

Soil Remedial Action Permit Guidance Training

June 7, 2022

Alissa Ambacher, Co-Moderator
SRWMP Training Committee, Chair

Nicole Kalaigian, Co-Moderator
SRWMP Training Committee



Continuing Education Credits (CECs)

SRP Licensing Board has approved
0.5 Technical CECs
2.0 Regulatory CECs
for this Training Class

Attendance Requirements:

- **Webinar participants:** must be logged-in for the entire session and answer 3 out of 4 poll questions (randomly inserted in the presentation)
- **In-person participants:** Must sign-in/sign-out and may not miss more than 45 minutes of the training



CECs: What's the Process?

The SRPL Board HAS approved CECs for the course:

- DEP compiles a list of participants eligible for CECs and provides the list to the LSRPA
- LSRPA will email eligible participants a link to an LSRPA webpage with certificate access instructions
- Certificates are issued by the LSRPA after paying a \$25 *processing fee*



Test Your Knowledge

The first day of summer is in June:

- A. True
- B. False

EXAMPLE WEBINAR
QUIZ SLIDE



Test Your Knowledge

The first day of summer is in June:

A. True

B. False

EXAMPLE WEBINAR
QUIZ SLIDE



Important Reminders

- In-person Attendees
 - Please mute cell phones
 - Please take calls outside of the meeting room
- Webinar Attendees
 - Please keep your mic muted and your camera off



Question and Answer Segments

- In-person Attendees
 - Please wait for microphone to ask your question
- Webinar Attendees
 - Questions can be asked in the “Question” box and moderators will read aloud
- Questions will be taken as time permits
- Any questions that are not addressed during the presentation will be answered via email



Chat Function

- Please use the chat to advise the Department of technical issues with the presentation
- Please do not use the chat function to comment on presentations or to answer other attendee's questions



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Remember to sign in and out for credit

Please fill out the Course Evaluation here:

<https://www.surveymonkey.com/r/8XTGRSD>





NJDEP
Soil Remedial Action Permit Guidance Document Training

June 07, 2022

LSRPs: .5 Technical / 2.0 Regulatory CECs
NJSRPLB Approval #2022-025



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Upcoming LSPRA Courses & Events



Upcoming LSRPA Courses & Events

➤ July 26, 2022 – LSRPA Virtual Member Regulatory Roundtable

Soil and Fill Recycling - The “Dirty Dirt” Amendment to A-901

William Silverstein, GEI Consultants, Inc.

Charlene Drake, Langan Engineering & Environmental Services, Inc.

➤ July 28, 2022 – Aspiring Professionals Series: Surface Geophysics, Ground Penetrating Radar, and Soft-Dig

Alex Saltzman, LSRP from ERM, Moderator

Joel Bernstein, Subsurface Environmental Technologies, LLC

Peter Miller, PhD, SET, LLC

Glenn Brennan, PG, SET, LLC

TJ Huckin, SET, LLC

Visit [LSRPA.org](https://www.LSRPA.org) for details and registration



Upcoming LSPRA Courses & Events

JULY 14, 2022

LSRPA, AEG-NYP, AHMP-NJ, BCONE, and NJSWEP are hosting a joint networking event!
Established and aspiring professionals from our organizations are welcome.
Sponsored by Alpha Analytical, Lewis Environmental, & Regenesis.



VS

Please Join Us in the Capital City Club Suite!
Trenton Thunder- Collegiate Summer Baseball Team of the MLB Draft League
1 Thunder Road, Trenton, NJ 08611
July 14, 2022
Gates Open @ 6pm, First Pitch @ 7pm
Tickets \$40/Person - Food & First Drink Are On Us!
Fireworks Following the Game!
\$5 Parking Available

  For more information/questions about the event contact:
Ken Haduch | 609-403-7514 | ken.haduch@erm.com





Upcoming LSPRA Courses & Events



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Scholarships and Grants*

**BATTLE AT THE BEACH
CORNHOLE TOURNAMENT 2022**

SAVE THE DATE

TUESDAY • AUGUST 16, 2022 • POINT PLEASANT BEACH

The poster features a vibrant blue and yellow drink in a clear cup with a black straw at the top. The bottom section shows a busy beach scene with many people, colorful umbrellas, and a wooden fence in the foreground.





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Thank You!

Soil Remedial Action Permit (RAP) Guidance Document

Background and Introduction

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RAP Stakeholder Committee

- RAP Stakeholder Committee formed in 2018
- Purpose: Identify ways to make the RAP process more transparent, efficient, and effective, which includes revising forms and guidance documents, and recommended rule changes as appropriate
- RAP Stakeholder Committee has created new RAP Applications and Forms (May 2019) and updated the Soil and Ground Water Remedial Action Protectiveness/Biennial Certification Forms (May 2021)
- RAP Stakeholder Committee began work on the Soil RAP Guidance Document in September 2019



RAP Stakeholder Committee Members

New Jersey Department of Environmental Protection representatives:

- Michael Gaudio, Chairperson
- Michael Infanger
- Lynne Mitchell
- Gary Sanderson

External representatives:

- Caryn Barnes, LSRP, Langan Engineering & Environmental Services, Inc.
- Julian Davies, LSRP, Sovereign Consulting, Inc.
- John Engdahl, Ridge Environmental Management LLC
- Mark D. Fisher, LSRP, The ELM Group
- Bill Hose, LSRPA
- Rayna Laiosa, The Chemours Company
- Rich Lake, LSRP, Geo-Technology Associates, Inc.
- Neil Rivers, LSRP, Langan Engineering & Environmental Services, Inc.
- Kathleen F. Stetser, LSRP, GEI Consultants, Inc.



Background

- Soil RAP Guidance Document revised from Version 0.0 (February 2010) to Version 1.0 (May 2022)
- Updated to clearly indicate when a Soil RAP Application should be submitted and by whom, and to assist the user in navigating the various steps in the Soil RAP process
- Targets common deficiencies with Soil RAP Applications
- Format now conforms with other NJDEP guidance documents
- New Sections/Appendices and existing Sections updated/expanded



Highlights

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Thank you and enjoy the training!



Pre-Permit Delineation

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What is Pre-Permit Delineation?

- Prior to submission of RAP Permit Application:
 - Delineate all AOCs/COCs included in the permit
 - Can be done during the RI or the RA
 - Point of Compliance Sampling Required
 - *limited exceptions*



Remedial Investigation Basics

- Remember Public Notification (14 days prior to implementation of RI)
- Evaluate and delineate ALL media as required in the Tech Regs
- Receptor Evaluation is required for RI and RA Phases
- Delineation in unsaturated/saturated zone required for direct contact
- Migration to Ground Water delineation required in unsaturated zone
- Delineation of all free and residual product



RI Complete NJDEP Policy Statement

- *Interpretation of Technical Requirements for Site Remediation Requirement to “Complete the Remedial Investigation”*
 - Found on NJDEP Website under administrative guidance, latest version January 2020
- Identify the nature and extent of a discharge of a contaminant both on and off site
- The impacts and potential impacts to receptors presented by the discharge
 - Ecological Evaluation (IRE, EE and ERA - as necessary)
 - Ecological Evaluation Technical Guidance
- Determination if a Remedial Action is required
 - Collection of sufficient data to evaluate remedial alternatives



Extrapolation to Complete the RI

- NJDEP Policy Statement on requirements to complete the RI
 - https://www.nj.gov/dep/srp/guidance/srra/ri_complete_policy_statement_202001.pdf
- Cannot extrapolate for Sediment and Surface Water
- LSRP may use professional judgment supported by technical lines of evidence:
 - There is sufficient information to know the nature and extent of a discharge of a contaminant both on and off site
 - There is sufficient information to know which, if any, receptors have been or may be impacted by the discharge being remediated, and
 - Additional delineation is not necessary in order to select appropriate remedial action(s) to protect public health and the environment

- **SHOW YOUR WORK!**



Remember You Extrapolated

- Point of compliance sampling is required to complete the Remedial Action (SI/RI/RA Soil Tech Guidance 6.3.5)
- RAR and RAP Application will be rejected if you cannot demonstrate the RI is complete and the RA is protective
- Be clear in your RIR, RAR, and RAP Application and present technical lines of evidence
- Variances should be identified and fully supported
- RI of HF in accordance with Tech Regs 4.7 – differentiate between discharge and HF
- **SHOW YOUR WORK!**



Other RI/RA Considerations

- Properly evaluate and document off-site source and call in to hotline
 - Preliminary Assessment required
 - Soil sampling may be required
- Delineate free and residual product and complete confirmation sampling following product remediation
- **Delineation to the residential standards at the property boundary/off-site for restricted use remedy**
 - Tech Regs 4.2 – read entire section
- Migration to Groundwater Exceedances must be delineated and remediated, as necessary
- Order of Magnitude/Protectiveness Evaluation for AOCs with NFA/RAO
 - Confirm you really have an NFA and not just an NFI Comment Letter
- Remember to evaluate for emerging contaminants – questions on forms



Emerging Contaminant Questions

	Is not a contaminant of concern at the site or AOC
noic	Is not a contaminant of concern at the site or AOC
	Is not a contaminant of concern at the site or AOC, but is/was present at the site or AOC
	Analysis not yet completed
	Analyzed and not detected
	Analyzed and detected, but no remediation standard
	Analyzed and detected below remediation standards
	Analyzed and detected above a remediation standard



Show Your Work

- Clearly document professional judgment
- Multiple technical lines of evidence
- Identify and support variances
- Don't skimp on carrying detail over from RI to RA to RAP Application
 - Section K of RAP Application is your friend
- The more you provide to DEP, the faster the review/approval process will go
- Promptly respond to NJDEP questions/requests



Test Your Knowledge

Point of compliance sampling is required with the RI Report?

- A. Yes**
- B. No**
- C. It Depends**



Test Your Knowledge

Point of compliance sampling is required with the RI Report?

- A. Yes
- B. No
- C. **It Depends**

Sediment and Surface Water cannot be extrapolated.



There's a Guidance Document for That!

- Soil RAP
 - Section 16 has list of useful guidance documents.
- Soil – SI/RI/RA
- Attainment
- Off-Site Source
- Historic Fill
- Historically Applied Pesticides
- Ecological Assessment
- EPH
- Capping (3 documents)
- ARS-MGW
- ARS Ingestion-Dermal & Inhalation
- Conceptual Site Model
- MNA
- Vapor Intrusion
- RI Complete Policy Statement
- Contaminants of Emerging Concern FAQs
- And More!



Thank You!



Soil Remedial Action Permit (RAP) Applications/Forms and Process

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Soil RAP Forms

- RAP Initial Application – Soil
- Termination of Deed Notice Form
- RAP Modification Application – Soil
- RAP Termination Application – Soil
- Remedial Action Protectiveness/Biennial Certification Form – Soil
- RAP Transfer/Change of Property Ownership Application
- RAP Contact Information Change Form



Primary Contact for Permit Compliance

SECTION D. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION – CO-PERMITTEE

☐ Addendum for additional Person Responsible for Conducting the Remediation has been completed.

