

Non-Metallic Mining Advisory Committee
2018 Annual Meeting Minutes
October 18, 2018 10AM-3PM

Attendees:

Member representatives: Kevin Lien – WCCA, Bryce Richardson – WLWCA, Adam Tegelman – APW, Todd Linblad – WISA, Tony Tomashek – WTBA (Road Builders), Clint Weninger – WTBA (Extractions), Susan Courter – WMC, Jay Zambito Science/Academic (Beloit College)

Non-Members: Ben Anderson - Trempealeau Co, Teal Fyksen – Marathon Co, Gerry Kokkonen – Jefferson Co, Scott Konkel – ECWRPC, Erin Longmire – APW, Lane Loveland – Marathon Co.

WDNR: Zoe McManama, Roberta Walls, Ben Callan, Dave Siebert

1. Welcome, Agenda repair, Housekeeping
Meeting opened with introductions, no agenda repair.
2. Committee membership
 - a. Recognition of Marty Lehman, Justin Cavey, and Tom Hunt for their service to the committee
 - b. Lehman - Linblad nomination
Members accepted Todd Linblad to the NMAC to replace Marty Lehman representing the Wisconsin Industrial Sand Association (WISA).
 - c. Vacancies
Gary Werner term has expired. NMAC to make suggestions for a replacement for representation of Environmental and Public interests. Additionally, several members will need to renew membership. Those members were informed of their status and requested letters to be sent seeking renewal.
3. DNR Update
 - a. DNR established a mining office populated by Zoe and Roberta to handle coordination for metallic and non-metallic mining. Housed in Integrated Services Section along with transportation, FERC, and utility coordination.
4. Industry Updates
 - a. APW – areas of focus on increasing differences between counties and towns regarding fees and plan requirements. Also see need to increase awareness of NR538 rules and beneficial use.
 - b. WTBA, Roads – Seeing good relationships with most RA’s. Raised issues dealing with belligerent property owners. See a need to develop a definition for “inactive” and to work with some RA’s on utilizing NR135 allowances for fees on inactive pits.
 - c. WTBA, Extractions – See need for more training of newer RA’s

- d. WMC – No updates
- e. WISA – No updates
- 5. RA Updates
 - a. WCCA – RA’s noted inconsistencies brought up 2 years ago (fees, bonding etc....) WCCA members met to look at different structuring, workloads, methods etc. to address the inconsistencies. NR135 work is not full-time work for most. WCCA continues to look for ways to increase consistency.
 - b. WLWCA – Recent flooding disasters are affecting quarry activity. ISMs though slowing down continue to open new sites. Seeing an increase in push to address invasive species at NMM’s. Focus seems to be to control spread via quarries and considering an option to provide a “Certified Invasive Free” to those interested
- 6. Research Updates
 - a. Zambito presented work on the characterization of the sandstone units in western WI and mechanisms for metals transport and possible impacts to groundwater resources near NMM operations.
 - b. Discussion of study needs. Walls outlined status of draft scope of work to study potential transport of metal to groundwater associated with process ponds. SOW has had input from stakeholder groups (some of which are also NMAC members). SOW has stalled due to lack of dollars and staff to implement.
 - c. The members of the NMAC agree to support a task force of technical members if the department decides to engage a study group.
- 7. Natural Resources Board Report
 - a. DNR report to the NRB due in March. In January an email reminder to RA’s will go out to request submittal of new form on financials
 - b. Preliminary data indicates fees more comparable across RAs. Implementation of program ranges from 10 to 125% of RA time.
 - c. Audit findings show that the level of compliance at sites is tied to the number of inspections by the RA. The lower the frequency of inspections, the more compliance issues seen. There is also the instance that zoning and reclamation inspections are mixed together
- 8. Annual Report
 - a. DNR working with IT to set up a new format for submitting RA annual reports. Plan is to have it ready for this year’s report. RA’s will need to get WAMS Id to access the system
- 9. Regulatory Topics
 - a. Registration of Marketable Materials – Currently DNR does not have a database to track dates of registered mineral deposits. Operators are not getting timely notices of the 10-year expiration date. Is there a need to generate a consistent notification system? NMAC industry members felt the obligation to track expiration of registered minerals is on the operator, not the DNR.
 - b. RA attendance at Technical Sessions – Should DNR make attendance at Technical Training mandatory? NMAC RA members felt that something

closer to home would be conducive for RA to attend without making it mandatory. General NMAC agreement that more sessions across the state would be helpful (go from current 2/year to 4/year) with a possible webinar session at the end for those unable to make the face to face. There is value to having face to face for networking and collaboration among RA's. NMAC members did not support having operators at RA training sessions.

- c. Enforcement issues – NMAC consensus that DNR should consider enforcement for chronic violators.
- d. Operator leases and change in landowners – A new property owner is not required under NR135 to sign off on the reclamation plan. Amendments to the plan can't be done, is the plan still valid if the current landowner is not the signatory. It is possible that the RA could have (zoning) ordinances that address change in ownership but is not required in NR135.
- e. Updating reclamation plans – Audits have found many reclamation plans are rudimentary and lacking in meeting standards. Substantive updates create a workload for RA's. How are these being addressed? NMAC member and Non-member RA's indicate that most don't go looking for these, but if encounter it under normal circumstances (i.e., expansion), will address it then. Additionally, plans that refer to ambiguous end land use tends to not fit well with zoning codes. As RA's start taking plans into the field, there could be more issues arising on this topic.
- f. FA Mechanisms: asset assessments – Increase in operators asking RA's to consider the value of infrastructure to off-set (or even exceed) FA required. This is directed at the flexibility of the FA to include Net Worth in NR135. This is a heavy workload for RA's to do and not a typical skill set for the RA. Does the operator sign over the asset to the RA? Does the RA hire a CPA to run the numbers and keep on top of the value/depreciation aspects? This could cause fees to go up for an operator. An RA can say no, but the option must remain as the code indicates.
- g. Managing RA's with less than 5 facilities – This is encountered by annexed sites. Some cities are not able to keep up and are going back under the county. One trait seen is that the small RA hires a consultant to administer the program on behalf of the RA. Is there a conflict of interest if that consultant then serves the industry? NMAC members feel that unless the consultant is writing the reclamation plan for an operator in the same RA district they administer for, there is no conflict of interest.

10. Public Q&A

- a. ECWRPC – Farm use exemption challenging. Exemption doesn't apply if sand is sold for bedding to other farmers (becomes commercial use). Hard to track if that is the case or not, especially with large animal farms.
- b. Jefferson County – When looking at modifying old plans – would like to have some expectation on requirements, or a checklist that could be used.
- c. APW – Interested in consistency. The level of expectation of what a reclamation plan should look like.

- d. WMC – RA’s looking at holding Certificate of Closure (COC) for 10 years and not rendering pit inactive in the interim. Has the DNR addressed this? If under zoning, it is out of DNR purview.

11. Other

- a. Possible NR 135 revisions: Items identified during the discussions that have been considered for possible rule revision later:
 - i. Language on number of inspections/frequency
 - ii. Require RA’s to attend Technical Training Sessions
 - iii. Language regarding transfer of ownership
 - iv. Definition of active/inactive mine

12. Meeting adjourn. Next meeting to be scheduled October 2019.