

# Life After CERCLA

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*Environmental Legal Perspective*

(by [Tim Bytner](#))

The phrase “Comprehensive Environmental Response, Compensation and Liability Act,” or “CERCLA” for short, is something that pricks the ears of environmental managers and counsel, but usually not in a good way. Certainly, the mere mention of an EPA104(e) information request is something that can cause the hands to get clammy even for the most seasoned environmental managers and in-house counsel. The concerns are not unfounded. Being named as a potentially responsible party (“PRP”) for a contaminated site, whether it be as an owner, operator or an arranger, usually is the start of a process that can take a few years to decades to complete.

I consider myself very fortunate that my career in the environmental industry has touched on just about every stage of a contaminated site. Having been an environmental consultant prior to (and during) law school, there was a time when I was the person collecting samples and preparing various plans and technical reports. Now having practiced environmental law for more than 18 years, I’m the person directing responses to information requests and negotiating with agency counsel and other PRPs on remedial investigations, cost sharing, feasibility studies, etc. Over the years, I’ve had multiple conversations with clients that began with “I just received this letter...” or “...have you seen the news today?”

It can be quite difficult to see an end to the CERCLA process, but endings can and do happen. To date, 460 sites have been removed from the National Priority List (“NPL”).<sup>[1]</sup> Some of these sites were removed from the NPL because of what I would generally term as “administrative” reasons, meaning that the site is still undergoing some form of remediation, it’s just no longer appropriate to maintain on the NPL. But there are sites that were removed from the NPL because the remedial work had been completed to an extent which rendered the site suitable for some form of future use.

For example, the Pioneer Sand Company Superfund Site, located near Pensacola Florida was added to the NPL in 1983 due to suspected contamination from the disposal of various phenols, resin compounds, plating sludges, etc. After cleanup, the site was removed from the NPL in 1993. Groundwater monitoring and operation/maintenance activities continue, but the site now presents a great opportunity for reuse, so long as the reuse is consistent with the implemented remedy. <sup>[2]</sup>

Compatibility with the remedy is the key for reuse of any contaminated site, and it is important to keep potential reuse in mind throughout the process such that the remedy can be tailored to the extent practicable to maximize reuse.

In cases that I have been involved with, the remedy often involved the construction of some form of cap to act as a barrier between the aboveground environment and any contaminated materials that remain in place below. Reuses of sites with a cap typically involve activities and/or construction that do not compromise the cap.

Another form of remedy, and one which often accompanies the implementation of a cap, is the use of institutional controls such as a restriction on the use of groundwater and/or a restriction on the use of the site for residential purposes. Although these types of restrictions prohibit the site from certain forms of redevelopment, plenty of possibilities remain.

I’ve seen many uses of sites that formerly were, and even currently are, on the NPL including warehousing, parking lots, self-storage units, nature preserves, manufacturing, etc. More recently, AI has fueled a significant demand for data centers. To that end, the EPA has developed a guidance document, which provides useful information on the criteria needed for the redevelopment of a site for use as a data center.<sup>[3]</sup> Data centers represent a prime opportunity for reuse of a contaminated site with the possibility of significant benefits, not only to the landowner but to

the surrounding community as well.

The important aspect to keep in mind for any contaminated site, whether it is regulated through CERCLA or through state means, is that the space will still exist after the remediation is complete. The options for using that space are limited only by the entrepreneur's imagination.

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[1] Environmental Protection Agency, *Deleted National Priorities List (NPL) Sites – by State* (April 8, 2026), <https://www.epa.gov/superfund/deleted-national-priorities-list-npl-sites-state>.

[2] Environmental Protection Agency, *Site Redevelopment Profile: Pioneer Sand Company Superfund Site* (March 31, 2026), <https://semspub.epa.gov/work/HQ/403575.pdf>.

[3] Environmental Protection Agency, *Guidance on the Redevelopment of Superfund and Brownfield Sites as AI Data Centers*, EPA-540-S-26-001 (January 2026), <https://www.epa.gov/system/files/documents/2026-01/guidance-on-the-redevelopment-of-superfund-and-brownfield-sites-as-ai-data-centers.pdf>.

