



DECD-DEEP Forum

Proposed Release-Based Cleanup
Regulations

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up

Welcome & Introductions

Matt Pugliese, Deputy Commissioner, DECD

Emma Cimino, Deputy Commissioner, DEEP

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up

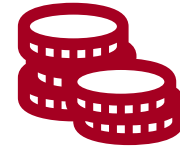


CONNECTICUT'S TRANSITION TO RELEASE-BASED CLEANUP

Presented by: **Graham Stevens, Chief of Bureau of Water Protection and Land Reuse**
Brendan Schain, Legal Director for Environmental Quality Branch



BENEFITS OF REPLACING THE TRANSFER ACT



Private Market Drives Investigations

Banks and buyers want to know environmental conditions of properties



Reduce the Number of DEEP controlled cleanups

DEEP will empower LEPs far more than before to clean up releases



Multi-Tier Cleanup System

Lower risk releases addressed quickly, without DEEP touchpoints

TRANSFER ACT – STALLED CLEANUPS AND REDEVELOPMENTS

Transfer Act stigma has left many properties behind

Total number of sites (approx.)

3,000

Average years to clean up (approx.)

7

(completed sites, otherwise unlimited)

Number of completed cleanup (approx.)

300

Average NEW sites per year (approx.)

200

Entered Cleanup Program 1986





Entered Cleanup Program 1986

Former Cooper Industries
Brooklyn





Entered Cleanup Program

1987 Former Bristol Babcock Company
Waterbury

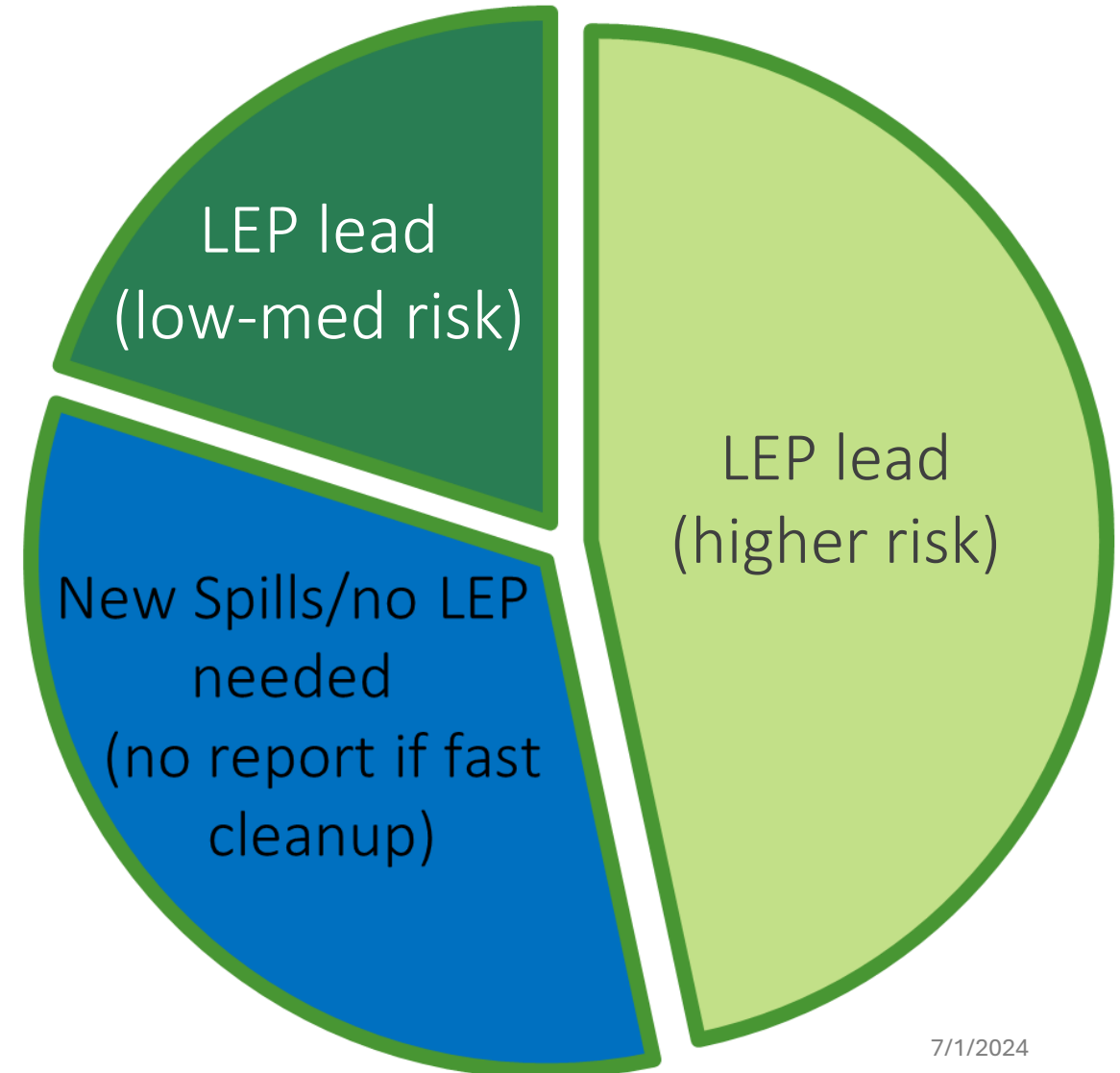
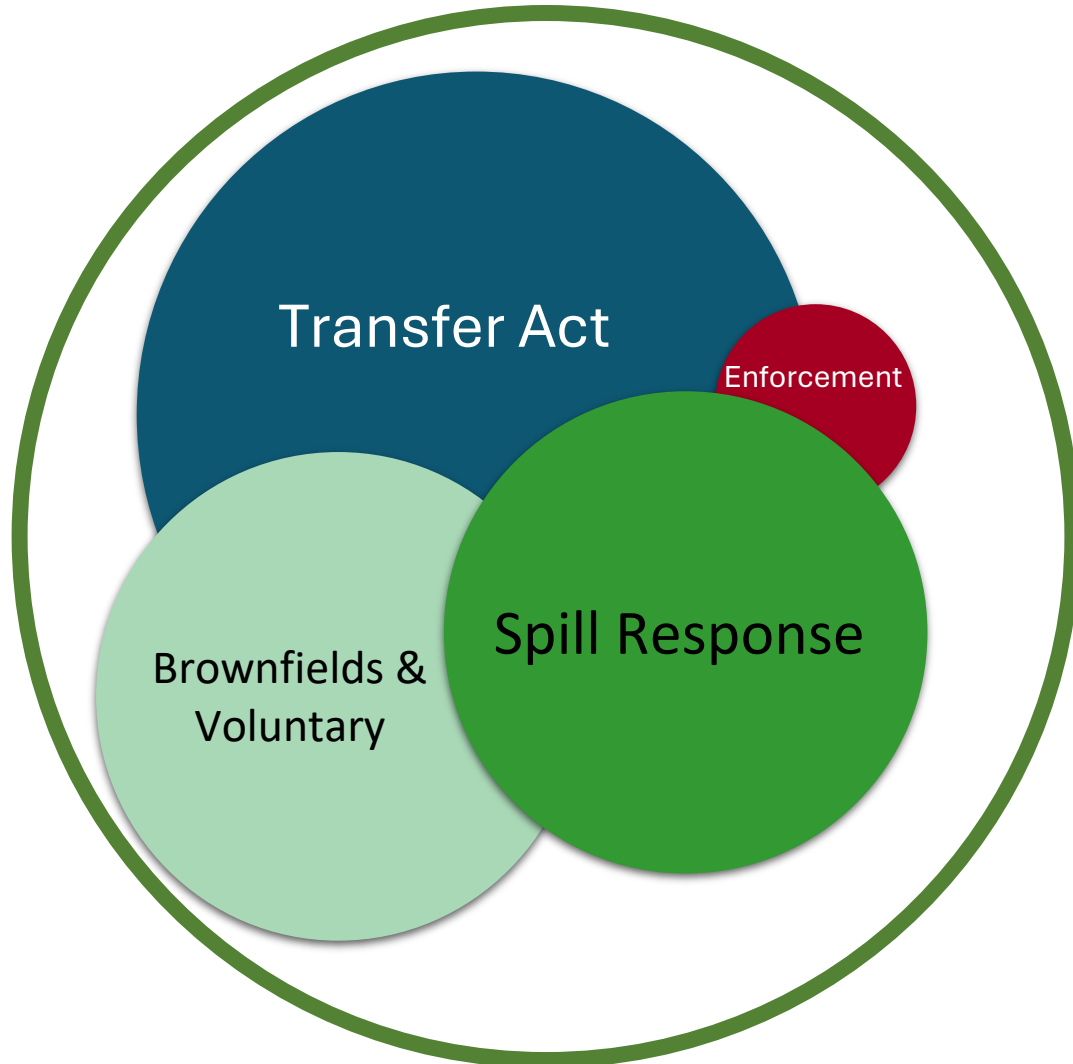
Entered Cleanup Program

