



BROWNFIELD LIABILITY SEMINAR

HOSTED BY:

The Rhode Island Department of Environmental Management (RIDEM),
The Environmental Protection Agency (EPA), and
The New Jersey Institute of Technology (NJIT)

June 6, 2019

235 Promenade Street, Providence Room 300

AGENDA

Brownfields Overview

Brownfields Liability in Rhode Island

Rhode Island Programs

Funding Sources

- *Note: 2016 Hazardous Materials and Petroleum Assessment Funding is ONGOING*
- Though this project has been funded, wholly or in part, by EPA, the contents of this presentation do not necessarily reflect the views and policies of the EPA

Questions & Answers

BROWNFIELDS

WHAT ARE THEY?

- A property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant

WHY DO WE CARE?

- The redevelopment of brownfields is part of a broader strategy to improve the environment, create and retain jobs, and reduce and revitalize urban areas

BROWNFIELD EXAMPLES

Dry Cleaners

Former Gas
Stations

Landfills

Illicit Dump
Sites

Industrial
Properties

Junk Yards

Vacant
Propreties

Sawmills

Rail Yards
and Adjacent
Facilities



OLD MILL & MILL-RELATED SITES — EX.) MILL

WORKERS HOUSE, COVENTRY



MANUFACTURING FACILITIES — EX.) ATP MANUFACTURING, NORTH SMITHFIELD

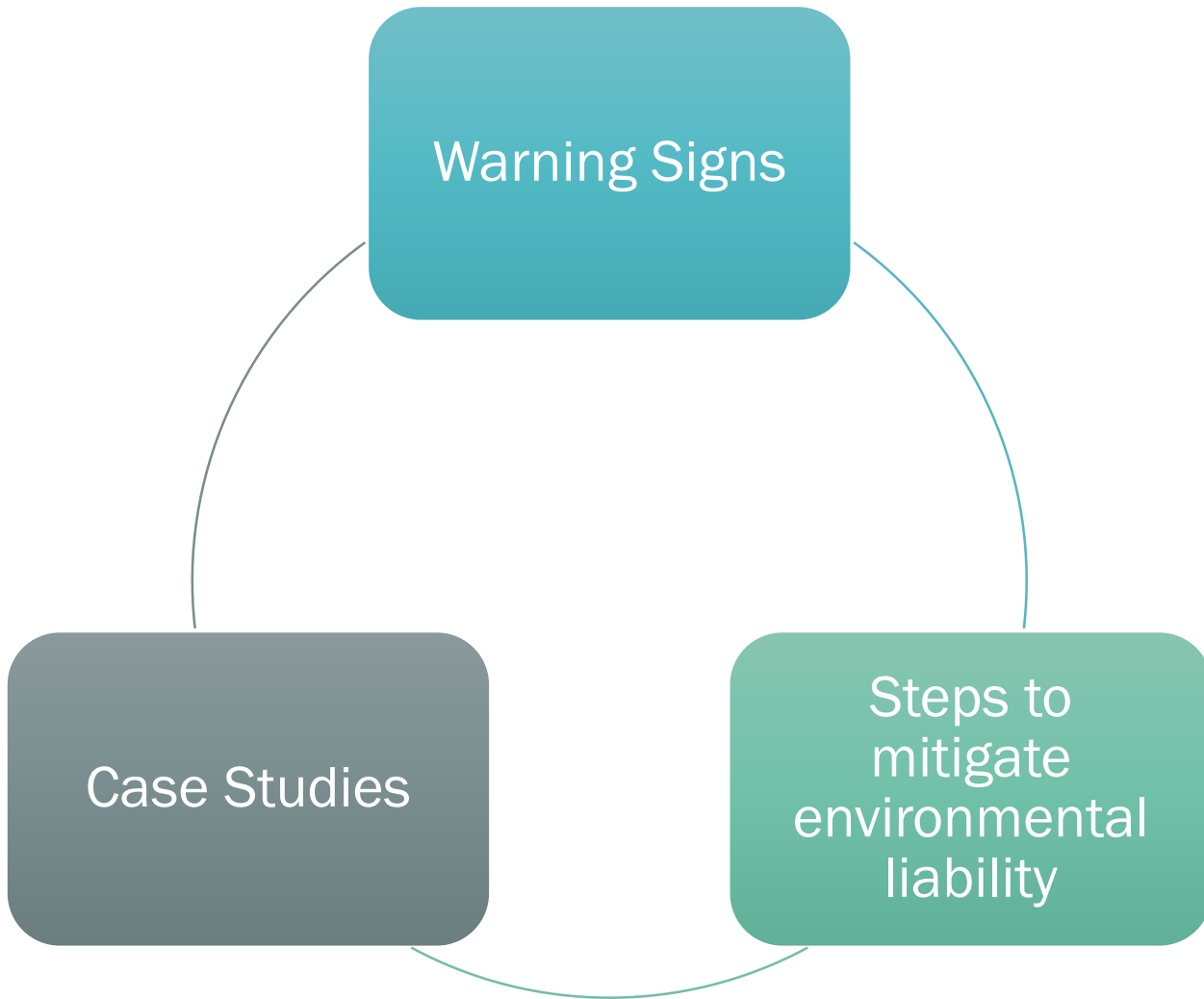


FORMER GAS STATIONS –

EX.) FORMER COFFEY'S TEXACO, NEWPORT



VISION FOR THE FORMER GAS STATION



BROWNFIELD LIABILITY IN RI

WARNING SIGNS

- Urban locations
 - Current or former industrial use
 - Current or former landfill
 - Proposed use as a school
-
- There's no harm in checking with DEM

ENVIRONMENTAL LIABILITY

Who is a Responsible Party?

- Current owner or operator
- Owner or operator at the time of disposal
- Any person who disposed or arranged for disposal or who arranged for transport for disposal or treatment of hazardous materials at a site
- Any person who accepts or accepted hazardous materials for transport to a disposal or treatment site

R.I.G.L. 23-19.14-6(a)

For what is a Responsible Party liable?

- All removal and remedial actions necessary
- All removal or remediation costs incurred by the state or other parties
- Natural Resource Damages
- All requirements of the Site Remediation Regulations

R.I.G.L. 23-19.14-6(b)

WHO IS NOT A RESPONSIBLE PARTY?

R.I.G.L. 23-19.14-7 PROVIDES FOR SIX EXEMPTIONS TO LIABILITY

Act of God

BFPP / BFPT

Mortgage and
lienholders

Custodial
receivers

Downgradient
receptors

Municipalities*

