



# Navigating the RRC's Voluntary Cleanup Program & Other RRC Cleanup Programs

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# Agenda



- VCP Overview
- Property Eligibility
- Site Enrollment: RRC or TCEQ VCP?
- Application/Approval Process
- Required Documents
- Oversight Fees
- VCP Examples
- State Managed Cleanup Program
- State Funded Plugging Program

# What is the VCP?



The Texas VCP provides administrative, technical, and legal incentives to encourage the cleanup of contaminated sites in Texas.

Both the RRC and TCEQ have this program.

# Does your Site belong in RRC or TCEQ VCP?



- An oil and gas attorney and/or professional environmental consulting firm can help in determining this
- Refer to the Memorandum of Understanding
  - 16 Texas Administrative Code § 3.30
  - RRC and TCEQ work cooperatively on cleanups that involve waste from both industrial and oil and gas sources.

# Program Eligibility



- Activities on the property are under the jurisdiction of the RRC
- The applicant did not cause or contribute to the contamination
- No unresolved federal or state enforcement on the property
- Applicant and landowner agree to cooperate with RRC

# Application and Approval Process



Application “package” required documents:

- Signed VCP Application and Agreement (RRC web site)
- Application fee (\$1,000) & surcharge (\$1,500)
- Phase I Assessment of entire property that is enrolled
- Metes and bounds property description

Approval Process by RRC VCP staff:

- Review all documents and reports submitted
- Conduct legal review to ensure applicant did not cause or contribute to contamination
- Approval or denial letter must be issued to applicant within 45-days of receiving the full application package

# Closure Options within VCP



- Applicant chooses their own closure strategy at time of applying based on desired future use of property or site-specific conditions on the affected property.
- Applicant must demonstrate that the closure strategy will be protective of human health and the environment as laid out in the Texas Risk Reduction Program.
- Applicant can change the closure strategy at any time, but this does require resubmitting the application and agreement to reflect the change.

# Unrestricted Closure Options



- Cleanup to background to receive a Final Certificate of Completion (COC) without conditions.
  - Mainly intended for metal and chloride contamination
- Risk-based cleanup to residential levels to receive a Final COC without conditions.



# Restricted Closure Options



Risk-based cleanup to residential or commercial/industrial levels to receive a Final COC relying on permanent institutional controls. Describe the type of institutional control:

- Land use restriction
- Groundwater use restriction
- Land use and groundwater use restriction

# Restricted Closure Options



Risk-based cleanup to residential or commercial/ industrial levels, which is conditional upon maintaining institutional and/or engineering controls. Describe the type of engineering control(s):

- Engineered Cap
- Ventilation Systems
- Others

# Cleanup Requirements



- Determine if the site is considered “sensitive”:
  - presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, streams, dry or flowing creeks, irrigation canals, stock tanks, and wetlands; proximity to natural wildlife refuges or parks; and/or proximity to commercial or residential areas (*16 Texas Administrative Code §3.91*).
- If the site is determined to be “sensitive”, use assessment and cleanup guidelines from the Texas Risk Reduction Program.
- “Non-sensitive” site designation must be approved by the RRC VCP and appropriate documentation/reporting is required to receive this designation.

# Required Documents



- VCP Application and Agreement (RRC web site)
- Metes and bounds description of property
- Phase I Assessment
- Phase II Assessment
- Closure Report (not required, but strongly encouraged)
- Affidavit of Completion

# As Needed Documents



- Remedial Action Plan
- Groundwater monitoring reports
  - Quarterly sampling until concentrations of contaminants are stable/decreasing. RRC approval of changes to sampling frequency is strongly encouraged.
- Restrictive Covenant

# Project Timeline and Schedule



- Applicant creates their own project schedule and submittal deadlines.
- Applicant determines what reports are necessary based on site-specific information.

