

ENVIRONMENTAL USE CONTROL PROGRAM

WHAT IS AN ENVIRONMENTAL USE CONTROL?

An Environmental Use Control (EUC) is a legal mechanism for applying restrictions, prohibitions, and conditions on land use for a property that has environmental contamination at levels prohibiting unrestricted use; that is, a property with contaminant concentrations that exceed residential standards.

WHY ARE EUCS NEEDED?

EUCs are necessary when residual contamination (contamination remaining on the property following cleanup) prohibits unrestricted use of the property. An EUC can be voluntarily applied to a property by the landowner to assure adequate current and future protection from exposure to residual contamination on the subject property. An EUC can provide a landowner relief from environmental liability concerns, making property more attractive to redevelopment or prospective buyers.



BEFORE: Former Phillipsburg Armory containing petroleum wastes.

WHAT ARE THE BENEFITS OF EUCS?

EUCs allow for the development and adaptive reuse of a contaminated property where cleanup to levels allowing unrestricted use is not economically or technically feasible. In most cases, development of a property should be achievable within the framework of EUCs, allowing a property which was previously undeveloped or abandoned due to environmental concerns to be put to beneficial and productive use or be made more attractive to prospective buyers. EUCs also protect the seller of a property by informing future landowners of the use restrictions necessary to mitigate the environmental liability concerns associated with a property.



AFTER: Phillipsburg Aquatic Center
Photo Credit: Steven Eller & Google Maps

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WHAT CONDITIONS MAY BE IMPOSED ON A PROPERTY?

Some conditions imposed by EUCs could be to:

- Restrict future land use to non-residential purposes
- Prohibit installation of drinking water wells
- Limit or prohibit digging or other types of soil disturbance activities
- Require erosional controls
- Limit the type of vegetation to be grown
- Require maintenance of a protective structure or other engineered barrier

EUCs serve to prevent exposure to remaining contaminants, but are site-specific and depend on multiple factors. These factors may include:

- Amount and type of contamination left on the property
- Location of contamination in relation to other land uses
- Potential migration pathways or routes of exposure
- Geology of the site



ARE EUCS PERMANENT LAND USE RESTRICTIONS?

Yes, an EUC runs with the property and is binding on the landowner and any subsequent owners, lessees, and other users of the property. EUCs are recorded at the local county register of deed to ensure permanence. However, the landowner may conduct additional investigative and/or remedial activities in the future to reduce or eliminate the remaining contaminants posing a risk to human health or the environment. Once such work is completed, a request can be made to the department to remove or modify the EUC.

CAN I USE AN EUC TO ADDRESS CONTAMINATION ON MY PROPERTY?

EUCs may be used to address environmental concerns if a property is enrolled in a KDHE environmental program, the KDHE has approved use of EUCs at the property, and the cleanup objectives are based on the following:

- Non-residential land use
- Protective structures (i.e., engineered barriers such as caps, berms, surface controls, etc.)
- Prohibiting activities on the property (i.e., no water wells, excavation, trenching, etc.)
- Any combination of the above

A landowner does not need an EUC when contamination is cleaned up to residential standards for unrestricted use.

WHERE CAN I GET MORE INFORMATION ABOUT EUCS?

Contact Environmental Use Control Staff at (785) 296-1673 for more information regarding EUCs or an application to participate in the EUC Program.