

**REPORT OF RECOMMENDATIONS
INSTITUTIONAL CONTROL STEERING COMMITTEE
LIBBY ASBESTOS SUPERFUND SITE**

Prepared for:

City-County Board of Health for Lincoln County, Montana

March 6, 2018

Report adopted by City-County Board of Health on March 14, 2018

TABLE OF CONTENTS

INTRODUCTION:	3
BOH Background:.....	3
Libby Asbestos Superfund Site Background:.....	3
Purpose and Scope of ICSC Role:.....	4
Goal: 4	
Committee Structure:.....	4
Scope of Report:.....	5
PROCESS:	6
Site History and Information:	6
Mind Mapping Exercises:	7
Mapping Results:.....	8
Expectations and Potential Tools:.....	10
MIND MAPPING EXPECTATIONS AND CONCLUSIONS:	12
Position Statement:	13
RECOMMENDED INSTITUTIONAL CONTROL PROGRAM:	15
RECOMMENDATION TO THE BOH:	22
APPENDIX A	23
APPENDIX B	24
APPENDIX C	25

**REPORT OF RECOMMENDATIONS
INSTITUTIONAL CONTROL STEERING COMMITTEE
LIBBY ASBESTOS SUPERFUND SITE**

INTRODUCTION:

BOH Background:

The City-County Board of Health for Lincoln County (BOH) works to prevent disease and illness, ensures a healthy environment and promotes healthy choices, including the authority to enact county-wide policies and regulations to protect the health of Lincoln County residents. This authority can be used to facilitate Institutional Controls (ICs) as it may deem necessary for the Libby Asbestos Superfund Site. The BOH jurisdiction is within the cities and throughout the county of Lincoln County, Montana. The entire Libby Asbestos Superfund Site falls within the Lincoln County jurisdiction of the BOH.

Libby Asbestos Superfund Site Background:

The Record of Decision (ROD) for Operable Units (OUs) 4 – 8 of the Libby Asbestos Superfund Site (Site) reflected the intent of the Environmental Protection Agency (EPA) along with the Montana Department of Environmental Quality (DEQ) to closely engage with the community in the development of ICs to protect the remedy selected for the Site.

The ROD recognized the community desire to have a locally run IC program with federal and state support (both financial and oversight). Comments received regarding the draft of the ROD expressed support for ICs such as the UDIG program and Montana Department of Transportation (MDT) encroachment permit, as well as public access to property status/data from the investigation, remedy, and O&M phases performed at the Site; contractor certification programs; and permits for disturbance of soil and building materials. Most ROD comments supported the need for updates to existing codes, ordinances, etc., but with caution about new regulations and codes. Filing of information in a permanent property file or site wide advisories, except where necessary, was not generally supported. To aid in development of site-specific and effective local ICs, Section 10.3.3 of the ROD includes a discussion where EPA and DEQ acknowledge the need for community input from an Institutional Control Steering Committee (ICSC) as part of the BOH.

Purpose and Scope of ICSC Role:

On May 10, 2017, the City-County Board of Health appointed six members to the Institutional Control Steering Committee (ICSC) along with two BOH members acting as a committee Chairperson and Vice-chair. The purpose of the ICSC is to participate in the development of ICs for the Site, primarily by providing input for consideration in drafting the ICs, and commenting on proposed documents and policies. ICs will be implemented as part of the Operation and Maintenance (O&M) Phase to protect the EPA remedy and provide long-term management of Libby amphibole asbestos (LA) that remains in-place after the remedy phase is complete.

The purpose of the ICSC is to participate in development of ICs for the Libby Superfund Site, primarily by providing input for consideration in drafting the ICs defined in the Institutional Control Implementation and Assurance Plan (ICIAP) for OUs 4 – 8 and commenting on proposed documents and policies pertinent to the Site's O&M phase.

The ICSC serves as advisors to the BOH and will work closely with Health Department Staff, especially ARP staff, and BOH representatives as they work with federal, state, and local authorities to develop a proposed Site IC program. While primary focus will be on Operable Units 4 – 8, consideration and attention may be given to the other units to help assure consistency and compatibility site-wide.

Goal:

The goal of the ICSC is to provide recommendations to the City-County BOH, Lincoln County Commissioners, and/or other affected public entities regarding ICs proposed by the EPA/DEQ. The recommended ICs are included in this report for the BOH's review. Once approved by the BOH, the proposed ICs and their underlying expectations outlined herein will be included in the EPA's ICIAP and O&M Plan for OUs 4 – 8 in site wide Superfund documents and as applicable to other OUs.

Committee Structure:

- Members appointed by the BOH are:
 - Linda Bauer
 - Virginia Kocieda
 - Ron Mahoney
 - Tom O'Bleness

- Terry Oedewaldt
- Tina Oliphant
- Focus Area Liaison(s) from the BOH, Commissioner Mark Peck and George Jamison, are additional (*ex officio*) members of the committee
- The committee is chaired by George Jamison; Commissioner Peck is the Vice Chair
- Primary technical and administrative support, including posting notices of meetings, drafting and posting of minutes, etc. is provided by the Asbestos Resource Program (ARP).

Scope of Report:

This report presents a summary of the processes, approach, methods, and results of the ICSC's efforts to identify recommended ICs.

PROCESS:

The process of developing ICs began with ICSC's agreement on the overall objectives of ICs for the Libby Asbestos Superfund Site. Once the objectives were outlined, conditions and concerns about meeting the objectives, along with institutional elements that are critical to meeting or measuring the objectives were identified. Once the institutional elements were identified, the ICSC organized these elements into potential ICs that are effective and likely acceptable to the community. These are presented herein and for the BOH's consideration to present to the community, EPA, and DEQ.

While the ICSC recognized that potential ICs are embedded in the ROD for OU 4 – 8, and in ICIAPs or O&M Plans for other OUs, attention to those documents, as well as IC elements proposed by EPA and DEQ in site-wide O&M meetings, were intentionally deferred to avoid bias and allow the ICSC to focus on the objectives. The intent was to start by focusing objectively on public health, and provide a thorough evaluation of the root of the objectives to come to unbiased IC elements and considerations.

The following subsections detail the ICSC's process for development of IC elements.

Site History and Information:

The first step in the process was to present a detailed overview of the site history, including EPA responses and remedial actions. The materials presented included methods, past and present, for site investigations, sampling protocols, laboratory analyses, property specific remedial designs, documentation, clean-up objectives, the overall remedial design strategy/clean-up, and roles of the EPA/ ARP during the cleanup phase. The ICSC was also provided with copies of the ROD for OUs 4-8, and other EPA guidance documents. The intent of the educational element was to achieve a common understanding of the site. Committee members with prior involvement with the site were helpful in providing their own observations and experiences.

One of the important observations in this review of history and information was that variations have occurred over time regarding protocols for investigations, analyses, remedial designs, etc. Further, it was noted that although the ICSC was a result of comments addressed specific to the OU 4 – 8 ROD, a holistic site-wide approach should be taken due to jurisdiction areas and boundaries of the OUs. Some of the ICs developed clearly will have applicability to other OUs, and furthermore, existing or drafted O&M Plans may need attention if in conflict with recommended site-wide ICs.

Mind Mapping Exercises:

After reviewing Site background, the next step in the ICSC's process was to frame the question of what has EPA been doing, or currently doing, in the remediation/cleanup phase. The ICSC defined this the "pre-condition" for the Site's current remedy phase (Appendix A). Knowing the remediation/clean-up process provided insight into the elements of remediation that EPA deemed appropriate and consistent with the selected remedy. These elements provided information on the elements that EPA considered necessary for the remedy phase (including the funding) to protect public health and the environment. Based on that understanding of the remediation practices, the next question the ICSC discussed was if the focus changes, or how does the focus change, on the first day after the remedy phase or "post-condition" in the O&M phase (Appendix B).

The ICSC used mind mapping methods based on "pre-condition" for the EPA remedy phase and "post-condition" for the O&M phase scenarios to help the committee focus on what central needs could protect the remedy and human health, but also guide in developing detailed elements to meet those central needs. The mapping method, also known as spider diagrams, is a visual organization of information showing relationships of elements to the whole, or central root condition or concept. Each contributing element is rooted to the central theme but may be hierarchical. Mind maps are not intended to be logic diagrams or be conditionally based but help visualize the themes and elements in relation to each other. A central theme or root element is placed in the center of a map and then elements that affect that concept or are critical to that concept are connected to the central root element to show relationship and help identify critical concerns or elements related to the root element.

The central root element for the mapping are elements that focus on a Lincoln County property, ownership status, and remedy phase history relative to LA (Libby Amphibole Asbestos) considerations. The mapping was conducted first for the pre-O&M condition (during or at close of the remediation phase), followed by revisiting each element for the post remediation, or O&M phase. The process helped the ICSC focus on the elements that EPA considers important during the remedy phase and carry integral elements into the O&M phase along with establishing additional important elements for O&M activities, which may be similar to remedy phase activities. The mind-mapping results are discussed below and included as Appendices A and B.

Mapping Results:

The mind maps for the “pre-condition” (remedy phase) and the “post-condition” (O&M phase) central root elements are presented in Appendices A and B, respectively. The overall diagram for each condition as well as individual elements is provided. Brief comments are provided below for each of the central root elements. In the interest of brevity, the results of the mind mapping exercise are summarized within this document in bullet form; however, the reader should rely on a detailed examination of the attached mind-mapping for a fuller understanding of each element’s complexities.

1. Property Type, Ownership, Occupancy. During background review, the ICSC realized that understanding property details, ownership, and occupancy were critical to making remedy phase and O&M phase decisions. The mind-mapping recognizes different types of property ownership, owner status, and occupancy conditions. Various types of properties are managed differently, and include other than privately held residential parcels. Absentee or local owners will likely have different levels of understanding related to LA and participation in property management. Properties may be vacant or occupied by either the owner or a tenant.

2. Property Uses. The ICSC realized that how a property was used (i.e. private residence, commercial/industrial, recreational/school, etc.) affects remedy phase and O&M phase decisions. Current and future property uses will likely change. Current or future uses may have changed since sampling/cleanup activities and remedy phase completion. Changes in use can occur as the result of normal use, or unusual/natural events such as fire, collapse, flood, etc. Property uses are not static.

3. Property Transactions/Valuations? A variety of property transactions may trigger the need for due diligence, evaluations, or other land-use change concerns or activities. Valuations independent of ownership changes may warrant LA considerations.

