

You may find this letter of interest as you compose your response to the reclamation document written by Roberta Walls. Your thoughts are due on Friday, May 28th. See previous Frac Sand Sentinel issues for the announcement and for the documents that will assist you in composing a response. It is critical that many write.



.....keeping watch on
the industry

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Reclaiming Frac Sand Mines is a Challenge!



Tom Lister, a retired Judge and Attorney has written this letter to Roberta Walls, WDNR spokesperson on Reclamation rulings (esp. NR135) and administrative rulings which govern reclamation in counties, towns, and municipalities in the state of Wisconsin.

May 22, 2021

Dear Ms. Walls,

Several years ago, I met with you and raised alarms about Frac Sand companies. You told me among other things that the DNR had no authority to order endangered species studies on private property. I embarked on a three-year lobbying and litigation effort to stop the proliferation of Frac Sand mines. In the course of this work, I learned that counties were approving reclamation plans which were totally underfunded and yet backed by bonds which could be revoked upon 90 days written notice.

I requested the DNR conduct an interim audit of the reclamation plans being approved in Jackson County, which I knew to be biased, corrupt, woefully inadequate, and procedurally illegal. Your agency, referencing an audit conducted years earlier, summarily denied my request and indicated Jackson County was doing everything right.

Your agency fought our efforts to have a hearing on a proposed rail load-out on the bank of Halls Creek, a Class I trout stream, claiming we were a day late in filing an objection to a deadline which was not brought to public attention, while the mine was given private, preferential notice. We went to great expense and a huge commitment of time to successfully stop that project, as well as every other mine then proposed, in Jackson and Trempealeau Counties.

We established through multiple legal actions that these mines constituted private nuisance and could be prohibited through anticipatory private nuisance actions.

We began representing the people who were suffering from living in close proximity to these environmental abominations. Folks whose water was poisoned with arsenic and lead, whose air was filled with deadly silica PM2.5, whose lands were covered with toxic sludge from spills due to poor maintenance and construction of waste ponds were among those considered. Foundations were cracked by blasting allowing radon to seep into homes at cancer-causing levels. Windows had to be kept closed to prevent heavy dust concentrations and then covered with dark shades to keep out the ever-present light while televisions remained on at high volume all night long to provide white noise so these residents and their children could sleep. Livestock were sickened, property values plummeted, marriages and relationships were frayed, and physical and emotional health of entire families were impacted. Farming and livestock operations were also severely damaged. Sand clogged home and business water appliances and filters. Dust control measures, which are necessary to keep dangerous dust from escaping huge piles of sand, were never installed as promised or were not utilized; and when neighbors complained, your agency did nothing to effectively stop migrant dust.

These mines were told when DNR inspections at their facilities were scheduled. They would install new dust filters and prewash sand which was run for a second time while your personnel were present and performing testing in order to skew the results.

Hi Crush manipulated the water usage meters on high-capacity wells supplying their treatment facilities in order to draw more water than authorized with the actual meters buried underground. When their ponds were over capacity, they surreptitiously pumped toxic effluent over a nearby hill to hide it from your inspectors.

They failed to protect their workers from deadly silica dust; and then when they laid them off, they required them to sign releases of liability and non-disclosure agreement in order to obtain severance pay. This same facility was then given a safety commendation award!

Ms. Walls, this is not an industry which can be governed by mere recommendations. It must be ruled by strict regulations which are, in turn, strictly enforced. The DNR has utterly, and I maintain intentionally and willfully, failed to control this industry. These companies which have irreparably scarred Wisconsin's Driftless area, are now becoming bankrupt; they will leave the counties, which lack necessary resources to clean up their mess despite first allowing their executives to take huge bonus payments before the bankruptcy declaration. Several companies are currently under SEC investigation for such conduct.

Your agency promised a groundwater study; and then, months and years later, said it could not be done because there was no funding. Your agency has come to rely on our Project Outreach which has placed dozens of purple air monitors around mining facilities in order to gather accurate data concerning plumes of invisible and deadly PM2.5.

Your plan to create suggestions for appropriate standards of reclamation are ex post facto. Your effort is far too little and far too late for the countless number of folks which have been denied the quiet and peaceful use and enjoyment of their homes and property. It seems to be merely another disingenuous effort by the DNR to placate adverse public opinion, and to dodge the outrage which will follow,

as the citizens of this State come to recognize the environmental and human costs of your department's neglect and complicity with the frac-sand-mining industry.

Disrespectfully,

Thomas E. Lister, JD

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Welcome to the Frac Sand Sentinel, a newsletter highlighting resource links, news media accounts, blog posts, correspondence, observations and opinions gathered regarding local actions on, and impacts of, the developing frac sand mining and processing industries.

The content of this newsletter is for informational purposes only. The editor of the Frac Sand Sentinel does not accept any responsibility or liability for the use or misuse of the content of this newsletter or reliance by any persons on the newsletters contents.

CHECK OUT THE WEBSITE: wisair.wordpress.com and for additional information, [click here](#) for panoramic aerial views of frac sand mines, processing plants, and trans-load facilities. FracTracker.org is also an excellent source of information.