



Linear Construction Technical Guidance

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Linear Construction Background and Overview

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What is a linear construction project (LCP)?

A project, conducted by a non-responsible party, to create, maintain or alter a roadway, railroad or utility that:

1. One or more contaminated properties; and
2. Will generate more than 200 cubic yards of contaminated soil to be managed during the duration of the linear construction project.





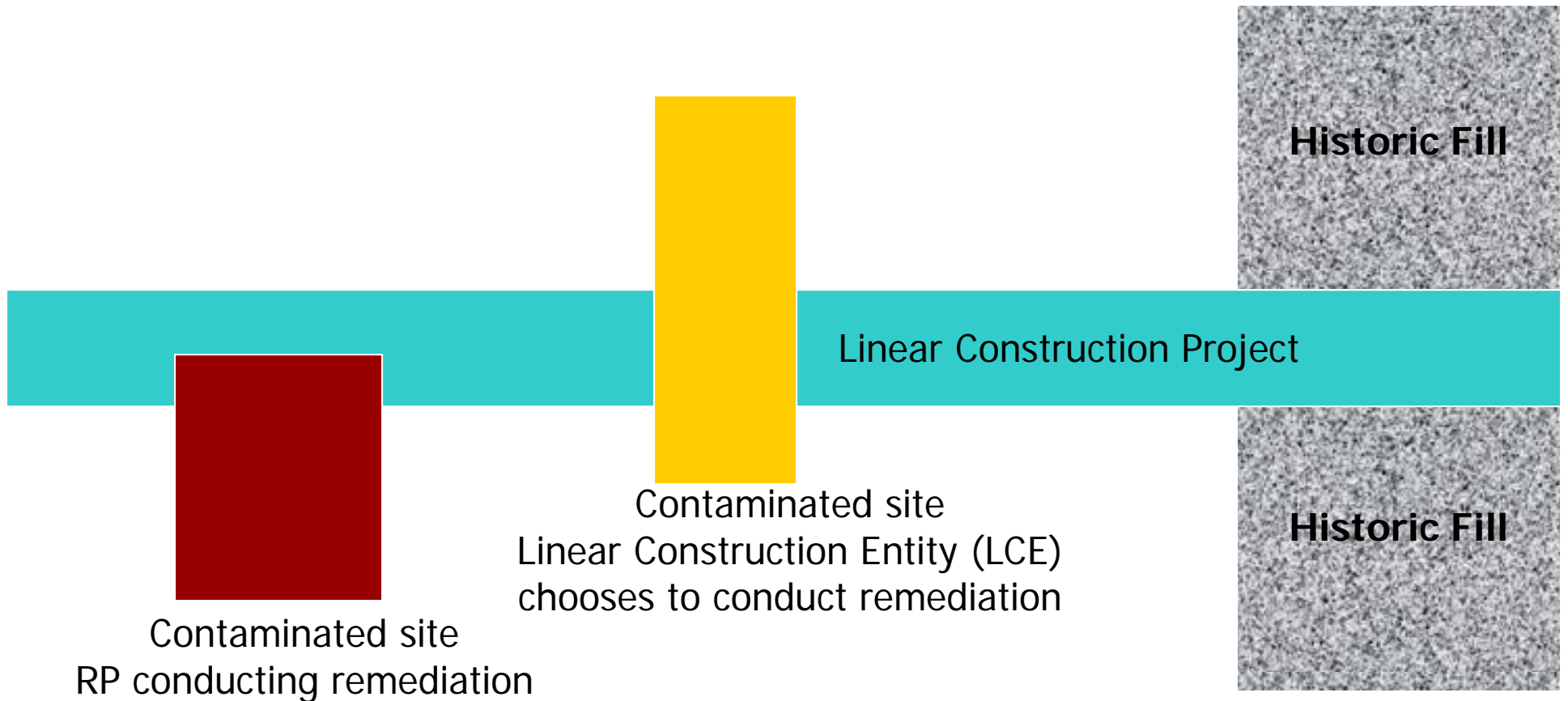
What if the LCP generates less than 200 yds³ of contaminated soil?

- Small LCPs (generates less than 200 yds³ of contaminated soil) do not need to notify the Department or follow the guidance.
- It is **strongly recommend that all projects follow the guidance** to ensure that contaminated materials are handled in a way that is protective of human health and the environment





What is a linear construction project?





How were linear construction projects handled in the past?

- Because there are currently no rule requirements for LCPs, these cases entered SRP and followed the old paradigm
 - Assigned case manager
 - Followed the Technical and Oversight Rules
 - Paid oversight costs
 - Submitted periodic reports
- The process needed to be re-thought under the LSRP program





Rules and Guidance

- DEP worked with Stakeholders to create a new process
- Developed rules for LCPs that will be adopted May 2012 in Subchapter 16 of the ARRCS rules
- The guidance may be used now
- The guidance establishes consistent “Best Management Practices” for Linear Construction Projects





Who can use the linear construction guidance?

A person or entity conducting an LCP that is not a responsible party pursuant to:

- Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1.3)
- Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.) or
- NJ Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.)