4. Zoning/Land Use Restrictions. Zoning and land use restrictions are common ways that EPA and DEQ are able to enact ICs at other Superfund sites. While extensive zoning and land use restrictions are not prevalent at the local, state or federal level for the Libby Asbestos Superfund Site boundaries, consideration should be given to any conflicts with those that exist or the need for others.

5. Within Superfund Site? Property location with respect to the Libby Asbestos Superfund Site boundaries and OUs could affect decisions in remedy phase and O&M phase

activities. Properties located within the Site boundaries can be influenced by which OU they occupy and details of the remedy in that OU. The ICSC realized that some properties outside of the Site boundaries have been subject to clean-up/remedy activities under special conditions.

6. LA Related Informational (Data) Resources. Access to information is an essential element for almost all property owner decision making and has been critical for phase decisions and will be central to local and state O&M phase decisions. Ease of access, recipient status, cost and completeness must be evaluated.

7. Existing Institutional Controls. Recognition should be given to the existence of ICs outlined in ICIAPs for OUs 1, 2, and 5, in addition to potentially different ICs for OU6. Uniformity between similar property-type OUs and consistency with site-wide elements should be considered for O&M phase implementation of ICs.

8. Proprietary Controls and Notices. Proprietary controls and notices are often used post-remedy to restrict land use at or near a remedy. Such controls have been used sparingly or not at all for the Libby Asbestos Superfund Site, particularly proprietary controls that would limit future use. This ICSC mind-mapping exercise recognized that proprietary controls continue to be used sparingly. Notices of Environmental Conditions have been, or will be, filed by EPA for “non-responsive” owners.

9. Current Status of LA Materials. Understanding the status of LA in soils and building materials at each property is critical to making O&M phase decisions. This element relates closely to Element 6, LA Related Informational (Data) Resources. The current status of LA materials for properties that were not investigated will be unknown. However, properties with investigations may have information that is outdated, or not available (i.e. a digital format is not currently available).

10. Investigation/Sampling for LA? This element envisions the need of a property owner or other individual to evaluate whether investigation and sampling is needed for O&M phase property decisions. Complexities related to the nature and scope of any prior investigation/sampling and their adequacy for changed conditions are not likely to be resolved without the participation of professional level services who are familiar with the EPA documentation and the Site RODs.

11. Clean-Up Warranted? Evaluating if a property or activity on a property may be a concern from a public health perspective is not simple. This evaluation is dependent on the understanding of the considerations of Element 10, and understanding the remedial action level decisions as outline in the ROD, which determine if a cleanup is warranted. If a clean-up during the O&M phase is necessary, additional elements will need to be addressed by a professional/contractor including scope, design, material disposal, inspections, funding, etc. Appropriate resources are needed to make the evaluations and provide the professional services, as well as contractor support.

12. Funding for Investigation/Sampling, Design, Clean-Up & Restoration. Funding for LA related issues is an essential element that will drive behaviors and decisions related to property ownership or development. During the Site's remedy phase, the funding is provided through the EPA cleanup effort, having been deemed necessary as part of the selected remedy. While some funding is available for O&M, the default position of EPA is that the owner bears cost responsibility during the O&M phase.

13. Support Services and Resources. This element specifically focuses on where support services will be available, including professional services for investigation, analysis, design, remediation oversight, monitoring, documentation, etc. Currently the services and resources flow primarily from or through the EPA and the ARP.

14. LA Related Health Resources. LA related health services are currently available, and LA-related health needs will continue in the O&M phase. During the O&M phase, the need for regular updates in health and toxicology studies may influence the approach to the ongoing evaluations, investigations, and clean-ups.

15. Educational. The ICSC recognized that education will be a cornerstone of the O&M phase. This element recognizes that a strong, localized educational element has been very beneficial, and will continue to be the main impetus of effective ICs for the Site.

Expectations and Potential Tools:

As the "post condition" O&M phase mind-mapping was developed, expectations for the O&M phase were briefly listed as each element was discussed. Some of the potential tools were also listed. This was not intended to be an exhaustive exercise at the time, rather to capture extemporaneous ideas as they occurred. These expectations and tools are listed on the "post-

condition” O&M phase mapping, as appropriate. These expectations and tools formed the first conclusions and recommendations, with the tools developing into effective Institutional Controls.

MIND MAPPING EXPECTATIONS AND CONCLUSIONS:

The following list of expectations are conclusions of the ICSC and serve as a basis for recommendations to the BOH.

- As property use changes (which should be anticipated), the remedy should remain effective (protective of human health and not increase exposure).
- Resources must be available to maintain the remedy as property use changes.
- No limitations should be placed on property use changes.
- Expectations related to protection of the remedy and resource availability are applicable to planned and unplanned changes in property use.
- Timely and complete information should be available to inform owners and the public regarding transaction and valuation matters.
- Additional land use controls and zoning are not expected to be a dominant IC.
- Property owners outside the Site boundaries may warrant assistance with managing LA contaminated materials (at least to the same extent applied during remedial action), including information and resources.
- Limits should not be imposed due to which OU a property falls within (exceptions for OU3 and 6 are recognized); consistency with site-wide O&M elements.
- Anyone should have access to data EPA has collected related to the site (including locations outside the Site boundaries)
- Basic information will be readily available online, with the balance of information available by contacting a local Lincoln County office.
- There should be consistency in ICs and O&M elements between OUs where possible.
- The use of Proprietary Controls and notices are not anticipated to be used, with the limited exception of Notices of Environmental Conditions on refusals, and Notices/Proprietary Controls on specific properties in OUs 1, 2 and 5.
- Land use changes will be easily facilitated through effective local IC implementation and coordination with DEQ.
- Professional level services (local resources) should be available to property owners and prospective buyers, at no cost, to evaluate and make determinations regarding investigation/sampling needs.

- If cleanup is required, there must be a standard defined and in-place for the cleanup process, including proper disposal, transportation, defined restoration, etc.
- Funding for all investigation/sampling, design, cleanup, and defined restoration costs should come from sources other than the property owner.
- Remaining remediation/settlement funds should be made available for O&M use.
- Support services and resources should be available locally (e.g., the ARP).
- The Libby Asbestos Superfund Liaison will be available to support decisions on the services and resources needed locally for O&M.
- Continued and regular efforts will be made to evaluate public health and the effectiveness of the remedy, the O&M elements, and ICs; including, but not limited to, the DEQ's annual review, and EPA's five-year review.
- O&M and IC decisions will not impact access to LA related Health Resources.
- Strong educational programs are needed to support O&M elements and the ICs.

Position Statement:

Early in the process of developing the site model (mind mapping) it became evident that the goal of the O&M phase, maintaining the remedy at the site to ensure it remains protective of human health and the environment, could not be accomplished unless adequate resources were available to all property owners. To guide the ICSC in ongoing efforts, the committee developed the Position Statement included in Appendix C as a recommendation to the BOH. The Statement was approved by the BOH on 10 Jan 2018 as being their position.

The Statement itself is as follows:

“Indiscriminate protection of human health and the environment will serve as the universal criterion for all O&M related actions and activities. Further, property owners will not bear the cost of any future issues related to the Libby Asbestos Superfund Site. Support of or participation in O&M elements will be based on this position.”

The Statement document also includes a brief explanation and rationale for the position. Again, for brevity, these are not discussed or re-presented herein. Careful examination of the overall document is encouraged.

The BOH position clarifies that the ICSC and BOH efforts must be consistent with the statement, and conversely the ICSC and BOH will not support or participate in O&M elements that are not consistent with the Statement.

RECOMMENDED INSTITUTIONAL CONTROL PROGRAM:

Following the mind mapping exercises and defining the IC program's expectations, the ICSC developed the recommended IC areas for the BOH to review. The following bulleted list includes details for ten areas of the IC program. These recommended IC areas incorporate the expectations outlined above and the details evaluated during the mind-mapping by the ICSC in order for each IC program area to protect the health of the community and the remedy during the O&M phase.

1. Management:

- a. ARP or similar program will generally function as the path to the other ICs
 - Must be operated locally
 - Appropriately staffed to meet public demands
 - Knowledgeable about the project and best management practices (BMPs) to protect against exposure
 - Dedicated to the indiscriminate protection of human health and the environment

2. Resources:

- a. Professional services from investigations through cleanup and sealing remaining contamination in place, supporting the structure site, and or replacing excavated soil and re-seeding.
 - Maintain standards and practices consistent with EPA Asbestos abatement requirements/standards for the Site
 - Document the timeline for changing sampling and analytical techniques
 - Document the timeline for changing removal criteria
 - Consistency with EPA O&M documents and DEQ O&M practices for the Site
 - Assist property owners and others in evaluating existing information
 - Assist property owners and others to determine whether additional investigation is warranted at the property based on current actual or planned uses

- Perform site investigations, sampling, analyses, data interpretation, etc., and provide recommendations to property owners and others related to whether cleanup is warranted.
- Provide property owner and/or contractor planning and design assistance for cleanup activities
- If work is to be performed by the property owner then ARP will provide property information, invasive wall inspections prior to demolition, BMPs, poly sheeting, poly asbestos labeled bags, HEPA filter vacuum, and free disposal at the Libby landfill.
- Assist in disposal of Libby amphibole (LA) asbestos and vermiculite containing insulation (VCI) materials (see c. below)
- Monitor clean-up, indoor encapsulation and outdoor backfilling and re-seeding, and defined restoration
- Document activities, and add information to public records
- Provide or arrange funding support for services, including contractors
- No cost to property owner for VCI / LA asbestos related issues
- EPA-certified labs for LA analytical will be used at no cost to property owner

b. Contractor coordination services (also see Professional services above)

- Retain licensed contractors to perform VCI / LA contaminated soil removal
- Provide property owner with “clean” work environment free of LA / VCI or encapsulated LA / VCI for the property owner to complete their planned project. For indoor building projects, the “clean” status may include open wall to studs/supports for the property owner to finish renovation or complete their planned work. For outdoor projects, the “clean” status would include in-kind fill material and defined restoration.
- Removals provided to the property owner are limited to materials used to encapsulate contamination in place, support structure site, and/or defined restoration
- NO COST to property owner for VCI and LA abatement work

- In order to be efficient with O&M funds and to encourage property owners to plan prior to project implementation, a minimum time gap may be required between visits to the same property, barring emergencies, accidents, and realty property transactions.
- Landfill / Disposal resource
- LA and VCI material disposal available at no cost
- 2-3 trained, HAZWOPER and Asbestos Contractor Supervisor certified personnel available to operate the landfill asbestos cell
- Skid steer dedicated to work only within the landfill asbestos cell and appropriate storage and decontamination for the equipment
- The decontamination trailer, water supply tanks, and misting tent currently at the landfill asbestos cell will continue to be available to the landfill operator
- Rental of Kootenai Disposal roll off truck
- Staging area for materials that follows NESHAP solid waste regulations
- Data management system for manifest tracking
- Scheduled time of operation/dumping events

c. Small Scale Projects

- Provide professional service, education/training, and information as needed to support property owner
- Resources available to property owners and local contractors
 1. Invasive wall inspection
 2. Poly Sheeting
 3. Poly Asbestos labeled bags
 4. HEPA Vacuum loan
 5. Water Tanks

3. Education/Training:

- a. General public information: Provide information on the role of the ARP in Lincoln County, history on the vermiculite mine, material identification, BMPs, how to

prevent exposures, what is a small project and what is a large project, how to transport, and where to dispose (Libby landfill), as well as the resources available. The goal is to get everyone to call before they dig or demo.

