

NDEP BCA
LUST and Remediation Cases
Public Notification Through Correspondence CC list
Procedures For Notification Of Off-Site Property Owners

This guidance provides General Rules and specific requirements to assist case officers in determining appropriate CC procedures for notification of community representatives, off-site property owners and other interested parties when communicating through formal correspondence.

General Rules:

- Case officers must exercise professional judgment on who to notify
- If there is a question, err on the side of notification
- Include all surrounding adjacent property owners (even if separated by right of way easements)
- If convenient and practical, attach correspondence from responsible party (RP) or executive summary of report to your correspondence so person being notified receives “both sides of the conversation”

How does a case officer obtain property owner contact information?

- Contact information was requested in r/spill letter and should have been included in the response to [r/spill](#) letter report
- County Assessor websites ([Carson](#), [Churchill](#), [Clark](#), [Douglas](#), [Elko](#), [Esmeralda](#), [Eureka](#), [Humboldt](#), [Lander](#), [Lincoln](#), [Lyon](#), [Mineral](#), [Nye](#), [Pershing](#), [Storey](#), [Washoe](#), [White Pine](#))

When does a case officer begin to CC?

- Start CC-ing as appropriate in second correspondence
- Special circumstances

Who does a case officer CC?

- **DO INCLUDE** LUST CC LIST [P:\BCA\Program Administration\LUST CC LISTS](#) and **DO INCLUDE** All Adjacent Property Owners **If:**
 - Ground Water Impact above Maximum Contamination Level (MCL) or Action Level (AL)
 - Site has active remediation system
 - Site has high visibility
 - Receptors/Preferred Pathways
 - e.g. Pumping Wells Present, dewatering, utilities
 - as requested from interested parties, supervisors, etc
- **DO INCLUDE** LUST CC LIST [P:\BCA\Program Administration\LUST CC LISTS](#) but **DO NOT INCLUDE** All Adjacent Property Owners **if:**
 - Project in right of way/easement access only

- Project with limited Shallow Excavation
- Project with limited visibility/scope

Note: It is not necessary to include LUST CC LIST or to CC adjacent property owners on NTEP letters

Why should we notify off-site property owners? To CC or not to CC, That is the Question:

1. Because it makes sense:

- Suppose a relative or friend of yours lived next to a corrective action site where there is equipment operating and that has the potential or perceived potential to impact them or their property.
- Access agreements have held up many investigations and some cleanups. Early notification will help make off-site property owners aware of the issue potentially before access is needed; thereby, alerting them that the NDEP is involved and overseeing the work.
- For sites with more significant contamination, early notification can help to gain confidence of off-site property owners as they see that the NDEP is keeping them informed and is conducting oversight in a transparent manner. This will help later on should the need arise (due to press/elected official inquiry or more visible off-site work) to answer the question “why didn’t we inform anyone sooner”?
- Informing off-site property owners may provide additional pressure on the responsible party to complete necessary investigation and cleanup in a timely manner.
- We work for the public. Informing them of that we are working on issues that may affect them or are in their neighborhood is part of good public service.

2. Because it is the most effective way to satisfy regulations:

- [40 CFR 280.67](#), adopted by reference in [NAC 459.993](#), requires that the affected public be provided an opportunity to comment on corrective action plans at LUST sites. As a practical matter, “directly affected public” is subject to interpretation, and the NDEP BCA has determined that adjacent property owners are “directly affected.” When the NDEP received State Program Approval for the LUST program from EPA, the NDEP included our cc list as a method of satisfying these regulatory requirements. Waiting until a corrective action plan is about to be approved is not the most effective, efficient or timely way of informing the public even though that is all that is strictly required.
- For remediation sites, the NDEP BCA has decided to manage these cases in a manner consistent with LUST sites including public notification and participation requirements. Informing the public will also enable NDEP to satisfy and exceed the requirements of [NAC 445A.22755](#).