1993

Former Fleisher Finishing
Mill Street, Waterbury



SCOPE OF CLEANUP UNIVERSE – BEFORE AND AFTER



HOW ARE THE RELEASE-BASED CLEANUP REGULATIONS ORGANIZED?

Sections fit into 4 general categories:

First Year

- Discovery
- Reporting
- Characterization
- Immediate Action

Longer Term

- Tiers

Cleanup Standards

- General
- PEPs & Home Heating Fuel
- Soil
- Groundwater

Administrative

- Verifications & Certifications
- Closure documents
- Audits

DISCOVERY OF AN EXISTING RELEASE

- The Transfer Act is a driver of **investigations**, the Release-Based Cleanup Program is a driver of **cleanups to a unified standard**
- The Release-Based Cleanup Program imposes no obligation regarding a release until it is “**Discovered**”
- The market will determine when, and to what extent, investigation is required



DISCOVERY, CON'T.

- Discovery of an existing release occurs when a person who owns or has long term possession and control of a parcel of real property obtains **knowledge** of a release
- Knowledge means “a person knows of a release because such person is aware of one or more of the types of information specified” in the RBCRs
 - Sampling results
 - Observed NAPL
 - Multiple Lines of Evidence

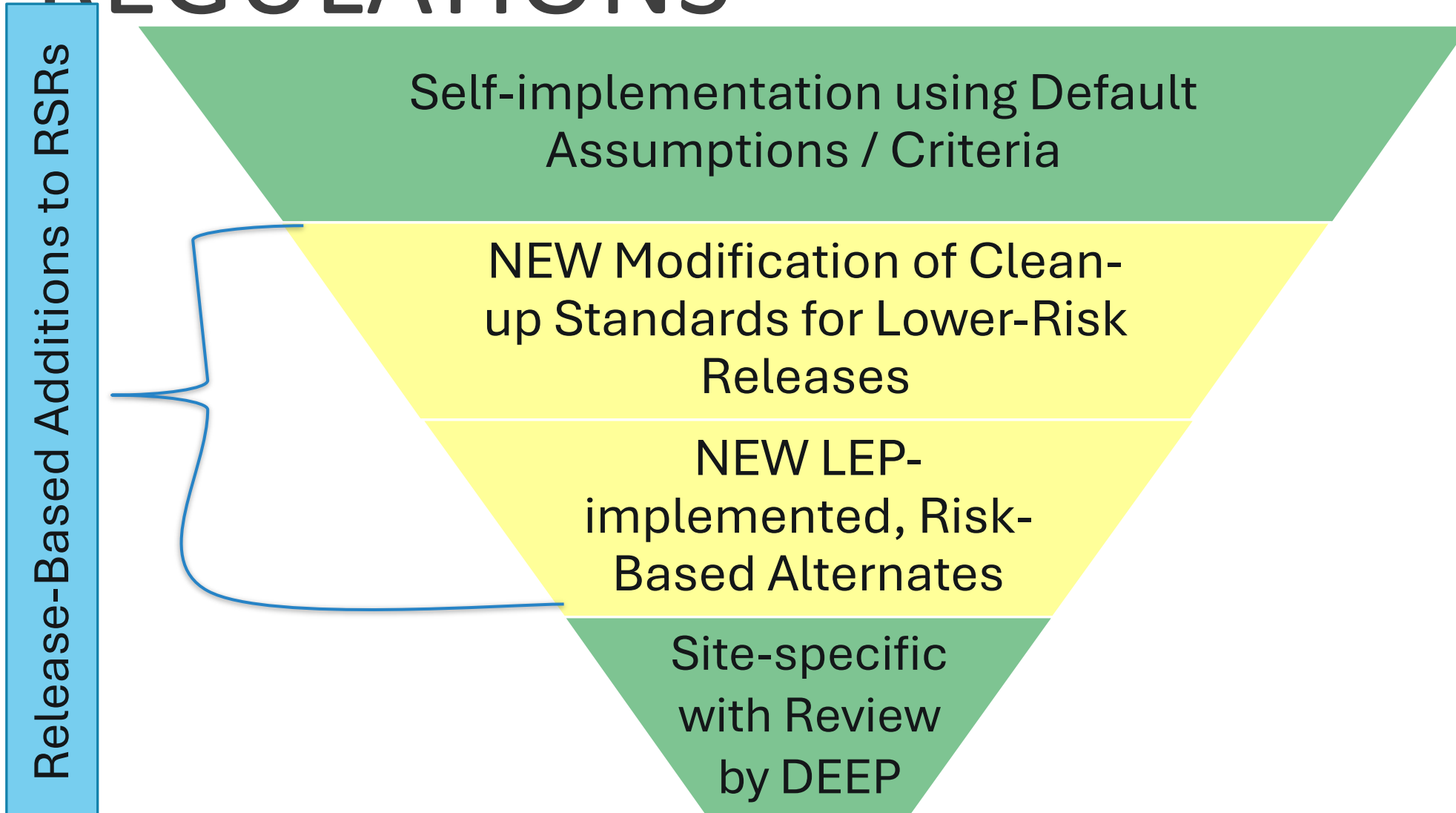


DISCOVERY, CON'T.

- “A release shall not be deemed discovered if the only evidence of such release is data available or generated before the date when regulations are first adopted . . .”
- Releases must be remediated if they are found during the investigation of piece of property, not an investigation of **filing cabinets**.



UPDATES TO CLEANUP REGULATIONS



NEW “OFF-RAMPS”

- “**Walk away**” background numbers for certain common, naturally-occurring metals
- Potential buyer **due-diligence** can usually be conducted without “discovering” releases – unlike other states like New Jersey
- No reporting of discovered historical releases if cleaned up in **first year**