- Newspaper, billboards, and radio ads
- Public events / health fair
- School presentations

b. Contractor licensing/information/training:

- Licensing of contractors to prevent exposures
- Annual or biennial certification course for local contractors working the area. The licensing course will be given annually.

c. Material identification and BMPs focused

4. Information/Data Acquisition and Dissemination:

a. Ambient Air Testing:

- At 6 locations across Libby and Troy.
- Additional ambient air stations established to support the Libby Asbestos Response Plan (LARP) in the event of a wildfire within OU3.

b. UDIG Program:

- ARP will provide a phone call response to every UDIG called within the Libby Superfund site boundary.
- ARP will provide caller with information on the property, best management practices, and options for available resources when necessary.

c. Information and Data available at no cost to the public:

- Online resource for identifying LA and VCI and what to do when encountered
- Online resource for public use that provides general information about a property such as removal status.
- Local ARP point of contact for more detailed information/data

- Information and data will be available, including the EPA remediation phase and O&M.
- d. Realty transactions and valuations within the Site:
- ARP will provide printed packets of the LA / VCI information currently available on the properties of interest. Included in the packet will be an ARP coversheet describing material identification, hotline number, and available resources.
 - Give consideration to requiring a disclosure statement related to LA.
5. Local Contractor Permit (or Notification) Program:
- a. Program, at a minimum, will mirror state DEQ requirements for asbestos abatement.
- Prior to invasive structural work and/or when a contractor is required to get an asbestos inspection completed prior to demolition or disturbance of buildings, they will also be required to get an ARP asbestos permit.
 - Permit will identify that the demo area has been inspected and that the contractor has been briefed on what to do, permit conditions, and what resources are available should they encounter VCI or LA.
 - Each permit will have a condition requiring covered and contained loads when moving material.
- b. UDIG Program will cover exterior work done by contractors.
- All sites will be reviewed by the ARP prior to contractor digging.
 - ARP will relay information on the property, best management practices, and resources available.
- c. Permitting will be at no cost to the contractor or property owner
6. LA Related Health Resources/Education:
- a. Research priorities:
- Non-pulmonary health endpoints (autoimmune)
 - Biomarkers of exposure and disease (better detection methods using serology or digital interpretation of imaging)
 - Large-scale cancer mortality study of area population

- Better understanding of susceptibility to LA exposure
 - b. Health services priorities: (these will all be gone with withdrawal of public health emergency along with access to Medicare and pilot program)
 - Free asbestos health screening program
 - Ongoing monitoring of chronic asbestos related disease patients
 - Lung cancer screening program
7. Other Government Controls:
- a. Consider limited use, if any, of zoning/land use controls to complement educational and resource ICs
 - b. Use of Montana Department of Transportation (MDT) Encroachment Permit in applicable right-of-ways (administered by MDT).
8. Local Government Support:
- a. The City-County Board of Health and Lincoln County's participation and support of O&M and ICs is contingent on agreement with the BOH Position Statement.
 - b. Development of O&M elements and ICs should recognize and incorporate this contingency.
9. Punitive Actions:
- a. A trained contractor blatantly ignores provided information or best management practices, for example digging/excavations without a UDIG notification, improperly collection/disposal of VCI or LA, etc.
 - b. A property owner blatantly ignores best management practices and provided support and exposes neighbors to known Libby Amphibole Asbestos contamination.
 - c. Enforcement provisions should be discussed and resolved between ARP and DEQ
10. Public Health Emergency Declaration:
- a. The Public Health Emergency Declaration has been an essential element to allow for investigation and remedy expenditures, along with health care investigation and resources.

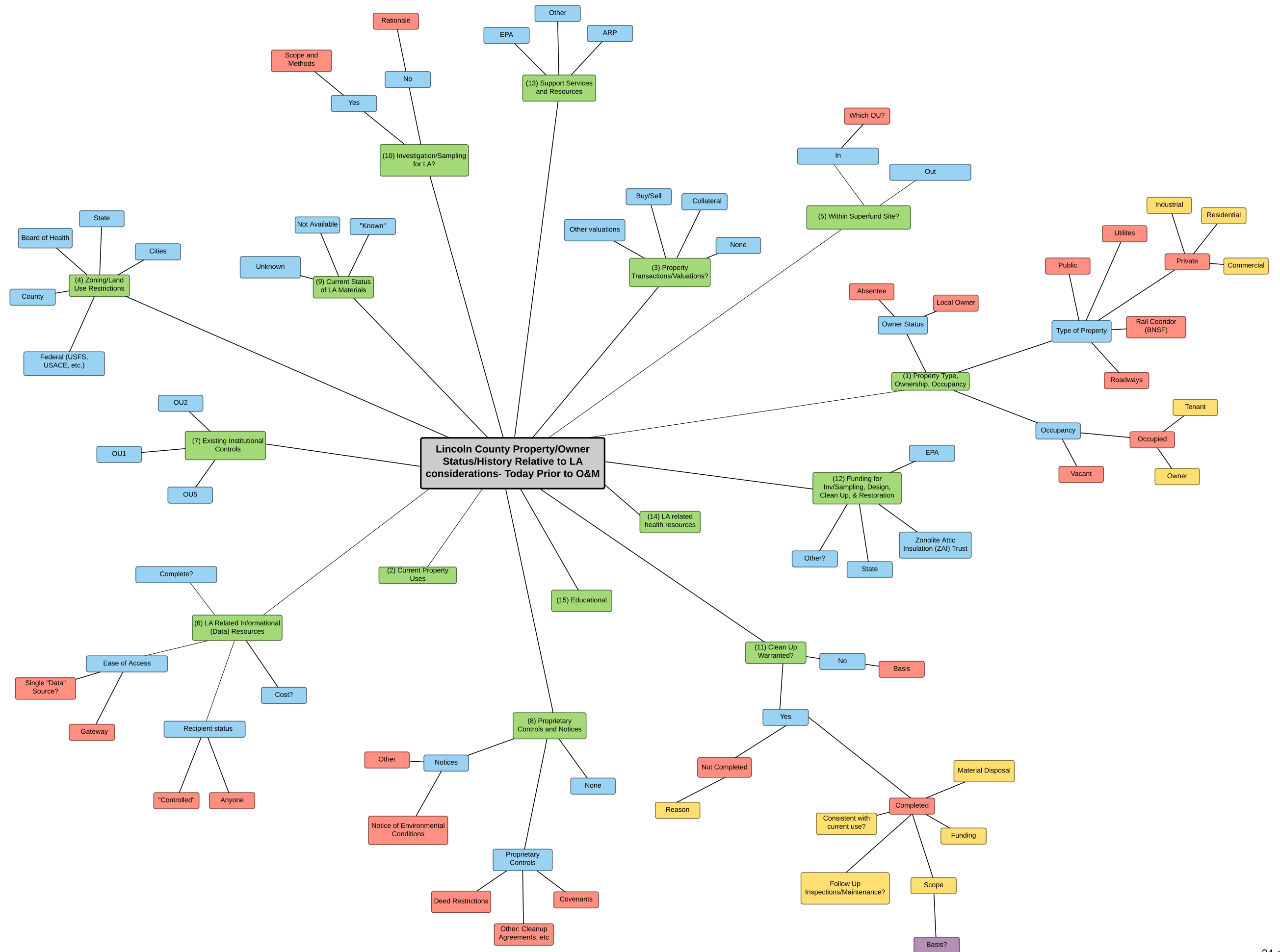
- b. The Public Health Emergency Declaration should not be rescinded or modified if it jeopardizes or reduces the ability to conduct clean-up or provide health care services.

RECOMMENDATION TO THE BOH:

