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Cleanup Enforcement in Action: Addressing Community Needs in Kansas City, Kansas

The Value of Environmental Enforcement

At the Kansas City Structural Steel site in Kansas City, EPA's environmental enforcement mechanisms and resources have played a vital role in supporting public health, environmental protection and site reuse. These outcomes are providing long-term community benefits for Kansas City's Argentine neighborhood.

EPA's environmental enforcement program worked to identify the parties responsible for the cleanup of this former smelting facility and executed agreements with the parties so that cleanup actions would protect the community and environment. After cleanup, EPA enforcement staff entered into a Prospective Purchaser Agreement to facilitate reuse opportunities at the site. EPA also collaborated with the responsible parties and then the state to ensure proper implementation of land use restrictions. Although initial redevelopment efforts proved difficult, EPA worked with the local government and organizations to identify reuse opportunities that both aligned with the neighborhood's needs – commercial redevelopment, specifically a grocery store – and ensured remedy protection.

Today, the site is home to La Plaza Argentine. The commercial center is anchored by a Walmart Neighborhood Market, providing jobs and convenient access to healthy food options for the community.

Environmental Enforcement Benefits the Community

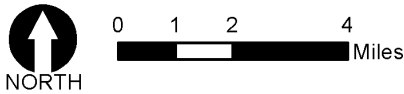
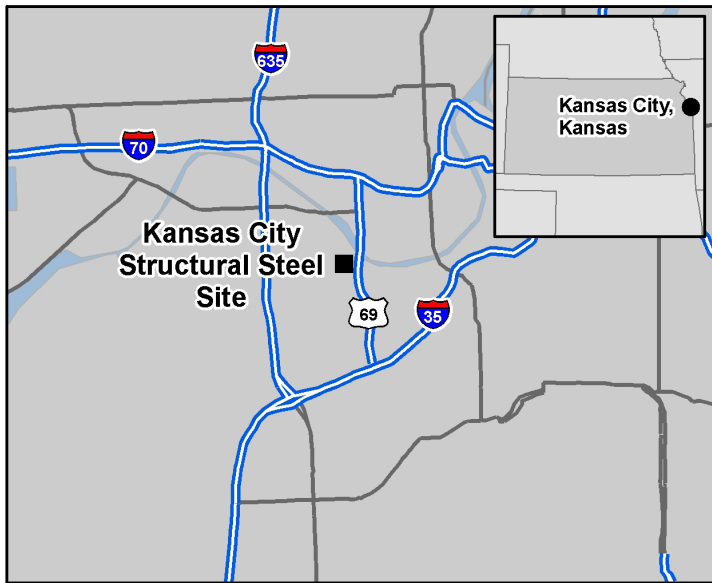
Environmental and public health impacts affect people most significantly where they live. EPA works to provide strong, effective enforcement support to all communities. As the Agency implements environmental and public health improvements across the country, EPA is looking for new ways to assist communities in environmentally overburdened, underserved, and economically distressed areas where the needs are greatest.

Innovative Approaches and Coordination Results in Site Cleanup and Commercial Redevelopment

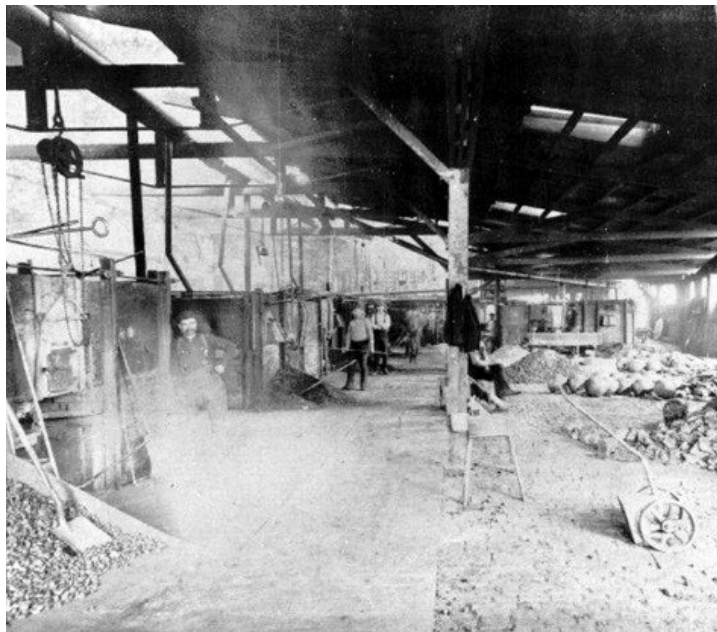
A Prospective Purchaser Agreement facilitated reuse opportunities at a former smelting facility. The Agency's work with local government and community organizations helped to identify reuse opportunities aligned with the neighborhood's needs and ensure protection to community health and environment.

