EBC Seminar Professional Judgment Scenario  
Version 1.0 (March 24, 2014)

**Site Background**

Chemical manufacturing facility operated from 1930s to 1990s on approximately 20 acres of land. Property is bound by commercial/industrial properties and to the west by a river.

The site can be divided into two distinct areas: the northern two thirds, which was formerly the plant manufacturing area (Plant Area), and the southern third, a former landfill (Landfill Area). The Plant Area housed a variety of chemical manufacturing processes in the production of dyes and pigments intermediaries. The Plant Area buildings were demolished and a former cooling water pond deactivated, but still contains standing water. The entire Property is subject to ISRA, but the Plant Area contains the vast majority of AOCs. The Landfill Area was capped and a slurry wall installed and received RCRA closure confirmation (NFA, but with operation, monitoring and maintenance stipulations).

All structures were demolished approximately a decade after operations ceased on the property.

**Subsurface Conditions (Geology/Hydrogeology)**

The generalize profile for this Site from shallowest to deepest units:

- Fill – heterogeneous mix of boulders, cobbles, gravel, sand, silt, clay, cinders and debris (8 to 10 feet thick) – contains a perched groundwater zone.

- Peat – organic debris with interbedded sand, silt and clay or gravel (approximately 2 to 5 feet thick) – part of the overlying fill perched groundwater zone. Not continuous across the Site.

- Silty Sand - saturated (approximately 10 to 15 feet) – Intermediate Sand Unit.

- Clay– clay interbedded with silt (approximately 15 to 25 feet thick - aquatard

- Silt and Silty Sand – including some areas of sand (approximately 15 to 50 feet thick) – Lower Sand Unit.

- Bedrock – Shale/Sandstone (unknown depth beneath Site )

**Key Development Constraints**
• Deed Restriction for former Landfill Area – must coordinate disruption to cap with NJDEP and not compromise subsurface containment structures.

• VOCs in soil and groundwater – soil removal and/or in-situ treatment is necessary and vapor intrusion control is warranted. Chlorinated VOCs impacting property from an offsite source.

• Semi Volatiles (PAHs) and PCBs tied to fill and railroad siding can be managed through isolated “hot spot” removal and negotiated institutional and engineering controls.

**Professional Judgment Issues**

1. Soil Reuse – Beneficial Reuse Determination of Historic Fill
2. Remediation approach must use institutional and engineering controls to facilitate the highest and best use for Property supported by Township – Residential/Commercial (high density) Mixed Use and keep remediation within developer’s budget.
3. Offsite source – possible dispute with offsite LSRP as to nature and extent of groundwater contamination.

**Seminar Approach Summary – Compliments of Fred Friendly Seminars**

The Seminars always begin with a little story and a problem that could confront almost anyone. The implications of this problem, whatever it may be, then ripple out to encompass larger and larger issues and trigger ethical, emotional, legal, and public policy questions that are always overlapping and sometimes in conflict. Each Seminar program brings together a carefully chosen panel that contributes professional expertise as well as personal experience to the discussion. As the panelists wrestle with the issues presented in the hypothetical story, they are encouraged not just to say what they think about an issue, but to say what they would do in difficult decision-making situations if they were personally involved. The viewers are along for the ride, emotionally and intellectually, as the story creates a link for citizens between their lives and issues in the headlines that so often seem remote, abstract and unconnected to their day to day concerns.

Panel Agenda/Sequencing

I. Panelist Introductions – Tony Russo
II. Case Scenario and Panelist Roles – Don Richardson
   a. Case Scenario (see above) – boiled down to a power point slide
   b. Panelist Roles
      i. Site Developer – George V
ii. Developer’s Environmental Transaction Team (Trusted Advisors on Environmental Risks)
   1. Attorney – Dennis T
   2. Risk Consultant – Chris A
iii. LSRP – Ira W
iv. Regulatory Oversight/Inspector/Reviewer – Len R

c. Problem #1 – “remediation and reuse of on-site soils to achieve cleanup goals” requires the LSRP to vary from the Tech Rule and apply Tech Guidance to meet developer needs and obtain a RAO. Explore in the following order first response to the problem. Limit to about 2 minutes for each panelist to frame out their perspective on the problem. After everyone has a chance to share, then I will start mining the issues tied to this scenario. This is the unscripted portion that we can have some fun with…
   i. Developer’s project vision and limited budget to meet business goals
   ii. LSRP’s environmental firm has developed an innovative cleanup approach using limited “hot spot” treatment, reuse of demo debris and institutional/engineering controls integrated with redevelopment.
   iii. Attorney to review the difference what must be done according to Rule and what may be left to the LSRP PJ.
   iv. Risk Manager will state the risks in the deal and how they can be managed through insurance.
   v. Regulator is brought into the discussions through a request for Technical Consultation by the Developer and LSRP.

d. Problem #2 (if time permits) – a known offsite chlorinated solvent plume threatens the property, but the offsite LSRP does not think it is from their property. Developer may incur incremental vapor intrusion control costs that are unrelated to his property. Run through same perspectives with this problem.

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