

# UNIVERSITY OF MINNESOTA

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*Twin Cities Campus*

*University Services  
Office of the Vice President*

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Minneapolis, MN 55455*

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March 11, 2016

Commissioner John Linc Stine  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55155-4194

RE: UMore Park/Formal Gopher Ordnance Works, SR374, Rosemount, MN

Dear Commissioner Stine:

Thanks again to you and your staff for meeting with University of Minnesota representatives earlier this week to discuss the UMore Park/Formal Gopher Ordnance Works (GOW) Site (Site), including my letter to you dated March 2, 2016. As I stated in that letter, and during our meeting, the University appreciates the time, interest, and collaboration you personally have demonstrated to advance our shared interest in identifying and addressing areas of concern at the Site. It has been extremely helpful and has resulted in moving this work forward. This letter reflects the mutual understanding we reached regarding our respective roles and responsibilities for completing the Remedial Investigation (RI) of the Site.

I am writing this letter to respond to the MPCA's request that the University enter into a written agreement with the MPCA regarding the RI of the Site. As we have previously discussed, the University does not believe there is any need for a written agreement regarding completion of the RI; however, the University has been open to considering additional documentation to address any identified gaps in our work together that are not yet addressed under the University's current commitments to the MPCA. The University is ready to perform the RI after MPCA work plan approval and has already committed to paying MPCA costs through our participation in the Voluntary Remediation Program.

Given that the MPCA also has designated the United States Army Corps of Engineers (USACE) and E.I. du Pont de Nemours and Company, Inc. (DuPont) as responsible parties, the University strongly believes that these entities also should be party to any agreement with the MPCA regarding investigation and cleanup of the Site. As we have indicated to the MPCA for several years, the University is willing to sign an agreement if *all* responsible parties sign the agreement.

The MPCA has asked for some time that the University, the USACE and DuPont complete the RI for the Site. Unfortunately, the USACE and DuPont have been unwilling to commit to doing so. In my December 31, 2015 letter, I confirmed that the University had retained a consultant to perform the RI, that the University would prepare the RI Work Plan and other project documents for review by your staff, and that the University would continue to reimburse RI-related MPCA staff costs per the attached and updated MPCA Voluntary Remediation Program Enrollment Application. On January 29, 2016, the University submitted the RI Work Plan and other project documents to your staff for review. The University's purpose for enrolling the Site in the Voluntary Remediation Program was to

facilitate MPCA review of the RI project documents and provide a mechanism to reimburse MPCA's oversight costs. The University retains its right to seek reimbursement of its response costs from other responsible parties. According to our General Counsel, the Voluntary Remediation Program Enrollment Application expressly contemplates that parties considered by the MPCA to be "responsible persons" under the Minnesota Environmental Response and Liability Act (MERLA), Minn. Stat. § 115B.01, *et seq.*, may request investigation and response action plan approvals, and liability assurances available under MERLA. The MPCA's authority to provide plan approvals is set forth in Minn. Stat. § 115B.17, subd. 14. As such, although the Site has not been added to the Minnesota Permanent List of Priorities or the National Priorities List, the MPCA Superfund Program will provide oversight of the RI activities undertaken voluntarily by the University.

To my knowledge, there have been no gaps identified which necessitate additional documentation for the RI to proceed. The University understands that the MPCA Superfund Program will oversee work by the University without a written agreement at this stage in the process. Furthermore, the MPCA is aware that the University is concerned that entering into such an agreement is unfair to the University and would send the wrong signal to the USACE and DuPont. The MPCA provided a draft agreement to the University on February 8, 2016. That document is nearly identical to the "Cooperative Cleanup Memorandum of Agreement" the MPCA asked the University to sign in 2012. The University declined to do so at that time because the USACE and DuPont refused to join as signatories.

However, in the spirit of mutual cooperation, and the University's desire to not further delay the start of our consultant's work, the University offers this letter that we propose to be signed by both the University and MPCA as a non-binding gesture of our mutual understanding of the shared expectations and commitments regarding completion of the RI.

