

Brownfields Study Group

May 12, 2016
10:00 a.m. – 3:00 p.m.

Wisconsin Dept. of Natural Resources
101 S. Webster Street | Madison, WI | Room G-09

Conference Call Option: 1-855-947-8255 | Passcode: 6612 745#

Guests

Dave Misky – RACM
Mark Thimke – Foley & Lardner
Lucas Vebber – WMC
Karen Dettmer – RACM
Geoff Siemering – UW Madison / UW Extension
Art Harrington – Godfrey & Kahn
Scott Wilson – Ayres Associates
Laurie Parson – NRT
Brynn Bemis – City of Madison Engineering
Alex Hernandez – 16th St. Community Health Center
Nate Gilliam – Walnut Way Conservation Corp.
Tony Vogel – Quarles & Brady
Kendra Bonderud – Legislative Fiscal Bureau
Scott Harrington – Vandewalle & Associates
Ben Grawe – DeWitt Ross & Stevens S.C.
Erica Lawson – Ramaker
Ben Peotter – Ayres Associates
Lanette Altenbach – AECOM
Donna Volk – AECOM
Chris Valcheff – True North Consultants
Kevin Bugel – Giles Engineering Associates
Gloria Stearns – 30th St. Industrial Corridor
Marita Stollenwerk – TRC Environmental
Sam Tobias – Fond du Lac County
Matt Reimer – RACM (via phone)
Bruce Keyes – Foley & Lardner (via phone)
Christine Haag – DNR
Darsi Foss – DNR
Mick Skwarok – DNR
Michael Prager – DNR
Sonya Rowe – DNR
Tom Coogan – DNR
Margaret Brunette – DNR
Linda Hanefeld – DNR
Lis Olson – DNR
Molly Schmidt – DNR

10:00 Welcome (Misky / Thimke)**5 min****10:05 Lead Study Update (Gramling / Gilliam / Hernandez / Siemering)****20 min**

The presentation on the Lead Study/Healthy Soils initiative in Milwaukee was given by Ben Gramling (16th St. Community Health Centers), Geoff Siemering (UW-Madison & Extension), Alex Hernandez (16th St. CHC) and Nate Gilliam (Walnut Way Conservation Corp.) and is available on the Brownfields Study Group [webpage](#). Ben, Geoff, and guests presented an update on the *Growing Healthy Soils for Healthy Communities* backyard garden research project, including data collected during the 2015 season. The project is a five-year study funded by the Healthier Wisconsin Partnership Project and, among other things, is looking to bring about policy changes that encourage the testing of backyard garden soil and safe gardening practices. The project team is exploring different ways that this can be achieved, including draft legislation or rule changes, but has not developed a specific plan of action for how to move forward with that work. Follow up discussion questioned:

1. Outreach and education to affected homeowners and Milwaukee residents in general: Challenging...printed materials often discarded. More work to be done.
2. Lead in water used for gardening: Not at actionable levels.
3. Bioaccumulation: Wasn't studied.
4. Impediments to testing: Cost of testing and reporting to DNR (effect on property value).

Darsi Foss pointed out the property value and reporting issues are not unique to lead problems, but with vapor intrusion and soil/groundwater contamination. Finding answers and crafting a solution needs to be done with utmost care. Others pointed out that the Real Estate disclosure law, not the Spill Law, was the main state law dealing with disclosure of environmental impairments.

10:25 RR Stalled Sites Plan (Hanefeld / Haag)**15 min**

The presentation on the RR Program's stalled sites plan was given by Southcentral RR Team Supervisor Linda Hanefeld and is available on the Brownfields Study Group [webpage](#). Stalled sites management is part of the program's Strategic Direction Plan and Program teams are working on the issue. For example, the PECFA team is working with looming deadline of June 2020 before that program ends; 15 LTEs recently hired to maximize the PECFA effort. The RCRA hazardous waste national program also has a deadline of 2020 for the RCRA corrective action sites. Another team is looking at all other sites and developing long-term goals to keep them moving. Moving some stalled sites forward will require assistance from local governments as some are not held up by technical issues. Group is receptive and supportive of the effort and looks forward to more information/communication on stalled sites on BRRTS and in general in the coming two years. One comment suggested that municipalities be given tools under the Spill Law to enforce cleanups.

10:40 Post-Closure Tool Kit for Brownfields (Hanefeld / Haag)**15 min**

This item was deferred in the interest of time. Staff will work with co-chairs to poll members and frequent guests about participating in a working group to help come up with some ideas on a tool kit.

10:55 Lender Liability Subgroup (Thimke / Buzacky)**15 min**

The first meeting of the lender liability subgroup was held on May 4. A diverse group of interested parties attended this meeting, including representatives of government agencies, trade organizations involved with lending, consultants and large and small banks. The subgroup is interested in continuing discussions concerning current lending practices and lenders' use of the

exemptions. The next meeting is scheduled for June 28. An email will be sent to members and guests inviting additional input and assistance.