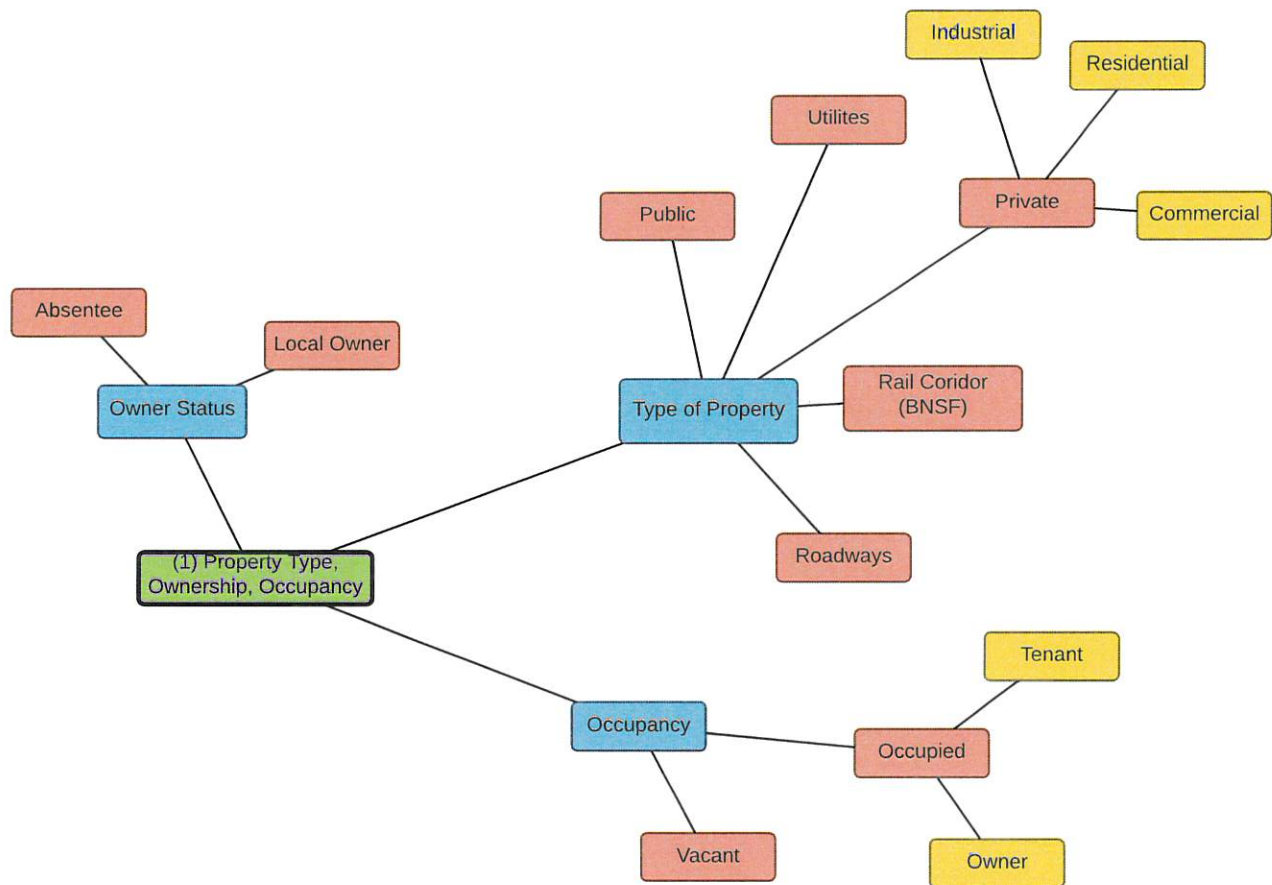
The ICSC recommendations presented herein are considered to be protective of the remedy and public health, as well as being consistent with the BOH Policy Statement. It is therefore recommended that the BOH adopt the IC Program described herein and present it for inclusion in the Site's OU 4 – 8 ICIAP, and for incorporation into new or updated ICIAPs related to the Site.

The ICSC will use these recommendations as the basis for interaction with EPA and DEQ, and continue to develop details as the work progresses. The ICSC will report regularly to the BOH and amend recommendations as appropriate.

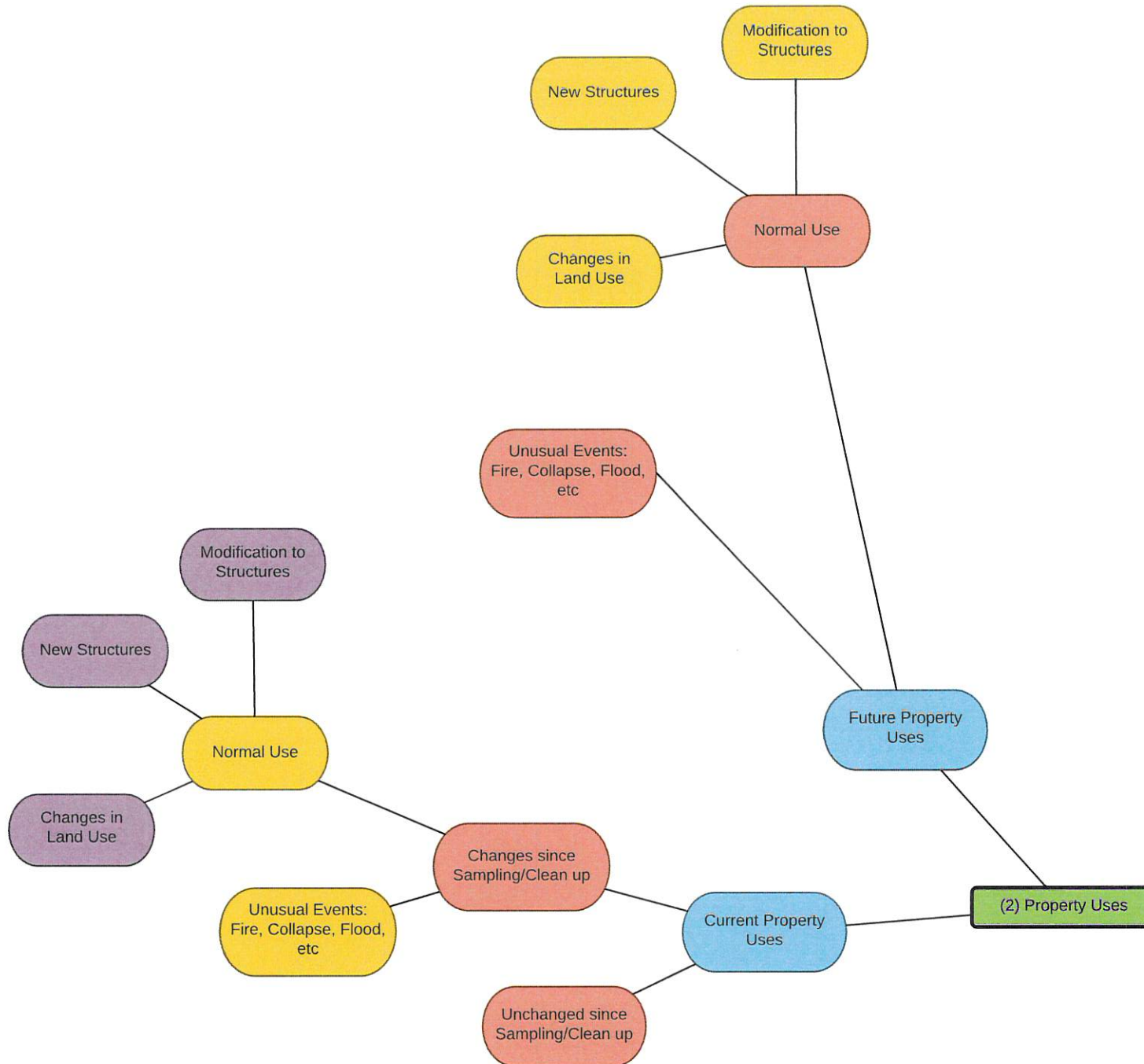
APPENDIX A
MIND MAPPING, PRE CONDITION (SITE REMEDY PHASE)

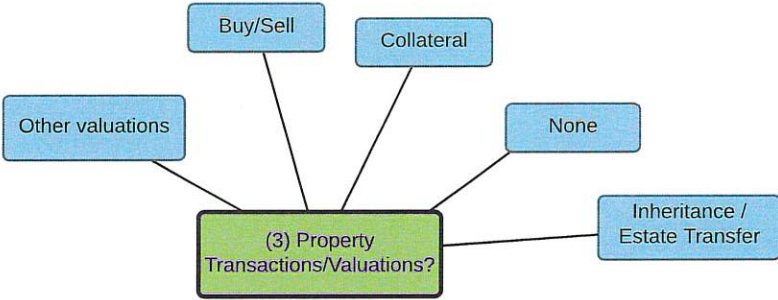


Pre (1)

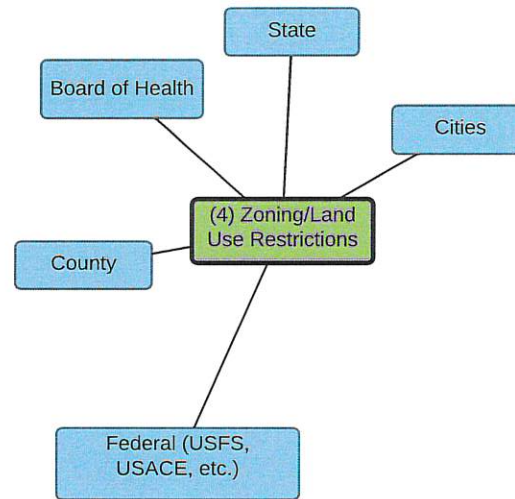


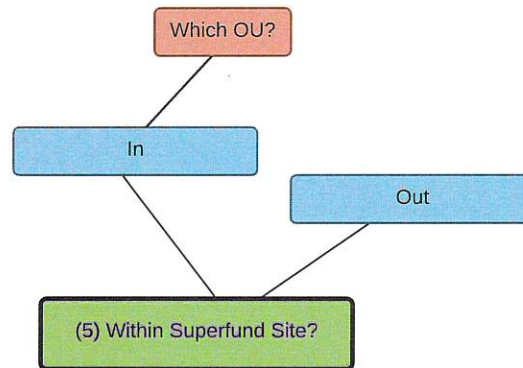
Pre (2)

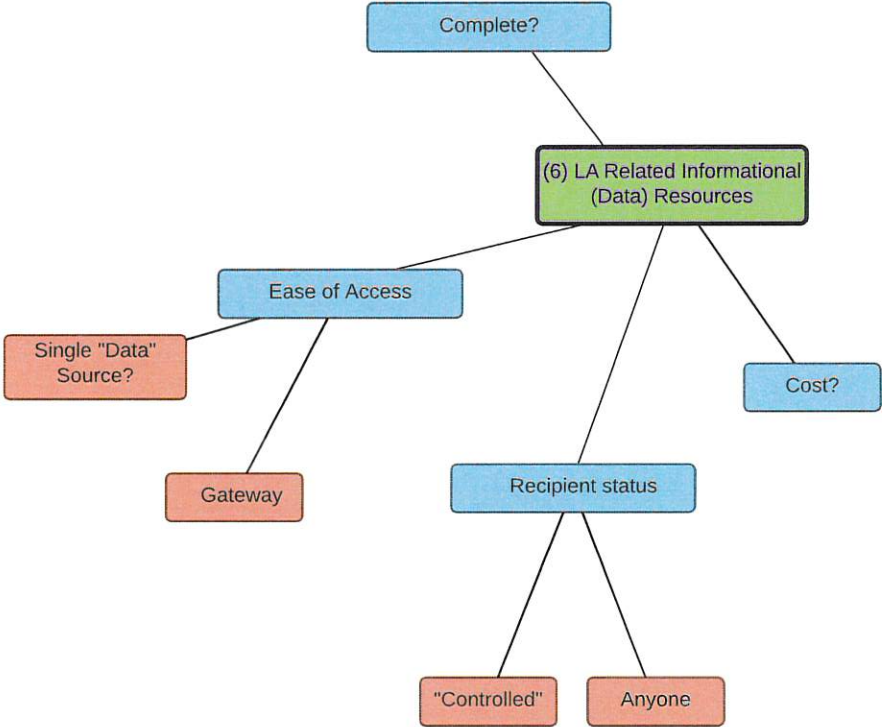




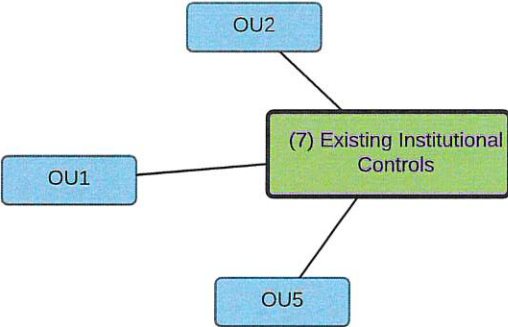
Pre (4)

