

Colonie, New York, FUSRAP Site: Pathway from Remediation to Redevelopment - 19465

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ABSTRACT

The Colonie, New York, Formerly Utilized Sites Remedial Action Program (FUSRAP) Site consists of a 4.5-hectare (11.2-acre) US Department of Energy (DOE)-owned vacant property (Main Site) and 56 commercial and residential vicinity properties (VPs). The site was owned and operated by National Lead Industries (NL) from 1937 to 1984. The Main Site was used for manufacturing fuel and weapons components using uranium and thorium. Depleted uranium dust was emitted from exhaust stacks that contaminated the site and the VPs. NL also filled in portions of the site with industrial waste and released contaminants to groundwater. The state court shut the plant down in 1984. The site was acquired by DOE in 1985, which remediated the VPs and began to remediate the Main Site up to 1997. The US Army Corps of Engineers (USACE) undertook remedial actions beginning in 1997. The site has three Operable Units (Main Site, Groundwater, and VPs). The Main Site soil was remediated to residential standards except for three small easement areas. The soils in the easement areas are safe for exposure to workers. There is a groundwater plume beneath the site that will require the use of monitoring and temporary land use controls until cleanup standards are met. The VPs require no further action. A 2-year transition period from USACE to the DOE Office of Legacy Management (LM) began on June 18, 2018, with the receipt of the Site Closeout Report from USACE. LM has determined that the 4.5-hectare site is excess to its mission needs and intends to pursue sale of the property for redevelopment. There are several processes required before the disposal can occur. Organizations with similar sites that are federally owned and ready for private redevelopment may benefit from reviewing the Colonie site disposition processes. This paper will discuss (1) Determining disposal alternatives for the Colonie, New York, site. (2) Describing the federal requirements for the disposal of excess real property. (3) Communicating to stakeholders that the site is ready for disposal.

INTRODUCTION

Colonie Site History

The Colonie, New York, Formerly Utilized Sites Remedial Action Program (FUSRAP) Site consists of a 4.5-hectare (11.2-acre) Main Site and 56 commercial and residential vicinity properties (VPs). From 1923 to 1958, the Colonie Main Site was used for manufacturing wood products and toys, as a brass foundry for railroad components, and for casting aluminum parts and frames for aircraft. In 1958, the nuclear division of National Lead (NL) began producing items manufactured from uranium and thorium under a license issued by the Atomic Energy Commission. The plant handled enriched uranium from approximately 1960 to 1972. In 1984, the property was transferred to the US Department of Energy (DOE) for the purpose of performing cleanup. DOE remediated the VPs and began to remediate the Main Site up to 1997. The US Army Corps of Engineers (USACE) undertook remedial actions beginning in 1997.

The Main Site soil was remediated to residential standards, except for three small easement areas with inaccessible soils containing arsenic and lead above the cleanup standards. The soils in the easement areas are safe for exposure to workers. There is a groundwater plume beneath the Main Site that will require the DOE Office of Legacy Management (LM) to perform monitoring and implement temporary land use

controls until cleanup standards are met. The VPs require no further action. Figures 1 and 2 show the property in 1983, during active operations, and the present configuration.

USACE issued a Site Closure Report in June 2018. The site was acquired by DOE for the sole purpose of environmental cleanup, and now that remediation is complete ownership of the site no longer supports DOE's mission. DOE, therefore, intends to make the site available for beneficial reuse.

Colonie Site Features

The Colonie site is located in the Town of Colonie near the borders of the City of Albany. This is in the Capitol Region of the state of New York. Key features of the site include:

- Two vacant land parcels owned by the US government
- Situated in an urban area consisting of residential, industrial, and commercial properties
- Significant frontage on NY Route 5 (Central Avenue)
- Adjacent to the CSX railroad and main transportation arteries such as Interstate 90
- According to US Census Bureau data in 2010, 81,000 people were living in the Town of Colonie, and in 2009, 304,000 people were living in Albany County
- Public water, sewer, and electric availability
- Bus stop just outside the gates of the property
- Adjacent to electrical substation

LM is currently working with the New York State Department of Environmental Conservation to place environmental easements on the property for three discrete areas, shown in Figure 2. The easements will be recorded in Albany County to provide public notification regarding the location and depths of the easements as well as pertinent restrictions on activities in the easement areas. The new site owner would be responsible for maintaining the soil easement restrictions.