Who cannot use the linear construction guidance?

Any responsible party

Responsible parties are required to conduct remediation pursuant to the ARRCs and Technical rules





Basic Concept of LCP Guidance

The person conducting the LCP...

- Is not required to remediate contamination for which they are not responsible, **BUT**
- Must allow the responsible party access to conduct remediation, **OR**
- Must conduct remediation themselves





The Process For Linear Construction Projects

- Pre-project sampling/planning (not part of guidance)
- Hire an LSRP
- LCE to submit the LCP Notification Form to DEP at the start of the project
 - Summary of project
 - Name and location of contaminated sites anticipated
 - Name of the LSRP
 - Pay a fee
- Follow the guidance
- LSRP will use professional judgment





The Process For Linear Construction Projects

- Handle contaminated soil consistent with DEP rules and guidance
- Prevent exposure to remaining contamination by capping
- Submit a summary report at the end of the project with a fee
- No NFA or RAO is required
- If the LCE wants an RAO they would have to follow the Technical Rules and ARRCS





What are the “Big Ticket Items?”

- Delineation of contamination is not required outside the LCP excavation area
- Contaminated soil may be returned to the excavation (not free/residual product or classified hazardous waste)
- Soil reuse within the LCP must be consistent with DEP guidance

Don't make it worse!





More “Big Ticket Items”

- Cap soil contamination with at least 6 inches of clean fill or other suitable cover
- The LCE is not responsible for establishing or maintaining engineering or institutional controls (remedial action permits)
- Public notification pursuant to 1.4 of the Technical Rules is not required





Use Applicable DEP Guidance

- The Department's Field Sampling Procedures Manual
- Alternative and Clean Fill Guidance for SRP Sites
- Historic Fill and DAP Technical Guidance

www.nj.gov/dep/srp/guidance/srra/





Practical Applications of Linear Construction Guidance

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LEGEND

Yellow	PROPOSED RIGHT-OF-WAY
Blue	PROPOSED EASEMENT
Red	PROPOSED STRUCTURE
Pink	PROPOSED EASEMENT 40'-6"
Purple	PROPOSED EASEMENT
Green	WETLANDS
Cyan Hatched	PROPOSED DRAINAGE
Red Dashed	EXISTING ROAD 20' RW
Red Dotted	PROPOSED ROAD 20' RW
Red Star	PROPOSED DRIVE SIGN



Planning and Due Diligence

- Due diligence and feasibility studies are conducted for project planning
- Information is often used to for contractual issues between the LCE and property owners
- Information is used to identify where access agreements with property owners/or responsible parties are needed





Planning and Due Diligence

- Often non-LSRPs are used for this work
- Contaminated sites and/or historic fill is identified
- Used to determine if the DEP will need to be notified - 200 yds³ volume criteria
- Determine if pre-construction sampling necessary

Note: DEP is not involved with LCP planning and due diligence





Post-Construction Sampling

- Implement a pre-construction sampling plan
- More than 200 yds³ of contaminated soil
 - No hotline call for discharges known to DEP
 - Hire an LSRP
 - Follow guidance
- If less than 200 yds³ of contaminated soil
 - No need to hire an LSRP
 - No need to notify the DEP or submit any form
 - Follow guidance





When is the LCP Notification Form Submitted?

- At least 45 days prior to initiating construction (when contamination is known or suspected)
- Within 45 days after identifying when contamination is identified (where it was not known or suspected)





What if you identify a discharge unknown to the Department?

- Call the DEP Hotline
- Notify the property owner of the discharge, in writing
- Include a copy of that notification to the DEP in the LCP Final Report
- DEP will notify the property owner of their responsibilities
- LCE may opt to remediate or allow the responsible party access





Other Conditions Requiring Hotline Notification

- An environmental emergency - after 911 is called
- Immediate environmental concern condition
- Discovery of any
 - Regulated UST or
 - Leaking unregulated UST





Management of Contaminated Material

- Stockpiling of excavated material
- Backfill to excavation (no free/residual product or hazardous waste)
- Soil reuse (on-site and off-site)
- Cap remaining contamination using
 - Clean soil, or
 - Other appropriate material
- Guidance include detailed steps for addressing USTs





LEGEND

Yellow	PROPOSED ROADWAY
Blue	PROPOSED STRUCTURE
Red	PROPOSED EASEMENT
Pink	PROPOSED CONCRETE SIDEWALK
Green	PROPOSED MEDIAN
Light Blue	Other
Red Dashed	UTILITY EASEMENT
Blue Dashed	UTILITY EASEMENT
Black Star	PROPOSED DRIVE SIGN



How to address Historic Fill

- Do not need to call the hotline
- May be reused in areas with historic fill with a cap
- If not reused must be disposed off site
- Ground water investigation not required to assess impacts within the LCP





Final Report

- Submit a final report with an LCP Final Report Notification form to the DEP within 180 days after completion of the project
- LSRP does not issue an RAO
- If the LCE wants an RAO for the part or all of the project, remediation must be conducted pursuant to ARRCS and the Tech Rules





Questions?

