

Changing Horses

By Richard Izzo

There is an old saying: “*don’t change horses in the middle of the stream*” credited to Abraham Lincoln (and later adopted by FDR), the meaning of which is pretty clear: don’t stop something complicated or important right in the middle and then try to restart it with someone else at the helm. This piece of American folk wisdom would seem to be good advice under most circumstances. However, in this author’s experience, one can safely negotiate the change if it’s done properly, thus avoiding the headlong plunge into the swift current of icy waters.

CA RICH successfully helped carry out this complex change recently, not once, but on two separate occasions at two separate NYS Brownfield Cleanup Program (BCP) Sites located along Dumont Avenue in Brooklyn and 31st Street in Queens (respectively). At each of these sites, CA RICH was retained by different developers who were working in cooperation with the City of New York to purchase and redevelop their sites for multi-family residential use. CA RICH performed routine Phase I and Phase II Environmental Site Assessments, determined each site’s eligibility for approved entrance into the BCP, and then submitted the



required Applications to the New York State Department of Environmental Conservation (NYSDEC). Both sites were subsequently admitted into the Program and our developer clients each entered into a mutually acceptable Brownfield Cleanup Agreement (BCA) with NYSDEC.

CA RICH then proceeded to follow the necessary pathway toward approved cleanups in cooperation with NYSDEC and the New York State Department of Health (NYSDOH). As each site had “E” Designations for Hazardous Materials and Air/Noise, our work also required oversight by the New York City Office of Environmental Remediation (NYCOER). Work at each site included development and NYSDEC approval of a Remedial Investigation Work Plan

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“Emerging Contaminant” Drinking Water Standards Come to NY “PFOA, PFOS and 1,4 Dioxane”

by Jason Cooper

Late last year, the New York State Department of Health (DOH) established Maximum Contaminant Levels (MCLs) for perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS) and 1,4-Dioxane.

These man-made, toxic, “*emerging contaminants*” are highly mobile in groundwater and are not readily biodegradable. This combination of properties allows these chemicals to pervasively persist in groundwater and as such, have been detected in drinking water systems across the country.

PFOA and PFOS are fluorinated organic chemical compounds that are part of a larger group of chemicals referred to as perfluoroalkyl substances (PFASs). New



York has established a relatively stringent MCL of 10 parts per trillion for PFOA and PFOS, which is among the lowest allowable level in the country. New York’s MCLs are significantly lower than the Federal health advisory level of 70 parts per trillion (combined concentration of PFOA and PFOS) that the EPA established back in

2016. To provide some scale, one part per trillion is

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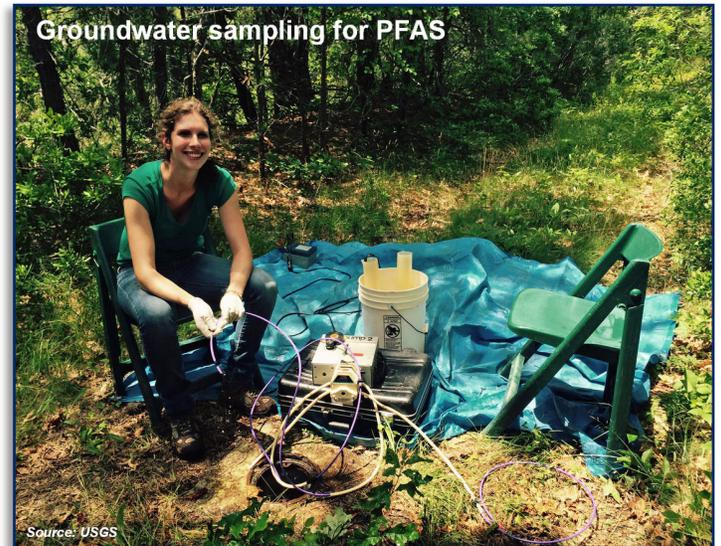
roughly the equivalent of one drop of water in an Olympic-sized swimming pool.

