

N69118.AR.001115
ST JULIENS CREEK
5090.3a

MEMORANDUM AND SECOND ROUND COMMENTS FROM VIRGINIA DEPARTMENT OF
ENVIRONMENTAL QUALITY REGARDING APPLICABLE OR RELEVANT AND
APPROPRIATE REQUIREMENTS FOR SITE 2 ST JULIENS CREEK ANNEX CHESAPEAKE

VA

08/02/2010

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY



WASTE DIVISION
OFFICE OF REMEDIATION PROGRAMS

MEMORANDUM

TO: Karen Doran

FROM: Michelle Hollis

DATE: August 2, 2010

SUBJECT: St. Juliens Creek, Site 2, ARARs response to comments.

Table A -2, Virginia Chemical –Specific ARARs

1. **Comment:** *Water Quality Standards: 9 VAC 25-260-20 and 30 – Add the following sections 50, 140, 185, 280, 310, and 410.*

Response: The relocation of the storm water channel and outfall are subject only to those requirements that relate to the location and configuration of the channel and outfall. The chemical make-up of the point source discharge is not related to the remedial actions at Site 2. Therefore, 9 VAC 25-260- 50, 140, 185, 280, 310, and 410 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: *The ROD identifies one SVOC, one pesticide and several inorganic compounds that were detected in the surface water above Virginia Water Quality Standards. Other constituents were detected as well at concentrations below Virginia Water Quality Standards. Section 140 of 9 VAC 25-260, identifies the numerical water quality criteria for specific parameters. Section 310 and 410 identify the River Basin and special standards for the water body in which St. Juliens Creek is located. For the reasons stated sections 140, 310 and 410 are requested to be added to the Virginia Water Quality Standards: 9 VAC 25-260-(20) and (30) currently listed on Table A-2, Virginia Chemical-Specific ARARs.*

2. **Comment:** *Groundwater Quality Standards: 9 VAC 25-280-30 – Add the following sections 20, and 50 to 70.*

Response: Section 20 is not chemical specific. Section 50 regulates constituents that have not been identified as COCs. Section 60 outlines that groundwater quality criteria presented in Section 70 are not enforceable standards and are not mandatory. Additionally, Section 70 regulates constituents that have not been identified as COCs. Therefore, 9 VAC 25-280-20 and 50-70 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: *The remedial actions are being implemented with the target goal of achieving MCLs. In Virginia, both MCLs and SMCLs are contained in the Department of Health's Waterworks Regulations and will be addressed in comment number 3 below.*

3. **Comment:** *In Virginia, both MCLs and SMCLs are contained in the Department of Health's Waterworks Regulations: 12 VAC 5-590-10 to 1280. The statutory basis for the Waterworks*

Regulations is found in Chapter 6 of Title 32.1 of the Virginia Code, *Environmental Health Services*: Va. Code Ann. §§ 32.1-163 to 248.2. In the absence of MCLs/SMCLs, other health-based standards or criteria, or best professional judgment based on risk assessment, may be employed. Where groundwater that is a potential drinking water source discharges to surface water, the cleanup level at the discharge point would be the more stringent of either the MCL/SMCL or a discharge limit based on the *Water Quality Standards*: 9 VAC 25-260-5 to 550. Please add *Waterworks Regulations*: 12 VAC 5-590-10, 370, 380, 390, 410, 420, 440, and 530.

Response: 12 VAC 5-590-10, 370, 380, 390, 410, 420, 440, and 530 are not applicable or relevant and appropriate because these regulations apply to waterworks facility standards and sampling, are not applicable or relevant and appropriate to activities being conducted at Site 2.

DEQ's Comment: *Environmental Health Services: Va. Code Ann. §§ 32.1-163 to 248.2, provides the statutory basis for the Department of Health's Waterworks Regulations. DEQ requests that 12 VAC 5-590-440, Table 2.2 and 2.3 be added to Table A-2, Virginia Chemical-Specific ARARs.*

4. **Comment:** Please add *Ambient Air Quality Standards*: 9 VAC 5-30-10 to 80.

Response: There are no direct impacts to air quality from CERCLA release or Site 2 activities. Therefore, 9 VAC 5-30-10 to 80 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: *No Comment.*

5. **Comment:** Please add *Pollutant Discharge Elimination System (VPDES) Permit Regulations*: 9 VAC 25-31-10 to 90.

Response: The relocation of the storm water channel and outfall are subject only to those requirements that relate to the location and configuration of the channel and outfall. The chemical make-up of the point source discharge is not related to the remedial actions at Site 2. The Site 2 outfall is currently covered under the facility VPDES permit. Therefore, 9 VAC 25-31-10 to 90 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: *No Comment.*

Table A -3, Federal Location –Specific ARARs

6. **Comment:** Correct the grammar or spelling for “meeting” located under the header comment for Wetlands.

Response: Last sentence of comment was revised to read: “They are, however, required to meet the intent of the permit.”

DEQ's Comment: *No Comment.*

Table A -4, Virginia Location –Specific ARARs

7. **Comment:** Please add *Definitions and Miscellaneous in General*: 4 VAC 15-20-130 to 140.

Response: No endangered species have been identified at Site 2. Therefore, 4 VAC 15-20-130 to 140 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: Please provide the basis for this determination.

8. **Comment:** Please add *Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act*: 2 VAC 5-320-10.