The University remains ready to proceed with the RI, subject to its right to seek recovery of its costs from other responsible parties; however, the RI field work and community engagement cannot start until the MPCA has approved the RI project documents. The University provided a schedule for the public participation and other RI-related activities in my December 31, 2015 letter. Given the MPCA's delay in beginning the review of the RI project documents, that schedule will require at least some modification. However, I am advised that the RI can be completed and the Report submitted to the MPCA during calendar year 2016, provided that the MPCA's plan review and approval process moves forward very soon.

The University has made considerable progress over the last year in working cooperatively with the MPCA and the Minnesota Department of Health in developing a RI scope of work, retaining a consultant and preparing and submitting the RI project documents to MPCA. I am hopeful that you will consider co-signing this letter of mutual understanding and that the MPCA staff will now review the project documents and provide the required approvals so that work on RI can begin this spring, as planned.

1. The Site. The UMore Park/Former GOW Site is comprised of the areas known as the UMore Mining Area, UMore East and Vermillion Highlands, as shown on the attachment to this letter of mutual understanding.
2. Overview. This document is a voluntary, non-binding letter of the mutual understanding between the MPCA and the University regarding the process and schedule

for completion of the RI of the Site. It is not an administrative settlement agreement, and it is not intended to and does not create any right or benefit, substantive or procedural, enforceable by law or equity against the MPCA, the University, their respective officers or employees, or any other person or entity.

3. Purpose. The document is intended to assist the MPCA and University in coordinating their roles and responsibilities in successfully completing the RI of the Site and to avoid duplication of efforts or inefficiencies that could result absent documentation of their understanding as set forth herein.

4. Participant Roles and Responsibilities. The MPCA and University will undertake, in general outline, the following roles and responsibilities for completion of the Site RI:

a. Review and Approval of RI Project Documents. The MPCA Superfund Program staff will review the RI project documents submitted by the University on January 29, 2016 and provide any initial comments to the University. After completion of public participation activities (*see* Section 4.b., below), the University will finalize and submit the RI project documents to MPCA for approval.

b. Public Participation. The University will coordinate with the MPCA to complete appropriate public participation activities for the RI. These activities will include: preparing and implementing a Community Involvement Plan; providing a formal 30-day public comment period for the RI project documents; developing and disseminating to stakeholders and the public a Fact Sheet regarding the RI; maintaining an electronic and hard copy document repository at the Site of the RI project documents and other Site-related environmental reports and documents; and hosting a meeting at which the RI project documents will be presented to the public. These activities are meant to satisfy any applicable public participation requirements.

c. RI Implementation and Reporting. The University will implement the MPCA-approved RI Work Plan and other RI project documents. The RI field work will be completed during the spring /summer of 2016, in general accordance with the schedule set forth in Section 5, below. The RI will be performed in two stages. During Stage 1, samples will be collected and analyzed consistent with the Field Sampling Plan (FSP). The Data from the Stage 1 investigation will be used to re-categorize the SOCs for further investigation during Stage 2. The details of the Stage 2 sampling plan will be provided in a Supplemental Field Sampling Plan (SFSP). The University will submit a draft RI Report to the MPCA for review upon completion of all required field work and receipt and validation of laboratory data.

d. MPCA Approval of RI. The MPCA will review the draft RI Report and will provide comments to and/or approval of the Report and a determination that the RI phase is complete for the Site. The RI Report will summarize investigation activities completed in 2016, along with a comprehensive summary of all remedial investigative activities conducted at the Site to date. The RI will follow MPCA Superfund Program guidance for conducting Remedial Investigations and will be consistent with U.S. EPA guidance for conducting Remedial Investigations under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC § 9601, *et seq.*

5. RI Schedule. The University and the MPCA presently anticipate the following RI schedule. This schedule contemplates timely submission by the University to MPCA of project-related communications and reports, and the timely review and approval by MPCA of those submissions.

