The Minnesota Pollution Control Agency’s Brownfield Programs

And the
Minnesota Targeted Brownfield Assistance Program
Minnesota’s Brownfield Programs

- **Minnesota Pollution Control Agency (MPCA)**
  - **Voluntary Investigation and Cleanup (VIC) Program**
    - Most non-petroleum contaminated sites are handled by VIC
    - Former dry cleaners, old dumps, contaminated fill, etc.
  - **Petroleum Brownfields Program (PBP)**
    - Petroleum contaminated sites including former gas stations or bulk plants, railroads, etc.

- **Minnesota Department of Agriculture (MDA)**
  - **Agricultural Voluntary Investigation and Cleanup (AgVIC) Program**
    - Sites with agricultural related contamination including fertilizers, pesticides, some arsenic, etc.
MPCA’s VIC Program

- The first voluntary cleanup program in the USA – 1988
- Approximately 200 new sites per year
- 350-400 active sites at any time
- Approximately 57,000 acres of land, as part of VIC sites, have been returned to beneficial use after receiving VIC assurances and oversight
- Almost half of our VIC sites also have petroleum contamination
What does the VIC Program do?

- VIC staff provide technical oversight of investigation and cleanup at sites
  - VIC sites are contaminated or suspected to be contaminated with hazardous substances, pollutants, and contaminants
- The VIC Program offers liability assurances and technical assistance
  - Minnesota Statute 115.B, the Minnesota Environmental Response and Liability Act (MERLA)
- The assurances issued through the VIC Program facilitate property transfer
- Fee for service, charges $125/hour per staff person
Common Types of VIC Sites

- **Industrial Sites** – metal plating, manufacturing, etc.
- **Commercial Sites** – dry cleaners, service stations, etc.
- **Residential Sites**
- **Mixed Use Sites** – commercial/residential
- **Green Space Sites** – parks, trails, etc.

Commonly, sites are changing land use while enrolled in the VIC Program

- A former dry cleaner into multi-family housing
- An old dump into an office park
Assurances Available from VIC

- Lender No Association Determination (Lender NAD)
- No Association Determination (NAD)
- No Action Determination
- No Further Action Determination (NFA)
- Off-Site Source Determination
- Certificate of Completion (CoC)
- In addition, Technical Assistance Letters
  - Issued when there is no Identified Release or when liability assurance letters are not appropriate
No Association Determinations - V1C

- **Lender NAD**
  - A statement to lenders of the MN statute that they are not liable when solely providing financing

- **NAD**
  - Responsible Parties are not eligible
  - There must be an Identified Release (IR) of hazardous substances, pollutants, or contaminants
  - Liability protection when party follows their specific proposed actions at the site
  - Party must have an ownership interest in the site
  - The extent and magnitude of the IR must be defined if there will be building over contamination
No Action & No Further Action - VIC

No Action – no cleanup is required
No Further Action – cleanup has been completed

- NA & NFA letters may be issued to Responsible Parties (RPs) and Voluntary Parties (VPs)
- There must be an Identified Release (IR) of hazardous substances, pollutants, or contaminants
- The extent and magnitude of the IR must be defined
- Can be issued with conditions
  - Long term monitoring, institutional controls, etc.
Off-Site Source Determination - VIC

- Only applies to groundwater
- Must show that there are not on-site sources
- Compounds found in the IR cannot be used on-site
- Source of the off-site contamination doesn’t have to be identified
- Off-site, upgradient borings or wells may be required
• The “Cadillac” of assurances
• No reopeners or disclaimers are attached, except for fraud and/or misrepresentation
• RPs are not eligible, but future owners are
• Must conduct a complete soil, groundwater, and soil vapor investigation
• Must conduct a complete cleanup for the site’s contaminants of concern
Technical Assistance - VIC

- May be issued when an investigation was conducted, but no IR was identified
- Can be issued to RPs and VPs
- Can be issued when the investigation is inadequate for an assurance, but the MPCA’s opinion is requested
  - Limited data
  - Old data
- May be a third party review
Institutional Controls - VIC

Two Types

- **Affidavit/Property Notification**
  - A notification that there is residual contamination left in place
- **Environmental Covenant**
  - Restricts the property use in some way
How Long Does it Take to Go Through the VIC Program?

