

# Brownfields Study Group

February 11, 2016, 10:00 a.m. to 3:00 p.m.

School of Freshwater Sciences  
University of Wisconsin - Milwaukee  
600 E Greenfield Ave, Milwaukee, WI 53204

## ATTENDEES:

Geoff Siemering	UW Extension
Kathryn Berger	WEDC
Scott Wilson	Ayres Associates
Sam Tobias	Fond du Lac County
Ben Peotter	Ayres Associates
Chelsea Corson	Drake Consulting
Donna Volk	AECOM
Lanette Altenbach	AECOM
John Stibal	City of West Allis
Laurie Parsons	Natural Resource Technology
Karen Dettmer	City of Milwaukee
Bruce Keyes	Foley & Lardner
Mark Thimke	Foley & Lardner
Dave Misky	City of Milwaukee
Frank Dombrowski	We Energies
Bob Paulson	We Energies
Kristin Kurzka	The Sigma Group
Jennifer Buzecky	Whyte Hirschboeck Dudek
Mike Ursin	Ramaker & Associates
Erica Lawson	Ramaker & Associates
Nancy Frank	UW Milwaukee
Art Harrington	Godfrey and Kahn
Mary Panzer	Panzer Public Affairs
Lilith Fowler	Harbor District Inc.
Daryll Lund(phone)	Wisconsin Bankers Association
Jon Turke (phone)	Wisconsin Bankers Association
Heather MacKinnon (phone)	Wisconsin Bankers Association
Kenn Anderson (phone)	Aon
Judy Fassbender	DNR
John Robinson	DNR
Darsi Foss	DNR
Michael Prager	DNR
Christine Haag	DNR
Margaret Brunette	DNR
Bob Pearson (phone)	DOT
Chris Valcheff (phone)	True North Consultants, Inc.
Elisabeth Olson (phone)	DNR

## **Welcome (Misky / Thimke)**

### **Legislative Updates (Thimke)**

**AB 600 (Navigable Waters/Public Trust)**

**Act 21 (Enforcement of Administrative Rules)**

**SB 545 (Contaminated Sediment)**

Thimke: Assembly Bill (AB) 600 impacts waterways, would allow waterfront landowners to dredge small amounts without testing. The bill would also allow filled lakebed under certain conditions to be conveyed to adjacent land owner. Some policies in the bill are related to Brownfield Study Group report issues regarding waterfront development, public trust, and sediment.

Thimke: Senate Bill (SB) 545 includes new definitions of soil and sediment. New sections in § 292.12, Wis. Stats., on sediments – must get access from owner to conduct long term care, clarifies who is responsible regarding continuing obligations. There are financial responsibility sections for engineering controls for sediment. VPLE can't be used for cleanups that use engineering controls, only for removal.

Thimke: Wisconsin Act 21, an agency can't impose standards without a rule.

### **Contaminated Sediment Advisory Group Updates**

John Robinson, co-sponsor of external stakeholder group and sponsor of the DNR Internal Sediment Team, provided an update: Issues being looked at include consensus based standards, coordination and consistency among DNR programs. Group looked at using the OHWM to distinguish between soil and sediment.

Keyes: There was recommendation in the Brownfields Study Group report about system to collect data into the GIS. New Jersey created uniform standards.

### **Contaminated Materials Advisory Group**

Judy Fassbender reported on issues the group has been working on. She noted three types of material – clean, some restrictions, and restricted. There will be a white paper on definition of clean soil. Other issues the group is working on include continuing obligations and tracking of these placements. There is also a Waste Management Bureau and Remediation and Redevelopment program integration team – a new group looking at consistency and coordination.

### **PAH Study Update**

Fassbender provided an update on the PAH background study: We are taking a 2 prong approach:

1. Look at other states/work with WI Dept. of Health to reassess our current standards. Literature review. Risk associated with PAH, compare to EPA RSLs.
2. DNR working with UW Extension Geoff Siemering on the study design.

Harrington: Outreach to communities will be important.

Gramling: We could give update on backyard garden study at future meeting. Lead and PAH have similar issues.

### **Presentation: Milwaukee's Inner Harbor**

Lilith Fowler, Director of Harbor District, Inc, presented on the topic of Milwaukee's Inner Harbor. She discussed the inner harbor district, including the history, using maps and photos. It is an EPA Area of Concern with lots of brownfields. She stated that they were looking at ecological, economic, and social opportunities to create a "working waterfront" and to build on momentum of freshwater economic growth in Milwaukee.

Fowler stated that The Harbor District, Inc., is a new nonprofit that is partnering with the city. They did a survey to find consensus goals and are water and land use planning process now. She stated that the challenges included: cont. sediments, historic fill, waterfront failing dock walls, etc., shallow groundwater.

### **Lender Liability / Bankers Association**

Daryll J. Lund, Executive Vice President and Chief of Staff of the Wisconsin Bankers Association, joined the meeting by phone with colleagues Heather MacKinnon, Director of Legal, and Jon Turke, Director of Government Relations.

The following was discussed: The Brownfields Study Group report included an item about the lender liability exemption from spill law (pg. 18 of report). One issue that came up in the liability subgroup was that banks have used LLCs to hold title; however, because an LLC is not lender, they are not able to take advantage of lender exemption. The WI Bankers Association government affairs committee discussed the study group paper (pg 18 of report). They are willing to be part of a small policy group.