<u>RI Activity</u>	<u>Estimated Date</u>
Submission of RI project documents to MPCA	January 29, 2016
MPCA provides initial comments to the RI project documents	March 25, 2016
Commencement of 30-day public comment period	April 8, 2016
Public Meeting on the RI	April 18, 2016
End of public comment period	May 9, 2016
MPCA approval of RI project documents and start of Stage 1 of field work	May 18, 2016
MPCA review of Stage 1 laboratory data and approval of SFSP for Stage 2 of RI	within 45 days of submittal
Start of Stage 2 of RI field work	September/October 2016 (TBD)
Submission of draft RI Report to MPCA	November/December 2016 (TBD)
MPCA approval of RI Report and public meeting to present RI Findings	45 days after submittal and after public meeting

6. MPCA Oversight Costs. In accordance with the MPCA Voluntary Remediation Program Enrollment Application, the University will reimburse the MPCA for its costs of providing assistance, oversight and approvals under Minn. Stat. §115B.17, subd. 14. The University retains the right to seek recovery of its costs from other responsible parties, including the United States Army Corps of Engineers and E.I. du Pont de Nemours and Company, Inc.

7. Points of Contact. The following individuals have been identified as points of contact within the MPCA and the University regarding the matters addressed in this letter:

**MPCA**

Mr. Gary Krueger  
 Supervisor, Superfund Program  
 Minnesota Pollution Control Agency  
 520 Lafayette Road North  
 St. Paul, MN 55155; and

University of Minnesota

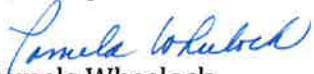
Mr. Kenneth Kerns  
Assistant Vice President for University Health and Safety  
University of Minnesota  
W-136 Boynton Health Services Building  
410 Church Street S.E.  
Minneapolis, MN 55455

8. Anticipated Next Steps. Upon approval by MPCA of the RI Report and determination that the RI phase is complete, the University and the MPCA anticipate that a Feasibility Study (FS) may be required to identify and evaluate response action alternatives to address the identified release of hazardous substances and petroleum at the Site. The FS is beyond the scope of this letter of understanding. The MPCA acknowledges the University's interest in ensuring the appropriate involvement and consistent treatment of all Responsible Parties by MPCA during the FS and any subsequent activities.


9. No Admission of Liability/Waiver of Rights. By signing this letter, the University does not admit the validity of any of the facts or assertions herein and reserves the right to dispute any facts or alleged liability under CERCLA, MERLA or otherwise with respect to the Site. By signing this letter, neither the MPCA nor the University waives any claims, causes of action, or authorities they may have. The MPCA has issued Commissioner's Notice Letters to the University, United States Army Corps of Engineers, and E.I. du Pont de Nemours and Company, Inc., identifying all three parties as Responsible Parties. Nothing in this letter of understanding precludes the MPCA from exercising its statutory authorities under Minn. Stat. ch. 115B against other identified responsible parties as defined in Minn. Stat. ch. 115B.

As noted above, the University has made considerable progress over the last year in working cooperatively with the MPCA. The University has done this voluntarily while continuing the efforts to bring the other responsible parties to the table. I am hopeful that you will consider co-signing this letter of shared understanding and that the MPCA staff will now complete its review of the RI project documents and provide the required approvals so that work on RI can begin this spring, as planned.

