



Department of  
Environmental  
Conservation

# **State Superfund Program**

## **Citizen Participation Plan**

For

### **Long Island Rail Road Smithtown Viaduct Site Smithtown, NY**

July 2021

Site No. 152255  
Intersection of New York State Routes 25 and 25A  
Town of Smithtown  
Suffolk County, New York

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**Note:** The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the site’s investigation and cleanup process.

{Responsible Party: **Metropolitan Transportation Authority (MTA) – Long Island Rail Road**

Site Name: **LIRR Smithtown Viaduct Site (“Site”)**

Site Address: **Intersection of NY Routes 25, 25A**

Site County: **Suffolk**

Site Number: **152255**

## **1. What is New York’s State Superfund Program?**

New York’s State Superfund Program (SSF) identifies and characterizes suspected inactive hazardous waste disposal sites. Sites that pose a significant threat to public health or the environment, such as the site identified above, undergo a process of investigation, evaluation, cleanup, and monitoring.

The New York State Department of Environmental Conservation (NYSDEC) administers the SSF Program with assistance and input from the New York State Department of Health (NYSDOH). When the parties responsible for the contamination of the site are known (“responsible parties”), they often pay for or perform the investigation and evaluation of cleanup options under an enforceable consent order. At sites where responsible parties cannot be found or are unable or unwilling to fund an investigation, the State pays for the investigation and may try to recover costs from a responsible party after the investigation and cleanup are complete.

The SSF program contains investigation and cleanup requirements, ensuring that cleanups protect public health and the environment. For more information about the SSF program, go online at: <http://www.dec.ny.gov/chemical/8439.html> .

## **2. Citizen Participation Activities**

### *Why NYSDEC Involves the Public and Why It Is Important*

NYSDEC involves the public to improve the process of investigating and cleaning up contaminated sites, and to enable citizens to participate more fully in decisions that affect their health, environment, and social well-being. NYSDEC provides opportunities for citizen involvement and encourages early two-way communication with citizens before decision makers form or adopt final positions.

Involving citizens affected and interested in site investigation and cleanup programs is important for many reasons. These include:

- Promoting the development of timely, effective site investigation and cleanup programs that protect public health and the environment

- Improving public access to, and understanding of, issues and information related to a particular site and that site's remedial process
- Providing citizens with early and continuing opportunities to participate in NYSDEC's site investigation and cleanup process
- Ensuring that NYSDEC makes site investigation and cleanup decisions that benefit from input that reflects the interests and perspectives found within the affected community
- Encouraging dialogue to promote the exchange of information among the affected/interested public, State agencies, and other interested parties that strengthens trust among the parties, increases understanding of site and community issues and concerns, and improves decision making.

This Citizen Participation (CP) Plan provides information about how NYSDEC will inform and involve the public during the investigation and cleanup of the site identified above.

#### *Project Contacts*

Appendix A identifies NYSDEC project contact(s) to whom the public should address questions or request information about the site's investigation and cleanup program. The public's suggestions about this CP Plan and the CP program for the site are always welcome. Interested people are encouraged to share their ideas and suggestions with the project contacts at any time.

#### *Locations of Reports and Information*

The locations of the reports and information that relate to the site's investigation and cleanup program also are identified in Appendix A. These locations provide convenient access to important project documents for public review and comment. Some documents may be placed on the NYSDEC web site. If this occurs, NYSDEC will inform the public in fact sheets distributed about the site and by other means, as appropriate.

#### *Site Contact List*

Appendix B contains the site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and cleanup process. The site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project. These will include notifications of upcoming activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The site contact list includes, at a minimum:

- chief executive officer and planning board chairperson of each county, city, town and village in which the site is located;
- residents, owners, and occupants of the site and properties adjacent to the site;
- the public water supplier which services the area in which the site is located;
- any person who has requested to be placed on the site contact list;
- the administrator of any school or day care facility located on or near the site for purposes of posting and/or dissemination of information at the facility;
- location(s) of reports and information.

The site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact(s) identified in Appendix A. Other additions to the site contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff as appropriate.

**Note:** The first site fact sheet (usually related to the Remedial Investigation) is distributed both by paper mailing through the postal service and through DEC Delivers, its email listserv service. The fact sheet includes instructions for signing up with the appropriate county listserv to receive future notifications about the site. See <http://www.dec.ny.gov/chemical/61092.html> .