11:10 DNR Alignment Update (Foss)

10 min

The BSG was previously given a chance to weigh in on the alignment process. That process is still underway, with a target date of July for completion. The most significant RR impact is a recommendation to consolidate contaminated sediments work into the RR program. Other recommendations include spending less time on low priority sites and more time on high priority public health or redevelopment sites. Electronic submittals and e-payments are two major goals for the agency.

11:20 WMC Update (Vebber)

10 min

Presentation given by Lucas Vebber, Director of Environmental Policy for Wisconsin Manufacturers and Commerce. There is a lot of education work at the moment to members on legislation from the previous session. NR 538 is of interest to members, along with updates on water issues. Act 21 decision from the Attorney General is something they're looking at right now. Business Friend of Environment Award is coming up. Should be a positive story on businesses that are doing good things with respect to the environment. Awards to be presented on May 31.

11:30 Success Story: The Don Miller Properties (Bemis)

30 min

New BSG member Brynn Bemis from the City of Madison Engineering Department provided the group with one of Madison's newest brownfield cleanup/redevelopment success stories: The Capitol East District projects. The presentation is available on the Brownfields Study Group [webpage](#).

12:00 Lunch

45 min

1:00 Waterfront / La Follette Report (Haag / UW Students)

60 min

This presentation, including an audio recording and follow-up Q/A can be found on the BSG [webpage](#).

2:00 Soil & Sediment Subgroup Update (Foss / Haag)

30 min

- **Act 204 Implementation Plan (VPLE & 292.12)**
 - Staff will send a new link to Ch. 292 Wis. Stats. Language mistakes from the first version have been fixed.
 - Does law give us flexibility to rely on NR 520 for financial assurance?
 - RR Program staff met with Waterways and Wetlands section staff regarding digitizing and displaying the OHWM. What's the best database and what's the best platform to view the information? RR working on those issues. Possibly going to RR Sites Map...with links to pdfs.
 - The bigger issue moving forward is who will do the delineation work. There are staffing issues for doing that work.
 - RR staff had a follow-up meeting with private sector stakeholders to understand their OHWM business need better:
 - It establishes a clear delineation between soil and sediment not only for the remediation of the contamination material but also for the potential redevelopment of the property. The determination helps to bring certainty to the process of making a decision on the potential redevelopment of waterfront properties. They do not see any

statutory authority to have a determination used only for the cleanup on the site.

- They expressed a need to have one determination at a granular level or on a parcel specific basis
 - The information must be up to date reflecting the last determination made relating to the OHWM affecting the property.
 - Based on the input received another meeting will be held between the two programs to discuss OHWM implementation issues.
 - Contaminated Sediment External Advisory group may work on the OHWM.
 - Related to VPLE...Program staff (Prager) determining what other follow-up work is needed.
 - VPLE insurance question: A subgroup of the BSG and perhaps the sediment group should get together to help resolve and suggest ideas on those issues.
 - Should there be a separate fact sheet on VPLE and Sediment. Perhaps one on Act 24? Maybe...but it could have a short shelf life.
- **Sediment cleanup levels guidance**
 - Workgroup set-up to provide input into development of sediment guidance
 - At the April 27th meeting of the Group:
 - Discussed the business needs for the external: to be able to bring certainty to the costs associated with remediation and redevelopment of sites, and the Department's need to human and ecological health and the environment.
 - Reviewed the process used to develop the Consensus Based Sediment Quality Guidance (2003)
 - Reviewed other approaches including a tiered approach
 - Risk assessment and risk management are two separate phases. Many times go to risk management option(s) before risk assessment is complete.
 - Specific topics that were identified that should be discussed during the development of guidance include
 - Data Collection and Interpretation
 - How will collected data be used/evaluated?
 - How to determine background concentrations?
 - How to deal with contaminants that have detection limits greater than standards?
 - Next meeting is scheduled for May 25th
 - The Department will be reviewing and creating a table using CBSQG, NR 720 soil calculator, and EPA Region 5 ecological screening levels for certain contaminants. The table will be used as a means to compare the different types of sediment/soil screening values
 - The Group will discuss issues relating to data collection and interpretation
 - They will also review a summary of literature relating to determining background levels
- **PAH Study**

Background – PAH Contaminant levels reported in urban areas commonly exceed regulatory standards in locations where there are no identifiable sources

of contamination. Anthropogenic effects, primarily aerial deposition, are likely the primary source of the detected compounds.

Purpose of Study - To document PAH concentrations commonly found in surficial soils in urban areas, then use the documented urban soil PAH concentration data in regulatory decision making.

- Assess compounds to be included in study and methods of analysis
- Contract for Analytical Services
- Select sampling sites
- Initiate sampling

Compound and Method Assessment – A survey was conducted, with the assistance of the Laboratory Certification Program, to evaluate the potential for including additional PAH compounds beyond the typical 18 currently included in a standard PAH assessment today. Over 40 additional compounds were assessed for potential inclusion in the study. These include

- compounds that currently have standards set by EPA,
- several compounds that pose greater risks than benzo(a)pyrene that are anticipated to have EPA standards soon, and
- other compounds that would be useful in confirming PAH origin.