“EPA received us with open arms, they communicated effectively with challenges and potential solutions...as pertained to any environmental concerns.” Hunter Harris, Lane4 Property Group

The site's location in Kansas City, Kansas.



Sources: Esri, DeLorme, AND, Tele Atlas, First American, UNEP-WCMC and USGS.



Facilities refined gold, silver and lead on site in the late nineteenth century. Source: My Present Past

Site and Community Overview

The 22-acre site is located in Kansas City's Argentine neighborhood, an area with a rich Latino and Native American history and heritage. Beginning in 1880, the Kansas City Consolidated Smelting and Refining Company and its successor, the American Smelting and Refining Company (ASARCO), smelted and refined gold, silver, and lead on site. By 1898, the facility was one of the most productive silver and lead smelters in the world.

From 1901 until 1984, the Kansas City Structural Steel Company produced steel products for bridges, buildings, and other structures on site. The Mosher Steel Company continued metal fabrication until the plant's closure in March 1987. Many in the Argentine neighborhood lost their jobs and faced limited employment opportunities in the area. For decades, the plant had employed several generations of area residents. When it closed, the close-knit community's way of life shifted and the area faced a sustained economic decline. It would take innovative thinking, collaborative partnerships, and sustained community leadership to restore the local economy.

Project History

1989 – 1995

Site Investigations, Cleanup Actions, Community Involvement

Site investigations started after the plant's closure in 1987. EPA activities focused on the types and extent of contamination as well as public health risks. EPA found elevated levels of lead and heavy metals in soils and groundwater. The greatest threat to the community – especially for children and infants who are most susceptible to lead exposure – was inhalation of airborne dust. Areas impacted by the contamination included homes south and west of the site, two multi-family housing complexes, several parks, and five schools. All of these areas were located within eight blocks of the site.

To fund the cleanup, EPA's regional enforcement team focused on identifying the site's PRPs – Kansas City Structural Steel Company and site owner BancAmerica.

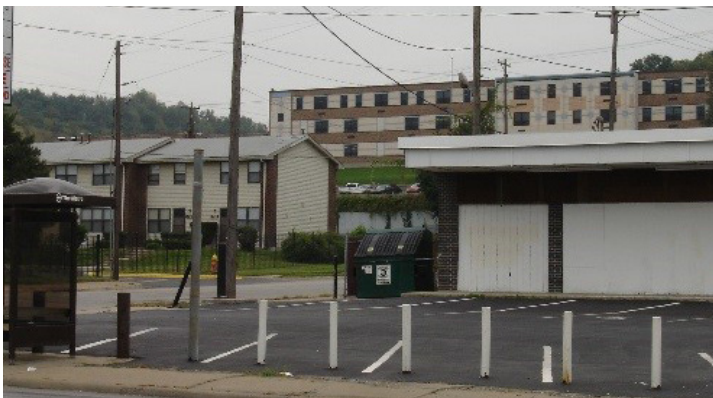
Components of the Final Cleanup Agreement included:

- Demolition of asphalt, buildings and structures.
- Decontamination of railroad tracks, ties and spikes and removal for resale.
- Excavation of soils and debris with high levels of lead.
- Consolidation of highly contaminated materials in an on-site disposal cell.
- Installation of a 4-foot cap of clean fill over the entire site.
- Institutional controls to make sure future site uses remain compatible with the cleanup.

Prospective Purchaser Agreements

EPA may enter into a prospective purchaser agreement with a party acquiring a property with potential CERCLA liability. The agreement includes a “covenant not to sue” in exchange for payment and/or work. A covenant not to sue protects the property owner or operator and future owners from being legally responsible to the federal government for further investigation and cleanup. This protection applies only when the property is used and maintained in the same manner as when the covenant was issued.

EPA enters into this agreement in limited circumstances, such as situations where a new use offers significant environmental benefits and there is a significant need for an agreement to help make a project happen.



View of the Argentine neighborhood.

Cleanup agreements with the PRPs in 1990 and 1991 included requirements that the cleanup protect the surrounding community and the environment. Cleanup work started in 1993 and finished in 1995.

Throughout site investigations and cleanup work, EPA and the PRPs made sure to keep the community involved. Community members provided feedback that guided cleanup planning and implementation, and helped to write a responsiveness summary that documented community concerns and priorities.

Following cleanup, EPA worked with the PRPs on land use restrictions to make sure that future uses at the site would be compatible with the cleanup.

- At least four feet of clean fill must remain below the surface of the cleaned-up area.
- Buildings cannot have basements and crawl spaces cannot be more than two feet below the finished grade.
- Foundations and support structures cannot extend below the four-foot clean fill barrier.
- Fencing around contaminated media to restrict access and prevent human exposure.