Subsequent fact sheets about the site will be distributed exclusively through the listserv except for households without internet access that have indicated the need to continue to receive site information in paper form. Please advise the NYSDEC site project manager identified in Appendix A if this is the case. Paper mailings may continue during the investigation and cleanup process for some sites, based on public interest and need.

### *CP Activities*

The table at the end of this section identifies the CP activities, at a minimum, that have been and will be conducted during the site's investigation and cleanup program. The flowchart in Appendix D shows how these CP activities integrate with the site investigation and cleanup process. The public is informed about these CP activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CP activities are explained briefly in Section 5.

- **Notices and fact sheets** help the interested and affected public to understand contamination issues related to a site, and the nature and progress of efforts to investigate and clean up a site.

- **Public forums, comment periods and contact with project managers** provide opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a site's investigation and cleanup.

The public is encouraged to contact project staff at any time during the site's investigation and cleanup process with questions, comments, or requests for information.

This CP Plan may be revised due to changes in major issues of public concern identified in Section 3 or in the nature and scope of investigation and cleanup activities. Modifications may include additions to the site contact list and changes in planned citizen participation activities.

#### *Technical Assistance Grant*

NYSDEC must determine if the site poses a significant threat to public health or the environment. This determination generally is made using information developed during the investigation of the site, as described in Section 5.

If the site is determined to be a significant threat, a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the site and the development/implementation of a remedy.

An eligible community group must certify that its membership represents the interests of the community affected by the site, and that its members' health, economic well-being or enjoyment of the environment may be affected by a release or threatened release of contamination at the site.

The significant threat determination for this site has not yet been made.

For more information about TAGs, go online at:

<http://www.dec.ny.gov/regulations/2590.html> .

Note: The table identifying the citizen participation activities related to the site's investigation and cleanup program follows on the next page:

Citizen Participation Activities	Timing of CP Activity(ies)
<b>Before Start of Remedial Investigation (RI):</b>	
<ul style="list-style-type: none"> <li>• Prepare site contact list</li> <li>• Establish document repository</li> <li>• Prepare Citizen Participation (CP) Plan</li> <li>• Place approved RI Work Plan in document repository</li> <li>• Distribute fact sheet to site contact list that announces availability of RI Work Plan and describes upcoming RI field work</li> </ul>	<p>Before start of RI. Note: Draft CP Plan must be submitted to NYSDEC within 20 days of effective date of Consent Order. CP Plan must be approved by NYSDEC before distribution.</p>
<b>When NYSDEC Approves Remedial Investigation Report:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describes RI results</li> <li>• Place approved RI Report in document repository</li> </ul>	<p>When NYSDEC approves RI Report</p>
<b>When NYSDEC Releases Proposed Remedial Action Plan (PRAP)</b>	
<ul style="list-style-type: none"> <li>• Place PRAP in document repository</li> <li>• Distribute fact sheet to site contact list that describes PRAP and announces 30-day comment period and public meeting</li> <li>• Conduct 30-day public comment period</li> <li>• Hold public meeting about PRAP</li> </ul>	<p>When NYSDEC releases PRAP. Comment period begins/ends as per dates identified in fact sheet. Public meeting is held during the comment period.</p>
<b>When NYSDEC Issues Record of Decision (ROD):</b>	
<ul style="list-style-type: none"> <li>• Place ROD in document repository</li> <li>• Distribute notice to site contact list that announces availability of ROD. ROD includes responsiveness summary of significant comments about PRAP</li> </ul>	<p>When NYSDEC issues ROD</p>
<b>Before Start of Remedial Action:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that describes upcoming remedial action</li> </ul>	<p>Before start of remedial action at the site</p>
<b>When NYSDEC Certifies Cleanup Requirements Achieved:</b>	
<ul style="list-style-type: none"> <li>• Distribute fact sheet to site contact list that announces cleanup requirements achieved</li> <li>• If Certificate of Completion (COC) is issued, announce in fact sheet</li> <li>• If COC is issued, place copy in document repository</li> </ul>	<p>When NYSDEC certifies cleanup requirements achieved, or within 10 days after NYSDEC issues COC or other similar site closure document</p>
<b>If NYSDEC Reclassifies the Site</b>	
<ul style="list-style-type: none"> <li>• If reclassifying site, may announce in fact sheet announcing achievement of cleanup requirements</li> </ul>	<p>At time NYSDEC proposes to reclassify the site</p>
<b>If NYSDEC Proposes to Delist the Site from the Registry of Contaminated Sites</b>	
<ul style="list-style-type: none"> <li>• Publish notice in Environmental Notice Bulletin about proposal and 30-day public comment period</li> <li>• Distribute notice to site contact list. May announce proposal in fact sheet announcing achievement of cleanup requirements</li> <li>• Conduct 30-day public comment period about proposed delist</li> <li>• Distribute notice to site contact list when site is delisted</li> </ul>	<p>At time NYSDEC proposes to delist the site</p>

