

FROM SPILL RESPONSE TO SITE CLOSURE

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DIVISION OF SPILL PREVENTION AND RESPONSE

CONTAMINATED SITES PROGRAM

LISA GRISWOLD & BILL O'CONNELL





Commissioners Office

Air Quality

Spill Prevention and Response

Environmental Health

Water Quality

Administrative Services





Division of Spill Prevention and Response (SPAR)

Response Fund

Administration Program (RFA)

- Manages Spending Accounts
- Assists Public with Billing Questions

Contaminated Sites Program (CS)

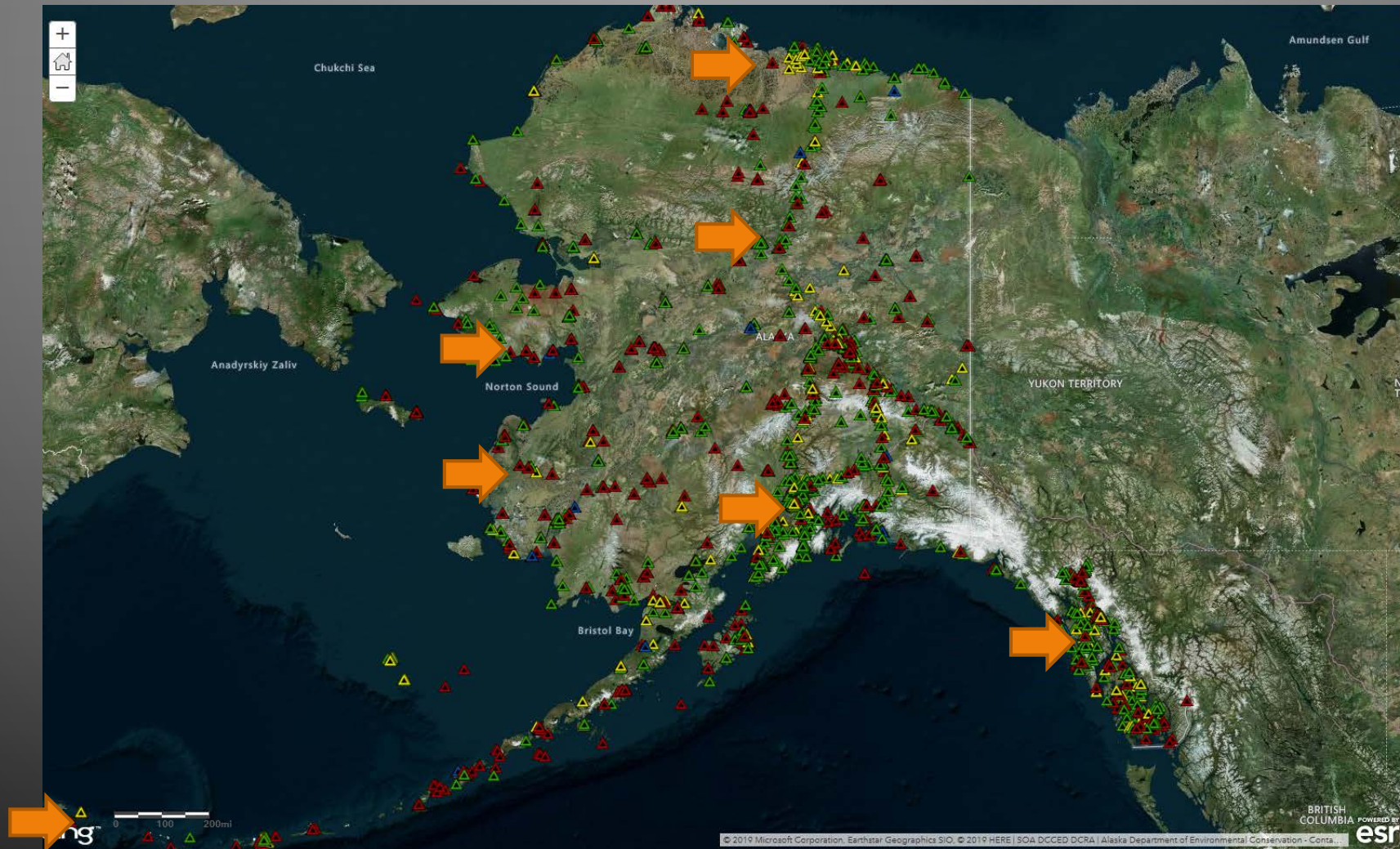
- Long Term Management of Spills
- Manages DEC Brownfields

Prevention Preparedness and Response Program (PPR)

- Responds to Spills
- Evaluates Preparedness Plans



And this matters because...?

