

# Inspection and Review UST Closures

June 6, 2024



**Atwood Davis, Bureau of Inspection and Review  
Contaminated Site Remediation & Redevelopment**

# Origin of Inspection and Review



- **The Site Remediation Reform Act (N.J.S.A. 58:10C-21) was signed into law in 2009**
- **Licensed Site Remediation Professionals (LSRPs) are in charge of the cleanups**
- **Department is obligated to be auditors**

# Important Concepts



- **LSRPs perform the investigation and the cleanup**
  - **Yes, We trust them**
- **LSRPs issue certified reports to Department**
  - **Those documents are good the moment they issue them**
  - **Response Action Outcomes (RAOs) final once issued**
- **The Department Audits those documents through our inspection and review process**

# What is Inspection?



- **First cursory look at the Remedial Document**
  - **E-Submittal Summary/Case Inventory Document (CID)**
  - **Attachments uploaded – additional forms**
  - **Information within NJEMS Database**
  - **Known Conditions of the Site or Area**
- **Purpose is to Identify Review Triggers**
- **No Review Triggers – we close the document or case**

# What is Review?



- **Performance of the Technical Reviews identified in the inspection process (i.e. the closer look)**
  - **General**
  - **Component**
  - **Comprehensive**
- **Reviews Triggers may be “Real Time” or “Deferred” until issuance of Response Action Outcome (RAO).**

# What do we care about?



- **Protectiveness of human health and environmental**
  - **Sensitive Populations**
    - Schools, Daycares, Senior Housing and Residential
  - **Direct Contact (Soils)**
    - Ingestion, dermal, and inhalation
  - **Migration to Ground Water (Soils)**
    - Contamination levels capable of impacting ground water

# What do we care about? (Part 2)



- **Protectiveness of human health and environmental**
  - **Potable Well Impacts**
  - **Public Water Supply Impacts**
  - **Vapor Intrusion – Indoor Air Quality**
  - **Environmentally Sensitive Natural Resources (ENSRs)**
    - **Streams, ponds, rivers, lakes, and wetlands**

# Review Results



- **No Issues – We move on to the next (Well done)**
- **-Or-**
- **Issues – A Notice of Incomplete (NOI) issued**
  - **E-mail correspondence (efficiency) to LSRP and PRCR**
  - **Supervisor reviewed and copied on correspondence**



# Notice of Incomplete (NOI)



- **The Notice of Incomplete will:**
  - **Identify the site and document we are referencing**
  - **Provide the details of the deficiency or issue (with appropriate citations)**
  - **Offer direction toward resolving or addressing the matter**
- **7 Day to Acknowledge and 60 Days to Address**

# Resolving the Issues



- **Outreach with Resolution:**
  - **2022: 96.92% Success**
  - **2023: 97.80% Success**
    - **Success rate a function of the LSRP providing additional professional judgement, additional investigation or agreed a withdrawal was necessary.**
    - **Large Portion of issues not resolved are due to non-responsiveness.**
- **If RAO has been issued, upon resolution of issues, we close the case**

# How Long Do I have? - Timeframes



- **You are on the clock!**
- **Timeframes stem from the earliest requirement to remediate**
  - **When you filed for Closure (date filed)**
  - **Date of the recorded discharge (date called into hotline)**
- **Worst thing you can do is ignore the obligation and not hire an LSRP timely**

# Regulatory and Mandatory



- **Regulatory Timeframes**

- **First set of timeframes for milestone remedial phases to be completed that are conservative.**
- **Monetary fine and Administrative Consent Order (ACO)**
- **Eliminates extension possibilities in future**

- **Mandatory Timeframes**

- **Second set of timeframes for each milestone remedial phase**
- **Missing these means DIRECT OVERSIGHT**



- **Site Investigation Report (Required by UST Rule)**
  - **Regulatory Timeframe = 1 year**
  - **Mandatory Timeframe = 1 additional year (2 years total)**
- **Initial Receptor Evaluation**
  - **Regulatory Timeframe = 1 year**
  - **Mandatory Timeframe = 1 additional year (2 years total)**