- Title 23 Health and Safety

- Chapter 23-19.14 Industrial Property Remediation and Reuse Act

- Section 23-19.14-5.2 Entry of registered professional engineers onto certain property

- *Any registered professional engineer who is employed, retained and/or otherwise acting on behalf of a municipality of this state may enter, examine or survey, at any reasonable time, such places and real property which is either owned by a municipality or real property in which the municipality has a legal interest arising from a real property tax lien, on which property owner has made no payments for a period of at least two (2) years, for the purpose of performing an environmental site assessment or investigation. An environmental site assessment or investigation under this section shall be conducted in accordance with and shall be subject to the same guidelines and limitations provided for an administrative inspection or, where appropriate, a criminal investigation, pursuant to the provisions of § 42-17.1-2(20)*

MUNICIPAL ASSESSMENT

- Title 23 Health and Safety
 - Chapter 23-19.14 Industrial Property Remediation and Reuse Act
 - Section 23-19.14-7.1 Remedial agreements
 - *In addition to exemption from liability provided for in § 23-19.14-7, the state and a person who has received a remedial decision letter may enter into a remedial agreement that includes a covenant not to sue and contribution protection and which describes the agreed remedial actions and shall be assignable as therein provided. Whenever the state has entered into a remedial agreement under this section, the liability to the state under this chapter of each party to the agreement including any future liability to the state, arising from the release or threatened release that is the subject of the agreement shall be limited as provided in the agreement pursuant to a covenant not to sue. The final covenant not to sue may, at the discretion of the state, be transferred to successors or assigns that are not otherwise found to be a responsible party under § 23-19.14-6. The covenant not to sue may provide that future liability to the state of a person who is under the remedial agreement may be limited to the same proportion as that established in the original agreement. A remedial agreement shall be distinct from a letter of compliance, and the absence of a remedial agreement shall not affect or compromise exemption to liability provided for in § 23-19.14-7.*