**Mark Thimke will re-form liability subgroup which could report back to the full group in a few months. Mark Thimke will send Daryll Lund some dates for the first meeting and will send an email looking for people who would like to work on this. Jennifer Buzucky agreed to help lead this subgroup.**

### **Soil Management at VPLE sites (new item raised at meeting)**

Stibal: We want to preserve VPLE program, it is very useful. The time frame on VPLE sites can be a challenge, getting approval of soil management plan can take a while and in some cases it may delay a project so that construction would have to be pushed back a year. This delay can result in a large loss of money. There should be a way for customers to pay extra fees to get an expedited review.

It was asked whether rules would allow applicants to pay extra fees for expedited reviews. It was stated that it was not in Wis. Admin. Sections NR 749 or 750.

### **VPLE Insurance**

Michael Prager provided background and history regarding VPLE insurance. He stated that 51 sites have received Certificates of Completion with insurance, and there has never been a claim. AIG has announced it is getting out of the environmental insurance market. DNR needs to work with the State's insurance broker (Aon) to find another company to provide the insurance. It would be best to have it ready by September.

Kenn Anderson with Aon joined by phone.

Anderson: We have had good history with program with no claims. We are preparing written document and then he will go meet with companies to talk about this unique program. Then we will take the top ones in for meetings with DNR and will probably meet people in SER to understand how we review VPLE sites.

Prager: **DNR will communicate to group as it moves forward.**

There was a brief discussion about insurance for sediment in Senate Bill 545.

Anderson: We can't do a one size fits all policy like we do now for VPLE natural attenuation for sediment sites. Sediment sites will need individual underwriting, we could have set policy conditions but coverage, and terms would vary.

#### **DNR Alignment Process (Foss)**

Foss: DNR is going through alignment evaluation, including identification of core work in each program. Draft alignment will be shared with public for comment and input. **There will be an opportunity for Study Group and Sediment Group members to hear about the plan.**

Thimke: We will ask for Study Group input once the plan is shared. **Study Group chairs will set a date, invite people.** As a reminder, the Study Group sent letter to DNR Secretary suggesting Sediment remediation be part of the RR program.

#### **Brownfields Economic Report (Misky / Thimke)**

Misky: The Brownfields Study Group hired a consultant to do a study of economic effects of brownfields redevelopment. UW Whitewater and Evans Paul completed the report. Russ Kashian from UW Whitewater presented report at WEDA conference. Bottom line return on investment for brownfields is high. How do we leverage this into additional resources for brownfields?

There was some discussion about legislative council study committees that are being planned for the summer. As follow-up, **Mary Panzer will work with Dave Misky and Mark Thimke regarding how to involve a Legislative Counsel committee on waterfront/shore land issues that is likely to be formed.** There was discussion about several partner organizations we could partner up with to get the word out including the League of Municipalities.

**Group decided that DNR will send out email to see who is interested in being on a small group to discuss helping get the word out, printing, mailing, distribution, etc., and set up a meeting. Nancy Frank will lead the effort.**

**Standing Items (Misky / Thimke)**

**WEDC Updates (Scott / Berger)**

**BSG Membership & Structure Update 2015**

**BSG Report Recommendations Update**

**Next Meeting (Location / Timeframe)**

*Update from WEDC:*

Kathryn Berger provided an update regarding brownfields grants. She stated that \$1 million was available in Site Assessment Grants for each year in biennium. For Brownfields Grants, \$3.5 million allocated per year. Idle Sites Grants are not necessarily brownfields, but sites not eligible for Brownfields grants may apply. \$2.3 million is budgeted.

*Membership:*

Misky: Lynn Morgan from Waste Management will be on group as well as Brynn Bemis from the City of Madison.

*Study group report – status of proposals:*

Christine Haag handed out a paper that summarized status of administrative recommendations for DNR. A brief discussion followed regarding which issues should be worked on. Access is an important one; for private and public parties. Dry cleaners want to talk with the BSG about challenges with their fund. Keyes raised importance of GIS recommendation (pg. 61). **Bruce Keyes will talk with Andy Boettcher at DNR about status of recommendation. Christine Haag stated she would report back to group about putting water data on OHWM into GIS.**

*Other topics:*

Haag: DNR is planning Brownfield training/ conference probably in Fall for local governments; more info will come out.

Dettmer: The city is trying new method regarding special inspection warrants; may share results in future.

Haag: A team of UW Public Policy LaFollette graduate students are going to work on research project on economic growth potential for waterfront redevelopment. They're looking at barriers to success and practices of other states, and examining what might work for a program in Wisconsin. They want to present findings in May/ June to a body like the Brownfields Study Group.

Berger: Would the group be interesting in working with group called Brownfields Listings.com? It is a new company that has a database with available sites, targeted towards site selector community. BF listings.com had approached them to hook them up with locate in WI database.

There was some discussion about whether this would be useful, how it is similar to other property listing websites. **It was decided that Brownfields Study Group members should look at their website and approach and let Kathryn Berger know if it would be useful to pursue.**

Foss: PECFA is ending and there was a Feb. 1 deadline for old claims. \$3.5 to \$4 million in claims came in before the deadline. Now every 180 days people must submit claims.

The group discussed that the next meeting in April or May and that it may try to get UW Lafollette Students to present information. **DNR will send out doodle poll.**

**Adjourn**