Residual tetrachloroethene (PCE) is present in groundwater under a portion of the property footprint. Groundwater will be monitored by LM until cleanup standards are achieved. Certain land use controls may be implemented, such as prohibiting the potable use of groundwater, prohibiting homes with basements, and mandating the installation of subslab ventilation systems.

There are a number of utility easements that encumber the site and that would require future landowners to provide access to the property. A town-owned storm drainage easement requires approval by the town before building over the drain.

DOE Guidance

DOE Order 430.1C, *Real Property Asset Management*, requires LM to identify real property assets that are no longer needed to meet mission needs and that may be candidates for reuse or disposal. This guidance establishes a data-driven, risk-informed, performance-based approach for real property life-cycle management including planning and budgeting, acquisition, sustainment disposition, performance measurement and reporting systems. DOE-owned property that is no longer needed by the agency can be transferred by sale or lease to an individual, a private company, a community-reuse organization, or a governmental entity in accordance with applicable federal laws and regulations. LM intends to pursue disposing of the Colonie Main Site in support of LM's strategic goal to sustainably manage and optimize the use of land and assets. DOE defines "disposal" as the permanent transfer of DOE control and custody of real property assets to a third party who thereby acquires rights to control, use, or relinquish the property [1]. In the case of the Colonie site, LM made a proactive decision to involve the local community in the beneficial reuse process.

The following sections present the various disposal options available to DOE for real property assets at the Colonie, New York, site.

Figure 1. Colonie, New York, Site, Circa 1983, Showing the National Lead Facilities

REAL PROPERTY REDEVELOPMENT ALTERNATIVES

Since the site has been remediated and is no longer needed for DOE's mission, a review of potential development alternatives and interests in the property was performed. This review included interviews from personnel that worked on the remediation of the site and local community members. The interviews identified several suggestions for the future use of the site. These suggestions include student housing for the nearby university campuses, solar farm and training facility, ball fields, and various transportation facilities and improvements.

The review also included research of community development plans, transportation plans, and the Town of Colonie Comprehensive Plan. The Town of Colonie Comprehensive Plan is currently underway. Meeting notes from the Comprehensive Planning sessions provided a glimpse into the interests of the community. Obtaining initial knowledge of the community's interest of the site allows LM to evaluate

possible disposal options to support the proposed redevelopment.

