



Department of  
Environmental  
Conservation

# Lessons Learned

## How to Keep Your COC on Track

May 22, 2019

# DO...

- Aim to save time at every stage of project, not just at COC crunch time
- Anticipate problems and be proactive
  - Bring issues to DEC project manager's attention early so they can be resolved
- **Use the templates!!**
- Respond to inquiries promptly, but...

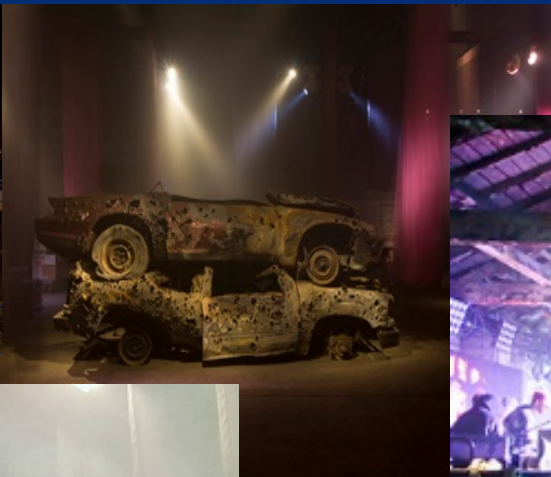
# DON'T...

- Data Dump
  - Don't respond to inquiries by burying PM in data - **provide analysis**
- Assume all problems come up at COC time
  - For example...

# Change of Use

- Any activity that could **potentially increase exposure** to contamination
- Recent examples
  - Parties
  - Film shoots
  - New occupants/change in type of occupancy
  - Building demolition







# Block/Lot Changes

- Lot mergers, adding condo lot designations, etc.
- Must be completed before COC is issued
  - COC will list the lots subject to the liability release
  - If lot designations have changed since the BCA was executed, an amendment will be required
- Allow sufficient lead time for BCA amendments to be processed

# Changes to Selected Remedy

If conditions are such that cleanup track must be changed, and if the new cleanup track was NOT CONTEMPLATED in the Decision Document or RAWP, an Explanation of Significant Difference must be issued

- ESD will likely be **publicly noticed**, especially if cleanup track is less stringent than the cleanup track that was originally approved
- Minimum 30 day comment period



# Off-Site Waste Disposal Issues

- Waste disposal categories should be specified in RAWP
- RCRA listed waste **stays a listed waste!**
  - Can't "TCLP" it away
  - Can apply for "contained-in" determination, but it is NOT AUTOMATIC

# Off-Site Waste Disposal Issues (con'td)

- Historic fill is solid waste
  - Historic fill **CANNOT** be sent to Part 360-16 Registration Facility
  - Soil exceeding unrestricted SCOs **CANNOT** be sent to Part 360-16 Registration facility without approval
    - Several recent COCs in jeopardy
    - Significant fines levied

# PE / QEP Oversight of Field Activities

Part 375-1.6(a)(3):

“During **all field activities** conducted under a Department approved work plan, the remedial party shall have a qualified environmental professional, meeting the requirements set forth in 375-1.2(ak), on site to supervise the activities undertaken.”

# PE / QEP Oversight of Field Activities (cont'd)

- Failure to provide complete field oversight of investigation, remediation or construction activities by a subcontractor is a violation of Part 375
- Cannot certify the RIR or FER if there was a gap in appropriate oversight

# On-Site and Off-Site Responsibilities

- Volunteer
  - On-site RI
  - **Sufficient** off-site data to support Qualitative Exposure Assessment
  - On-site remedy
  - Prevent further off-site migration
- Participant
  - On-site and off-site RI
  - On-site and off-site remedy
    - **No COC until on-site and off-site remedies are complete**



# Demonstrating Effectiveness of Remedy

- Treatment remedies (ISCO, AS/SVE, etc.)
  - Monitoring data showing contaminant trends must be included in FER
- How long / how much data?
  - Depends what is specified in RAWP (e.g., quarterly sampling)
    - At least one round of sampling after treatment starts
  - Must show that that remedy is effective before COC can be issued
  - **SMP must provide decision framework for additional treatment as needed**

# “Conditional” Track 1 COC

- These will be phased out
- New regs will address this
- Will issue a Track 2 COC with provision to revert to Track 1 if...
  - Applicable SCOs have been met, but
  - Groundwater standards not met, and/or...
  - Soil vapor mitigation required



## “Conditional” Track 1 COC (cont’d)

- If active remedial system/treatment can be suspended within 5 years of COC, easement/SMP are extinguished and COC modified to Track 1
- **BE PROACTIVE** – don’t wait until year 4 to do additional treatment



# Submittal Deadlines

- When submitting draft SMP and FER be sure to include ALL ATTACHMENTS
- Failure to submit complete draft will mean deadline has not been met
- Last minute BCA Amendments are **strongly discouraged**
- Failure to meet deadlines may put COC in jeopardy

# Thank You

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