# Certificate of Completion



The Certificate of Completion will be issued when:

- All recognized environmental conditions under RRC jurisdiction have been assessed on the property
- No further action is needed based on the closure strategy and RRC has approved closure
- Restrictive Covenant filed with the County (as needed)
- Affidavit of Completion submitted
- Property metes and bounds description submitted

# Certificate of Completion Package



The Certificate of Completion package will include:

- Cover letter detailing the history, investigation, and remediation
- Certificate of Completion (with release of liability)
- Property metes and bounds description
- Affidavit of Completion
- Restrictive Covenant (if applicable)



# Certificate of Completion Language



## ***VOLUNTARY CLEANUP PROGRAM FINAL CERTIFICATE OF COMPLETION WITHOUT/WITH RESTRICTIONS***

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

*I, PETER G. POPE, ASSISTANT DIRECTOR OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM SITE VCP NO. [INTERT NUMBER] FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION, EXHIBIT "B" AND WHICH ARE FURTHER DESCRIBED IN THE APPROVED FINAL REPORT FOR THE SITE. THE APPLICANT WAS NOT A RESPONSIBLE PARTY UNDER SECTION 91.113. ON THE DATE OF ISSUANCE OF THIS CERTIFICATE **THE APPLICANT IS QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY** PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.*

# Oversight Costs



- The VCP application fee of \$1,000 is credited to the sites account
- Oversight costs are \$80/hour, which will be drawn against your account until the initial \$1,000 is exhausted. This amounts to 12.5 hours of oversight.
- Once the initial \$1,000 is exhausted, you will begin receiving invoices for any additional oversight of the project until you have completed the program.

# Average Oversight Time & Costs



On average:

- 28 hours of oversight is spent on each site

(min. = 4 hours; max. = 91 hours)

- Sites are enrolled in the program for 3 years

(min. = 2 months; max. = 14 years)

- Applicants pay an additional \$1,300 on oversight costs

(min. = \$680 not spent from the initial \$1,000; max. = \$6,280 over the initial \$1,000)

