

Karen H. Schaefer, CHMM
President
Sun Belt Environmental Services, Inc.

Comments regarding contaminant delineation and long-term stewardship; from email dated February 18, 2011, to Tim Chibnall of the Hazardous Waste Program

I will be on vacation during the next meeting. I do want to provide some comments regarding the proposed rules, specifically the issues related to off-site delineation and LTS for off-site properties. There is a considerable population not represented in the stakeholder group, that being the off-site property owners. This was mentioned during the last meeting but I would like to reiterate. I know that the department has made efforts to bring some of these property owners to the table and it is understandable that they decline to come. The process is complex and can be difficult to engage in for those that are fairly well versed in MRBCA, and most affected property owners do not have the time or inclination to participate, much less want to represent that stakeholder subgroup. So I believe that we all have a responsibility to be fair and equitable in our consideration of off-site issues with the owners in mind. I also think that well-crafted LTS provisions can protect RPs, with less potential for litigation and exposure. I think attempts to educate off-site owners could be beneficial. Knowledge generally leads to understanding and less fear and people should have the opportunity to be a part of the conversation when it impacts their lives. By the end of the process informed owners might be more likely to agree to LTS mechanisms and be better able to discuss the issues with potential buyers and lenders. Maybe I am being unrealistic and I know that many feel the less said the better. I also know there are many potential repercussions and there are no clear cut answers, but better communication with off-site owners is something that should be considered in my opinion.

Department of Natural Resources response:

The Department agrees that the parties “at the table,” including and specifically the Department, have a responsibility to consider the interests of property owners and others potentially and actually affected by contamination from UST releases who are not present at the Stakeholder Group meetings. In fact, the Department has a statutory obligation to protect human health and the environment and sees that as its primary role in the ongoing Stakeholder Group discussions.

The Department also agrees that well-crafted LTS requirements can help to protect UST owners and operators while providing ongoing and adequate human health and environmental protection. Education should be a part of our LTS efforts; in some respects, the primary aim of LTS is education: ensuring that those affected by contamination have the information they need to make decisions regarding the appropriate and safe use of their property. The 2009 adopted/withdrawn rules proposed to ensure such information was available through formal means such as Deed Notices or Restrictive Covenants recorded in the chain of title of an affected property. The Department does not necessarily believe these “formal” mechanisms are the only

mechanisms available to provide for LTS, and the Department remains open to suggestions from stakeholders regarding alternative durable and reliable LTS mechanisms. The Department agrees that improved communications with parties that are affected or potentially affected by UST releases have the potential to improve overall LTS efforts. The Department has and will continue to advocate for appropriate notice to affected off-site parties in an effort to heighten communication and more thoroughly assure that the RBCA process is transparent and reliably protective.