



September 25, 2013

Mary Jo Webster
Conservation Specialist
La Crosse County Land Conservation
400 4th St. N – Room 3270
La Crosse, WI 54601

Subject: Nonmetallic Mining Reclamation Program Review for La Crosse County
(RA # = 55-063-00000)

Dear Mary Jo,

The Department is required by ch. NR 135 Wis. Adm. Code and s. 295.12 (3) Stats., to periodically conduct program review audits of all nonmetallic mining reclamation programs. Pursuant to ch. NR 135.47 (4), Wis. Adm. Code, these must be done at least once every ten years and a written compliance determination must be provided to the audited regulatory authority (RA).

The intent of the program review audit is fourfold: 1) to ensure that all NR 135 programs are being administered in a consistent manner and in accordance with s. 295.12 (3) Stats.; 2) to ensure that the uniform reclamation standards are being complied with; 3) to gather and/or verify information on program administration; and 4) to provide technical assistance and learn about any concerns you may have.

The following is a summary of the NR 135 Reclamation Program audit that I performed with you on September 10, 2013. It is based, in part, on the “*Comprehensive NR 135 Audit Checklist*” which includes information from both the office-based administrative and the field portions of the review.

I'd like to thank you for your cooperation during the office and field portions of the program review.

General - Program administration and recordkeeping

We began at the La Crosse County offices on the morning of Tuesday September 10th, 2013 and reviewed the files associated with the La Crosse County NR 135 Nonmetallic Mining Reclamation program. Present at the audit were; TJ Maglio (DNR), Mary Jo Webster (La Crosse County), Gregg Stangl (La Crosse County), and Bob Nelson (La Crosse County).

La Crosse County Code of Ordinances, Chapter 27 covers nonmetallic mine reclamation as required by NR 135.32. The original reclamation ordinance was approved by the County Board in 2001 and revised in 2007. The La Crosse County ordinance is available online at:

<http://www.co.la-crosse.wi.us/code/pdf/Chapter%2027%20Nonmetallic%20Mining%20Reclamation.pdf>

Currently, there are 16 nonmetallic mine sites and 1332 approved acres permitted under NR 135 with 197 actually being mined.

The reclamation program is extremely well organized and administered by La Crosse County. Mary Jo keeps both hard copy and computer based records on all County operators. She provided me with up to date listings of all permitted sites and a spreadsheet listing their permit status, annual fees and

financial assurances. She uses aerial photography and GPS data to support the “unreclaimed acreage” for billing purposes at all sites and gave a thorough explanation of the GPS process.

Collection and transfer of fees and reporting

The La Crosse County Code, in 27.34(3) references an external “per acre” fee to be determined by the County Board which shall reasonably equal the County’s cost of administering the program.

La Crosse County has an effective method of assessing and collecting annual fees on unreclaimed acres. Currently, fees are set at \$170 per acre plus the DNR share.

The DNR portion of the annual fees is transferred to the department in a timely manner. Annual reports are submitted by the permittees to Mary Jo and summarized for submittal to the DNR.

La Crosse County remains in compliance with annual reporting to the DNR as required by NR 135.37. This is now accomplished using DNR’s on-line reporting format.

It should be noted that although La Crosse County has one of the highest fee rates in the state, the program as a whole runs at a very slight deficit (see financial breakdown) and as required by NR 135.39(4)b(2), the program costs and expenditures are available for public review.

Response to inquiries, complaints & enforcement

Complaints are seldom received in La Crosse County relating to NMM reclamation. However, in the event that there is a complaint with the mining or reclamation process, Mary Jo has created a mitigation process which may be used as needed. This process entails a site visit; follow up with the complainant (if requested) and documentation of the results.

Permitting, reclamation plans, success criteria, modifications and alternative requirements

La Crosse County has a thorough process in place to assist operators in the creation, submission, and review of proposed reclamation plans. On September 10, Mary Jo provided me with a package including a reclamation plan checklist and an example of a permit acceptance letter she would typically send an operator on approval detailing the terms of the plan and permit.