- The length of time to get the desired liability assurances is based on:
  - The type of assurance needed
  - The complexity of the site
  - The quality and completeness of the technical information provided about possible or real contamination at the site
  - The length of time the applicant takes to complete the project investigations, reports, and tasks
Tips to Move Through VIC More Efficiently

- Ask a lot of questions of your consultant and government agencies
- Know what is required to redevelop a site
  - This will reduce anxiety about the cleanup and will help maximize liability assurances
- Maintain good communication with your consultant and VIC staff
- Make sure that investigations are complete
  - No surprises and no extra costs from additional sampling
- Determine the level of attorney involvement needed.
  - Legal advice should help address liability risk
VIC Program Improvements

- VIC and PBP are now using a combined application.
  - Working on an online application
- Reduced hourly fees from $150/hour to $125/hour
- Older VIC site files are being scanned into OnBase, our electronic filing system
  - Quicker and easier access to old site files
- New and updated guidance
  - Vapor Intrusion guidance
  - Regulated and unregulated fill policy
- More guidance updates planned!
- VIC and PBP will be using the same database soon
MPCA’s Petroleum Brownfields Program

- Approximately 250 new sites per year
- 300-350 active sites at any time
- Approximately 10,000 acres of land, as part of PBP sites, have been returned to beneficial use after receiving PBP assurances and oversight
- Almost half of our PBP sites also have non-petroleum contamination (hazardous substances, pollutants, or contamination)
- Formerly the Petroleum VIC (PVIC) Program
- PBP is the “sister” program to VIC
What does the PB Program do?

- PBP staff provide technical oversight of investigation and cleanup at brownfield sites
  - PBP sites are contaminated or suspected to be contaminated with petroleum compounds
    - Tank releases and non-tank releases
  - PBP also provides expedited review and approval of petroleum tank cleanup sites
- The PB Program offers liability assurances and technical assistance
  - Minnesota Statute 115.C, the Petroleum Tank Release Cleanup Act
- The assurances issued through the PB Program facilitate property transfer
- Fee for service, charges $125/hour per staff person
Common Types of PBP Sites

• Commercial
  • Former gas stations
  • Former bulk plants
  • Releases form heating oil tanks
  • Releases from tanks at current gas stations

• Industrial
  • Railroads

• Commonly, sites are changing land use while enrolled in PBP
  • A former gas station into multi-family housing
  • A former gas station into an office park
Assurances Available from PBP

- Leak Site Tank Removal Verification Letter
- Leak Site File Closure Confirmation Letter
- Off-Site Tank Release Determination Letter
- General Liability Letter
Tank Removal Verification Letter - PBP

- Verification that the tanks which caused the release have been removed
- States that the site was source of a petroleum tank release
- States that the prospective buyer or lender will not be considered a RP
File Closure Confirmation Letter - PBP

- Confirmation that the leaksite is closed
- States that a petroleum tank release occurred at the site
- States that the leaksite closure status is still valid
Off-Site Tank Release Documentation Letter - PBP

- Identifies the source of the petroleum contamination, if known
- States that the current owner of the site is not a RP for the contamination
- Information must be provided showing that
  - There is no on-site source of contamination
  - The contamination migrated to the site from an off-site tank
General Liability Letter - PBP

- States the definition of a RP in accordance with Minn. Stat. 115C
- States the special provisions for mortgagors
- States that if a party comes into possession of a site after the tanks have been removed, that party is not a RP and cannot be ordered to complete corrective actions
How Long Does it Take to Go Through PBP?

