

The NES and Questions You Were Too Afraid to Ask

– Reprising Conference Panel Discussion

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HAIL no!

- Single exceedance or “ghost” contaminants?
- Are lead and asbestos evidence of HAIL activity?
- Cat H migration ...*in sufficient quantity that it could be a risk...?*
- Cat I intentional or accidental release.....*in sufficient quantity...?*
- Domestic wastewater treatment?
- Secondary HAIL ? ~meaning multiple or simply another bite at the cherry?

Common deficiencies noted by TAs:

- PSI/DSIs identify HAIL activities where none appear to exist. Examples:
 - Older houses that may/may not have lead-based paint or asbestos in deteriorated condition
 - Family-sized (not commercial) gardens or orchards
 - Small fire pits/burn drums
 - Vague “potential contamination sources”
- HAIL activity must be “more likely than not” (>50% probability)
- Actual or potential sources of reported contamination should be identified

Case Study PSIs

- Domestic boat deteriorated paint – TBT? F5 - Port activities /marine vessel maintenance?
- Small stockyards A8 - Sheep dip A8?
- Rusted steel identified as G4 - scrap yards?
- Buildings adjacent – E1 asbestos present and deteriorated?
- Earth dam – various adjacent industrial activities migration into stormwater?
- Fill – but what sort?

Before you try to fit it into a category, ask: What lines of evidence as to presence, scale, risk?

PSI vs. DSI

- Automatic default to a DSI instead of a PSI with preliminary sampling may be doing your client a disservice
- PSI used to conclude the site is not covered by the NESCS (i.e. no history of HAIL activity)
- PSI used to identify subdivision or change in land use as a permitted activity [Regulation 8(4)]
- Preliminary sampling can allow removal of small quantities of soil as a permitted activity prior to submission of the PSI
- DSI saves money when you know the site is likely to be HAIL and contaminated
- Start with the intent to perform a PSI with sampling and convert the report to a DSI after additional sampling if the results require it

- Removal of contamination as a P.A.?
 - How much is too much?
 - Removal of surface materials and deposits under SMP not as HAIL?
 - Role of Unexpected Discovery in managing small deposits

- Background vs. ambient concentrations

PSI vs DSI Case Study

- DSI done on a site with no identified HAIL activity but possible lead-based paint and asbestos on structures
- No asbestos testing done
- XRF survey and confirmatory laboratory analysis of soil around structures showed lead above background but below human health or environmental limits
- Determined that a HAIL activity was more likely than not to have been undertaken and subdivision was a controlled activity
- Consent requires a Site Management Plan to manage no contamination
- A PSI with the same degree of sampling would have found the NESCS did not apply

Other topics for discussion

- Who qualifies as a SQEP?
 - Are reports being certified with sufficient information on bona fides?
 - Are reports being reviewed by qualified SQEPs?
- Background vs. ambient concentrations (DDT/OCP's, PAH, asbestos?)
- What is High Density and how is this determined?
- Do you have to make any submission to 'claim' PA or do you just get on with it?
- And if DSI shows no contamination but above BG is controlled consent required?

And the future ?

- Mature attitude needed on application and critique of NESCS/HAIL/guidance
 - Open communication
 - Evidence based change (not personalities)
 - Disagree – *but don't be disagreeable!*

HAIL guidance coming out EOY/Early 2020? HAIL itself/NESCS???

- Get involved. Work with/for your industry. CLM Sector Group is here to make a difference!

Michelle Begbie EW (Chair), James Court BP, Paul Walker T&T, Rachel Rait DoC, Sarah Smith EnviranZ, Timothy Dee AURECON, James Corbett Auckland Council; Supported by Nic Quilty; Wayne Plummer EnviroNZ (Board)