

DATE: November 11, 2011

FILE REF: NMAC

TO: NMAC

FROM: Tom Portle



SUBJECT: Minutes of 2011 NR 135 Nonmetallic Mining Advisory Committee meeting

Following are the minutes from the NR 135 Nonmetallic Mining Advisory Committee (NMAC) meeting held on September 26, 2011 in Green Lake, WI, at Christiano's Pizza, W1917 Highway 23 in Green Lake.

NMAC members present: Bruce Brown, Jim Burgener, Mike Erickson, Rou Garrison, Marty Lehman, Ed Reesman, and Gary Werner.

NMAC members not present: Bryce Richardson Susan Courter, and John Reinemann.

Note: For affiliations and contact information of NMAC members please see:
<http://dnr.wi.gov/org/aw/wm/mining/nonmetallic/nmac.htm>

WDNR staff present: Ed Lynch, Phil Fauble, Cheryl Heilman, Tom Portle and Tom Woletz.

Others present: Matt Bremer, Adams County; Gerry Kokkonen, Jefferson County; Andy Chikowski, Tiffany Martin and others of Badger Mining Corporation (BMC).

► **Reclamation Tour** of Badger Mining Corporations.

We convened at Christiano's Pizza at about 10:00 am and traveled to BMC's reclaimed St. Marie Mine in Green Lake County.

► **Return Travel** to reconvene at Christiano's Pizza.

► **Lunch & Go-around** – Beginning around noon, the committee and others had a working lunch and the balance of the NMAC meeting was held. The meeting began at approximately 9:45. After the welcome and "housekeeping", I introduced our new attorney for mining, Cheryl Heilman and newly appointed the Single Point of Contact (SPOC) for the matters concerning hydrofracking sand, Tom Woletz (out of DNR's Eau Claire office) during our lunch 'Go-around'. We also had a chance to get updates from NMAC members.

► **Update: NR 135 Reclamation Program** (from 10/10 - 9/11)

- **2010 NMAC Meeting** - Annual meeting of the NMAC was held in Fitchburg in September 2010 and featured a discussion on liaison between WisDOT & DNR. Representatives (Michelle Gerrits was present for WisDOT and Mike Halsted for the DNR. The cooperative agreement, erosion control and reclamation at WisDOT projects (enforced through contracts) were discussed.
- **Audits** - Nine NR 135 Regulatory Authorities (RA) received performance review audits between October 2010 and September 2011 (at least one more is planned for October 2011). These included: seven county, one town and one city NR 135 programs.

Thumbnail sketch: the numbers:

To date, **70 of the 70 active county NR 135 programs** (100%) have received performance review audits, well within the ten-year statutory requirement for such NR 135 reclamation program audits.

To date, 13 municipal (city, village and town) have been audited.

To date, 83 of approximately 90 RAs have been audited (92%) – again, several counties more than once.

