

## **APPLICANT INFORMATION**

### **SMUGGLER MOUNTAIN SUPERFUND SITE (SITE)**

In January 1985, the United States Environmental Protection Agency (EPA) named a portion of Smuggler Mountain and surrounding land a Superfund Site in accordance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980. The Smuggler Mountain Superfund Site (Site) was officially de-listed from the National Priorities List on September 23, 1999. The EPA determined the Site posed no environmental or health hazard to the community as long as Institutional Controls were in place and enforced.

Although EPA has de-listed the Site and Pitkin County retained management of the Site, residents and contractors who live and work at the Site still must follow Institutional Control requirements. EPA continues to monitor the Site.

### **Definitions**

1. "Activity" means any action occurring on, above, or below the surface of the ground within the boundaries of the Site that results, or may result in disturbance of 1 cubic yard/1.125 tons of soil within the Site.
2. "Contaminated soil or other contaminated material" means soil or other material containing total lead concentrations of equal to or greater than 1,000 parts per million (ppm).
3. "Development" means any construction or man-made change in the use or character of land including, but not limited to; building, grading, excavating, digging, paving, drilling, planting, or landscaping.
4. "EPA" means the U.S. Environmental Protection Agency.
5. "Hard surface cover" means a non-permeable or semi-permeable barrier overlaying the ground surface, such as paving, asphalt, concrete, stone or wood, and including buildings and other permanent structures.
6. "Institutional Controls" means the special regulations pertaining to development or other activities within the Site. The Institutional Controls are available online at: [www.aspenpitkin.com](http://www.aspenpitkin.com) . Search for Environmental Health, Smuggler Mtn. Superfund Site, Institutional Controls.
7. "Landfill" means the Pitkin County Landfill.
8. "Vegetative cover" means plant life including, but not limited to grass, trees, shrubs and sod that is planted or installed in such a manner as to prevent or minimize the exposure of ground soil.

### **Permitting Requirements and Process**

1. Applicants must complete a Smuggler Mountain Superfund Site Soil Removal Permit application for any development or other activity. This includes landscaping projects involving the excavation or exposure of more than 1

cubic yard/1.125 tons of soil. Applications are available at the City of Aspen Building Department and the Pitkin County Building Department and online at [www.aspenpitkin.com/pdfs/depts/44/SMUGGLER\\_dirt.pdf](http://www.aspenpitkin.com/pdfs/depts/44/SMUGGLER_dirt.pdf)

2. Keep a copy of the permit with you and take it to the Landfill with the first truckload of contaminated soil or other contaminated material. Keep a copy of all Landfill tickets, receipts, or other records to verify the amount of soil taken to the Landfill. These documents may be asked for prior to approving your certificate of occupancy.
3. The Landfill Gatekeeper tracks the amount of contaminated soil or other contaminated material brought to the Landfill and verifies it with the volume stated on your Soil Removal Permit. Applicants should contact the Landfill for fees associated with disposal of contaminated soil or other contaminated material. Make sure you have filled out the Landfill form titled "Pitkin County Special Waste Approval Form" available from the Landfill.

### **Completing the Soil Removal Form**

A property within the Site whose soil has tested below 999 ppm total lead or a property that has received a "clean letter" from the EPA that wants to do any activity that will displace more than 1 cu yd/1.125 tons of soil must do the following:

1. Obtain a Smuggler Mountain Superfund Site Soil Removal Permit from either the City of Aspen or Pitkin County (they are also available on line at [www.Aspenpitkin.com](http://www.Aspenpitkin.com) under Environmental Health Department).

In this case, only the first 3 pages of the permit need to be completed

A property within the Site that has total lead concentrations equal to or greater than 1,000 ppm, and will move 1 cu yd/1.125 tons or more of soil must do the following:

1. Obtain a Smuggler Mountain Superfund Site Soil Removal Permit from either the City of Aspen or Pitkin County (they are also available on line at [www.Aspenpitkin.com](http://www.Aspenpitkin.com) under Environmental Health Department).
2. Complete the first three pages of the permit and return them to either City of Aspen or Pitkin County Environmental Health Departments. Have Affidavit 1 notarized and attach it to the soil removal permit form.
3. Material from these properties that are not to remain on the property must be taken to the Pitkin County Landfill. Make sure to fill out the Pitkin County Special Waste Application Form in your packet.
4. After all of the material on the property has been excavated, contact the Landfill to let them know the project is complete.
5. The Landfill will inform you of the exact amount of material you delivered to the Landfill.
6. With that information, fill out Affidavit 2, have it notarized and return it to either the City of Aspen or Pitkin County Environmental Health Departments.
7. When you have finished your landscaping with either one foot of soil containing less than 1,000 ppm total lead with a permanent vegetative cover

(grass); or a hard surface cover (asphalt, 12 inches of gravel, concrete), contact either Environmental Health Department to initiate having EPA send you a letter stating you are in compliance with regulations (known as a "clean letter").

