

Non-Metallic Mining Advisory Committee
2020 Annual Meeting Minutes
December 10, 2020 9AM-12:00 PM via ZOOM

Attendees:

Member representatives: Kevin Lien – WCCA, Adam Tegelman – APW, Mark Krumenacher – WISA, Tony Tomashek/Bob Servais – WTBA (Road Builders), Clint Weinger – WTBA (Extractions), Kyle Grahn – WMC, Jay Zambito Science/Academic (Beloit College), Bruce Moore – Environmental/Cultural/Public

Members not present: Bryce Richardson – WLWCA

Non-Members: Lane Loveland – Marathon Co, Teal Fyksen – Marathon Co, Jared Mader – Marathon County, Wendy Giese – Fond Du Lac Co, Scott Konkel – ECWRPC, Erin Longmire – APW, Nathan Stobb – Source Energy Services, Dave Behrend – representing self.

WDNR: Roberta Walls, Brad Johnson, Andrew Simek, Ben Callan, Greg Pils

1. Welcome, Agenda repair, Housekeeping
Meeting opened with introductions, ZOOM meeting logistics
2. Committee membership
 - a. Recognition: WTBA member Tony Tomashek and WISA member Todd Lindblad stepping down to pursue other career efforts. The NMAC recognized both members for their dedication and willingness to bring topics forward and offer input to the department. They will both be missed.
 - b. Interim Members: Bob Servais will serve out Tony Tomashek's final year in the WTBA term and Mark Krumenacher will serve out Todd Lindblad's final year of the WISA term.
 - c. 2021 Renewals: Reminder to Jay Zambito, Bryce Richardson, and Clint Weinger terms expiring next year and request to submit recommendation letters to continue service on the committee.
3. DNR Update
 - a. Stormwater operations general permit re-issuance: Brad Johnson was introduced to the group to discuss current efforts in re-issuance of the operations general permit, timeline, and utilizing the NMAC members in soliciting feedback of the draft when it is available.
 - b. COVID-19: Updates included impacts of the pandemic for the department. No NR135 program audits were conducted this year due to constraints in audit logistics. Efforts to overcome the constraints look for virtual options and a backlog is occurring into 2021. Data Management was impacted by the pandemic resulting in delayed annual reporting and fee collection. Changes in training events occurred which resulted in three recorded webinars hosted by Wisconsin Land and Water and accessible through DNR's mining publications webpage.
 - c. Guidance Document: The reclamation plan development guidance is in progress. After last year's scoping through the NMAC, a draft was generated and brought through legal

- review. Updates following legal review is next followed by an anticipated final document to be available this spring.
- d. Reporting by Regulatory Authorities: Compiled annual report data for 2019 shows about 2600 issued reclamation permits statewide with 45,700 active acres and about 1300 reclaimed acres (released and waiting release). Administrative actions reported included activities in alternative measures, modifications, enforcement, suspensions/revocations, and hearings. Modifications were driven by expansions and changes by owner/operator. Enforcement actions by RA's utilized stop work orders and citations for unpermitted sites, lack of financial assurance and non-payment of fees. WTBA comment: catching unpermitted activity is a measure of success of the program. Contemporaneous reclamation is not an equal reclaim, not feasible to do a simple open one acre, reclaim an acre. There will be a big opening to start, a more even reclaim on going, and a big chunk closed at end. If FA is adjusted to match, that's ok, if open acres not reviewed, then that would be a concern.
 - e. NRB Fee Report: Report is complete, but on hold pending metallic mining rule revision. The report will go the NRB first, then NMAC members and then out to the general public. Discussion of report content was provided. Several questions from WMC, WTBA, and APW centered around accountability of RA fee schedules and justifications for costs. Additionally, questions about DNR fee schedules and justifications for revenues not spent were asked. While being respectful for the delay to the NRB, in the report does provide clarity regarding the RA amounts, which included analysis of two outliers – one a deficit and one a surplus. With regards to DNR fee schedule, the amount to be provided is established in administrative rule. DNR's share of NR 135 fee revenues are remitted to the state's general fund, from which sufficient funding is drawn annually to cover NMM program operating expenses. The report will show the disposition of DNR funds for each year the report covers. A final comment was offered regarding DNR staffing and lack of support to the NR135 program. It was noted that NMAC members recognize the degree of work provided by the current staff member and supports appropriate staff level to the NR135 program but advises against doing the work of the RA for them. DNR concurs and appreciates the member comments.