- **Remedial Investigation (after SIR due)**
  - **Soils Only - Regulatory Timeframe = 3 years**
  - **Soils and/or other media – Regulatory Timeframe = 5 years**
  - **Mandatory Timeframe = 2 years after regulatory timeframe**

# Timeframes



- **Remedial Action Complete (after RI due)**
  - **Soils Only - Regulatory Timeframe = 3 years**
  - **Soils and/or other media – Regulatory Timeframe = 5 years**
  - **Mandatory Timeframe = 2 years after regulatory timeframe**
- **Response Action Outcome must be issued to meet RA timeframes!**

# Direct Oversight



- **A Mandatory Timeframe has been missed**
- **Direct Oversight:**
  - **Establish a Remediation Funding Source**
  - **Provide a public participation plan**
  - **\$25,000.00 penalty**
  - **Sign an Administrative Consent Order (ACO)**



# Direct Oversight



- **Full Direct Oversight**
  - Case manager assign
  - Department essentially runs the cleanup and makes all remedial decisions.
- **Adjusted Direct Oversight**
  - Adjusted ACO
  - Reduced penalty to \$12,500.00
  - LSRP still in charge

# Common Issues - Surprises



- **Things to be aware of:**
  - **Discovery of Historic Fill**
  - **Use of Alternate Fill**
  - **Waste Oil USTs**

# Historic Fill



"Historic fill material" means non-indigenous material, deposited to raise the topographic elevation of the site, which was contaminated prior to emplacement, and is in no way connected with the operations at the location of emplacement and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, or non-hazardous solid waste. Historic fill material does not include any material that is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slag or tailings. In addition, historic fill material does not include a municipal solid waste landfill site.

# Historic Fill



# Historic Fill

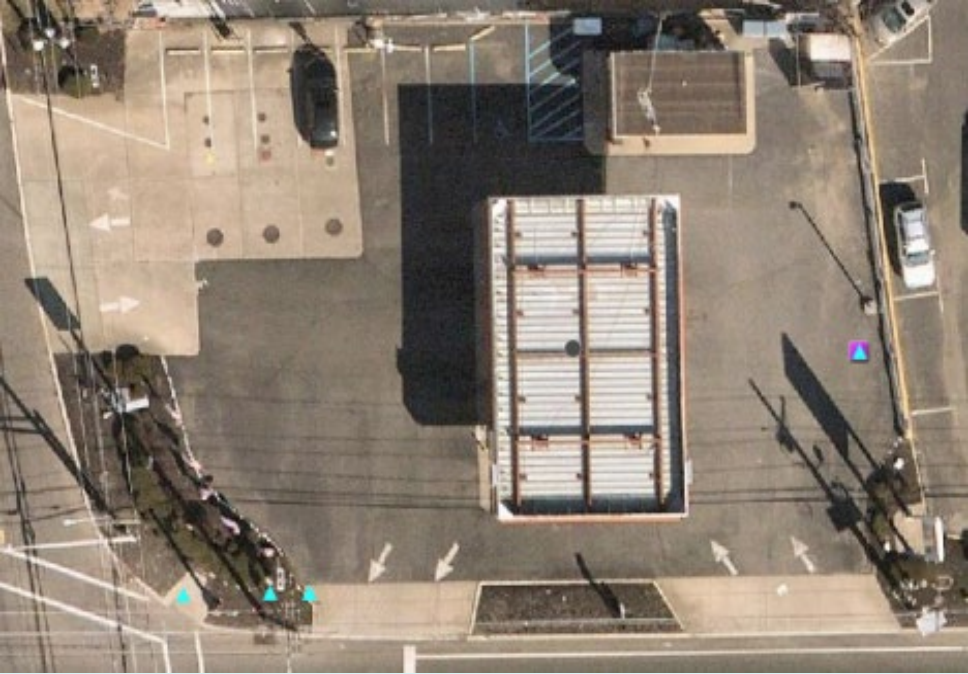


- **If you are a property owner, you have an obligation to remediate the historic fill**
- **Tank Case will not be close until:**
  - **Historic Fill is remediated and a RAO has been issued; or**
  - **Case Creation Form is filed to separate Historic Fill as a new case**
- **Tank Operators (only), do not have an obligation**



