

Minutes Remediation and Redevelopment External Advisory Group

9 a.m. to 12 p.m., September 23, 2022

Godfrey & Kahn, S.C.

833 E. Michigan Street, Suite 1800

Milwaukee, WI 53202

Roll Call

EAG Members

- Jodie Peotter, DNR *PRESENT*
- Judy Fassbender, DNR *PRESENT*
- Sharlene TeBeest, WI DOT *PRESENT*
- Roy Irving, WI DHS *PRESENT*
- Sarah Gruza, U.S. EPA *PRESENT (Zoom)*
- Jason Scott, WEDC *PRESENT (Zoom)*
- Dave Misky, Redevelopment Authority of the City of Milwaukee *PRESENT*
- Debora Sielski, Washington County Public Agency Center Community Development Department *PRESENT (Zoom)*
- Chris Valcheff, True North Consultants *PRESENT (Zoom)*
- Donna Volk, Ramboll *PRESENT*
- Brain Bartoszek, WEC Energy Group *PRESENT*
- Sheldon Johnson, Northwest Regional Planning Commission *PRESENT (Zoom)*
- Noah Saperstein, Red Cliff Band of Lake Superior Chippewa *PRESENT (Zoom)*
- Ned Witte, Godfrey & Kahn *PRESENT*
- Lynn Morgan, WM *PRESENT (Zoom)*

Guests

In Person

- Trevor Nobile, DNR
- Christine Haag, DNR
- Michael Prager, DNR
- Alyssa Sellwood, DNR
- Jody Irland, DNR
- Curtis Hedman, DHS
- Bill Nelson, Godfrey & Kahn
- Bill Scott, WPS Law
- Jeff Ramey, TRC Companies
- Adam Roder, The Sigma Group
- Mark Rutkowski, Shannon & Wilson, Inc.

Zoom

- Lisa Ashenbrenner Hunt, DNR
- Barry Ashenfelter, DNR
- Renee Bashel, DNR
- Monty Bennet, Haley & Aldrich
- Phillip Bower, DNR
- Margaret Brunette, DNR
- Michelle Cook, City of Racine
- Don Gallo, Don Gallo Law
- Carrie Geyer, Michigan Department of Environment, Great Lakes, and Energy

- Rob Hoverman, EnviroForensics
- Derek Hubbartt, GHD
- Mimi Johnson, DNR
- Nathan Kloczko, DHS
- Jason LaPointe, Michigan Department of Environment, Great Lakes, and Energy
- Gena Larson, DNR
- Jason Lowery, DNR
- Kurt McClung, SET Engineering, LLC
- Evan Miller, Office of State Senator Robert Cowles
- Maria Powell, Madison Environmental Justice
- Andrew Raker, Sand County Environmental, Inc.
- Dave Rozeboom, DNR
- Chris Saari, DNR
- Molly Schmidt, DNR
- Toni Schoen, SET Engineering, LLC
- Katie Simonsen, DNR
- Jenna Soyer, DNR
- Bart Sponseller, DNR
- Jeff Steiner, John Wood Group plc
- Mike Ursin, TRC Companies, Inc.
- Marie Venne, WEC Energy Group

Next Meeting is Jan. 27, 2023. Location TBD.



Agenda Repair

Ned Witte – Brought memo to discuss as possible Funding Sustainability Work Plan item - Multi-site Legacy Residual Contamination Sites Revolving Fund Program - which utilizes existing tools, such as Wis. Stat. §§ 292.33 and 292.35, to work more concurrently with DNR-directed cleanup and redevelopment efforts to incentive and leverage resources for smaller LGUs and EJ communities.

- Expected Outcomes: more cleanups, economic development outside of large cities, utilize the cost recovery power that LGUs have, add a replenishment element to pay for future projects
- Discussion:
 - LGU tools exist in rule and statute to help manage liability. The missing piece is the financial resources necessary to catalyze these projects.
 - Current legislative interest in DERF and innocent landowners
 - DNR has dedicated EPA funding to a statewide dry cleaner discovery process; portion of two-million-dollar assessment grant starts Oct. 1, 2022, 5-year grant; historical phonebook study
 - Explore a one-time gas tax to start fund; look to other successful states
 - Explore outreach and education to create LGU engagement

DNR Updates

- **Status of Rulemaking**

Guest Speaker Mimi Johnson, Director, DNR Office of Emerging Contaminants, reviewed agency actions, state initiatives and federal initiatives.