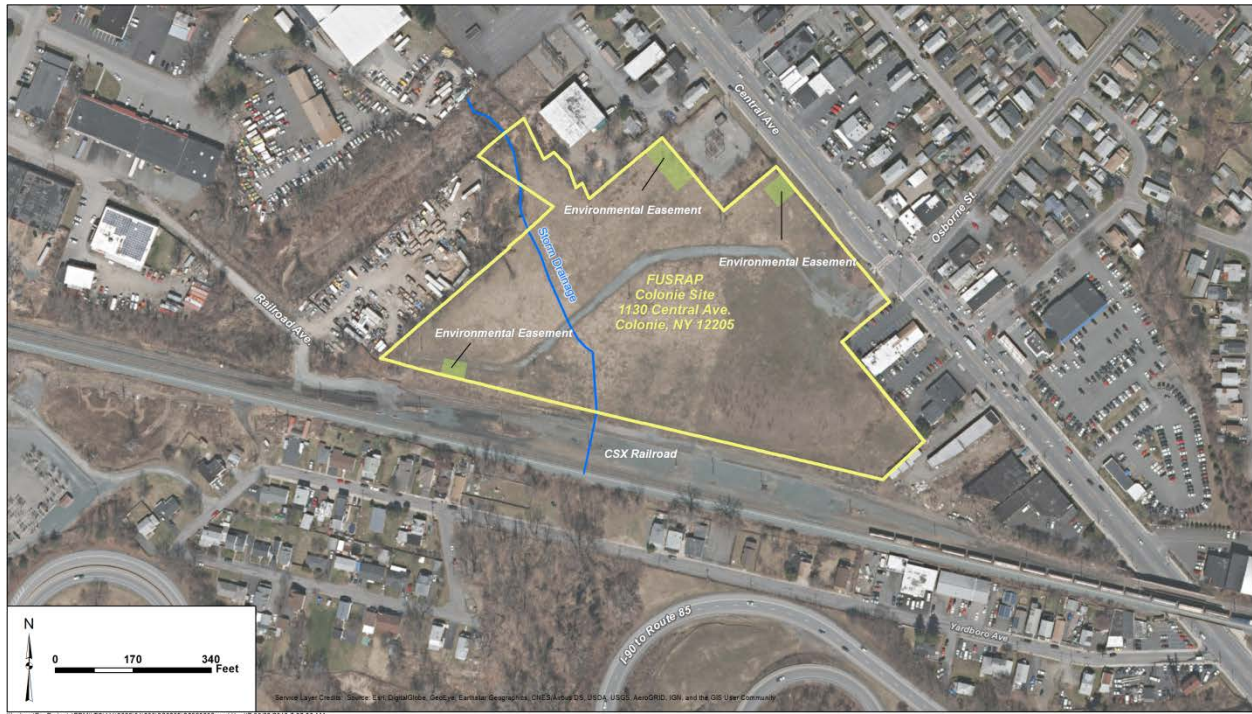


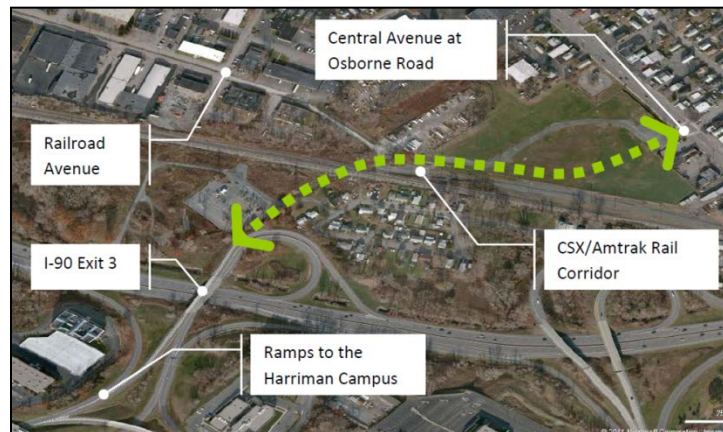
Figure 2. Colonie, New York, Site 2018 Showing Site Conditions and Easement Areas

Redevelopment plans emphasize the following scenarios as potential compatible use for the Colonie site:

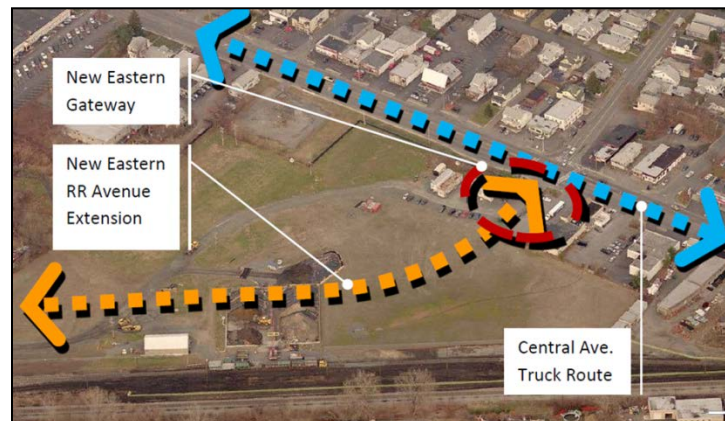
1. A town gateway concept, created by the extension of Railroad Avenue east to Central Avenue [2]. This would provide for a multiuse development with a transition to industrial and high technology along the roadway extension to take advantage of the rail track. Redevelopment land use opportunities include:
 - o Large single industrial and office “green tech” development
 - o Warehouse, intermodal, and trucking terminals
 - o Flex-space startup technology campus (incubators)
 - o Wholesale distribution or wholesale retail



2. Office Campus Connector, creating a pedestrian connection to the Harriman State Office south of the Colonie site [2]. This scenario includes the construction of a road connection from I-90 exits ramps across the site to Central Avenue.