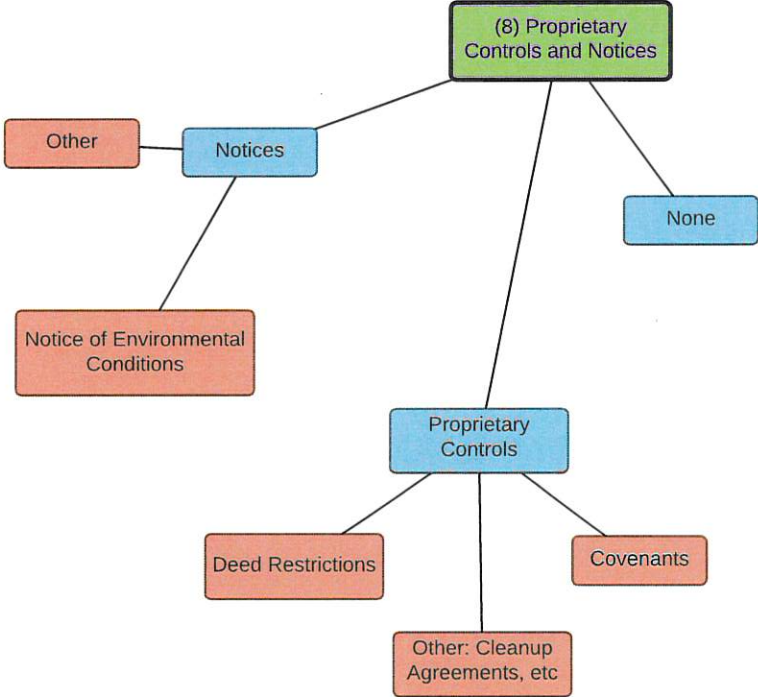


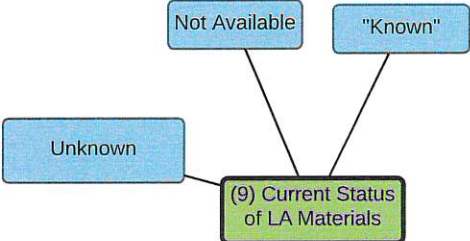




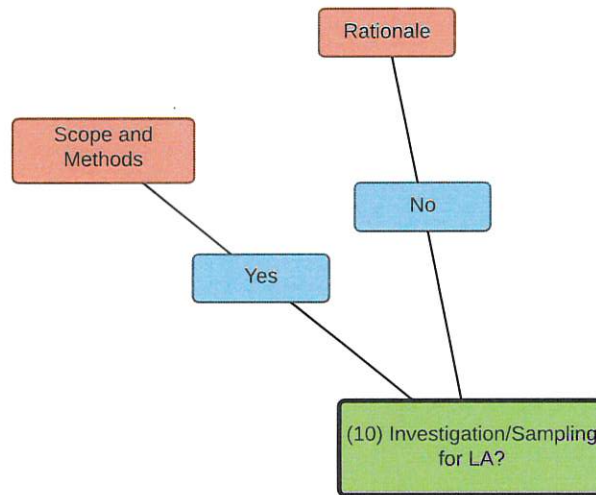
Pre (7)

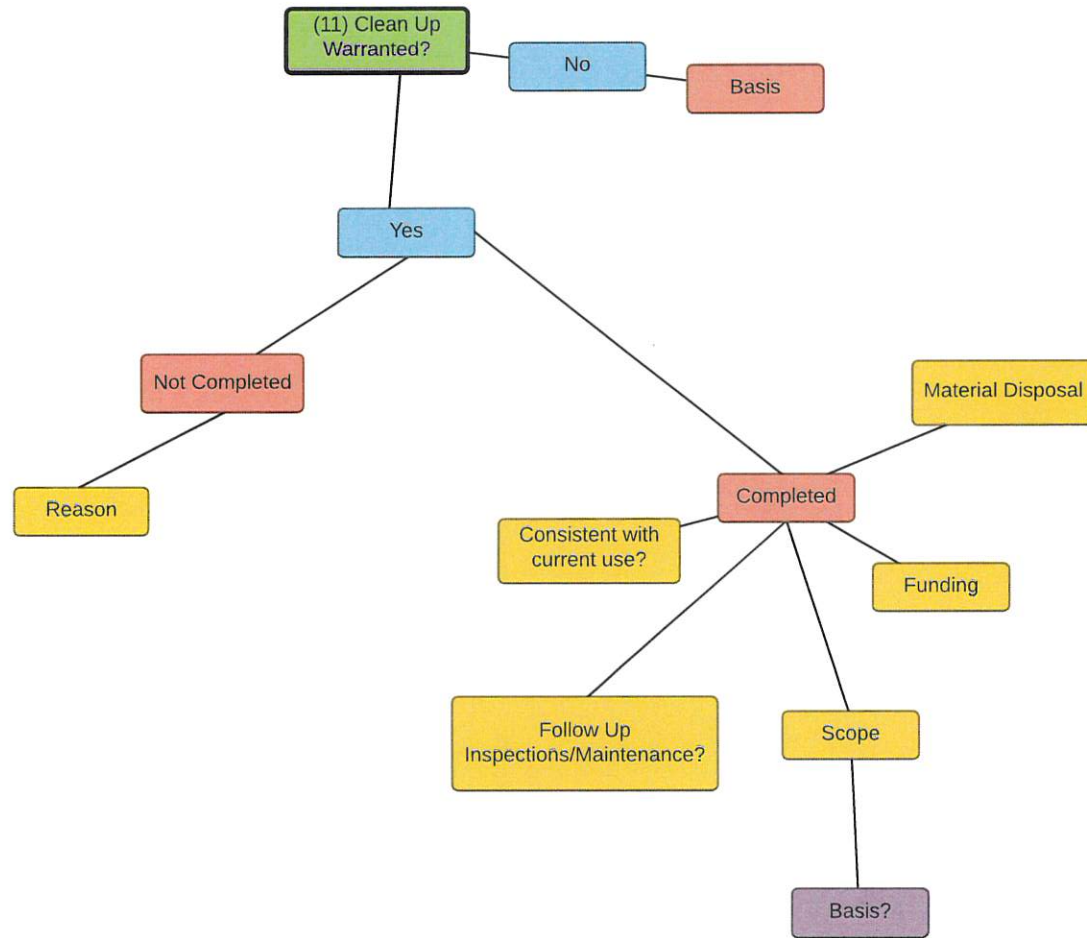


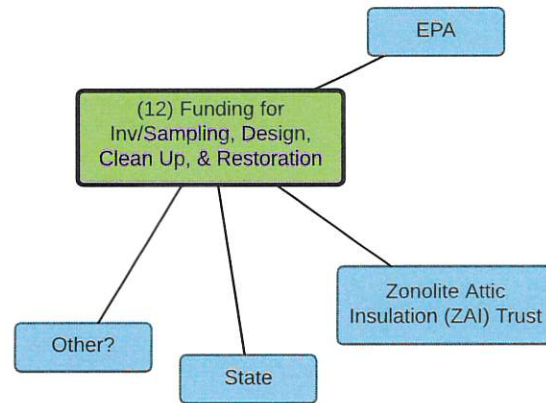


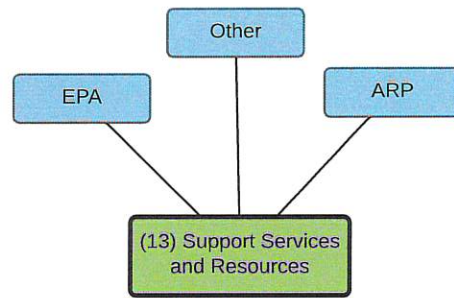


Pre (10)