### **3. Major Issues of Public Concern**

This section of the CP Plan identifies major issues of public concern that relate to the site. Additional major issues of public concern may be identified during the course of the site's investigation and cleanup process.

Based on the investigations conducted to date, the primary contaminant of concern at the site is lead. The primarily impacted media is soil. The concentration of lead in the Site soil exceeds the NYSDEC Restricted Residential Use Soil Cleanup Objective (SCO) in the majority of the Site, as well as the Commercial Use SCO in some portions.

The Site is located underneath an elevated train trestle used by commuter trains of the LIRR Port Jefferson branch. The Site is undeveloped, except for the supporting structure of the viaduct and two earth retaining walls. Although this is not an area of used by the public, people who enter the site could contact contaminants in the soil by walking on the site, digging or otherwise disturbing the soil.



#### 4. Site Information

Appendix C contains a map identifying the location of the site.

##### *Site Description*

The Site, located in a suburban area adjacent to the intersection of New York State Routes 25 and 25A, consists of a 265-foot right-of-way approximately 0.4 acres in area, beneath an elevated train trestle used by commuter trains of the LIRR Port Jefferson branch. The Site is located in the town of Smithtown, Suffolk County. A Site location map is provided in Appendix C.

The Site is undeveloped, except for the supporting structure of the viaduct and two earth retaining walls. An NYSDOT drainpipe, connected to a roadway catch basin on Route 25A, is buried beneath the soil in the western portion of the Site.

The Site has been owned by LIRR since the late 1800s. The viaduct was constructed in 1937. No records of any onsite development were found during the site background review.

The following surrounding land uses are present within the immediate site vicinity:

**North:** To the north of the Site is undeveloped woodland followed by West Jericho Turnpike. Two commercial-use buildings (locksmith, bar) are located on the south side of West Jericho Turnpike just north of the Site.

**South, East:** To the south and east of the Site is a mix of undeveloped woodland and a portion of the Nissequogue River.

**West:** To the west of the Site is undeveloped woodland followed by West Jericho Turnpike.

##### *History of Site Use, Investigation, and Cleanup*

The Site is located beneath an elevated train trestle used by commuter trains of the LIRR Port Jefferson branch. The LIRR has owned the site since the late 1800s, and it is likely that an older trestle predated the current steel structure that was constructed in 1937.

Due to the use of lead-based paint used to paint these types of structures historically, many areas beneath elevated train tracks have been investigated to determine if lead contamination is present in the surrounding soil. Previous site investigations consisted

of intrusive soil investigations, including the collection, laboratory analysis, and evaluation of soil samples for chemical quality.

An environmental site assessment (ESA) was conducted in 2001 that consisted of the collection of soil samples at three locations. Two soil samples were collected at ground surface, and the third soil sample was collected at a depth of approximately 2 to 3 feet below grade surface (bgs). The samples were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, pesticides, and polychlorinated biphenyls (PCBs). The results of this investigation indicated generally low levels of SVOCs and metals in the samples collected except for lead. Concentrations well above the NYSDEC's soil cleanup objective for industrial use were identified in both of the surface soil samples collected during this investigation.

In July 2004 LIRR collected soil samples at 26 depths at 13 locations at this site. Thirteen of the samples were collected from the ground surface, and the remaining 13 samples were collected from a depth of approximately 2 feet bgs. The samples were submitted to the laboratory for the analysis of total lead. Two surface samples and three deeper samples exceeded the NYSDEC's soil cleanup objectives for restricted residential use.

In September 2004 LIRR collected soil samples at 48 depths at 44 locations onsite. The results of the laboratory analysis reported concentrations of lead ranging from 16.3 parts per million (ppm) to 3,580 ppm. The average lead concentration was 680 ppm. For reference, the NYSDEC soil cleanup objective for lead for restricted residential use is 400 ppm. LIRR conducted an additional round of soil sampling later that month during which soil samples were collected at nine locations. Lead concentrations in these samples ranged from 16.3 ppm to 1,390 ppm.

