

# DIMENSIONS

Newsletter of the New Jersey Builders Association



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*Dimensions* newsletter is produced by the New Jersey Builders Association (NJBA). NJBA is a housing industry trade association of builders, developers, remodelers, subcontractors, suppliers, engineers, architects, consultants and other professionals dedicated to meeting the housing needs of all New Jersey residents and facilitating their realization of the American Dream. NJBA serves as a resource for its members through continuing education and advocacy. The NJBA and its members strive for a better, greener, more affordable housing market. Additional information is available at [www.njba.org](http://www.njba.org).

NJBA recognizes and appreciates the expertise of its members. In this spirit **we invite and encourage our members to submit articles for publication in Dimensions**. NJBA reserves the right to make the determination on which articles will be published, the timing of the publication and, if need be, the right to edit articles after consultation with the author. Questions or comments may be sent to Kyle Holder at [kholder@njba.org](mailto:kholder@njba.org).

## A DECADE ON, THE SRRA CONTINUES TO DRIVE REDEVELOPMENT

By: Sue Boyle and Rodger A. Ferguson, Jr., LSRP

If you look around, you will see New Jersey has come a long way to reclaim once forgotten properties that held the skeletons of an industrial past.

In fact, many of the largest, most complex and most contaminated sites, once considered too complicated or expensive to consider, are now available for redevelopment. This year, New Jersey passed 12,000 environmental cleanups completed under the Site Remediation Reform Act (SRRA) of 2009 and the submission of more than 46,000 reports to document the work.

There are a lot of people to thank for the achievement, including the builders and developers with the vision to take on the projects.

But a great deal of the success must go to the SRRA itself, now in its 10th year. A landmark law, which came at a time when environmental cleanups needed a boost, the SRRA created timeframes for environmental remediation and the Licensed Site Remediation Professional (LSRP) program to guide responsible parties and others through the process. Nearly all, with some exceptions, are required to use LSRPs to guide them through the process.

LSRPs are now an integral part of New Jersey's environmental remediation process and an invaluable resource to both responsible parties and developers. LSRPs know how to work on redevelopment and remedial needs at the same time - keeping projects on track to meet the timeframes of federal, state and local environmental protection agencies as well as the business people and local governments seeking to bring properties back to

productive use.

Before the SRRA, New Jersey identified 26,000 sites in need of remediation and most were on a waiting list for action by the New Jersey Department of Environmental Protection (NJDEP). Now, with even with more sites being added every year, that list has been cut nearly in half.

In fact, there are more contaminated sites actively being worked on today than ever before because of the LSRP program, the NJDEP's hard work, developers and the SRRA. These sites are in every area of the state and are being cleaned faster than ever before with no loss in the quality of the remediation or protections to human health and the environment.

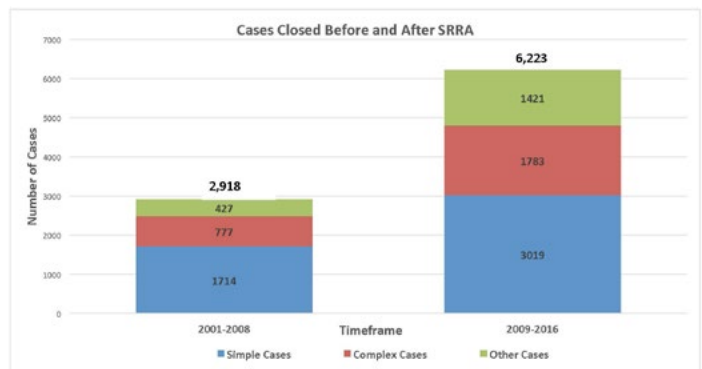
One way to look at the success is the rate of projects completed each year. There has been a dramatic rise in Response Action Outcomes, or RAOs, which is the term for the completion of a remediation project and the equivalent of what was once known as a No Further Action.

Since 2012, when the LSRP program was fully implemented, the number of RAOs rose sharply. The number of remediations completed now averages around 2,000 a year, about four times the rate of completions when the SRRA was implemented in 2009.

Even more impressive, is this chart compiled by the LSRPA using data from the NJDEP that shows all cases

are being completed faster. Simpler cases and complex cases (i.e., multiple areas of concern and impacted media) are both being completed at an accelerated rate with no loss in quality when contrasted with a comparable period before the SRRA.