1995 – Present Gauging Community Concerns, Enhancing Outcomes

The completion of cleanup and finalization of land use restrictions coincided with sustained community interest in site reuse opportunities. By the early 1990s, several community-based groups were working steadily to find new opportunities for sustainable employment and economic growth for the Argentine neighborhood. One of these organizations, El Centro, recognized that the site’s cleanup and redevelopment could spur local economic development opportunities.

Working with these organizations, EPA evaluated enforcement tools that would be compatible with the community’s reuse priorities, address liability concerns, and ensure long-term cleanup protections. EPA identified an agreement and covenant not to sue for a new buyer, also known as a prospective purchaser agreement, as the most promising option.



View of the site before commercial redevelopment.



Construction underway on site for the Walmart Neighborhood Market.

Prospective purchaser agreements address site owners' liability concerns in return for owners' committing to maintaining the protectiveness of site remedies. In October 1995, El Centro entered into an agreement with EPA. El Centro agreed to provide EPA with site access and take the lead on operation and maintenance activities. In return, the agreement gave El Centro assurance that it would not be liable for prior site contamination.

With the agreement in place, El Centro purchased the property from BancAmerica in late 1995. El Centro continued its search for a development partner; however, the process proved difficult. Despite its location near major highways and the Burlington Northern Santa Fe rail line, the site sat vacant for over a decade.

A preliminary reuse assessment funded by EPA in 2005 helped set the stage for the future. The assessment included a series of discussions with community stakeholders,

including local officials, the property realtor, and El Centro. EPA and KDHE also met with the community to discuss reuse opportunities. Through these discussions and a neighborhood survey, the community identified commercial redevelopment – rather than manufacturing – as its top priority. “When proposals came through, we told companies they had to have the community on board,” recalled EPA site attorney Bob Richards. “EPA respects the local process and people should be able to determine the character of their land.”

With a strong foundation of community support and a shared vision for the site's reuse in place, the Argentine neighborhood patiently pursued potential development opportunities. In 2012, Ann Murguia, District 3 Commissioner and Executive Director of the Argentine Neighborhood Development Association, helped bring the property to Walmart's attention. Lane4Property Group (Lane4), a local development firm, was also interested in bringing a Walmart store to the site as part of a larger commercial center called La Plaza Argentine. As part of these development discussions, EPA and Lane4 hosted public meetings to discuss project plans and address local concerns. In March 2014, El Centro sold the property to Argentine Retail Developers for development of La Plaza Argentine. The commercial center's first and primary business would be a Walmart Neighborhood Market.

EPA transferred the prospective purchaser agreement to the new property owner and the developers reached out to EPA as planning began. The agreement transfer could have been a difficult and prolonged process, but EPA worked with all parties involved and made sure everybody understood the agreement. In addition, EPA amended the transferred agreement to accommodate changes in land use restrictions. EPA regional staff and KDHE extensively reviewed the existing land use restrictions and proposed controls, and coordinated with the U. S. Department of Justice (DOJ) to amend the agreement.

During redevelopment of the property, KDHE accepted oversight responsibilities for the site. The state also helped enroll Argentine Retail Developers in the Kansas Environmental Use Control program, a state program that tracks institutional controls and provides local oversight. Through the program, the site's institutional control agreements were updated and permanently recorded with Wyandotte County. KDHE also recorded new deed

Institutional Controls

Non-engineered instruments such as administrative and legal controls that help minimize the potential for human exposure to contamination and/or protect the integrity of the remedy.

Examples include zoning restrictions, local ordinances and restrictive covenants.

restrictions in 2014 and put a long-term care agreement in place for future site inspections. Together, these actions ensured that the site's redevelopment could proceed as quickly and safely as possible.

In September 2014, the Walmart Neighborhood Market held its grand opening at the site. The 41,000-square-foot retail center is open 24 hours a day, seven days a week, and includes a garden center, grocery, pharmacy, and parking. Its opening has restored much-needed jobs in the community and provides wider access to affordable and healthy food. Looking forward, the planned development of several other stores and restaurants at La Plaza Argentine will create additional opportunities for jobs and services in the community. In addition, Argentine Retail Developers donated several acres of property to the local government for a police station. Construction of the 6,000-square-foot South Patrol Police Station started in the summer of 2016, with completion anticipated in 2017.

Enforcement Makes a Difference

EPA's environmental enforcement program has helped make a difference in thousands of communities impacted by hazardous waste contamination. At sites like the Kansas City Structural Steel site, the program helps ensure that viable liable parties perform and pay for prompt and protective cleanups. These cleanups can lay the groundwork for site reuse that caters to the needs of the local community. Through the collaborative efforts of local, state and federal governments, area developers and organizations, this once-idle property in Kansas City now hosts a commercial retail center addressing long-standing priorities for the Argentine neighborhood.



The Walmart Neighborhood Market in the Argentine neighborhood.

For More Information, Contact:

Elisabeth Freed
freed.elisabeth@epa.gov
(202) 564-5117