

Wisconsin Brownfields Study Group (BSG)

September 28, 2018 | 10:00am – 3:00pm

Dane County UW Extension
5201 Fen Oak Drive | Room 121
Madison, Wis. 53718

Conference Call Option: 1-855-947-8255 | Passcode: 6612 745#

Mark Thimke – Foley & Lardner
Jennifer Buzicky – Public
Mick Skwarok – DNR
Gary Krueger – MPCA
Dave Misky – RACM
Ed Boswell – UW Madison
Jeff Ramey – OBG
Eric Uram – Headwater
Scott Wilson – Ayres Associates
Bernie Esselman – Test America
Tom Coogan – DNR
Geoff Siemering – UW Madison
Mike Ursin – TRC
Adam Roder – Sigma
Ben Peotter – Ayres Associates
Snejana Karakis – Ramboll
Lanette Altenbach – AECOM
Jodie Peotter – TetraTech / Cornerstone
Jon Grosshans – EPA
Mary Christie – Pace

Bill Nelson – DNR
Alyssa Sellwood – TRC
Leah Ziemba – Michael Best
John Stibal – City of West Allis
Jason Scott – WEDC
Sam Tobias – Fond du Lac County
Laurie Parsons – OBG
Frank Dombrowski – WE Energies
Laura Olah – CSWAB
Scott Harrington – Vandewalle
Tauren Beggs – DNR (Phone)
Margaret Brunette – DNR (Phone)
Lynn Morgan – Waste Management (Phone)
Art Harrington – Godfrey & Kahn (Phone)
Bruce Keyes – Foley & Lardner
Steve Ales – DNR
Christine Haag – DNR
Michael Prager – DNR
Molly Schmidt – DNR

Presentations listed below can be found on the BSG's web page at: <https://dnr.wi.gov/topic/Brownfields/bsg.html>

Available handout: ITRC History and Use of PFAS

Available handout: CSWAB PFAS Community Campaign

10:00 Welcome and Agenda Repair (Misky/Thimke)

5 min

Members discussed and approved appointment of Jennifer Buzicky as a formal member of the BSG. Buzicky is an environmental lawyer and has participated in several of the BSG's subcommittees. She currently chairs the VPLE Review Committee.

Prior to start of regular agenda, Co-Chair Dave Misky provided a brief update on late-breaking news that Komatsu Mining Corporation had just announced plans to redevelop and build a new 2.5 million square foot headquarters in Milwaukee's Harbor District at the former site of Solvay Coke. The move will eventually see a doubling of the Komatsu workforce. The city and Komatsu have been working on this deal for nearly two years.

Also, MKE Plays and the Green Bay Packers teamed up to build a new playground at the former Diamond Vogel/Essex Paint site at 31st and Galena. The site previously had more than 2,000 USTs on the property.

10:05 Wisconsin Act 70 – Integrated Brownfields/Air Permits (Thimke)**30 min****Presentation: Integrated Brownfields-Air Permits**

Part of the BSG's recommendations from its 2015 Report. DNR has been working with Thimke, Harrington and subgroup on implementing this new pilot program. Thimke advised that the BSG could provide statutory language to the Legislature by early next year to fix a few issues with the law.

10:35 RR Program Budget / BSG Recommendations (Thimke)**25 min****Presentation: September BSG**

Darsi Foss, RR program Director, provided BSG with an update on the RR program budget and vacancies and hiring plans for the coming year. Also, a quick overview of the program highlights from the previous year.

Innocent Purchaser Committee Input (Wilson)**Memo: Innocent Landowner BSG Subcommittee**

Scott Wilson, member, provided an update to the work that the "Innocent Landowner" subcommittee had accomplished during the last few months. Reps. Taylor and Jacque forwarded a bill – LRB0948 – that offered financial relief for specific responsible parties that did not cause contamination; it was not voted out of committee. The legislative committee informally requested BSG to examine the issue and offer a recommendation. Said Scott, "Since the funding structure already exists, we simply provided a pathway for them to alter funding streams to an existing DNR program and allow for some affected innocent landowners to seek financial relief."

Subcommittee concluded:

- Not a major issue

- Only anecdotal evidence of a limited number of incidents

- No state funding sources for private parties

- Money in state's environmental fund might help

- Environmental fund is oversubscribed

- If environmental fund was funded to \$4 million, it might have capacity to offer limited assistance

- DNR should have discretion as to how / when it would use those funds

Scott requested that members / interested guests contact him ASAP with ideas for DNR to establish criteria for assisting "innocent landowners." Scott will work with chairs to submit findings to legislature.