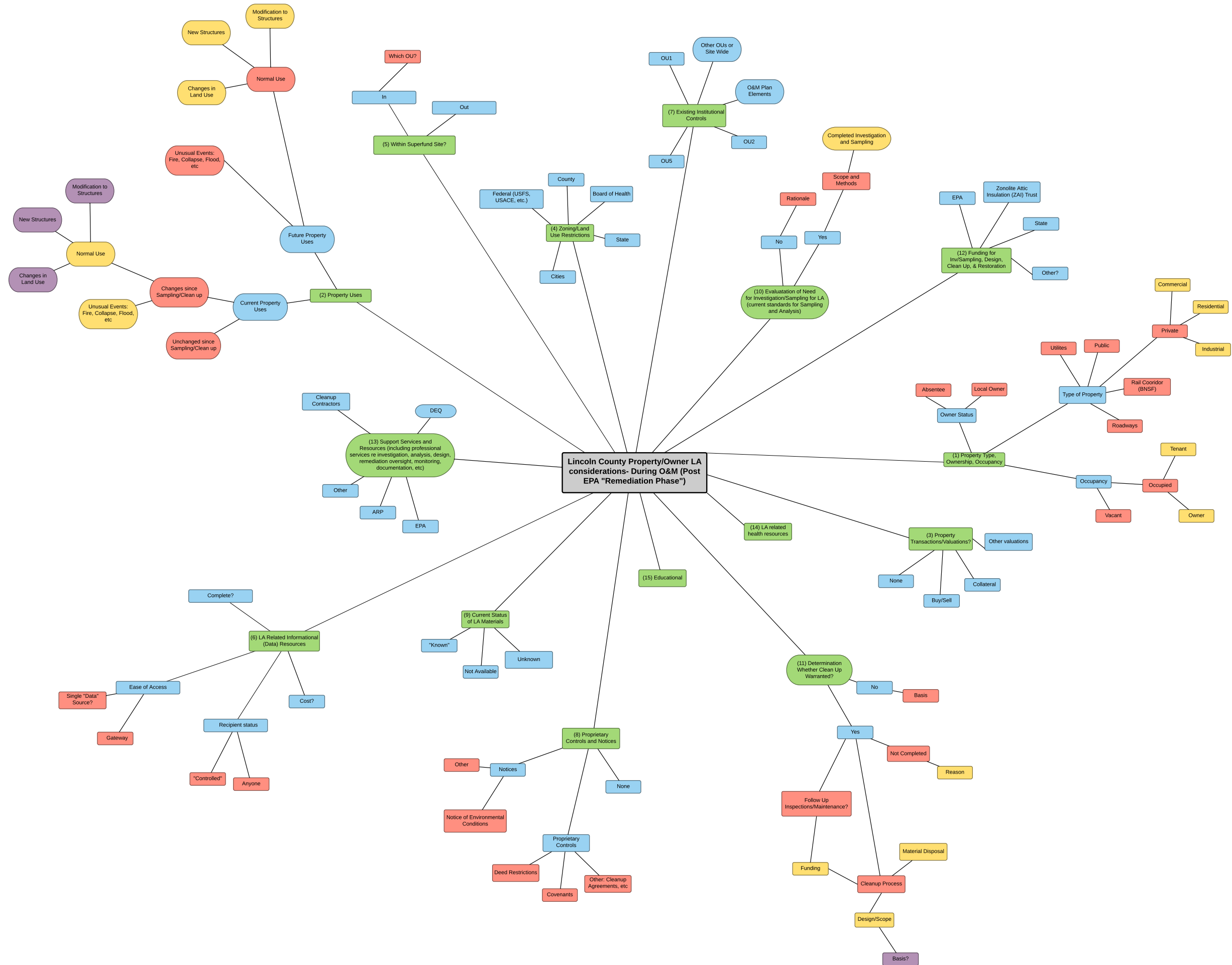




(14) Related health resources

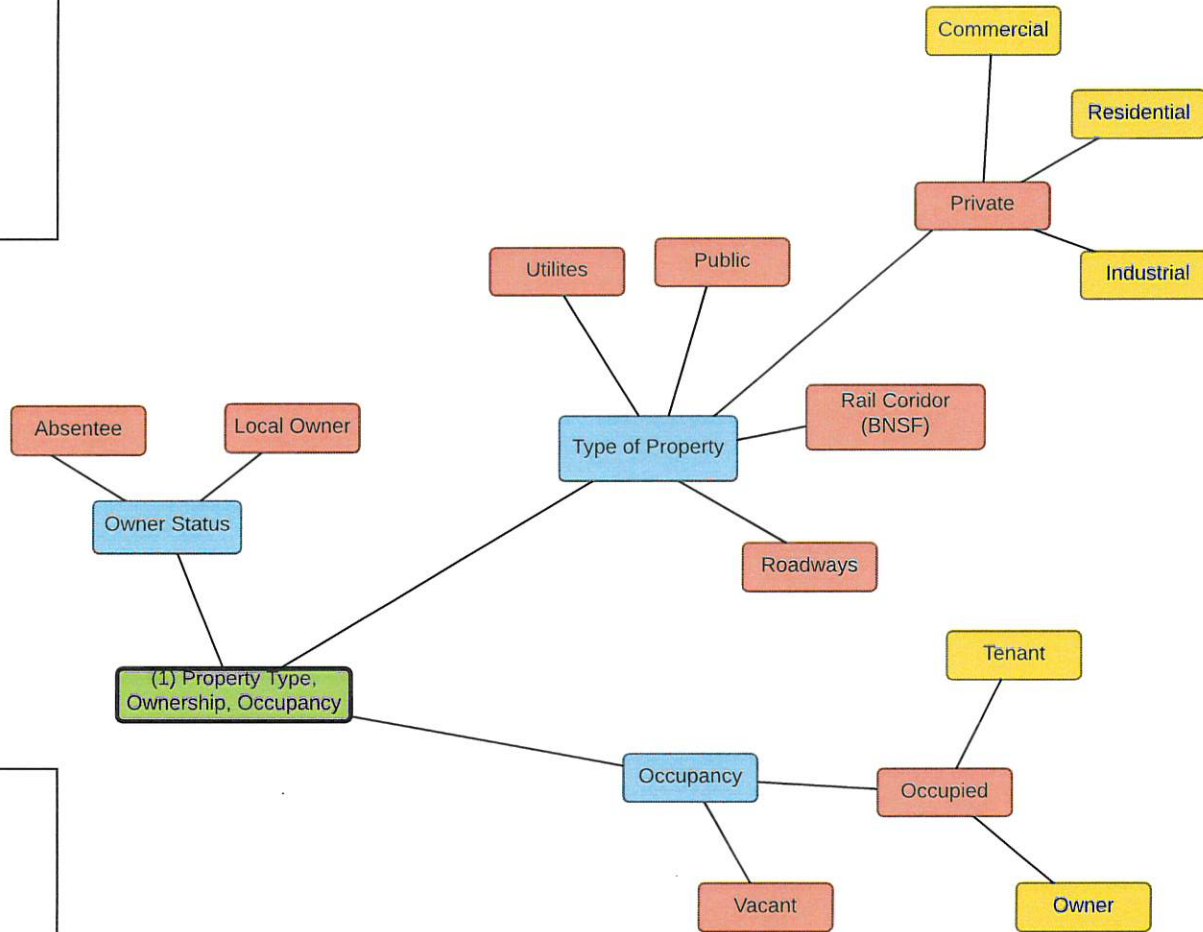
(15) Educational

APPENDIX B
MIND MAPPING, POST CONDITION (SITE O&M PHASE)



Post (1)

Expectations



Potential Tools

Post (2)

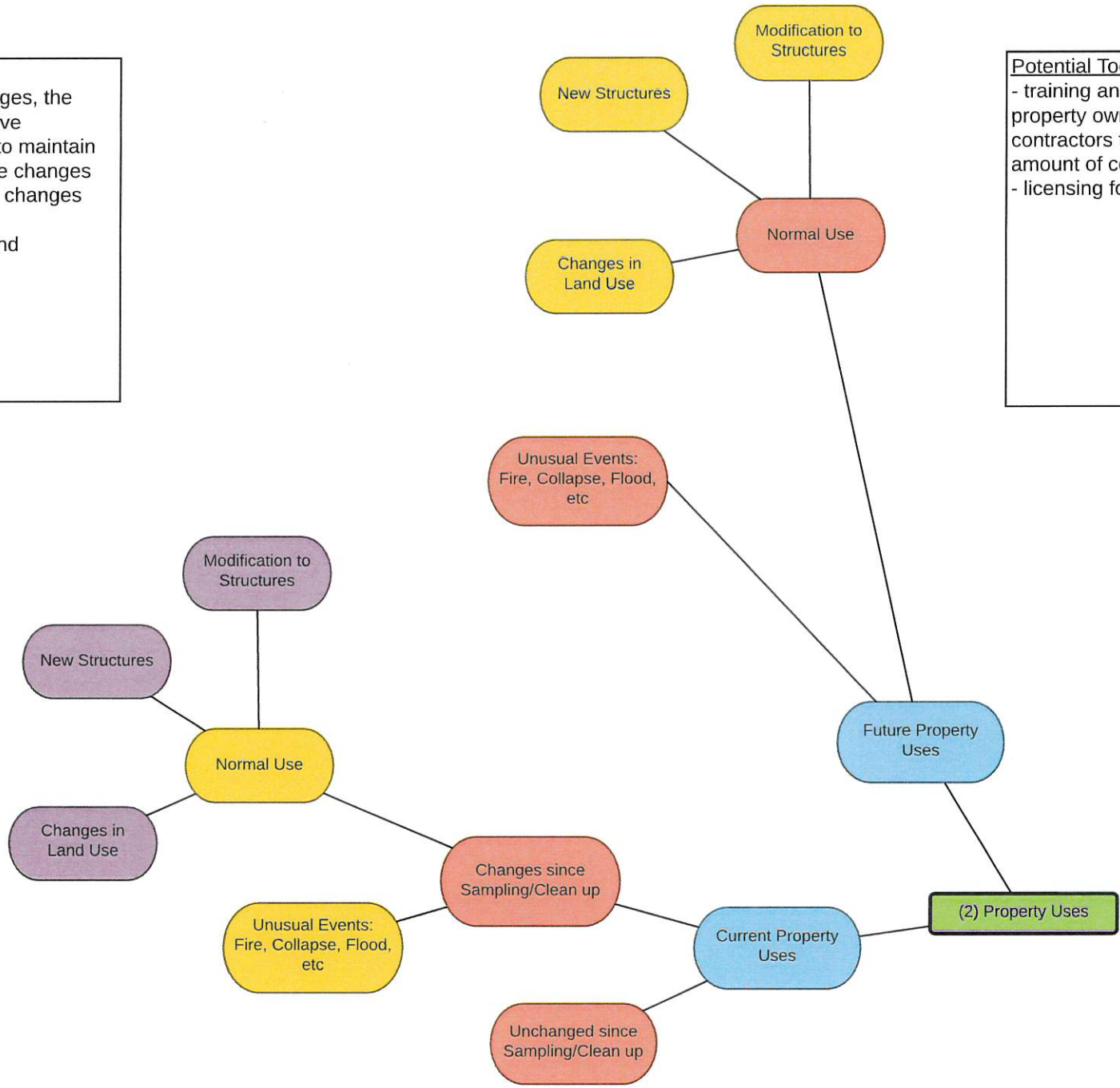
Expectations

- As property use changes, the remedy remains effective
- Resources available to maintain remedy as property use changes
- Not limit property use changes and development

*All apply to planned and unplanned changes

Potential Tools

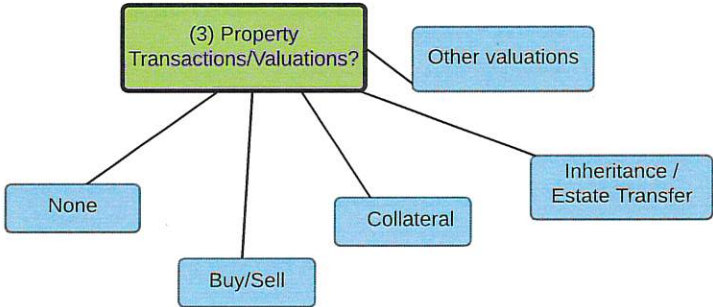
- training and resources for property owners and local contractors to manage small amount of contaminated materials
- licensing for contractors



Post (3)

Expectations

- timely and complete information available to inform transaction/valuation
- Resources available to maintain remedy as property use changes
- Not limit property use changes and development?

