

DEPARTMENT : POLLUTION CONTROL AGENCY

STATE OF MINNESOTA

Office Memorandum

DATE: July 1, 2009

TO: Paul Eger
Commissioner

FROM: Kathy Sather
Director
Remediation Division

PHONE: 651-757-2691

SUBJECT: Request for Authorization: To Establish the Minnesota Environmental Response and Liability Act Program Project List of Superfund Sites for Fiscal Year 2010 (July 1, 2009 - June 30, 2010) as required under Minn. R. ch. 7044 (2006)

The Minnesota Environmental Response and Liability Act (MERLA or “State Superfund”), Minn. Stat. ch. 115B (2008), requires the Minnesota Pollution Control Agency (MPCA) to adopt rules which establish criteria for determining priorities among releases or threatened releases of hazardous substances, pollutants or contaminants (Minn. Stat. § 115B.17, subd. 13). These rules (hereinafter referred to as the “Priority Rules”) and are set forth in Minn. R. ch. 7044 (2006).

Following the adoption of the Priority Rules, the MPCA was required by MERLA to develop and adopt a Permanent List of Priorities (PLP) at which the MPCA intends to take response actions under Minn. Stat. § 115B.17, subd. 1. The purpose of the PLP is to assist in establishing MPCA priorities for taking response actions, which include Emergency actions, Operation and Maintenance activities, Remedial Action/Remedial Design (RA/RD) activities, and Remedial Investigations (RI) and Feasibility Studies (FS). The Priority Rules are used by MPCA staff to develop the PLP. Sites on the PLP are assigned to one or more response action classes as required by the Priority Rules.

The Priority Rules require the MPCA and Minnesota Department of Agriculture (MDA) to establish a Project List which should be viewed as a budgetary planning document and contains the names of those sites on the PLP to which MERLA funds will be allocated and for which the RI/FS, RA/RD or operation and maintenance are scheduled to begin during the upcoming fiscal year. The Project List sites are, therefore, a subset of the PLP with the anticipated schedule for the initiation and completion of response actions at a site, the availability of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) funds, the State Remediation Fund balance, and the administrative capabilities of the MPCA and MDA being considered when in its development.

Unpredictable changes in the status of these four factors may necessitate amendments to the Project List throughout the year. The Priority Rules also require that the Project List be revised at least on an annual basis. Funding for sites on the Project List must remain in effect until the Project List is revised, the next Project List is adopted, or until the work for which the site was placed on the list is completed.

The Priority Rules authorized the Commissioners of the MPCA and the MDA to establish the annual project list for the appropriate Agency. Upon approval, the FY 2010 Project List will become effective for Fiscal Year 2010. MPCA staff has discussed with MDA staff their Agency's MERLA Program funding needs. MDA staff have provided the MDA portion of the FY2010 MERLA Project List, which is being forwarded to the MDA Commissioner for approval (See Attachment 2).

The MPCA Commissioner does not approve the MDA portion of the MERLA Project List. The MPCA/MDA FY 2010 MERLA Program Project List will be forwarded to the Commissioner of Finance after each respective Commissioners' approval.

The proposed FY 2010 Project List to allocate funding for MERLA projects is incorporated as Attachment 1, and includes unknown emergencies and 30 MPCA sites requiring various actions as listed. These sites and remedial or emergency activities will require an estimated \$3,565,000 be allocated for MERLA Projects from the Remediation Fund. (This amount includes \$260,000 for five MPCA Dry Cleaner sites and which are shown separately on the FY10 Project List). It should be noted that the total estimated amount of MERLA Project funding may not be expended because some of the actions specified in the FY2010 Project List may be undertaken and funded by responsible parties using private dollars.