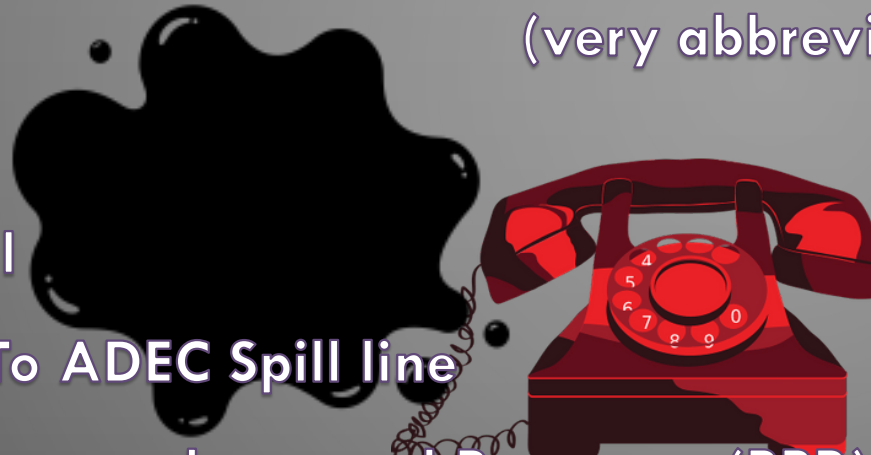


<http://www.arcgis.com/home/webmap/viewer.html?webmap=315240bfbaf84aa0b8272ad1cef3cad3>



Abbreviated Steps in Spill Response and Cleanup

(very abbreviated)