- New, less stringent cleanup numbers for:
 - Managed **Multifamily** Residential
 - **Passive** Recreation
- Expedited “Permit by Rule” Approach for that doesn’t require an EUR (institutional control) for:
 - Soil **under paving or concrete** (parking lots, roads, building foundations)
 - “**Historically impacted material**” (fill typically found in urban areas)

ADDITIONS TO THE SOIL CLEANUP STANDARDS

DIRECT EXPOSURE CRITERIA

- **Managed Multifamily Residential DEC**

A release may qualify if the parcel has more than **4 residential units** and the parcel and residential units are managed by an association or professional property management company

Will require an EUR prohibiting the disturbance of soil by residents and active recreation without impervious cover

- **Passive Recreation Residential DEC**

Can be cleaned up to the passive recreation DEC if it is:

(1) subjected to an EUR or

(2) has a passive recreation **conservation easement**

Examples of passive recreation include: hiking trails, bike paths, horse trails

USE OF PERMITS BY RULE

HISTORICALLY IMPACTED MATERIAL

Applicability

- Industrial/commercial sites only with confirmed presence of historically impacted material

Notification

- A form prescribed by the Commissioner to notify the Department an owner is seeking cover under the permit by rule

Requirements

- Maintain Industrial/Commercial use
- Cannot relocate historically impacted material parcel except as allowed by cleanup standards
- Notify any new owner or interest holder of the permit by rule
- Record an affidavit of facts on the land records
- Submit a closure report
- Conduct inspections every 5 years to demonstrate compliance

MANAGING SOIL BENEATH PARKING LOTS, ROADS AND BUILDINGS

Inaccessible soil at a release area is not required to be remediated to the direct exposure criteria if the soil is located beneath concrete or bituminous concrete used for parking or vehicle travel or below a building foundation.