## **5. Investigation and Cleanup Process**

### *Investigation*

A Remedial Work Plan has been prepared and submitted for approval in accordance with the requirements set forth by NYSDEC's policies and procedures, to address the surface and subsurface soil contamination associated with historical practices at the site.

The site investigation has several goals:

- 1) define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- 2) identify the source(s) of the contamination;
- 3) assess the impact of the contamination on public health and the environment; and
- 4) provide information to support the development of a proposed remedy to address the contamination.

NYSDOH reviews and recommends activities that will be performed during the investigation to ensure that a complete picture of potential health impacts is understood. Such activities include identifying the ways contamination can reach people, such as through direct contact, eating, drinking, or breathing.

The information collected during the site investigation will be summarized in a report.

### *Feasibility Study*

After the site investigation has begun, the LIRR with oversight by the NYSDEC will conduct a “Feasibility Study.” This study uses information developed during the site investigation to develop and evaluate potential ways to clean up contamination related to the site. Another possibility is that the information collected during the site investigation may support the conclusion that no action, or no further action, is needed to address site-related contamination.

### *Proposed Remedy*

The evaluation of possible remedies ends with a recommended proposal to eliminate the threat posed by contaminants at the site. NYSDEC approves or prepares this proposal, called a “Proposed Remedial Action Plan” (PRAP). The PRAP describes the remedy preferred by NYSDEC, or a no action or no further action alternative. The PRAP summarizes the decision that led to the recommendation of the preferred remedy by discussing each alternative and the reasons for choosing or rejecting it. The goal of any cleanup plan is to protect public health and the environment. NYSDEC will present the PRAP to the public for its review and comment during a 30-day comment period and at a public meeting.

### *Selected Remedy*

NYSDEC considers public comments as it selects the remedy to address contamination related to the site. The selected remedy will be described in a document called a “Record of Decision” (ROD). The ROD will explain why the remedy was selected and respond to public comments. This document will be placed in the location of reports and information. If the selected remedy is no action or no further action, NYSDEC may then take steps to reclassify the site or remove the site from its list of contaminated sites.

### *Cleanup Action*

If the Record of Decision for the site calls for cleanup action, the project then moves to designing and performing the actions to address the site contamination. When cleanup actions have been completed, NYSDEC will approve or prepare a Final Engineering

Report that describes the cleanup actions undertaken and certifies that cleanup requirements have been achieved or will be achieved.

### *Certificate of Completion*

Upon approval of the Final Engineering Report, NYSDEC may issue a Certificate of Completion (COC). The COC would recognize the findings of the Final Engineering Report and note that the cleanup program achieved a cleanup level consistent with specific categories of use for the site. The recipient of the COC would be entitled to limited liability as long as it complied with the terms of the COC, and other conditions.

A COC may be modified or revoked if, for example, the recipient does not comply with the terms of the COC, or if the recipient commits fraud regarding its certification that it has met cleanup levels.

### *Site Management*

Site management is the last phase of the site cleanup program. This phase begins when the COC is issued. Site management may be conducted by NYSDEC, or by the responsible party under NYSDEC oversight, if contamination will remain in place. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the site remains protective of public health and the environment. All significant activities are detailed in a Site Management Plan.

An *institutional control* is a non-physical restriction on use of the site, such as a deed restriction that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the site suitable for some, but not all uses.

An *engineering control* is a physical barrier or method to manage contamination. Examples include: caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that pumps and treats groundwater. Site management continues until NYSDEC determines that it is no longer needed. During the site management phase, NYSDEC may also take steps to reclassify the site or delist the site from the Registry.

