

SEDIMENT LEGISLATION

Mark A. Thimke
Brownfields Study Group Meeting
May 29, 2015

Background

- Outgrowth of the Sheboygan success
 - Use of Great Lakes Restoration Initiative
 - Removal of contaminated sediment
- Extend VPLE program to address remediation involving removal of contaminated sediment

Sheboygan River



Drafting

- Cooperative approach with WDNR
 - Revised Wis. Stat. § 292.12 – continuing obligations
 - Amended Wis. Stat. § 292.12 – extending VPLE
 - Added definitions

Definitions

- Soil/sediment based on ordinary high water mark
 - Consistent with public trust doctrine
 - Consistent with § 30.102
- Capping versus cover

Continuing Obligations

- Clarifies existing requirements to address ambiguities
- Sediment capping
 - Access required
 - GIS
 - Financial responsibility for long-term care
 - Transparency for agreements shifting continuing obligations to other parties

Sediment VPLE

- Applies only to **removal**; not capping
- Requires insurance (similar to groundwater) or other financial assurance
 - WDNR can waive but not for bioaccumulators
- Partial VPLE for **soil** where sediment not included
- Natural resource damages/TMDL