Similar administrative requirements as the historically impacted material permit by rule

- submit document to Commissioner that verifies compliance,
- record an affidavit of facts on the land records,
- inspect every 5 years and report to the Commissioner on condition of concrete

TYPES OF AUDITS AND PROCESS

Type	What	Notice of Audit	Possible Outcomes	Timeline
Screening	Review of one release record	⊘	Accept (no written notice) Reject ↻ Focused audit ↻ Full audit*	Complete: 180 days
Focused	Review of one release record or issue identified during screening audit	☑	Accept Reject ↻ Full audit*	Initiate: 180 days Complete: 18 months
Full	Review of any or all release records AFTER submission of a closure report	☑	Accept Reject	Initiate: 180 days ** Complete: 2 years

**A full audit may be initiated only after closure documentation has been received*

***Unless continued from a focused audit*

LIABILITY AFTER SALE

Sec. 22a-134qq. Release to land and waters of the state. Prohibition. Violation. **No person shall create or maintain a release to the land and waters of the state in violation of any provision of sections [22a-134rr](#) to [22a-134vv](#), inclusive.**

Sec. 22a-134rr. Reporting and remediation of certain releases. Requirements. Internet database of reports and verifications. **(a) Any person who creates or maintains a release to the land and waters of the state on or after the date when regulations are first adopted pursuant to section [22a-134tt](#) shall, upon discovery of such release:**

- (1) Report the release, if such a report is required by the regulations adopted pursuant to section [22a-134tt](#), and**
- (2) remediate any release to the standards identified in regulations adopted pursuant to section [22a-134tt](#).**

HYPOTHETICALS

1.


Land owner discovers a release, remains in compliance, sells parcel during cleanup

2.

Land owner never discovers a release, sells parcel, next property owner investigates and discovers a release that occurred years in the past

3.

Land owner discovers a release at 5x the cleanup standards, does not report or remediate the release



We are happy to take your questions
<https://portal.ct.gov/DEEP/Remediation--Site-Clean-Up/Comprehensive-Evaluation-and-Transformation/Release-Based-Clean-Up-Program-Regulation-Development>

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up



WINSTANLEY ENTERPRISES

DECD-CTDEEP FORUM TRANSFER ACT PROJECT CASE STUDIES

JUNE 21, 2024

Winstanley Enterprises is a vertically-integrated commercial real estate investor, developer and operator with an existing portfolio that includes retail, warehouse, manufacturing, parking, land, medical office, and life science properties across New England and the southeast

1990

FOUNDED

30

AVG. MANAGEMENT TEAM
YEARS OF EXPERIENCE

60+

EMPLOYEES IN
3 OFFICES

OVER 130

PROPERTIES ACQUIRED
AND DEVELOPED
TOTTALLING 23MSF

14.4M

SQUARE FEET CURRENTLY
OWNED AND MANAGED



1.5M
SQUARE FEET



2014
YEAR BUILT



100%
LEASED AND OCCUPIED
DISTRIBUTION CENTER



The Transfer Act was triggered by tenant shipping hazardous waste in compliance with the law

BACKGROUND

- Acquired in 2023 as a fully-leased distribution center
- Transfer Act triggered by:
 - generation of hazardous waste, properly disposed in accordance with applicable law, as documented by manifests
- Phase II testing was conducted for pesticides and PFAS because of the following identified history:
 - historical farmland use (pesticides)
 - a car fire in which AFFF foam was used to extinguish the fire
- Closing was delayed, complicated, and costly as a result of the environmental findings

COMPLICATIONS

- Updated PFAS remediation standards were pending at the time of acquisition, and have yet to be fully adopted by CTDEEP

UNDER A RELEASE-BASED SYSTEM

- The tenant's shipping manifests and historical use would not have triggered an environmental review
- The AFFF foam release would have been discovered during a routine Phase I, regardless of whether the seller had actual knowledge of the event, and required additional Phase II testing limited to the areas of the AFFF release
- Closing may still have been delayed, complicated, and costly, but our testing scope (and costs) would have been less



