

Brownfield Study Group
Waterfront Revitalization Subcommittee
Statement of Issues – Contamination
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Proposed use of terms:

- Upland Site: NR700 land portion of a Site
- Edge: the soft interface between water and Ordinary High Water Mark
- Sediments – materials in place in waterway
- Dredge spoils – sediments after removal from waterway

1. Immediate opportunities for study group action
 - a. Definition of Sediment versus Soil
 - i. Does NR 700 apply to sediments?
 - ii. Does NR 700 apply to dredge spoils
 - iii. What about edge materials?
 - b. Beneficial reuse of dredge spoils
 - i. NR 500 exemptions for beneficial reuse
 - ii. NR 347
 - iii. NR718
 - c. Performance standards for Sediments, Edge or Dredge Spoils
 - i. Based on welfare
 - ii. Based on health
 - iii. [Chloride?]
 - d. GIS and Case Closure
 - i. Should sites include riparian rights?
 - ii. Show contaminated sediment locations on GIS?
 - iii. Separate BRRTS# and “Site” definition for riparian/sediment versus upland so Case Closure is available for the upland site?
 1. Is this available already as partial closure?
 2. Does there need to be continuing waterway access requirements for future sediment remediation?
 - iv. Effect on liability under federal law where sediments contaminated but upland remediated (Does one-cleanup apply?)
2. Longer term issues for possible study group action
 - a. Should VPLE apply to riparian rights and sediments?
 - i. Can VPLE Insurance cover sediments?
 - b. Managing Continuing Obligations at sediment sites and application of Ch 292.12
 - i. Property ends at waters’ edge – doesn’t deal with realities of riparian ownership
 - ii. When seawalls provide containment –
 1. who assumes ongoing obligations
 2. under what conditions can it be removed
 3. effect on VPLE or case closure?

- 4. Financial assurance mechanisms?
 - iii. Downstream owner who has capped sediment
 - 1. Offsite liability exemption for downstream owners?
 - 2. What if RP unavailable (bankrupt?)
 - c. Federal versus State regulatory scheme
 - d. Do State regulations for remediation of contaminated sediments need to require remediation to specified navigability depths?

- 3. Contamination issues for action, outside Study group scope (Ch. 292 and NR 700)