

Dispute Resolution Report
January 25, 2017
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There are presently **13** appeals pending. All of the appeals involve WCA. There has been **2** new appeal filed since the last report (December 14th Board Meeting).

Format note: New appeals that have been filed since last report to the Board.
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File 17-2 (1-23-17) This is an appeal of a restoration order in Wabasha County. The appeal regards the unauthorized impacts to wetlands associated with the placement of agricultural drain tile. A previous appeal (File 16-6) of a restoration order was placed in abeyance for expanded technical review. As a result, the restoration order was revised reducing the overall area of impact and required restoration making the previous appeal moot. And now the revised restoration order is being appealed. No decision has been made on the appeal

File 17-1 (1-3-17) This is an appeal of an exemption decision in Sibley County. The appeal regards the denial of an agricultural drainage exemption application. At issue is the wetland type determination. A previous appeal (File 16-10) was remanded for further technical evaluation and now the current denial is being appealed. No decision has been made on the appeal.

~~File 16-13 (10-31-16) This is an appeal of two restoration orders in Stearns County. The appeal regards the unauthorized drainage impacts to wetlands associated with the placement of agricultural drain tile on multiple parcels. The appeal was withdrawn and the case dismissed.~~

File 16-12 (9-30-16) This is an appeal of a restoration order in Nicollet County. The appeal regards the unauthorized impacts to 11.2 acres of wetland associated with the installation of agricultural drain tile. The appeal has been placed in abeyance for submittal of additional documentation and for the TEP to convene onsite and develop written findings of fact.

File 16-11 (9-27-16) This is an appeal of a restoration order in Waseca County. The appeal regards the unauthorized placement of 4,300 sq. ft. of fill in a wetland to create additional parking area. The appeal has been placed in abeyance for submittal of additional information and for the TEP to convene on site and develop written findings of fact.

~~File 16-10 (9-12-16) This is an appeal of an exemption decision in Sibley County. The appeal regards the denial of an agricultural drainage exemption associated with 8.5 acres of wetland. The appeal has been remanded back to the LGU for completion of technical work and administrative proceedings. A new decision was made under remand and now that decision is being appealed.~~

File 16-9 (8-15-16) This is an appeal of a restoration order in Todd County. The appeal regards the unauthorized impacts to approximately 19.9 acres of wetland associated with the placement of agricultural drain tile. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption and no-loss.

File 16-8 (8-9-16) This is an appeal of a replacement plan decision in St. Louis County. The appeal regards the denial of a replacement plan application for wetland impacts associated with the construction of a new high school. A decision was made on August 30, 2016 to grant and hear the appeal. Subsequently a citizen petition was filed requesting a discretionary Environmental Assessment Worksheet (EAW) be conducted on the proposed project. As such, the administrative appeal proceedings are on hold by mutual agreement until the environmental review process is completed. Recently received a formal notice from the appellants' attorney requesting that the appeal be withdrawn and the case dismissed.

File 16-7 (7-7-16) This is an appeal of a restoration order in Morrison County. The appeal regards the unauthorized impacts to approximately 3.6 acres of wetland associated with an agricultural drainage project. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption, no-loss and a replacement plan.

~~File 16-6 (5-27-16) This is an appeal of a restoration order in Wabasha County. The appeal regards the unauthorized impacts to approximately 61 acres of wetland associated with the placement of agricultural drain tile. The appeal has been placed in abeyance for the Technical Evaluation Panel to convene onsite and develop written findings of fact. A revised restoration order was issued and now that restoration order is being appealed.~~

~~File 16-5 (4-28-16) This is an appeal of an exemption and no loss decision in Olmsted County. The appeal regards the denial of an exemption and no loss application for agricultural activities resulting in 4.6 acres of wetland impact. The applications were submitted in conjunction with an appeal of a restoration order (File 15-7). The appeal was withdrawn and the case dismissed.~~

File 16-4 (4-18-16) This is an appeal of an exemption decision in Wright County. The appeal regards the denial of an exemption application for repair of a pre-existing drain tile system that could partially drain 5-10 acres of wetland. A decision was made to grant and hear the appeal. A pre-hearing conference took place on September 15, 2016 and both parties mutually agreed to postpone scheduling filing of written briefs in order to continue to investigate potential settlement options. The parties are no longer interested in settling this matter and have requested to proceed with briefing. A briefing schedule has been established and a DRC Hearing will take place following the May 24th Board meeting.

File 15-10 (10-14-15). This is an appeal of a restoration order in Chisago County. The appeal regards the unauthorized placement of fill in a wetland resulting in approximately 1.5 acres of impact. The alleged impacts are associated with the construction of motor cross/ATV track. The appeal has been placed in abeyance and the restoration order stayed for the Technical Evaluation Plan to convene on site and develop written findings of fact on the area of impact.

File 15-7 (7-20-15) This is an appeal of a Restoration Order in Olmsted County. The appeal regards the unauthorized placement of drain tile in a purported wetland. Applications for exemption and no-loss determinations have been submitted to the local unit of government concurrently with the appeal. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption and no-loss. That decision has been appealed (File 16-5). The appeal will remain in abeyance until there is a final decision on the exemption and no-loss appeal.

File 14-6 (5-28-14) This is an appeal of a replacement plan decision by DNR Land and Minerals involving the Hibbing Taconite Mine and Stockpile Progression and Williams Creek Wetland Mitigation. The appeal regards the approval of a wetland replacement plan application for mining related activities. A similar appeal was also filed simultaneously with DNR under procedures required for permit to mine. The appeal has been placed in abeyance for completion of DNR's contested case proceedings. DNR's February 11, 2016 final decision has been appealed to the Court of Appeals. The appeal will remain in abeyance pending judicial review.

File 11-1 (1-20-11) This is an appeal of a restoration order in Hennepin County. The appeal regards the filling of approximately 1.77 acres of wetland and 0.69 acres of excavation. The appeal has been placed in abeyance and the restoration order stayed until there is a final decision on an after-the-fact wetland application and confirmation of required mitigation. Site certification is scheduled to take place during the 2016.

File 09-10 (7-9-09) This is an appeal of a banking plan application in Aitkin County. The appeal regards the LGU's denial of a banking plan application to restore 427.5 acres of wetlands through the use of exceptional natural resource value. The appeal has been accepted and settlement discussions are on hold while the appellant addresses permitting issues with the Corps of Engineers. The appeal has been placed in abeyance by mutual agreement. A revised wetland bank plan application has been approved with conditions. Those conditions require the approval of partial ditch abandonment along with a Conditional Use Permit for alterations in the floodplain.