- **Once Historic Fill is identified, you can assume its presence to the property boundary**
- **Remedial Action**
  - **Deed Notice**
  - **Engineering Control (asphalt, concrete, building, sidewalk)**
  - **Virtual Classification Exception Area (VIC)**

# Historic Fill



# Alternate Fill



"Alternative fill" means material to be used in a remedial action that contains contaminants in excess of the most stringent soil remediation standards, site-specific alternative standards, or site-specific interim standards and does not contain free liquids. This also includes any material that contains contaminants in excess of criteria or action levels for contaminants without standards available on the Department's website at [www.nj.gov/dep/srp](http://www.nj.gov/dep/srp). Alternative fill can be soil or non-soil.



# Alternate Fill



- **Fill Material brought onto the site or moved from one location to another for remedial action**
  - **Alternative Fill may be from an off-site source; or**
  - **From an on-site source.**
- **If Undergoing Remediation, the Fill Material must meet Site Remediation Standards.**

# Alternate Fill



- **Prior to Placement:**
  - **Fill Material must meet “Like on Like” – same contaminants**
  - **Fill Material cannot exceed the “75<sup>th</sup> percentile of concentration” for any contaminant**
  - **Fill cannot be in excess volume**
- **Prior Written Approval is needed from the Department if you do not meet these requirements**

