

Revised July 14, 1995

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

SECRETARY'S POLICY AND PROCEDURE MEMORANDUM (PPM) NO. 48

SUBJECT: Underground Storage Tank (UST) and Contaminated Site Policy

EFFECTIVE DATE: April 30, 1993

INSTRUCTIONS: This memorandum supersedes all other memoranda and manuals.

1. The Director of Engineering Design and Contract Management is responsible for coordination of the Department of Transportation and Development's policy regarding underground storage tanks and contaminated sites.
2. All sections within the Department are encouraged to investigate carefully within the scope of their individual functions and responsibilities, for signs of underground storage tanks (UST) and possible contamination during the various field reviews and inspections in connection with plan development. If signs of contamination/UST are encountered, a UST/Contaminated Site Information Form will be completed and furnished to the Materials and Testing Section. A copy of the form is attached and can be used as a reference guide for types of situations and improvements, which might indicate the presence of contamination and/or underground storage tanks.
3. The Department's policy regarding the handling of possibly contaminated sites will be divided into the following four categories or phases of activity:
 - a. Pre-Design.
 - b. Design.
 - c. Acquisition.
 - d. Construction.
4. PRE-DESIGN.
Immediately upon beginning the development of a project, representatives of the respective Design Section(s), Materials and Testing Section, Environmental Section, and Real Estate Directorate will be advised. The Environmental Section will study the scope of the project in relation to available aerial photographs, historical data, and other available information to determine possible contaminated sites. Their investigation will include all alternate alignments and may include infrared photography.

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- b. If a consultant will perform line- and grade-studies, the respective Design Section(s) will contact the Environmental Section and the Materials and Testing Section during contract preparation for input, to ensure that adequate investigation is done during the studies by the consultant to identify possible contaminated sites. Adequate investigation may involve infrared photography, which may be included in the line-and-grade consultant contract or contracted for separately.
- c. Preliminary site inspections by the respective Design Section(s) should include a representative of the Environmental Section to ensure that signs of possible contaminated sites are recognized. If signs of contamination are found during preliminary site inspections, the UST/Contaminated Site Information Form will be completed and furnished to the Materials and Testing Section.
- d. During project surveys, the Location and Survey Section will note on the field roll the location of air vents, pump islands, old filling station signs or equipment, above ground tanks, garbage dumps, drums, or other evidence of underground storage tanks, or possible contamination. If such evidence is found, the Environmental Section, the Materials and Testing Section, and the Real Estate Directorate will be notified by providing them copies of the applicable portion of the field roll, and a UST/Contaminated Site Information Form will be completed by the Location and Survey Section and furnished to the Materials and Testing Section.
- e. Upon receipt of a UST/Contaminated Site Information Form, the Materials and Testing section will inspect and investigate the site, perform testing if necessary, and determine if contamination is present. If no contamination is found, the normal project development process will continue to the Design phase.
- f. The Materials and Testing Section may perform additional testing to further define the limits of contamination or to determine if an assessment will be required by DEQ. If an assessment is required, the Materials and Testing Section will then obtain approval from the Director of Engineering Design and contract Management to contract with an assessment firm to continue the assessment process to determine the full extent of the contamination. Once the full extent of the contamination is known, the Environmental Section, the respective Design Section(s), and the Real Estate Directorate will be notified.

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- g. An estimated cost of clean up will be developed by the Materials and Testing Section, in coordination with the Contracts and Specifications Section.
- h. Decisions regarding alignments where contamination has been found will be made by the Director of Engineering Design and Contract Management, taking into consideration degree of contamination (hazardous, non-hazardous, etc.), possible alternatives, priority of and need for project, cost of clean-up, consequences and cost of avoidance, and other factors which may arise on a project by project basis.

5. DESIGN

- a. Personnel conducting plan-in-hand and design-stage site inspections will look for signs of previously undiscovered possible contaminated sites. If an indication of possible contamination is discovered, a UST/Contaminated Site Information Form will be completed and submitted to the Materials and Testing Section for handling as described above.
- b. If contamination is found to be present on the project the Director of Engineering Design and Contract Management will make the decision as to what direction the development of the project should take. His decision will be based on such factors as degree of contamination (hazardous, non-hazardous, etc.), possible alternatives, priority of and need for project, cost of clean-up, consequences and cost of avoidance, and other factors which may arise on a project by project basis.