3. New York Route 5 (Central Avenue) access management [3]. The extension of Railroad Avenue across the Colonie site would create additional travel routes and decrease heavy truck traffic on adjacent residential streets.



KEY DISPOSITION OPTIONS

DOE can dispose of its excess real property using several disposal options. The three disposal options that may be applicable to the Colonie site include (1) Utilizing the services and authorities of the US General Services Administration (GSA). (2) Enacting its authority as stated under Title 42 *United States Code* Section 2201(g) (42 USC 2201(g)) of the Atomic Energy Act of 1954. (3) Transferring to a prospective person or entity making an official proposal as explained in 50 USC 2811 and its accompanying regulations in 10 CFR 770.

These three disposal options require certain conditions to be met before they can be utilized. Utilizing both DOE disposal options (2 and 3 above) requires economic development as the primary driver, as such communities and or redevelopment organizations must submit a proposal. If there is no interest from the local communities in specific economic development proposals, the GSA option becomes the default mechanism for disposal of the government-owned property. This is the only option that allows for the disposition of the property to private parties.

Each of the mechanisms that DOE can use to dispose of its real property also requires additional steps to ensure compliance with applicable federal laws and regulations. Before any DOE-owned real property asset is deemed excess, it must first be screened through all DOE entities to confirm that the property is no longer required to carry out DOE mission responsibilities. LM will notify the DOE Office of Contract Management (MA-62) that the property is excess to LM's needs if DOE authorities are selected as the disposal mechanism. MA-62 will screen the excess property throughout DOE to determine whether the property is excess to DOE needs, and MA-62 will notify the LM senior realty officer that the screening is complete and LM can proceed with the disposal.

Disposal of DOE Real Property Under the GSA Disposal Process

Once declared excess by DOE, the property can then be reported to the GSA's Office of Real Property Utilization and Disposal for final disposition. The GSA form SF-118, *Report of Excess Real Property*, and the accompanying *GSA Excess Real Property Due Diligence Checklist for Federal Landholding Agency Customers* submittal to the GSA's Office of Real Property Utilization and Disposal initiates GSA's action. GSA will then proceed with the disposal of the excess property.

Before making federal property available for disposal, GSA is required to first offer excess property to other federal agencies that may have a program need for it. If another federal agency identifies a need, the property will be transferred to that agency. Figure 3 provides an illustration of the hierarchy transfers that may be undertaken by GSA. If there is no need for the property within the federal government, the property is determined "surplus." GSA will then consider other options for disposal including a review of a variety of public uses to benefit communities.

Homeless Conveyance (McKinney-Vento Homeless Assistance Act)

If a property is suitable to assist the homeless, GSA must first offer the property as a Homeless Conveyance before any other public uses can be considered.

Public Benefit Conveyance

As a Public Benefit Conveyance (PBC), the property can be substantially discounted in price (up to 100% reduction in fair market value) if it is used for a qualified public use. The following are types of PBCs that qualify:

- Public health or educational uses
- Public parks and recreational areas
- Historic monuments
- Homeless assistance
- Correctional institutions
- Port facilities
- Public airports
- Wildlife conservation
- Self-help housing
- Law enforcement and emergency management response