Also included as Other Response Actions are expenditures that are not included in the site specific portion of the MPCA MERLA Program Project List. These are proposed expenditures for general support activities such as laboratory costs or preliminary site investigations or technical assistance provided by state contractors. Included in these other actions are estimated costs associated with non-emergency removal actions at unknown sites. These would be small scale removal actions, such as barrel or soil removals, that after a determination there is no viable responsible party, MPCA staff would utilize a state contractor to conduct these actions. The intent of these small scale removal actions would be to complete necessary cleanup actions which are low cost and be more efficient than going through the formal PLP listing process. These small scale removal actions would be consistent with MPCA fund-financed cleanup actions. This section is included to provide a more complete representation of MPCA MERLA Program funding needs. A total allocation for these additional MPCA Response Action costs is \$1,235,000.

In addition, the MDA, as the lead state agency for the investigation and cleanup of agricultural chemical sites, can utilize remediation funds for MERLA Program costs. The MDA has indicated funding needs for \$2,000,000 as shown in Attachment 2, and which has been included in the FY10 MERLA Program Project List.

The total MPCA and MDA MERLA Program funding request for Fiscal Year 2010 is therefore \$6,800,000 as shown in the FY10 MERLA Program Project List. Also, included is the estimated amount for Fiscal Year 2011. This amount is not approved at this time and is only provided for information purposes.

In the event there are insufficient funds to cover all MPCA and MDA MERLA Program administrative and response actions proposed by the FY 2010 Project List, priority will be given to those MPCA projects in which the MPCA has entered into contracts with the U.S. Environmental Protection Agency, political subdivisions, or response action contractors. The Class "A" and MDA Emergency allocations will also receive priority for funding over non-emergency sites. The Priority Rules identify the basis for allocating funds to projects on a priority basis when project need exceeds funding availability.

Below is a brief description of the Project List Classes:

CLASS A Sites, Emergencies, includes those sites at which an emergency has been declared by the Commissioner pursuant to MERLA. In accordance with the Priority Rules, an "emergency" means that there is an imminent risk of fire or explosion, that a temporary water supply is needed, or that immediate adverse human health effects may be anticipated due to direct contact or inhalation and that an advisory has been issued. An "advisory" means a warning by the Commissioner of the MPCA or MDA, Minnesota Department of Health, or the Minnesota Department of Natural Resources issued to the public concerning a hazardous substance, or pollutant or contaminant at or near a facility.

CLASS B Sites, Long-Term Monitoring/Operation and Maintenance, includes those sites where activities are necessary to maintain response actions that have previously been completed. Examples include continuing operation of a groundwater pump out system at a site, long-term monitoring, and work necessary to maintain the integrity of the site, such as maintaining cover or closure at a site.

Class C Sites, RA/RD First Year Operation and Maintenance, includes all sites where RD and implementation of RA (other than Class A or B) are required, such as barrel removals, decontamination, first year ground water pump out or monitoring, and other activities that are necessary to effect a permanent remedy or cleanup of the site. This class also includes the design phase in preparation for a RA, such as designing a ground water pump out system or planning a barrel removal action.

CLASS D Sites, Remedial Investigations/Feasibility Studies, includes those sites that require investigation of the extent, magnitude and nature of the release or threatened release and identification and selection of the most cost-effective response action(s).

KS:csa

Attachments

cc: Paul Liemandt, MDA
Cathy Villas-Horns, MDA
Robert Anderson, MDA
Mark Schmitt, Remediation Division
Michael Kanner, Remediation Division
Doug Wetzstein, Remediation Division
Gary Krueger, Remediation Division
Doug Beckwith, Remediation Division
Steve Lee, Remediation Division
Hans Neve, Remediation Division
Jayne Stillwell-Lamb, Operational Support Division
Martina Cameron, Operational Support Division
Susan Jaeger, Operational Support Division
Kim DeVeau, Operational Support Division
Lyle Mueller, Operational Support Division