Laboratories currently certified through Wisconsin's Laboratory Certification Program with a few additions were sent a survey to determine their capability in assessing the additional compounds. The survey also requested information related to the laboratory's extraction method capabilities and preferences. The results of the survey are currently being used to develop a request for proposals that will have a tiered approach for responding. The tiered approach will allow for full evaluation of the potential for assessing PAH compounds in addition to the 18 typically included in a standard analysis. We anticipate the request for proposal will be ready for distribution in late May.

Sampling Methodology – initially Incremental Sampling Methodology (ISM) was proposed for use to assess PAHs in urban soil. Following discussion with EPA and other state agencies and assessment of how DNR intends to use the data, ISM protocols are no longer planned for use in the study. Approximately 400 discrete soil samples are currently proposed for collection in the Milwaukee urban area for the study. The final number will be determined based on final analytical costs and access to appropriate sample collection sites.

Sample Location Selection – We have been coordinating with Milwaukee County to identify sites that have not been disturbed since at least 1932 (based on air photo review and County records) over 40 parks, many with multiple probable sampling locations, have been identified for sample collection. We are working with the County to obtain access and schedule sampling activities. At this time, our intent is to collect samples only in Milwaukee and develop an implementation plan that applies the findings from this study to other urban areas in the state. Sample collection in other urban areas is not included in the plan at this time.

Sample Collection - UW-Extension will lead the sample collection work which is planned for this summer.

DHS Reassessment of Standard Calculation Process

DHS completed a literature and case study review effort. No significant items were identified that would allow for a simple recalculation of Residual

Contaminant Levels (RCLs) for PAHs that would allow for RCLs to be increased and still remain protective.

Several items are undergoing additional assessment, including an assessment of the total human exposure to PAHs compared to exposure from soil, which may allow for a modification in the calculation methods. This assessment should be completed later in 2016.

- **PFOAs (Perfluorooctanoic acid)**

Recent NYTimes articles. Was a big problem in MN years ago. RR staff may start asking about this on some sites as it's a growing national issue. EPA has come out with a new health advisory.

2:30 Standing Items (Misky / Thimke)

20 min

- **WEDC Updates (Jason Scott)**

Jason reported that for FY 2016:

- \$1 million in SAG funds will be awarded by June 30, but current applications are greater than the funds available. Applications not receiving funds in this fiscal year will be considered for the new allocation in July.
- \$3.5 million in brownfield funds will be awarded largely by June 30. Any applications received from now until the end of June will be considered in July
- \$2.3 million in Idle Sites funding will be awarded by June 30 (5 awards anticipated to receive awards)

For FY 2017, program budget will be formally approved by WEDC board of directors in June, although current programs are projected to remain the same with \$1 million available for SAG, \$3.5M for Brownfields, and \$2.3 million for Idle Industrial sites.

- **BSG Membership and Structure Update**

- Not currently looking for new formal members, but where BSG would welcome assistance is on the various committees to take up work outlined in the Brownfields Study Group 2015 Report.
- The group should be considering the next legislative session and getting organized for that this summer.

- **2015 BSG Report Recommendations Update (Michael Prager)**

Michael Prager shared a handout that summarized the status of the DNR administrative items in the 2015 report. DNR is working on many of these. Some of the recommendations (urban agriculture, background for common soil contaminants (PAH), soil, sediment and waste management, lender exemption) were discussed already at this meeting or at the last Study Group meeting. Due to limited time, issues weren't covered in detail. Contact Michael Prager or Christine Haag for more information about any of the recommendations. A copy of the handout is on the Study Group [webpage](#).

- **Next Meeting (Location / Timeframe)**

To be determined, with a Doodle poll going out to formal members for consideration.

2:45 Economic Report – Update on Outreach (Misky / Haag)

15 min

Scott Wilson's colleagues at Ayres created an infographic based on the economic study. A final copy is nearly complete and will be on the Study Group [webpage](#) soon. Co-chairs requested volunteers to step forward with Report outreach ideas and performing tasks already laid out. Will share/remind members of that plan.

In a related matter...Brownfields Conference for Local Governments scheduled for Nov. 2 in Stevens Point. It was suggested that we try to get a couple local legislators to show up.

And there will be Consultants' Day in April 2017. April 20 in Pewaukee and April 27 in Stevens Point.

2:50 Confirm Assignments (Misky / Thimke)

10 min

1. Contact members and guests regarding volunteering on a "Post-closure tool kit working group"
2. Contact members and guests regarding volunteering on the Lender Liability working group. Also remind that there is a meeting set for June 28 in Madison.
3. Send Doodle for next meeting date and location (Fall 2016).
4. Invite DHS to next meeting or check with them if they've done literature review on PAH study.
5. Distribute Economic Report infographic to group and place on web page.
6. Send new link to chapter 292 Wis. Stats.
7. Economic Report outreach table to be shared with members.

3:00 Adjourn