



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
IDAHO OPERATIONS OFFICE
950 West Bannock, Suite 900
Boise, Idaho 83702
SEP 08 2016

SUBJECT: Action Memorandum Amendment for Ceiling Increase at the Orofino Asbestos Site, Orofino, Clearwater County, Idaho

FROM: Greg Weigel, Federal On-Scene Coordinator
Emergency Response Unit
Emergency Management Program

THRU: Wally Moon, Manager *WJM*
Spill Prevention and Removal Unit
Emergency Management Program

TO: Chris D. Field, Manager *WJM*
Emergency Management Program

SITE ID: 10JN

I. PURPOSE

The purpose of this Action Memorandum Amendment (Amendment) is to document the decision of a ceiling increase for the removal action described herein for the Orofino Asbestos Site in Orofino, Clearwater County, Idaho. If approved, this will be the fifth amendment to the original Action Memorandum, dated September 30, 2010, for the Site.

This Amendment addresses proposed time-critical removal action necessary to ensure protectiveness at the Riverview Construction Asbestos Unit (RCAU) of the Orofino Asbestos Site (Site). The ceiling increase request is for an additional \$444,000 which, if approved, will bring the total project ceiling to \$3,571,000. The proposed removal action at the Site continues to meet the emergency exemption criteria to the statutory limits on removal actions of 12 months and \$2 million.

II. SITE CONDITIONS AND BACKGROUND

The CERCLIS ID is IDN001002885.

A. Site description

The time-critical removal action proposed in this Action Memorandum Amendment addresses construction of a protective cover over asbestos containing soils at the RCAU, located within the property at 12976 Highway 12 in Orofino. RCAU is one of two locations within the Orofino Asbestos Site that contain a large volume of soils contaminated with broken and friable asbestos-cement pipe (ACP), which were collected and placed at the property by Owyhee Construction, Inc. (Owyhee

Construction) in 2010. The other location is the site of an asbestos soil repository located at the Orofino First Baptist Church, where ACP containing soils were consolidated from a number of contaminated properties in Orofino by Environmental Protection Agency (EPA) to mitigate the risk of asbestos exposure resulting from the spread of ACP containing soil also by Owyhee Construction. (see Figure 1). No ACP containing or asbestos contaminated soils were brought to the RCAU by the EPA or other party known to EPA, since the original placement of contaminated material by Owyhee Construction. This proposed action addresses only the RCAU.

1. Site history

The RCAU is an approximately 2-acre area that lies south of Highway 12 and adjacent to King's Discount store in an area of mixed commercial and residential land use, in the Riverside neighborhood of Orofino (see Figure 2). In previous EPA Action Memos, this property was also referred to as a 4.39 acre vacant lot. In 2010, potentially responsible parties (PRPs) deposited an estimated 15,000 to 25,000 cubic yards of excavated soils comingled with broken and friable ACP on the 2-acre area as fill material (see Action Memorandum for Interim Removal Action, dated July 2010). EPA entered into a CERCLA Administrative Order on Consent for Removal Action (AOC) with Owyhee Construction, Inc, Riverview Construction, and the owners of Riverview Construction (Respondents) on August 9, 2010. The AOC documented that the Riverview Construction Asbestos Site was an abandoned lot corresponding to Parcel #RP004550000050A; Township 36N, Range 01E, Section 3 in Orofino, Idaho. A subsequent Action Memorandum and Action Memorandum Amendments for the Orofino Asbestos Site (described below in Section B.1.) identified the Riverview Construction Asbestos Site located at 12976 Highway 12 (corresponding with the legal property description described in the AOC) as part of the larger Orofino Asbestos Site comprised of multiple properties where ACP containing soil was placed by Owyhee Construction.

The AOC documented that in 2009, the Riverside Water and Sewer District in the City of Orofino awarded a contract to Owyhee Construction, Inc. for the completion of water system improvements. The Summary of Work for the project stated that it was anticipated that the contractor would encounter more than 5,000 linear feet of ACP, which was to be abandoned in place. In May 2010 EPA responded to a complaint that Owyhee Construction, Inc. placed excavated soils containing broken pieces of ACP as fill at the Riverview Construction property. An EPA On-Scene Coordinator (OSC) responded in June 2010, and observed many scattered pieces of suspected ACP laying on the ground surface. On August 9, 2010, Respondents signed the AOC with EPA that required that Respondents submit a Work Plan for interim measures to control for fugitive dust from the site that might contain asbestos and install a fence around the RCAU to limit human access and exposure to the materials. A Work Plan was submitted that called for a 4 inch gravel cover over the 2-acre area where ACP containing soils had been deposited. The interim gravel cover and 3-wire fence were installed in August, 2010.

