



Policy Statement to be Incorporated in the MRBCA Guidance
Closures of Sites Under MRBCA with Off-Property Groundwater Contamination
October 12, 2006

This policy addresses contaminated groundwater plumes migrating onto adjacent property.

MRBCA clearly defines the "site" as the extent of contamination. It does not elaborate further. Situations involving adjacent properties warrant an implementation policy.

The Guidance states,

2.2.5 The extent of contamination and complete routes of exposure, not the property boundaries, determine the extent of site-specific data collection and analysis.

6.3 "Site" refers to the areal (or horizontal) extent of contamination

The department's policy is that all parts of the contaminated area (site) must be subjected to site characterization, risk assessment and risk management in order for the site to receive a Letter of Completion.

Should a site assessment and risk assessment of neighboring property find that the risk level exceeds that for unrestricted use, the remediating party must address this. The remediating party must either attempt to remediate the neighboring property to unrestricted use levels, or remediate to non-residential RBTLs, in which case the neighboring property owner must approve placement of AULs on that property, assuming it meets non-residential standards. If the neighbor refuses to place AULs on that property, and insists upon unrestricted use closure, the remediating party shall attempt to remediate the neighboring property to unrestricted use levels before the department can issue a Letter of Completion. An exception would be if an AUL implemented by the local government, in accordance with MRBCA Section 11, effectively makes the pathway in question incomplete. For example, the ordinance and Memorandum of Understanding with the city of St. Louis addresses the future domestic use of groundwater, making the domestic use pathway incomplete.

Example:

Two properties are involved in a "site". Shallow groundwater contamination with solvents has migrated under the adjacent property at levels exceeding unrestricted use RBTLs. The source property has been cleaned up to restricted use levels (non-residential) and could be closed (Letter of Completion issued by the dept.) with use restrictions in place. The adjacent property contamination levels are also satisfactory for

restricted use. The department will require the plume on the adjacent property to be managed appropriately under MRBCA and in a manner acceptable to the neighboring property owner prior to closure of the source property. The plume must be managed both from a health, environment and safety perspective (meets MRBCA standards) AND in a way acceptable to the neighbor, BEFORE the department can issue a Letter of Completion for any part of the site. In this case, several options are available, including:

1. Neighbor places or approves placement of appropriate AULs on the adjacent property. Department approves AULs prior to filing.

Or, if the adjacent owner does not want use restrictions:

2. Remediating party remediates plume on adjacent property to unrestricted use levels before the department can issue a Letter of Completion for the site.

We recognize that problems may arise with individual sites that make it difficult or impossible to conduct characterization, assessment and management of risks on those adjacent properties. For example, a neighbor may refuse to grant access to the adjacent property to the remediating party. If there is no regulatory authority (for example, under CERCLA) to compel the neighbor to grant access, it may be impossible to perform assessment on the neighboring property.

If a neighbor refuses access, the department would require the following:

1. The remediating party must formally notify the neighbor in writing that the contaminant levels above risk-based target levels are or may be exceeded on the neighbor's property. Specific contaminants and pathways must be listed.
2. The remediating party must generally meet unrestricted use RBTLs at the property line of the subject site. Exceptions may be made at the discretion of the project manager. Exceptions may include waiving the domestic use pathway/target levels where the weight of evidence approach for the domestic use pathway indicates there is no current use and little chance of future use of groundwater. In the case of the groundwater to indoor air target levels, if modeling calculations for current or reasonably anticipated future use show that current or reasonably anticipated buildings would not be adversely affected by the plume, we would not require the groundwater to indoor air pathway to be addressed.