**Appendix A --  
Project Contacts and Locations of Reports and Information**

**Project Contacts**

For information about the site's investigation and cleanup program, the public may contact any of the following project staff:

**New York State Department of Environmental Conservation (NYSDEC):**

Tara Rutland  
Project Manager  
NYSDEC  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233-7015  
518-402-9621  
tara.rutland@dec.ny.gov

Bill Fonda  
Citizen Participation Specialist  
NYSDEC  
SUNY @ Stony Brook  
50 Circle Road  
Stony Brook, New York 11790  
631-444-0350  
bill.fonda@dec.ny.gov

**New York State Department of Health (NYSDOH):**

Eamonn O'Neil  
Public Health Specialist  
NYSDOH Bureau of Environmental  
Exposure Investigation  
Empire State Plaza  
Corning Tower Rm. 1787  
Albany, New York 12237  
518-402-7877  
beei@health.ny.gov

**Locations of Reports and Information**

The facilities identified below are being used to provide the public with convenient access to important project documents:

Smithtown Public Library-Smithtown Building  
1 N. Country Road  
Smithtown, New York 11787

Mon-Thur: 9:30 AM – 9:00 PM  
Fri: 9:00 AM – 6:00 PM  
Sat: 9:00 AM- 5 PM  
Sun: 1:00 PM -5 PM

NYSDEC  
Division of Environmental Remediation  
SUNY @ Stony Brook  
50 Circle Road  
Stony Brook, New York 11790  
631-444-0350  
Hours: (call for appointment)

## **Appendix B -- Site Contact List**

The Site is located in the town of Smithtown, Suffolk County, New York. The Site is currently owned by the Long Island Rail Road.

1. The contact information for the current owners of the site are as follows:

Colleen Channer, Esq. Sr. Environmental Counsel  
Metropolitan Transportation Authority  
2 Broadway 4<sup>th</sup> Floor  
New York, New York 10004

Phillip Eng, President  
MTA Long Island Rail Road  
Jamaica Station, Jamaica, NY, 11435

Andrew Wilson  
Assistant Chief Program Officer-Program Management  
MTA Long Island Rail Road  
Hillside Support Facility  
93-59 183rd Street  
Hollis, NY 11423

Maria T. Hall, Senior Project Manager  
Department of Program Management  
Long Island Rail Road  
93-59 183rd Street  
Hollis, NY 11423

2. Local news sources:

News12 Long Island  
1 Media Crossways, Woodbury, NY 11797

Newsday Long Island  
235 Pinelawn Avenue, Melville, NY 11747-4250

3. Public Water Supply

The Suffolk County Water Authority (SCWA)  
4060 Sunrise Highway  
Oakdale, New York 11769  
Attn: Jeffrey W. Szabo, Chief Executive Officer

4. List of nearby schools/day cares:

Superintendent  
Smithtown School District  
26 New York Avenue  
Smithtown, New York 11787

5. Other Contacts

Smithtown Public Library  
1 N. Country Road  
Smithtown, New York 11787

Edward R. Wehrheim, Supervisor  
Town of Smithtown  
99 West Main Street  
Smithtown, New York 11787

Steven Bellone, Suffolk County Executive  
H. Lee Dennison Building  
100 Veterans Memorial Highway  
PO Box 6100  
Hauppauge, New York 11788-0099

The Honorable Kenneth LaValle  
New York State Senate  
325 Middle Country Road, Suite 4  
Selden, New York 11784

Rudolph Sunderman  
Suffolk County Legislator  
11 Montauk Highway  
Mastic, New York 11950

Lee Zeldin, US Congressman  
31 Oak Street, Suite 20  
Patchogue, New York 11772

Monica Martinez, NYS Senator

250 Veterans Memorial Highway  
NYS Office Building, Room 3B-41  
Hauppauge, New York 11788

Joseph DeStefano, NYS Assemblyman  
1735 N. Ocean Avenue Ste. A  
Medford, New York 11763

Thomas J. McCarthy., Councilman  
Town of Smithtown  
99 West Main Street  
Smithtown, New York 11787

Andrew Freleng, Chief Planner  
Suffolk County Planning Commission  
H. Lee Dennison Building – 11<sup>th</sup> floor  
100 Veterans Memorial Highway  
PO Box 6100  
Hauppauge, New York 11788-0099

Peter A. Hans  
Planning Board  
Town of Smithtown  
25 Redwood Lane  
Smithtown, New York 11787