Response: No endangered plant and insect species have been identified at Site 2. Therefore, 2 VAC 5-320-10 is not applicable or relevant and appropriate and has not been added to the table.

DEQ's Comment: Please provide the basis for this determination.

9. **Comment:** Please add *Chesapeake Bay Preservation Area Designation and Management Regulation*: 9 VAC10-20-10 to 260.

Response: Zoning law does not apply to federal facilities. Therefore, 9 VAC10-20-10 to 260 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: No Comment.

10. **Comment:** Please add *Water Quality Management Planning Regulations*: 9 VAC 25-720-10 to 40, and 60.

Response: Regulations apply to a point source discharge. No such discharge is included with Site 2 activities. Therefore, 9 VAC 25-720-10 to 40, and 60 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: No Comment.

Table A -5, Federal Action –Specific ARARs

11. **Comment:** Correct the spelling for “greater” located under the header prerequisite for PCB management.

Response: Spelling was corrected.

DEQ's Comment: No Comment.

Table A -6, Virginia Action –Specific ARARs

12. **Comment:** *Standards of Performance for Visible Emissions and Fugitive Dust/Emissions (Rule 5-1)*: 9 VAC 5-50-90 add the following sections 20 to 60, 80, 90, and 240 to 370.

Response: Regulations outline requirements that are not applicable or relevant and appropriate to the generation of fugitive dust or apply only to sources that are subject to the

new source review program. Therefore, 9 VAC 5-50-20 to 60, 80, and 240 to 370 are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: No Comment.

13. **Comment:** Add the following sections 390, and 1182 to 1188 to the *Virginia Stormwater Management Program (VSMP) Permit Regulations*: 4 VAC 50-60-30 to 80, 300, 310, 380, 420, 430, 1100 to 1140, 1160, 1170.

Response: Per 4 VAC 50-60-1170, discharge monitoring for construction activities is not required. Therefore, 4 VAC 50-60-390 is not applicable or relevant and appropriate and has not been added to the table. 4 VAC 50-60-1182 to 1188 are applicable as they pertain to design and construction of storm water management channels during the remedial action, and have been added to the table.

DEQ's Comment: DEQ appreciates the action taken in the response.

14. **Comment:** *Solid Waste Management Regulations*: 9 VAC 20-80-140, 150, 240.(c). Add the following sections 60, 120, 210, 220, 230, 300, 310, 320, 470, 650, and 700.

Response: 9 VAC 20-80-60 and 320 do not contain substantive requirements; therefore, they are not applicable or relevant and appropriate and have not been added to the table. ARARs only apply to on-site activities; therefore, 9 VAC 20-80-120, 650, and 700 are not applicable or relevant and appropriate and have not been added to the table. 9 VAC 20-80-210, 220, 230 and 310 describe closure requirements for a regulatory framework other than CERCLA; therefore, they are not applicable or relevant and appropriate and have not been added to the table. 9 VAC 20-80-300 lists requirements for active, permitted disposal facilities; therefore it is not applicable or relevant and appropriate and has not been added to the table. Treatment units are not being utilized at Site 2; therefore, 9 VAC 20-80-470 is not applicable or relevant and appropriate and has not been added to the table.

DEQ's Comment: Relevant and Appropriate Requirements are those cleanup standards, standards of control, and other substantive environmental protections requirements, criteria, or limitations promulgated under "State Law" that, while not "applicable" to the circumstances found at the CERCLA site, address problems or situations sufficiently similar to those found at the CERCLA site. Solid Waste Management Regulation: 9 VAC 20-80-210, 220, 230 describe closure requirements similar to the circumstances found at a CERCLA site and therefore should be considered relevant and appropriate.

15. **Comment:** Correct the citation contained on Table A-6 for the Air Pollution Control Board to VA Code Ann §10.1-1300 to 1328.

Response: Table A-6 has been updated accordingly.

DEQ's Comment: No Comment.

16. **Comment:** *Hazardous Waste Regulations*: 9 VAC 20-60-261 and 262. Add the following section 490.

Response: ARARs only apply to on-site activities; therefore, 9 VAC 20-60-490 is not applicable or relevant and appropriate and has not been added to the table.

DEQ's Comment: No Comment.

17. **Comment:** Please add *Regulations Governing the Transportation of Hazardous Materials*: 9 VAC 20-110-10 to 130.

Response: 9 VAC 20-110-10 to 100 and 130 are administrative; therefore they are not applicable or relevant and appropriate and have not been added to the table. 9 VAC 20-110-110 is not substantive but instead defaults to federal regulations; therefore, it is not applicable or relevant and appropriate and has not been added to the table. 9 VAC 20-110-115 and 120 have been repealed and have therefore not been added to the table. 9 VAC 20-110-121 and 122 apply to the transport of radioactive materials, which are not present at Site 2; therefore, they are not applicable or relevant and appropriate and have not been added to the table.

DEQ's Comment: No Comment.

18. **Comment:** Please add *Private Well Regulations*: 12 VAC 5-630-360 to 480.

Response: 12 VAC 5-630-420(c) and 450(c)(1), (2), (4), (5), and (7) to (9) are applicable and have been added to the table. Observation, monitoring, and remediation wells are subject only to the requirements relating to well abandonment.

DEQ's Comment: DEQ appreciates the action taken in the response.