

## **Questions from Community Members September 2009 - March 30, 2010**

### **Public Outreach Process**

**Question 1:** Why is EPA separating community input on historic mitigation from input on remedial changes?

**Answer:** EPA believes the most viable technical options for addressing acid rock drainage were fully developed in earlier EPA studies. Historic mitigation options and community preferences for any particular option have not been as fully developed. EPA has worked with the community and will continue to work with the community to explore mitigation options. In addition to the draft Proposed Record of Decision Amendment, EPA also will include a draft mitigation plan, which will be available for public comment.

That being said, EPA has listened to those who have made suggestions or provided comments regarding a remedy change. EPA engaged in a discussion with the community about alternatives to capping during a May 14, 2009 open stakeholders meeting in Leadville and during a community tour of Stray Horse Gulch last summer. We will formally accept comments on all aspects of remedial changes included in the Proposed OU6 Record of Decision Amendment during a public comment period. EPA will make a final decision on changes to the remedy after reviewing and considering comments received during the public comment period.

**Question 2:** What amount of funding does EPA anticipate allocating to historic mitigation in OU6?

**Answer:** Until EPA develops a final Historic Mitigation Plan, it is premature to estimate what it will cost to implement that plan. This will happen during the remedial design phase, after the Record of Decision is amended. As is the case for all Superfund projects, the funding request will be reviewed and ranked by a headquarters panel.

**Question 3:** What is the difference between the Citizen's Advisory Group and the Community Advisory Group? Who formed the Citizen's Advisory Group and who determined its membership?

**Answer:** The Citizen's Advisory Group was originally named the Institutional Control Overlay District Advisory Group (ICOAC) and was solicited and appointed by the Lake County Commissioners in 2005. The Commissioners initially asked the group to review institutional controls proposed by EPA to address waste left in place at the Superfund site. The ICOAC changed its name to the Citizen's Advisory Group in 2009. EPA uses the term Community Advisory Group at Superfund sites. A Superfund Community Advisory Group (CAG) represents diverse community interests and serves as a public forum for community members to present and discuss their needs and concerns related to the Superfund decision-making process. EPA helps interested community members form a CAG and may provide the CAG with administrative support on issues relevant to the Superfund site

cleanup and decision-making process. This assistance may include support for arranging and documenting meetings, preparing and distributing meeting notices and agendas, duplicating site-related documents for CAG review, maintaining CAG mailing/distribution lists, and providing translation and meeting facilitation services when needed.

**Question 4:** What was the origin of the Community Advisory Group (CAG) and why was the effort to form the organized CAG unsuccessful? How are the resources for the facilitator of the Community Advisory Group being spent?

**Answer:** EPA agreed to assist the Lake County Commissioners and Mayor Elliott after they expressed interest in forming a Superfund Community Advisory Group (CAG) in January 2009 as a way to get input on additional work EPA may conduct in Stray Horse Gulch. Commissioner Bordogna and Mayor Elliott offered to host meetings to determine interest in forming a CAG. EPA supported the formation of a CAG with staff time and by funding a facilitator to assist in the formation and potential operation of a CAG. A CAG was not formed because members of the selection committee could not agree on a plan for membership and some community members voiced concern about public ridicule and/or personal retribution if they participated. After it appeared that the CAG was not going to be formed, EPA retained the facilitator to work with the city and county to create a Virtual Forum web site. The goal was to provide safe, alternative means to allow the community to provide input on historic mitigation options and other concerns regarding OU 6 and Stray Horse Gulch without fear of public or individual retribution. EPA's contractor, Meridian Institute, is implementing the Virtual Forum in consultation with local partners and with oversight by EPA's manager of public affairs and community involvement.

**Question 5:** Was the Lake County Historical Society asked to play a role in this situation? Was the new Historic Preservation Director at Colorado Mountain College asked to be involved? Was LCCCA asked to participate?

**Answer:** Yes. EPA began working to identify and involve representatives of the historic preservation community in early 2009. Representatives of the Lake County Historical Society attended some of the CAG start-up meetings and input sessions. Commissioner Schaefer, a board member for the LCCCA, has participated in discussions with EPA regarding the remedy change, capping study and efforts to form a Community Advisory Group. EPA also has been in contact with Colorado Mountain College's former historic preservation director and other staff. EPA has also communicated with Colorado Preservation Inc., the Mining History Association and representatives of local business owners involved in heritage tourism. EPA will continue to meet with and involve members of the community and organizations concerned with historic preservation and heritage tourism.

**Question 6:** Who developed the survey questions and who reviewed the questions? How will the on-line survey responses be reviewed and by whom? Who replies to the survey questions?