Affiliation/Name of Organization: _____

First Name of Contact: _____ Last Name of Contact: _____

Title: _____

Phone Number: _____ Ext.: _____ Fax: _____

Mailing Address: _____

Municipality: _____ State: _____ Zip Code: _____

Email Address: _____

☐ Check the box if the Person Responsible for Conducting the Remediation is the Primary Contact for Permit Compliance

SECTION E. CURRENT OWNER OF THE SITE – CO-PERMITTEE

☐ Addendum for additional Owner of the Site has been completed.

Affiliation/Name of Organization: _____

First Name of Contact: _____ Last Name of Contact: _____

Title: _____

Phone Number: _____ Ext.: _____ Fax: _____

Mailing Address: _____

Municipality: _____ State: _____ Zip Code: _____

Email Address: _____

☐ Check the box if the owner is the Primary Contact for Permit Compliance



SRS-MGW Exposure Pathway

Soil RAP Initial App., Section G

12. Has soil sampling in the unsaturated zone revealed exceedances of the default Soil Remediation Standards for the Migration to Ground Water (SRS-MGW) exposure pathway remaining with the AOC(s) for the Soil RAP Application? ☐ Yes ☐ No

If "Yes", indicate how the MGW exposure pathway was addressed:

- ☐ Alternate Remediation Standard(s) (ARS) - MGW developed (e.g., SWPE, SPLP, etc.)
- ☐ Narrative ARS-MGW - Site Soil and Ground Water Data Evaluation [Highest concentration of soil contamination is present at the water table and no impact to ground water above the GWRS (no remediation for the MGW exposure pathway is required)]
- ☐ Narrative ARS-MGW - Immobile Chemical(s) Option
- ☐ Compliance Averaging
- ☐ Low Permeability/Impermeable Cap (See Below)
- ☐ Other: _____

Provide the location in the RAR (*Section #*) that addresses this issue: _____



Soil Contaminant Data Table

Soil RAP Initial/Modification Apps., Section G

[illegible]

* Check the box if the number entered is not the highest concentration, but was the result of a compliance option (e.g., compliance averaging to meet Non-Residential Remediation Standard).



Permittee Documentation

- PRCR cannot be found or no longer exists
- Signature cannot be obtained
- Contact information provided should be for the PRCR and property owner
- Verification of property owner via checking the tax database



Soil RAP Applications

Common Deficiencies

- Lack of or no explanation regarding:
 - Variances from rules
 - Deviations from guidance documents
- Lack of multiple lines of evidence to support Professional Judgment
- More explanation/discussion is needed within the RAR and Section K (Other Information Provided) of the RAP Applications



Section K (Other Information)

SECTION K. OTHER INFORMATION PROVIDED

List any other pertinent information to support the Initial Soil RAP Application.



Soil RAP Applications

Common Deficiencies (cont'd)

- Soil contamination is not horizontally and vertically delineated to the Remediation Standards pursuant to N.J.A.C. 7:26E-4.2
- Modeling is not acceptable at the remedial action stage
- Knowing the complete extent of the soil contamination in all directions is critical in evaluating receptors and determining trigger distances

See the NJDEP Policy Statement: Interpretation of Technical Requirements for Site Remediation requirement to “complete the remedial investigation”

https://www.nj.gov/dep/srp/guidance/srra/ri_complete_policy_statement_202001.pdf



Soil RAP Applications

Common Deficiencies (cont'd)

- Soil RAP Applications and CEA/WRA Fact Sheet Forms for Historic Fill (HF) only should contain typical HF compounds (e.g., no VOCs)
- Migration to Ground Water (MGW) Exposure Pathway is not properly addressed



Soil RAP Applications

Common Deficiencies (cont'd)

Extractable Petroleum Hydrocarbon (EPH) soil contamination that remains is not addressed in accordance with N.J.A.C. 7:26E-5.1(e) or the Department's Evaluation of EPH in Soil Technical Guidance document

- EPH contamination must be remediated to the applicable default product limit, or the lower of the calculated AOC-specific EPH alternative product limit or ceiling limit*

*See Appendix 2 of Evaluation of EPH in Soil Technical Guidance to ensure proper application of alternative product limits



Soil RAP Applications

Common Deficiencies (cont'd)

Use the correct model Financial Assurance (FA) document when an engineering control is in place and FA is required

- Please refer to the “Remediation Funding Source (RFS) and Financial Assurance (FA) Guidance” for model FA documents; you need to scroll down to the FA documents for the correct models
- **Using the Remediation Funding Source models is incorrect**



Soil RAP Applications

Most Common Deficiencies (cont'd)

GIS compatible map of the CEA, Deed Notice, or Notice in Lieu of Deed Notice Shape is not submitted

- A GIS compatible map of the Deed Notice or the Notice in Lieu of Deed Notice shape should be emailed to srpgis_dn@dep.nj.gov
- A GIS compatible map of the CEA shape should be emailed to srpgis_cea@dep.nj.gov



QUESTIONS?



Migration to Ground Water Exposure Pathway Capping

William Carp, Technical Coordinator
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Objectives

- Discuss capping as a remedial option for the Migration to Ground Water Exposure Pathway (MGW, formerly Impact to Ground Water [IGW])
 - Capping inorganic and semi-volatile contaminants
 - Capping volatile contaminants
- Overarching principles for caps for MGW exposure pathway
- Key points from each document
- Issues seen by Soil Remedial Action Permit Application reviewers



Relevant Guidance Documents

- ***Administrative Guidance for the Migration to Ground Water Exposure Pathway Soil Remediation Standards*** (October 2021)
 - Reminder: Soil Remedial Action Permit with engineering controls is needed when MGW exposure pathway exceedances remain
- If MGW pathway remediation includes capping, follow Site Remediation Technical Guidance documents: www.nj.gov/dep/srp/guidance/
 - ***Capping of Inorganic and Semi-volatile Contaminants for the Impact to Ground Water Pathway*** (March 2014)
 - ***Capping of Volatile Contaminants for the Impact to Ground Water Pathway*** (January 2019)



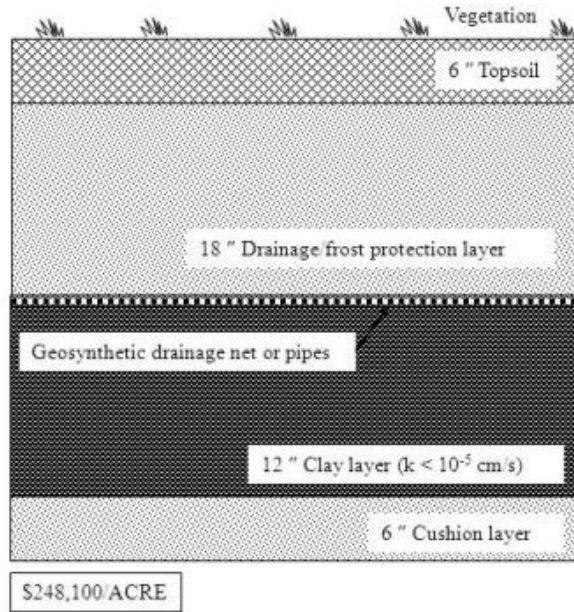
Overarching Principles for Caps for MGW Exposure Pathway

- **Low-Permeability Caps** – minimize contaminant mobilization to ground water via infiltration
 - *Technical Guidance on the Capping of Sites Undergoing Remediation (July 2014)*
 - Include, but not limited to, concrete building foundations, geomembranes, clay barriers, geosynthetic clay liners, Portland concrete, and bituminous concrete (asphalt)
- **Cap Condition** – New and existing caps cannot have damage, cracks
- Permeable Caps (e.g., gravel, soil, landscaping) not appropriate due to potential for contaminant mobilization by infiltrating precipitation
- Cap needs to extend far enough beyond boundaries of contaminated area to prevent infiltrating water near edges of cap from laterally moving underneath the cap and reaching contaminated zone

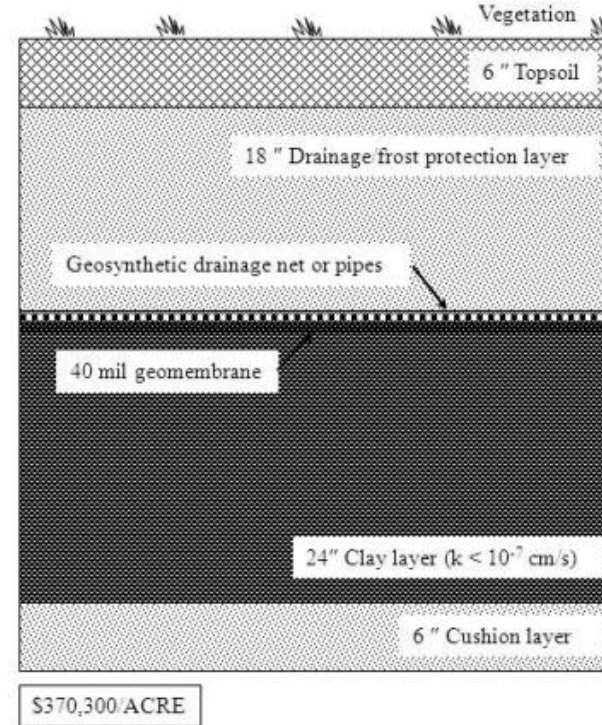


Typical Sections – Low-Permeability Caps

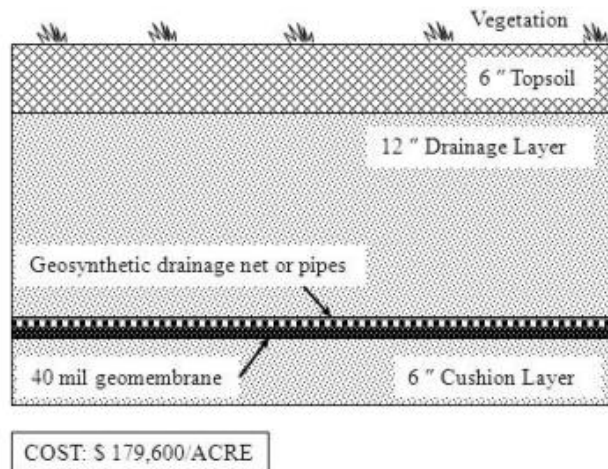
Clay Cap



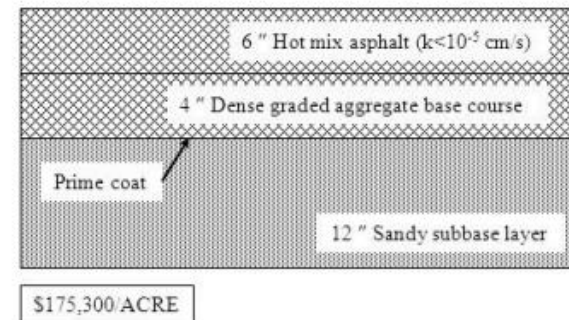
Hazardous Waste Cap



Geomembrane Cap



Structural Pavement Cap



*Technical
Guidance on
the Capping
of Sites
Undergoing
Remediation*
pages
96 & 97



Capping Inorganic and Semi-volatile Contaminants for the MGW Pathway

- Appropriate under certain conditions
- **Ground water < Ground Water Remediation Standards**
 - Minimum 2-foot clean soil buffer above the seasonal high water table
 - Contaminant concentrations within the clean soil buffer need to be below the MGW Standards
 - Ground water monitoring is not required
 - RAP for soil required
- **Ground water > Ground Water Remediation Standards**
 - Periodic ground water monitoring is required
 - Soil RAP and GW RAP/CEA required