Also in August 2010, the EPA OSC began investigating complaints regarding other properties in Orofino where excavated soils containing ACP were allegedly deposited by the PRPs. A separate Action Memorandum for Emergency Action at the Orofino Asbestos Site was approved on September 30, 2010, for Fund-lead removal action to address asbestos contaminated soils at these other properties. Ultimately, during 2010 and into 2011, another 21 individual properties (in addition to the RCAU) were identified throughout the Orofino area that were contaminated with ACP containing soil. Because of the evolving nature of the Site as additional properties requiring cleanup were identified, the original September 30, 2010 Action Memorandum for the Orofino Asbestos Site was amended twice, in May

2011 and again in July 2011, for change in the scope of activities and to increase the cost ceiling for those activities.

EPA identified that a large volume of ACP material was already deposited at the Orofino First Baptist Church. Due to the sheer volume of material and associated costs for the federally funded removal action at the Orofino Asbestos Site, EPA with consent from the Church consolidated ACP materials from some of the other properties in an engineered repository at the Orofino First Baptist Church. The Church in exchange for agreeing to perform operation and maintenance would gain a large asphalt parking area for their use.

The repository at the First Baptist Church was constructed with a partial asphalt cap and on a slope, which required engineering and construction of a retaining structure. In the winter of 2011-2012, the structure began to deform as a result of an unforeseen buildup of hydraulic pressure behind the wall from heavy snow fall and the unanticipated accumulation of plowed snow on top of the repository. The EPA approved a third Amendment to the Orofino Asbestos Site Action Memo in August 2012, to address the potential failure of the repository retaining wall. Finally, in April 2015, the EPA approved a fourth Amendment to the Orofino Asbestos Site Action Memo to make necessary repairs to the repository cover and finalize post-removal site controls at the property, including improving the drainage and vegetative cover of the dry retention area and repairing settled areas of the asphalt cap. The physical actions are complete at the Church property. To date, the post-removal site controls which include creating and implementing an environmental covenant and Operation and Maintenance Plan on the Church property are still in process. EPA is engaged with Idaho Department of Environmental Quality (IDEQ) representatives to complete these tasks.

On May 14, 2016, the EPA lodged for entry with the U.S. District Court for the District of Idaho a Consent Decree with defendants Owyhee Construction, Inc. and Riverside Water and Sewer District. The Consent Decree required the defendants to pay the EPA \$523,000 for past response costs. The Court entered the Consent Decree on August 3, 2016. The Consent Decree identifies 22 properties that make up the Orofino Asbestos Site, including the RCAU at 12976 Highway 12. A portion of the settlement funds from the Consent Decree that were placed in a Superfund Special Account are anticipated to be used for implementation of the removal action described herein, with potentially any balance of funds coming from the Superfund Removal Allowance.

2. Removal Site Evaluation

On March 23, 2016, the EPA OSC conducted a visual inspection of the RCAU property as an initial step to evaluate the protectiveness of the 2010 "interim" cover. IDEQ had earlier identified and provided photographs of two suspected ACP pieces that were on the surface of the ground on the north slope of the repository. The OSC confirmed that there appeared to be exposed ACP on the surface of the repository, on the north slope of the repository where there appeared to be no cover. On April 27, 2016, the EPA returned to the site with START and ERRS contractors, and IDEQ, to thoroughly evaluate the long-term protectiveness of the "interim" cover that was installed by PRPs in 2010. The EPA found that there were exposed ACP containing soils along the slope that forms the northern boundary of the repository, and that the previously placed gravel cover was uneven and less than the design criteria of 4 inches thickness in 10 of 40 test locations. The EPA OSC concluded that additional removal work was necessary at the RCAU to mitigate a potential exposure of the nearby population to asbestos from the Site. The removal action described herein is necessary to ensure that asbestos contaminated soils at the RCAU are isolated beneath a durable protective cover, and that access to the property is sufficiently

restricted to mitigate any potential exposure to nearby area residents, visitors to neighboring properties including the adjacent King's Discount store, or passersby along Highway 12 and the right-of-way and sidewalk adjacent to the north property boundary.

