

# Brownfield Cleanup Program COC Process



Division of Environmental Remediation  
February 28, 2011





# Agenda

- COC Process
- Calendar Call Meetings
- SMP and FER Templates
- New Environmental Easement Approach
- Attorney Practice Perspective
- Post COC Obligations/Responsibilities
- Optional Breakout with DEC Staff



# Handouts

- Site Information Form
  - Verify Site Information
    - Contact information
    - Acreage
    - En-Zone
  - Enter or verify email addresses
  - Mail to DEC Project Manager



# Handouts

- Agenda
  - Revised Calendar Call Dates
  - Important Links
    - COC Process and Templates (Easement, Site Management Plan, Final Engineering Report)
    - Electronic Data Deliverables





# Guide to the COC Process

- Critical path and schedule of deliverables.
- Submittals after the established dates:
  - Will jeopardize the issuance of the COC by December 31<sup>st</sup>
  - Will affect the timing of any tax credits.



# Guide to the COC Process Reflects Recent Experience

- Easement packages have been problematic
  - Easement package is first submittal
  - Resolve Title Report and Survey issues
- Review of Draft Final Engineering Report
  - Leave placeholders for incomplete items
    - Record drawings
    - Certifications
  - After July 1, 2011 FER Certification includes Electronic Data Deliverable





# Guide to the COC Process

- Project deliverables should be developed on parallel tracks
- However finalization and approvals are sequenced as follows:
  - Environmental Easement Documents are provided;
  - the Site Management Plan is approved;
  - the Environmental Easement is recorded;
  - the Final Engineering Report is developed, reviewed and, when “approvable”;
  - the COC is issued.





# Environmental Easement (Non-Track 1 Sites)

- Step 1 - The remedial party is asked to complete an Easement Template w/ site specific information
  - Request letters should have gone out
- Step 2 - The remedial party submits completed easement and supporting documentation (“Easement Documents”)





# COC Milestone

- Applicant Submits Completed EE Template and Easement Documents  
– **June 1, 2011\***
  - *Survey should define “Easement Area”*
  - *Location of specific engineering controls may not be available*
  - *Include Attorney Checklist*





# COC Milestone

- Applicant Submits Executed Environmental Easement
  - **September 30, 2011**
- DEC accepts easement
- Environmental Easement Recorded
  - **October 15, 2011**





# Site Management Plan

Plan for implementing

- Institutional Controls (ICs)
- Engineering Controls (ECs)
- Monitoring and/or operation and maintenance of the remedy

after the COC is issued.



# Site Management Plan

- Must be approved by DEC prior approval of the Final Engineering Report
- Is referenced in the easement, but may be approved after easement is executed
- Begin developing the SMP during the construction phase of the project



# Site Management Plan

- DEC's Project Manager will
  - approve,
  - modify, or
  - rejectthe SMP after consultation with the NYSDOH Project Manager.
- Once approved, finalization of the FER can commence.





# COC Milestones

- Applicant Submits Draft SMP
  - **August 1, 2011**
- DEC Approves the Final SMP
  - **October 1, 2011**





# Final Engineering Report

- Final Engineering Report (FER) documents implementation of the complete remedial program
- Includes required certifications for the remedial program by the project Professional Engineer
  - Work is complete
  - SMP is approved
  - Easement is recorded
  - Data has been submitted electronically



# Final Engineering Report

- Only one Final Engineering Report (FER) will be approved per “site”
- The FER must include:
  - the information for all remedial actions performed at the site; and
  - a summary of the information contained in each of the construction completion reports for the site, if any



# Final Engineering Report

- Approval of the FER coincides with issuance of the COC
- Issued by DER Division Director to the remedial party





# COC Milestones

- Applicant submits Draft FER
  - **September 15, 2011**
- Applicant submits Final FER for Approval
  - **November 15, 2011**



# Guide to the COC Process

- Only one Certificate of Completion will be issued per site.
- The Department will issue the Certificate of Completion to the remedial party or parties that signed the Brownfield Cleanup Agreement.



# COC Process Critical Path

- SMP is approved;
- The Environmental Easement is:
  - fully executed;
  - recorded (recording information provided); and
  - Schedule B parties and affected local governments notified;
- The FER is approved and COC issued