Test Your Knowledge

A landscaped cap is appropriate to cap MGW exceedances:

- A. True
- B. False



Test Your Knowledge

A landscaped cap is appropriate to cap MGW exceedances:

A. True

B. False



Common RAP Issues related to Capping for Inorganic & Semi-volatile Contaminants

- A low permeability/impermeable cap was not used
 - Landscaping, soil, gravel, etc. are not acceptable
- Proof that existing cap is in good condition not presented (provide photos)
- 2-foot clean soil buffer not documented
- Vertical delineation sampling incomplete
- Depth to ground water not determined



Capping of Volatile Contaminants for the MGW Pathway

- Appropriate under certain conditions
- Different approaches depending on whether ground water is currently contaminated
- Follow decision framework flowcharts in the guidance document
- Remember the overarching principles
 - Low-permeability cap
 - extend cap beyond contaminated area
 - caps cannot have damage



Capping of Volatile Contaminants for the MGW Pathway

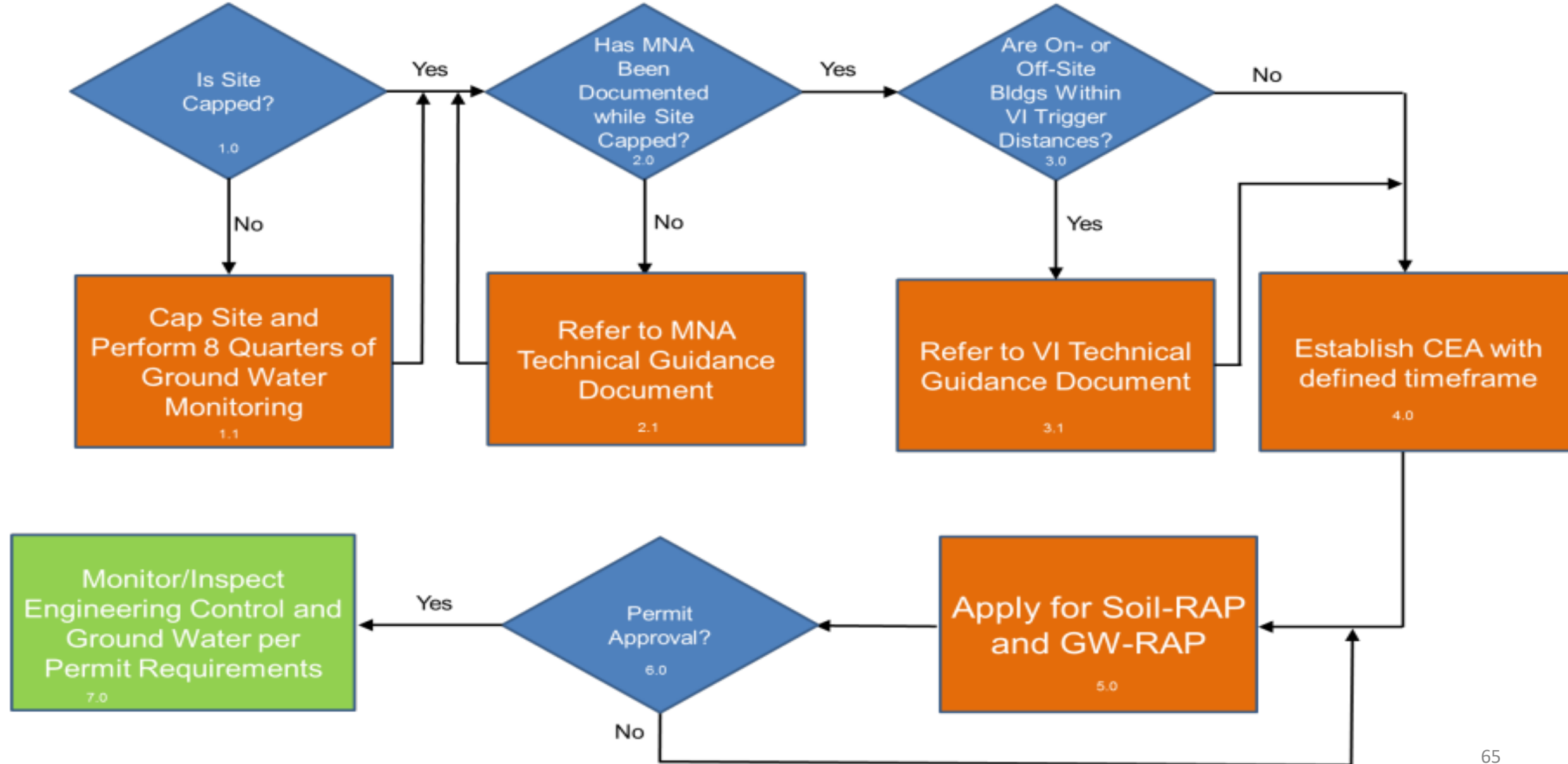
Vadose Zone and Ground Water VOC Contamination

- Cap site with low permeability cap
- Once site is capped, perform eight quarters of GW monitoring
- Follow ***Monitored Natural Attenuation (MNA) Technical Guidance*** (March 2012). If MNA is demonstrated, apply for Soil and GW Remedial Action Permits concurrently



Figure 1: Ground Water Contaminated

Start



Capping of Volatile Contaminants for the MGW Pathway

Vadose Zone Contamination without Ground Water Contamination

- Collect soil vapor samples
- Follow Figure 2 Flowchart and guidance for specific details on sampling depth and when to collect soil vapor samples
- Compare soil vapor sample results to Impact to Ground Water Soil Vapor Screening Levels (IGW-SVSLs) found in Table 1 of guidance
- If all soil vapor sampling conditions are met, apply for Soil RAP

*Follow guidance document, there are different scenarios

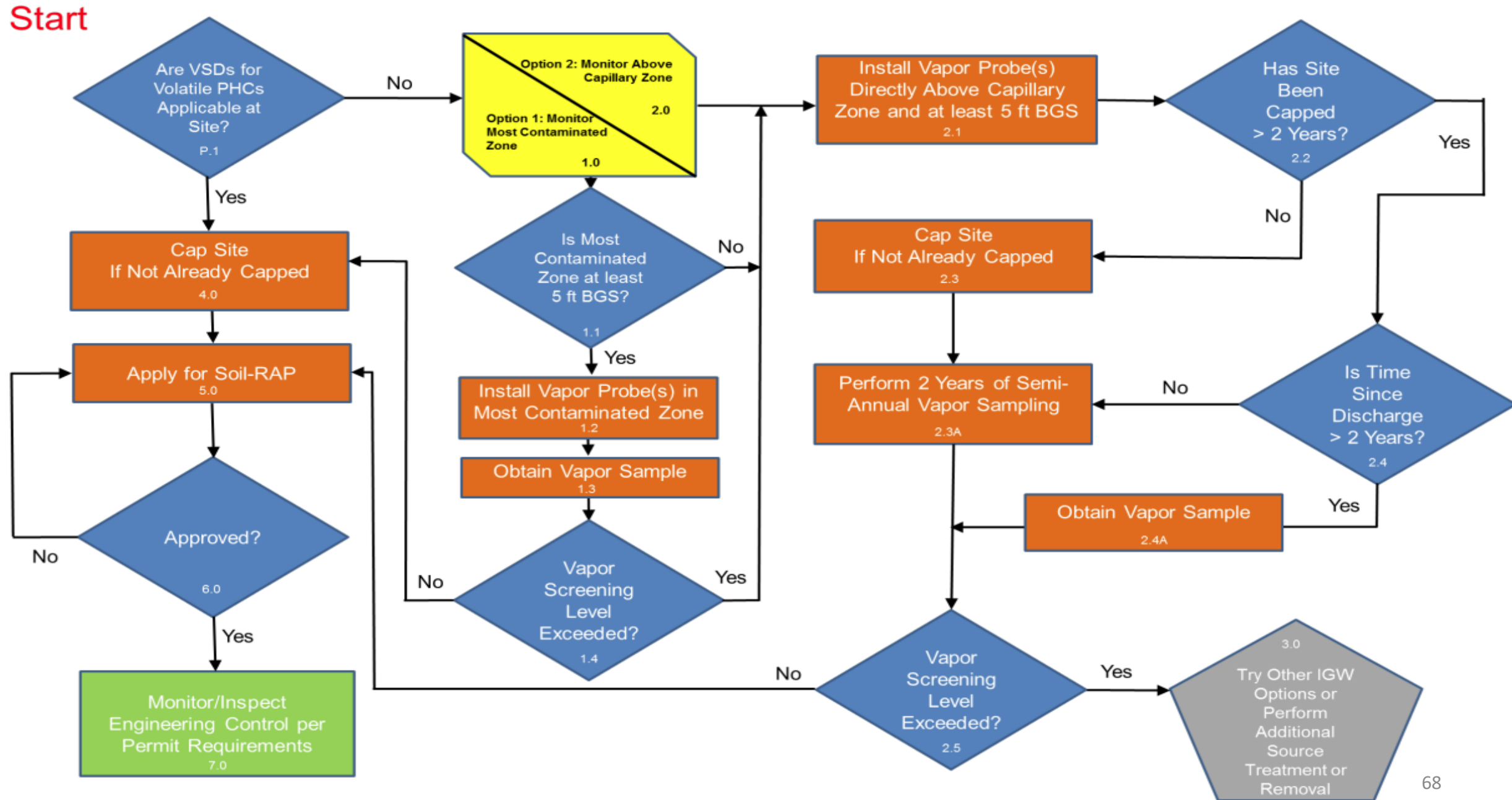


Volatile Petroleum Hydrocarbons

- Volatile petroleum hydrocarbons (BTEX) have different steps because of rapid degradation
- Follow flowchart and guidance document for specific details
- Vertical separation distance (VSD) between contaminant source and a receptor (building foundation) demonstrates that vapor migration of volatile petroleum hydrocarbons does not pose a threat to indoor air
- Reminder: free and residual product must be addressed (N.J.A.C. 7:26E 5.1(e))



Figure 2: Ground Water Uncontaminated



Common RAP Issues related to Capping for Volatile Contaminants

- Lack of following the overarching principles for caps
- Need to conduct soil vapor sampling for certain scenarios per guidance
 - Also, certain scenarios specify 2-year semi-annual soil vapor sampling prior to applying for RAP
- GW RAP/CEA is not sufficient to address capping of VOCs for the MGW pathway
- All MNA requirements must be met while the site has been capped
 - Decreasing concentration trends need to be demonstrated



14. Is a low permeability cap being used to address the MGW exposure pathway at the site? ☐ Yes ☐ No

If **"Yes"**, provide the location in the RAR (*Section #*)

that describes the details of the low permeability cap used: _____

And check the appropriate box below and answer the corresponding questions:

☐ **VOCs with ground water contamination**

Has a Ground Water Remedial Action Permit Application been submitted? ☐ Yes ☐ No

Has MNA been demonstrated while the site has been capped? ☐ Yes ☐ No

If **"No"**, provide the location in the RAR (*Section #*)

that justifies the deviation from the capping of volatile

contaminants for the MGW exposure pathway guidance: _____

☐ **VOCs without ground water contamination**

Are the soil vapor sample concentrations below the Impact to Ground
Water Soil Vapor Screening Levels for the appropriate timeframe? ☐ Yes ☐ No

If **"No"**, provide the location in the RAR (*Section #*)

that justifies the deviation from the capping of volatile

contaminants for the MGW exposure pathway guidance: _____

☐ **Inorganics/SVOCs with ground water contamination**

Has a Ground Water Remedial Action Permit Application been submitted? ☐ Yes ☐ No

If **"No"**, provide the location in the RAR (*Section #*) that justifies

the deviation from the capping of inorganic and semi-

volatile contaminants for the MGW exposure pathway guidance: _____

☐ **Inorganics/SVOCs without ground water contamination**

Is there a minimum 2-foot clean soil buffer above the seasonal high-water table? ☐ Yes ☐ No

If **"No"**, provide the location in the RAR (*Section #*) that justifies

the deviation from the capping of inorganic and semi-

volatile contaminants for the MGW exposure pathway guidance: _____



Final Thoughts

- See both capping for MGW guidance documents for further details, this presentation is a brief overview
- All soil and vapor intrusion exposure pathways need to be addressed



Notice in Lieu of Deed Notice

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What is a 'Notice in Lieu of Deed Notice'?