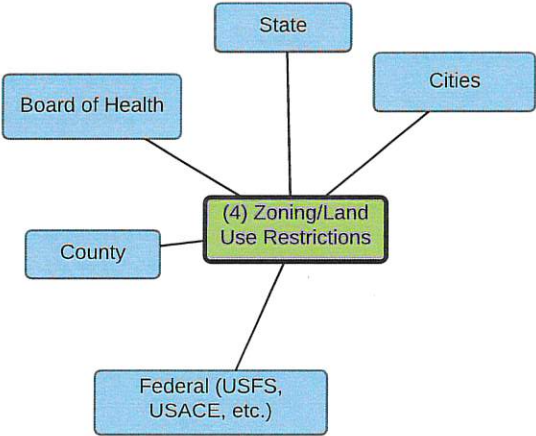


Potential Tools

- real estate disclosure (need to define information included)

Post (4)

Expectations
- recognize limitations of current zoning/land use restrictions in area
- Consideration be given to "general thought/opinion" on zoning/land use restrictions in this area

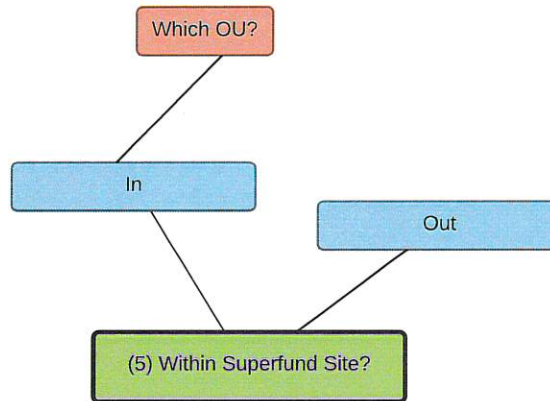


Potential Tools
-Planning boards (Cities and County)

Post (5)

Expectations

- assist property owners outside NPL with managing contaminated materials (at least to the extent applied during remedial action): including information and resources
- no arbitrary limits due to which OU a property falls within (with exception to OU3 and OU6)



Potential Tools

- access to funding if costs exceed a certain point (for outside NPL)

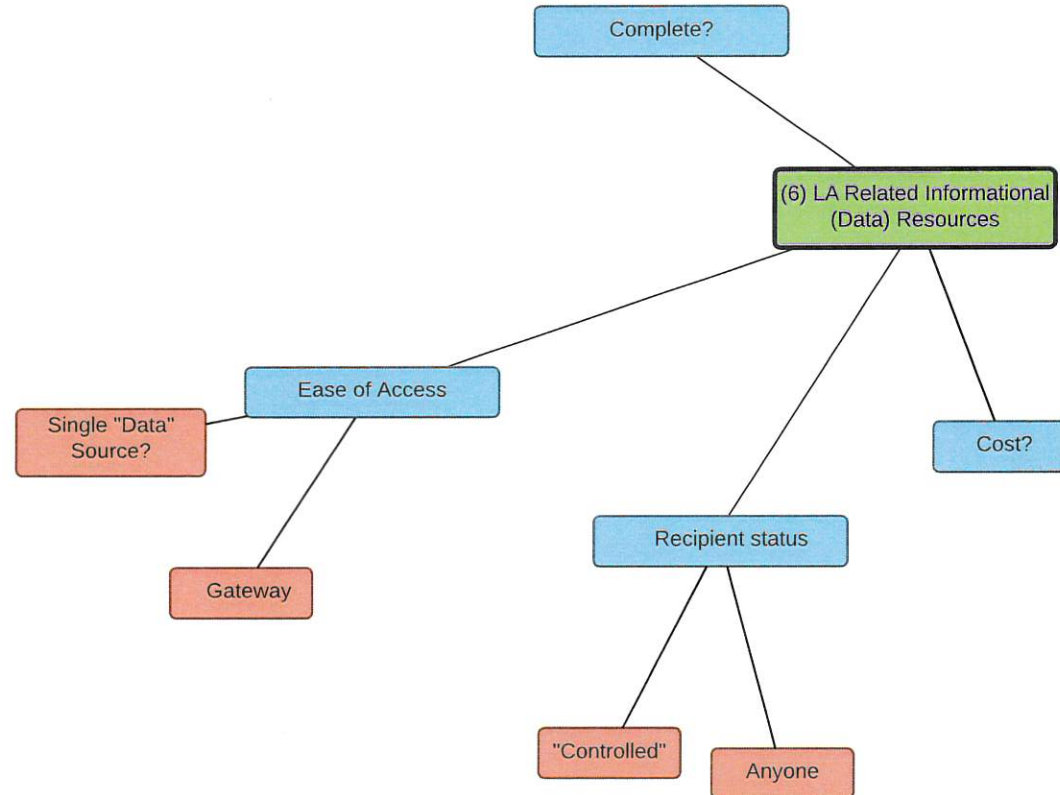
Post (6)

Expectations

- ANYONE should have access to ALL data EPA has collected data related to the Site (including those outside NPL)
- *Need to define what ALL data includes
- Very limited tier of availability of data (i.e., basic info available online and then remainder available by office call/visit)
- Generally FREE access to data until effort to respond to request exceeds some limit

Potential Tools

- Online GIS system for basic property information (e.g., East Helena, ADLC)

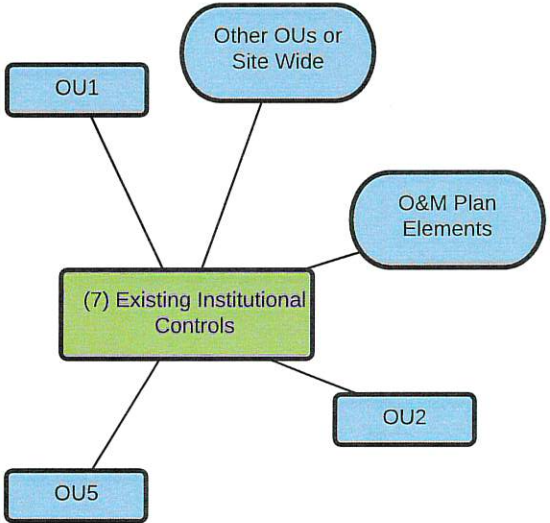


*Data includes all information collected on/for a property and not limited to analytical results

Post (7)

Expectations

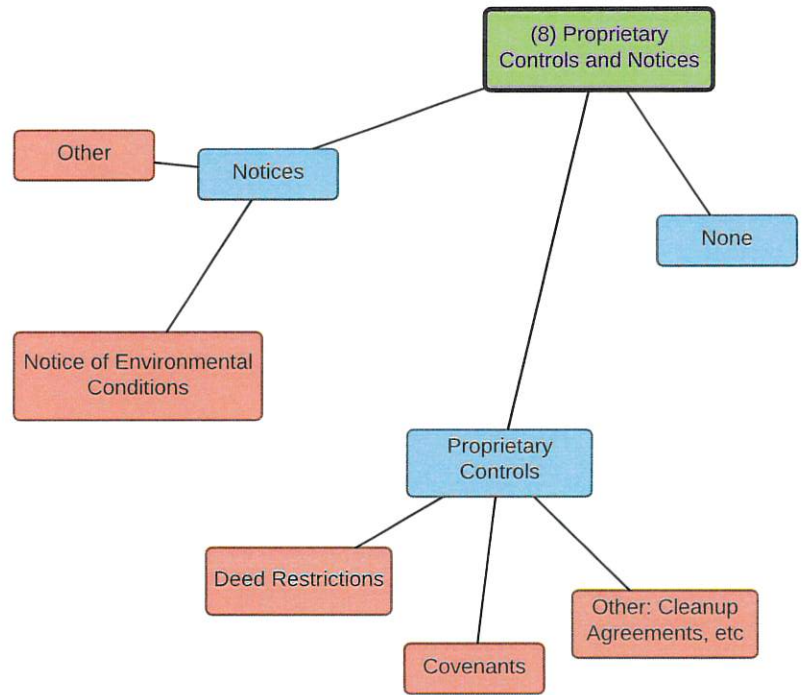
-Consistency in ICs and O&M between OUs when possible (both tools and systems)



Potential Tools

Post (8)

Expectations
-Would not expect to see these types of Proprietary Controls and Notices be used (with the exception of Notice of Env Conditions on Refusals and Notices/Proprietary Controls on specific properties - OU1, OU2, OU5)
-Open to the use of Notice of Env Conditions in the O&M phase (ie., changes on a property)

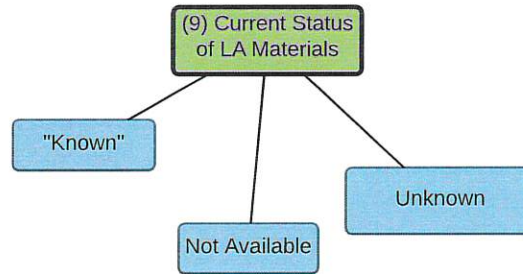


Potential Tools

Post (9)

Expectations

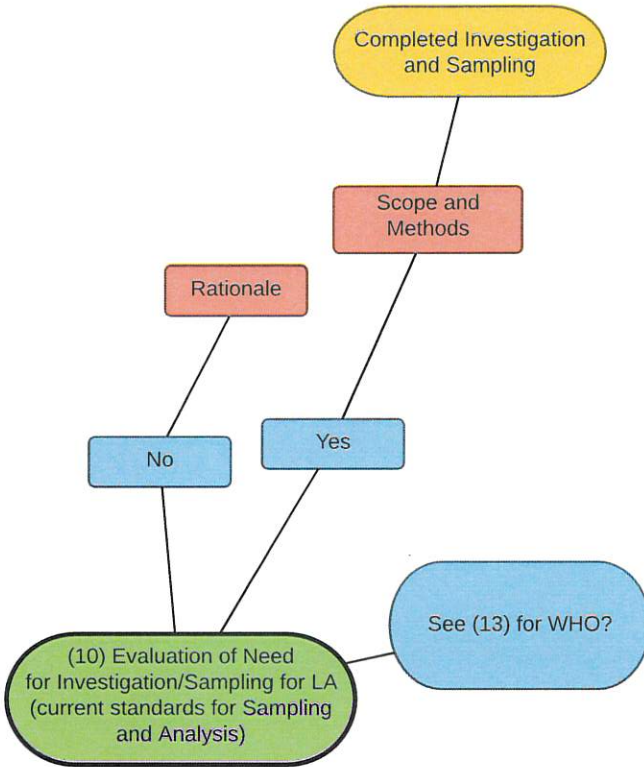
- refer to Element 6 for all data/information related to site inspections to determine "Current Status" (not limited to analytical data)



