and created state programs to regulate underground injection wells and protect sole source aquifers.

Site Visit – The process for physically observing the parcel to obtain information indicating the likelihood of identifying recognized environmental conditions in connection with the property.

Statement of Work (SOW) – The SOW is a step in the BLM contracting process that is a clear statement of the work required to be completed during the contract. It becomes the basis for developing the Government cost estimate.

Storage – The holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

Targets – A physical or environmental receptor that can be affected by a contaminant moving through a pathway. Targets include population centers, drinking water supplies, environmental resources, and similar items. See also Pathways.

Termination of Federal Government Operations (TFGO) – Property on which the BLM is terminating discrete activities or operations and will dispose of the property pursuant to CERCLA 120(h). Examples include office buildings, fire stations, road maintenance shops, airstrips, administrative sites, seed orchards, and similar operations.

Toxic Substance Control Act (TSCA) – Control chemical hazards for listed chemicals in commerce. Chemicals include asbestos, PCBs, dioxins, and radon.

Underground Storage Tank (UST) – An underground storage tank system is a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground. The Federal UST regulations apply only to underground tanks and piping which

stores either petroleum or certain hazardous substances. See Aboveground Storage Tank (AST) and Leaking Underground Storage Tank (LUST).

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