

# SUBGROUP: Contaminated Sediments

Remediation and Redevelopment External Advisory Group



## MEETING NOTES

### Remediation and Redevelopment External Advisory Group – Contaminated Sediments

Friday, Dec. 9, 2022

2:30–4:15 p.m.

Rm. G09, State Natural Resources Building (GEF 2)  
101 S. Webster St. Madison, WI 53703

#### *Action items/assignments for next meeting*

- **ALL:** Opportunity to submit [public comments on RR-0124](#) until Jan. 11, 2023
- **ALL:** [Subscribe to the RR EAG listserv](#) to receive information about future meeting dates, agendas, resources, and other EAG-relevant items. Zoom attendees are automatically added to the listserv; if you would like to opt out, please email [Jody.Irland@wisconsin.gov](mailto:Jody.Irland@wisconsin.gov)
- **ALL:** Submit future meeting topics to [CarrieA.Webb@wisconsin.gov](mailto:CarrieA.Webb@wisconsin.gov)

#### *Agenda Repair and Introductions*

##### **In Person**

- Judy Fassbender, DNR
- Jodie Peotter, DNR
- Jody Irland, DNR

##### **Zoom**

- Carrie Webb, DNR, Subgroup Chairperson
- Margaret Brunette, DNR
- Ted O’Connell, TRC Companies
- Stephen Ellingson, Shannon & Wilson
- Kurt McClung, SET Environmental

- Patrick Kenny, WEC Energy Group
- John Rice, TRC Companies
- Nathalia London, ECS Limited
- Brian Bartoszek, WEC Energy Group
- Jennifer Hagen, Ramboll
- Roger Miller, GEI Consultants
- Jeremiah Yee, DHS
- Erin Endsley, DNR
- Ray Tierney, SCS Engineers
- Erin Hughs, Foth

#### *Review of Draft work plan*

- [Work plan](#)

#### *Issue Paper Format*

- [Issue Paper Template](#)

#### *Introduction to Key Sediment Guidance*

Six new or updated guidance documents

- **Guidance: Contaminated Sediment Fact Sheet (RR-0115)** – quick fact sheet and introductory to contaminated sediment
- **Guidance: When should a Site Investigation Enter Surface Water? (RR-0117)** – Items and steps to consider when a site investigation is in or near water
- **NR 347 guidance draft:** Existing NR 347 guidance was stalled after public comment in 2015. The current draft implements the 2015 public comment and splits the guidance into two versions:
  - Short version focuses on simple dredging and sampling
  - Long version provides details for more complex sites where contamination is known or is likely as well as sampling methods, permits, and other factors that need consideration
- **Guidance for Sediment-Related Continuing Obligations for Environmental Protection (RR-0126)** - focus on continuing obligations related to contaminated sediment

# SUBGROUP: Contaminated Sediments

Remediation and Redevelopment External Advisory Group



- **Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)** - Out for public comment until January 11
  - Recommends connecting with DNR frequently because lack of numeric standards in the NR 700 rule series
  - In the future, there will be a standalone guidance for financial assurance on contaminated sediment sites

## *Review of Guidance on Addressing Contaminated Sediment Sites in Wisconsin*

- Timeline and process for public comment
  - Public comment improves DNR guidance
  - DNR collects public comments and evaluates what changes should be made to the document before formally publishing the guidance
  - Procedures to determine cleanup levels, riparian issues during chapter 30 permit process are items which are being worked on going forward

## *Future Meetings*

- [Subscribe to the RR EAG listserv](#) to receive information about future meeting dates, agendas, resources, and other EAG-relevant items. Zoom attendees are automatically added to the listserv; if you would like to opt out, please email [Jody.Irland@wisconsin.gov](mailto:Jody.Irland@wisconsin.gov)
- Potential agenda topics
  - Cleanup levels/standards
  - Long-term stewardship
  - Sediment and the NR 700 rule package
  - Updates on RR-0124

# Remediation and Redevelopment External Advisory Group



Paper/Agenda #

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## [Issue Paper Title]

[Name of Subgroup]

[Author(s)]