Of course, there is always room for improvement. Already, key legislators and the NJDEP have begun to collect comments and suggestions for updates and changes in policy, regulations,



Source: NJDEP  
**Simple Cases:** categorized as B - single phase remedial action for soil only, or C1 - no formal design with a known contaminant source and potential ground water contamination  
**Complex Cases:** Categorized as C2 - formal design with a known contaminant source where ground water may be contaminated, C3 - multi-phase remedial action with an unknown or uncontrolled source, or D - multi-phase remedial action with multiple unknown or uncontrolled sources in multiple media including ground water  
**Other:** A - emergency and other miscellaneous categories

and if absolutely necessary, the law. Legislators may begin reviewing potential legislation later this year or early next year.

As the front lines of remediation in New Jersey, LSRPs know how the process is working on the ground and in the groundwater. Through the Licensed Site Remediation Professional's Association (LSRPA), we have begun considering how best to streamline and clarify the state's rules for cleaning up sites.

Builders and developers have begun to consider these issues as well.

One issue LSRPs, developers and the

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## THE RAPID EVOLUTION OF "COMMUNITY NEXT"

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much more affordable and mainstream, and many states have adopted legislation affecting their use. By way of example, laws exist in several states which protect an owner's right to install solar panels. In contrast, many community associations have architectural guidelines precluding owners from installing solar panels. Strong feelings exist on both sides of the issue. Community associations and developers in unregulated states should balance the (arguable) unsightliness of solar panels with their residents' desire to "go green" and be good stewards of the planet. Community associations and developers in every state are well advised to keep a watchful eye on federal and state legislation pertaining to alternative energy sources.

Seeing a trend here? In most of the paragraphs above, recent or pending statutory changes affecting many aspects of developing or living in a community association have been noted. Community associations and the professionals who develop and serve them are well advised to get involved with the New Jersey Builders Association and CAI to help provide a strong voice to New Jersey lawmakers. You can be that voice, shaping and influencing the future of community associations, for 2020 and beyond...

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## A DECADE ON, THE SRRA CONTINUES TO DRIVE REDEVELOPMENT

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NJDEP should consider together is how best to streamline the requirements necessary to complete remediation projects.

Under the current law and regulations, NJDEP must process a Remedial Action Permit (RAP) before an LSRP can submit the final paperwork for a RAO to declare the remediation is completed and the institutional controls are in place.

From the time it is submitted until the

time it is issued, a RAP can take more than a year, delaying completion of property transactions and redevelopment projects. No one knows better than builders the impacts delays can have on redevelopment.

Some of the delays are caused by improperly completed paperwork or by LSRPs not adequately describing how they reached their professional decisions. The LSRPA has worked with the NJDEP and responsible party organizations to improve training for LSRPs to remove the administrative hurdles. LSRPA also is active on the ongoing NJDEP stakeholder group to improve the current process and has reaffirmed its commitment to continuing education for LSRPs and responsible parties.

But more creative solutions also may be considered to ensure no bottlenecks exist between when the work of remediation is completed and the permit is issued so an RAO can be filed.

Of course, better documentation of an LSRP's decision process for a RAP and RAO should reduce the time necessary for NJDEP reviews. Better documentation also could help to expedite the required inspection and review of other reports.

Another potential solution would allow the LSRP to issue some permits by rule while retaining NJDEP's ability to review the final remediation documents to ensure the necessary controls are in place for the environment and public health.

Also, the regulatory mindset must change so that prospective developers, who now may be listed as the party responsible for the site's pollution, are treated as an ally in the safe redevelopment of contaminated properties. Both builders and stakeholders should work together for that goal.

Whatever the changes, the success of

SRRA is evident. But any program, with enough experience, can be updated and improved. With appropriate and reasonable changes to our state's laws and regulations, we can accomplish even more for the public, the environment and business.

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## STRANDED ASSETS

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the private owners so that they can be given to other private parties, is all but certain to be met with resistance. There are a variety of reasons why commercial properties may have vacancies and many of those reasons would not ordinarily be thought of as creating blight. For instance, a big box retail center may see a single user or anchor tenant vacate, perhaps to a nearby superior location or facility, but the tenant may still be paying rent to the landlord at the original location in order to keep its competitors away. Does this qualify as blight? Should it permit a town to use eminent domain to take that property from the owner and allow another private party to redevelop it? Or consider an office building where the market suggests that a single user tenant would flourish, but the building cannot be made available until several smaller users vacate at the end of their staggered lease terms. If that building remains 51% or more vacant for more than two years, even where the landlord has single users waiting, should it be considered blighted, allowing it to be taken from the owner? These and other questions must be answered before any legislative assistance to the real estate community can be expected to succeed. While the clearance of blighted areas is recognized as a valid public purpose justifying the exercise of eminent domain, stretching the blight criteria to include "mostly vacant" commercial buildings may prove to be more trouble than it is worth.