PFOA and PFOS have extremely strong and stable chemical bonds which makes these compounds useful in industrial and consumer products such as carpet and waterproof clothing treatments, non-stick coatings on cookware, and in firefighting foams. These compounds are absorbed into the body through ingestion and are known to bioaccumulate in humans as well as in wildlife (EPA). PFAS compounds have even been detected as far away as the remote Arctic, indicating long-range transport is possible.

For this reason, PFAS have earned their nickname “Forever Chemicals”. The EPA has discovered numerous long-term health effects related to PFAS exposure including high cholesterol, cancer, and reproductive and developmental effects. These chemicals resist most conventional chemical and microbial treatment technologies, however activated carbon sorption and ion exchange resin has been demonstrated to be fairly effective in their substantive removal from drinking water.

Due to the widespread use of PFAS, many materials normally used for sampling and laboratory analytical operations contain these compounds (EPA), which complicates investigative methodology. Special sampling equipment and procedures are required to help ensure that testing results accurately reflect the PFAS levels found in the analyzed media (soil, groundwater, etc.).

Since 2019, CA RICH has been sampling for PFAS compounds in numerous environmental settings, utilizing specific materials and at a minimum, following the required precautionary protocols to collect representa-



Source: USGS

tive samples and ensure the resulting data will meet litigation-quality data restraints.

In addition to PFAS, New York is the first state in the nation to establish a drinking water standard for 1,4-Dioxane, setting the MCL at 1 part per billion for all public water supplies. 1,4-Dioxane historically has been used in the manufacture and stabilization of other chemicals, automotive coolant liquids, and can be found in household products such as detergents and soaps. 1,4-Dioxane is completely miscible (able to dissolve completely) in water and does not readily adsorb onto soil (Center for Disease Control).

The Environmental Protection Agency (EPA) has classified 1,4-Dioxane as a likely human carcinogen with many potential short-term and long-term health effects. Groundwater pump-and-treat remediation, as well as advanced chemical oxidation treatment processes using hydrogen peroxide with ultraviolet light, or ozone, can treat dissolved 1,4-Dioxane in water.

Now, New York’s new more-stringent drinking water standards are a precedent for the nation and highlight the importance of detecting these emerging contaminants in preserving public health and the environment. Sampling for these contaminants is already required during all of the investigative subsurface work we perform within the New York State Department of Environmental Conservation Brownfield Cleanup Program (BCP) and New York City Office of Environmental Remediation Voluntary Cleanup Program (VCP).

These emerging contaminants are expected to be a focus in many future projects. Needless to say, CA RICH looks forward to continuing to use the knowledge and comprehensive experience we are gaining in thoroughly and accurately investigating and remediating sites impacted by both these and other contaminants on behalf of our clients’ best interests.

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(RIWP) and then performance of the approved Remedial Investigation (RI) including soil, groundwater and sub-slab soil vapor testing, as well as waste characterization soil sampling for disposal of impacted soil/fill during construction. In addition, follow-on Supplemental Investigations (SIs) were needed at each property. For the Brooklyn site, the SI included additional soil borings in areas identified as “hot spots” during the RI. At the Queens site, off-site soil vapor intrusion testing was recommended and implemented.

Based upon the results of the RIs and SIs, remedial strategies were developed in concert with development Plan Proposals to achieve the coveted “Track One” Unrestricted Use cleanup for each property. Remedial Action Work Plans (RAWPs) were then submitted to NYSDEC and subsequently approved.

During the investigation/reporting phase of the Program, both developers decided, for reasons unrelated to the planned BCP cleanups, not to proceed with development of their respective sites. Accordingly, CA RICH arranged discussions with the developers, their environmental attorneys and NYSDEC to determine the best way to proceed through the unplanned interruption.

NYSDEC agreed to temporarily suspend the schedule required under their BCAs so that they could actively market and sell the properties. It was agreed that suspending the cleanups, with approved RAWPs, was best from the standpoint of both the regulatory agencies and the developers. Having an approved cleanup provided assurance to NYSDEC that once a new developer stepped in, the cleanup could move forward in a timely fashion.