Sincerely,

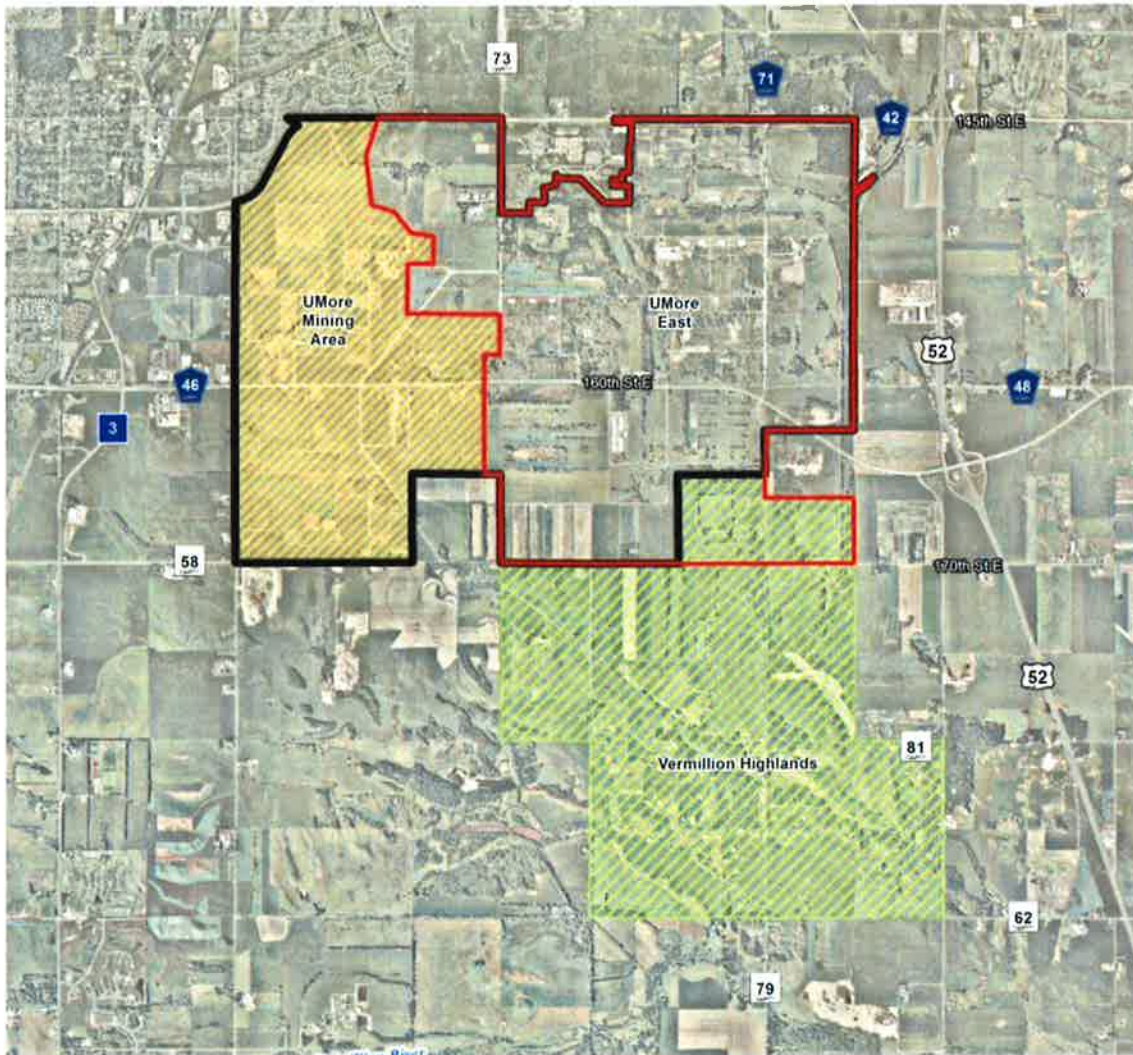
  
Pamela Wheelock  
Vice President, University Services  
University of Minnesota

I accept this letter as a non-binding understanding of the University's and the MPCA's roles and responsibilities regarding the Remedial Investigation of the UMore Park/Former GOW Site.

  
\_\_\_\_\_  
John Linc Stine  
Commissioner  
Minnesota Pollution Control Agency

cc: Ms. Carmen Netten, Attorney, Minnesota Pollution Control Agency (via email)  
Mr. Gary L. Krueger, MPCA Superfund Program (via email)  
Mr. Richard Pfutzenreuter, Vice President and Chief Financial Officer, University of  
Minnesota (via email)  
Mr. William Donohue, General Counsel, University of Minnesota (via email)  
Mr. Kenneth Kerns, Assistant Vice President, University Health & Safety, University  
of Minnesota (via email)  
Ms. Leslie Krueger, University Services, Office of the Vice President, University of  
Minnesota (via email)  
Mr. Rick Kubler, Gray Plant Mooty (via email)

