



"Judy Canova"

07/28/2004 03:27 PM

To <gwtf@emsus.com>

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Subject Comments on Discussion Papers

Ken,

Thank you for the opportunity to comment on the GWTF options papers. I know you are working on a variety of additional issues. A uniform database for entry and use of groundwater quality data would be helpful. Another thing that would be helpful is a suggested prioritization system for addressing groundwater sites such that the worst sites get addressed first, but the possibility of addressing less threatening sites also remains. Attached are my comments. Thanks again! Judy

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DNAPL Discussion.doc GW Use Paper.doc

Date: July 28, 2004
To: Ken Lovelace
From: Judy Canova
RE: Comments on Cleanup Goals Appropriate for DNAPL Source Zones

Many states with non-degradation policies set cleanup goals equal to MCLs even within DNAPL source zones. At a DNAPL source zone, the goal of achieving MCLs may not be possible to reach with current technologies, but the goal provides something to work towards and a motivation to improve technologies. The lack of methods that provide consistent measurement of the effectiveness and nature of the source removal presents a complicating factor. However, the goal of meeting MCLs or measuring performance should not be discarded because of process difficulty. In many states, there is no other consistent promulgated method for setting or achieving cleanup goals or measuring relative performance.

The concept of Technical Impracticability is not always well received in states with anti-degradation policies because it is perceived as a walk away alternative. Sites that could have received a TI waiver in the past can now be treated with newly available technologies. However, revisiting remedies for old sites or TI sites does not appear to be on the EPA agenda. Waiving cleanup of DNAPL source zones rewards those who release large amounts of contamination into the subsurface and punishes those who release a smaller amount that is considered to be manageable.

The benefits of source removal are clear. Keeping MCLs as the goal for groundwater in DNAPL source zones encourages source removal and aggressive responses to releases. It also discourages new releases. The means of achieving MCLs and appropriate time frames are the things that should be negotiated which could include source removal followed by natural attenuation.

Option 1: This fact sheet could be helpful.

Option 2: The result of this fact sheet could be used in negotiation for a less conservative cleanup goal. This would not be helpful.

Option 3: States with anti-degradation policies do not wish to encourage the selection of TI. However, additional guidance facilitating reopening and remediation of TI sites would be helpful.

Option 4: It does not appear this option will enhance remediation of DNAPL source zones. It would not be helpful.

Option 5: Different characterization tools are available for different types of DNAPL. For those with newly developed characterization methods, fact sheets might be helpful. Additional guidance could be an unnecessary burden.

Option 6: Not enough information is available to generate a definitive guidance document. There is little consensus on available information. Without information or consensus, any guidance would likely be ineffective.

Option 7: Fact sheets rather than guidance could be used to address some of these issues. It appears to soon in the process for guidance. Fact sheets would be helpful.

Option 8: Because the information is not currently available, resources may be better used in funding some of the other options.

Date: July 28, 2004
To: Ken Lovelace
From: Judy Canova
RE: Comments on Ground Water Use, Value, and Vulnerability as Factors in Setting Cleanup Goals

Use of MCLs as clean-up goals reinforces that groundwater is a resource worthy of protection, and groundwater is not a resource to be exploited in the name of economics. More specifically, changing aquifer designation or allowing alternate concentration limits could serve as an incentive for releases of contamination to the environment. Methods of achieving MCLs and acceptable timeframes may be debated between different program areas, but to remove or change the standard/goal for groundwater quality based on groundwater use, value, and vulnerability could have far reaching and undesirable results.

In many states, the definition of current use of groundwater may be legally defensible, but future use cannot be controlled or defined without property purchase. A responsible party may try to use the future use argument to their benefit, and the future use interpretation may be accepted by the regulators. However, this would not prevent the installation of private wells and use of groundwater for drinking at many sites. A discussion is needed regarding how installation of private wells can be prevented and/or controlled legally. Many states have no legislation that allows control of future private use of groundwater.

In South Carolina, we recently had a serious drought that caused a number of industries that rely on surface water to begin developing plans for use of the shallow aquifer as a source of water for their industries. Allowing degradation of the shallow aquifer in these areas because of no predicted future use could have limited industrial use of the shallow aquifer.

Option 1: This option should also include raising awareness of groundwater as a resource that should be protected in addition to the other approaches.

Option 2: Although this information would be interesting, it would likely not result in any change to the current system. The benefit of this activity would not be worth the cost.

Option 3: Highlighting differences between states and between program areas would not be helpful or worth the cost. Training regarding the differences would not be helpful. However, if there is a particular state that has an approach that EPA considers ideal, perhaps the elements of their programs could be highlighted for other states to take into consideration. However, states are limited by available legislation, and there is a general hesitancy to add new regulations or to develop new guidance.

Option 4: It appears that this option could lead to the formulation of additional guidance documents which may limit or hinder resource protection. This is not desirable.

Option 5, 6, and 7: The idea of a consistent approach between states with respect to consideration of groundwater use, value, and vulnerability as factors in setting cleanup goals could have disastrous results. When combining different approaches to obtain a consistent approach, the lowest common denominator, or in this case, the least protective approach, is normally selected. This would prevent states and programs with more protective programs from being able to protect their resources. This is a problem even between different program areas within a state system. Attempts to ensure consistency result in lowering standards and preventing environmental protection.

The regulator should not encourage those who wish to gain economic benefit from degradation of the environment, whether groundwater or some other medium. Many of the options discussed appear to potentially open a door for this to happen.