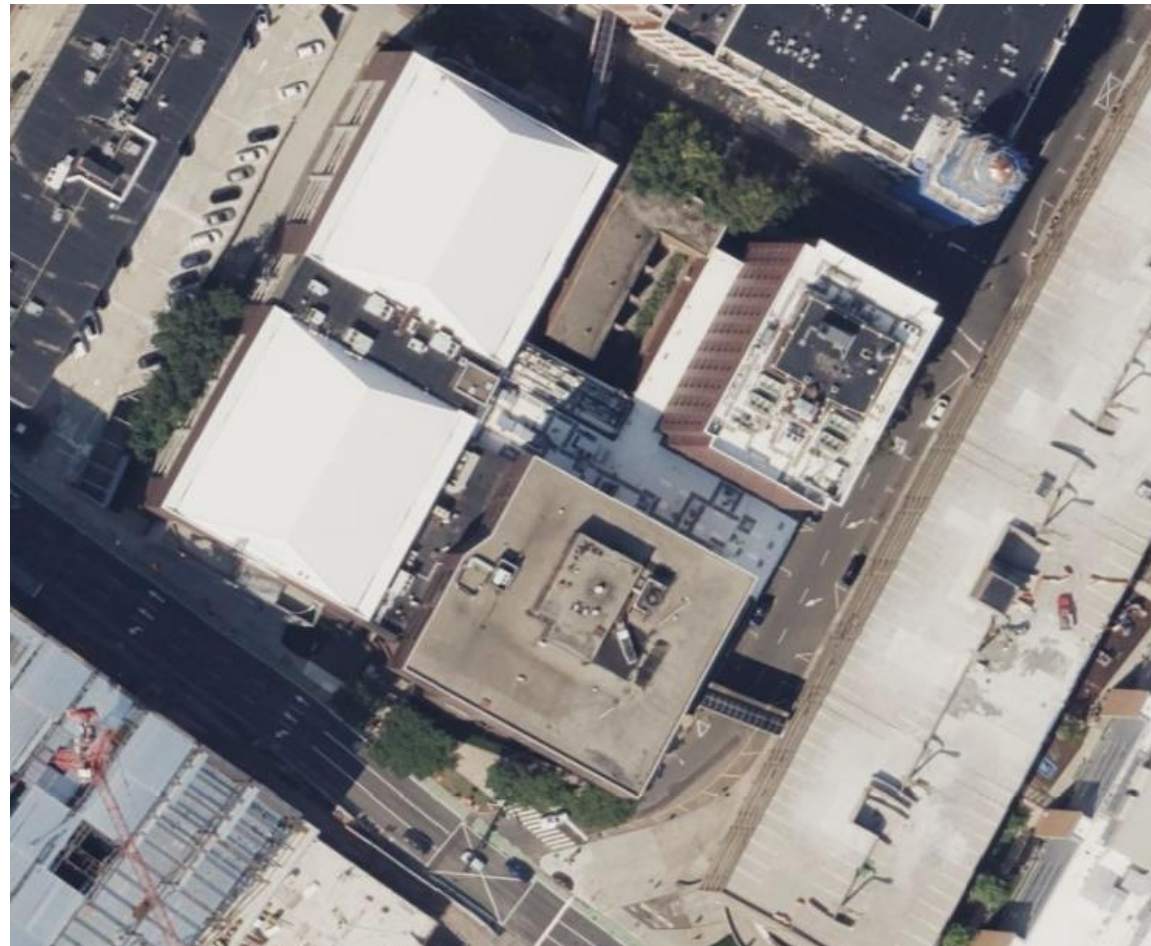
462k
SQUARE FEET



1977
YEAR BUILT



100%
LEASED AND OCCUPIED
MEDICAL OFFICE + GARAGE



The Transfer Act was triggered by
generation of hazardous waste

BACKGROUND

- Acquired in 2020 and leased to Yale University
- Transfer Act triggered by generation of hazardous waste, properly disposed in accordance with applicable law, as documented by manifests
- Phase II testing was conducted surrounding abandoned USTs and across the entire site, including loading docks, below sidewalks, and within the building's mechanical rooms
- Testing resulted in many findings related to urban fill
- Significant costs were incurred for site-wide testing and monitoring

UNDER A RELEASE-BASED SYSTEM

- The tenants' generation of hazardous waste, as identified by manifests, would not have triggered the need for site-wide testing
- Testing and remediation would have been limited to the USTs without closure reports resulting in significant cost savings
- No additional remediation required with the Permit by Rule for urban infill properties



Case Study – Ironworks

South Norwalk, CT



History / Context

- 1.9-acre site located at 100 North Water Street (formerly 20 North Water Street)
- 1868 - 1876 Norwalk Lock Company renamed to Norwalk Iron Works
 - Manufacturer of world's first multiple stage air compressor
- 1899 new building built
 - Including electric cranes and modern machine tools
- 1938 Great Depression causes sale to The Norwalk Company
- 1977 increased production leads to additional 15,000 SF
- 1994 property sold to North Water Street LLC
- 2007 property sold to Tarragon LLC
- 2009 property sold back to North Water Street LLC
- Significant environmental assessments from 1993 - 2012
- 2012 all buildings demolished to make way for redevelopment of The Ironworks mixed-use development