- For sites where soil contamination extends onto a property without a deed (a “Non-Deed Property”), and contamination above an unrestricted use standard will remain, the Notice in Lieu of Deed Notice is used to make property owners and users aware of the restrictions associated with the contamination
- Examples of Non-Deed Property: public roadway, utility easement, railway, or other right-of-way, or property not associated with a deed
- The Notice is not filed with the county

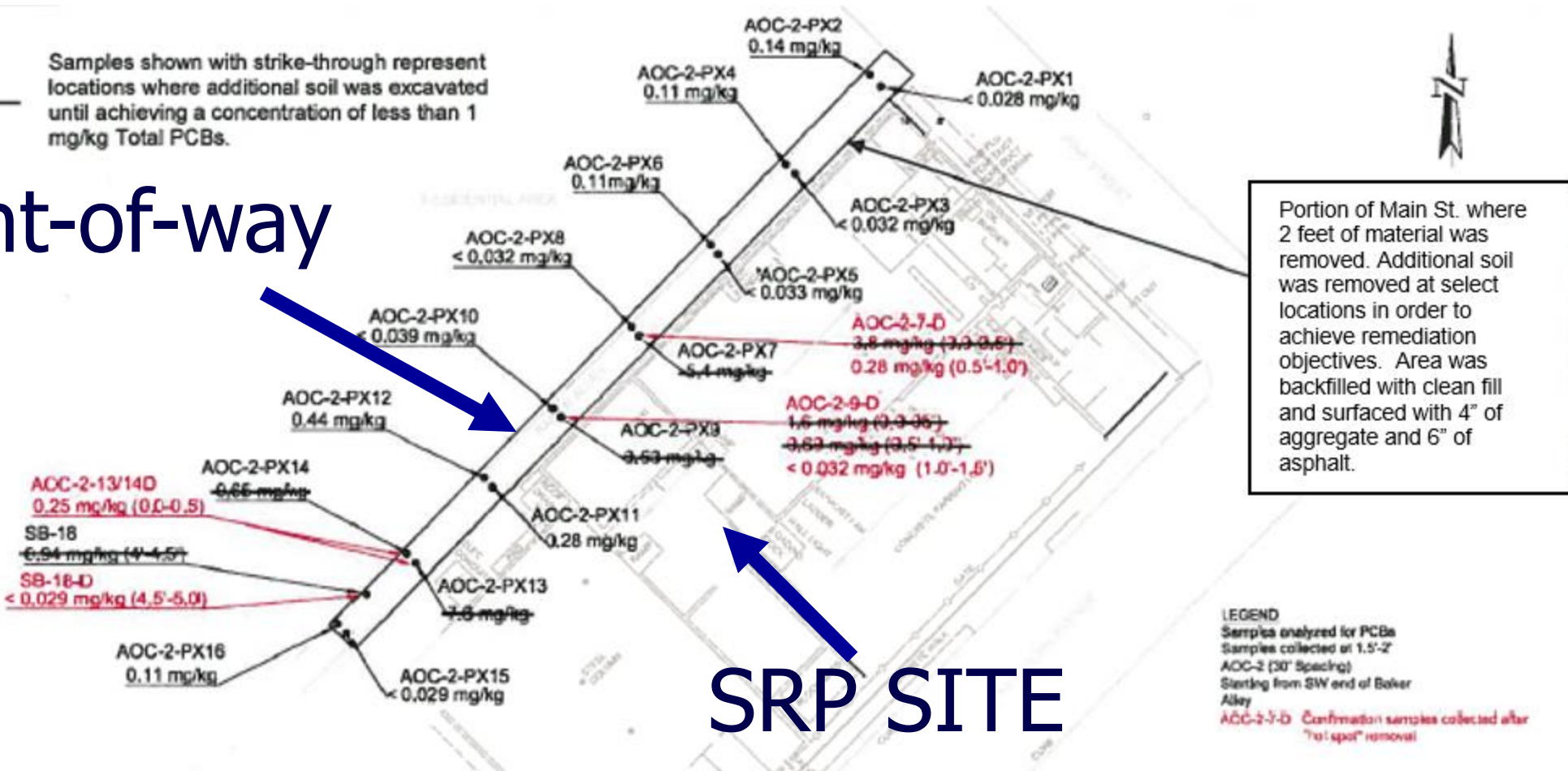
Ensure that engineering controls, if required, are in place that maintain the protectiveness of the remedy



Example

Samples shown with strike-through represent locations where additional soil was excavated until achieving a concentration of less than 1 mg/kg Total PCBs.

Right-of-way



SRP SITE



The Process (Part 1)

- Obtain permission from the owner of the property to allow the contamination to remain
 - Municipal or County entities – model Formal Resolution in Appendix 4
 - State or Federal Agency entities – model Written Agreement in Appendix 5
- Formal Resolution and Written Agreement – Acknowledges that the owner accepts the restriction and will serve as a Signature on the Notice and any subsequent Soil RAP Applications related to this Notice
- Develop the Notice in Lieu of Deed Notice using the model in Appendix 2 and obtain signatures from all parties
 - It is recommended that you contact BRAP if you need significant changes from the model Notice in Lieu of Deed Notice



The Process (Part 1)

- Highlight Notice in Lieu of Deed Notice differences from the Model Deed Notice
 - Section 8 Modified Language to address Supersedence or Termination of Notice in Lieu of Deed Notice
 - Exhibit A – USGS Quad map with the property location and names of roads depicted on it or a similar map with the property location, roads, and other important geographical features
 - Exhibit B-1 – Restricted Area Map – separate map for each restricted area
 - Exhibit B-2 – Restricted Area Data Table - sample elevation based upon **depth below grade (not mean sea level)**
 - Exhibit C – Description of the property and remedial activities, description of the institutional and/or engineering controls; and planned response in the event that the state of an institutional and/or engineering control is unacceptable



The Process (Part 1)

- Send copies of the final Notice in Lieu of Deed Notice to the appropriate entities, a template cover letter is provided in Appendix 3
 - Road Department of each municipality
 - Road Department of each county
 - New Jersey Department of Transportation
 - Municipal clerk, mayor and governing body of each municipality
 - Local, county, and regional health department in each municipality and county
 - Each gas, electric, sewer, and cable company and all other utilities that service the property or have a license or easement to cross the property, and
 - Any other person who requests a copy

Remember - The Notice is not filed with the county



The Process (Part 2)

- Once you send the notice letters, congrats! You have established the Notice in Lieu of Deed Notice!
- Submit the following with your Soil RAP Application:
 - Written approval (resolution or written agreement) from the property owner
 - A copy of the Notice in Lieu of Deed Notice
 - Documentation (e.g., certified mail) that you provided the notice to the appropriate entities
- The Soil RAP permittee is required to comply with monitoring and maintenance required by the Notice in Lieu of Deed Notice
- If the written approval/resolution changes after issuance of the Soil RAP, include the new documents in the next Soil Remedial Action Protectiveness/Biennial Certification



Changes to a Notice in Lieu of Deed Notice

- A Notice in Lieu of Deed Notice cannot be modified; it may only be superseded by issuing a new Notice in Lieu of Deed Notice expressly superseding the prior version
 - The new Notice in Lieu of Deed Notice will need to be submitted with a Soil RAP Modification Application
- A Notice in Lieu of Deed Notice can be terminated for the same reasons you would terminate a Deed Notice (remediation is completed, standards change, etc.)
 - Use the Deed Notice Termination Form (excluding Sections F and J) to obtain NJDEP approval to terminate the notice
 - Once approved, send notification letters explaining the termination to the same entities that received the original Notice in Lieu of Deed Notice
 - Submit either a Soil RAP Modification Application or Soil RAP Termination Application



BREAK



Financial Assurance

Michael Infanger, Supervisor
Bureau of Remedial Action Permitting
michael.infanger@dep.nj.gov



Financial Assurance Requirements

Legislative Mandate

Site Remediation Reform Act – established permitting program to regulate operation, maintenance, and inspection of engineering or institutional controls

- **N.J.S.A. 58:10C-19 establishes FA**
- **If you see N.J.S.A 58:10B-3 (Brownfields) on a document, it is not FA!**



Financial Assurance Exemptions

- Government entity
- “Innocent purchaser” (pre-May 2009)
- Childcare/school
- Residences
- Operator of a small business who is performing a remediation **at their property**
- Note: **All** parties must have an exemption



FA and Residential Condominium Associations

If the Permittee is a residential condominium association

- FA mechanism is not required to be secured if documentation of annual association budget reflects amount dedicated to operation, maintenance, and inspection of engineering controls equal to estimated amount required
- The association should indicate the line item(s) that contain the permit costs



Complete Remedial Action Permit Application

Remedial Action Permit Initial Application – Ground Water or Soil

Remediation Cost Review and RFS/FA form

Especially Section J or K (for the poster of FA)

Original Financial Assurance (FA) mechanism

No 1% Surcharge Fees on FA












FA – Types of Mechanisms

1. **Remediation Trust Fund** - cash held in escrow
2. **Line of Credit** - open line of cash available
3. **Letter of Credit** -promise of cash to a beneficiary (DEP)
4. **Environmental Insurance** - claims based available funds to DEP
5. **Surety Bond** - being allowed prior to rule change



On the Forms Web Page

 Petroleum UST Fund Application (Unregulated) (Including Residential Heating Oil Tanks)	Form pdf 396 Kb	Instructions pdf 185 Kb	1.2 - 9/17/2018
 Project Summary Sheet Spreadsheet Note: See the SRP Financial Assistance Petroleum UST Fund page for more information & guidance.	Spreadsheet xls 60 Kb		1.0
 Public Notification and Outreach form Note: The Public Notification and Outreach form may now be uploaded in a service, see the links in the NJDEP Online Services section above. This form is for mail-in submission only, not for use with the NJDEP Online service.	Form pdf 221 Kb	Instructions pdf 158 Kb	1.9 - 6/22/2020
 Remedial Timeframe Notification	Form pdf 192 Kb	Instructions pdf 163 Kb	1.3 - 9/17/2018
 Remediation Cost Review and RFS-FA Form	Form pdf 273 Kb	Instructions pdf 220 Kb	2.2 - 9/23/2020
 RFS/FA Model Financial Mechanism Language	RFS Guide Page		
 Self Guarantee Application	Form pdf 58 Kb		Instructions pdf 34 Kb
 Site and Contact Information Update Form (Name change. Was "Name and Address Change Reporting" form)	Form pdf 174 Kb	Instructions pdf 45 Kb	1.3 - 10/18/2017

RFS/FA Guidance Website

What are acceptable RFS and Financial Assurance (FA) mechanisms?