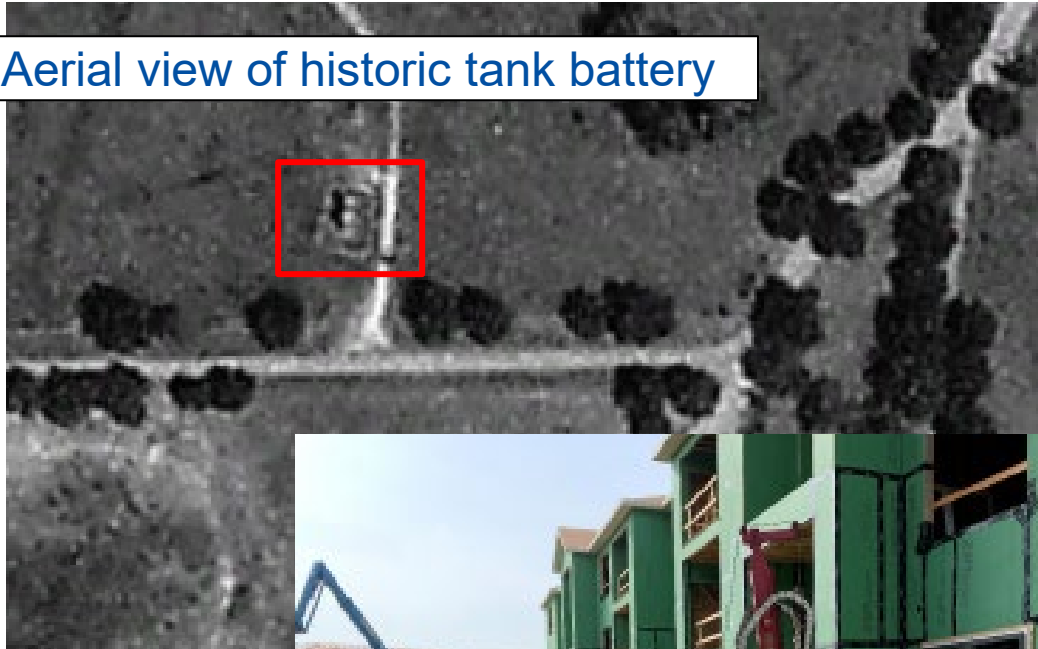


# Examples of successfully completed RRC VCP Sites

# New Apartments in Houston



Aerial view of historic tank battery



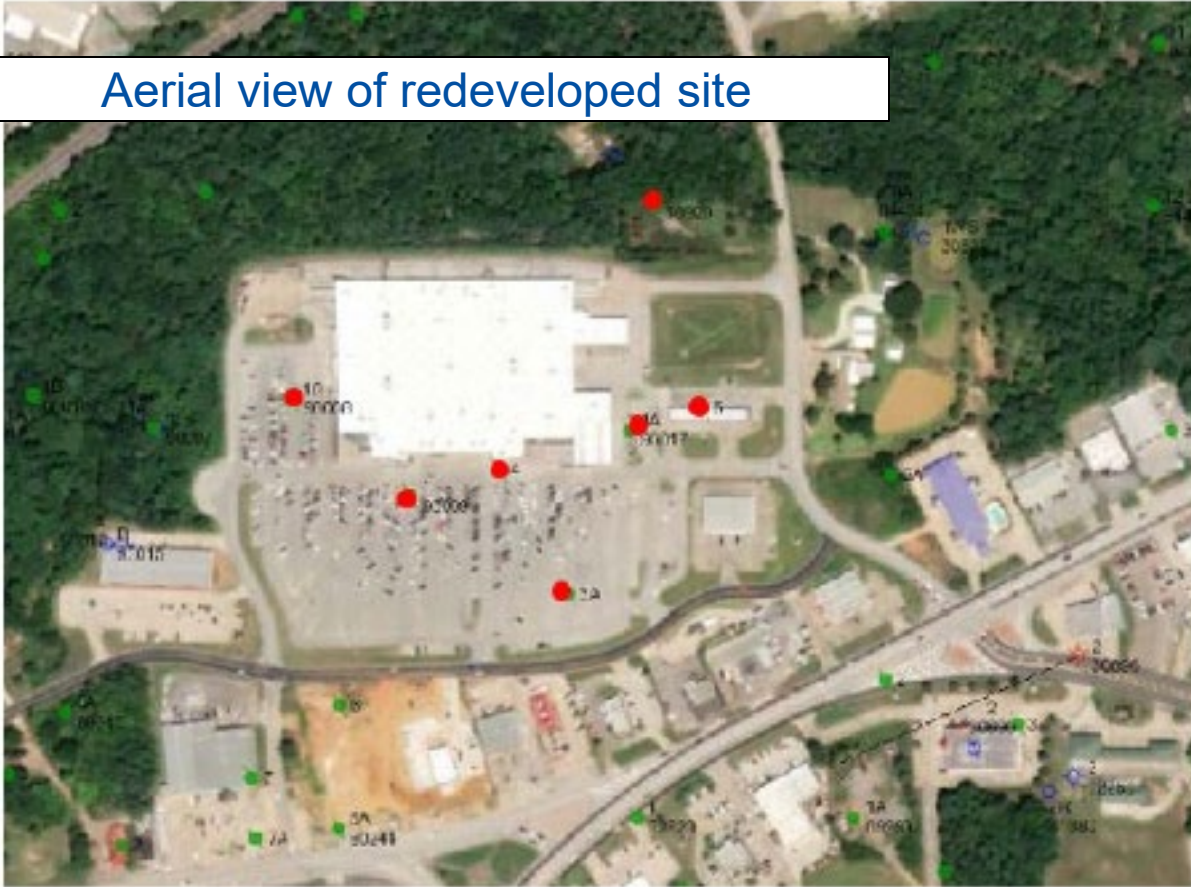
Monitor well plugging

- A tank battery was on the property from 1983 to 1995.
- No soil contamination above applicable levels, but there was groundwater contamination.
- Site was closed with a groundwater use restriction.
- Site was in VCP for 12 months.