- Agency actions
 - Progress report released August 2022
 - New drinking water standards effective Aug. 1. All public drinking systems will sample for PFOA and PFOS, to be implemented over the next six months starting in November with the larger systems, then late winter for mid-size systems and late spring for the smaller systems.
 - Natural Resources Board did not advance groundwater standards in Cycle 10. DNR plans to move forward with new rule making effort to set groundwater standards for PFOA, PFOS, PFBS and GenX. Public Hearing is anticipated Fall 2022 prior to seeking approval from the Board on a scope statement.
 - PFAS-containing firefighting foam waste collection and disposal program will be jointly administered by the DNR and DATCP, per direction from the legislature. North Shore Environmental won competitive bid; it is anticipated that more than 25,000 gallons of foam will be collected starting in October.
 - Voluntary Drinking Water Sampling Project has sampled more than 140 systems; to date only 5 systems had exceedances of the DHS recommendation. A little over 30 systems had detections of PFOA, PFOS or other compounds. Based on other state sampling, 5-10% of systems were anticipated to have exceedances.
- State initiatives
 - DNR to release a GIS-based interactive data viewer that pulls PFAS information from existing databases
 - Private well sampling project to sample 450 private wells, specifically outside known



contamination zones to help establish a baseline understanding of PFAS in private wells

- Additional sampling to be conducted in surface waters, at WWTP, in drinking water, air, and by the DNR Fish and Wildlife Program
 - Bipartisan Infrastructure Law (BIL); DNR awaiting EPA guidance on small and disadvantaged communities funding, received a Build America Buy America (BABA) waiver, solicited input from impacted communities and other stakeholders to set goals for making application a single point of entry, creating interim buckets of projects before long-term/more substantial projects, and working to make as much BIL funding available as possible through principal forgiveness
 - Green Tier is looking for ways through direct and indirect incentives and opportunities to get provide resources to prevent discharge (education, sampling/certifying PFAS-free, etc.), specific focus on WWTP and WPDES permittees due to new rule
 - Public questions and areas of interest have been prevention, source identification, and source reduction in biosolids, new destruction technologies, and new EPA Health Advisory Levels
- Federal initiatives
 - House passed NDAA FY 2023 (<https://www.congress.gov/bill/117th-congress/house-bill/7900>) in July; contains guidance for PFAS destruction, further study on the provision of water to PFAS-impacted communities, incentives to drive innovation and develop non-PFAS turnout great, standards for response actions for PFAS contamination, AFFF replacement, school-based testing and treatment programs
 - 127 House of Representatives (including Kind and Pocan) sent a Congressional letter on Aug. 3 to the EPA re: CERCLA designation (https://debbiedingell.house.gov/uploadedfiles/220803_117_q_potus_pfas_cercla_designation_final.pdf)
 - EPA released Toxics Release Inventory; updated with five new PFAS (<https://www.epa.gov/chemicals-under-tsca/epa-issues-final-rule-require-reporting-five-pfas>), it is anticipated the EPA will propose eliminating an option for companies to skip annual TRI reporting of PFAS by eliminating the de minimis exemption. EPA drafted National Drinking Water Standards; anticipating late 2022 release of draft, some indication these could be as low as practicable rather than specific numbers
 - FDA passed first ever PFAS-related food recall for canned clams; FDA continuing to receive pressure from Congress to expand work in understanding PFAS in cosmetics, food packaging, food products, etc.
 - Colorado enacted comprehensive legislation this summer, including a ban
 - NASEM published guidance on PFAS Exposure, Testing, and Clinical Follow-up (<https://nap.nationalacademies.org/catalog/26156/guidance-on-pfas-exposure-testing-and-clinical-follow-up>)
 - National Emerging Contaminants Research Initiative published report (<https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-National-Emerging-Contaminants-Research-Initiative.pdf>)

- **Upcoming guidance**

Judy Fassbender, DNR Complex Projects & Technical Resources Section Chief and Jodie Peotter, DNR Brownfields, Outreach & Policy Section Chief reviewed RR-0124, RR-800 revisions and new VPLE guidance



- RR-0124; a comprehensive guidance for contaminated sediment processes, provides clarification on statutory requirements and department expectations and recommendations.
- RR-800; existing vapor intrusion guidance with significant updates, improvements based on feedback and frequently asked questions
 - Will include recommendations for passive sampling because SUMMA canisters are no longer the norm and passive samplers are less expensive, collect better data, and offer more sampling points.
 - Will include some utility guidance and how to assess vapor in underground utility and building pathways.
 - Will include checklists for operating and maintaining VI systems
- New VPLE guidance; not new information but combines information from multiple fact sheets into one guidance. Includes general information, steps on how to enter the process, FAQs.
- Public input process. DNR publishes guidance and puts it out for public input for at least 21 days, will be posted on DNR public notice page and RR Report newsfeed