UMore Park/ Former Gopher Ordnance Works  
Rosemount, Dakota County





**Minnesota Pollution Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# Voluntary Remediation Program Enrollment Application

## Voluntary Brownfield Program

Doc Type: Voluntary Remediation Application

**Instructions:** Please complete this form to enroll in one of the Minnesota Pollution Control Agency (MPCA) services listed below:

MPCA Use Only	
Project ID:	SR374

- 1) MPCA assistance for voluntary parties requesting technical review, investigation, and oversight under Minn. Stat. §§ 115B.17, subd. 14; 115B.175, except subdivision 6a; 115B.177; and 115B.178.
- 2) MPCA review of sites with petroleum contamination under Minn. Stat. §115C.03, subd. 9 (e.g., storage tank release site or a petroleum non-tank source).
- 3) MPCA review of investigation and response actions by Responsible Parties under Minn. Stat. §115B.175, subd. 6a.

**For further information:**

- **Voluntary Party Brownfield Program:** Contact Stacey Hendry-Van Patten at 651-757-2425, Andrew Nichols at 651-757-2612.
- **Voluntary Responsible Party Investigation and Remediation Program:** Contact Craig Biglow at 651-757-2229 or Hans Neve at 651-757-2608.
- The MPCA can also be reached toll free at 1-800-657-3864. Minnesota Duty Officer 1-800-422-0798 or 651-649-5451 (24 hours a day - for notification of releases).

Scan and email the completed form to: [Brownfields.PCA@state.mn.us](mailto:Brownfields.PCA@state.mn.us)

**Note:** The subject line of your email **must** include the **Preferred Site Name** first, followed by the **report/document name** (Example: *Smith Facility – Enrollment Application*). Failure to follow this protocol will result in a delay in processing your application.

**\*Fields/sections with an asterisk are mandatory and the application will not be processed if incomplete.**

**\* Subject property information**

Preferred site name (≤ 4 words): UMore Park/Former Gopher Ordnance Works  
 Previous MPCA site name (if known): \_\_\_\_\_  
 Previous MPCA site ID number (if known) \_\_\_\_\_  
 Address: 15325 Babcock Ave  
 City (or Township): Rosemount County: Dakota Zip: 55068  
 Property Identification Number (PIN) \_\_\_\_\_  
 (if more than one, please list all): \_\_\_\_\_  
 Approximate property size: 8,000 acres

**\* Applicant information**

Point of contact: Kenneth Kerns Title: Asst. Vice President, Univ. Health & Safety  
 Organization: University of Minnesota - University Services Phone: (612) 625-4539  
 Address: Boynton Health Center Rm W-136; 410 Church Street SE Email: kkerns@umn.edu  
 City: Minneapolis State: MN Zip: 55455

**Applicant's consultant** (List the name of your current environmental consultant, if applicable.)

Name: Jim Eidem  
 Organization: Barr Engineering Co Phone: (652) 832-2763  
 Address: 4300 MarketPointe Drive Email: jeidem@barr.com  
 City: Minneapolis State: MN Zip: 55435

**\* Current property owner** (complete if different from applicant)

Name: Regents of the University of Minnesota Title: \_\_\_\_\_  
 Organization: University of Minnesota Phone: \_\_\_\_\_  
 Address: 600 McNamara Center; 200 Oak St. SE Email: \_\_\_\_\_  
 City: Minneapolis State: MN Zip: 55455



**Parties to be listed on assistance and/or assurance letter(s)**

Name: Janet Dalglish Title: Environmental Affairs Coordinator  
Organization: University of Minnesota Phone: (612) 626-7095  
Address: Thompson Center, 501 23rd Ave SE Email (optional): dalgj006@umn.edu  
City: Minneapolis State: MN Zip: 55409  
Relationship of party to subject property: \_\_\_\_\_

**\* Spatial data information requirement**

Site location point description (select one):  Center of site  Main/Front door  Front gate/Main entrance  
Latitude (decimalized): 494044  
Longitude (decimalized): 4950759

**\* Known or suspected contaminant type**

- Petroleum **only**
- Hazardous Substance or Pollutant or Contaminant **only**
- Petroleum **and** Hazardous Substance or Pollutant or Contaminant

**Section A - Assistance requested**

Description of applicant's request (select all that apply). Refer to the *Brownfield Program Services* guidance document (c-brwnfld4-01) for detailed descriptions of available services on the MPCA Brownfields webpage at <http://www.pca.state.mn.us/lupg7f9>.

