

## Tanks RBCA Core Group Meeting February 24, 2011

### Summary

- David Lamb, HWP, provided a recap of the January 26<sup>th</sup> Core Group meeting
- Leanne Tippett-Mosby, DEQ, opened the discussion regarding long-term stewardship (LTS)
  - She explained that the Department has and continues to hold separate discussions with the Petroleum Storage Tank Insurance Fund (PSTIF) and the Missouri Petroleum Marketers and Convenience Store Association (MPCA) regarding rule-related issues.
  - Based on those discussions, the Department has agreed to change the definition of “site” from that in the 2009 adopted/withdrawn rules to the previous definition.
  - MPCA has major concerns with requiring the use of deed restrictions/deed notices when future land use is the only concern
  - The department proposes to use a publicly accessible on-line database in lieu of deed notices in certain cases where future land use is the only variable of concern
- Tim Chibnall, HWP, explained that the Department had received some comments from stakeholders regarding LTS; opened discussion of those comments
  - Carol Eighmey, PSTIF, went over her comments
  - David Marshall, City of Kansas City, went over the city’s comments
  - Discussion arose regarding whether common law covenants “run with the land” and whether the Department has the authority to enforce a covenant (i.e., be designated a “holder” in the covenant)
    - Department to ask legal counsel for answers
  - Keith Piontek, TRC, went over his comments in brief, suggesting that, if disagreements regarding LTS rule requirements persist, the parties might want to consider conducting a cost/benefit analysis of LTS issues
  - Mr. Chibnall brought up the issue of a publicly accessible database as a potential substitute for Deed Notices when the only variable in play is future land use
    - Aaron Schmidt, DEQ, explained that the Department is in the early phase of considering database development and that various factors, chief among those funding, must be fully considered before a decision will be made
  - The Department decided that a concrete decision regarding LTS could not be made until the Deed Restriction questions are resolved and a decision made regarding the database; therefore, the group moved on to the next issue – site characterization (contamination delineation)
- Mr. Chibnall opened the discussion regarding site characterization with a recap of the January 26<sup>th</sup> discussion and an explanation of the provisions in the adopted/withdrawn 2009 rules
  - Laura Luther, HWP, explained that the Tanks Section currently requires delineation to residential standards unless the tank owner/operator can

- Group discussed the “1,000-foot exemption” built into the 2009 adopted/withdrawn rule
    - The Department proposed and the group agreed to set the exemption aside and work on a different approach
  - Mr. Chibnall reiterated the Department’s position that delineation to residential standards is necessary to identify where it would be unsafe for someone to live
  - The delineation issue was not resolved; the Department proposed that Department staff put together language regarding delineation criteria for the group to review between this and the next meeting; the Department also requested that stakeholders submit comments to the Department regarding the issue
- Mr. Chibnall indicated that the Department would do the following prior to the March meeting:
    - Conduct internal discussions regarding database development
    - Obtain Department legal counsel input regarding Deed Restrictions
    - Respond to comments received regarding LTS and post the comments and responses to the stakeholder webpage
    - Prepare language regarding delineation criteria to define the principles that will guide development of rule requirements
      - provide the language to stakeholders for review and comment
    - If the Department is able to reach conclusions regarding database development and Deed Restrictions, prepare language documenting those decisions and defining the principles that will guide development of rule requirements and provide the language to stakeholders for review and comment
- The next Core Group meeting is scheduled for March 24, 2011, in Jefferson City