**Answer:** EPA's contractor, Meridian Institute, is implementing the Virtual Forum in consultation with local partners and with oversight by EPA's manager of public affairs and community involvement. The three surveys were developed collaboratively in consultation with local hosts, EPA and Colorado Department of Public Health and Environment staff. The first survey was developed based on the request of some citizen's attending the October 27, 2009 public meeting to gather more public input on the design of a CAG. Questions inviting this information were drafted by the facilitator and reviewed

and finalized by the local hosts and representatives of EPA and CDPHE. Questions for the second and third surveys were drafted by the facilitator after consultation with and as directed by local hosts, and finalized after review by local hosts and representatives of EPA. On-line survey responses and comments are reviewed by Meridian, EPA California Gulch project team members and local partners. Responses to questions raised in the surveys are being provided by the party that can best answer the question. Survey results were posted on the Virtual Forum.

**Question 7:** What community input opportunities are available to EPA at this time? Is community consensus available to the EPA?

**Answer:** Because the community chose not to form a CAG, there is no organized forum or process through which to develop community consensus on any issue. Where possible through existing means of communication, indications of community agreement are sought and welcomed by EPA.

Sarah Walen, the facilitator chosen to assist with CAG formation, is available to coordinate public input to EPA directly and/or via the community website through funding by EPA, on an ongoing basis. Sarah is available by telephone or email at 970-513-8340, ext. 221 or [skwalen@merid.org](mailto:skwalen@merid.org). She will utilize the Virtual Forum web site as an ongoing tool to get community input and share information. Sarah will also work with EPA to host additional input opportunities (via the web and in person) after the public comment period for the Proposed Record of Decision Amendment this spring. Additionally, EPA staff are attending numerous local meetings this spring to provide updates. For more information about local meetings, contact Jennifer Lane, EPA's community involvement coordinator, at 1-800-227-8917, ext. 312-6813 or by email: [lane.jennifer@epa.gov](mailto:lane.jennifer@epa.gov).

## **Historic Mitigation**

**Question 1:** "Recent studies conducted by the EPA conclude that using the mine workings and tunnel to convey water cannot be relied on for the long term." Part of this decision is based on the statement that it is not "cost-effective" to utilize the LMDT. Was a study done to indicate the economic impact on heritage tourism vs. the cost of restructuring the LMDT which ultimately would salvage the ambiance of the historic mining district?

**Answer:** No such study has been performed by EPA. EPA and CDPHE understand the importance of heritage tourism to the local community and local economy. This is one of the main reasons that EPA has engaged in community dialogue and outreach to search for historic mitigation options before deciding to cap additional mine waste piles. If there are ways EPA and CDPHE can accomplish Superfund's goals of a remedy that is protective of human health and the environment, permanent in the long-term, and cost-effective while at the same time preserving or enhancing the historic, recreational, or other economic appeal of this area, we want to hear those ideas.

**Question 2:** What does EPA mean by mitigation (does the term extend to and include the remedial measures used to 'mitigate' impact on the quality of water in Leadville)?

**Answer:** Historic mitigation refers to actions EPA could take to lessen, eliminate or soften potential adverse effects on cultural resources from a Superfund cleanup. EPA will evaluate the following factors in deciding whether proposed mitigation activities should be implemented; 1) the project is related to or enhances the site remedy; 2) the State Historic Preservation Officer's (SHPO) or Advisory

Council on Historic Preservation's opinion on whether the project mitigates impacts to historic resources; 3) the project can be integrated/designed into OU6 remedy; and 4) the cost of the mitigation project.

**Question 3:** Why are we talking about historic mitigation offsets now? Offsetting what? We haven't even arrived at a remedial solution for the water problems.

**Answer:** EPA has been talking with the community about possibly capping a few mine waste piles for more than a year. We've had many meetings where we've discussed our intentions to get input on a capping study and historic mitigation ideas to help offset possible impacts to mine waste piles that need to be addressed. We feel it is in the community's interest to get early input for historic mitigation so the ideas can be included in the Proposed OU6 Record of Decision Amendment. EPA will accept further input when we distribute our Proposed Plan and conduct a public comment period and public meeting this spring.

**Question 4:** What are the restrictions to EPA's funding of a community project once the Stray Horse Gulch remediation is complete? Could it be something like a dispatch/command center to coordinate all emergency responses within the county?

**Answer:** EPA's work in Leadville is under the authority of Superfund and therefore funding must be related to Superfund. EPA funded mitigation projects would be located in Stray Horse Gulch [link to map of Stray Horst Gulch]. EPA will use the following factors to decide whether a proposed mitigation activity could be implemented:

1) the project is related to or enhances the site remedy; 2) the opinion of the State Historic Preservation Officer and/or the Advisory Council on Historic Preservation on whether the project mitigates impacts to historic resources; 3) the project can be integrated/designed into OU6 remedy; and 4) the cost of mitigation.