4. Administrative Topics

- a. Regulatory Authorities – Locals: An update on local RA's entering and exiting the program as well a discussion on ordinances under review.
- b. Regulatory Authorities – Counties: Update on county permitting efforts, counties impacted by bankruptcies, and those experiencing staff turnovers.
- c. Bankruptcies: DNR Attorney Andrew Simek provided an overview on DNR's involvement with bankruptcy filings. General discussion on the role of the RA, DNR interactions regarding the State's interests and role with the RA was provided. Recommendations include ensuring FA is sufficient and updated, when a bankruptcy occurs the RA should determine the status of the site, then evaluate the validity of the FA. If FA is cancelled, then there is no choice but to revoke the permit and claim the FA. Once the permit is revoked, and the site is being reclaimed, the RA may need to obtain stormwater coverage for the work to be done to reclaim the site.

5. Member Updates

a. RA Updates

- i. WCCA – Seeing a slowdown in ISM activity, aggregates are booming. Asked if DNR includes FA amounts in the NR135 audit. Audits do include a review of FA: how it is calculated, secured and if enough for the RA to reclaim if needed. Continued concerns about the washing of sand, concentrations of metals in ponds, where are those efforts at and what is expected of the RA?
- ii. WL&W – No update at this time.

b. Industry Updates

- i. WTBA, Roads –Views the reclamation program a success and encourages celebration and sharing of examples. Concerned about the consistency of fees charged across the state – experiencing a disparity between counties on per acre fees. With turnover in RA’s education is important to maintain consistency across the state. DNR’s NMM program takes the burden of training and it is important to remain cognizant of the need for consistency through education. WCCA’s concerns regarding pond fines and metals is echoed and guidance from DNR is needed.
- ii. WTBA, Extractions – Echo comments by the roads section. Virtual meetings are not the same as a field presence for communication and problem solving, however staff have been creative in finding some resolutions during the pandemic. Would like DNR guidance of financial assurance to address frequency of updates and to instruct the RA responsibility for deciding this within reason. Would like to encourage celebrating reclamation successes and would like that to be DNR led.
- iii. APW – Echoes comments from others and appreciates the relationships between municipalities, towns, and counties with industry. Appreciates the opportunity to be involved with more areas such as wastewater permits. It is a way to engage in direct communication with those involved rather than by back channels. Supports the creativity in reclamation and showcasing successes.
- iv. WMC – Also echoes comments presented by others and appreciates the positive attitude and collaboration from long term members.
- v. WISA – With all the changes happening to industrial sand, it can be said that the industry has been in Wisconsin for 100 years, and it’s not going away. The numbers will be smaller moving forward but do continue to serve an active role in furthering non-metallic mining issues. WISA is not planning an annual meeting in 2021 but is focusing on a broader audience for industrial sand. The Heartland Institute’s white paper series is being developed into a combined paper for the entire industry (not just sand) and expect to have that completed by the end of the year.

c. Environmental/Public Updates

- i. Green Fire – Appreciates the opportunity to share insights. Bringing to the group a public concern regarding access to public information via the new DNR website. For some it has been difficult to navigate and find pertinent information regarding the industry. Looking for feedback from other members on this. Industry members agreed and suggested that doing a broader search on a general browser rather than on DNR webpage search was more successful.

d. Research Updates

- i. Beloit College – The pandemic limited academic progress that eliminated lab work, hindered research and was time consuming to convert to virtual learning. The affect is expected to continue through Spring 2021. Travel restrictions resulted in an inability to attend conferences and stymied conversations that was felt by most university settings across the state. Current focus is on developing a bibliography of non-metallic mining resources and include more recent work by UW Eau Claire, Heartland Institute, and other sources. Topics of interest include air quality and groundwater quality regarding trace metals in bedrock and waste fines from processing. Additional updates on DNR references would also be included and distributed through committee members.

6. Public Input

- a. Dave Behrend – Questions regarding waste placement in NMM’s and who regulates what. An explanation of the myriad of regulations and jurisdictional authorities that exist for NMM including other agencies involved. Reclamation was noted as being of narrow focus and subject to other regulations as applied.
- b. Dave Behrend – After spending many years in research of topics both nationally and internationally, universities are the best places for finding scientific information. Governmental websites are difficult and have been viewed as suspicious when there is no open door for the public to find information. It would be advantageous to have a more educational approach to gain the public trust.

7. Other

- a. Frequency of meetings: At a minimum, the NMAC meets annually, however will be expected to be brought together to review guidance documents and a draft stormwater permit in 2021.

8. Meeting adjourned.