**Assistance for petroleum releases**

- Review of a petroleum release investigation (tank and non-tank source) (Minn. Stat. §115C.03, subd. 9)
- Technical review of a Response Action Plan (RAP) for a petroleum impacted property
- Liability assurance letters (Minn. Stat. § 115C.03, subd. 9C)
  - General liability Letter. MPCA ID#: \_\_\_\_\_
  - Tank removal verification letter. MPCA ID#: \_\_\_\_\_
  - Off-site tank release determination letter. Suspected source MPCA ID#: \_\_\_\_\_
  - File closure confirmation letter. MPCA ID#: \_\_\_\_\_

**Assistance for releases of hazardous substances or pollutants or contaminants**

- Technical review or third-party only review. (Minn. Stat. §115B.17, subd. 14)
- Lender Letter or Lender No Association Determination. (Minn. Stat. §115B.178)
- No Association Determination. (Minn. Stat. §115B.178, subd. 1(a))
  - For a No Association Determination request, please submit to the MPCA a letter that describes any association the applicant has with the property or releases at the property, and a list of the actions the party intends to take at the site.
- Retroactive No Association Determination. (Minn. Stat. §115B.178, subd. 1(b))
  - For a Retroactive No Association Determination request, please submit to the MPCA an Affidavit that describes any past association the applicant has with the property or releases at the property, a list of the actions the applicant took at the site, a statement that the applicant did not contribute or associate itself in any manner with the releases to be named in the determination, and a statement of the signing individual's relation to the applicant.
- No Action or No Further Action Letter.
- Off-Site Source Determination. (Minn. Stat. §115B.177).
- Certificate of Completion. (Minn. Stat. §115B.175).

**Assistance for Environmental Grant(s) application deadline**

Is MPCA review required for an Environmental Grant(s) application deadline? (e.g., Minnesota Department of Employment and Economic Development [DEED], Metropolitan Council, or County cleanup grants) For a list of grant sources, please see the *Brownfield Resource Guide* located on the MPCA Brownfields webpage at <http://www.pca.state.mn.us/lupg7f9>. Please factor our 30 business-day review timeframe into your grant submission timeline.

- Yes
- No or unknown at this time.

## Section B - Responsible party status for a non-petroleum release

**Overview.** A person who is responsible for a release or threatened release of hazardous substances or pollutants or contaminants may undertake response actions under a voluntary response action plan (RAP) approved by the Agency. Minn. Stat. §115B.175, subd. 6a allows a responsible person to obtain assurances for persons who acquire real property after approval of the voluntary RAP, provide financing for response actions or development at the real property after approval of the RAP, and successors or assigns of such persons. The responsible person is eligible to obtain for itself a formal letter from the MPCA indicating that no action or no further cleanup action is required if the RAP fully addresses releases or threatened releases at or originating from the real property.

**Reservation of Rights.** A person seeking to address contamination under this provision is not required to waive defenses that the person may have to their designation as a responsible person. However, if the MPCA obtains evidence (through the RAP or other means) that indicates that additional actions are necessary to address contamination at or originating from the property, the MPCA reserves the right to require the responsible person to complete remediation of the site, including actions necessary to address all contamination at or originating from the real property.

### Remedial Investigation (check at least one for each media)

To be eligible to receive a No Further Action Letter, the responsible person must submit a Remedial Investigation supporting its responses to the questions below unless such documentation is submitted in conjunction with the required Phase I ESA document (see Part C below). If the information is not known, check the box indicating when the work plan will be submitted.

