



# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us)

June 1, 2012

Mr. John Mulder  
City Administrator  
5105 Maple Grove road  
Hermantown, MN 55811

RE: Request to Take Corrective Actions Pursuant to Petroleum Tank Release Cleanup  
Act: Minn. Stat. Ch. 115C (2011)  
Project: Municipal Water Line Extension, Intersection of Hwy 53 and Hwy 194,  
Hermantown, MN  
Public Works Site#: PB4144  
Adjacent Leak site: LEAK00003534 (Junction Food-n-Fuel, 3493 Miller Trunk Highway)

Dear Mr. Mulder:

It is the Minnesota Pollution Control Agency's (MPCA) understanding that the city of Hermantown, will be completing a public works project at the above-referenced location, and that petroleum contamination from the above petroleum storage tank release site (leak site) may be encountered during the project.

This correspondence is to inform you of your responsibilities as a Project Sponsor. Please read the enclosed "Request to Take Corrective Actions" document carefully. During construction, if it appears that you will exceed the amount approved, please contact me and we will discuss amending the request. Please note that any additional soil will need to be approved prior to exceeding the approved yardage.

If you have any questions, please contact me at 651-757-2569. You can also reach the MPCA at 1-800-657-3864.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Miller".

Amy Miller  
Project Manager  
Petroleum Remediation Section  
Remediation Division

ACM:tf

Enclosure

cc: John Hinkel, Twin Ports Testing  
David Salo, P.E., Salo Engineering, Duluth  
Andy Eddy, MPCA Petroleum Remediation Program  
Joel Fischer, Minnesota Department of Commerce, Petrofund Staff

**REQUEST TO TAKE CORRECTIVE ACTIONS  
PURSUANT TO MINN. STAT. § 115C**

**WHEREAS**, the public works project sponsor (Project Sponsor) of the city of Hermantown is in the process of extending a municipal water line;

**WHEREAS**, this public works project requires the Project Sponsor to excavate soil as part of the public works project located at the intersection of Highway 53 south and Highway 194, Hermantown, Minnesota;

**WHEREAS**, under Minn. Rules ch. 7037 a Project Sponsor is a generator who is responsible or assumes responsibility for the removal and proper management of petroleum contaminated soil;

**WHEREAS**, a portion of the soil may be contaminated by a petroleum release from one or more tanks; and

**WHEREAS**, Minn. Stat. § 115C (2011) creates the Petroleum Tank Release Cleanup Fund (Petrofund), which reimburses eligible applicants for a portion of their cleanup costs;

**NOW THEREFORE**, pursuant to Minn. Stat. § 115C, the Commissioner of the MPCA hereby requests the Project Sponsor to take the corrective actions outlined in Section 1 below. In doing so, the Project Sponsor is also eligible for Petrofund reimbursement pursuant to Minn. Stat. § 115C.09, subd. 3a. A final determination regarding reimbursement will be made by the Petrofund and based on the rules and statutes that govern this program (Chapter 115C and Chapter 2890). Please note that pursuant to Minn. Stat. §115C.09, subd. 3, all costs for which reimbursement is requested must be determined to be reasonable..

**I. REQUESTED CORRECTIVE ACTIONS**

1. Have an environmental consultant oversee the work performed in the area(s) of contamination. Determine if the contamination encountered presents a potentially dangerous situation (free product, high or explosive levels of vapors), and complete the work requested by the MPCA in accordance with applicable MPCA guidance documents. If a potentially dangerous situation is found, the MPCA may require an emergency response. The Project Sponsor agrees that work will not be performed in suspected area(s) of contamination without an environmental consultant present to ensure appropriate completion of the MPCA-requested work.
2. Separate soil during excavation. Contaminated soil that registers at or above 10 parts per million (ppm) on a photoionization detector (PID) using field headspace analysis must be separated from soil that registers below 10 ppm on a PID. Separate petroleum saturated soil regardless of PID levels. Excavate only the minimum volume of contaminated soil necessary to safely complete the public works work through the area(s) of contamination. Keep all excavated soil that registers at or above 10 ppm PID in a separate stockpile from soil that registers below 10 ppm PID. In order to minimize human health risk and secondary environmental impacts, contaminated soil must be stockpiled on a bituminous or concrete surface or minimum 10 mil plastic, and covered at the end of each day with minimum 10 mil reinforced plastic. The stockpile cover must be securely anchored. The stockpile should be surrounded by fencing if the Project Sponsor determines that additional security measures are necessary. The stockpile cover must be maintained until the soil can be re-used on the project or disposed of off-site, as described below.
3. Re-use soil on the project. Soil that registers below 10 ppm PID can be backfilled with minimal vapor impact or otherwise re-used on the project. Soil that registers at or above 10 ppm PID and less than 200 ppm PID can be re-used on the project as road base, or in embankments (at a minimum 200 feet from surface waters). Soil re-used in embankments must be covered with 2 feet of clean cover soil. Soil can also be re-used as backfill, if it can be effectively mixed to 10 ppm PID or less. Soil that registers at or above 200 ppm PID, or that is petroleum saturated, must be properly managed at a MPCA approved off-site disposal facility. Soil that registers at or

