

Contaminated Sediments External Advisory Group (CSEAG) May 1, 2015 Meeting

External Advisory Group Attendees:

Bob Bingen, Karen Dettmer, Frank Dombrowski, Dean Haen, Randy Johnson, Paul Kent, Steve Laszewski (via phone), Lynn Morgan, Laurie Parsons, Jim Rose, Mark Thimke, Jay Warzinski (fill-in for Doug Coenen), Ken Wein (fill-in for D'Arcy Gravelle), Sheri Walz (via phone) and Ryan Wozniak

Absent: Eric Bott, Tom Chapman, Steve Hiniker, Scott Konkle, Paul Matthewson and Jason Serck

Guests: DJ Burns, Dave Misky and Shar TeBeest

Department of Natural Resources (DNR) Attendees:

Marsha Burzynski, Kristin DuFresne, Judy Fassbender, Darsi Foss, Steve Galarneau, John Morris (via phone), Mike Thompson and Jim Zellmer

Absent: Lacey Cochart and John Robinson

Guests: Margaret Brunette, John Budzinski, Jerry DeMers, Christine Haag, Gena Larson and Nancy Ryan

Welcome & Overview - Background, Purpose & Review of 2015 Brownfields Study Report

The Brownfields Study Group (BSG) identified a number of sediment related issues in their 2015 report.

- What are this groups thoughts regarding those issues?
- What are the priorities?

DNR will take feedback from CSEAG back to Division Administrators.

BSG representatives (Thimke, Dettmer and Misky) relayed the BSGs perspective regarding sediments to the CSEAG:

- Sediment became a separate item within the 2015 report because three of the BSG subgroups (technical, liability and waterfront) identified sediment issues to be of high importance.
- Need to approach cleanups using a more holistic approach (i.e. address landward and waterward issues at the same time).
- Sediment issues will continue to be a key to brownfields redevelopment.
- Redevelopment opportunities will be shut down if sediment issues are not addressed.
- BSG wants to partner with DNR to address sediment issues.

Redevelopment challenges happen when issues are not addressed up front. Communication early on in the redevelopment process is important.

Caution is needed when discussing sediment issues to ensure redevelopment type reviews are not required at all sites.

Navigational dredging produces large quantities of material that need to go somewhere.

Review of Draft Charter & Draft Issue Paper for Group

The twelve issues identified in the draft issue paper were discussed.

The DNR's Remediation & Redevelopment program (RR) is currently operating at a twenty percent vacancy rate. Framework has been established to create a waterfront initiative but no staff have been assigned to this effort thus far.

The CSEAG acknowledged that DNR staffing levels will likely stay the same or be reduced in the future. The CSEAG will need to keep DNR staffing levels in mind when developing solutions to the identified issues.

There was general discussion regarding the applicability of the Spills Law and the ch. NR 700, Wis. Admin. Code, rule series. Both are applicable to sediments.

Numeric sediment standards were intended to be part of the ch. NR 700, Wis. Admin. Code, rule series but were pulled out of the rule at the last minute. Rules related to sediment were to be developed and brought back at a later time. Several attempts have been made but have not been successful.

The DNR developed the *Consensus-Based Sediment Quality Guidelines (CBSQG), Recommendations for Use & Application, Interim Guidance, December 2003 (WT-732 2003)* in an effort to address sediment related sites on a case-by-case basis.

The DNR has been working on additional draft guidance titled *Sediment Sampling and Analyses for Dredging Permit Application and Approval (a.k.a. NR 347 guidance document)*. This document will be available for public comment in a few weeks.

Kent requested that the CSEAG be provided with an opportunity to review the draft NR 347 guidance document prior to it going out for public comment. Foss stated that it may be beneficial to have the CSEAG provide coordinated, rather than individual, comments regarding the guidance document.

Currently, Washington is the only state with established sediment cleanup standards. U.S. EPA does not have sediment cleanup standards. Sediments are complicated and addressed on a site-specific basis.