The checklist is used to assure that the reclamation plan is complete. Public Notice of the reclamation plan is also provided to determine if there are requests for a public informational hearing.

The last new permit application was in 2006, and there have been none since. There has occasionally been a permit modification or ownership transfer since the last audit, and Mary Jo has a detailed system for tracking modifications, following closely the modification terms found in NR 135.24.

Financial Assurance

NR 135.40 (3) provides that financial assurance (FA) should be provided by the operator in an amount adequate to cover actual outstanding reclamation costs in the event of an operator default. Mary Jo currently uses a spreadsheet system for tracking FA amounts and expiration dates that she detailed during the paperwork portion of the audit.

Difficulties in estimating the adjusted or "actual" costs of a contracted reclamation in the event of operator failure were also discussed, as this necessitates periodic review and re-assessment of FA amounts (also as required in NR 135.40 (3)). Mary Jo currently reviews FA amounts using updated DOT bid prices to double-check estimated reclamation costs. She reviews her FA amounts on average every three years and plans on doing the same again this upcoming winter to adjust for rising construction and fuel costs.

Site Inspections

Mary Jo has a very robust inspection program, ensuring a visit at least once annually to each permitted mine in the County. She tracks all inspections electronically as well as maintaining paper records. She provided an example inspection form from a recent site inspection.

Her inspection process is very thorough and implements aerial photography as well as site images to both identify any problems and to indicate solutions. She is also heavily involved in the erosion control process at the mine sites, and as such is a regular presence at La Crosse County mine sites.

La Crosse County also requires operators notify the NMM staff during new stripping phases and at the commencement of reclamation activities, something that is highly recommended by DNR staff as a tool to prevent future reclamation compliance issues on each site.

Review of Program Finances

La Crosse County provided me with recent detailed cost data for the 2012 year. Please see Attachment 1 for more detail on the balance between revenue (fees collected) and administrative expenses. La Crosse County has set the annual fees at \$ 170.00 per acre plus the associated DNR fee.

For 2012, the revenue from annual reclamation fees collected from permittees in La Crosse County was \$34,686. After the \$1,230 was transferred to the DNR there remained \$33,456 available for administrative expenses. La Crosse County incurred administrative costs of \$34,314. Therefore, there was a minimal operational deficit of \$858.

Based on my review of these 2012 data, the County accurately records fees received from operators and tracks its administrative expenditures. Currently, revenue generated from annual reclamation fees fall short of covering current administrative expenditures by a small amount.

Field Portion of program review

We visited the following sites on September 10, 2013.

1) **Waldenberger Quarry.** Operated by Milestone Materials, Inc. (Photos #1 and #2). The Waldenberger Quarry is a 30+ acre pit actively mining gravel and various construction aggregates. This pit has been open for more than 40 years and continues to supply the La Crosse area with quality construction materials.

2) **Griswold Sand Pit.** Operated by Harry Griswold (Photo# 3). The Griswold Pit is a recently active sand and gravel operation located just east of La Crosse. Recently, there has been an ownership change and the current owner has ceased mine activity and commenced the reclamation process. Unfortunately, he has not been complying with the terms of his approved reclamation plan and Mary Jo has been busy working with him to ensure that reclamation standards are met.

2) **Bahr Clay Borrow.** Operated by St. Joseph Const. (Photo #4) The Bahr Clay Borrow was closed out and a COC was issued in 2009 due to successful reclamation to the post mining land use of agriculture.

Conclusions and Recommendations

Pursuant to NR 135.47 (4) and based on my observations and review of the La Crosse County NR 135 Nonmetallic Mining Reclamation Program, I find that La Crosse County is currently administering the nonmetallic mining reclamation program **in substantial compliance** with the requirements in Chapter 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code.

