

May 9, 2014
BFSG Technical Subgroup Meeting

Attendees: Tom Coogan, Mick Skwarok, Scott Wilson, Karen Dettmer, Roy Wittenberg, Tiffany Goebel, Kate Juno, Margaret Brunette, Steve Meer, Judy Fassbender, Dan Buss, Ben Gramling, Liz Evans

GoTo Meeting attendees: Jodie Peotter, Chris Valcheff

1. Sediment Topic: Issue is being combined with the Waterfront, Technical and Liability subgroups. DNR staff is setting up a meeting with DNR's Water Program staff to discuss the various issues. In the future (Thursday May 16th), there will be a meeting of subgroup co-chairs.

2. **Management of Building Materials Contaminated with PCBs** (Karen) – Karen only made a change in the comments section of the paper, referring to DNR's guidance and the public comment period. This was based on the discussion our group had with Gary Edelstein (DNR) during our last meeting.

Public comment period will open May 19th. It will be open for 28 business days.

Roy: There maybe some opportunities for additions to the following:

- **Communication** – identification of a point of contact (through RR program or a specific process). How this communication can be clarified (EPA/DNR), coordination of how PCB contaminated equipment is managed.

How should we handle our input on the guidance document (should it come from individual companies/entities or from the BFSG)? **The consensus was to submit comments as a group.**

- Further guidance maybe needed, specifically, where building material management overlaps between Waste Program and RR Program.

These issue papers are in draft form. **If you have comments, please pass those onto the sponsor of the issue paper and co-chairs.** Those comments will be incorporated into the papers presented to the BFSG May 23rd.

- **Equipment** – DNR recently put out for public comment a model salvage ordinance. Model salvage ordinance will address contaminated building equipment. Clarification on the documentation requirements of contaminated equipment. The liability subgroup is working on this issue. Upsurge of Limited liability Partnerships (i.e., LLC) being formed. How do banks deal with these issues before foreclosure process starts? What is a lender? Roy stated that DNR doesn't recognize LLPs when it comes to (292) lender liability exemptions. The liability subgroup is working on this issue.

Recommendation: everyone concurred that the paper captures the groups' views.

Roy will submit further comments to Karen by May 16th. Comments are due to **Karen by May 16th.**

3. **NR 718 and Low Hazard Exemptions (Scott)**

Scott read through the issue paper. Financial assurance requirements for landfills. What about recycling facilities, scrap yards, quarries, etc.?

Recommend the DNR's Waste Program expand financial assurance requirements to other facilities. Support additional guidance on sediments and low hazardous exemptions.

DNR is working on the following guidance:

1. Low haz exemption guidance – Waste and RR
2. Utility contractors who encounter fill sites
3. Sediments

Vapor Intrusion (Karen)

When to sample, when it's reportable, encroachment, tracking vapor pathway back to RP, when will closed sites be reopened (will DNR reopen closed sites), etc. DNR is working on these issues. DNR is starting to look at these sites. In the future, there may be a mapping program that shows where these sites are.

Dan: developing a database would be a good idea. What would assist proper due diligence without causing an alarm to RPs? Research scenario – analyze data that already exists about sites. A question was raised as to whether or not DNR has enough information about these sites.

A checklist would be helpful during property transactions - Possibly applying BMPs to reduce risk. Do #2 and #5 of the issue paper capture Dan's comments? Dan stated that it does. There's an opportunity for someone to mine the data (i.e., research project). EDR has a proprietary database that lists drycleaner and laundry sites for a fee.

Rather than a database, would it be helpful to have a screening tool/checklist?

Liz mentioned a difference between Research and DNR collecting additional information – BRRTS: helpful for developers, but research component is different.

Chris mentioned that DNR already has a list of dry cleaning sites (list that was used to send out DERF information).

Margaret asked the following: would the information we're seeking be any different than what we'd get with a Phase I? The group felt that a Phase I captures useful information

as to the history of the site.

What constitutes a vapor release (when is a release a release)? We could re-word # 1 of the issue paper. Future guidance should include the following:

Property transactions are looking at vapors now, especially those that are going from industrial to residential. Guidance will not include a database, it would provide guidance on what to look for, what type of sites should not be sited at possible vapor sites.

