



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Kent P. Gray
Director

168 North 1950 West
P.O. Box 144840
Salt Lake City, Utah 84114-4840
(801) 536-4100
(801) 359-8853 Fax
(801) 536-4414 T.D.D.
www.deq.state.ut.us Web

MEMORANDUM



TO: Don A. Ostler, Director
Division of Water Quality

FROM: Kent P. Gray, Director *Kent*
Division of Environmental Response and Remediation

DATE: December 4, 2000

SUBJECT: Proposed Changes to Existing Memorandum of Understanding

Attached is a proposed change to the existing Memorandum of Understanding (MOU) between the Division of Water Quality (DWQ) and the Division of Environmental Response and Remediation (DERR) regarding petroleum releases from sources other than leaking underground storage tanks. The proposed change would include underground heating oil tanks as a source of petroleum that the DERR would oversee during an investigation and cleanup. This change would provide greater flexibility to our customers that face the challenge of addressing these types of releases. No other change is proposed at this time.

Enclosed are three copies of the MOU with the proposed change. The underlined portion of the first copy represent the additions to the existing MOU. The other two copies are originals and should be signed if you agree to the amendment. Please retain one of these copies for your records and transfer the other back to the DERR. We appreciate your consideration of this change.

KPG/PDZ/srb

DERR
ENVIRONMENTAL RESPONSE & REMEDIATION
ENTERED

DEC 19 2000

*Kent -
Thanks for doing this -
Don*

BY _____

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE DIVISION OF WATER QUALITY AND THE DIVISION OF
ENVIRONMENTAL RESPONSE AND REMEDIATION
REGARDING PETROLEUM PRODUCT RELEASES TO
THE ENVIRONMENT FROM SOURCES OTHER
THAN LEAKING UNDERGROUND STORAGE TANKS**

INTRODUCTION

The Division of Environmental Response and Remediation (DERR) and the Division of Water Quality (DWQ) have specific regulatory responsibilities pertaining to petroleum releases that impact or may potentially impact ground water. The DERR has responsibility for all activities involving petroleum releases from "regulated" leaking underground storage tanks through the Leaking Underground Storage Tank (LUST) program. The DWQ through its Ground Water Quality Protection program has responsibility for releases of petroleum products from facilities that impact or have the potential to impact ground water whether or not these facilities are regulated by DERR. Historically, the DWQ has assumed most of the regulatory responsibility for petroleum releases that impact ground water when the source of the contamination is not regulated by another agency.

The purpose of this Memorandum of Understanding (MOU) is to establish a framework of policy and procedure by which the LUST program can assume regulatory oversight for petroleum releases from underground heating oil tanks and above ground storage tanks (AST's). This MOU will make more efficient use of Department resources by consolidating and clarifying the roles of each Division to facilitate the effective evaluation and remediation of petroleum releases. A further purpose of this agreement is to simplify the regulatory framework for the regulated community, and to ensure that releases of petroleum from LUST's, underground heating oil tanks and AST's can be evaluated and subject to the same standards and procedures.

POLICY

WE THE UNDERSIGNED DO HEREBY AGREE TO THE FOLLOWING POLICIES:

- A. The DERR LUST program will assume regulatory oversight of all reported petroleum releases from underground heating oil tanks and AST's (not regulated by other agencies) and other petroleum releases that present a direct and immediate threat to public health or the environment.

- B. The DWQ will assume regulatory oversight of all other reported petroleum releases, including other underground storage tanks not regulated by the DERR LUST program.

- C. The DERR will be responsible for receiving all reports of petroleum releases. The DERR will complete a Release Report (attachment A) and evaluate the reported information to determine the source of the release.
 1. If the source of the petroleum release is not from a LUST, underground heating oil tank, or AST, the DERR will transfer the Release Report to the DWQ's Groundwater Protection Section Manager. The DWQ will then provide regulatory oversight of the release, using their existing regulations and procedures.

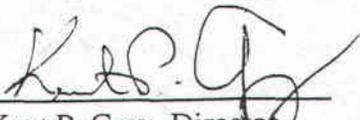
 2. When a petroleum release affects or has the potential to affect waters of the State and presents a direct and immediate threat to public health or the environment, the DERR will notify the DWQ of the release and coordinate activities, as necessary. The DWQ and DERR will make an immediate decision as to the most effective method to regulate the release and abate the emergency.

 3. The DERR will provide regulatory oversight of investigations and remediation of petroleum releases from underground heating oil tanks and AST's. The DERR will use LUST existing policies, guidelines, standards and procedures when providing oversight activities. The facility owner will be sent an initial letter by the DERR's LUST program indicating LUST requirements which have been interpreted by the Executive Secretary of the Water Quality Board to meet the intent of the Water Quality Act and the Ground Water Quality Protection Regulations. If at any time during the oversight process an owner of an underground heating oil tank release or AST release does not comply with the LUST requirements, the case file will be transferred to the DWQ for possible compliance actions.

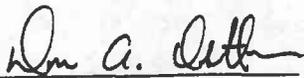
 4. If the DWQ receives a report of a petroleum release from a regulated LUST, underground heating oil tank, or AST, a Release Report will be completed by the DWQ and transferred to the DERR LUST Remedial Assistance Section Manager.

- D. The DWQ will continue to manage petroleum releases that have the potential to impact ground water from other sources such as tanker trucks, railroad tankers, and transportation pipelines. The DWQ will utilize and apply cleanup criteria pertaining to petroleum releases that are developed and utilized by the DERR LUST program.
- E. All underground heating oil tank releases or AST releases currently being managed by the DWQ will continue to be managed by the DWQ until the sites meet DWQ's applicable closure criteria.

Effective: December 11, 2000



Kent P. Gray, Director
Division of Environmental Response and Remediation



Don A. Ostler, Director
Division of Water Quality