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### TYPE OF RECOMMENDATION

[e.g., statutory, regulatory, administrative]

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### BACKGROUND

[Limit to no more than two pages]

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### PROPOSAL

[Limit to one paragraph]

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### RESOURCES NEEDED

[DNR staff participation estimated hours, external participation estimated hours]

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### ENVIRONMENTAL JUSTICE EVALUATION

[Explain how this proposal furthers Wisconsin DNR goals regarding environmental justice]

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### COMMENTS

[Notable comments from issue paper draft writing process from subgroup members, including alternative approaches considered]

*These draft issue papers and recommendations were developed by the Remediation and Redevelopment External Advisory Group and members of the public, and do not necessarily represent the opinions or the position of the Wisconsin Department of Natural Resources or other state agencies.*

# RR Program External Advisory Group Contaminated Sediments Subgroup

*December 9, 2022*



2:30 -2:40	Agenda repair and introductions
2:40 – 2:50	Review of draft workplan
2:50 – 2:55	Issue paper format
2:55 – 3:15	Introduction to key Sediment guidance
3:15 – 4:00	Review of Guidance on Addressing Contaminated Sediment Sites in Wisconsin <ul style="list-style-type: none"><li>• Timeline and process for public comment</li></ul>
4:00 – 4:05	Rule making status
4:05 - 4:15	Future meetings <ul style="list-style-type: none"><li>• Schedule</li><li>• Agenda topics</li></ul>

# Work Plan

**What do you want to accomplish?**

**What are the deliverables?**



## **PURPOSE/OBJECTIVE**

The Wisconsin Administrative Code chs. 700-799 (“NR 700”) rules are the road map for the restoration of contaminated sites in Wisconsin. Sediment cleanup is an integral section of NR 700 therefore it is necessary to evaluate and establish consistent guidance regarding sediment cleanup. The objective of the Sediment Subgroup is to develop a consistent approach for the management of contaminated sediments from dredging projects, environmental cleanups, redevelopment and other construction projects in waters of the State. Meeting this purpose/objective includes providing recommendations for implementation that consider and incorporate environmental justice.



## **DELIVERABLES AND MILESTONES**

- List of items in NR 700 rules for sediment that are unclear or inconsistent
- Summary of issues and recommendations for consistent approach to sediment remediation
- Summary of issues and recommendations to ensure long-term stewardship of sediment remedial actions

## **EXPECTED OUTCOMES**

- Regulatory uncertainties for the management of contaminated sediment reduced
- Consistency in NR 700 rule implementation for sediment cleanup improved
- Long-term stewardship of sediment remedies addressed
- Frustrations of DNR Staff, consultants and responsible parties reduced



# Issue Paper Template

## Remediation and Redevelopment External Advisory Group



Paper/Agenda #

### **[Issue Paper Title]**

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[Name of Subgroup]

[Author(s)]

### **TYPE OF RECOMMENDATION**

---

[e.g., statutory, regulatory, administrative]

### **BACKGROUND**

---

[Limit to no more than two pages]

### **PROPOSAL**

---

[Limit to one paragraph]

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### **RESOURCES NEEDED**

---

[DNR staff participation estimated hours, external participation estimated hours]

### **ENVIRONMENTAL JUSTICE EVALUATION**

---

[Explain how this proposal furthers Wisconsin DNR goals regarding environmental justice]

### **COMMENTS**

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[Notable comments from issue paper draft writing process from subgroup members, including alternative approaches considered]

# Sediment guidance

- Guidance: Contaminated Sediment Fact Sheet (RR-0115)
- NR 347 Short *(Drafting)*
- NR 347 Long *(Drafting)*
- Guidance: When Should a Site Investigation Enter Surface Water? (RR-0117)
- Guidance for Sediment-Related Continuing Obligations for Environmental Protection (RR-0126)
- Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

# **Guidance: Contaminated Sediment Fact Sheet (RR-0115)**

Basic outline of the typical approaches that are used to navigate through Wisconsin Statutes ch. 292 and Wisconsin Administrative Code chs. NR 700 to 799 with respect to the investigation and remediation of contaminated sediment.