Redevelopment

- Construction completed in 2015
- \$40M Total Development Cost
- 109 Residential Apartment Homes
- 21,000 SF of ground floor retail / office uses
- Covered garage, 400 spots



Transfer Act & Mitigation Measure

Transfer Act

- Based on Phase I Environmental Site Assessment, property met definition of an "establishment" due to historic waste generation at the site by the Norwalk Company
- Triggered site-wide environmental characterization, Remedial Action Plan (RAP) subject to review and approval by DEEP
- Seven Areas of Concern (AOC) identified:
 - Contaminated Soil - concentrations of compounds identified exceeded the RSR criteria (lead, petroleum products and metals)
 - Contaminated groundwater - low levels of VOCs (volatile organic compounds) were detected

Engineered Controls (EC) and Environmental Land Use Restriction (ELUR)

- EC Variance Request proposed the use of EC outside the proposed building footprints
- Render contaminated soils exceeding the Residential Direct Exposure Criteria inaccessible to direct human contact
- EC consist of textured concrete, concrete, asphalt, artificial turf, brick pavers, crushed stone, and vegetative covers.
- The cover materials underlain by a combination of topsoil, clean fill and gravel and geotextile fabric.
- Sub-Slab Venting System below building to prevent gases from entering building
- The EC Variance Request includes routine inspections of the cover materials, an inspection and maintenance plan, financial assurance, and recording an ELUR.
- ELUR submitted to the Connecticut Department of Energy and Environmental Protection (DEEP) for compliance and recorded on property records.

Groundwater Monitoring

- Detections of Extractable Total Petroleum Hydrocarbons (ETPH) in specific locations.
- Remedial Action Plan called for quarterly post-remediation monitoring that continues today.

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up

Changes in the future state:

200 Old Iron Ore Road, Windsor CT

- Generation of hazardous waste would not create any obligation to conduct a site-wide investigation
- Buyer, seller, and lender determine the areas to be investigated and the type of substances to look for, not the Department's Site Characterization Guidance Document.
- "The application of . . . pesticides consistent with their labeling" is not a release

Changes in the future state:

Temple Medical Center, New Haven

- Urban fill can be managed in place using a PERMIT BY RULE (excavation and an expensive and time consuming EUR is not required)
- Post-remediation generation and disposal of hazardous waste will not trigger a requirement for a new investigation at time of next transfer

Changes in future state:

1 North Water Street, South Norwalk

- Polluted soil can be managed using inaccessible soil **Permit by Rule**
 - -or-
- “**Management multi-family**” direct exposure criteria could be used in place of current residential criteria

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up

Moderated Discussion

- **Frank Caico**, Executive VP of Development, Spinnaker Real Estate Partners, LLC
- **Adam Winstanley**, Owner, Winstanley Enterprises, LLC
- **Eileen Buckheit**, Director of Development, Town of East Hartford
- **Thomas Hyde**, Interim Director, Waterbury Development Corporation
- **Graham Stevens**, Bureau Chief, Bureau of Water Protection and Land Reuse, DEEP
- **Brendan Schain**, Legal Director, Environmental Quality Branch, DEEP
- **David Steuber**, Chief of Staff, DECD

Agenda

01 Welcome

Introductions

Meet Your Panel

02 DEEP Overview of RBCR

What are Release-Based Cleanup Regulations?

03 Presentation

Transfer Act Project Case Studies

- Winstanley Enterprises, LLC
- Spinnaker Real Estate Partners, LLC

04 Presentation

Impacts of RBCR

- DEEP

05 Moderated Discussion

Q&A with David Steuber, DECD Chief of Staff

06 Q&A Session

Wrap-up

Contact Us

Brownfields

www.ctbrownfields.gov

E: brownfields@ct.gov

P: 860.500.2395

A: 450 Columbus Blvd, Suite 4
Hartford, CT 06103

DEEP

www.portal.ct.gov

E: DEEP.Cleanup.Transform@ct.gov

P: 860-424-3705

A: 79 Elm Street
Hartford, CT 06106