All RFS and FA mechanisms must comport with the format and language of the model documents found at the links below.

Remediation Funding Source (RFS)

- [Remediation Trust Fund Agreement](#) - Please see [N.J.A.C. 7:26C-5.4](#) for specific requirements.
- [Line of Credit Agreement](#) - Please see [N.J.A.C. 7:26C-5.6](#) for specific requirements.
- [Letter of Credit](#) - Please see [N.J.A.C. 7:26C-5.7](#) for specific requirements.
- Environmental Insurance Policy - Please see DEP's regulatory requirements at [N.J.A.C. 7:26C-5.5](#).
- [Self Guarantee Application](#) - Please see the Self Guarantee Application Instructions for more information and [N.J.A.C. 7:26C-5.8](#) for specific requirements. **(Not for use as Financial Assurance.)**
- Loan or Grant from the [Hazardous Discharge Remediation Fund](#) - Please see [N.J.A.C. 7:26C-5.2](#) for specific requirements.
- [Surety Bond](#) - Please see N.J.S.A. 58:10B-3.i for specific requirements.

Financial Assurance (FA) - *(To be used for Remedial Action Permits only)*

- [Remediation Trust Fund Agreement for FA](#) - Please see [N.J.A.C. 7:26C-5.4](#) for specific requirements.
- [Line of Credit Agreement for FA](#) - Please see [N.J.A.C. 7:26C-5.6](#) for specific requirements.
- [Letter of Credit for FA](#) - Please see [N.J.A.C. 7:26C-5.7](#) for specific requirements.
- Environmental Insurance Policy - Please see DEP's regulatory requirements at [N.J.A.C. 7:26C-5.5](#).
- [Surety Bond](#) - Please see N.J.S.A. 58:10B-3.i for specific requirements.



Direct Oversight

- [Remediation Trust Fund Agreement for Direct Oversight](#) - Please see [N.J.A.C. 7:26C-14.2\(b\)](#) for specific requirements.

Environmental Insurance Policies

- No model document: evaluated on case-by-case basis
- Must comply with N.J.A.C. 7:26C-5.5
- Department must be the insured (or listed as being able to make a claim)
- No exclusions or deductibles
- Old policies will usually need to be changed (or riders added)



Estimating FA Amount

Costs of maintaining the engineering control including:

- Maintenance/upkeep/servicing, labor, power, sampling parameters, biennial reporting and permit fees

Value is calculated over the duration of the engineering control

- Permanent Engineering control represented as 30 years
- Minimum value \$30,000.00



Present Value Calculations

- Amount posted for FA may follow the formula:
- \$ amount to be posted = FA Value / (discount rate)³⁰
- (discount rate) is actual interest rate or published value
- \$(amount to be posted) = \$30,000 / (1.0136)³⁰ = \$20,000



FA When There is Existing RFS

Using RFS as FA

- 1) Ensure that there is detailed O&M tasks and costs
- 2) Provide copy of RFS and check box on permit application
- 3) From this point forward, always check box on the RFS/FA form!



RFS/FA Form When Using Existing RFS as FA


SECTION C. PURPOSE OF SUBMISSION

Check all that apply

- ☐ Initial Remediation Funding Source pursuant to N.J.A.C. 7:26C-5.2(a) (*attach original RFS instrument and 1% surcharge payment, as applicable*)
- ☐ Initial Financial Assurance for a Remedial Action Permit pursuant to N.J.A.C. 7:26C-7 (*attach original FA instrument*)
- ☐ Initial Direct Oversight Remediation Trust Fund Agreement pursuant to N.J.A.C. 7:26C-14.2(b)5 (*attach original RTF instrument and 1% surcharge payment*)

- ☐ Initial Direct Oversight Remediation Cost Review pursuant to N.J.A.C. 7:26C-14.2(b)4
- ☐ Annual Remediation Cost Review pursuant to N.J.A.C. 7:26C-5.10 (*attach RFS instrument verification and valuation*)
- ☐ Biennial Cost Review pursuant to N.J.A.C. 7:26C-7.10 (*Remedial Action Permits*)

- ☐ Change in Remediation Funding Source or Financial Assurance Amount pursuant to N.J.A.C. 7:26C-5.11
- ☐ Change in Remediation Funding Source or Financial Assurance Mechanism pursuant to N.J.A. 7:26C-5.11(d)
- ☐ Remediation Funding Source Disbursement Notification pursuant to N.J.A.C. 7:26C-5.12(a)
- ☐ Remediation Funding Source Disbursement Request pursuant to N.J.A.C. 7:26C-5.12(b) – Direct Oversight only
- ☐ Remediation Funding Source/Financial Assurance Disbursement Request pursuant to N.J.A.C. 7:26C-5.13(d) – Department held RFS/FA

- ☐ Request Release of the Remediation Funding Source or Financial Assurance pursuant to N.J.A.C. 7:26C-5.11(e)
- ☐ Using a Remediation Funding Source as Financial Assurance 



FA When There is Existing RFS

Transition RFS to FA: RAO-E scenario (not recommended)

- 1) Calculate costs of O&M tasks (FA amount)
- 2) Request reduction of RFS instrument value to FA amount
- 3) RFS unit will request review of RAR (Department has up to 3 years to review)
- 4) When review complete, amend instrument for amount and FA format. RFS Unit will forward to BRAP



Amendments of Financial Instruments

Remediation Trust Fund Agreements

Amendments allowed pursuant to Section 16

Just as easy to submit a new agreement

Line of Credit – a new document will usually be required

Surety Bond / EIP – check with provider



LETTERS OF CREDIT

Most Common Form Of FA

Irrevocable Standby Letter of Credit

Any Change Requires An Amendment

Almost All Amendments Require DEP Approval

Ask bank to add PI number to amendment!



Thank You



Soil Remedial Action Permit Modifications and Transfers

Neil Rivers, LSRP

Langan Engineering and Environmental Services

nrivers@langan.com



Agenda

- Soil RAP Modifications
- Deed Notice Termination
- RAP Transfers/Change of Property Ownership
- Soil RAP Contact Information Change



Agenda

- Soil RAP Modifications
- Deed Notice Termination
- RAP Transfers/Change of Property Ownership
- Soil RAP Contact Information Change



Temporary Disturbances

Permit Modification Not Required

- Engineering control restored within 60 days
 - Permit modification not required
 - Report with the next Soil Biennial Certification Report

Reminder: Hotline call not required for cap disturbances
Rule takes precedence over Deed Notice



Modify the Soil RAP to Capture

- Changes to institutional controls
- Changes in engineering controls
- Permittee address changes
- Adding an additional PRCR

Note: Changes to institutional or engineering controls will also require changes to the Deed Notice



Applying for a Soil RAP Modification

- Include applicable RAP Application Fee
- Hard and Electronic copies of:
 - Soil RAP Modification Form
 - Cover letter/report explaining reason for modification



Applying for a Soil RAP Modification

- Electronic copies of:
 - Remediation Cost Review and RFS/FA Form with a detailed cost estimate, if applicable
 - A GIS-compatible map (shape file) of the restricted area
- Electronic copy of recorded Deed Notice or filed Notice in Lieu
 - Provided as a separate PDF file
 - Include all attachments/exhibits
- Provide all electronic copies in Adobe PDF format on a CD
 - All can be combined in a single PDF except Deed Notice or Notice in Lieu



Soil RAP Modification

- Any change to a Deed Notice requires Deed Notice termination and refiling
- The PRCR currently identified on a RAP can only be changed/modified if that entity no longer exists
 - Appropriate documentation required



Agenda

- Soil RAP Modifications
- Deed Notice Termination
- RAP Transfers/Change of Property Ownership
- Soil RAP Contact Information Change



Deed Notice Termination

- Used to modify a Deed Notice associated with a Soil RAP
 - Change in institutional or engineering control
 - Change in site boundaries
 - subdivision, eminent domain
 - Change in remediation standard that alters exceedances
 - Promulgated standards
 - Compliance option / Attainment method
 - Alternative Remediation Standard



Deed Notice Termination

- Any change to a Deed Notice requires a Deed Notice Termination and a new Deed Notice
 - No amendments, supplements, or modifications
- Procedure outlined in Appendix 1 of Soil RAP Guidance



Procedure for Terminating a Deed Notice

1. Use “Model Termination of Deed Notice” document
 - Complete the original version (signatures in ink, notary)
 - Some portions remain blank (NJDEP signature, dates)
2. Send to BCAIN along with:
 - Cover letter explaining purpose of termination
 - Complete Termination Deed Notice Form
 - Technical info or RAR if additional remediation was conducted
 - New RAR required if a new attainment method or data is used
 - Explain administrative changes in the cover letter if no new RAR



Procedure for Terminating a Deed Notice

3. NJDEP will sign and return Termination of Deed Notice
4. File Termination of Deed Notice with County Clerk
 - Ideally, file new Deed Notice(s) concurrently
5. Use copies of recorded Deed Notices to update Soil RAP
 - Initial, Modification, Termination

Section XIII of Guidance identifies hard copy and electronic submission requirements



Agenda

- Soil RAP Modifications
- Deed Notice Termination
- RAP Transfers/Change of Property Ownership
- Soil RAP Contact Information Change



Applying for Transfer/Change of Ownership

- Apply within 60 days of sale or transfer of the property
 - Contact BRAP with questions about RAP changes for transfer of operations or lease termination
- Include applicable RAP Application Fee



Applying for Transfer/Change of Ownership

- Hard and Electronic copies of:
 - RAP Transfer/Change of Property Ownership Application Form
- Electronic copies of:
 - Remediation Cost Review and RFS/FA Form with a detailed cost estimate, if applicable



Transfer/Change Form

- The new property owner must sign on as a co-permittee before the former owner is removed from the RAP
- Prior FA will not be released until new FA is in place
- Use the Contact Information Change Form – not the Transfer/Change Form – to update PRCR contact info
- Provide all electronic copies in Adobe PDF format on a CD
 - All can be combined in a single PDF



Unpaid RAP Fees

- NJDEP may refuse to process modification, transfer, and/or termination applications with:
 - Unpaid RAP fees, including past due fees
 - Previously-required RAP applications



Test Your Knowledge

A Transfer/Change of Property Ownership form should be submitted within how many days of a property sale?

- A. 15
- B. 30
- C. 60
- D. 90



Test Your Knowledge

A Transfer/Change of Property Ownership form should be submitted within how many days of a property sale?

