

VIA E-MAIL

August 14, 2004

TO: Kenneth Lovelace, USEPA

FROM: ASTSWMO Executive Committee
Jennifer Kaduck (signed)

RE: ASTSWMO comments on the draft OSW Groundwater Task Force Papers

Thank you for requesting our comments on the current drafts of the two Groundwater Task Force Papers. We consider the issues raised to be very important to the operation of State environmental programs and hope that you will favorably consider our comments as you prepare the next draft. As you know, three States (GA, NE, and NY) presently serve on OSW's Groundwater Task Force.

The papers have been evaluated by ASTSWMO's Program Steering Committee which consists of the chairs of the our Hazardous Waste, CERCLA, Tanks, Federal Facilities, Solid Waste, Training and Information Exchange, and Pollution Prevention Subcommittees, and by the Executive Committee comprised of our President, Vice-President, Past President, and Secretary-Treasurer. The comments below represent our best efforts to form the collective views of our Association. We also circulated the drafts papers to State and territorial members and encouraged them to also submit comments separately if they so desire.

DNAPL Paper—Questions and comments

- **What is the purpose of this paper and how is EPA planning to use it?** The answers to these two basic questions are not apparent. Although Page 1 lines 29-34 indicate that the purpose is to *promote dialogue* on the issue of differing perspectives on what cleanup goals are appropriate for contaminant plumes where DNAPLs are present, **what is the purpose of that dialogue?** This needs to be clearly stated at the beginning of the paper.
- **We agree that in many cases DNAPLs are hard to cleanup to MCLs, but contrary to the statement on page 4 line 28-29, the technical reasons why this is so are not adequately described in this paper.** The paper would be strengthened considerably by including a technical summary discussing why and under what circumstances DNAPL is so hard to cleanup, with references to the technical literature supporting the summary.
- **Given the long-term damage to current and future water supplies by uncontrolled DNAPL releases, the paper should include an option emphasizing the need for focused research leading to improved technical methods for DNAPL investigation in the subsurface, removal and/or containment.**

- **ASTSWMO advises redrafting of options 2, 3, and 4 so as not to encourage the proliferation of issuance of Technical Impracticability (TI) waivers.** The wording in options 2, 3 and 4 implies that regulators should expand the issuance of Technical Impracticability waivers for DNAPL contamination. Although moving in this direction is obviously an “option” of sorts for regulatory agencies to consider, TI waivers don’t offer any solutions to the serious environmental problems caused by DNAPLs. Rather, TI waivers provide regulatory agencies and responsible parties a mechanism to simply give up on the problem. Worse, TI waivers remove all regulatory pressure to develop new, workable removal and/or containment remedies for DNAPL contamination, and seriously undermines our ability require containment and control of DNAPL sources and plumes. Pressure should remain strong to develop new technologies for DNAPL removal, reduction and containment. TI waivers should be issued only after vigorous review of what removal, reduction, containment and control measures are feasible.
- TI waivers should not be considered final remedies and should be reviewed on a periodic basis to consider technology advancements and other changes that have occurred since the TI waiver was issued as an Interim remedy.
- To keep up the pressure for development of better DNAPL remediation technologies, ASTSWMO advises **that MCLs be retained as long-term goals for cleanup of DNAPL. However, interim goals, such as provision of alternative drinking water supplies and source depletion and containment, should also be considered if circumstances warrant.**

Groundwater Use, Value and Vulnerability as Factors in Setting Cleanup Goals—questions and comments

- We suggest that another problem statement be inserted as problem 2 on page 6 as follows: **“There is a substantive lack of understanding of the long-term costs to society when an aquifer becomes contaminated. Without an approximation of what these long-term societal costs are, decision-makers are poorly equipped to determine appropriate cleanup goals.”** Add options for addressing this problem, such as development of long-term cost analysis tools.
- A disadvantage of Option 5 could be the undermining of existing State groundwater protection plans and ongoing State water management planning efforts. We also have a concern that this option seems to imply that States that don’t have groundwater classification systems should set up such systems.
- Add a very brief description of Nebraska’s approach to designating and classifying groundwater, similar to the brief description of those of other States on pages 4-5.

If you need clarification or further assistance, please contact Tom Kennedy, ASTSWMO’s Executive Director, at 202-624-535. _____

cc: Matt Hale, Director, OSW
 Tom Kennedy
 ASTSWMO Executive and Program Steering Committees