Invite Terry to May 23rd meeting? Option to write up questions for Terry. The May 23rd meeting will probably include walking through issue papers. There may not be sufficient time to have Terry present.

Change #1 – more inclusive – future guidance from DNR. Clarify reporting requirements. #2 – add that Chlorinated sites should be prioritized. #3 is fine. #4 leaving as is. #5 provide research assistance instead of just assisting communities. Screening tool/database – covered in #2, 5 and 7. #6 is fine. #7 came from municipal subgroup and should stay in paper. Comment on funding being needed has been transferred to the financial subcommittee. Inserted paragraph should be moved above paragraph that starts out “all of this regulatory...”

Action: Share new closure letter with subgroup.

4. Urban Agriculture Standards and BMPs (Karen)

Karen added reference to 292.11 requirements in the paper. Remove “being listed as a Brownfield property.” Re-word – “result in regulatory oversight.” DNR doesn’t include sites in BRRTs as listed as Brownfields. Residential is the hang up.

Ben stated – what does the DNR need to know about these sites to help protect the health of the state. This group should be providing comments to the DNR on this issue. BFGS would not be doing its job if it wasn’t advising the DNR on these issues.

Hang up comes with (a) in the paper (single family residential gardeners). Karen went through the changes she made to the paper.

16th Street Community Health Center: see 1,000’s of people each year with lead exposure. Sources of lead are vast and mostly associated with lead paint. They need sample results to determine level of exposure to lead or potential sources. Urban Agriculture is expanding. Lead abatement funding is seeing a downward trend.

Move b and c to be a and b. A (single family residential gardeners) paragraph will be stated a bit differently.

NR 700 – protective of public health. Those who own or control a property with contamination are responsible for reporting this information to DNR and ultimately cleaning up the site. The safe garden soils workgroup is working on BMPs. Add that outreach could minimize some of the risks. Karen will make some changes and send out

to the group by May 16th.

5. Presumptive Remedies, Guidance on Historic Fill Sites (Scott)

Need for clarity from RR. Sites that have fill material. Future guidance that is being worked on by the DNR. Sites that fall out of Waste Program oversight, that are typical fill sites (i.e., unlicensed sites, e.g., fly ash in Madison area), should be addressed by the BSG. These sites should have more of an expedited process.

Methane coming out of soil, RR or Waste Program jurisdiction? For the most part, exemption to build – Licensed - it's handled by the Waste program, unlicensed - it's handled by the RR Program. The methane issue seems to be more appropriate for an engineer review. It can be difficult for hydro geologists for review these cases.

DNR guidance is trying to address who does what (Waste/RR). Presumptive remedy, could discuss what the appropriate cover/options could be. What types of remedies are acceptable? Review and/or establish presumptive remedies or options that are acceptable based upon specific site conditions.

Tiffany proposed a rewording of language to the proposal section where there's more flexibility when there is one foot in the Waste Program jurisdiction and the other foot in the RR realm (e.g., historic fly ash deposit sites).

6. Deed Restriction Requirements for Closed Sites (Karen)

BRRTS/GIS Registry vs. EPA Deed restrictions. Subgroup likes the BRRTS/GIS Registry and would like RR to work with EPA. RR has a request into EPA so this issue being included in the BSG report is a good idea.

7. Background levels of Contaminants (Scott)

Jodie submitted comments to Scott regarding Illinois work on background. EPRI grants maybe a good resource for funding background work. Maybe additional clarity should be provided as to what the definition of atmospheric deposition is vs. naturally occurring.

DNR Guidance that is being worked on will include a variety of metals. This guidance development is in its early stages.

No easy answer. Could end up being a BMP type guidance. Include this in the report if DNR is already working on guidance? By being in the report, it confirms that DNR's work on guidance is needed.

A point was made that establishing background can be difficult to get access from adjacent property owners.

8. Action Items (reminder of May 23rd BMSG meeting)

May 16th – send out final drafts and information about the Agenda for May 23rd meeting.

9. Future meeting date of technical subgroup

Tom: send out doodle survey for a June meeting date of the Technical subgroup.