- A. 15
- B. 30
- C. **60**
- D. 90



Agenda

- Soil RAP Modifications
- Deed Notice Termination
- RAP Transfers/Change of Property Ownership
- Soil RAP Contact Information Change



Contact Information Change for Soil RAP

- Used for changes to:
 1. Contact information only for the PRCR and the Property Owner currently identified on the Soil RAP
 - Contact person, phone number, email address
 - Not the company name or mailing address
 2. Co-permittee “Primary Contact for Permit Compliance”
 3. The fee billing contact person/information
 - This individual will receive the Annual Permit Fee invoice



Contact Information Change for Soil RAP

- Changes to NJEMS only, a revised RAP will not be issued
- NOTE: The following require Soil RAP modifications:
 - Changes to the PRCR or Property Owner mailing address
 - Changes to the PRCR currently identified on a Soil RAP

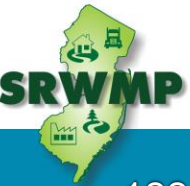


Contact Information Change Form

- Hard and Electronic copies of:
 - RAP Contact Information Change Form
- Electronic copies in Adobe PDF format on a CD
- No Fee!



QUESTIONS?



Are You Ready for a Soil Permit?

Case Studies and Practical Examples

Caryn Barnes, LSRP

Langan Engineering & Environmental Services, Inc.

cbarnes@langan.com



From Initial Soil RAP to Soil RAP Termination

Before applying

- Components and common pitfalls

Ready to submit

- Items to be included

As time goes by

- Protectiveness
- Modifications
- Terminations



Before Applying for a Soil RAP

Permit Needed if *Soil Remains Above Standards*

- A Word on Attainment Demonstrations

#1 Pitfall - Delineate, Delineate, Delineate!

- Horizontal & Vertical
- Real Points, No Modeling/Projecting
- Most Restrictive Standard (often SRS MGW)

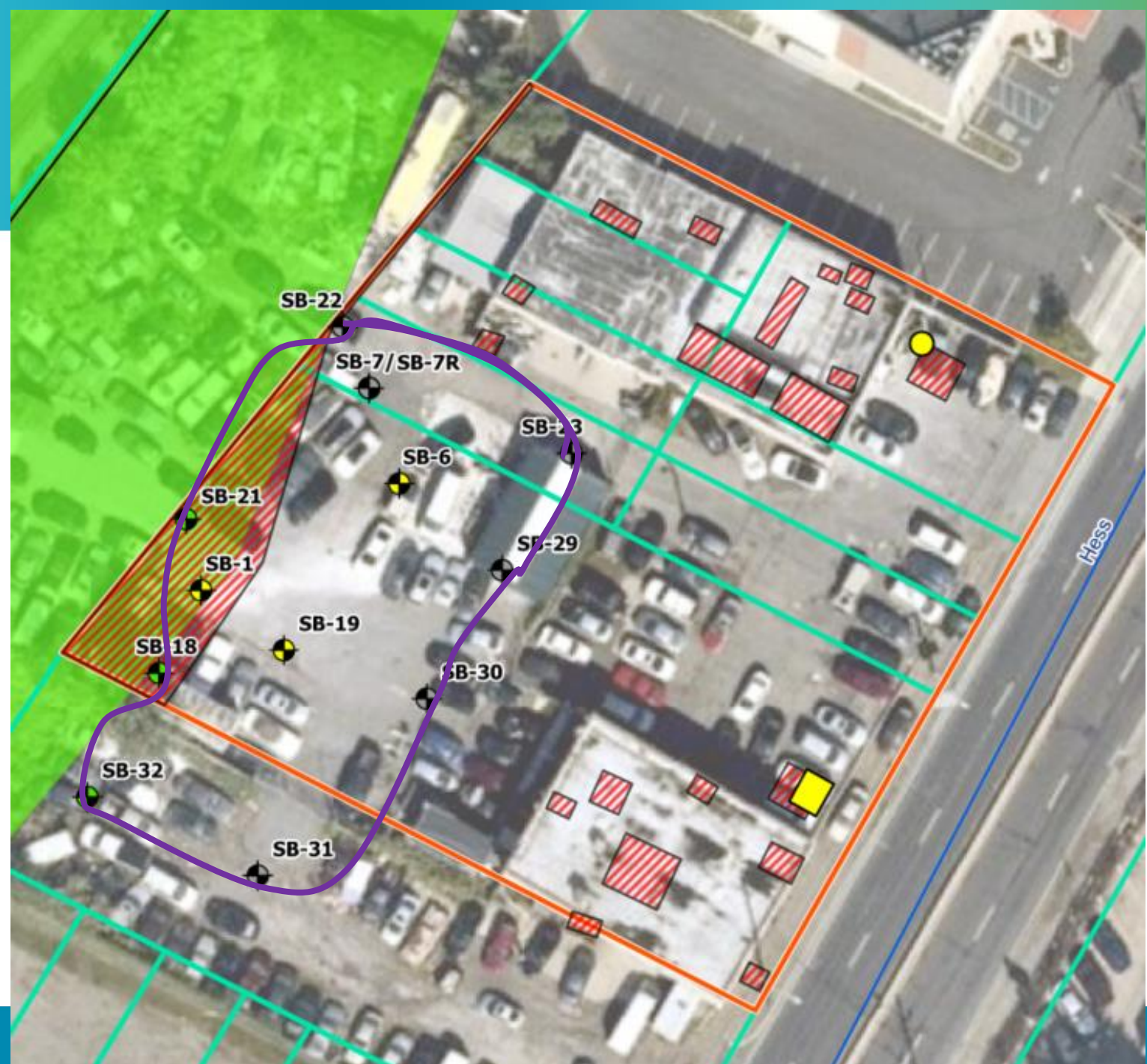
Considerations

- Free/Residual Product
 - EPH; 30,000 mg/kg limit or AOC-specific limit
- Strong CSM/Multiple Lines of Evidence
- Historic Fill vs. Site-related COCs
- Eco Conditions
- Hurdles to delineation
 - Surface Water
 - Obstacles/Obstructions



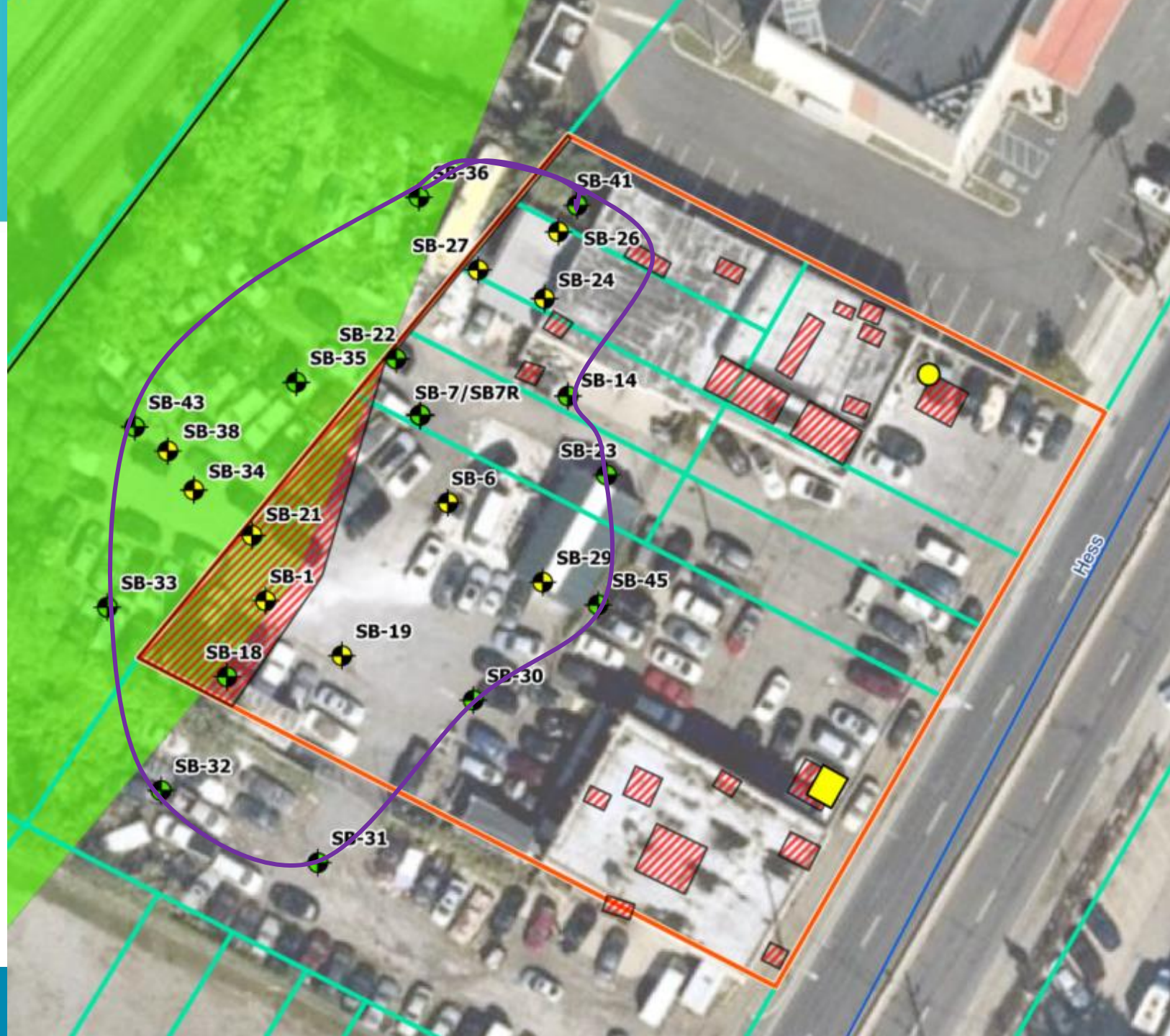
Horizontal Delineation

Sometimes it's straightforward...