#### Soil contamination

- There is no soil contamination above MPCA's risk-based screening values
- The extent and magnitude of soil contamination has been defined
- A work plan to define the extent and magnitude of soil contamination will be submitted before: 1/29/2016  
(mm/dd/yyyy)
- A Remedial Investigation Report defining extent and magnitude will be submitted before: 12/31/2016  
(mm/dd/yyyy)

#### Groundwater contamination

- There is no groundwater contamination above the MPCA or MDH risk-based screening values.
- The extent and magnitude of groundwater contamination has been defined.
- A work plan to define the extent and magnitude of groundwater contamination will be submitted before: 1/29/2016  
(mm/dd/yyyy)
- A Remedial Investigation Report defining extent and magnitude will be submitted before: 12/31/2016  
(mm/dd/yyyy)

#### Soil gas contamination

- There is no soil gas contamination above the MPCA screening criteria.
- The extent and magnitude of soil gas contamination has been defined.
- A work plan to define the extent and magnitude of soil gas contamination will be submitted before: \_\_\_\_\_  
(mm/dd/yyyy)
- A Remedial Investigation Report defining extent and magnitude will be submitted before: \_\_\_\_\_  
(mm/dd/yyyy)

#### Surface water and sediment contamination (check yes or no for each question below)

Is there potential for surface water contamination?  Yes  No

Is there potential for sediment contamination?  Yes  No

#### Response actions

**Response Action Plan.** If the MPCA determines that response actions are necessary to manage risk to human health or the environment posed by the identified releases, the applicant must prepare a Response Action Plan (RAP) within 90 days of MPCA approval of a Remedial Investigation Report. The RAP must provide a detailed design and schedules for implementation of actions to remedy the releases of hazardous substances at and from the site. The MPCA will review and comment on or approve the RAP within 60 days of submittal. The MPCA may require amendments to the RAP as new information becomes available during the investigation and response process. If the applicant fails to complete the RAP according to the approved schedule or submit amendments to the RAP as necessary to address contamination, the MPCA reserves the right to terminate the voluntary remediation. The MPCA reserves the right, following procedures established in Minn. Stat. ch. 115B, to require the responsible person to complete the RAP.

## Environmental covenant

If residual contamination at the site warrants activity/land use restrictions or affirmative obligations (e.g., continued monitoring or operation/maintenance of a remedial system), the MPCA may require the applicant to file an environmental covenant. The MPCA will not issue a No Action or No Further Action letter until the environmental covenant is filed with the appropriate Office of the County Recorder or County Assessor.

## Affidavit of hazardous substances

Before any transfer of property that was used as the site of a hazardous waste disposal facility or is subject to extensive contamination by release of a hazardous substance, the owner must record an Affidavit of Hazardous Substances. The MPCA will not issue a No Action or No Further Action letter until the Affidavit of Hazardous Substances is filed with the appropriate Office of the County Recorder or County Assessor.

## Section C - Phase I and review information

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### Brownfield Program review timeframe

Program applicants should budget 30 working days in project schedules for MPCA to respond to submittals. **The 30 working-day review timeframe begins when everything that is needed for MPCA review has been submitted.** The MPCA will endeavor to provide a response to submittals within 30 business days.

### Phase I Environmental Assessment Reports

A Phase I Environmental Site Assessment (Phase I ESA) prepared in accordance with the All Appropriate Inquiry (AAI) standard as per 40 C.F.R. Part 312 must be provided with this application unless the application is only for technical assistance or one of the following services/letters: Expedited review of a petroleum tank release site; Lender Letter; Tank Removal Verification and/or General Liability Letter.

The MPCA will not accept Phase I ESAs older than one year from the date of submittal of this application. In some cases Phase I ESAs older than one year can be submitted with a Phase I ESA update. MPCA staff may request information beyond the minimum requirements when needed to support review and approvals requested by the applicant.

