

## **When should a site investigation enter water?**

### **When should a site investigation (SI) extend into the water? When would we ask someone who is doing an NR 700 investigation and cleanup of an upland property to sample surface water or sediment?**

Sites will be evaluated on a case-by-case basis considering the factors below. Wis. Admin. Code ch. NR 716 requires that the SI evaluate impacts to all environmental media (including sediments and surface water), all known or potential impacts of the contamination on resources (fish, bird, animal and plant life) and potential pathways for migration of the contamination. Situations when an investigation should extend into the water may be different for VPLE sites.

#### **General factors to consider for all sites:**

- Evidence showing a release from the site could have entered the water by:
  - overland flow including spills near the water or in ditches
  - groundwater migration to surface water
  - air deposition
  - conduits into the waterway (known pipes, sewer lines or outfalls on or near the site)
- An SI Report must include a scoping section per Wis. Admin. Code § NR 716.07; the factors addressed in the scoping section can help determine if potential sediment or surface water contamination is a concern. Some factors to consider:
  - Wis. Admin. Code § NR 347.05(2) criteria (potential pathways, flow patterns, previous sampling or spills, point sources, land runoff, sources of fill, natural deposits, etc.).
  - History of the property and use of the facility.
  - Knowledge of contamination in sediment or surface water near the property from prior testing.
  - Degree and extent of soil and groundwater contamination on the upland property and types of contaminants found, including quantity of hazardous substances that may have entered the waterbody. (Could the hazardous substance concentration or quantity be expected to be injurious to public health; harmful for commercial or recreational use; or deleterious to fish, bird, animal or plant life?)
  - Characteristics of the groundwater plume. (Does groundwater flow under the surface water or is it hydraulically connected to the waterbody.)
  - Does the property/shoreline include fill? Is there waste material at the shoreline that may be eroding into the water?
  - Details of the hydrology and hydraulics of the waterbody.

#### **Site Issues:**

- DNR can require sediment, porewater or surface water testing if there is reason to believe the known hazardous substance discharge (discharge) or environmental pollution (pollution) on the site may have impacted these media or resources.

- DNR, under Wis. Admin. Code ch. NR 700 acts on known information of a discharge or pollution. Wis. Admin. Code ch. NR 700 requires that a responsible party (RP) define the degree and extent of a known discharge or pollution. DNR may sample environmental media to investigate suspected discharges or pollution through DNR's monitoring program, Superfund site assessment or other programs.
- DNR can request the RP to take actions to address sediment if contamination is discovered by sediment sampling associated with dredging or is discovered by other actions.
- DNR could require action at a site closed under Wis. Admin. Code ch. NR 700 where contamination of sediment or surface water is later found to pose a threat, by reopening the closed site under Wis. Admin. Code ch. NR 727 or opening a new case.

#### Site Issues unique to VPLE:

- The voluntary party and their consultant must identify sources and pathways that may have, or had the potential to, cause a discharges or pollution into the waterbody and to investigate the sediment if discharges to the water or sediment appear likely.
- Because the liability exemption that a property owner would receive would apply to any discharges from the property, including in the sediments, DNR must receive sufficient information to determine if sediment contamination is present. If warranted, investigation of the sediment is part of the required "environmental investigation of the property" and must be done to obtain VPLE.
- A partial Certificate of Completion is an option, but they would need to meet the unique statutory requirements which include a full investigation (including sediment), an agreement to cleanup the sediment and financial assurance to complete the sediment cleanup.

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This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.