Potential Tools

Post (10)

Expectations
- professional level services available to property owners and prospective buyers to evaluate and make determination on Investigation/sampling needs (available locally)
- no cost/fee to property owners/prospective buyers for this service
- If "Yes", there must be a standard defined and in-place for Investigation and Sampling



Potential Tools
- Asbestos Resource Program
- **Permit** for disturbance of soil and/or building materials (easy and free)

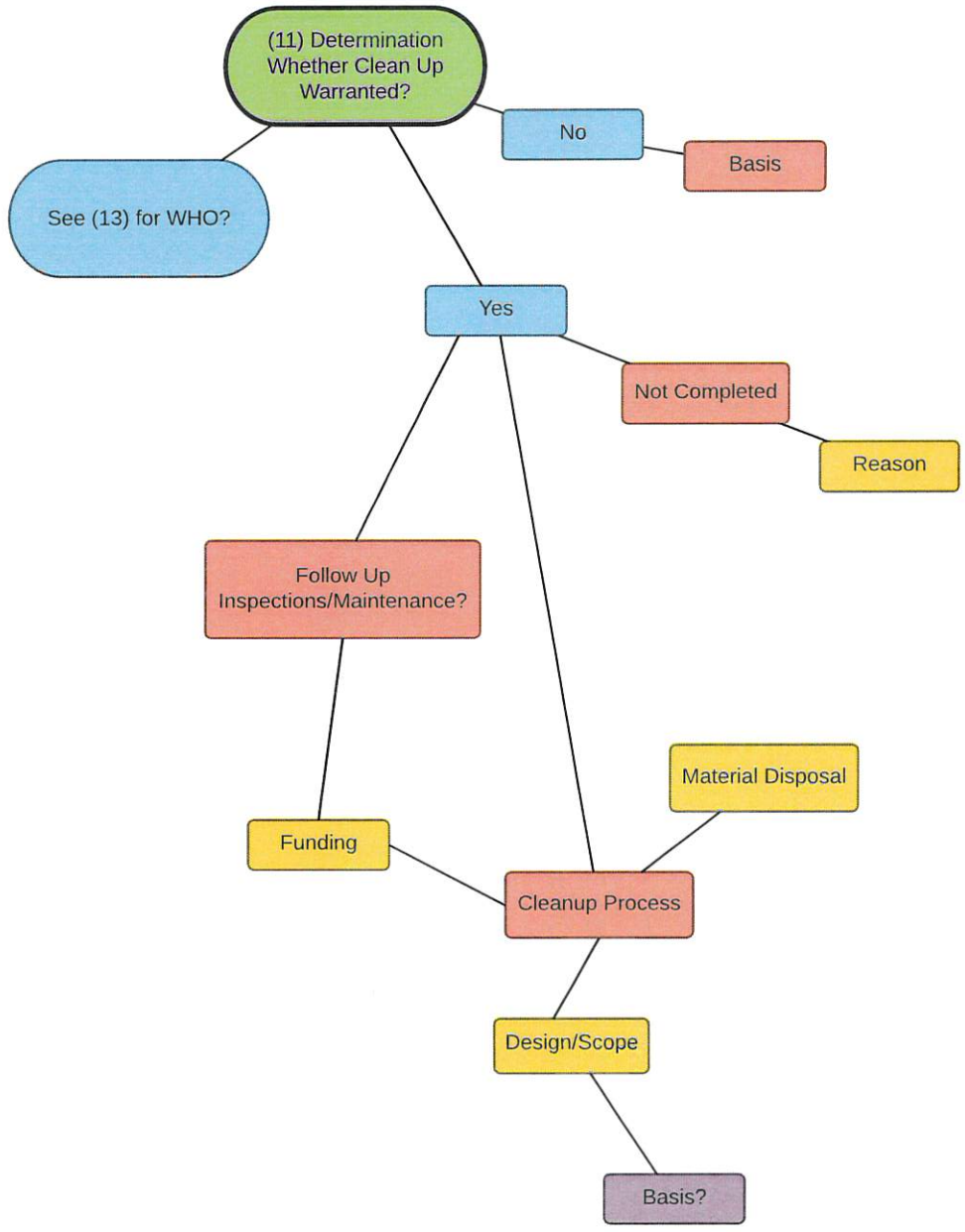
Post (11)

Expectations

- professional level services available to property owners and prospective buyers to evaluate and make determination on Investigation/sampling needs (available locally)
- no cost/fee to property owners/prospective buyers for this service
- If "Yes", there must be a standard defined and in-place for Cleanup Process; including proper disposal, transportation, restoration,
-

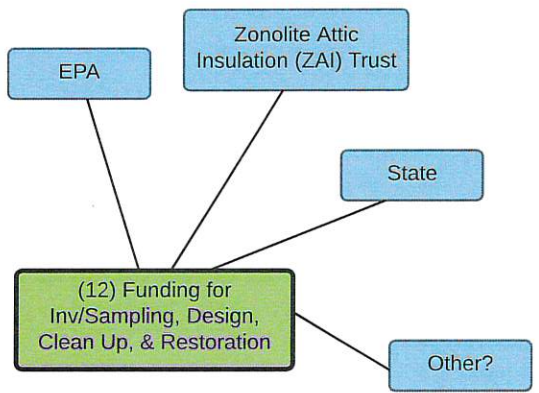
Potential Tools

- Asbestos Resource Program
- Standards:
 - *Cleanup standards utilized by EPA
 - *Asbestos abatement requirements/standards utilized by the Montana Asbestos Control Program
- **Permit** for disturbance of soil and/or building materials (easy and free)
- **Contractor Training/Certification/Pre-qualification program**



Post (12)

Expectations
- access to remaining remediation/settlement funds for O&M use
- funding for all investigation/sampling, design, cleanup, and restoration costs should come from sources other than the property owner

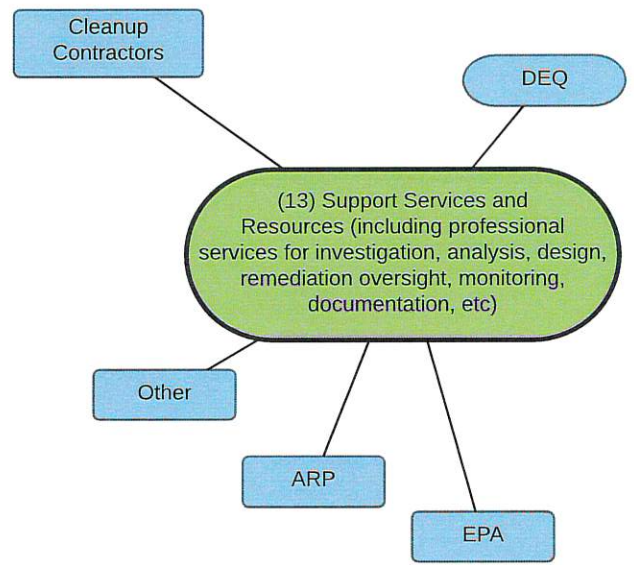


Potential Tools

Post (13)

Expectations

- when possible, support services should be available locally
- Libby Asbestos Superfund Liaison will be available to support providing these services and resources
- refer to Elements 9, 10, 11, and 12



Potential Tools

Post (14 & 15)

Expectations

- continued/regular efforts to evaluate public health and effectiveness of remedy and O&M/ICs
- O&M/IC decisions not impact access to LA Related Health Resources
- strong educational program to support O&M/ICs

(14) LA related health resources

(15) Educational

Potential Tools

APPENDIX C
BOH POSITION STATEMENT

POSITION STATEMENT
IC STEERING COMMITTEE AND CITY-COUNTY BOARD OF HEALTH
OPERATION AND MAINTENANCE (O&M) PHASE, LIBBY ASBESTOS SUPERFUND SITE
January 2018

Statement:

Indiscriminate protection of human health and the environment will serve as the universal criterion for all O&M related actions and activities. Further, property owners will not bear the cost of any future issues related to the Libby Asbestos Superfund Site. Support of or participation in O&M elements will be based on this position.

Summary:

The fundamental principle that will guide all actions is protection of public health. This includes maintaining the remedy at the site to ensure it remains protective of human health and the environment. Further, the principle will not be discriminately applied based, for example, on property type, prior history or participation in programs.

Prior clean-up actions, and inactions, and the overall selected remedy have focused on reducing or managing exposure, not overall removal of contaminants. Such partial clean-up measures are deferred remedies, prompted by specific circumstances at the individual properties. Future conditions at properties are not static, and O&M must accommodate the realities of continued property use under any circumstance.

To support the fundamental principle, O&M elements must not require property owners to bear the cost of any issues in the future that relate to Libby Asbestos Superfund Site. Cost to property owners in O&M should be no different than during the active clean up phase. Realistically, the public health needs are no different in O&M than in the active remediation phase. The realities of public health protection, property usage, and owner cost burdens do not change magically at the moment the O&M phase begins, nor erase the Public Health Emergency declaration. The realities of cost and responsibility are unchanged.

A drastic change (reduction) in funding support, particularly shifting the burden to the property owner, is inconsistent with expectations that the remedy can be maintained. Impetus to shift financial responsibility is arbitrary, and should not be driven by the programmatic boundaries that are transitioned from the clean up to O&M phase. The close of the active clean up phase is a recognition that the level of activity is diminishing, thus not warranting continued full time presence of oversight and contract personnel. While the frequency of clean up actions may diminish, the community needs will continue. An oft used phrase is that X number of properties have been cleaned up. This is an erroneous statement of finality. Exposures have been mitigated for now, but the remedy is deferred.

Entities assuming responsibility for O&M, i.e., DEQ and Lincoln County, must have assurance of adequate financial support including unused investigation and remediation funds. O&M should be viewed realistically as a continuation of the deferred remediation activities under a different banner.

Anything less than adherence to the the above position and principles is inconsistent with long held commitments to the community, and is not credible. Further, deviation from this policy during O&M would have disproportionately high and adverse human health or environmental effects on the low-income population that dominates the Site boundaries.

**POSITION STATEMENT
IC STEERING COMMITTEE AND CITY-COUNTY BOARD OF HEALTH
OPERATION AND MAINTENANCE (O&M) PHASE, LIBBY ASBESTOS SUPERFUND SITE
January 2018**

Institutional Control Steering Committee:

Recommendation for City-County Board of Health Approval:


George Jamison, Chair

4 Jan 2018
Date

City-County Board of Health:

Approved:


Jan Ivers, Chair

10 January 2018
Date