In addition, the roles of the current BCP Volunteers and the new ones signing on to complete the remedial action would be clearly defined and smoothly managed from an adminis-



trative standpoint. Having an approved RAWP added value to the properties by allowing the developers to provide potential purchasers with definable cleanup parameters and costs, as well as a relatively accurate estimate of the share of the BCP Tax Credits they could each expect to receive.

Once the cleanups were officially put on hold, each of the developers found prospective candidates who were interested in buying the properties and resuming the cleanups as part of construction. CA RICH met with several of these on behalf of our clients, explained the BCP process, provided estimated cleanup costs, and explained the BCP Tax Credit process. *(ed. note: this was especially important as neither of the two parties that ended up buying the respective sites had any experience with the NY State BCP).*

In each case, we and our developer clients put the potential purchasers in touch with experienced environmental and tax attorneys to further explain the process of entering into a BCA and receiving advantageous tax credits. With the help of their attorneys and the cooperation of NYSDEC, each of the purchasers had the existing BCAs amended to add their names. The original developers remained on the BCAs so that they too could qualify to receive tax credits for their share of the work.

Once the BCAs were amended, the new BCP Volunteers prepared the sites for construction and remedial action. Pre-construction meetings were held with NYSDEC and the redevelopment and cleanup were allowed to resume. Both sites were remediated to Track One Unrestricted Use standards during construction. We are pleased to report that the BCP Certificate of Completion (COC) and the NYCOER Notice of Satisfaction (NOS) for the Brooklyn site was issued in late 2020 and the COC and NOS for the Queens site is expected in the coming weeks.



What's new at CA RICH

Congratulations to Senior Project Manager, **Jessica Proscia**, who was selected as 2021 "Woman of Distinction" on Long Island, NY by Long Island multimedia company, "Blank Slate Media" for her many contributions within the environmental field. Jessica will be featured in several North Shore Long Island newspapers along with Blank Slate's website: theislandnow.com. In addition, Jessica will be honored at the "Women of Distinction 2021 Awards" on November 9th at Leonard's Palazzo of Great Neck, NY. Way to go, Jess!!

Vice President, **Richard Izzo** was interviewed by the NY Real Estate Journal on the subject of doing environmental work during the pandemic. Mr. Izzo stated that one of the greatest accomplishments of the previous year was working together with our valued clients and the regulatory agencies to keep our real estate projects moving forward on schedule and our Firm thriving while protecting the health and safety of all involved during the ongoing public health and economic. The full interview can be viewed here: <https://myrej.com/richard-izzo-pg-ca-rich-consultants-inc>.

Vice President, **Jason Cooper** continues his managerial oversight of the NY State BCP and NY City VCP Cleanup at the relatively large (1,700 residential units plus retail) multi-phased Rockaway Village redevelopment site. The BCP Certificate of Completion (COC) for Phase One and the VCP Notice of Satisfaction (NOS) for Phase Two were issued earlier this summer. The Phase Three VCP NOS is expected this fall, and the approved Phase Four is scheduled to begin as early as December.

CA RICH is pleased to announce the return of Geologist, **Tim Maines** to our full-time professional staff. Tim is a recent graduate of Union College, Schenectady, NY and interned with the Firm in 2019. Tim is assisting us with expediting investigations at several Sites across the NY metropolitan area. Welcome back, Tim!

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CA RICH CONSULTANTS

A full-service environmental consulting firm providing strategic consulting and on-site support to help business owners manage all their environmental issues. CA RICH, independently-owned since 1982, is staffed by experienced environmental professionals skilled at understanding the intent behind environmental regulations, balancing business needs with environmental practicalities.

The Company provides: environmental consulting; Phase I & II assessments (ASTM 1527-21); compliance audits; emerging contaminant sampling; investigation; remediation; groundwater resource, storage tank, indoor air quality & hazardous waste management; soil vapor testing & mitigation; brownfield redevelopment; real property transfer support; asbestos, mold & lead testing; expert testimony & litigation support; dispute resolution; and all other professional services related to evolving regulations that are responsive to a diversified Clientele.

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