**FY10 MERLA Program
Project List**

FISCAL YEAR 2010 MERLA PROGRAM PROJECT LIST

CLASS SITE/ACTION:	FY10 PL Actual Amount:	FY11 PL Estimated Amount:
<u>CLASS A SITES: (Emergencies)</u>		
Emergencies	650,000	650,000
<i>SUBTOTAL CLASS A:</i>	650,000	650,000
 <u>CLASS B: (Operation and Maintenance)</u>		
Arrowhead	75,000	75,000
Baytown	290,000	290,000
Blaine Well Field	10,000	10,000
Chemart	7,000	7,000
Duluth Dump #1	70,000	70,000
Farmington GW Plume	30,000	30,000
Isanti Solvent	25,000	25,000
Lehillier close out	5,000	5,000
Littlefork	75,000	75,000
Long Prairie	200,000	200,000
MacGillis&Gibbs	100,000	100,000
Perham	260,000	230,000
Pigs Eye	38,000	38,000
Reserve Mining	75,000	75,000
St Regis	25,000	25,000
Westling	40,000	40,000
Valentine - Clark	150,000	150,000
<i>SUBTOTAL CLASS B:</i>	1,475,000	1,445,000
 <u>CLASS C: (Remedial Action/Remedial Design)</u>		
Edina Well Field	400,000	400,000
Ritari	100,000	100,000
Mankato Plating	50,000	50,000
Rochester GW Plume	250,000	100,000
US Steel	40,000	40,000
<i>SUBTOTAL CLASS C:</i>	840,000	690,000
 <u>CLASS D: (Remedial Investigation/Feasibility Study)</u>		
Esko GW Plume	90,000	90,000
Hibbing Gas	100,000	100,000
West Duluth	150,000	150,000
<i>SUBTOTAL CLASS D:</i>	340,000	340,000
 TOTAL CLASS ALLOCATION:	 3,305,000	 3,125,000

**FY10 MERLA Program
Project List**

FISCAL YEAR 2010 MERLA PROGRAM PROJECT LIST

CLASS SITE/ACTION:	FY10 PL Actual Amount:	FY11 PL Estimated Amount:
Harmful Subst. Comp.	25,000	25,000
Non-emergency removals	100,000	100,000
NRDA	45,000	100,000
PA/SI State Lead	250,000	250,000
PFC analysis	100,000	50,000
PFC Technical Assistance	70,000	50,000
Technical Assistance	220,000	100,000
Vapor Intrusion	300,000	150,000
Well Abandonment	25,000	25,000
	<u>SUBTOTAL:</u>	<u>850,000</u>
	1,135,000	
Analytical Costs	100,000	150,000
	<u>SUBTOTAL:</u>	<u>150,000</u>
	100,000	
Subtotal MPCA MERLA Projects:	<u>4,540,000</u>	<u>4,125,000</u>
 MPCA Dry Cleaner Sites		
Dufours Cleaners O&M	25,000	30,000
Pilgrim Cleaners O&M	50,000	60,000
Peter Pan Dry Cleaners O&M	65,000	75,000
Whiteway Cleaners R&RD	20,000	25,000
Winona O&M	100,000	180,000
	<u>SUBTOTAL:</u>	<u>370,000</u>
	260,000	
Subtotal MPCA Dry Cleaner Sites	<u>260,000</u>	<u>370,000</u>
 Total MPCA MERLA Program Allocations	 <u>4,800,000</u>	 <u>4,495,000</u>
 <u>DEPT. OF AGRICULTURE:</u>		
PA/SI State Lead	76,000	76,000
Emergencies	50,000	50,000
Cedar Services	5,000	5,000
CMC Heartland	20,000	20,000
CMC/S. Mpls EPA cost share	0	341,000
Kettle River Company R&RD	1,576,000	1,184,800
Analytical Costs	50,000	50,000
Technical Assistance	5,000	5,000
Indirect costs	218,000	268,200
	<u>MDA Total</u>	<u>2,000,000</u>
	2,000,000	
 TOTAL FY09 MERLA PROGRAM PROJECT LIST ALLOCATIONS:	 <u>6,800,000</u>	 <u>6,495,000</u>