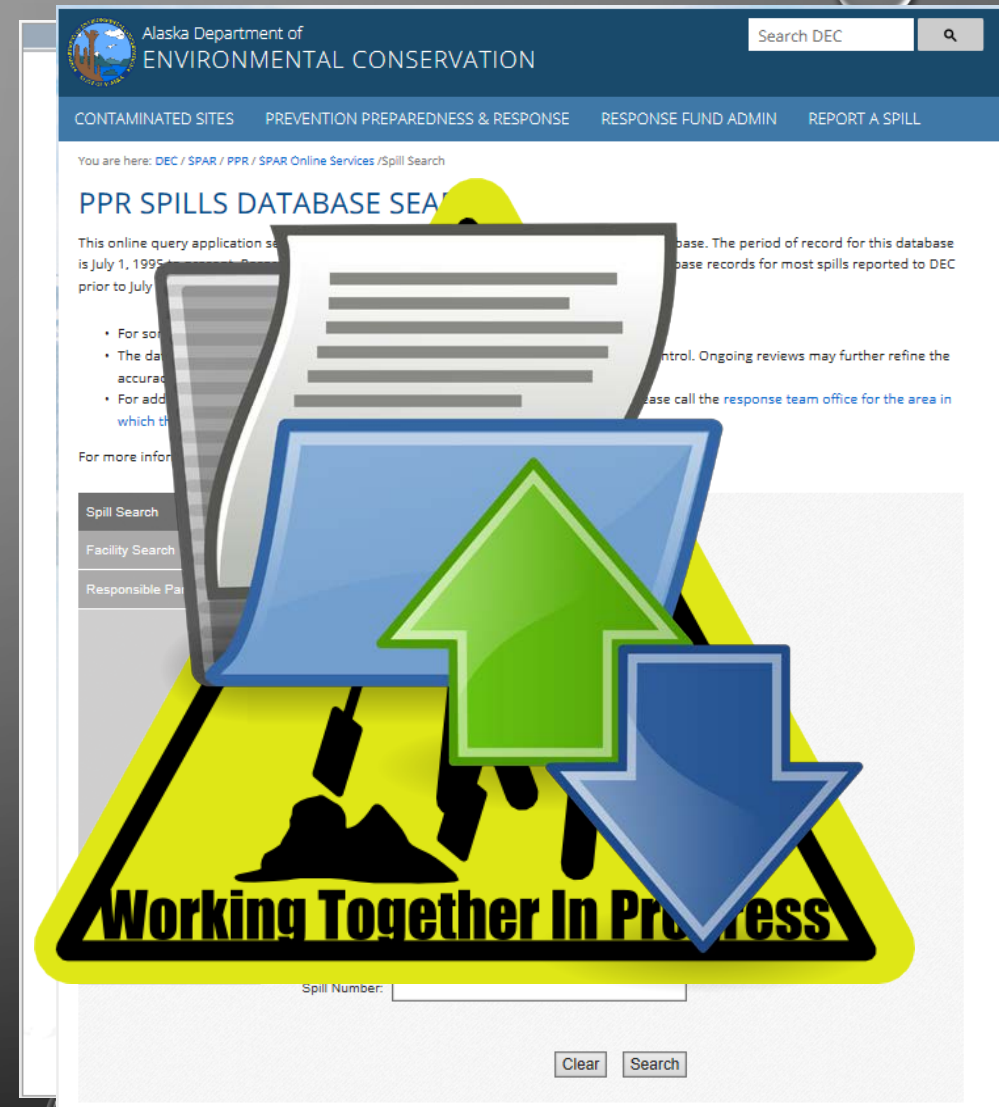


- 1) Discover Spill
- 2) Report Spill To ADEC Spill line
- 3) Prevention Preparedness and Response (PPR) Program works with Responsible Party (RP) on immediate actions and possible Cleanup
- 4) If site needs long term management – Site is transferred to Contaminated Sites (CS) Program
- 5) Site proceeds towards closure with oversight from the Contaminated Sites Program



Prevention Preparedness And Response Oversight

- a) The information reported to the spill line is entered into the PPR Spills Database, assigned a spill number, and assigned to a PPR Responder.
- b) The PPR responder determines if the Responsible Party (RP) is responding to the spill adequately.
- c) The PPR responder sends the identified Responsible Party a state interest letter notifying them of their liability. The RFA program manages billing for state oversight, and answers any questions the RP has regarding the bills.
- c) The PPR responder works with the RP and their Qualified Environmental Professional (QEP) on immediate actions and possibly through Cleanup
- d) If it is determined the site needs long term management, the site will be transferred into the Contaminated Sites Program.



Contaminated Sites Program Oversight

- 1) Site is put onto Contaminated Sites Database and assigned a Hazard ID number, a File number and assigned to a Project Manager (PM)
- 2) Contaminated Sites PM sends a PRP letter to the RP notifying them of their liability and RFA program still manages billing for state oversight
- 3) Contaminated Sites PM works with Responsible Party on getting the site through the Cleanup process
 - a) A work plan to assess the site must be submitted and approved by CS
 - b) The field work is conducted
 - c) A report describing field work must be submitted and accepted by CS
 - d) Project Manager determines if site requires more assessment, if it can move into cleanup, or if the site can be “closed”



Alaska Department of ENVIRONMENTAL CONSERVATION

CONTAMINATED SITES PREVENTION PREPAREDNESS & RESPONSE RESPONSE FUND ADMIN REPORT A SPILL

You are here: DEC / SPAR / CSP / SPAR Online Services / Contaminated Sites

CONTAMINATED SITES SEARCH

Site Name

Hazard ID

Status

Street Address

Zip Code

File ID

IC Registry

[Download All Site Records](#) [Download Only CS Site Records](#) [Download Only LUST Site Records](#) [View CS Map](#)

Disclaimer: DEC makes every effort to ensure the data presented here is accurate based on the best available information currently on file with DEC. It is therefore subject to change as new information becomes available. We recommend contacting the assigned project staff prior to making decisions based on this information.