3. Physical location

The proposed Removal Action described herein will address only the RCAU, which is only one portion of the overall Orofino Asbestos Site. See previous Action Memoranda for a description of the physical location of the Orofino Asbestos Site. The RCAU is an approximately 2-acre piece of land that lies south of Highway 12 and adjacent to a King's Discount store in an area of mixed commercial and residential land use, in the Riverview neighborhood of Orofino (see Figure 2).

4. Site characteristics

The RCAU is on relatively level ground with an approximately 6 foot slope at the north boundary of the property. The slope terminates adjacent to a public sidewalk and the right-of-way for Highway 12. All of the two-acre RCAU is covered by a varying thickness of gravel cover (between 2 inches and 7 inches, with an average of 4 inches), except for the north slope which does not have any cover over exposed ACP containing soils. The RCAU is fenced by a 3-strand barbed wire fence. There are no warning or "Do Not Enter" signs identifying the RCAU hazardous substance or asbestos hazard.

5. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

The only hazardous substance known to be at the Site and the RCAU is asbestos. Asbestos is a hazardous substance as defined by Sections 101(14) and 101(33) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §9601(14) and (33).

An estimated 15,000 to 25,000 cubic yards of soils containing broken and friable ACP and contaminated with asbestos were deposited at the RCAU. Analytical results confirm that ACP at the RCAU contains concentrations of between 8% and 9% chrysotile asbestos fibers.¹

6. NPL Status

The Site is not listed on the National Priorities List (NPL) nor has the Site been proposed for the NPL.

7. Maps, figures and other graphic representations

See attached Figures 1 and 2.

B. Other Actions to Date

1. Previous Actions

See the following Action Memoranda and Action Memorandum amendments for description of previous actions to date:

¹ Trip Report for the Riverview Construction Asbestos Site, Ecology and Environment (EPA Contractor), January 10, 2011.

- July 22, 2010 - Action Memorandum for an Interim Removal Action at the Riverview Construction Asbestos Site. This Action Memo addressed only the RCAU site and approved “interim” measures to mitigate exposure to asbestos from ACP that was first observed at this property.
- September 30, 2010 - Action Memorandum for an Emergency Removal Action at the Orofino Asbestos Site. This Action Memo authorized removal action to address six additional locations in Orofino where ACP containing fill material was placed, and incorporated the original RCAU property.
- May 10, 2011 - First Amendment to the Action Memorandum for an Emergency Removal Action at the Orofino Asbestos Site. This amendment authorized and provided a ceiling increase for response to an additional 15 properties that were identified where ACP containing fill material had been placed.
- July 13, 2011 – Second Amendment to the Action Memorandum for an Emergency Removal Action at the Orofino Asbestos Site. This amendment authorized a ceiling increase and change in scope necessary to complete cleanup of asbestos contaminated properties and consolidate ACP contaminated soils from several of the properties into an engineered asbestos soils repository at the Orofino First Baptist Church property.
- August 2, 2012 – Third Amendment to the Action Memorandum for an Emergency Removal Action at the Orofino Asbestos Site. This amendment and ceiling increase to \$2,755,000 was required to address damage to the Orofino First Baptist Church repository retaining structure resulting in a threat of failure of the retaining structure wall. The repository was re-engineered and constructed with a sufficient drainage to avoid the buildup of hydraulic pressure behind the wall in the future. This amendment also authorized an exemption to the 12-month and \$2 million statutory limits on removal actions, based on the emergency criteria.
- April 7, 2015 - 4th Amendment to the Action Memorandum for an Emergency Removal Action at the Orofino Asbestos Site. This amendment provided a ceiling increase to the current ceiling of \$3,127,000, to address necessary repairs to the asphalt cap and vegetated dry retention basin at the Orofino First Baptist Church asbestos repository.

2. Current actions

EPA and IDEQ are currently negotiating responsibility and oversight for necessary operation and maintenance and environmental covenants at both the Orofino First Baptist Church and the RCAU asbestos repository sites in Orofino.