Figure 3. Transfer Mechanisms Under the GSA Process

Negotiated Sale

If a qualified public benefit conveyance cannot be identified for the property, GSA can negotiate a sale at appraised fair market value with a state or local government if the property will be used for a public purpose. This transaction offers state or local governments the right of first refusal on a property before it is offered to the general public. With these types of transfers, the state or local government will either develop the property or make substantial improvements with the intention to resell or lease the land in order to support and further economic development. To support this type of sale, GSA evaluates whether the benefits to the community are greater than those proceeds recognized under a public sale of the property

Public Sale

If state and local governments or other eligible nonprofits do not wish or do not qualify to acquire the property, GSA's Office of Real Property Utilization and Disposal can dispose of surplus property via a competitive sale to the public, generally through a sealed bid or auction (oral and online located at <https://disposal.gsa.gov/>). The appraised fair market value is used as a guide to sell federal real estate.

The GSA disposition process has been successfully implemented in past real estate transfers. DOE utilized the GSA process to transfer the Wayne, New Jersey, FUSRAP site under the Public Benefit

Conveyance. The site transferred to Wayne Township for park and recreational use under the National Park Service's Land to Parks Program. The township has constructed a public playground and dog park. The New Brunswick, New Jersey, FUSRAP site and portions of the Monticello, Utah, and Spook, Wyoming, disposal sites were transferred to private owners through the GSA public sale mechanism.

Environmental Due Diligence Required Under the GSA Process

As part of the disposition package for excess property, form GSA SF-118, *Report of Excess Real Property* must be completed. The *GSA Excess Real Property Due Diligence Checklist for Federal Landholding Agency Customers* will be completed in support of GSA form SF 118 and includes information about hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); historic, archeological, and cultural resources; National Environmental Policy Act (NEPA) compliance (the NEPA federal action for the reporting agency is the reporting of the property excess to GSA and not the disposal of the property); endangered species and biological resources; floodplains, wetlands, and coastal zone management; underground storage tanks; polychlorinated biphenyls, lead-based paint and asbestos; radon; and pesticides.

The checklist meets CERCLA Section 120(h) "Property Transferred by Federal Agencies" [4] requirements that property disposals include information on site-related hazardous substances and any remedial activities associated with them. This information would also be needed to comply with the DOE Order 430.1C *Real Property Asset Management* [1] provision to include environmental requirements in all real property disposals. In addition, DOE Order 458.1, *Radiation Protection of the Public and the Environment* [5], requires the establishment of approved authorized limits and independent verification of the radiological condition of a property before it can be released from DOE control.

As all remediation actions necessary to protect human health and the environment have been taken at the Colonie site, it is anticipated that the property will be accepted as excess and disposal will proceed with applicable deed and covenant information provided. No additional requirements or covenant deferrals will be required.

770 Transfers

The Title 10 *Code of Federal Regulations* Section 770 (10 CFR 770) regulations address transfers (a 770 transfer) for economic development purposes and the indemnification process. DOE has authority to transfer, sell, or lease real property for economic development purposes under 10 CFR 770. Only DOE-owned real property at a "defense nuclear facility" qualifies for this type of transfer. A 770 transfer may also provide a prospective purchaser with indemnity for any claim that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of DOE activities. Transfers using this authority allow DOE to work directly with communities to ensure that any redevelopment of federally owned properties is consistent with their vision.

DOE annually makes available to Community Reuse Organizations and other persons a list of available real estate that it identifies as appropriate for economic development. Community Reuse Organizations were created by the 1993 National Defense Authorization Act and can accept and disposition excess real property from DOE for the purpose of industrial, economic, commercial, and civic redevelopment within a designated area [6].

In addition, any person or entity may also request that a specific piece of real estate be made available for economic development purposes. With respect to these types of requests, DOE requires a proposal from the prospective entity submitted to the field office manager for the transfer of real property that DOE has included in the list. The proposal must include the following:

- A description of the real property proposed to be transferred
- The intended use and duration of the use of the real property
- A description of the economic development that would be furthered by the transfer (e.g., jobs to be created or retained, improvements to be made)
- Information supporting the economic viability of the proposed development
- The consideration offered (i.e., payment or money or other thing of value) and any financial requirements

Within 90 days of receipt of the proposal, DOE will notify the entity of its decision whether a transfer is in the best interest of the government (i.e., to sell or lease the real property). If DOE decides that it is in the best interest of the government, the DOE field office manager (the LM director) will approve the development of the transfer agreement. DOE has additional steps that it must perform to obtain final approvals for this type of transfer. Figure 4 illustrates this process. The full process may take up to 24 months to complete.

