

Contaminated Sediments External Advisory Group (CSEAG) February 8, 2016 Meeting Minutes

External Participants:

D.J. Burns, Karen Dettmer, Jennifer Hagen, Brian Hennings, Randy Johnson, Kristin Kurzka, Paul Mathewson, Lynn Morgan, Laurie Parsons, Kari Rabideau, Jim Rose, Jeanne Tarvin, Mark Thimke, Ray Tierney and Ken Yass

Department of Natural Resources (DNR) Participants:

Margaret Brunette, John Budzinski, Gerald Demers, Kristin DuFresne, Darsi Foss, Judy Fassbender, Steve Galarneau, Mike Haldsted, Gena Larson, John Morris, John Robinson and Jim Zellmer

Legislation

Mark Thimke provided the Group with an update on pending legislation: SB 545 passed the Senate in January 2016 and AB 701 is anticipated to be reviewed by the Assembly on February 11, 2016. This proposed legislation:

- makes changes to s. 292.12;
- creates requirements for obtaining a liability exemption relating to contaminated sediment;
- outlines insurance requirements;
- defines contaminated sediment, sediment (with respect to the ordinary high water mark) and sediment cover;
- amends the definition of engineering control;
- outlines residual contamination notification requirements, access agreements and maintenance plans; and
- outlines requirements for listing sites in a database.

This proposed legislation will also be discussed with the Brownfields Study Group at their February 11, 2016 meeting.

AB 600 is not as far along in the Legislature. This proposed legislation:

- outlines riparian ownership for navigable waters that were filled before January 1, 1975;
- outlines general permit dredging requirements in front of riparian owned property; and
- prohibits the DNR from requiring a person to collect a sediment sample as part of an application process unless the DNR has specific information that indicates the potential presence of contaminants in the material to be dredged.

Agency Realignment

The agency realignment is intended to define core work and identify inefficiencies. Information regarding the agency realignment is anticipated to be rolled out to DNR staff on February 18, 2016. Roll out to the externals for public comment is anticipated to occur shortly thereafter.

The Legal Authority and Roles and Responsibilities task continues to be on hold until details regarding the agency realignment are known.

NR 347 Guidance Document – Update

The DNR is moving ahead with the “simple dredge” (i.e. navigation/recreational dredging) portion of this guidance document. A web-based electronic check-box system is being created. This system is intended to tie into the existing Chapter 30 application process. A mockup of the system is anticipated to be available by the end of February 2016 and will be shared with the CESAG.

Proposed legislation (i.e. AB 600) may significantly impact how the DNR moves forward with this guidance document.



Classification of Sediment and Soil – Update and Discussion

Follow-up items from the November 16, 2015 CSEAG meeting were discussed.

- The DNR has an internal process for making ordinary high water mark (OHWM) determinations.
- Determinations are based on defensible data.
- Most OHWM determinations do not contain elevations.
- There is a requirement to put OHWM determinations in a database but there is no specific timeframe for putting them in the database.
- The existing database system is bare bones.



The externals provided the following comments:

- The DNR should think through the implementation process.
 - There is uncertainty regarding where to go to obtain an OHWM determination.
 - Elevations would be useful for most OHWM determinations.
 - How will wetland delineations be made?
- Does the DNR have adequate resources to accommodate an increase in demand for OHWM determinations?
- Does the DNR have the ability to charge fees for OHWM determinations?
- Could the private sector perform the OHWM determinations and the DNR approves of those determinations?
- Who has the ultimate authority for making OHWM determinations?

The DNR provided an update regarding the status of the classification of sediment and soil process. The DNR’s Integrated Sediment Team supports the approach of using the OHWM as the sediment/soil demarcation “line”. This approach is consistent with the CSEAG recommendations and proposed legislation (i.e. SB 545 and AB 701).

The externals provided the following comments:

- Clarify where sediment is being classified (i.e. in-situ or ex-situ).
- Explain the differences between in-situ and ex-situ.
 - management options/requirements
 - clean-up criteria
 - what can/cannot be left in place
- Is sediment ever soil?
- Specify how risk is being evaluated in the Transition Zone.
- Site-specific option should also apply to Water's Edge.
- Give careful thought to default values and base decisions on existing law (i.e. Act 21).
- What are the default numbers in lieu of Consensus Based Sediment Quality Guidelines (CBSQG)?

Sediment and Soil Management

The DNR shared their current approach to sediment and soil management.

- The DNR tries to work with applicants to find beneficial uses for material.
- Dewatering of sediment will require a WPDES permit.
- Water Management Specialists (WMS) receive the Chapter 30 permit applications. The WMS is responsible for coordinating with all applicable DNR programs.

The externals provided the following comments:

- Further explain the public noticing requirements.
- The CSEAG would like to provide input regarding the use of NR 720 as a guide for making decisions with respect to dewatered sediment.

Case Study – Sediment Cleanup Goals

Natural Resource Technology (NRT) presented their approach to investigating and remediating sediment sites.

Next Meeting Date

To be determined.