C. State and Local Authorities’ Roles

1. State and local actions to date

IDEQ participated with EPA on site during the March 2016 removal site investigation at the RCAU and IDEQ has provided technical support through review and input on design documents for the removal action proposed herein.

2. Potential for continued State/local response

EPA and IDEQ have reached tentative agreement that once the removal action proposed herein is completed, then IDEQ will take responsibility for overseeing necessary operation and maintenance and establishing environmental covenant via the Uniform Environmental Covenants Act.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Earlier Action Memoranda described those threats associated with asbestos and ACP in exposed soils at the Site. Threats from ACP and asbestos in contaminated soils at the RCAU location which have inadequate cover or are exposed at the surface are the same as threats described in earlier Action Memoranda. These actual or threatened releases of hazardous substances from this Site continue to present an imminent and substantial endangerment to public health, or welfare, or the environment.

A. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants [40 C.F.R. § 300.415(b)(2)(i)]

The elevated concentrations of chrysotile asbestos found in ACP which is contained in soils that are exposed at the RCAU indicate that the potential for inhalation exposures exists. As noted in the original Action Memorandum, there is not a known safe level or period of asbestos exposure. Exposure to airborne friable asbestos may result in potential health risks because persons breathing the air may breathe in asbestos fibers. Continued exposure can increase the amount of fibers that remain in the lungs. Fibers embedded in lung tissue over time may cause serious lung diseases, including asbestosis, lung cancer, or mesothelioma.

B. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or to be released [40 C.F.R. § 300.415(b)(2)(v)]

Weather conditions may contribute to additional pieces of broken and friable ACP being exposed on the surface of the RCAU through erosion and freeze/thaw mechanisms. Precipitation runoff on the steep north slope of the RCAU could expose additional ACP adjacent to the public sidewalk and right-of-way of Highway 12. Exposure to freezing and thawing cycles that are typical during winters in Orofino could cause larger pieces of ACP to migrate up through the uneven and in some places thin (less than 4 inches) gravel cover on top of the repository.

C. The availability of other appropriate federal or state response mechanisms to respond to the release [40 C.F.R. § 300.415(b)(2)(v)]

No other federal or state response mechanism has the capacity or willingness to perform the removal action in a timely manner.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this site may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

Exemption from the CERCLA statutory limits of 12 months and \$2 million was previously authorized for removal action at the Site per the 3rd Action Memorandum Amendment, dated August 2, 2012. That exemption was based on the emergency exemption criteria. Conditions at the RCAU location continue to meet the same emergency exemption criteria, as described below:

A. There is an immediate risk to public health or welfare or the environment

Exposed asbestos-contaminated soil at the RCAU location presents an immediate risk to public health or welfare. A removal site evaluation in April 2016 confirmed that there are exposed (uncovered) ACP containing soils along the north slope of the repository, adjacent to a public sidewalk and the Highway 12 right-of-way. Two pieces of ACP with broken and friable edges were observed on the surface at this location during a site visit in March 2016. Additional ACP may be exposed on the top of the repository as the April 2016 removal site evaluation found that the existing gravel cover is uneven and less than the necessary 4 inch thickness in 10 of 40 test locations. Nearby residents, or other community members or passersby on the adjacent sidewalk and right-of-way of Highway 12 could potentially be exposed to asbestos-contaminated soil and airborne asbestos fibers from the Site. Chrysotile asbestos known to be present in ACP at the Site indicate that the potential for inhalation exposures exists. There is no known safe level or period of asbestos exposure. Exposure to airborne friable asbestos may result in a potential health risk because persons breathing the air may breathe in asbestos fibers. Continued exposure can increase the amount of fibers that remain in the lungs. Fibers embedded in lung tissue over time may cause serious lung diseases, including asbestosis, lung cancer, or mesothelioma.

B. Continued response actions are immediately required to prevent, limit, or mitigate an emergency

Immediate implementation of the removal action selected in this Amendment is required to prevent, mitigate, or minimize the actual or potential human health risks posed by the asbestos-contaminated soil present at the Site.