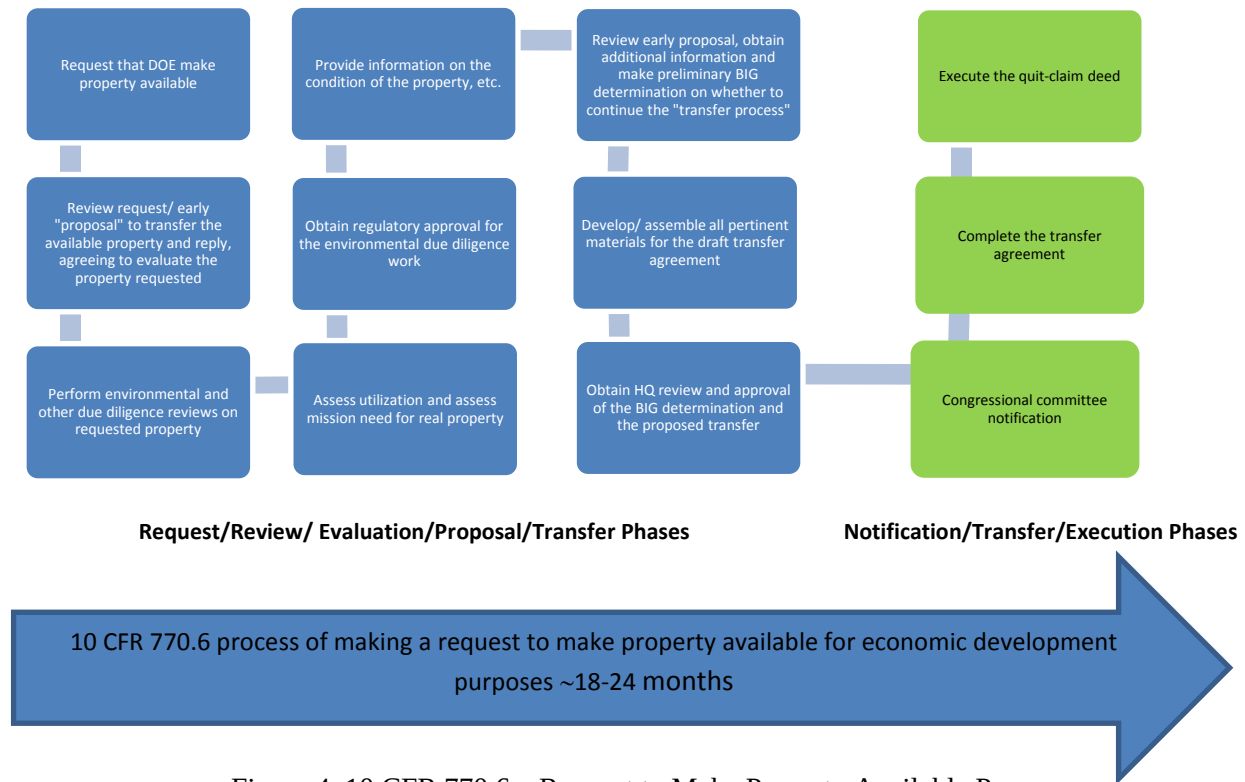


Figure 4. 10 CFR 770.6 – Request to Make Property Available Process

For any transfers under Section 770, DOE may not transfer the property until 30 days after DOE notifies the congressional defense committees of the proposed transfer. Once 30 days have elapsed, the LM director may finalize negotiations and determine that all environmental reviews have been completed.