### **Performance Standards and Site Maintenance**

1. **Excavation and construction:** Any disturbed soil or other material that is, or may be contaminated, and that is to be stored above ground shall be securely contained on and covered with a durable non-permeable tarp or other protective barrier approved by the City of Aspen Environmental Health Department or the Pitkin County Environmental Health Department. This is to prevent leaching of contaminated soil or material onto or into the surface soil. Sufficient measures must be taken to prevent soil from being tracked offsite.
2. **Removal of contaminated soil or material:** No contaminated soil or other contaminated material shall be removed, placed, stored, transported or disposed of outside the boundaries of the Site without having first obtained any and all necessary State and/or Federal transportation and disposal permits. Contaminated soil or other contaminated material need not be taken to the Landfill if it is determined that there exists a satisfactory method of disposal at the excavation site, or if the material is being taken to another duly licensed and authorized receiving facility. The City of Aspen and Pitkin County may require soil testing to determine lead content of any soil or other material on the site.
3. **Dust suppression:** All development and other activities shall be accompanied by dust suppression measures to minimize the creation and release of dust and other particulates into the air.
4. **Vegetable and flower gardening or cultivation:** No vegetables or flowers shall be planted or cultivated within the Site boundaries except in beds consisting of not less than 12 inches of soil containing less than 1,000 ppm total lead.
5. **Surface coverage:** All areas of the Site must be maintained with a permanent vegetative or hard surface cover. Except as allowed pursuant to a duly obtained permit, no person may alter any part of a permanent vegetative or hard surface cover absent prior notice to the Aspen Environmental Health Department or the Pitkin County Environmental Health Department. To obtain a "clean letter" (see below) from the EPA a minimum of 12 inches of uncontaminated soil must be placed over contaminated soil or other contaminated material, and the area revegetated after a construction or landscaping project has taken place. It is also acceptable to cover contaminated soil or other contaminated material with 12 inches of gravel, or pave it with concrete or asphalt.

6. **No erosion:** All areas within the Site must be maintained in a manner to minimize erosion, including adequate provision for drainage and surface water run-off to prevent the formation of standing pools, ditches or gullies.

### **Inspections**

1. All areas within the Site are subject to inspection by the City of Aspen and Pitkin County with authority to enforce Institutional Controls. On-site inspections are done with consent of the property owner or occupant. If consent is denied a court order can be sought.
2. Inspections are done randomly, but routinely throughout the year.

### **"Clean Letters"**

1. Property owners within the Site who have correctly remediated their property are supposed to receive a "clean letter" from EPA, stating that the property requires no further remediation. This finding is based on no further disturbance of the remedy by current or future owners.
2. After a property has been fully remediated, Pitkin County Environmental Health Department sends a notice to EPA identifying the property owner(s) and the property address, requesting that a "clean letter" be sent. The EPA sends the "clean letter" directly to the property owner(s). Neither the City of Aspen or Pitkin County receives a copy of the EPA letter to the property owner(s). Pitkin County's only record of properties that have been cleaned is the notification letter sent to the EPA.

### **Violations/Enforcement**

1. If the City of Aspen or Pitkin County determines that a violation of the Institutional Controls has occurred the following actions may be taken:
  - i. A verbal warning followed by written notice to the property owner(s) of the violation and corrective action required. Violations must be corrected immediately and will be evaluated for compliance by the City of Aspen and/or Pitkin County.
  - ii. A citation and court summons (if necessary) will be issued by the City of Aspen and/or Pitkin County, or other enforcement action may be taken such as a stop work order if the violation is not corrected in a timely fashion. Compliance timing will be determined by the City of Aspen and/or Pitkin County. The court summons may be issued to the property owner(s) and/or the developer found in violation.

