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Turning Point

By Steve Hilfiker

The mood of the Petroleum Restoration Program presentation at the Florida Remediation Conference this year was much more positive than it was one year ago. Contractors seem to have much less frustration and much more hope. The FDEP developments, ability to encumber more projects and streamline some of the procedures appears to be working.

On October 20, 2015, the Department had a teleconference with agency term contractors and presented the latest information regarding work distribution, change orders and other technical developments within the program. FDEP has posted many statistics on the website based on information prepared for these meetings. Most of the sites scored 46 and higher in the program are either closed or in some phase of monitoring. Most sites scored between 30 and 45 are either in site assessment or in the remedial action planning phase. Over the next year, many of these sites will develop into remedial construction projects. Currently, there are less than 150 sites in construction, remedial operations, or source removal. We need to educate our legislators that we need consistent funding to maintain the momentum on these sites. We need to build on this progress.

There are approximately 5000 sites that the Department intends to assess over the next five years. Based on information from the LSSI, approximately 27% of those sites can be expected to achieve a Site Rehabilitation Completion Order. Sites that do not achieve closure through LSSI remain eligible for remediation to the cleanup target levels, which is the preferred method of closure for most site owners.

The Department has expanded the closure options for site owners. Some of these options are mentioned below. Florida Administrative Code 62-772.401 rulemaking is almost complete. Property owners able to demonstrate 25% cost savings using RBCA will have more opportunities for contractor selection after the rule becomes effective in late 2015 or early 2016.

It is important for contractors to continue consulting. Many property owners need to be educated about the facts of their site, funding eligibility, and their long-term goals for the property. Some owners have a low funding cap and may not want to pay for remedial action after funds are exhausted. These owners would be more open to Risk Based Corrective Action. Some owners have a low score and do not want to wait for funding. These owners may be more interested in the Advanced Cleanup Program or the LSSI. The Memorandum of Understanding with the Florida Department of Transportation is enabling more SRCOs with conditions.

As contractors assess more sites using the Limited Site Assessment (LSA) scope of work, it is important to explain the various strategies to manage environmental risk to site owners. Some would rather have a risk-based closure letter than intrusive remediation. Others have relied upon the language in Florida Statute 376.3071 for full remediation to the cleanup target levels. Many lenders have financed and purchasers bought property based on the promise of a full clean up.

Many property owners are realizing that 20 years from now, retail gasoline may not be the same industry as it is today. These owners are focused more on property value and resale than long-term facility operations. Each site is different and each owner has different objectives, which is why education and communication through proper consulting is so important. The petroleum cleanup industry has an opportunity through consulting to improve relationships with site owners and the Department of Environmental Protection. In the process, we can help to ensure consistent funding by the legislature.

It is important for business managers be able to forecast future work volume to run a healthy company. We need consistent appropriations from the legislature to do that. As we educate our legislators and clients, demonstrate that we are being good stewards of the trust fund, make proper recommendations to site owners, and focus on the best strategy for each site, we will improve the reputation of our industry.

The Department has repeatedly stated that will not force property owners to accept a risk based corrective action without the property owner's written consent. Therefore, remediation to the cleanup target level is and should remain as an option for site owners. The Department acknowledges this and at the same time is promoting the other viable options to close regulatory files.

So after two large industry meetings and several internal Department meetings, we seem to have turned a corner toward more efficiency and healthier agency term contractors. The program depends on healthy contractors to provide professional consulting services and in the process more sites will be closed and all stakeholders in the program will see results.

Let's hope that this time next year, the Florida Remediation Conference will include a petroleum program panel that can demonstrate a pace of over 400 closures per year. Our goal for next year should be no need for amendments, a satisfied clientele, legislators able to happily provide consistent funding, and steady progress toward making the program even more efficient. Hopefully we can look back on the 2015 Florida Remediation Conference as the turning point.

Steve Hilfiker is president of Environmental Risk Management, Inc. (ERMI), a DEP petroleum cleanup contractor, Florida-licensed engineering firm and geology business, and environmental forensic consulting firm. Steve is a former two-term president of the Florida Environmental Assessors Association, and can be reached through www.ermi.net or by calling 1-888-ENV-MGMT (1-888-368-6468). He is available for public speaking engagements to groups, organizations and conferences.