

**Governor's Council on the
Dry Cleaner Environmental Response Fund (DERF) Program
7/09/03 Conference call**

Participants:

Council Members: Richard Klinke, Steve Plater, Jeanne Tarvin, Jill Fitzgerald

Others: Don Gallo (Reinhart, Boerner), Brian Swingle (WFI), Chuck Warzecha (DHFS), Jeff Soellner (DNR), Robin Schmidt (DNR)

Robin discussed concerns DNR staff are having regarding consultants – concerns included consultants that did not follow through on agreed upon deliverables, or requesting frequent and unnecessary reviews of reports. Robin indicated that staff are concerned about the fact that some consultants seem to be taking advantage of the agreement that fees would not be charged for technical reviews and it is taking significant time beyond what service they would provide to a fee paying “customer”. Robin indicated that the DNR will not charge fees for “normal” reviews, however, if a consultant requests additional reviews, or is unresponsive to DNR requests for information, DNR project managers may begin charging fees to the responsible party for their services. If a consultant requests an “unnecessary” review or has been unresponsive to DNR requests, the DNR project manager will send a letter indicating the problem and alerting the responsible party to the fact that they may be subject to future fees if the problem continues. The Council agreed with this approach, so long as there was communication with the responsible party prior to the assessment of a fee. Robin responded that a fee would not be charged unless the responsible party has been contacted about the problem and given a chance to work out the issue with their consultant. She reiterated that fees will continue to not be charged for the required submittals of the site investigation workplan and the site investigation report and remedial action options report.

Robin provided a brief overview of the vapor intrusion issue and the guidance document she is working on relating to vapor intrusion. Chuck Warzecha, from the Department of Health and Family Services, has prepared guidance for consultants (available on the web at www.dhfs.state.wi.us), and is in the process of developing a general fact sheet on vapor intrusion. Chuck discussed the health-related issues associated with vapor intrusion and the uncertainty associated with predicting which sites may have this problem. Robin and Chuck discussed the fact that neither DNR nor DHFS routinely recommends indoor air sampling to determine whether vapor intrusion is an issue at a site. There are simply too many indoor sources of air contamination that exist to determine whether indoor air is affected by vapor migration. Instead, the agencies are recommending a phased approach to identifying whether vapor intrusion may be a pathway of concern at a site. For example, you first need to determine whether contamination is present at high enough concentrations and at a shallow enough depth for this to be an issue. As those conditions are met, other criteria come into play. As the pathway viability is substantiated, sub-slab sampling could be recommended. This consists of drilling a very small hole through the foundation of a basement and taking a sample through that hole to see whether vapors are directly under the building. If there are vapors found at levels that would be of concern, Chuck discussed that it is far more cost effective to install a mitigation system rather than conduct additional sampling. The same systems that are used for radon mitigation are used for vapor intrusion. Chuck also indicated that in general, you would anticipate that approximately 10% of the vapors that are found in the sub-slab sampling would be able to enter the building. He continued to describe how they are using the EPA guidance on vapor intrusion, and as new information is found, especially from sites in Wisconsin, guidance will be adjusted accordingly. Don Gallo said he would submit data to Robin on vapor sampling that his clients were involved with.

Robin and Chuck also discussed non-technical issues associated with the vapor intrusion pathway, including liability and community relations (including risk assessment).

Don Gallo stressed the need to look at the different approaches to vapor testing and offered to help in the external review of the guidance document being developed by DNR. Jeanne Tarvin indicated that some type of checklist would be helpful, similar to the checklist used for assessing ecological risk at a site. Chuck emphasized that the vapor intrusion guidelines are set up only for residences and that commercial sites have different standards. The Council had no other questions or concerns, and was grateful for the update on this issue.

Jeff Soellner discussed revenue issues associated with the fund. All of the latest statistics are on the web. Jeff noted that license and interest incomes are down but license fees are up. Brian Swingle noted that it might be due to the Dept. of Revenue increase in collection efforts and late fees. The number of payments requests are at a record number high for the program and that includes a record number of requests just for the month of June. Jeff indicated that there are at least 90 active sites in the program now. He expressed concern about a growing program and a shrinking spending authority and he suggested that we may want to go to the legislature to update that spending authority when we request other statutory changes.

Robin continued the discussion about the legislature by stating that the R & R program has taken some hard budget hits and is expecting to need a 42% staff reduction and consequently a reallocation of staff time including her time. Robin stated that she spends about 25 to 30 % of her time on Dry Cleaner related issues and that is likely to go down to 0%. Her supervisor has told her she needs to spend time where they are willing to fund her.

5. The Council discussed appointment status and appointment dates. Not all appointments are current, however, given the focus of the Governor's office on the budget, the Council agreed that they would proceed until they hear otherwise from the Governor's office.