**City of Aspen and Pitkin County**

**SMUGGLER MOUNTAIN SUPERFUND SITE SOIL REMOVAL PERMIT**

Building Permit Number: \_\_\_\_\_

No person shall undertake or conduct any activities or development within the Smuggler Mountain Superfund Site (Site) involving the excavation or exposure of more than one (1) cubic yard (cu yd) or 1.125 tons of soil without first obtaining a permit from the Director of the City of Aspen Building Department or the Director of the Pitkin County Building Department. They shall be subject to the requirements set forth in Institutional Controls, Section 7-143 in the City or Section 8-1 in the County. Activities or development involving excavation of less than the amount of soil mentioned above shall also require a permit, but with less handling requirements than soil volume equal to or in excess of 1 cu yd or 1.125 tons.

Contaminated soils removed from the Site may only be taken to the Pitkin County Landfill for disposal. Reference the Pitkin County Special Waste Approval Form - attached. The owner or owner's representative must complete Affidavit's 1 and 2 with a notarized signature - attached.

Property owner: \_\_\_\_\_

Phone number(s): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Contractor name: \_\_\_\_\_

Describe activity that will take place: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Depth of excavation: \_\_\_\_\_ Surface area disturbed (cu yds or tons) \_\_\_\_\_

Cubic yards/tons of material to be excavated: \_\_\_\_\_

Cubic yards/tons of material to be retained on property: \_\_\_\_\_

Cubic yards/tons of material to be disposed of off property: \_\_\_\_\_

How long will excavated material be exposed on surface? \_\_\_\_\_

How will the applicant identify and segregate clean soil (soil with a total lead content of 999 parts per million [ppm] or less) from contaminated soil (soil with a total lead content of 1,000 ppm or higher) during the excavation or development period? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How does the applicant plan to backfill, cover, and re-vegetate contaminated soil left on the property? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I (applicant) agree to comply with all Performance Standards, Soils Testing, and Inspection and Maintenance as described in the Institutional Controls adopted by the City of Aspen and Pitkin County: YES \_\_\_\_\_ NO \_\_\_\_\_

**VEHICLES HAULING SOIL TO THE PITKIN COUNTY LANDFILL MUST COVER THE SOIL TO EFFECTIVELY PREVENT SOIL FROM BLOWING OUT OF THE VEHICLE.**

**VEHICLES TAKING SOIL TO THE LANDFILL MUST TELL THE GATEKEEPER THE EXACT STREET ADDRESS OF THE JOB, AND WHETHER THE SOIL IS CONTAMINATED OR CLEAN (noted by the Environmental Health Director/Manager).**

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**OFFICIAL RESPONSE AND CONDITIONS**

**Chief Building Official or designated agent (optional):**

Approval:\_\_\_\_\_ Denial:\_\_\_\_\_

Signature:\_\_\_\_\_

Date:\_\_\_\_\_

**Environmental Health Director/ Manager or designated agent (required):**

Approval:\_\_\_\_\_ Denial:\_\_\_\_\_

Signature:\_\_\_\_\_

Date:\_\_\_\_\_

Condition of soil:    Clean:\_\_\_\_\_ Contaminated:\_\_\_\_\_

Comments:\_\_\_\_\_  
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SOLID WASTE CENTER

## PITKIN COUNTY SPECIAL WASTE APPROVAL FORM

This form is to be used to describe soils and/or cleanup materials which have been contaminated. The material being delivered for disposal at the Pitkin County Solid Waste Center can contain no free liquid and cannot be a hazardous waste under state or federal authority. All of the following information must be supplied:

Name of Generator: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Address of Contaminated material: \_\_\_\_\_ City: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Cell: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Company: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Truck company hauling in: \_\_\_\_\_ Date expected to start hauling: \_\_\_\_\_  
Charge to Account\*: \_\_\_\_\_ or check\* Name on check: \_\_\_\_\_

*\* Charge accounts must be set up prior to hauling. Check must be at landfill with first haul but may be left open to run for a week at a time.*

ALL materials\* must have Analytical Lab Data submitted and approval given before material arrives at landfill. Date submitted: \_\_\_\_\_ ☐ via email Cathy.Hall@PitkinCounty.com ☐ via fax 970-923-2043

