

**Firstar Bank Building, Madison, WI**

<b>Agenda Item</b>	<b>Key Points</b>	<b>Outcomes, Next Steps, Assignments</b>
<p><b>1. Call to Order</b> Introductions</p>	<p><b>Present:</b> Steve Plater (Platco), Jim Fitzgerald (Herb Fitzgerald Co.), Jill Fitzgerald (Jill's Master Dry Cleaners), John Robinson (WWWA), Joe Phillips (WFI), James Cherwinka (Wausau Chemical), Donna Griesemer (Spic and Span, Inc.), Don Gallo, Kendra Bonderud (Leg. Fiscal Bureau), Boyd Possin (for Catherine Sanders AERC)), Bob Karnauskas (consultant), and Robin Schmidt, Mark Giesfeldt, Barb Kneer, Leslie Gauberti, Mark Putra, all from the WDNR,</p>	
<p><b>2. Update on Status of Administrative Rules</b></p>	<p>Robin outlined the following revised timeline for the administrative rule making process for the program:</p> <ul style="list-style-type: none"> <li>* <b>Dec. 8,9:</b> to the Natural Resources Board</li> <li>* <b>Jan:</b> public hearings the first two weeks</li> <li>* <b>March:</b> back to the Board for adoption</li> <li>* <b>April:</b> to the Legislature</li> <li>* <b>June :</b> Rule effective</li> </ul> <p>Group members discussed a recent meeting with Secretary Meyer. Group members had different interpretations of the issues discussed at that meeting. Joe Phillips clarified the industry's position on the following:</p> <ul style="list-style-type: none"> <li>* Support for the expansion of the license fee to all dry cleaning services.</li> <li>* No support for an increase in the license fee rate at the present time. He indicated that the industry might support an increase at some future time in the program.</li> </ul>	

### 3. Timing of Site Investigations & Interim Remedial Actions

Group members discussed at length their perspectives and concerns over the timing of site investigations and the availability of program funds. The following issues were discussed:

- ◆ Group members agreed on the need to find a balance between the state's responsibility to the environment and public, and the industry's concerns about a potential adverse economic impact of the program to dry cleaners. Group members did not reach agreement on what that balance should be in the program requirements.
- ◆ DNR staff expressed concern that an existing environmental problem must be addressed in a reasonable amount of time. Mark and Robin indicated that an NR 716 site investigation schedule would be negotiated with the responsible party, taking into consideration environmental risk and ability to pay. They emphasized that enforcement discretion would need to be incorporated into the program. Industry members want assurance that the DNR won't force full site investigations if funds are not available. (DNR staff indicated they could not provide this assurance.) They are very concerned about the economic impact of the program on dry cleaners. Steve Plater emphasized that the industry membership supported the legislation to begin with believing that they would not be forced to clean up sites if funds not available. That agreement was not with DNR, however.
- ◆ John Robinson expressed concern for the cost effectiveness of the program - that what is cleaned up will be limited by the dollars available. He also stated that tying investigations and cleanups to the timing of when funding was available was bad public policy.
- ◆ Don Gallo discussed the history of the program legislation and its intent. Don suggested handling crisis site situations by using the Environmental Repair Fund and then paying it back over time from the grant program.
- ◆ Group members agreed that better definition of the extent of site contamination statewide was needed.
- ◆ Mark proposed that he would ask DNR managers if they would support the DNR conduct a study to define the need for clean up, including a random sampling of sites. The funding for the study would come out of the Environmental Fund with enforcement discretion (meaning no pay back to fund). Group members agreed that active sites should be included in the study and that the program should be implemented while the study was being done to avoid further program

Mark will discuss the following items with Secretary Meyer:

- The Industry and DNR staff positions on the timing of site investigations and the availability of funds
- Conducting a study to define the degree of contamination of sites statewide.

All group members agreed to think about the study's design. Industry members agreed to provide feedback to Robin on what they would like to know through the study. They will also examine their existing database to see what data already exists that would be useful to a study.

	<p>implementation delays.</p>	
<p><b>4. Eligibility Criteria - Who Should be Eligible for the Program</b></p>	<p>Group members discussed eligibility at length. Industry representatives agreed that they want to see broad coverage under the program - all operators, owners, both current and historical, including developers. They feel the statutes don't address eligibility clearly in the situation of a break in ownership eg, landlord sells to another party. The new owner should be eligible. They want an owner of property that was historically a dry cleaner facility to have access to fund.</p> <p>Suggestions were made to clarify the language: 1) add <u>current or historical</u> facility; 2) use the term "owner of real estate".</p> <p>DNR staff discussed focusing the program on known sites or on the "ma &amp; pa" dry cleaners who would not have other resources to draw from. Industry members concerned that this approach would not be equitable to all paying the fee.</p>	