Types of Site “Closures”

- Cleanup Complete

Sometimes referred to as a “clean closure”

Site does not require future management

Pollution levels are not above ADEC
cleanup levels

- Cleanup Complete with Institutional Controls

Site requires future management

Pollution levels may exceed ADEC cleanup
levels, but cannot be remedied at the
current time

Requires controls be in place to control
exposure
UECA

MEMORANDUM

State of Alaska

Department of Environmental Conservation
Division of Spill Prevention and Response
Contaminated Sites Program

TO: Contaminated Sites Program Staff

DATE: August 30, 2016

PHONE NO: 269-7553

FROM: Jennifer Roberts
Program Manager

SUBJECT: Site Closure/Cleanup Complete

Purpose

This memorandum describes how the Contaminated Sites Program (CSP) will make closure determinations for sites regulated under Underground Storage Tank regulations, Title 18 Alaska Administrative Code 78 (18 AAC 78, Articles 2 and 6), and the Oil and Hazardous Substance Site Cleanup Rules (18 AAC 75.325 - 75.390).

This document is intended to help ensure consistency in making site closure decisions under the Site Cleanup Rules and the UST regulations. It does not create any requirements, obligations or rights. CSP reserves the right to use discretion in making site-specific decisions that may differ from this memorandum.

Summary

The site closure criteria for leaking underground storage tank (LUST) sites are provided in 18 AAC 78.276, *Final corrective action reporting requirements and site closure* and for non-LUST contaminated sites are in 18 AAC 75.380, *Final reporting requirements and site closure*. Under these sections the CSP makes a written determination that *corrective action is complete* (LUST sites) or *cleanup is complete* (contaminated site cleanup rules) when it finds that a site has achieved the regulatory criteria. For simplicity, the generic term “Cleanup Complete” will be applied to both LUST and non-LUST contaminated sites rather than using two designations (Corrective Action Complete and Cleanup Complete). The CSP will consider available site-specific information, conditions and factors when reviewing a site for closure.

At sites where residual hazardous substances do not currently pose an unacceptable risk to human health, safety, welfare or to the environment, but where the CSP determines limitations on future land or water use are necessary to prevent activities that could result in exposure and increased risk or the spread of contaminants, institutional controls will be required (18 AAC

The background is a dark gray gradient with several realistic water droplets of various sizes scattered across it. Some droplets are in the top left, some in the bottom right, and others are smaller and more numerous in the center and bottom. The droplets have highlights and shadows, giving them a three-dimensional appearance.

UNIFORM ENVIRONMENTAL COVENANTS ACT (UECA)

LEGISLATION ENACTED BY THE 30TH ALASKA STATE LEGISLATURE - 2018

UECA - A UNIFORM ACT

- UNIFORM ACTS ARE DEVELOPED AND PROMOTED BY THE UNIFORM LAW COMMISSION (ULC) IN AN EFFORT TO PROVIDE CONSISTENCY ACROSS STATES
- DESIGNED TO FACILITATE COMMERCE AND INCREASE CONSISTENCY BETWEEN STATES FOR INDUSTRY AND OTHER GROUPS
- UECA IS CURRENTLY ENACTED IN VARIOUS FORMS IN 26 STATES INCLUDING ALASKA
- TO BE CALLED “UECA” THE PROPOSED STATE LAWS MUST BE APPROVED BY ULC

PURPOSE OF UECA

- ESTABLISH EFFECTIVE LAND USE CONTROLS AT CONTAMINATED PROPERTIES TO PREVENT ACTIVITIES WHICH COULD RESULT IN EXPOSURE TO CONTAMINANTS AND CORRESPONDING RISKS
 - FACILITATE REUSE AND TRANSFER OF CONTAMINATED PROPERTIES
 - “RUN WITH THE LAND” AND REMAIN IN EFFECT OVER TIME AS PROPERTY IS TRANSFERRED
- ADEC REGULATIONS ALREADY PROVIDED FOR INSTITUTIONAL CONTROLS (18 AAC 75.375)
- AN ENVIRONMENTAL COVENANT IS ONE FORM OF INSTITUTIONAL CONTROL

SENATE BILL 64 = UECA

“ADOPTING THE UNIFORM ENVIRONMENTAL COVENANTS ACT; RELATING TO ENVIRONMENTAL REAL PROPERTY COVENANTS AND NOTICES OF ACTIVITY AND USE LIMITATION AT CONTAMINATED SITES TO ENSURE THE PROTECTION OF HUMAN HEALTH, SAFETY, AND WELFARE, AND THE ENVIRONMENT; AND PROVIDING FOR AN EFFECTIVE DATE.”