## Appendix C -- Site Location Map



W JERICHO TURNPIKE

CONC. SIDEWALK

PARKING LOT

RETAINING WALLS

EXTENT OF PROPOSED COOLING POND

WATERLINE

NISSEQUOGUE RIVER

NISSEQUOGUE RIVER

**MTA** LONG ISLAND RAIL ROAD

**LiRo Engineers, Inc.**  
3 Aerial Way, Syosset, New York

PROJECT:  
**SMITHTOWN VIADUCT  
SMITHTOWN, NEW YORK**

TITLE:  
**SITE PLAN**

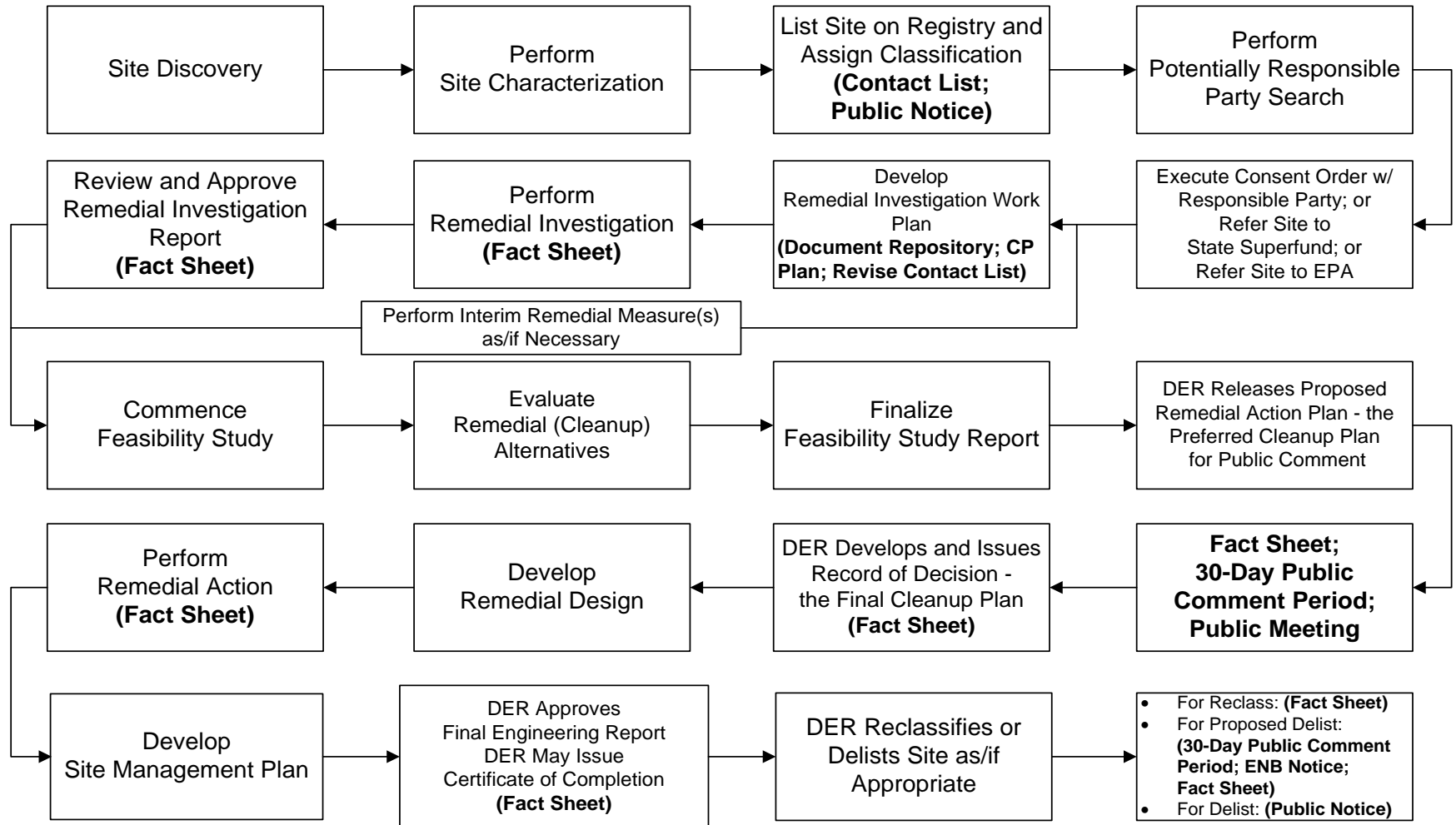
**LEGEND**

 PROJECT SITE BOUNDARY

DATE: *NOVEMBER 2020*  
SCALE: *NOT TO SCALE*  
PROJECT NO: *15-013-0242*  
DRAWING BY: *S.R.*  
CHK BY: *M.D.*

FIGURE NO:  
**C**

## Appendix D - State Superfund Program Remedial Process



**Note:** CP Activities are in **Bold**.

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