- The length of time to get the desired liability assurances is based on:
  - The type of assurance needed
  - The complexity of the site
  - The quality and completeness of the technical information provided about possible or real contamination at the site
  - The length of time the applicant takes to complete the project investigations, reports, and tasks
**PB Program Improvements**

- PBP and VIC are now using a combined application.
  - Working on an online application
- Reduced hourly fees from $150/hour to $125/hour
- Petroleum Brownfields and Petroleum Remediation are beginning to request files/report in PDF
  - Scanning of old site files has not begun
- New and updated guidance
  - Vapor Intrusion guidance
  - Regulated and unregulated fill policy
  - Updated RAP guidance
- PBP and VIC will be using the same database soon
Helpful Links

- VIC Program webpage
  - http://www.pca.state.mn.us/mvri820

- PB Program webpage
  - http://www.pca.state.mn.us/foyp80a

- MPCA Brownfields webpage
  - http://www.pca.state.mn.us/lupg7f9

- AgVIC webpage
  - http://www.mda.state.mn.us/chemicals/spills/incidentresponse.aspx
Let’s switch gears...

Minnesota Targeted Brownfields Assistance Program (MNTBAP)
Minnesota Targeted Brownfields Assistance Program

MNTBAP is run through the VIC Program

- VIC receives money each year from EPA, a 128(a) grant
- A portion of the 128(a) grant can be used for site assessments
  - Parties apply to the MNTBAP for a grant
  - We use our contractors to complete the work
- Eligible parities include:
  - Municipal government
  - County government
  - Tribes
  - Non-Profit organizations
MNTBAP Eligible Sites

• Must be in MN!
• Preference is given to brownfield to greenfield sites
  • Redevelopment into parks, trails, open space, etc.
• Non metro-area sites are encouraged to apply
  • We have had only a few out-state sites
• No federal Superfund sites
What Can MNTBAP Do for You?

After your application is accepted:

- MNTBAP hires contractors to complete the work
  - The grantee does NOT have to do any contracting
- MNTBAP can pay for:
  - Phase I Environmental Site Assessments (ESA)
    - Is there evidence of contamination?
  - Phase II ESA and possible Supplemental Phase II ESAs
    - Subsurface soil, groundwater, and soil vapor sampling
    - May include a hazardous material survey of the building(s)
  - Preparation of a Response Action Plan (RAP)
How to Apply for MNTBAP?

• Visit the MPCA Brownfields webpage and download the application forms (see next slide)
  • 4 pages, include photographs if they’re available
  • Fill in the information, no essays!
• Call or email John Betcher, MNTBAP Coordinator with any questions
  • 651.757.2226
  • John.betcher@state.mn.us
• Send the application materials to the MPCA address as listed on the forms
  • Any time, no deadline. We start awarding new grants in October of each year
MNTBAP Information Online

- Information on MNTBAP and application materials are on the MPCA’s Brownfields webpage
  - [http://www.pca.state.mn.us/lupg7f9](http://www.pca.state.mn.us/lupg7f9)
- MNTBAP Success Stories are also online (look towards the bottom of the page)
  - [http://www.pca.state.mn.us/lupg7f9](http://www.pca.state.mn.us/lupg7f9)
The MNTBAP Process

- The MPCA and EPA Region 5 will review the application
- Once approved, the MPCA MNTBAP staff will notify you and start the contracting process for a Phase I ESA report
- MNTBAP will contract out a Phase II ESA if one is necessary
- If contamination is found that requires cleanup, MNTBAP will contract out a RAP
  - MNTBAP cannot pay for cleanup of a site
What do You Get?

- You will be provided with paper and PDF copies of all the reports completed
  - Phase I ESA report, Sampling and Analysis Plan, Phase II ESA report, and/or a RAP
- You will have the information you need to seek out cleanup funding for your site
Thank you!

If you think of questions later, please contact Shanna Schmitt at 651.757.2697 or shanna.schmitt@state.mn.us

Minnesota Pollution Control Agency