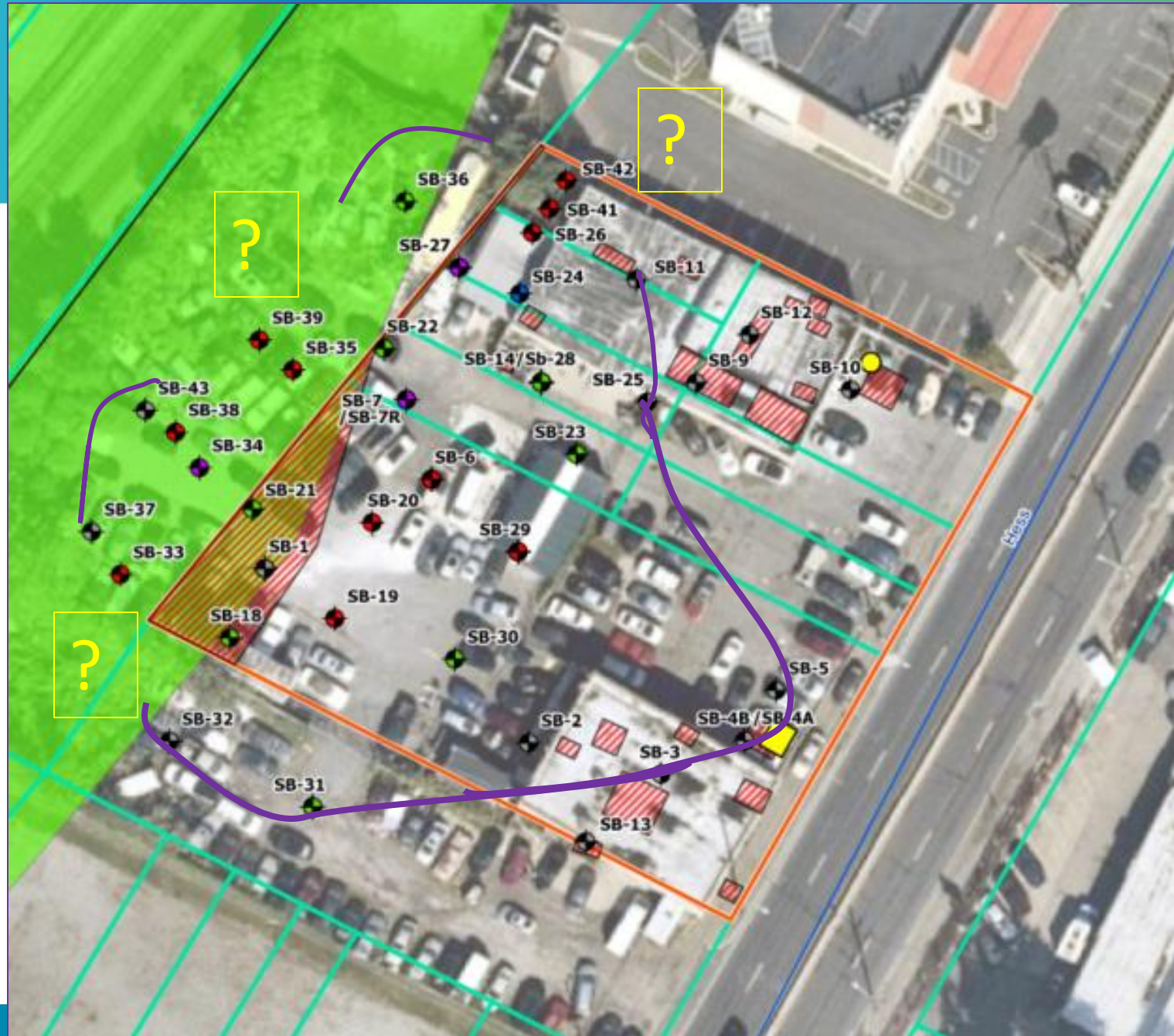
Horizontal Delineation

Sometimes it's a little more complicated...



Horizontal Delineation

But if it's not done,
you're not ready for
your Soil RAP



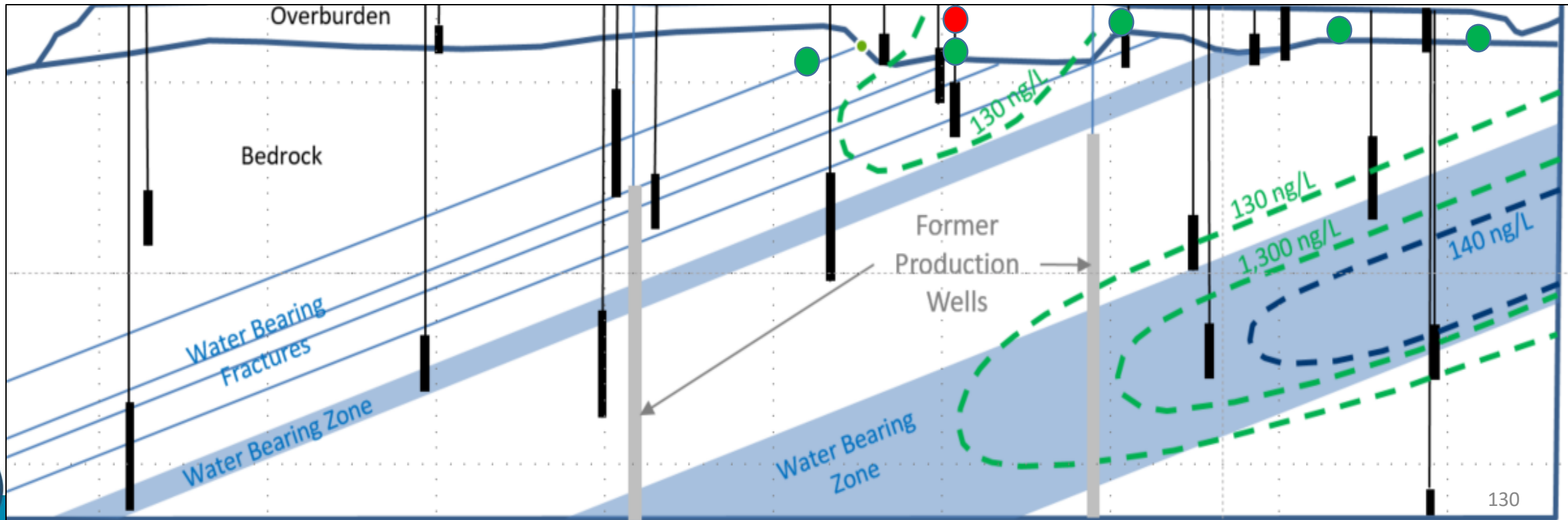
Delineation Considerations

- AOC-specific discharge vs Historic Fill
- Compliance Averaging to below NR SRS
- Adjacent to waterway
- Eco/protectiveness

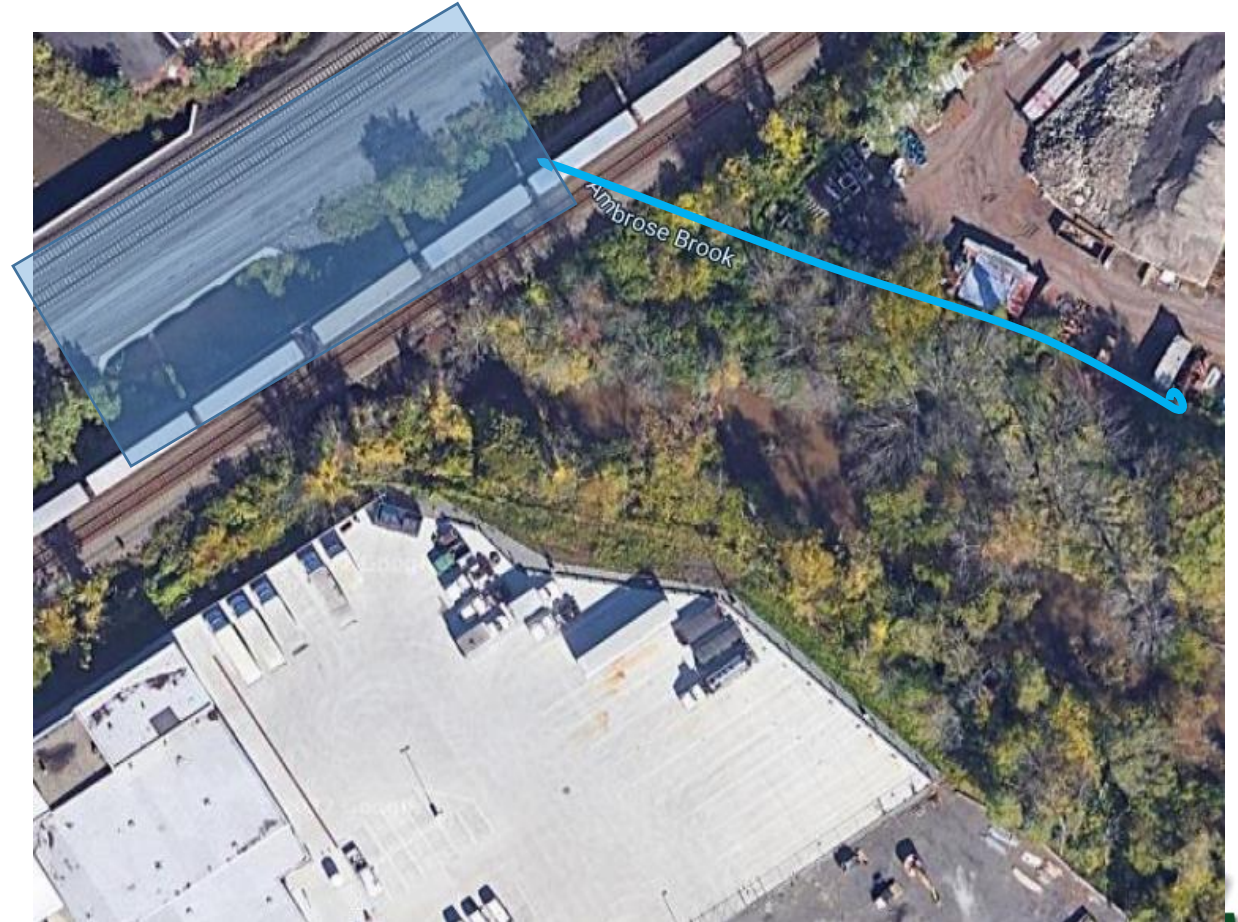


Vertical Delineation

- Complex Geology
- Multiple lines of evidence
 - Bedrock, clay layers, saturated samples, other rationale

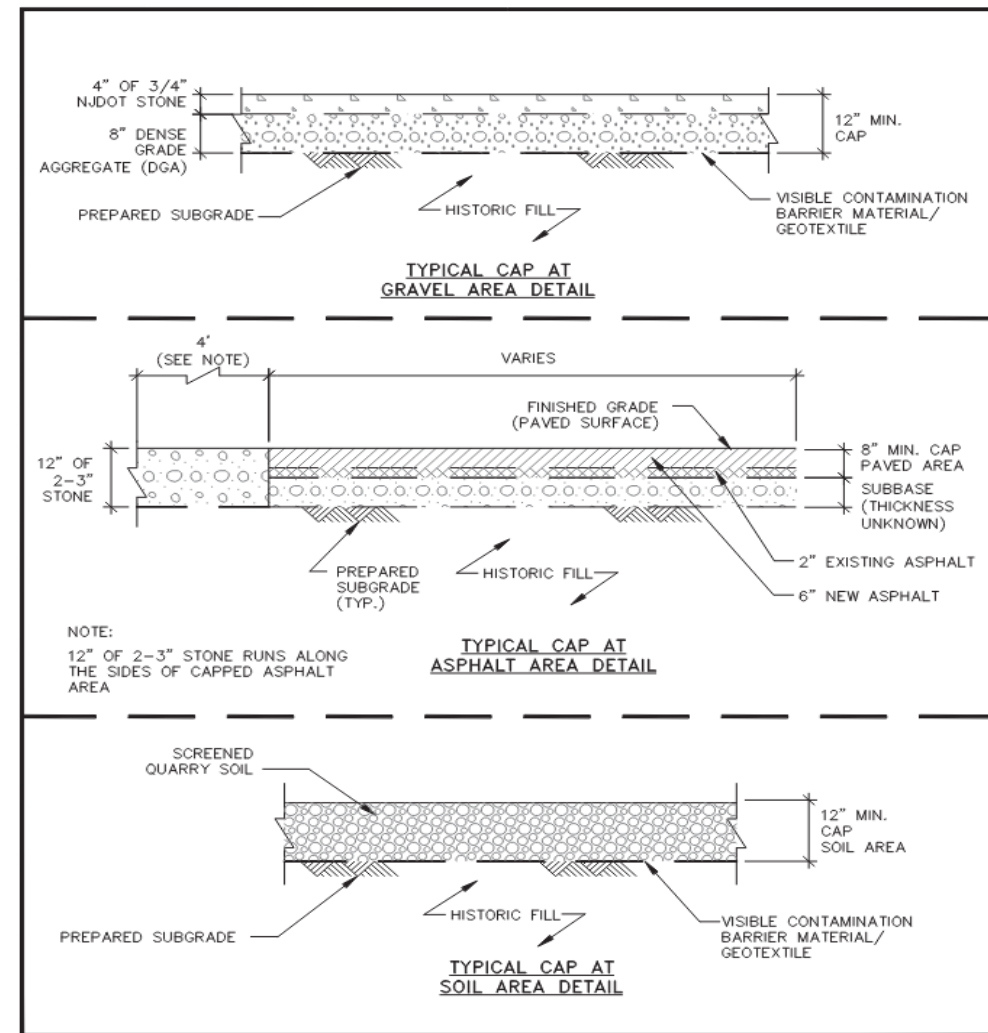


Explain Variances (from Rule)/ Deviations (from Guidance)



Is the Engineering/Institutional Control Appropriate?

