

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Bob Holden, Governor • Stephen M. Mahfood, Director

DIVISION OF ENVIRONMENTAL QUALITY
P.O. Box 176 Jefferson City, MO 65102-0176

May 9, 2001

Ms. Sharon Cotner
FUSRAP Program Manager
United States Army Corps of Engineers
8945 Latty Avenue
Berkeley, MO 63134

Re: Response to the Missouri Department of Natural Resources Proposed List of ARARs in the North County Feasibility Study and Proposed Plan

Dear Ms. Cotner:

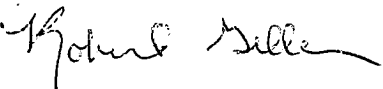
The Federal Facilities Section has finished reviewing the USACE's response to our proposed Applicable or Relevant and Appropriate Requirements (ARARs). While we agree with most of the responses given, there are a few regulations we would still like to be considered as ARARs. The general reason given for not accepting many of the proposed ARARs is that they are "not a cleanup standard, requirement, criteria, or limitation within the meaning of 40 USC 9621 OR 40 CFR 300.400(g)." We disagree with this interpretation of the regulations as they apply to some of the proposed ARARs (see attached pages).

The section would like you to review our response and either provide a more detailed reason why these should not be ARARs for the North County Site or make the proper corrections.

Thank you for your time and response. We hope that this issue can finally be resolved.

Sincerely,

HAZARDOUS WASTE PROGRAM



Robert Geller
Federal Facilities Section Chief

c: Daniel Wall, EPA
Dennis Chambers, USACE

19 CSR 20 Sections 10.040, 10.050, 10.070, 10.090

These regulations may not detail direct cleanup standards, regulations, criteria, or limitations, but they should be used to ensure that safe levels of radiation from the site are maintained. Thereby protecting the public.

10 CSR 20-7.031(5)(D), 10 CSR 20-7.031(4)(I), 10 CSR 20-7.031(5), Table A

The reason given for rejection of the above regulations was because they were "not a relevant and appropriate state standard within the meaning of 42 USC 9261 or 40 CFR 300.100(g)." It is stated in 42 USC 9261 that to be considered an ARAR, a state regulation has to be promulgated and more stringent than the corresponding federal regulation. In 40 CFR 300.100(g), the definition of promulgated state regulations is "the standards are of general applicability and are legally enforceable." The above-mentioned Missouri regulations apply generally to all waters of the state and are legally enforceable. Due to these facts the Missouri water quality standards mentioned above are promulgated state regulations under the meaning of 40 CFR 300.100(g). Furthermore, the Clean Water Act gives the states the authority for establishing water quality standards, there are no corresponding federal regulations, and can be considered ARARs if they apply to conditions at the site.

10 CSR 20-7.031(5)(B) states that "...appropriate Column I or II criteria shall apply to waters in caves and to aquifers which contribute an important part of base flow of surface waters designated for aquatic life protection." The upper groundwater unit, HZA, contributes to the flow of Coldwater Creek, which is designated for aquatic life protection (Table H 10 CSR 20-7). It is known that there are FUSRAP-related contaminants in HZ-A, therefore, the standards in this regulation should be followed.

10 CSR 20-7.031(4)(I) states that "all streams and lakes shall conform with state and federal limits for radionuclides established for drinking water supply." It is known that there are radioactive elements in Coldwater Creek, and therefore the drinking water standards mentioned in 10 CSR 20-7.031(4)(I) should apply to the North County Site.

10 CSR 23 Sections 4.050, 1.010-1.060, 1.090, 1.105, 1.140, 1.155, 1.160, 3020-3080, and 3.110

The above Missouri regulations should not be completely disregarded. They should be listed as action-specific ARARs since they detail how a particular action should be performed. Again, these standards are promulgated state regulations within the meaning of 42 USC 9261 and 40 CFR 300.100(g). Specifically, they are generally applicable to all wells in the state and are legally enforceable.

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Further Info?
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MDNR Objection to USACE Determinations Regarding Specific Regulations as ARARs (Applicable or Relevant and Appropriate Requirements) for the North County Feasibility Study and Proposed Plan

Author/Originator
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Company
MDNR

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