**Question 5:** How will EPA comply with the National Historic Preservation Act?

**Answer:** If EPA determines additional remedial work is necessary in Operable Unit 6, the agency will comply with the National Historic Preservation Act and Superfund by conducting the following activities:

- Identify cultural resources on or eligible for inclusion on the National Register of Historic Places that may be impacted. EPA has determined the area of potential effect for the proposed action and has resurveyed the area to identify cultural resources. These documents have been submitted to the State Historic Preservation Officer (SHPO) and posted on our web site.
- Determine the effect that the proposed activity will have on any identified cultural resources. (EPA is considering a remedy change that would include capping portions of four additional waste rock piles. The agency understands that capping adversely affects the cultural resource. The four additional mine waste piles under consideration for capping are the Old Mikado, New Mikado, RAM and Greenback.)
- Avoid, minimize or mitigate any adverse effects during implementation of the action. EPA intends to submit a draft Mitigation Plan to the SHPO and National Advisory Council on

Historic Preservation at about the same time that it submits its proposed ROD Amendment for public comment. In addition to the proposed Record of Decision Amendment, the draft Mitigation Plan will be available to Leadville residents for comment. The final Mitigation Plan will be developed with community input during the design of the remedy.

### **Capping Pilot Study**

**Question 1:** Was there any community input supporting EPA's pilot study – particularly shotcreting at the Denver City Mine?

**Answer:** The idea of a capping study was proposed by community members during a May 14, 2009 open stakeholders meeting in Leadville. A local owner of mine claims in Stray Horse Gulch volunteered some of his mine waste piles for the study. A county commissioner openly supported the idea. Locals specifically suggested we consider using shotcrete at the May 14<sup>th</sup> meeting.

**Question 2:** Does EPA intend to use shotcrete to cap the four mine waste piles?

**Answer:** EPA is continuing to accept public comment on the capping study and additional public viewing opportunities will be offered at the Denver City mine claim when the snow melts. At this point EPA has not decided on specific capping options. We will take the community's input very seriously when we make a decision.

**Question 3:** Why is capping the only alternative provided? Have other remedial alternatives been proposed?

**Answer:** EPA believes the most viable options for addressing acid rock drainage were fully set out in earlier EPA studies. EPA previously analyzed numerous other cleanup options for Stray Horse Gulch in 2003 and determined that capping and run-on/run-off control would be the most effective approach. EPA's past analysis of OU6 cleanup options can be found in the Administrative Record. Some of these documents, including the 2002 OU6 Focused Feasibility Study and the 1997 Engineering Evaluation/Cost Analysis for Stray Horse Gulch are available on our web site:  
[www.epa/region8/superfund](http://www.epa/region8/superfund)

**Question 4:** Was the community asked for their input on other remedial alternatives? Why not?

**Answer:** EPA has engaged in several discussions with the community about alternatives to capping in 2009. We asked the community for their ideas at an October meeting with the county commissioners and we had a discussion about alternatives during a May 14, 2009 open stakeholders meeting in Leadville. We also listened to community ideas during a tour of Stray Horse Gulch last summer and again at a September public meeting. We will formally accept comments on all aspects of the Proposed OU6 Record of Decision Amendment during a public comment period that will occur this spring. EPA will make a final decision after reviewing and considering comments received during the comment period.

**Question 5:** What about removing the piles as an option?

**Answer:** Excavating and consolidating the piles in an on-site repository within OU6 was an alternative considered in the OU6 Focused Feasibility Study (see alternative 6 in this document). While removing the piles is expected to be an effective solution, EPA understands that mining history is important to Lake County. EPA believes it is possible to significantly reduce the quantity of contaminated water in ways that will not significantly damage the appearance and historic value of the mine waste piles. Taking steps to prevent the formation of acid rock drainage would be the most effective solution.

**Question 6:** How can we make judgments regarding the looks of the “alternatives”? Shouldn’t effectiveness of the capping alternatives play the largest role?

**Answer:** Yes, we agree that the most important factor in determining a remedy should be effectiveness in protecting human health and the environment. EPA will select alternatives that will ensure effectiveness. However, EPA believes it also can address portions of key mine waste piles without significantly impacting their appearance and historic value.

**Question 7:** Why didn’t the EPA and Colorado Department of Public Health and Environment make certain Section 106 compliance had taken place before implementing the process at the Denver City? What is the status of Section 106 compliance today?

**Answer:** EPA was moving quickly to complete the study prior to snowfall. In the haste of scoping ideas with the local community on capping alternatives, locating a study site and securing access from the landowners, EPA did not consult with the State Historic Preservation Office or Advisory Council on Historic Preservation under a 1994 programmatic agreement before conducting the pilot study. EPA wishes they had been more proactive in communicating with them and regret that they missed this important step. EPA continues to consult with the State Historic Preservation Office and Advisory Council regarding the proposed remedy changes in OU6 and are working with them to correct any mistake related to the capping study.