C. Assistance will not otherwise be provided on a timely basis

As noted in Section III.C, there are no known other appropriate federal or state response mechanisms or PRPs capable of providing the necessary resources in a prompt manner needed to address the actual or potential human health risks associated with the asbestos-contaminated soil.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Action

1. Proposed action description

Existing vegetation will be stripped from the existing soil cover and the surface graded smooth. Soil will be kept damp to control fugitive dust. Dust monitoring and periodic air sampling will be conducted to ensure that workers are not inhaling dust that potentially contains asbestos fibers, and that fugitive dust is not leaving the work zone. The existing cover and fill material along the northern slope of the RCAU will be graded back to a stable 3 to 1 slope. Removed material will be graded out over the level surface of the RCAU. A low retaining wall shall be constructed not more than 4 feet high along the northern property boundary with a 4" drain pipe along the inside toe to drain water from behind the retaining

wall. A geotextile barrier will be placed over the existing cover for the entire area of the RCAU. Four to six inches of compacted gravel will be placed over the geotextile for the entire area of the RCAU, and will be held in place along the north property boundary by the retaining structure. A 6 foot high chain link fence will be installed around the perimeter of the RCAU with appropriate warning signage.

2. Contribution to remedial performance

Refer to the original Action Memorandum.

3. Engineering Evaluation/Cost Analysis (EE/CA)

Not applicable.

4. Applicable or relevant and appropriate requirements

Refer to the original Action Memorandum.

5. Project Schedule

The Response activities are expected to begin September/October, 2016 and will require approximately 3 weeks to complete.

6. Post-removal Site Controls

The 2010 AOC required that Respondents submit a proposal for post-removal site control. Refer to the "Confidential Enforcement Addendum" for additional information regarding implementation of necessary post-removal site controls at the RCAU.

B. Estimated Costs

EPA extramural costs for conducting the removal action described herein are estimated below.

Extramural Costs	Current Ceiling	Proposed Increase	Proposed Ceiling
<u>Special Account Costs</u> ERRS Contractor		\$340,000	
<u>Special Account Costs</u> START Contractor		\$30,000	
Subtotal Special Acct Costs		\$370,000	
Extramural Cost Contingency (20%)		\$74,000	
Total Removal Action Project Ceiling	\$3,127,000	\$444,000	\$3,571,000

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$3,571,000. The project ceiling does not include estimates of other costs -- such as intramural direct labor, travel, and indirect costs, and subsequent enforcement costs -- that are recoverable under Section 107 of CERCLA.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Refer to the original Action Memorandum.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

The EPA has partially recovered costs from PRPs with a Consent Decree with Owyhee Construction, Inc. and Riverside Water and Sewer District for payment to the EPA of \$523,000 for past response costs that was entered by the court on August 3, 2016. See the attached Confidential Enforcement Addendum for additional information.

IX. DETERMINATION

Conditions at the Site meet the criteria for a CERCLA § 104(c) emergency exemption, and I recommend your approval of a ceiling increase of \$444,000. Of this amount, \$370,000, necessary to fund the START and ERRS contractor, is expected to come from a special account from a settlement with PRPs at the Site. The remainder of the necessary extramural funds will come from the Regional advice-of-allowance. The total project ceiling if approved will be \$3,571,000.

X. APPROVAL/DISAPPROVAL

By the approval that appears below, EPA selects the removal action for the Site as set forth in the recommendations contained in this Action Memorandum Amendment.

Approve: ✓



for Chris D. Field, Manager
Emergency Management Program

Disapprove: _____

Chris D. Field, Manager
Emergency Management Program

Effective date of this Decision: September 8, 2016

XII. ATTACHMENTS

- Figure 1 – Site Figure
- Figure 2 – Site Figure
- Action Memorandum for Interim Removal Action at the Riverview Construction Asbestos Site
- Action Memorandum for Emergency Removal Action at the Orofino Asbestos Site
- 1st Amendment to the Action Memorandum for the Orofino Asbestos Site
- 2nd Amendment to the Action Memorandum
- 3rd Amendment to the Action Memorandum
- 4th Amendment to the Action Memorandum
- Confidential Enforcement Addendum