above 10 ppm PID and less than 200 ppm PID that is not re-used on-site as road base or in embankments also must be properly managed at a MPCA approved off-site disposal facility. Soil registering at or above 10 ppm PID can be utilized only in the specific ways and means stated within this paragraph.

4. Sample and dispose of soil that can not be re-used on the project. Collect representative soil samples from the soil stockpile(s) that can not be reused on the project. Analyze for the required laboratory parameters based on the recommended disposal option. Off-site disposal options include: thermal treatment; land treatment; composting; or landfilling.
5. Excavation and contaminated soil disposal. The MPCA is approving up to 75 cubic yards of petroleum contaminated soil to be disposed of off-site as part of these corrective actions.
6. Obtain all necessary permits and comply with permit conditions if dewatering is required.
7. Identify potential source(s) of the petroleum contamination.
8. Submit a report to the MPCA. The report must include the following: (a) plan sheets of the public works project identifying the areas where contamination was encountered, PID sample locations of all screening data, and contamination sources; (b) PID headspace soils screening data including PID results, depth, and PID ID correlated to the PID sample locations on the plan sheets or figures; (c) volume of contaminated soil excavated from each individual source area identified by Leak #, and total volume of petroleum contaminated soil excavated for the public works project; (d) documentation of soil re-use on the project; and (e) stockpile analytical data, volume of soil disposed off-site, and treatment method and location.

## II. EXCLUSIONS

**This Request covers only the tasks listed above under Section I.** The reasonable costs that are incurred by the Project Sponsor for the purpose of meeting the MPCA requests are eligible for Petrofund reimbursement. However, the costs for performing work beyond the scope of the MPCA Request are not eligible for Petrofund reimbursement, unless the MPCA has given prior written approval to exceed the original scope of work. **Any costs for work that is performed without a written request or approval by the MPCA are ineligible for reimbursement.** For questions about reimbursement, call Petrofund staff at the Department of Commerce at 651-215-1775 or 1-800-638-0418.

Because the tasks listed below are not being requested by the MPCA Commissioner, the costs associated with these tasks are not eligible for reimbursement under Minn. Stat. § 115C.10, subd. 3a.

1. Contaminated soil excavation and disposal exceeding the volumes specified in Section I, above. Soil excavation beyond the typical trenchline that is not requested as part of a MPCA-approved corrective action.
2. Dewatering, unless mandated by the MPCA as a corrective action.
3. Incremental costs associated with the public works project that are not related to the management of petroleum contaminated soil or other corrective actions.

## III. DISCLAIMER

This Request to Take Corrective Actions does not release the Project Sponsor, its consultant or agents, or any other party from whatever liability may exist under any local, state, or federal law. The Project Sponsor agrees that this Request does not result in either (a) the MPCA assuming any liability for the work hereby requested or (b) making the Project Sponsor, its consultant or agents,

an agent of the MPCA, the Commissioner of the MPCA (Commissioner), or the State of Minnesota. In addition, the Project Sponsor remains solely responsible for obtaining any necessary permits, licenses or approvals from local, state, or federal authorities.

The Project Sponsor also agrees to maintain the insurance types and levels required by the State of Minnesota or the MPCA. The Project Sponsor agrees that the State of Minnesota, the MPCA, and the Commissioner will be named as additional beneficiaries on all insurance policies providing coverage for the work performed pursuant to this Request. The Project Sponsor further agrees to indemnify and hold harmless the State of Minnesota, the MPCA, and the Commissioner for any injuries or harm caused in any way by the Project Sponsor's work, employees, consultants, or agents performed pursuant to this Request.

#### IV. WITHDRAWAL

The MPCA may withdraw this Request upon written notification to the Project Sponsor. Upon receipt of the MPCA's notification that this Request has been withdrawn, no work subsequently performed by the Project Sponsor shall be considered to be work performed pursuant to this Request.

5/29/12  
Date

Donald Milless  
Donald Milless, Supervisor  
Petroleum Remediation Program  
Remediation Division  
Minnesota Pollution Control Agency