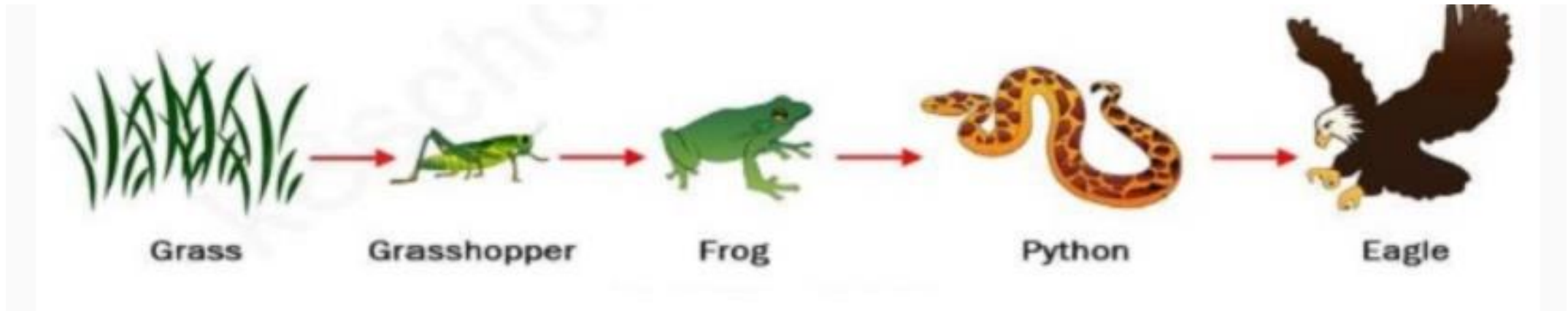
# Guidance: Contaminated Sediment Fact Sheet (RR-0115)

- What is sediment
- NR 716 site investigation must include an evaluation of potential pathways for migration of the contamination.
- Assessments under NR 347 and investigations under NR 716
- DNR works with the RP to establish site-specific cleanup standards
- Remedial action must restore the environment to the extent practicable and minimize the harmful effects of the hazardous substances

Wis. Admin. Code § NR 726.09(2)(f)

# Guidance: When Should a Site Investigation Enter Surface Water? (RR-0117)

NR 716 requires an evaluation of known or potential impacts to all environmental media and receptors (fish, bird, animal, and plant life) as well as the potential pathways for migration of the contamination