Need to understand the issues associated with each site and look for win/win opportunities when developing solutions.

The CSEAG will be discussing issues that involve combined disposal facilities (CDFs), the Army Corps of Engineers, federal navigable waters and DOT construction projects. Galarneau mentioned that the Great Lakes Dredging Team (GLDT) is addressing issues related to CDFs. One good use is to use these facilities for material processing for reuse rather than just storage facilities.

Need to be mindful of continuing obligations and financial assurance requirements for sites that leave contaminated sediments behind.

There are areas of the state that have failing hard edges. Some of these areas are slated for redevelopment. Misky recommended the CSEAG explore options for creating green infrastructure and converting hard edges to soft edges.

The consulting community needs clarification regarding the classification of material (e.g. soil vs. sediment and clean vs. contaminated) and when DNR reporting requirements

apply. Need to be cognizant of the fact that sediment may be present in upland areas. Galarneau said he is encouraging the GLDT to put together a summit to gain a common understanding between the Great Lakes States of the process for determining “how clean is clean” for sediment. He sees a path for figuring out processes for answering this question for sites, but not a general set of numbers that apply everywhere.

Dombrowski stated he has experience with the landward/waterward releases being handled separately. In some instances it may be appropriate to handle as two separate sites. It may not be appropriate to use this approach if there is a continuing discharge to water. Redevelopment plans should also be taken into account when making these determinations.

A mechanism is needed to track contaminated sediment sites. Need a way document where contaminated sediment is left behind, especially if under a cap or cover that should not be disturbed. Need to provide transparency for property owners. The Bureau for Remediation & Redevelopment Tracking System (BRRTS) and RR Sites Map already exist and may be possible places to track sites with contaminated sediment.

Comments related to the draft charter and issue paper should be directed to Foss.

Final versions of the charter and issue paper will be available on the “Advisory Subgroups” tab of the BSG web page (<http://dnr.wi.gov/topic/brownfields/bsg.html>).

Set Priorities

The following issues were identified as priorities for the CSEAG:

- Clarify the roles and responsibilities of the Water, RR and Waste and Materials Management programs.
- Clarify the applicability of the Spill Law and ch. NR 700, Wis. Admin. Code, rule series to sediment cleanups.
- Resolution of NR 347 guidance document.
- Explore the development of sediment cleanup standards for polynuclear aromatic hydrocarbons (PAHs).
- Draft guidance regarding Wisconsin property laws in relation to riparian ownership and access.
- Identify a means to track the cleanup of contaminated sediment sites.
- Explore ch. NR 528, Wis. Admin. Code, to see if this process is applicable to any of the items being discussed by the CSEAG.

Discuss Workgroups

There was no discussion regarding specific work groups.

Discuss Future Meeting Schedule

The DNR will coordinate a conference call in June. The purpose of the call is to discuss the progress being made regarding the identified action items.

Establish Next Meeting Date

The DNR will solicit dates, via a Doodle Poll, for the next meeting. Participants should look for an email from John Robinson, DNR, in late May. The next meeting is anticipated to be held in July at the same location in Waukesha.

Action Items

- DNR will post CSEAG related documents on the BSG website under the “Advisory Subgroups” tab.
- Comments regarding the draft charter and/or issue paper should be sent to Foss.
- The DNR will put the *Sediment Sampling and Analyses for Dredging Permit Application and Approval* guidance document out for public comment. The DNR will coordinate a conference call with the CSEAG members during the public comment period. The CSEAG will review the document and provide coordinated comments within the 21-day comment period.
- The DNR will begin drafting a response to issue numbers 1 and 2 in the issue paper.
- The DNR will coordinate a conference call in June to discuss progress regarding the action items.
- The DNR will coordinate the next meeting which is anticipated to be held in July.

Adjourn

The meeting adjourned at ~3:00 p.m.