

# The Voluntary Investigation and Cleanup Programs or “Brownfield Cleanup Programs”

A photograph of a construction site. In the foreground, there is a large, deep pit with a concrete wall on the left and a brick wall on the right. A black plastic liner is visible on the left side of the pit. A large pile of dirt is in the center. Two men in safety vests and hard hats are standing on the dirt, looking at something. A yellow tractor is partially visible on the right. The background shows a building under construction with concrete pillars.

Jennifer Haas, VIC Program Hydrogeologist  
John Betcher – VIC Program Hydrogeologist  
Stacey Van Patton – Petroleum Brownfield PM  
Minnesota Pollution Control Agency

# Minnesota's Voluntary Cleanup or "Brownfield" Programs

## **MPCA**

VIC Program: non-petroleum & non-ag chemical sites

Petroleum Brownfields (PB) Program: petroleum sites

## **Minnesota Dept of Agriculture**

Agricultural VIC (AgVIC) Program: ag chemical sites (pesticides, fertilizers)

# VIC Program Status

- **First Voluntary Cleanup Program in the country - 1988**
- **Approximately 100 new VIC sites in last 12 months (typically 200 new sites per year on average)**
- **More than 55,000 acres have been returned to beneficial use since Program's start in 1988**
- **Currently about 350 active sites in VIC; over 200 assurances issued in the last 12 months**
- **In March 2010, MPCA's Remediation Division reorganized. Hans Neve is now the VIC Program Supervisor.**

# What does the VIC Program do?

- **Facilitates property transfer.**
- **Provides oversight of investigation and cleanup of hazardous substances, pollutants, and contaminants.**
- **Offers liability assurances & technical assistance**
  - **Minn. Stat. 115B**
- **Fee-for-service program; \$125 per hour**

# Who's Eligible?

- **Property owners**
- **Prospective purchasers**
- **Lenders & Developers**
- **Tribes**
- **Local Government**

# Types of Sites

- **Industrial**
- **Commercial**
- **Residential**
- **Mixed Use**
- **Green Space**
- **Conversion of One Use to Another**

# Liability Assurances Available

- **Certificates of Completion**
- **Off-site Source Determination**
- **No Association Determination**
- **No Action Determination**
- **Technical Assistance letters**

# Certificate of Completion

- **The “Cadillac of Assurances”**
- **No reopeners or disclaimers, except for fraud or misrepresentation**
- **RPs not eligible, but future owners are**
- **Complete soil and ground water investigation required**
- **Complete cleanup required for full C of C; partial cleanup required for Partial C of C (only one media or one identified release (IR), or specific area)**



# Off-Site Source Determination

- **Only applies to ground water**
- **Must show that no on-site sources exist**
- **Compounds comprising the IR cannot be currently used at the site**
- **Off-site source of the release need not be identified**
- **Off-site (upgradient) borings may be required if past site history makes it likely that chemicals comprising the IR were used on-site.**

# No Association Determination (NAD)

- **Must have an IR**
- **RPs are not eligible**
- **Party receiving NAD must have ownership interest in the Site**
- **A Proposed Actions (PA) letter is required**
- **Party receiving NAD cannot use the same chemicals as the IR**
- **Extent and magnitude of IR must be defined if PA's include building over contamination**

# No Action Determination

- **Must have an identified release (IR)**
- **Extent and magnitude of IR must be defined**
- **Can be limited to one media, one IR, or specific area of site (all with disclaimers)**
- **Can be issued with conditions (long term monitoring, filing of institutional control, etc)**
- **Can be issued to RP or non-RP**

# Technical Assistance Letter

- **Can be used where investigation conducted but no IR**
- **Can be issued to RP or non-RP**
- **Can be issued where investigation is inadequate for an assurance (i.e. limited or old data), but MPCA's opinion is requested**
- **Third party reviews**

# **Institutional Controls**

- **Property Notification/Affidavit**
- **Environmental Covenant**
- **Possible Other Notification Measures**

# How long does it take to go through program?

- **The length of time to get liability assurance is based on the:**
  - **type of assurance needed**
  - **complexity of the site**
  - **quality and completeness of technical information about possible or real contamination at the site.**
  - **The length of time the applicant takes to complete project tasks**

# Tips to move through VIC Program more efficiently

- **Ask a lot of questions of your consultant and government agencies- know what is required to develop a site.**

*Reduces the anxiety about the programs, the cleanup and can maximize liability assurances*

- **Maintain good communication with VIC Program staff and your consultant.**
- **Make sure that investigations are complete - no surprises.**
- **Determine the level of attorney involvement needed. Legal advice should address liability risk.**

# VIC Program Improvements

- **VIC & PB Programs- now using combined application. Staff developing online application process**
- **Reduced hourly fees to \$125/hour**
- **VIC staff transitioning to OnBase, an electronic document filing system to reduce paper**
- **Updating various guidance and fact sheets**
  - **Included Vapor Intrusion Pathway assurances**
  - **Off-Site Reuse of Excess Fill**
  - **Developed MNTBAP application materials**
  - **Reviewing notification of Site restrictions**



# Web Links

- **MPCA “What’s In My Neighborhood” Web Page**
  - [www.pca.state.mn.us/backyard/neighborhood.html](http://www.pca.state.mn.us/backyard/neighborhood.html)
- **MPCA Brownfields Web Page**
  - [www.pca.state.mn.us/cleanup/brownfields.html](http://www.pca.state.mn.us/cleanup/brownfields.html)
- **AgVIC Web Page**
  - <http://www.mda.state.mn.us/en/chemicals/spills/incidentresponse/agvic.aspx>



**Minnesota Pollution  
Control Agency**

# **MNTBAP**

Minnesota Targeted  
Brownfield Assessment  
Program

# What Is MNTBAP?

- **MPCA Receives 128(a) assessment funds from Region V EPA**
- **Funds are used by MPCA to Assess Eligible Brownfield Sites using our Multi-Site Contractors**
- **We can work with Municipal and County Governments, Tribes and Non Profits to assess Brownfield Sites**
- **128 (a) Funds cannot be used for cleanup**

# Who Is Eligible?

- **Municipal Governments**
- **County Governments**
- **Minnesota Tribes**
- **Non-Profits**
- **The program is focused to assist but is not limited to outstate communities**
- **The MNTBAP covers the entire state of Minnesota**
- **We can work on MERLA or Petroleum sites.**

# What Can MNTBAP Do for You?

- **We will hire contractors to do all of the work**
- **There is not cost to the community**
- **We can do Phase I property Assessments**
- **We can do Phase II sampling and analysis and reporting of results**
- **We can do Supplemental Phase II work**
- **We can develop cleanup plans or Response Action Plans for a property**

# How Do I Apply for MNTBAP?

- **Call John Betcher of the MPCA VIC Unit at 651-757-2226**
- **Visit the MPCA Brownfields website where you will find the MNTBAP application forms (4 page form)**
- **Fill out the application and sign an MPCA access agreement and send the materials to the MPCA.**
- **Include photos of the site if possible**

# What's the Process?

- **The MPCA and EPA will review the application**
- **We start the contracting process for approved projects for a Phase I report**
- **We will contract to do a Phase II report if one is necessary.**
- **If impacts are identified that require remedy we will work to develop a RAP**

# What Do You Get?

- **The MPCA will provide copies of all of the reports produced for the project including a Phase I report, Phase II report and a Response Action Plan if one is developed.**
- **We cannot fund cleanup of the site.**
- **The Community will have all of the information with which to seek cleanup funds for the project**