# Guidance: When Should a Site Investigation Enter Surface Water? (RR-0117)

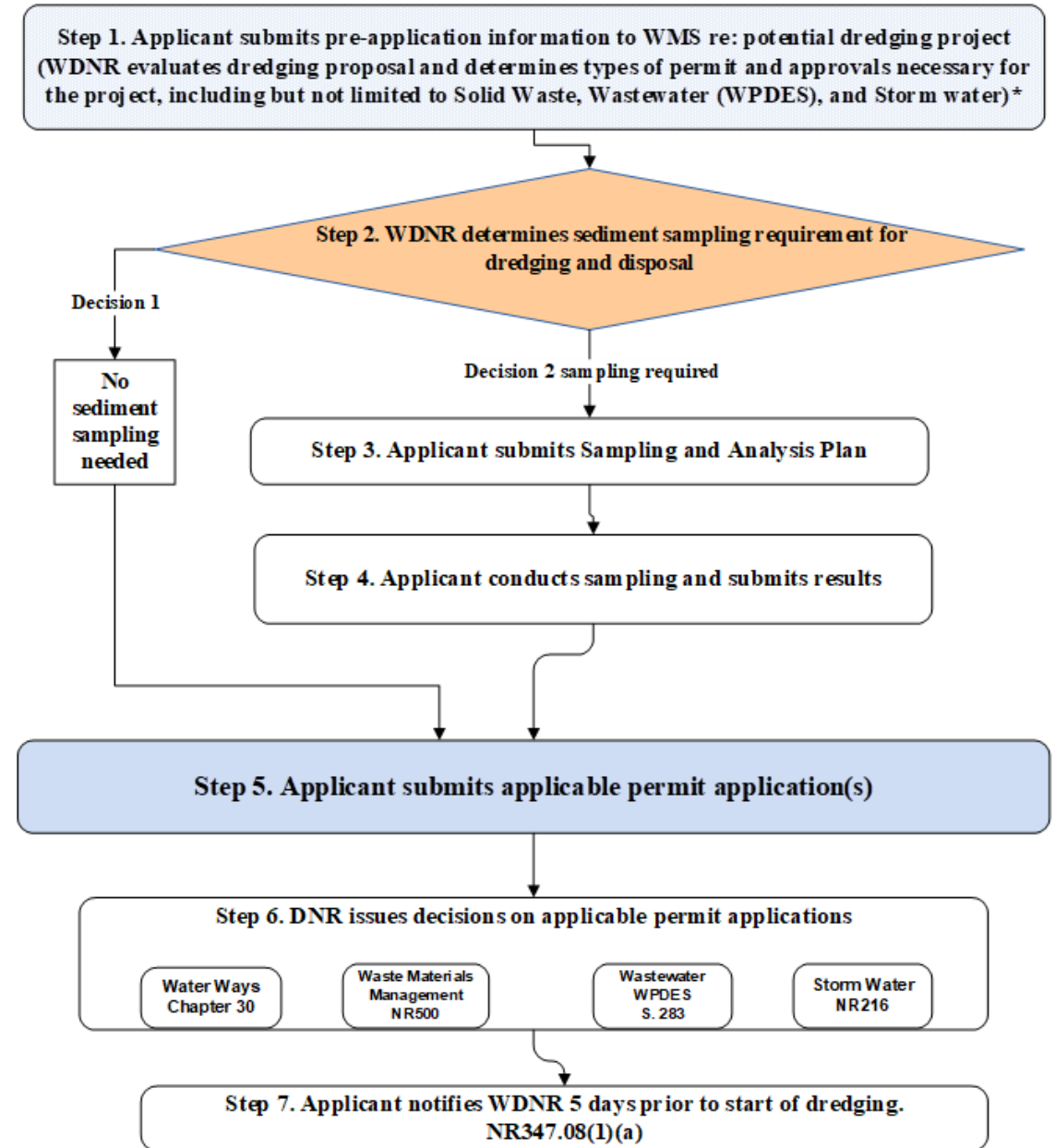
## Factors in NR 716 to consider:

- Land use history
- Contamination in sediment or surface water
- Degree and extent of soil and groundwater contamination
- Type and quantity of hazardous substances
- Potential impacts to receptors
- Groundwater hydraulically connected to the waterbody?
- Fill or waste material
- Hydrology and hydraulic characteristics
- Evidence a release may have entered the water
- Potential pathways, flow patterns, point sources, land runoff, etc.