Environmental Due Diligence Required Under the 770 Process

When real property is transferred for economic development purposes, 10 CFR 770 states that the relevant information that must be made available for the real property includes its “physical condition, environmental, safety and health matters, and any restrictions on terms of transfer.” DOE must ensure that “any required environmental reviews have been completed” prior to transfer [7].

As described earlier, all federal real property transfers undergo a CERCLA Section 120(h) review. The 770 transfer regulations at 10 CFR 770.3 state, “Nothing in this part affects or modifies in any way section 120(h) of CERCLA” [5]. Therefore, the same environmental review process will be taken for the Colonie site regardless of the transfer mechanism.

STAKEHOLDER COMMUNICATIONS

For effective property disposal and to respect the communities in which it works, DOE engages with communities in decisions that affect them. Promoting stakeholder communications regarding the availability of the property for disposal and redevelopment is a vital component of this process. The planned stakeholder communication methods for the Colonie site during the disposition process include (1) outreach to local, state, and federal officials to identify community interest in the property that will guide the final disposition methodology and identify areas for further education and outreach within the community, (2) LM information and fact sheets to disseminate information pertinent to the Colonie site disposition and (3) environmental easement notifications needed to protect the remedy for the site.

Outreach to Local, State, and Federal Officials

Initial contact letters are to be sent to local officials, New York senators (federal and state level), and representatives for both Congressional and State Assembly districts. LM plans on hosting a meeting, or series of meetings, to:

- Gain perspective on local ideas and issues regarding future uses for the site
- Answer any questions officials may have related to the site remediation and current environmental conditions
- Provide information on federal government requirements for disposition

The proposed meetings are anticipated to be flexible in format, depending on the request of the Town of Colonie.

DOE Information Sheets

Information sheets promoting the availability of the Colonie site for disposal, describing the real property disposal pathways and the overall FUSRAP program, have been prepared for inclusion with the contact letters. Example information sheets are provided in Figures 5 and 6.



U.S. DEPARTMENT OF ENERGY
Legacy Management

Potential for Future Use

Colonie FUSRAP Site

Ave., Colonie, New York, 12205



Lead Plant, soil remediation activities, and current site conditions.

Remedial Action Program (FUSRAP) Site

SIZE:	11.2 acres
EXISTING INFRASTRUCTURE:	Water, sewer, and electric are available.
READINESS FOR REUSE:	The site will be available for future redevelopment. The U.S. Department of Energy (DOE) Office of Legacy Management (LM) intends to pursue transferring or selling the property to another government agency, local authority, community organization, or private party.
USE RESTRICTIONS:	Three discrete soil areas shown in the location figure (next page) will require prior notification for excavation and will also prohibit gardening. Land-use controls will also limit use of groundwater, including measures to protect against potential vapor intrusion in buildings at the site.

Setting

- Site includes two parcels owned by the U.S. government.
- Main transportation arteries include Interstate 90 and Central Avenue.
- Site is situated in an urban area consisting of both residential and commercial properties.
- CSX railroad is adjacent to the southern property boundary.
- Current land use south of the site is predominately residential.
- According to U.S. Census Bureau data in 2010, 81,000 people were living in the Town of Colonie in 2009 and 304,000 people were living in Albany County in 2009.

- Site was historically used for industrial operations and is currently vacant land.
- Public water is available from the Latham Water District in the Town of Colonie.

Remedial Status

- Between 1958 and 1972, National Lead Company began producing items made from uranium and thorium under a license issued by the U.S. Atomic Energy Commission.
- In 1984 the site was made eligible for cleanup under FUSRAP. National Lead donated the site to DOE to expedite the cleanup.

Potential for Future Use | Colonie FUSRAP Site 1

Figure 5. Potential for Future Use Information Sheet

U.S. DEPARTMENT OF

ENERGY

Legacy
Management

Information Sheet

Real Property Disposition Pathways

Excess federally owned property is occasionally put up for sale for the purpose of beneficial reuse. When real property is available and development is proposed, the U.S. Department of Energy (DOE) strives to involve the local community in the beneficial reuse decision-making process. DOE-owned property that is no longer needed by the agency can be transferred by sale or lease to an individual, a private company, a community-reuse organization, or a governmental entity.