Based on the findings of the program review of the La Crosse County NR 135 program I am making the following recommendations and requests:

1. Continue to monitor financial assurance amounts. An updated guidance document regarding the re-assessment of FA amounts is being created to assist with this. It is important to ensure that all estimates of reclamation costs are accurate and reflect what today's cost to the County would be. Also, such reevaluation is required by NR 135.40(3).
2. Please keep me informed as to the status of the Griswold Pit and how the site is reclaimed. Let me know if you require any technical assistance or support in getting the operator to achieve compliance.
3. Please continue to refine your quantifiable reclamation success criteria as required by NR 135.13. to ensure and document that such criteria are appropriate for the post mining land use(s). This becomes particularly important in cases of agricultural post mining land uses.
4. Please keep me advised as to the status of and implementation of the above items.

Again, thank you for your time and effort provided during the DNR review of La Crosse County Nonmetallic Mining Reclamation Program. It has been a pleasure working with you. If you have questions or concerns or if you'd like to further discuss any of this please contact me at (608) 264-6022.

Sincerely,

TJ Maglio
Reclamation Specialist

cc: (electronically)

Gregg Stangl; La Crosse Land Conservation Director
Ed Lynch - WA/5; Phil Fauble – WA/5; Tom Portle – WA/5
Jill Schoen – WCR, Eau Claire

Attachments:

Attach. 1 - Review of Program finances,
Attach. 2 - Site visit photos

Attachment 1
Financial data summary for use in review of RA program finances

General program information	
Regulatory Authority/ Audit year	La Crosse County/2012
Administered by:	La Crosse County
Fee structure • Revised with amended ordinance?	Annual reclamation fees are set by external schedule at \$170/Acre, plus DNR fees.
Overhead costs - Expenditures on program administration	
Supplies	\$1,100
Salary & Fringe Benefits	\$31,254
Transportation and office space etc./ Administrative support/ data mgt.*	\$1,000
Equipment, fees (GPS or fees to access data base or contract services).	\$960
Total administrative expenses	\$34,314
Fees collected on unreclaimed acres	\$34,686
(+) Permit Review fees	n/a
(-) Amount transferred to DNR	\$1,230
Total operating revenue	\$33,456
(-) Total administrative expenses	\$34,314
Surplus or (deficit)	(-) \$858

(B) Materials received from La Crosse County

I received the following materials:

- Inspection checklist.
- Financial Data for 2012 La Crosse County.
- List of current operators and their status with regard to fees, financial assurance and other vitals.
- Copy of annual reporting correspondence that support the fee coaction and annual reporting process.
- Inspection package including inspection form and photo documentation record.
- Plan review package.
- Financial Assurance package.

(B.1) Materials sent to La Crosse County

I sent the following materials:

- N/A

**Attachment 2
Site Visit Photos**



Photo 1 – Waldenberger Quarry (operated by Milestone Materials, Inc.) This construction aggregate mine has been in operation for over 40 years. The post mining land use of this property will be passive recreation/green space.



Photo 2 – The Waldenberger Quarry – While on site, Mary Jo addressed an erosion control issue dealing with unstabilized berms and an unprotected slope.



Photo 3 – The Griswold Sand Pit (operated by Harry Griswold.) is a recently active sand and gravel pit. La Crosse County recently transferred the permit to the new owner, whom has started the reclamation process. Unfortunately, he has not been following the reclamation plan properly and Mary Jo is working with him to get his reclamation done according to the standards specified in NR 135.13.



Photo 4 – The Bahr Clay Borrow Pit (operated by St. Joseph’s Construction, Inc.) was a clay/sand mine that received a COC in 2009. The site has undergone successful reclamation and is now functional agricultural fields, its specified post mining land use. Mary Jo required soil testing as additional success criteria for its release because of agriculture soil requirements.



The following information is provided for your reference. It is intended to assist you in understanding the data presented in the report. The information is based on the best available data and is subject to change as more information becomes available. The information is provided for your reference only and should not be used as a basis for any decision-making process.



This report is intended to provide a summary of the findings of the study. The information is based on the best available data and is subject to change as more information becomes available. The information is provided for your reference only and should not be used as a basis for any decision-making process.