6. ACQUISITION

- a. When contamination is discovered during pre-design or design phases of the project, but the decision is made to acquire the contaminated property for the project construction, the Real Estate Directorate will take the necessary steps to notify the owner of the contaminated property that he/she is responsible for clean-up. Hopefully, by the time the acquisition process commences, the clean up will be complete and the Department can purchase a clean site.
- b. In those instances where the presence of contamination does not become known until after definite alignment has been chosen or design has been completed, the Real Estate Directorate will adhere to the following policy and guidelines:

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- (1) As soon as previously unknown contamination is suspected, a UST/Contaminated Site Information Form will be furnished to the Materials and Testing Section. Once the results of the site investigation and site assessment (if necessary) are made known by the Materials and Testing Section, the Real Estate Directorate will obtain a cost of clean-up from the Materials Section and the Contracts and Specifications Section, and will then proceed as set forth below in paragraphs (3) through (7).
- (2) If the extent of contamination and cost of clean up is already known, and attempts to have the clean-up performed by the property owner have failed, the Real Estate Directorate will proceed as set forth below in paragraphs c, d, e, f, g, and h.
- (3) A committee, chaired by the Director of Real Estate, will be formed including, but not limited to, representatives of the following:
 - (a) FHWA (if project Federal participating in R/W or construction).
 - (b) Legal.
 - (c) Materials and Testing Section.
 - (d) Respective Design Section(s).
 - (e) Environmental Section.
 - (f) Real Estate Directorate.
 - (g) Contracts and Specifications Section.
 - (h) Construction Division.
- (4) The committee will meet as soon as possible. Information to be developed for, and discussed during, this meeting is as follows:
 - (a) Cost and nature of clean-up.
 - (b) Type of ownership (residential or commercial).
 - (c) Land usage and appraised value.
 - (d) Source of contamination.

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- (e) Party responsible for the contamination.
 - (f) Part contaminating product plays in operation of the property.
 - (g) Current owner's profit from contaminating activity.
 - (h) Status of continued legal usability of the site in its current contaminated condition.
 - (i) Scheduled letting date, size, type, and cost of project.
 - (j) Impact of delayed letting of project.
 - (k) Possibility of clean up cost recovery through legal action.
- (4) Possible options to the Department in handling the contamination are as follows:
- (a) Department may enter into a separate contract with an environmental remediation firm.
 - (b) Site clean-up specifications may be included in the proposal and contract for the project.
 - (b) Department may request that DEQ take legal action against the property owner to force a clean up of the property prior to acquisition.
 - (c) Site clean up may be performed by the owner. One possible course of action where clean-up will be handled by the owner is for the cost of clean-up to be deducted from just compensation, held in escrow, and released to the owner upon receipt of sufficient documentation that the clean-up is completed.
- (5) The decision reached by the committee as to the best method of handling the clean up of the contamination will be documented, and if there is Federal participation in the project, concurred in by FHWA prior to proceeding. However, if FHWA does not concur in the decision, the Director of Planning and Design may recommend to the Secretary that the Department proceed with State funds, if that course of action is in the best interest of the Department.

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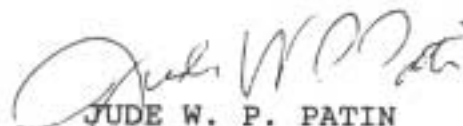
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- (6) It will be the responsibility of the Real Estate Directorate to immediately notify the Emergency Services Coordinator of the purchase of any underground storage tanks, in order to provide for timely registration with DEQ of tanks owned by the Department.
- (7) The respective Design Section(s), Contracts and specifications Section, and Materials and Testing Section will be advised in writing of the decision of the committee, so that the contract proposal and construction plans reflect an accurate status of the site. When the site clean-up work is included in the construction plans and proposal, the specifications will provide for the contractor being responsible for obtaining any necessary permits prior to actual site clean up.

7. CONSTRUCTION

- a. For any unknown tanks or possibly contaminated sites located during construction, construction activity limited to the immediate vicinity of the possible contamination will be stopped. The Materials and Testing Section will be contacted immediately for guidance. The site will be tested either by the Materials and Testing Section or an approved subcontractor. If contamination is found, the limits will be identified, treatment methodologies proposed, and the actual site clean up done by the contractor (or an approved subcontractor). Testing, clean up, and reporting by the contractor will be coordinated through the Materials and Testing section. This work will be by plan change to be paid by extension of items in the contract; otherwise payment will be by force account as outlined in the Standard Specifications.
- b. In cases where the contractor fails to follow the guidelines of the Materials and Testing Section, and subsequently causes or increases harm or damage to the environment, then all resulting fines and clean-up costs will be the responsibility of the contractor.
- c. Contract proposals and specifications will include the above provisions relating to the eventuality of discovering possible contamination during construction, as well as the liability of the contractor for fines and clean-up costs resulting from carelessness or failure to follow the guidelines of the Materials and Testing Section.
- d. The Legal Division will determine the recoverability of clean-up costs and the advisability of legal action against previous owners.


JUDE W. P. PATIN
Secretary