- **Two State-wide conference presentations** on NR 135 - I presented NR 135 updates at the Wisconsin County Code Administrators (WCCA) **fall conference** and at the Wisconsin Association of Land Conservation Employees (WALCE) **spring conference** in March 2011– topics: program update, evaluation of success in reclamation, financial assurance and opportunities for the use of alternative materials in reclamation.
- **Two statewide roundtable format NR 135 RA 'roundtable' discussions and one field training** for NR 135 RA administrators and a recent field training on evaluation of reclamation success and plant identification; information on invasive species.
 - *January 13* in **Black River Falls** co-hosted by Jackson County (thanks to Gaylord Olson) and *February 23* in **Menasha** co-hosted by ECWRPC (many thanks to Scott Konkle). These were well attended again this year: (25) attendees in Black River Falls and (39) attendees in Menasha (including the DNR and BMC).
 - provided: field training in reclamation success evaluation and revegetation methods and materials provided by Neil Diboll, owner of Prairie Nursery in Westfield on September 7 (many thanks Neil!).
- **Other Technical assistance/ Support/Dispute Resolution and Clarification of permitting issues**
 - “On-site” visit to Crawford County in January 2011 (also met with new administrators from nearby counties);
 - Phone conference call tech. assistance - two counties;
 - Facilitation of issue resolution - two counties; &
 - Clarifying permitting issues – one county.
- **Frac sand (county support, presentations, media contacts)**
 - Frac sand mine permitting activity survey conducted; created county contact email distribution list; held two conference calls mainly on permitting such mines (4/26 & 6/30).
 - Several presentations at meeting such as the recent WCCA meeting in Menomonie on (9/8/11).
 - Media contact on frac sand (numerous).
- **Fees & Annual Reports** – Timeliness and compliance with requirements for fee transfer and annual reporting of RAs to the DNR has continued to improve over the past several years.
- **Planned for 2012 - NR 135 Communication & Assistance**
 - At least two NR 135 RA performance review audits will be conducted in each region; minimum of ten total audits.
 - Our fee transfer and annual reporting of RAs to the DNR begins in early January.
 - At least six to eight municipal NR 135 programs will receive performance review audits.
 - **2012 NMAC Meeting** - Annual meeting in September 2012.
 - **Early 2012 - NR 135 RA 'roundtables'**-Two NR 135 RA roundtables expected in early 2012 for NR 135 reclamation program administrators.

▶ **'Frac' Sand Mining on Increase in Wisconsin** - discussion on the recent increase in frac sand mines and support facilities in Western Wisconsin

- I opened with a few general remarks and sense for the level of activity. I also emphasized that the NR 135 Reclamation rule is flexible to enough to accommodate the frac mines even those that reach hundreds of acres.
- Bruce Brown spoke to the geology and some of the public concerns. Tom Woletz discussed his new role, described the various DNR permits that would be required in all case and those that might be needed (case-by-case determination). He also discussed typical public concerns the silica study the downside of air monitoring the need for up-front coordination.
- We discussed DNR activities and communication efforts (events and growth array of interested groups spoken to) and how these were being coordinated with Bruce Brown and WGNHS, Tom Woletz and I. Tom and I summarized the various DNR permits that may or may not be required and Tom gave more information on his new role.

▶ **Public Input** - (5 minute limit) None.

▶ **Other Discussion Items** None.

▶ **Final Go-around/Check-in – Timing of Next NMAC meeting**

Feedback was generally that the meeting was informative and that there continues to be over-all satisfaction with the administration of the NR 135 program both at the county/municipal and state levels. Gary Warner asked about the results of NR 135 program review audits and typical issues article published in WCCA's Decoder. I promised to send the article and the link to the fee report follows:

<http://dnr.wi.gov/org/aw/wm/publications/newpub/WA1366.pdf>.

We arrived at a consensus that the next annual NMAC meeting should be in **September 2012** and Mr. Ed Reesman volunteered to host a tour of some sites Payne and Dolan in SE WI. During the final go-around we learned that Mr. Jim Burgener is planning on retiring before the next meeting. Many thanks to Jim for all the contributions he has made over the years and for his and Marathon County's generosity in supporting both the rulemaking effort in the 1990's and the reclamation program since its inception.

This led to a discussion as to the eventual need for new members. Jim Burgener recommended Justin Cavey from Marathon County to take his place in representing the WCCA. Mr. Cavey has filled in for Jim at several past NMAC meetings. I subsequently communicated this to Mr. Cavey and he indicated that the process leading to his serving as the representative of the WCCA would involve a recommendation by the appropriate officials of the WCCA. Given that Bryce Richardson was not officially a full member it would appear that he would be a logical choice to represent WALCE. I discussed this with him on October 27 and he was fine with the idea and did not think that it would require any endorsement from WALCE. Dr. Tom Hunt was suggested as someone who might possible take over the scientific/academic soot in the future. Dr. Hunt, as many will recall, was part of the original Technical Advisory Committee (TAC) in drafting the NR 135 rule. I informed him that he had been suggested as a future candidate for the NMAC. The 2011 NMAC meeting adjourned about 3:00.