



January 2024 Superfund Update

Current Activities

EPA releases first major revision to Residential Lead Cleanup Guidance since 1994

EPA released their new residential soil lead cleanup guidance today. This is the first major change in this policy in 30 years and lowers the target blood lead level for cleanups. The new target is either 5 µg/dL, or 3.5 µg/dL if other sources of lead are present such as lead paint, as the 95th percentile target blood lead level. This is half or less than the 10 µg/dL target used for the cleanup level in the Butte Priority Record of Decision.

EPA's announcement is here: <https://www.epa.gov/superfund/updated-soil-lead-guidance-cercla-sites-and-rcra-corrective-action-facilities>

It still remains to be seen how and when this could lead to reevaluating the soil cleanup levels in Butte; but presumably this would happen at the latest with the next Five Year Review in 2026. The revised Residential Lead Cleanup Guidance continues the policy that the cleanup level will not be lower than background soil and it is likely that additional work will be done in Butte to evaluate non-mining impacted "background" soil lead concentration before the official Record of Decision (ROD) cleanup level is lowered.

Grove Gulch project waste removal extent in question

AR plans to release the Grove Gulch Remedial Design 100% Submittal Package in January. However, it is not clear how several remaining issues will be resolved, the most significant of which is whether waste will be removed or capped outside the sedimentation bay, an issue raised by State of Montana Department of Justice Natural Resource Damage Program (NRDP) and CTEC. This is another grey area in the Consent Decree, which says waste will be removed within the floodplain or capped if outside of the floodplain but does not provide clear description of the project extent. The Consent Decree includes the following language: (Further Remedial Elements Scope of Work Section 4.1.2)

"Tailings, waste, and contaminated soils encountered outside of the sedimentation bay within the floodplain will be removed and disposed of as described in the paragraph below."

And,

"If tailings, waste, and contaminated soils are encountered outside of the sedimentation bay outside the floodplain then they will be capped using cover system requirements of Table 3 of Appendix 1."

During the remedial design investigation, it became clear that the entire Grove Gulch project property is within the floodplain. However, the parties do not all agree on the extent of the project area, or the intended depth to which waste in the floodplain would be removed. Butte Silver Bow owns all property in the approximately 8 acre triangle that includes the project area east of Lexington Ave, as shown in the map on the next page. The currently proposed project extent is limited to that area that will be disturbed during construction of the stormwater bay and vegetated outlet swale, which is less than two acres of this total.

CTEC previously commented on the Grove Gulch Remedial Design that waste should be removed within the floodplain or capped if critical infrastructure such as waterlines would be affected or if removal is otherwise limited by the Consent Decree. In addition to the question of whether waste will be delineated and removed outside of the currently proposed project extent, there is also identified waste along a waterline adjacent to Grove Gulch Creek and the current plans do not provide a cap for this waste that is adjacent to the waterway.

EPA has indicated they plan to have a technical meeting on these topics.

Map showing currently proposed Grove Gulch project extent versus property extent



Upcoming Remedy Design Schedule

Atlantic Richfield plans to issue the following Remedy Design documents in the near future:

The Grove Gulch 100% Design is planned for January. This would mark the final design for Grove Gulch with anticipated construction during 2024.

A planned revised Butte Reduction Works Pre-Design Investigation Evaluation Report responding to EPA and DEQ comments has been moved from late 2023 to first quarter 2024. The Butte Reduction Works 60% submittal is anticipated in Summer 2024.

The Diggings East 60% Design is planned to be released in April.

The Buffalo Gulch 95% Design release has been moved from April to July.