## Section D - Submittal requirements

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### List all reports submitted with this application (report title, author, and date):

Gopher Ordnance Works, Draft Remedial Investigation Scope of Work (Barr Engineering Co., May 2015). Three hard copies and an electronic copy (via email) were submitted to MPCA (c/o Gary Krueger) on June 5, 2015

Remedial Investigation Work Plan and Sampling and Analysis Plan for the Former Gopher Ordnance Works (Barr Engineering Co., January 2016). A flash drive with electronic copies were submitted to MPCA (c/o Gary Krueger) on January 29, 2016

Correspondence dated March 10, 2016 and signed by Vice President Pamela Wheelock, University of Minnesota, and Commissioner John Linc Stine, MPCA, regarding non-binding understanding between the University and the MPCA of the University's and MPCA's roles and responsibilities for the Remedial Investigation of the UMore Park/Former Gopher Ordnance Works Site

**Note:** Submit one electronic copy of each report or supporting document. The preferred electronic file format is Adobe Acrobat portable document format (PDF). Each report or document should be submitted as a separate PDF file (i.e., separate PDFs must be first combined in the correct order as one file for each report/document submitted). **All email subject lines** must adhere to the following protocol: the Preferred Site Name must be listed **first** followed by the report/document name. The application and accompanying document(s)/report(s) **must** be submitted to: [Brownfields.PCA@state.mn.us](mailto:Brownfields.PCA@state.mn.us). Documents submitted not following these guidelines will result in a delay in processing your application. Documents submitted to the MPCA are considered public unless otherwise classified by the Minnesota Data Practices Act. Requests to classify documents as non-public must be submitted to the MPCA in writing following the procedures established in Minn. R. 7000.1300.

## Section E - Reservation of rights

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The protection from liability provided by MPCA documents issued as provided under this application does not apply to:

- (1) A person who aggravates or contributes to a release or threatened release that was not remedied under an approved voluntary response action plan;
- (2) A person who was responsible under sections 115B.01 to 115B.18 for a release or threatened release identified in the approved voluntary response action plan before taking an action that would have made the person subject to the protection under subdivision 6 or 6a; or
- (3) A person who obtains approval of a voluntary response action plan for purposes of this section by fraud or misrepresentation, or by knowingly failing to disclose material information, or who knows that approval was so

obtained before taking an action that would have made the person subject to the protection under subdivision 6 or 6a.

Nothing in this section affects the authority of the agency or commissioner to exercise any powers or duties under Minn. Stat. ch. 115B or other law with respect to any release or threatened release, or the right of the agency, the commissioner, or any other person to seek any relief available under this chapter against any party who is not subject to the liability protection provided under this section.

## Section F - Agreement for reimbursement of MPCA costs

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By submitting this application, the applicant agrees to pay the MPCA for the MPCA's costs for providing assistance under this Application pursuant to Minn. Stat. §115B.17, subd. 14 and/or Minn. Stat. §115C.03, subd. 9, including review of MPCA records and files, investigation plans, reports and RAPs, and activities associated with development of requested assurances or no action documents. The current fee is \$125.00 per hour. The applicant agrees that the applicant will pay the MPCA's costs within 30 days of receipt of an invoice for the costs. The applicant must notify the MPCA within 20 days of receipt of the invoice if any costs are disputed. The applicant agrees that failure to dispute costs by this time constitutes waiver of its right to dispute the costs, and the applicant agrees to pay all undisputed costs promptly. The MPCA will send invoices to a voluntary party applicant on a monthly basis and to a responsible party applicant on an annual basis. The applicant agrees that failure to pay the MPCA's costs in a timely manner may result in the MPCA terminating its review, declining to issue requested documents or assurances, and taking appropriate administrative or legal action to recover unpaid invoices from the applicant, which may include costs and legal fees associated with collection of the debt.

### Certification

The **applicant** or other **authorized person** signing below on behalf of applicant (Agent):

- certifies that the **applicant** and/or **authorized person** has read and is familiar with the information on this form and all attached documents, and that the submitted information is true, accurate, and complete to the best of the **applicant's** and/or **authorized person's** knowledge; and
- certifies that the undersigned has the authority to bind the party represented, their agents, successors, and assigns.

Name (print): Kenneth Kerns Title: Asst. Vice President, Univ. Health & Safety

Organization name: University of Minnesota

Signature: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_