REMEDIAL AGREEMENTS



CASE STUDIES

COATS AMERICA / PREMIER THREAD



WOONSOCKET MIDDLE SCHOOLS





RIVERSIDE MILLS

THE STEEL YARD



RI PROGRAMS

Understanding the RI Process

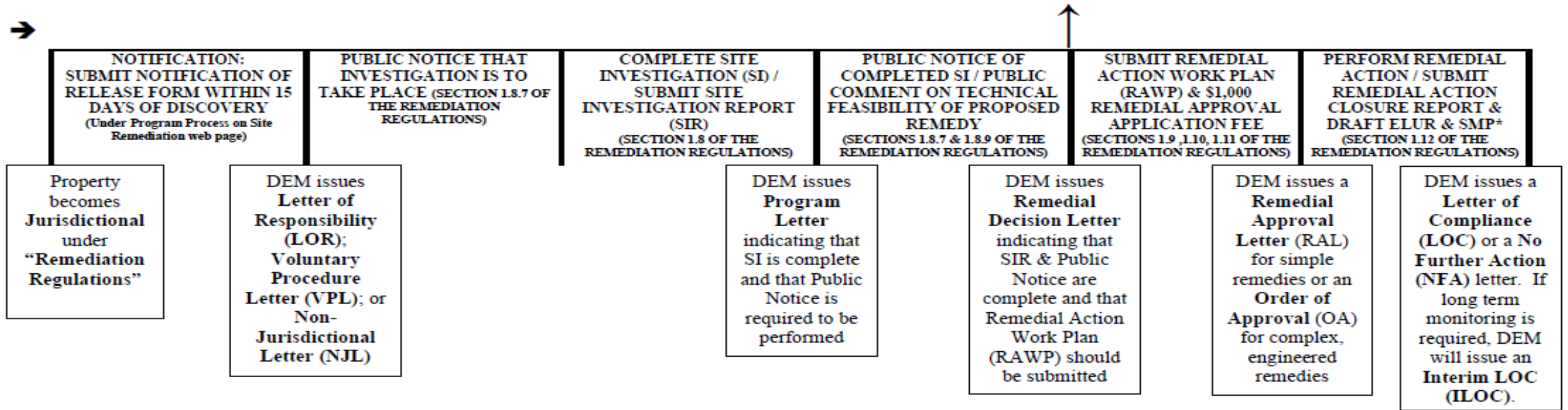
Voluntary Cleanup Program

Funding

THE RI PROCESS

VOLUNTARY CLEANUP PROGRAM (VCP) / BROWNFIELDS PROGRAM STATE SITE REMEDIATION SITE MANAGEMENT PROCESS

A Voluntary Performing Party after receipt of a Remedial Decision Letter (RDL), may enter into a Remedial Agreement with DEM. The Remedial Agreement includes a Covenant Not to Sue, contribution protection, a description of the remedial actions, and shall be transferable, at the discretion of the State, to successors or assigns that are NOT Responsible Parties.



* ELUR – Is the acronym for an Environmental Land Usage Restriction. An ELUR is necessary if a Property is not cleaned up to residential direct exposure criteria and/or corresponding groundwater objectives. A draft ELUR and Soil Management Plan (SMP) can be submitted to DEM at any stage in the process: as an attachment to an SIR; with the RAWP; or with the Remedial Action Closure Report. The draft ELUR should always be submitted to DEM in an electronic format for review. Once approved by DEM, the Property Owner records the ELUR and an associated SMP on the deed to the Property.

STATE PROGRAMS TO ASSIST IN THE ASSESMENT AND/OR CLEANUP OF BROWFIELD SITES

Targeted Brownfields Assessment (TBA) Program

- Who can apply?
 - Municipalities
 - Non-profit organizations
- Funds the Phase I Environmental Site Assessment (ESA), Phase II ESA, and/or the Remedial Action Work Plan (RAWP)
- The TBA program DOES NOT provide cash/grant to the entity applying
- **2016 Hazardous Substance and Petroleum Assessment Funding is ongoing**

Brownfields Remediation and Economic Development Fund

- Encourages the reuse of brownfields
- Provides funding assistance for remedial investigation, redevelopment, remedial redesign, construction of remedies, and other associated work
- Reimbursement grant

Brownfields Cleanup Revolving Loan Fund

- Funded by the RI Infrastructure Bank
 - Provide a low interest loan
- Grantees will need to pay this loan back



QUESTIONS

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