# NR 347 Guidance

- Short version
- Long version

Figure 1. The State of Wisconsin Dredging Application Review Process





# Guidance for Sediment-Related Continuing Obligations for Environmental Protection (RR-0126)

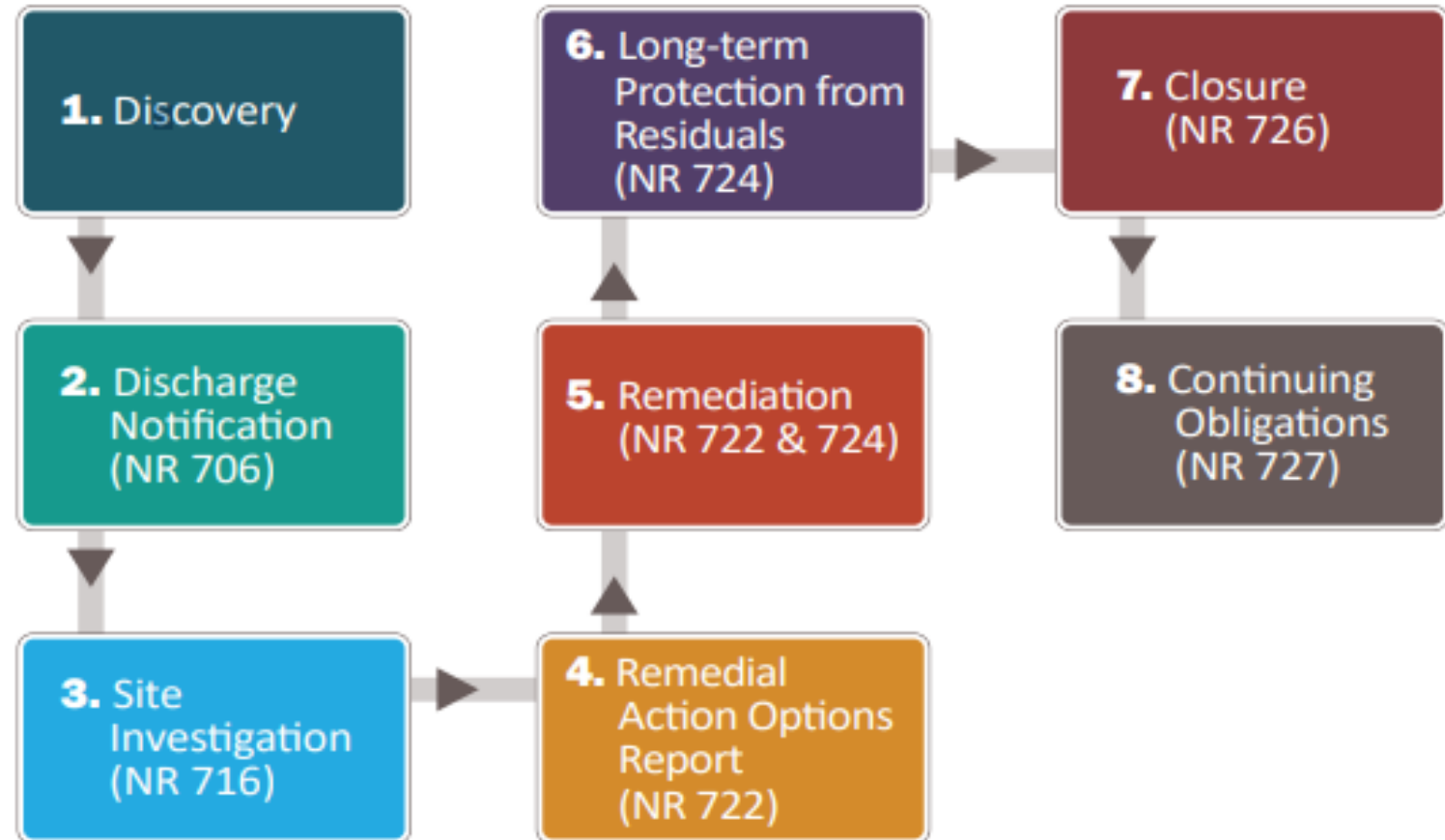
- The responsibility for the maintenance of the engineering control (e.g., sediment cap) belongs to the party responsible for the cleanup action.
- The riparian owner is not responsible for maintaining the engineering control but may not **interfere** with the continuing obligations.

# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- Explains and outlines steps recommended for assessment of contaminated sediment, evaluation of remedial options and the selection, design, implementation and monitoring of remedial actions.
- Also provides clarification to closure requirements at sites with contaminated sediments, including continuing obligations, long term stewardship and financial assurance.