# Kilgore Walmart



Aerial view of redeveloped site



- Walmart worked with previous operator to plug the 8 abandoned oil/gas wells on the property.
- 9 cubic yards of TPH contaminated soils around historic tank battery were excavated.
- In VCP for 2 years and 9 months (8/2002 – 8/2005).

# Kilgore Walmart



Abandoned tank batteries



Oil well plugging rig



# Active Oil/Gas Lease in VCP



- 11 tanks struck by lightning, releasing product
- Operator sold property and lease to another operator, who entered VCP since they did not cause or contribute to the contamination.
- Work is ongoing, but the applicant (also the current operator) will receive a release of liability from the state upon completed remediation of this release.

Tank battery after fire

Note that the operator will not receive a release of liability for any other spill that may occur as a result of their operations at the site in the future.



# Dual Enrollment in VCP and OCP



A 16-in transmission pipeline released 700 barrels of crude into Vince Bayou

<b>VCP</b>	<b>OCP</b>
CenterPoint Energy Houston Electric	Shell Pipeline Company
Reviewing/commenting on OCP reports	Performing investigation/remediation
Will receive a Certificate of Completion	Will receive a No Further Action letter



# State Managed Cleanup Program (SMCU) and State Funded Plugging (SFP)

# Oil Field Cleanup Fund (OFCU)



- SB 1103 (1991): Created to finance plugging orphaned wells and cleanup abandoned sites.
- \$10 million fund balance cap from penalties, fines, production fees & application fees.
- SB 310 (2001): Created universal bonding of operators, as well as oil & gas production fees increased.
- OFCU increased to \$20 million fund balance cap.



- Between 2011 & 2013: OFCU becomes OGRC
- OGRC fund balance cap increased to \$30 million when surcharges are added to fees, such as:
  - VCP application fee, drilling permit fee, groundwater determination letters

# State Managed Cleanup Program



Funds are used to:

- Assess and remediate contaminated sites (this includes P-4 leases, disposal facilities, tank batteries, well heads, etc.)
- Perform environmental investigations of abandoned facilities or other professional services (geological assessments, water well sampling, brownfield site assessment, remediation system design)

Funds can be used when:

- The responsible operator is unknown or cannot be found.
- The responsible operator fails or refuses to take action.

# State Funded Plugging Program



Funds can be used for pollution abatement or well plugging when:

- A well is abandoned by delinquent operators.
- An unidentified well is discovered.
- A well is actively leaking or likely to leak and....
  - The leak is a serious threat of pollution or injury to the public health;
  - The responsible operator is unknown or cannot be found; or,
  - The responsible operator fails or refuses to take action;

## Important Note



- Please note that OGRC funds are not available to VCP applicants.
- However, should a VCP applicant withdrawal from the program or terminate their agreement, these funds will likely be used to complete any needed cleanup if a responsible party is not identified.
- If a responsible party is identified, they may be required to enroll the site in OCP.



Examples of Sites that have used:  
Brownfield Funds,  
SMCU Funds &  
SFP Funds



# City of Andrews Bird Viewing Park



## BIRD VIEWING AND HIKING TRAIL



Between 2004 and 2006, the following funds were used to investigate and remediate contamination at this site.



<b>Funding Source</b>	<b>Funding Amount</b>
Brownfields	\$27,522
SMCU	\$74,230

# Nueces County Water Quality Improvement



From 2015 to present, the following funds have been used to investigate and remediate contamination at this site.

<b>Funding Source</b>	<b>Funding Amount</b>
Brownfields	\$93,116
SMCU	\$9,889

# Jones State Forrest



Endangered Woodpecker

Between 2006 and 2009, the following funds were used to investigate and remediate contamination at this site, as well as plug one well.



Jones State Forrest

<b>Funding Source</b>	<b>Funding Amount</b>
Brownfields	\$149,998
SMCU	\$11,522
SFP	\$50,046

# Questions?



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