WHEN IS A COVENANT NEEDED?

“AN ENVIRONMENTAL COVENANT IS REQUIRED IF THE DEPARTMENT MAKES A REMEDIAL DECISION AS PART OF AN ENVIRONMENTAL RESPONSE PROJECT AND THAT ENVIRONMENTAL RESPONSE PROJECT RESULTS IN RESIDUAL CONTAMINATION REMAINING IN THE ENVIRONMENT IN CONCENTRATIONS THAT ARE SAFE FOR SOME, BUT NOT ALL, USES; OR AN ENGINEERED FEATURE OR STRUCTURE THAT REQUIRES MONITORING, MAINTENANCE, OR OPERATION, OR THAT WILL NOT FUNCTION AS INTENDED IF DISTURBED.”

EXAMPLE #1

GROUNDWATER CONTAMINATION REMAINS AT CONCENTRATIONS ABOVE ADEC CLEANUP LEVELS THAT MAY NOT POSE A CURRENT RISK, BUT WOULD POSE A FUTURE RISK IF THE GROUNDWATER IS BROUGHT TO THE SURFACE OR USED AS DRINKING WATER

IN THIS EXAMPLE, A COVENANT COULD BE ESTABLISHED STIPULATING THAT GROUNDWATER MAY NOT BE BROUGHT TO THE SURFACE OR USED AS DRINKING WATER WITHOUT WRITTEN APPROVAL FROM ADEC

EXAMPLE #2

A COMMERCIAL BUILDING IS LOCATED OVER SOLVENT CONTAMINATION THAT CAUSES VAPOR INTRUSION INTO THE BUILDING, WHICH CAN BE CONTROLLED BY PROPERLY OPERATING THE BUILDING HVAC SYSTEM

IN THIS EXAMPLE, A COVENANT COULD BE ESTABLISHED STIPULATING THAT THE HVAC SYSTEM MUST BE OPERATED WITHIN CERTAIN PARAMETERS TO CONTROL THE VAPOR INTRUSION RISK AND THAT ANY FUTURE CONSTRUCTION MUST INCLUDE EVALUATION AND MITIGATION OF VAPOR INTRUSION RISK

UECA IMPLEMENTATION

- ADEC HAS DEVELOPED COVENANT TEMPLATES AND BEGUN WORKING WITH RESPONSIBLE PARTIES TO ESTABLISH COVENANTS AT SEVERAL SITES
- REQUIRES ACCURATE LEGAL DESCRIPTIONS, TITLE SEARCH, GRANTOR/GRANTEE INFORMATION, CONCURRENCE OF ALL INTEREST HOLDERS, AND SUBORDINATION OF PRIOR PROPERTY INTERESTS SUCH AS MORTGAGES
- ON FEDERAL PROPERTY A NOTICE OF ACTIVITY AND USE LIMITATIONS (NAUL) IS REQUIRED, RATHER THAN A COVENANT

What do you do?
You Find this....



Call ADEC Spill Line!

IT'S THE LAW!
AS 46.03.755, 18 AAC 75.300, 75.325 and 18 AAC 78.200


REPORT OIL AND HAZARDOUS SUBSTANCE SPILLS

During Normal Business Hours
call the nearest response team office:

Central Alaska: Anchorage	(907) 269-3063 Fax: (907) 269-7648
Northern Alaska: Fairbanks	(907) 451-2121 Fax: (907) 451-2362
Southeast Alaska: Juneau	(907) 465-5340 Fax: (907) 465-5245
Alaska Pipeline: Fairbanks	(907) 451-2121 Fax: (907) 451-2362

Outside Normal Business Hours

Toll Free	1-800-478-9300
International	1-907-269-0667



Alaska Department of
Environmental Conservation
Division of Spill Prevention and Response
[www.dec.alaska.gov/spar/ppr/spill-
information/reporting](http://www.dec.alaska.gov/spar/ppr/spill-information/reporting)

Hazardous Substance
Any hazardous substance spill, other than oil, must be reported immediately.