When property no longer serves the mission of DOE, the agency has three disposition options. DOE can dispose of the property by:

1. Utilizing the services and authorities available to the U.S. General Services Administration (GSA).
2. Enacting its authority as stated under 42 U.S.C. 2201(g) of the Atomic Energy Act of 1954 (AEA).
3. Transferring to a prospective person or entity making an official proposal as explained in 50 U.S.C. 2811 and its accompanying regulations in 10 C.F.R. 770.

Regardless of whether DOE or GSA performs the transfer, the same process is followed, but with a few exceptions. For example, other requirements, such as those stated in the McKinney-Vento Homeless Assistance Act for unused, underutilized, excess, and surplus real properties, need to be completed in addition to the general processes described below. Following the transfer, the recipient is responsible for maintaining compliance with any deed or lease requirements.

Overview of Property Disposal Using DOE-GSA Process

Each federal agency is required to offer excess property to all other federal agencies first. If it is determined that there is no programmatic need for the property by the federal government, the

property is classified as surplus, and may be conveyed under GSA-approved methods of transferring real property. Transfer mechanisms include homeless conveyance, public benefit, negotiated sale, and public sale.

The federal government may also use a Public Benefit Conveyance—to state and local governments and, in some cases, to nonprofits at up to 100 percent discount for public benefit use. Some of the qualifying uses include public health, homeless assistance, education, park and recreation, historic preservation, correctional, law enforcement, emergency management, self-help housing, public transportation, and power transmission.

Overview of Property Disposal Using DOE-AEA Authority

Under Section 161g of the AEA, DOE has the authority to sell, lease, grant, and dispose of real and personal property that has been acquired for or will be used for AEA-related purposes. (The AEA process is similar to the GSA process.)

The potential purchaser or lessee must provide a business proposal for transfer to the requesting site office or the

Figure 1 provides an illustration of the GSA process.

Page 1 of 2

Figure 6. Real Property Disposition Pathways Information Sheet

CONCLUSIONS

LM intends to pursue disposal of the Colonie Site property for redevelopment. A proactive approach, incorporating an evaluation of the various disposal procedures, gaining an understanding of stakeholder-preferred redevelopment options, and developing/implementing a plan for community outreach, will result in disposal and redevelopment of the site.

REFERENCES

1. DOE Order 430.1C. *Real Property Asset Management*, US Department of Energy, August 19, 2016.
2. Capital District Transportation Committee, *Railroad Avenue Area Transportation and Revitalization Plan, Towns of Colonie and Guilderland, Albany County, NY, Technical Memo 2 – Recommended Strategies*, December 2012, available at http://www.cdtcmpo.org/images/linkage_program/AlbCoFinal/rravefinal.pdf
3. Creighton Manning Engineering LLP. *NY5 Access Management Plan*, June 2009.
4. 42 USC 9601 et seq. CERCLA Section 120(h). “Property Transferred by Federal Agencies,” *United States Code*, available at <https://www.epa.gov/enforcement/comprehensive-environmental-response-compensation-and-liability-act-cercla-and-federal>
5. DOE Order 458.1 *Radiation Protection of the Public and the Environment*, January 2013, available at <https://www.directives.doe.gov/directives-documents/400-series/0458-1-border-admc3/@@images/file>
6. US Department of Energy. *Cross-Cut Guidance on Environmental Requirements for DOE Real Property Transfers (Update)*, DOE /EH-413/9712, Office of Pollution Prevention and Resource Conservation Policy and Guidance, March 2005.
7. Cusick, L.T. “Anticipated Change – A Means to Save Time and Rethink the Implementation of the 10 Code of Federal Regulations 770 Real Property Transfer Process,” Annual Waste Management Conference (2015): Education & Opportunity in Waste Management, Waste Management Symposia Inc., Phoenix, Arizona, 2015.