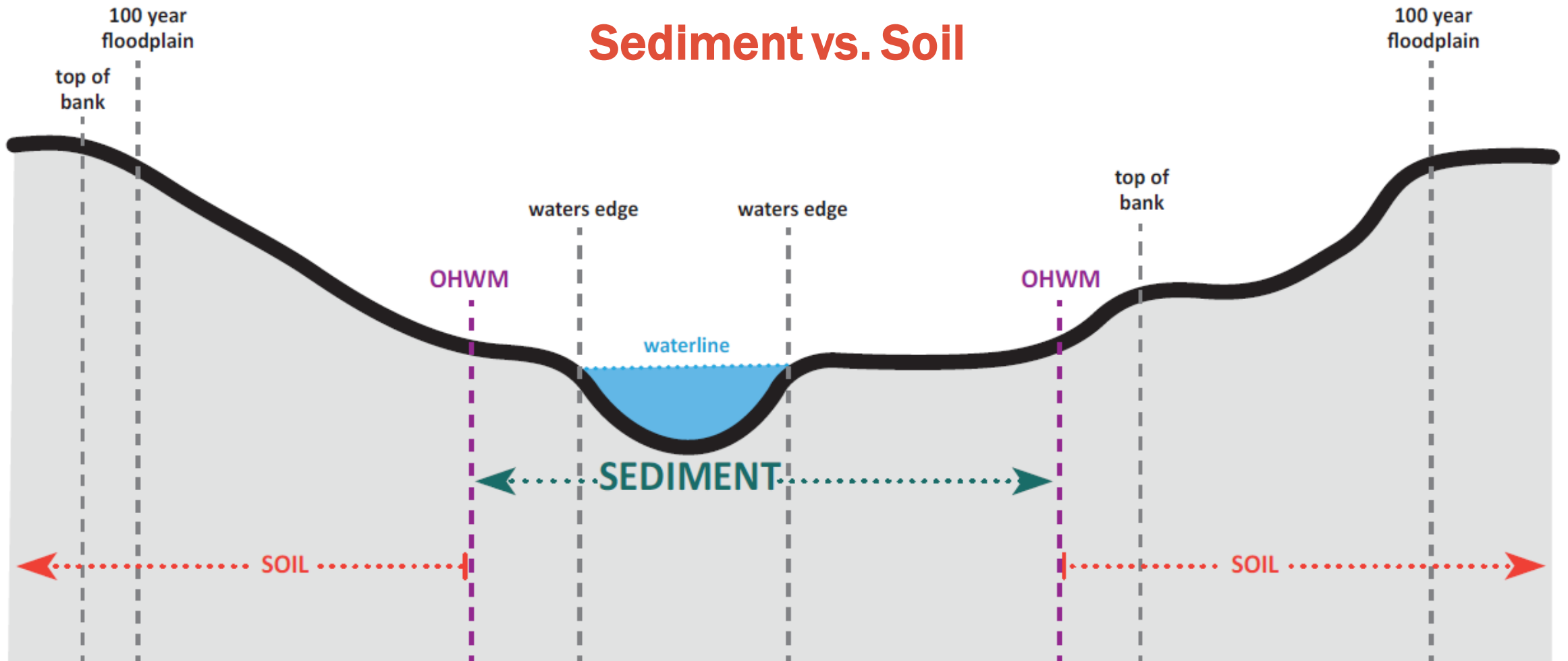
# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- Types of discharges
- Legal authority
- Overview of steps



# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

## Sediment vs. Soil



# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

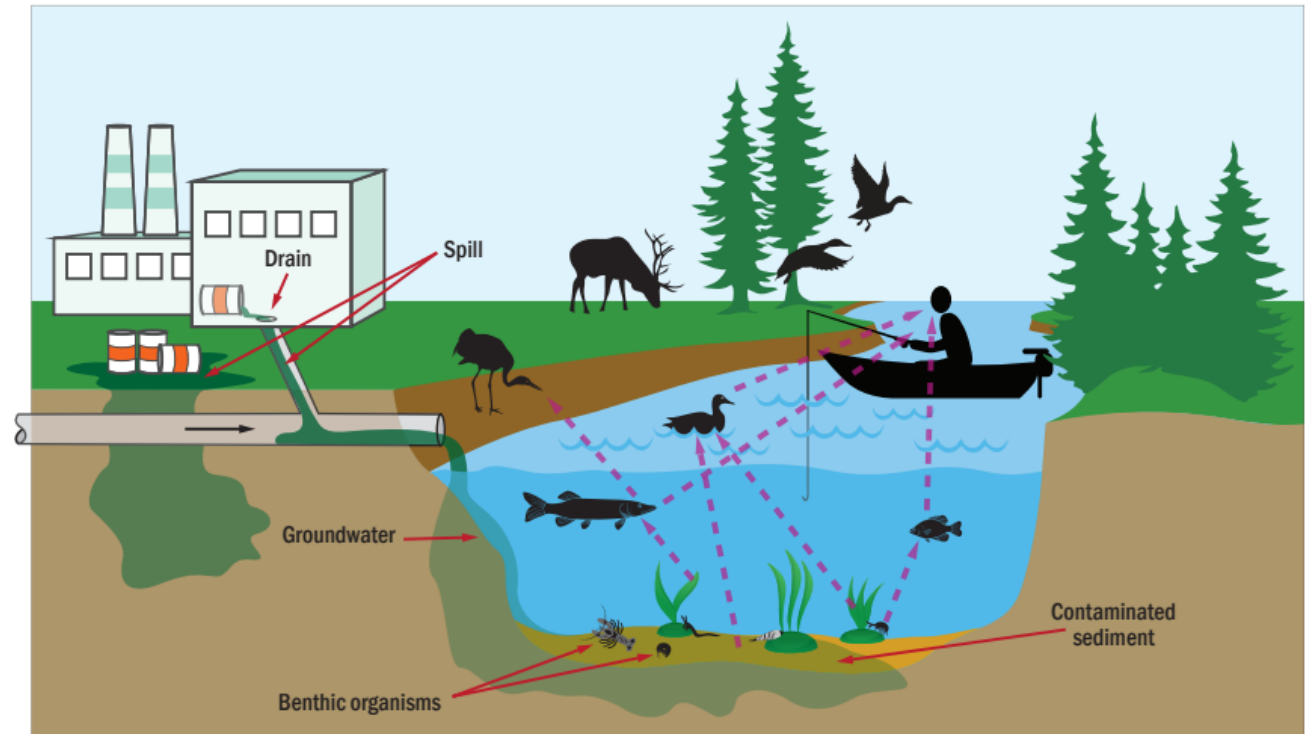
- Public participation
- **STEP 1** : DISCOVERY
- Comparison of NR 347 and NR 716
  - Screening criteria
- **STEP 2**: DISCHARGE NOTIFICATION
  - Indications of a discharge
  - Immediate and interim actions



# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

## STEP 3: Site investigations

- Scoping – history, impacts, site features, etc.
- Work plan – CSM
- Sampling strategy
- Structural impediments
- Field investigation – pathways
- Sample methods
- Lab methods
- Site investigation report





# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- Management of contaminated sediment
  - Disposal options
- Establishing clean up levels
  - Ecological risks
  - Human health risks
  - Background
  - Risk assessment





# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

## Standards for selecting remedial actions

- Identification and evaluation of options
- Remedial action objectives include:
  - Restoring the environment to the extent practicable within a reasonable time period
  - Minimizing the harmful effects of the contamination to the air, land, or waters of the state
  - Addressing exposure pathways of concern
  - Effectively and efficiently addressing the source of the contamination
- Remedial options
  - Evaluation criteria
- Selection of remedial action

# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- **STEP 4:** Remedial design reports, plans & specifications
  - Additional sediment-specific items
  - Permits, approvals, and other regulations
- **STEP 5:** Remedial action implementation
  - Construction monitoring
  - Post construction performance verification
  - Documentation
- **STEP 6:** Operation, maintenance and monitoring
  - Operation and maintenance plan
  - Long term monitoring

# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- **STEP 7:** Case closure
  - Documentation
  - Continuing obligations
- **STEP 8:** Continuing obligation requirements
- Financial responsibility
  - Plan and compliance schedule
  - Proof
  - Factors for determining cost
- Tracking
- Voluntary party liability exemption



# Guidance on Addressing Contaminated Sediment Sites in Wisconsin (RR-0124)

- Permit, approvals and other requirements
- DNR led projects
- Construction monitoring vs long term monitoring
- Engineering controls and sediment covers
  - Functions of caps and covers
  - Typical thickness
  - Placement techniques
  - Long term requirements

# Future meetings

**Schedule**

**Agenda topics**



# CONNECT WITH US

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OFF THE RECORD"