- Is a Presumptive Remedy required? (Schools, Childcare, Residences)
- Meets intended use? (Engineer approved?)
- If less than 8" hardscape + subbase, is it appropriately justified? Use Section K!
- Notice in Lieu
- Are there any deviations from guidance/variances from rule?
- PCB limitations under TSCA; including TSCA compliant cap



AS-BUILT TYPICAL SECTION DIAGRAM



Examples of Protectiveness using Multiple Lines of Evidence



Historic Fill, proposal for no cap

- Never used/developed portion of the site
- Drainage ditch limits access to majority of area to south
- Significant utility limits access from east
- Surface water limits access from west
- Existing condition; highly vegetated, fenced, signage



Are you Ready for your Initial Permit?

Administrative

- ✓ Bills paid; RAP application fee
- ✓ FA in place for EC (no self guarantee)
- ✓ LSRP retained
- ✓ Lot and block checked (Monmouth County)
- ✓ Legible/scaled maps/GIS compatible
- ✓ Submitting Soil RAP and GW RAP simultaneously?

SRP Related

- ✓ Soil RAR submitted
- ✓ Deed notice/notice in lieu
- ✓ Engineering controls in place
 - ✓ Documented protectiveness
- ✓ Documented deviations/variances
- ✓ MLEs
- ✓ Overlap with GW Remedy/RAP

Oddballs

- Eco/shoreline stabilization
- PCBs



Critical Technical Components

- Remediation is Complete/justified RAR
- Monitoring/inspection frequency
- Section K

SECTION K. OTHER INFORMATION PROVIDED

List any other pertinent information to support the Initial Soil RAP Application.

On-site soils are impacted by Historic Fill, with compliance to the non-residential SRS. As such, engineering controls will not be necessary, and only a deed notice has been issued. However, shoreline stabilization is being implemented for the adjacent Big Creek. As presented to NJDEP during a January 19, 2021 Technical Consultation (Appendix D of the RAR), the shoreline is currently stabilized by vegetation. No exposed soils, shoreline erosion, or scouring were observed along Big Timber Creek. As the natural conditions provide sufficient stabilization to minimize erosion, NJDEP agreed that shoreline conditions should be monitored and maintained under this RAP-Soil, including biennial certifications to confirm protection of the ENSR.



Modifications

Redevelopment Related

- Change in engineering control
- Change in institutional control
 - Bifurcating the site
 - Adding properties

Remediation Related

- Met some standards (yeah!) have them removed; modify deed notice & permit
- If meet all standards- **Terminate!**

Administrative

- Change in PRCR
- Permittee address change
- Transfer of ownership (not mod, it's a form)



Soil Permit Modifications N.J.A.C. 7:26C 7.12

Modifications of specific requirements in a remedial action permit

- Remedial action is not adequately protective
- Change in the engineering or institutional control
- PRCR modifies the remedial action
- Lot and block changes (no longer accurate)
- The permittee changes its address

Temporary disturbance, mod not needed – address in next submittal

NOTES

If need to correct, modify, supplement or amend deed notice – need to **terminate** deed notice

Change in PRCR contact info is a Contact Info Change, not mod



Terminations

- Remediated to applicable standards
- Employed compliance option/Attainment demonstration
- Change in standards requires change to Deed Notice
- Change in engineering control/institutional control
- Subdivision
- Appendix 1

Appendix 1

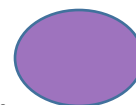
Procedure for Terminating a Deed Notice

1. Access the Model Termination of Deed Notice document from the NJDEP SRP home page in the forms section (www.state.nj.us/dep/srp/forms).
 - a. Delete paragraphs and signature sections that are not applicable and renumber.
 - b. Some information (date the Department approved the termination) should be left blank and will be filled in after receipt of the NJDEP termination approval letter. Leave blanks on the NJDEP signatures page for the signatures and delete name/month/day/title information in italics and leave blanks.
 - c. Complete the document and sign in original ink (signature, notary, witness).
2. Access the Termination of Deed Notice Form and instructions from the NJDEP SRP home page in the forms section.
3. Send the completed Termination of Deed Notice document with the Termination of Deed Notice Form to the NJDEP's Bureau of Case Assignment and Initial Notice (BCAIN) with a cover letter explaining why the termination is requested. Include any technical information (averaging data, change of standard) and/or RAR if additional remediation was undertaken.





- One property; RAO-E
- Existing Deed Notice & Cap addresses entire property
- **Property to be split into four**
- What needs to happen when split?



PCBs



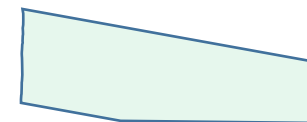
Former
USTs



EPH



CVOCs



Historic Fill



- Four existing properties; Block 1; Lots 1-4
- Four RAO-Es
- Four existing Deed Notices, Caps, and
- Property **to be combined into one lot and block** and redeveloped with a warehouse
- What needs to happen when combined?


 PCBs
  Former USTs
  EPH
  CVOCs
  Historic Fill
  Proposed Warehouse
 

Thank You



Frequently Asked Questions

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The ELM Group, Inc.
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Soil RAP Frequently Asked Questions

Question: How do I develop an engineering control inspection program in my Soil RAP application if my engineering control is not “visible” or is located beneath a newly redeveloped area?

Answer: The details of the engineering control should be clearly presented in the application (use Section K or refer to the applicable section of the RA Report). For example, if a clean soil cap is installed and then that area is filled to raise the elevation and/or covered with an asphalt parking lot, an inspection program must still be proposed. During the BiCert process, the inspector will not be able to “inspect” the engineering control but can still confirm that there is no evidence of disturbance in the restricted area that would have potentially reached the depth of the engineering control.



Soil RAP Frequently Asked Questions

Question: Which should I submit first, the Remedial Action Report or the Soil RAP application?

Answer: Pursuant to N.J.A.C. 7:26E-5.7(b)7, the RAR and RAP application should come in together. The RAP application is submitted hard copy with a check for the application fee, and the RAR is submitted through the Portal.



Soil RAP Frequently Asked Questions

Question: I have a Post-NFA site which has done no work since the NFA letter. Site inspection shows that the cap is unchanged/intact. How do I get the site into compliance?

Answer: Submit Biennial Certification and RAP application. For FY 2023, the fees will be:

\$1575 application fee

\$3415 back fees + \$375 BiCert fee = \$3790



Soil RAP Frequently Asked Questions

Question: I cannot get the PRCR (or owner) to sign the Soil RAP Application (due to deceased owner, dissolution of company, etc.)? Will the Department approve a permit without one of the signatures?

Answer: In extreme situations, the Department may allow the approval of the RAP without one of the required signatures (PRCR or property owner). The application cover letter and / or Section K should clearly explain the details and efforts made to locate the appropriate entity / persons. The Soil RAP Guidance contains examples of satisfactory documentation (certified letters, business databases, etc.)



Soil RAP Frequently Asked Questions

Question: What does the Department consider to be a “change in the engineering control” that would require a Soil RAP Modification?

Answer: Some typical examples include changing from concrete to asphalt cover (full or partial) or vegetative to hard scape. A less obvious example might include adding a landscape / lighting island to an existing parking lot (regardless of the size of the new island).



Soil RAP Frequently Asked Questions

Question: If a site has a DER or older Deed Notice, does the DER or old Deed Notice need to be replaced with the current Deed Notice model?

Answer: It is recommended that you replace these older documents. We will consider their use with the application if the site location, contaminants, the engineering control can be identified.



Test Your Knowledge

Adding an area of landscaping to an existing parking lot would require a Soil RAP Modification.

- A. True
- B. False



Test Your Knowledge

Adding an area of landscaping to an existing parking lot would require a Soil RAP Modification.

- A. **True**
- B. False



Soil RAP Frequently Asked Questions

Question: Can I use the water table as the vertical depth of my Deed Notice/Soil RAP application?

Answer: No, actual sample results must be used to establish the vertical delineation of any soil contamination above the applicable NJDEP soil standards (excluding MGW standards) regardless of the depth to ground water. Extrapolation to achieve vertical delineation for a Deed Notice is not acceptable.



Soil RAP Frequently Asked Questions

Question: I have very complicated site-specific issues associated with my Soil RAP application. Can I request a Technical Consultation to obtain Department feedback prior to submitting my application?

Answer: Yes, a Technical Consultation is available if appropriate based upon the site-specific situation. Consult the Technical Consultation page on the SRP website to request the Technical Consultation via email and provide sufficient details regarding the issues to be discussed, including any recommendations to resolution. In some instances, a call or email exchange may also be sufficient to resolve the issue.

https://www.nj.gov/dep/srp/srra/technical_consultation/



Soil RAP Frequently Asked Questions

Question: Why doesn't the Department allow more time (more than 30 days) in its NTDs to address or fix an issue with my RAP application?

Answer: The expectation is that no major work or sampling should be needed to address Department comments, as this suggests a critical flaw in the submission. However, in some instances, if limited sampling can be completed and submitted in 30 days, then this would be acceptable. However, when this cannot be accomplished, the application must be withdrawn, corrected and re-submitted. However, in many instances, the deficiencies can be addressed with additional information / re-presentation of the MLEs to address Department questions.



Soil RAP Frequently Asked Questions

Question: My site is subject to the Presumptive Remedy requirements in the TRSR (N.J.A.C. 5:26E-5.3), but I used a modified version for the engineering control. Can I get a Soil RAP approved in this instance?

Answer: Yes, the RAP can be approved, but Department pre-approval of a RAWP is required before implementation – this is referred to in the TRSR as an “alternative remedy” per N.J.A.C. 5:26E-5.3. This approval comes from BEERA, as the RAWP approval will occur prior to the submission of the RAP application / final RA Report.



Questions



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