

## **Contaminated Sediments External Advisory Group (CSEAG) November 16, 2015 Meeting Minutes**

### External Participants:

Brian Berner, D.J. Burns, Karen Dettmer, Frank Dombrowski, Stephanie Hinz, Kristin Kurzka, Paul Matthewson, Lynn Morgan, Laurie Parsons, Bob Pearson (phone), Shar TeBeest, Mark Thimke and Ken Yass

### Department of Natural Resources (DNR) Participants:

Margaret Brunette, Jerry Demers, Kristin DuFresne, Judy Fassbender, Steve Galarneau, Rob Grosch, Gena Larson, John Morris, Pam Mylotta, Lis Olson (phone), John Robinson, Mike Thompson (phone) and Jim Zellmer

### NR 347 Guidance Document – Status Update

The DNR is in the process of revising the NR 347 guidance document. The DNR will be splitting the document into two separate documents:

- Navigation/Recreational
  - Sediment not contaminated or not suspected to be contaminated
  - Simple sites – work with the DNR Water Management Specialist
- Remediation
  - Sediment is contaminated or suspected to be contaminated
  - Sample data available or sampling required – work with the DNR Office of Great Lakes Sediment Management Section and the Remediation & Redevelopment Program

Each document will contain an appendix with a compilation of resources for sediment sampling and analysis.

The DNR is exploring ways to make the guidance document part of an automated on-line checklist type of service product.

New sediment data is being geo-located (e.g. location and depth). The Surface Water Integrated Monitoring System (SWIMS) is being used to collect and share the data. A lot of sediment data already exists (e.g. in the Areas of Concern).



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The externals recommended the following items:

- When revising the guidance document, the DNR should consider how owner liability and the public trust doctrine (e.g. access, riparian ownership, rights/responsibilities, etc...) can be factored into the document.

- The navigation/recreational document should be completed first because it is anticipated to be more streamlined. There will be more issues to discuss regarding the remediation guidance document.
- When contamination is discovered during navigation/recreational activities the applicant should not be expected to chase the limits of the contamination if they are not the responsible party. The environmental conditions after the applicant's project is complete should be better than or equal to the conditions prior to the start of the project. The environmental conditions should not be worse.
- Look for ways to incorporate an exemption process for applicants that are not responsible for the contamination they may encounter during their respective dredging project.

The DNR will continue to revise the NR 347 guidance document. The CSEAG will have an opportunity to review the revised document before it is finalized.

#### Definition of Sediment and Soil – Status Update

The factors related to the definition of sediment and soil and the options for defining sediment and soil were discussed.



At this time, the DNR is leaning toward the ordinary high water mark (OHWM) option. The externals appeared to be in agreement with the proposed approach for the following reasons:

- The OHWM option is consistent with the public trust doctrine.
- The OHWM option allows for site specific evaluations.
- The DNR's database of OHWM determinations is growing.

OHWM is difficult to determine at sites with low slope, wetlands and wandering streams. In these situations you can end up with a "fat line" for the OHWM determination.

NR 720 is based on human health and not based on ecological risk.

The externals commented on the following items:

- The Army Corps of Engineers and the State of Wisconsin definition for OHWM may differ. Need to clearly identify the differences in definition so everyone has a clear understanding.
- The OHWM can change over time. Need to outline a process for updating OHWM delineations.
- Need to identify how transitional areas should be handled (e.g. ecological risk for a portion of the year and direct contact risk the remainder of the year).

- Need to identify how dam removals relate to remedial actions and risk evaluation. How should continuing obligations be applied?
- When does in situ and ex situ sediment:
  - remain sediment?
  - become soil?
  - become a waste?
- How is dewatered sediment classified?
- Currently, there are no rule based cleanup standards for sediment sites. The externals would like the rule making process to begin as soon as possible.

The DNR will continue to evaluate the OHWM option, how to amend the OHWM and how the OHWM could be tracked/recorded.

#### Integrated Sediment Team (IST) Activities

The IST has been around for many years. About a year ago the team membership was modified. The team includes representatives from various DNR programs (e.g. Water Management, Office of Great Lakes, Waste and Materials Management and Remediation & Redevelopment).

#### Legal Authority

The DNR is working on the Legal Authority issue. Steve Galarneau, Darsi Foss and Lacey Cochart are working with the Secretary's office.

#### Roles & Responsibilities

The roles and responsibilities task has been put on hold due to the DNR realignment process. The DNR Leadership team is anticipated to have a realignment proposal available in January 2016.

The DNR will provide the CSEAG with information regarding the realignment process if that information is publically available prior to the next CSEAG meeting.

#### General Sediment Updates

Two sediment remediation projects are near completion:

- Lincoln Park
- Stevens Point Manufactured Gas Plant

Several DNR Office of Great Lakes staff participated in a sand spreading demonstration put on by NRT/Brennan in LaCrosse. Frank Dombrowski will provide a copy of the sand spreading video to the DNR for distribution to the CSEAG. NRT is willing to present the process to the CSEAG at a future meeting.

#### Next Meeting Date

The next CSEAG meeting is tentatively scheduled for January 25, 2016.

### Action Items

- The DNR will continue to revise the NR 347 guidance document.
- The DNR will continue to evaluate the OHWM option, how to amend the OHWM and how the OHWM could be tracked/recorded.
- The DNR will provide the CSEAG with information regarding the realignment process if that information is publically available prior to the next CSEAG meeting.
- Frank Dombrowski will provide a copy of the NRT/Brennan sand spreading video to the DNR for distribution to the CSEAG.
- NRT to present NRT/Brennan sand spreading process to the CSEAG at an upcoming meeting.