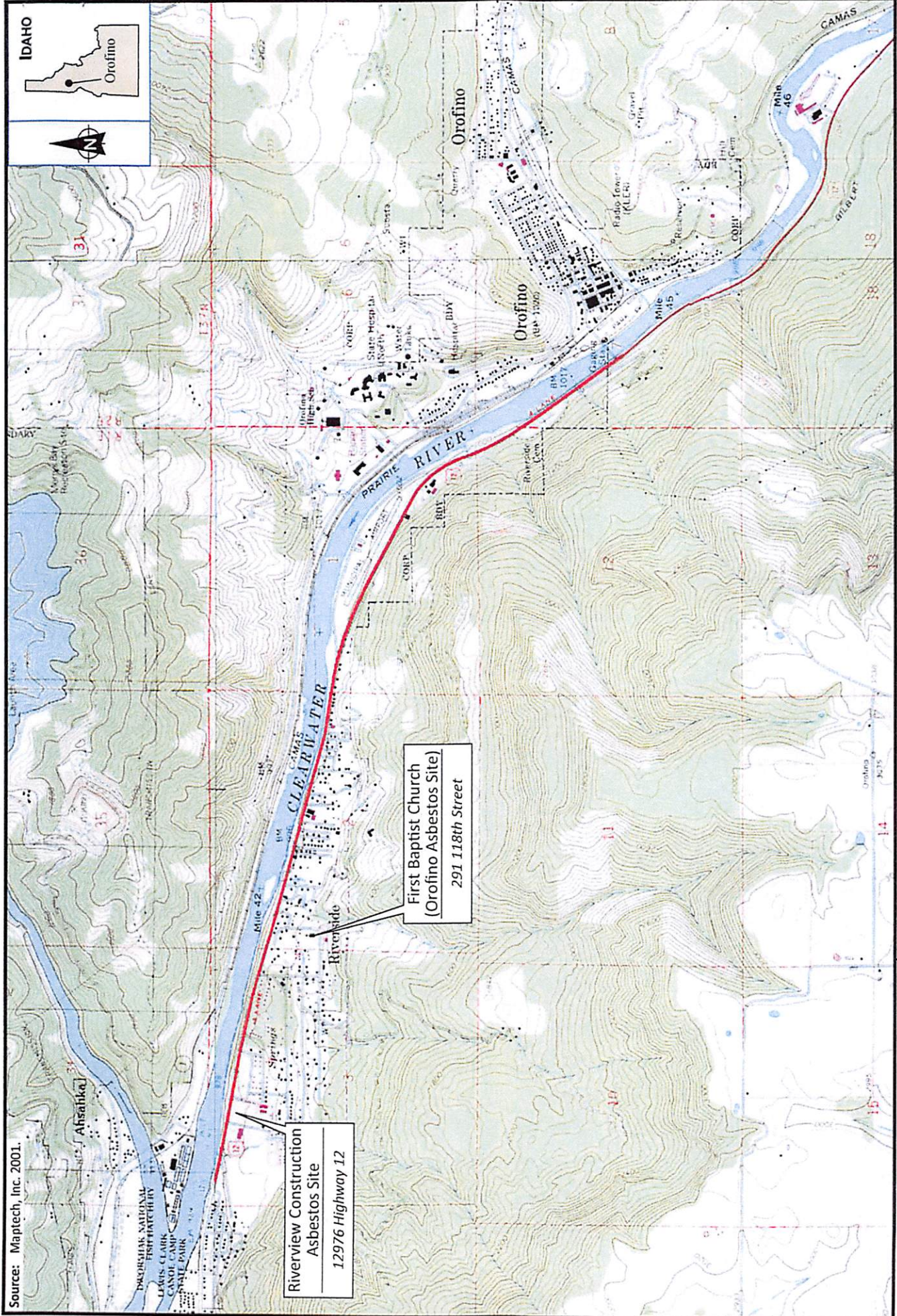


Figure 1
SITE LOCATION MAP

RIVERVIEW CONSTRUCTION ASBESTOS SITE
Orofino, Idaho

ecology and environment, inc.
Global Environmental Specialists
Seattle, Washington

Date:
8/2/16

Drawn by:
AES

10:START IV16020006/fig 1

Key:

⊗ Proposed Slope Face
⊗ Evaluation Location



ecology and environment, inc.
Global Environmental Specialists
Seattle, Washington

RIVERVIEW CONSTRUCTION
ASBESTOS SITE
Orofino, Idaho

0 85 170
Approximate Scale in Feet

Figure 2
SITE LAYOUT MAP

Date:
8/2/16

Drawn by:
AES

10:START IV\16020006\fig 2