Oil - Petroleum Products

To Water
♦ Any amount spilled to water must be reported immediately.

To Land
♦ Spills in excess of 55 gallons must be reported immediately.
♦ Spills in excess of 10 gallons, but 55 gallons or less, must be reported within 48 hours after the person has knowledge of the spill.
♦ Spills of 1 to 10 gallons must be recorded in a spill reporting log submitted to ADEC each month.

To Impermeable Secondary Containment Areas
♦ Any spills in excess of 55 gallons must be reported within 48 hours.


Additional Requirements for Underground Storage Tank Spill Reporting
Regulated Underground Storage Tank (UST) systems are defined at 18 AAC 78.005. Releases of heating oil tanks must be reported.
♦ You must report a suspected belowground release from a UST system, in any amount, within 24 hours (18 AAC 78.220(a)).
♦ You must report if your release detection system indicates two consecutive months of invalid or inconclusive results.
♦ If you observe unusual operating conditions, sudden loss, erratic dispensing (slow flow/no flow) or discharge to soil or water, report it to the UST Unit:
907-269-3055 or 269-7679

rev. July/2018

[https://dec.alaska.gov/spar/ppr/spill-
information/reporting/](https://dec.alaska.gov/spar/ppr/spill-information/reporting/)

Prevention Preparedness And Response Oversight

- a) PPR responder Rick O'Shea answers the spill line and takes down all of the information you tell him. The information is entered into the PPR Spills Database and assigned a spill number and assigned to PPR responder Earl E. Bird.
- b) Earl E. Bird determines that the owner of the junkyard, Chris P. Bacon, is responding adequately as he has hired a Qualified Environmental Professional who is communicating with Earl E. Bird on needed interim removal actions.
- c) Earl E. Bird sends Chris P. Bacon a state interest letter notifying him of his liability. While RFA manages billing for state oversight and answers any questions Chris P. Bacon has regarding the bills.

 THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Environmental Conservation
DIVISION OF SPILL PREVENTION AND RESPONSE
Contaminated Sites Program
410 Wroughton Ave., Suite 303
P.O. Box 111800
Juneau, Alaska 99811-1800
Phone: 907-465-3390 Fax: 907-465-5218
www.dec.alaska.gov

File: 1234.56.78910
Certified Mail, Return Receipt Requested
Article No. 1234567891011

Mr. John Doe
Company
12345 Main Street
Anchorage, AK 99501

Re: Contaminated Site Name
Hazard ID: 1234

Dear [RP CONTACT NAME],

**** STATE OF ALASKA NOTIFICATION - HAZARDOUS SUBSTANCE LIABILITY****

This notification letter is to advise you of your liability for the contamination identified at the Contaminated site located at 12345 Main Street in Anchorage. Alaska Statute (AS) Title 46 authorizes the State to respond to this pollution incident and to take appropriate action to minimize potential damage to human health, safety or welfare or to the environment. Under Title 46, any Responsible Party may be held financially responsible for any actions taken by the State.

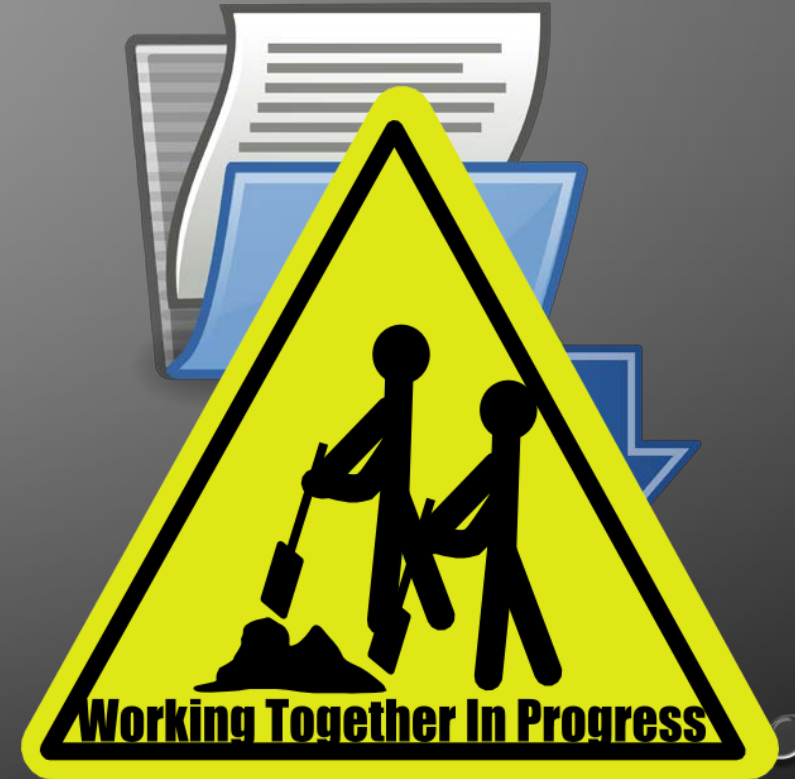
AS 46.03.822 (Strict Liability for the Release of Hazardous Substances) establishes who is financially responsible or liable for the investigation and cleanup of any release or threatened release of a hazardous substance. State records indicate that you meet one or more of the following criteria:

- ☐ owned or controlled the hazardous substance at the time of its release;
- ☐ own(ed) or operate(d) the property or facility from which the release occurred;
- ☐ own or operate the property at which the hazardous substance came to be located; or
- ☐ arranged for transport, disposal or treatment of hazardous substances that were released.

Site History and Background
This site became contaminated when...The [Site Name] site has been added to the ADEC contaminated sites database, which is accessible on-line at the following URL:
<http://dec.alaska.gov/Applications/SPAR/PublicMVC/CSP/SiteReport/1234>

Prevention Preparedness And Response Oversight

- d) Earl E. Bird works with Chris P. Bacon and the QEP Chris hired, Justin Thyme on immediate removal actions
- e) Unfortunately, the spill is bigger than they thought, and it needs long term management. Earl E. Bird determines it should be transferred to CS and writes a letter to Chris P. Bacon letting him know of the transfer.



Contaminated Sites Program Oversight

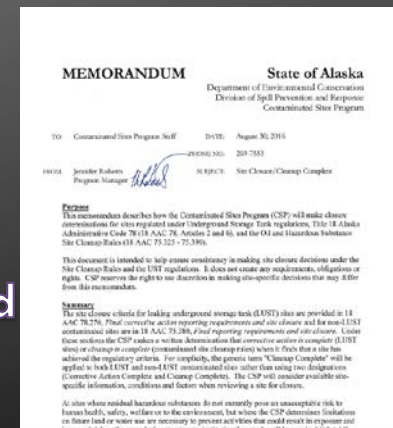
- 1) The junkyard is put onto Contaminated Sites Database and receives a Hazard ID number and file number. It is assigned to CS Project Manager (PM) Sandy Beech.
- 2) Sandy Beech sends a PRP letter to the owner of the junkyard, Chris P. Bacon reminding him of his liability and notifying him that the site has been entered in the CS Database. RFA continues to manage billing for state oversight and answers any questions Chris P. Bacon has regarding the bills.
- 3) Sandy Beech works with Chris P. Bacon and the QEP Chris hired, Justin Thyme on getting the site through Cleanup



The Cleanup Process under CS Oversight



- a) Justin Thyme writes a work plan to assess the site and submits it to Sandy Beech for her approval.
- b) Once the work plan is approved, the field work is conducted by Justin Thyme and his Qualified Environmental Sampler (QES) Al E. Gater.
- c) A report describing the field work is prepared by Justin Thyme and submitted to Sandy Beech for her review.
- d) Sandy Beech determines that the site has been fully characterized, and determines the site is eligible for cleanup complete with institutional controls.
- e) Sandy Beech writes a “closure letter” to Chris P. Bacon outlining the restrictions on the property.
- f) Chris P. Bacon agrees to the restrictions and a UECA covenant is placed on his property.



Questions?



Thank you!

Lisa Griswold
Environmental Program Specialist
ADEC SPAR CSP Brownfields
(907) 269-2021
Lisa.Griswold@Alaska.gov

Bill O'Connell
Environmental Program Manager
ADEC SPAR CSP
(907) 269-3057
Bill.oconnell@Alaska.gov