# Alternate Fill



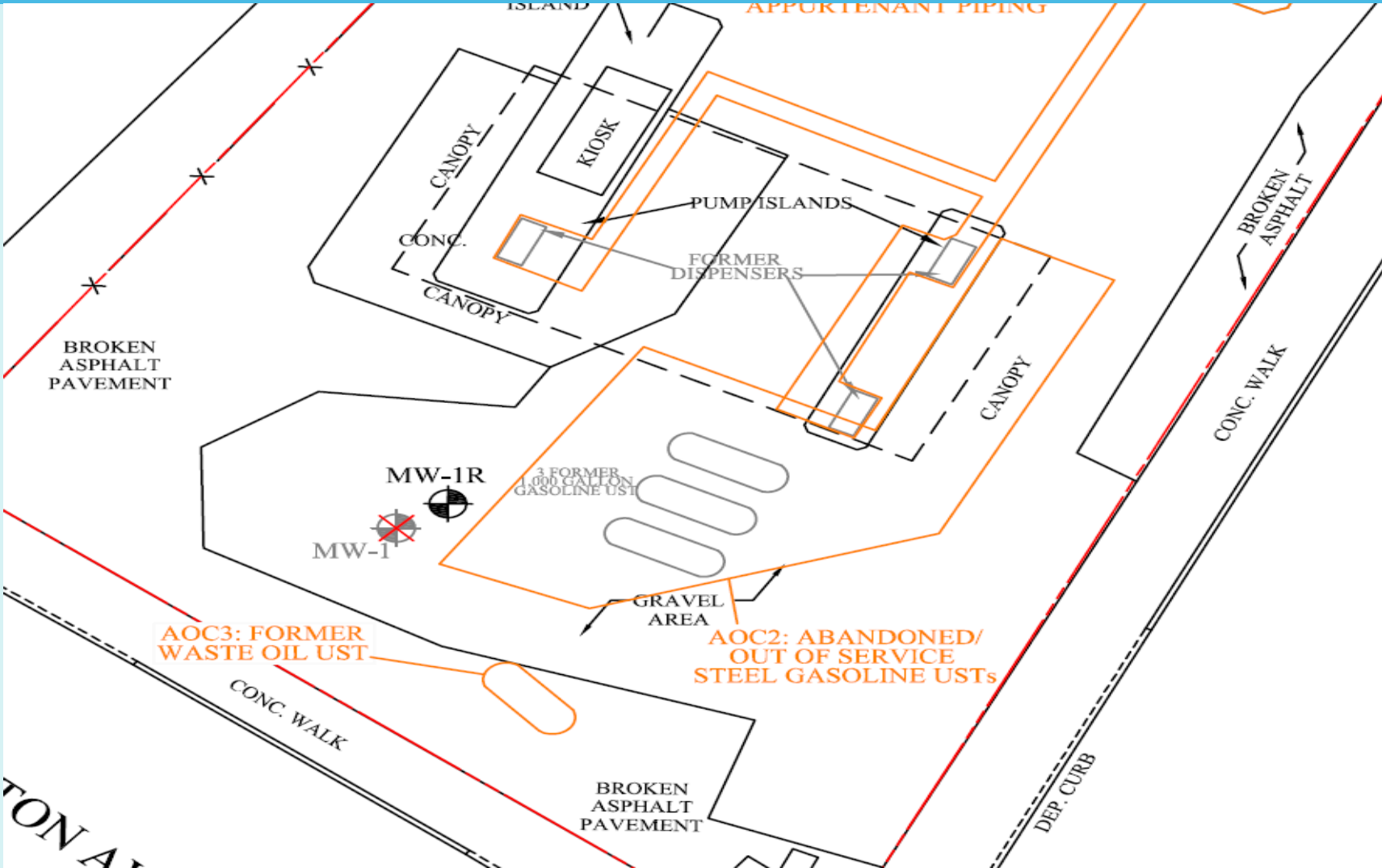


- **Final Thoughts on Alternate Fill:**
  - **Be Cautious – cheap is cheap for a reason**
  - **Do Not bring Fill on yourself**
  - **When reusing soils from an on-site area or from off-site, make sure it is sampled prior to placement**



- **Active or Previously Active Service Station**
  - **Do not forget your Waste Oil USTs**
  - **Focus tends to be Gasoline and Diesel Tanks**
    - **Waste Oil UST not usually a part of tank field**
    - **Department will compare UST registration**
  - **Proper Closure will be required for out of service Waste Oil UST**

# Waste Oil USTs

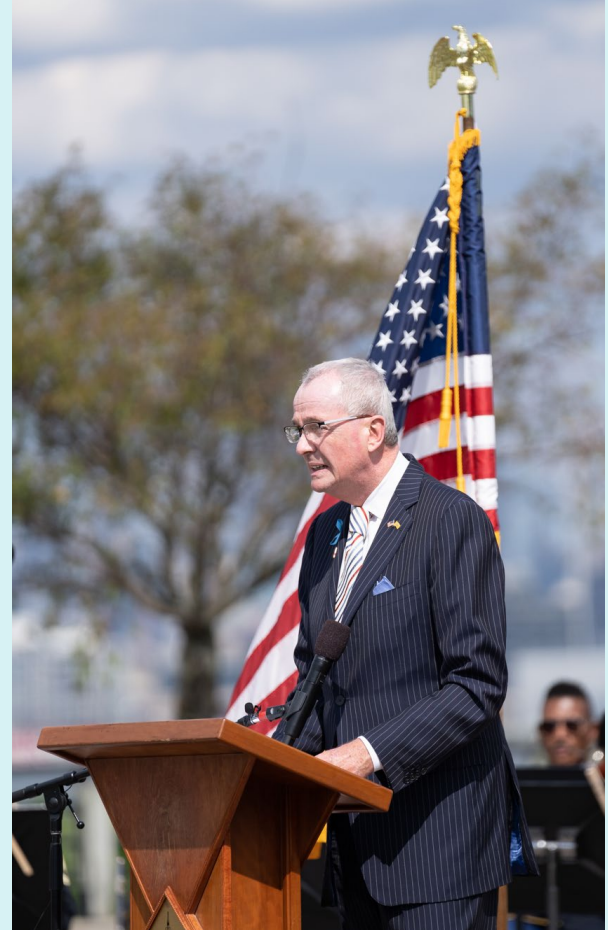


# Overview of Inspection and Review

June 6, 2024



# Questions?



**Thank you!**

