

MRP Properties Company, LLC

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RECEIVED

AUG 28 2009

Hazardous waste Program
10 Dept. of Natural Resources

August 27, 2009

Director – Hazardous Waste Program
Missouri Department of Natural Resources
PO Box 176
Jefferson City, Missouri 65102-0176

Re: Comments to Proposed Rule Amendments in 10 CSR 26

To Whom It May Concern:

MRP Properties Company, LLC (MRP) respectfully submits the following comments regarding the proposed changes to the underground storage tank technical regulations contained in 10 CSR26 – 2.010 through 10 CSR26 -2.020 . As stakeholders, MRP has a unique perspective and disadvantage as a responsible party with directives to close sites, but are no longer the owner or operator. MRP fully supports the changes proposed by the Petroleum Storage Tank Insurance fund (PSTIF) and offers the following comments.

LAND USE DETERMINATIONS

Land use determinations should drive the delineation criteria. The Missouri Department of Natural Resources (MDNR) has recently provided land use determinations that are conservative, particularly on future scenarios involving the installation of water wells. Many of our sites are located in areas of dense commercial development. A reasonable projection of future land use indicates that these sites will remain non-residential for the foreseeable future. The application of residential standards in this type of setting is overly conservative. A land use determination provided in a site conceptual model by the responsible party and approved by the MDNR for a site prior to undergoing the RBCA process should be adequate. In addition, MRP believes that significant costs would be saved by delineating to levels appropriate to the established land use for a site.

RBCA APPLICATION AND DELINEATION CRITERIA

Again, many of our sites are located in areas of dense commercial development. When a reasonable projection of future land use, included as part of the site conceptual model submitted by the responsible party and approved by the MDNR, demonstrates that a site will remain non-residential, non-residential screening levels should be applied as delineation criteria. Two sets of screening and delineation values, based on established land use, should be available for use to determine whether or not a site should undergo the full RBCA process.

PLUME STABILITY EVALUATIONS

Although plume stability evaluations can only be made with a sufficient amount of data, the appropriate number of ground water monitoring events should be determined by a review of existing data and not an arbitrary time frame. Many of our sites have ground water monitoring data going back several years. In some cases, plume stability can be established at these sites without 2 years of additional quarterly ground water monitoring data. We have successfully established plume stability in accordance with the MRBCA Process for Petroleum Storage Tanks Determining Plume Stability Guidance at sites with less than eight consecutive quarters of ground water monitoring.

NOTIFICATION OF ADJACENT OWNERS

The adjacent property owners potentially impacted by a release are currently notified when plume delineation requires access to these adjacent properties. Regardless of the delineation criteria, adequate notification is achieved while obtaining this access. Any property not impacted by the release at levels exceeding the standards applicable to that property should not be involved in the notification process. Notification to unaffected parties will almost certainly generate confusion with respect to potential property damages and the technical nature of petroleum hydrocarbons release and cleanup activities. As such, the potential for confusion and undue concern would be minimized by notifying only the affected adjacent property owners.

LONG TERM STEWARDSHIP

Since MRP has divested all Missouri retail petroleum stations, we are no longer in direct control of our sites. Complying with long term stewardship (LTS) requirements may not be possible at these sites. A “no further action” (NFA) letter for a site with contamination above residential target levels is already issued on the condition that, if land use is going to change, the NFA letter will be re-evaluated. As such, requiring long term stewardship (LTS) at these sites is unnecessary. As an alternative, MRP suggests recording NFA letters on the property deed. MDNR’s NFA letter should include any corrective actions, including AULs as appropriate and necessary to keep the NFA in place. MRP further suggests that a fee be paid and the MDNR monitors activity use limitations (AULs) to make sure that they stay in place. This practice is currently performed by MDNR within the Departmental MRBCA process.

APPEALS RULE

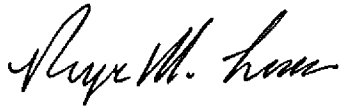
Due to an apparent lack of registered geologist staff within the Storage Tank Section, it appears that many report reviews and data evaluations are being made by MDNR staff that may not be technically qualified to make these evaluations. As such, MRP fully supports a formal appeals process for any decisions made by the Hazardous Waste Program.

SITE DEFINITION

We believe that the definition of "site" should be constrained to the source property. By expanding the definition of "site" to include the areal extent of all current and future contamination resulting from the release (including contamination both on the source property and on adjacent properties currently impacted or likely to be impacted in the future), the designation of "on-site" and "off-site" receptors is effectively eliminated during the RBCA process. The result could be an overly conservative assessment of risks to adjacent properties instead of protecting specific receptors to the appropriate levels.

These matters are important to stakeholders throughout the state of Missouri. As such, we appreciate your consideration of these comments. If you have any questions or need further clarification, please contact me at 303-373-6057.

Respectfully,



Roger Levin,
Environmental Manager