<p><b>5. Statutory Changes for DNR Biennial Budget Discussion</b>  <i>Interim Remedial Actions</i></p> <p><i>Increase Fees to Increase the Fund</i></p> <p><i>Interest</i></p> <p><i>Past Costs</i></p> <p><i>Insurance Claims</i></p>	<p>Group members reviewed a Summary of Recommended Items for Statutory Changes for the 1999-2001 Biennial Budget and made the following comments:</p> <p>Group members discussed the need for a maximum cap on interim remedial action reimbursements. The industry wants a maximum as a cost control. Industry group members felt there should be a 50/50 co-pay with a maximum grant payment of \$20,000. They also wanted the \$2,500 cap set for preliminary site screening raised to \$3,000. All group members agreed that the cap should be specified in the administrative rules versus legislation.</p> <p>Industry members supported broadening the license fee to all dry cleaning Industry services and not considering raising the fee until sometime in the future.</p> <p>All group members agreed that interest should remain ineligible for reimbursement from the fund and that the confusing existing language should be clarified.</p> <p>Group members discussed how to allocate the funds designated for remedial actions among those sites cleaned up between 1991 and 1997 and those sites cleaned up after October 14, 1997.</p> <p>Members agreed on the following allocations:</p> <ul style="list-style-type: none"> <li>◆ <i>1st year:</i> 75% to past incurred costs; 25% to those costs incurred after 10/14/97</li> <li>◆ <i>2nd year:</i> 50% to past costs; 50% to costs incurred after 10/14/97</li> <li>◆ <i>3rd year:</i> 30% to past costs; 70% to costs incurred after 10/14/97</li> </ul> <p>DNR group members would like to see claims submitted for past costs at the end of the first grant year and more funds allocated toward current costs. They also discussed using three categories of cost risk - risk, significant risk, and imminent risk.</p> <p>Group members discussed the role of insurance claims, their relationship to the grant program, who would pursue a claim, and how insurance payments received by those using fund would have to be shared with the fund, including covering DNR legal costs. Group members discussed the idea of the industry assigning their policy rights to DNR and then DNR pursuing claims. DNR would be able to first</p>	<p>Mark and Robin will specifically communicate the Industry's viewpoint on broadening the license fee and no fee increase to Secretary Meyer.</p> <p>DNR staff will first discuss the option of pursuing insurance claims with the Department of Justice to see if the option is feasible.</p>
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<p><b>Statutory Change Items Not Pursued</b> <i>Use of Environmental Fund/Reimbursement from DERF</i></p> <p><i>Immediate Action Eligibility</i></p> <p><i>Long Term Monitoring</i></p> <p><i>Requiring facilities that close after receiving a grant to pay into the fund the average annual license fee for a specified period of time.</i></p> <p><b>Other Statutory Change Issues</b></p>	<p>cover the cost of pursuing the claim and the remaining monies would go into the DERP fund. DNR staff discussed the option of having the Department of Justice pursue claims with the DNR paying the costs.</p> <p>Group members discussed the following statutory changes not to be pursued:</p> <p>There was discussion regarding whether the Environmental Fund should be reimbursed from DERF, if used at a dry cleaning site. Initial discussions indicated that it should not; additional discussions were inconclusive. Further discussions may be needed on this topic.-</p> <p>Group members agreed that soil and free product removal should be eligible as immediate action items. This item should be removed from the list of items not to be pursued.</p> <p>All group members agree that with a reimbursement cap in place legislation to cover long term monitoring would not need to be pursued.</p> <p>Group members discussed the following issues related to requiring facilities that close after receiving funding to pay into the fund:</p> <ul style="list-style-type: none"> <li>◆ Use of liens to assure reimbursement to the fund. The group analyzed the scenario of a landlord agreeing to a lien on a property leased by a dry cleaner; the lien could be bought out at any time based on current year value. All members agreed the use of liens would have to be researched more thoroughly.</li> </ul> <p>Group members discussed the following other statutory change related issues:</p> <ul style="list-style-type: none"> <li>◆ Group members agreed that soil and groundwater clean up would be added to the program as eligible.</li> <li>◆ The need to extend the legislative time frames for the program in a future biennium.</li> <li>◆ The need to define the terms, "year 1, year 2, etc."</li> <li>◆ Jim Fitzgerald expressed his concern that existing statutory language about denial of applications under s. 292.65(8)(d)(8), made costs to clean up a problem</li> </ul>	<p>DNR agreed to discuss this option with the management team and attorney.</p>
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	caused by a person doing repairs or providing services to a dry cleaner not eligible under the program. Group members had differing opinions as to whether insurance would reimburse for costs incurred in this situation.	
<b>7. Next Meeting</b>	Tentatively scheduled for Monday, October 12	

LG: 9/18/98