Work Planning & Assignments

- **Recap**
 - The foundation of EAG is a collaborative membership which represents diversity in perspectives, industries, backgrounds, and histories. Subgroups are set-up to do work, make recommendations, and provide ideas for DNR to evaluate and decide what is actionable. Subgroup end products are often issue papers.
 - Core mission of RR Strategic Framework: protect human health and the environment and support the remediation and beneficial reuse of contaminated sites
- **Incorporation of environmental justice (EJ) into subgroup assignments**
 - RR program strategic framework: consider environmental justice and improve the focus on diversity in all RR programs, processes and opportunities
 - Expectation of subgroups is meaningful consideration and incorporation of environmental justice into work plan
 - Consensus to have a diverse representation. Participation is open.
 - Ideal to include people who represent frontline and environmental justice communities from beginning of subgroups, so all can participate in work planning. However, also a need to have work begin within subgroups.
 - Possibility of starting subgroup work while diversifying subgroup membership and engaging representatives of EJ communities; the longevity and pace of work allows for moving forward and the ability to incorporate new ideas.
 - EAG is an advisory group, not decision-making, and subgroups (of previous advisory group) historically have made recommendations that represented all subgroup members
 - There is support for exploring mechanisms in the NR 700/NR 714 process to clarify and be more meaningful in terms of EJ
 - Suggested that an EJ subgroup be formed to advise, focus, and provide resources to other subgroups about how to meaningfully engage environmental justice communities and expand subgroup participation
 - DNR will take all feedback and create a proposal to share with EAG members



- **Draft subgroup work plans, sideboards**

- Proposed subgroups from last meeting: funding, public engagement, technical outreach, NR 700, contaminated sediment. NR 700 and contaminated sediment groups were previously established groups that will now operate as subgroups under the RR EAG
- Subgroups will work within scope of RR program and incorporate EJ
- Recommend starting with three out of the five groups to ensure the ability to commit time, resources, and program support to do quality work. Outcome: Implement NR 700, Contaminated Sediments, Funding and EJ Group. Hold on public engagement and technical outreach; revisit activation of those two groups at each meeting
- Sub-Group Structure
 - Chair: may be non-DNR person, facilitates meetings. Works with assigned DNR staff person to set meetings and agenda, organize member assignments and work plan, create timelines, ensure outcomes, milestones and deliverables are completed.
 - each group has DNR representative to provide support
 - Anyone may participate in the subgroups at any time, whether they expressed interest today or not. Listed below are those who expressed interest to participate during the meeting (or as follow up to meeting)

- **Assign chairs, DNR representatives and interested participants**

| Funding Sustainability | NR 700 | EJ | Contaminated Sediment |
|---|---|---|---|
| <i>Chair:</i> Mark Rutkowski | <i>Chair:</i> Bill Nelson | <i>Chair:</i> Jodie Peotter | <i>Chair:</i> Carrie Webb |
| <i>DNR Representatives:</i> Jenna Soyer Gena Larson Michael Prager | <i>DNR Representatives:</i> Judy Fassbender Molly Schmidt | <i>DNR Representatives:</i> Alyssa Sellwood Jody Irland | <i>DNR Representative:</i> Judy Fassbender |
| <i>Participants:</i> Jason Scott Ned Witte Dave Misky Chris Valcheff Deb Sielski Mike Ursin Sheldon Johnson Bill Nelson Bill Scott Donald Gallo | <i>Participants:</i> Chris Valcheff Noah Saperstein Brian Bartoszek Donna Volk Mark Rutkowski Margaret Brunette Shar TeBeest Jeff Ramey Curtis Hedman Alyssa Sellwood Nathan Kloczko | <i>Participants:</i> Ned Witte Noah Saperstein Roy Irving Bill Scott Molly Schmidt Chris Valcheff Jason Scott Sarah Gruza | <i>Participants:</i> Shar TeBeest Brian Bartoszek John Rice Ted O'Connell Jeremiah Yee Jennifer Hagen |

Assignments

- DNR - Develop a strategy for the EJ subgroup and how it integrates with other subgroups; expand EJ subgroup membership to be better representative of under resourced and EJ communities
- All - Brainstorm channels to share that subgroup participation is open to the public and expand all subgroup participation to include representation of under resourced and EJ communities
- DNR - Prepare workplans for each subgroup, share with chair and initial membership for review before finalization
- Chairs take finalized workplan and begin to organize the work of their subgroup, including deciding the



scope of work; DNR representative supports meetings

- Each subgroup should meet once prior to January meeting
- Chair to brief EAG subgroup meeting

Adjourn

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