

## LSRPs at Work – Tools of the Trade

2013 #1

This is the first of a series of articles by practicing LSRPs relating to practical and specific solutions for resolving regulatory or technical issues. This “Tools of the Trade” experience was contributed by LSRPA President, Ken Goldstein.

*If you have a case you want to share with the LSRPA membership, please contact us at (609-781-6051 or [sboyle@geiconsultants.com](mailto:sboyle@geiconsultants.com)) and include a brief description of the issue and solution or strategy you wish to share with your colleagues. We will get back to you regarding use of your information on the LSRPA web site. Thank you!*

The case involves an industrial establishment occupying a portion of a building, located on a larger property that was under contract for sale in the Meadowlands. The industrial establishment was one of two tenants within the building. Under its contract with the property owner, this industrial tenant was responsible for assuring ISRA compliance for its operations.

Kenneth Goldstein of Ransom Environmental was the LSRP retained by the tenant to conduct the PA/SI. Several AOCs were identified within the leasehold and readily addressed. Historic fill at the site was not included as an AOC, due to the existence of multiple tenants on the property. The LSRP issued the RAO for his client’s leasehold. The NJDEP subsequently determined that the RAO needed to include historic fill as an AOC. When it was explained by the LSRP that the new ISRA regulations include a new definition for multi-tenant situations, excluding historic fill (and other conditions), further review by NJDEP management was initiated. That review resulted in an affirmation of the original NJDEP opinion that historic fill should be included as an AOC as it has always been considered an AOC as part of an ISRA transaction.

The LSRP prepared a letter to NJDEP ([click here to view](#)) which provided a detailed regulatory analysis supporting Mr. Goldstein’s position that it should not be included as an AOC. After a considerable delay, NJDEP concurred. The LSRP was asked, however, to reissue the RAO with the following Notice:

### *Known Onsite Contamination Source Not Yet Remediated*

*Contamination remains onsite due to historic fill and is not being addressed by this Response Action Outcome (RAO). In the event an Entire Site RAO is to be issued, the historic fill must be remediated in accordance with N.J.A.C. 7:26E-5.4.*

The conclusion seems to be that property owners and single tenant leaseholds undergoing ISRA compliance activities will still have to address historic fill as an AOC, but multi-tenant leaseholds do not. **If you have a similar circumstance of a multi-tenant facility with historic fill, given the site-specific nature of facts and the ever-changing nature of the NJDEP decisions on this topic, we recommend that you speak with an NJDEP representative before proceeding.**

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