*\*Soil from the Smuggler Superfund Site does not need labs submitted unless the City of Aspen has required additional testing. We require a signed approval copy of COA's "Smuggler Mountain Superfund Site Soil Removal Permit"*

Date Received: \_\_\_\_\_

Volume or Tons of Waste: \_\_\_\_\_ ☐ Yards ☐ Tons

Description of Waste: \_\_\_\_\_

Date(s) of Waste Generation: \_\_\_\_\_

Source of Waste: ☐ Spill ☐ UST ☐ AST ☐ Non-friable Asbestos ☐ Other: \_\_\_\_\_

If bringing in used Waste Containers have they been triple rinsed: ☐ Yes ☐ NA

Reviewed and approved by Pitkin County by: \_\_\_\_\_ Date: \_\_\_\_\_

Notes/Conditions: \_\_\_\_\_

A copy of this approved form will be returned to you. Fax or Email: \_\_\_\_\_

1st Date Accepted at Pitkin County Solid Waste Center: \_\_\_\_\_ Last Date: \_\_\_\_\_

Run report for project. Total Tons: \_\_\_\_\_

*Smuggler: Copy the report to Tom Dunlop (Pitkin County) and Aaron Red (City of Aspen)*



City of Aspen and Pitkin County

AFFIDAVIT 1

County of Pitkin}  
State of Colorado} s.s.

The undersigned, \_\_\_\_\_  
after first being sworn upon (his/her) oath, states and agrees as follows:

1. I am of legal age and am currently suffering no infirmities, which might affect my statement and agreement herein.
2. I am the legal owner or owner's representative of the certain parcel of real estate, known as (street address) \_\_\_\_\_, Aspen, Colorado, which property is located within the boundaries of the Smuggler Mountain Superfund Site (Site) as designated by the United States Environmental Protection Agency (EPA).
3. I have proposed to do certain excavation work upon the referenced property, which work I acknowledge is subject to Institutional Controls in the Site, as the excavated soils contain more than 1,000 parts per million (ppm) of total lead. I understand and agree that such excavated material shall be handled in conformance with the Record of Decision and Institutional Controls for the Site.
4. I will direct my contractors or any persons working for me during this excavation and insure that all excavated materials containing total lead equal to or in excess of 1,000 ppm are transported to an approved repository site, where they will be subject to inventory and be deposited in accordance with repository regulation. It is currently estimated that this project will require the excavation of \_\_\_\_\_ **cubic yard/tons** of materials, all of which materials actually excavated shall be accounted for in accordance with current regulations. At the conclusion of my project, I understand that I shall be required to confirm the proper accounting and handling of all such excavated materials before the Building Official will issue my final certificate of occupancy.
5. I understand that falsification of this affidavit may subject me to civil and criminal penalties under local, State and Federal law, including response costs and penalties under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Owner or Owner's Representative: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public: \_\_\_\_\_



City of Aspen and Pitkin County

AFFIDAVIT 2

County of Pitkin}  
State of Colorado} } s.s.

The undersigned, \_\_\_\_\_  
after being sworn upon (his/her) oath, states as follows:

1. I am currently of legal age and am suffering no infirmity, which might affect my statement and agreement herein.
2. I am the legal owner or owner's representative of a certain parcel of real estate, known as (street address) \_\_\_\_\_  
\_\_\_\_\_ Aspen, Colorado,  
which property is located within the Smuggler Mountain Superfund Site (Site) as designated by the United States Environmental Protection Agency (EPA).
3. Sampling data show that soil on my property contains total lead levels equal to or greater than 1,000 parts per million (ppm). I am aware that this concentration of lead in the soil has caused EPA, the City of Aspen and Pitkin County to place certain restrictions including Institutional Controls, on the movement and disposal of this contaminated soil. I certify that I have complied with these restrictions during the course of the construction project undertaken on my property. I confirm that \_\_\_\_\_ **cubic yards/tons** of excavated materials were removed from my property and were delivered to the Pitkin County Landfill as required by my building permit.
4. All excavated materials were handled in accordance with the requirements of the Institutional Controls. Soils containing less than 1,000 ppm total lead were disposed of without restriction, as they are considered uncontaminated.
5. I understand that falsification of this affidavit may subject me to civil and criminal penalties under local, State and Federal law, including response costs and penalties under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Owner or Owner's Representative: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public: \_\_\_\_\_