11:00 DNR Updates:**30 min****Presentation: September BSG**

Darsi Foss, RR program Director, provided an update on the program's soil guidance, which is nearly finished, and the status of the program's work on NR 712 (consultant qualifications), which is almost ready to share publicly. Field Operations Director Steve Ales provided the Group with an update on the Case Closure Reconsideration process. And Molly Schmidt with the RR program's Brownfields and Outreach section discussed DNR's process for rule-making.

11:30 PFAS: NR140 Update (Foss)**15 min****Presentation: September BSG**

Darsi Foss walked members through the process of updating NR 140 (groundwater quality) and working with the Dept. of Health Services to establish new standards taking into consideration PFAS.

11:45 Update: VPLE Review Subcommittee (Buzecky/Thimke) 15 min

Memo: Summary of Issues 7 25 18 VPLE Review

Memo: Report on Impact of Exemptions from Liability

VPLE subgroup had one meeting on July 25 and the group identified several topics that the group will look at that are listed on the memo that was sent out. Jennifer Buzecky will lead this subgroup. Jennifer explained how the group will look at one or a couple topics per subgroup meeting.

Notify Jennifer or Michael Prager if you want to participate on committee. A second meeting will be scheduled soon.

12:00 Break 30 min

12:30 PFAS: MPCA's Natural Resource Damages Claim (Gary Krueger, MPCA) 45 min

Presentation: MN PFAS

1:15 EPA Update (Grosshans) 15 min

Presentation: BUILD Act

Jon will share BUILD Act info late October / early November with request to BSG to share with colleagues

1:30 PFAS: Impact on VPLE – Discussion (Thimke) 75 min

Presentation: VPLE-PFAS Emerging Chemicals

Mark Thimke kicked off discussion with the PowerPoint presentation listed above. Group discussed benefits of the VPLE program and the consensus was to keep VPLE as it provides “good comfort” for purchasers. However, current DNR VPLE insurance won’t cover against PFAS or other emerging/unknown chemicals where natural attenuation was not used as the remedy for cleanup. Discussed need to either require more robust investigations or charge higher fees for the insurance. Concern from group that businesses will stop buying brownfield sites if DNR can’t define or control the risk. Need for quick action so that the legislature doesn’t preemptively end the VPLE program. BSG recognized that there are many unknowns with regard to PFAS and that some guidance/assistance from US EPA would be helpful, including conceptual site models and lab analysis recommendations. Members questioned the concerns of the Administration and the Legislature and then perhaps tailoring the program to meet those concerns. Darsi Foss explained that the DNR is concerned about future taxpayer liability if the state has to cleanup PFAS at a site that obtained VPLE. Members agreed that inviting past participants in the VPLE program to a future meeting to gather input could be helpful.

2:45 Standing Items (Co-Chairs and Members) 15 min

- WMC Update
- WEDC Update
 - Kathryn Berger is gone; Kristian Vaughn is new Region 7 ED Director
 - Brownfields projects funded at \$5 million in coming year
 - Site assessments funded at \$1.5 million in coming year
 - Idle site grants funded at \$1.5 million (that’s a decrease)
 - Community Downtown Development Grants funded at \$5 million
 - Rural Development Grants – Populations based on per capita per square mile. There are 14 urban counties in Wisconsin using that methodology. Grants cover up to 30 percent of eligible costs in urban counties, and up to 50 percent in rural counties.
 - Site Assessment Grants – 50 percent match required in urban counties; 20 percent in rural counties
 - From 10 to 5 acres for idle site requirement for rural development
- BSG Membership and Structure Update

- Jennifer Buzicky is new member
 - Thanks to Gary K. for MN PFAS presentation
- 2015 BSG Report Recommendations Update
 - Many of Friday's topics derive from that report
- Next Regular Meeting - Location/Timeframe
 - Likely January for next meeting
 - Potential topics include:
 - Innocent purchaser memo out to legislature in soon.
 - Opportunity Zones / brownfields (EPA/Grosshans)
 - PFAS & VPLE
 - NR 700 rules update
 - Clean soil guidance
 - NR 712

3:00 Confirm Assignments and Adjourn (Misky/Thimke)

(Times are approximate)