

# Minnesota Wetland Conservation Act



## Stakeholder Input Process for Program Changes

September 25, 2014

# Agenda

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1. Process and Timeline; Goals of the Process and this Meeting; Participant Expectations.
2. Overview of input received at sector meetings.
3. Prioritization of issues.
4. Detailed review/discussion of topics:
  - A. Replacement wetland siting criteria and targeting of mitigation.
  - B. In-Lieu Fee Wetland Mitigation Mechanism.
  - C. Alternative Options for Mitigation (if time allows).

# Goal of this Process

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- The goal is to generate a consensus among agencies and stakeholders for implementation of specific recommendations to improve wetland management in 2015.
- It is anticipated that these changes can be implemented via a combination of statute, rule, policy, or other administrative action.

# Process and Timeline

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- Process began in July, and will last until start of 2015 Legislative Session.
- 4 sector meetings were held in July and August.
- The Program Team, made up of agency staff, has met several times.
- The Technical Team, made up of local government staff, agency staff, and consultants will be meeting later in the process.

# Goal of Today's Meeting

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- 1) Inform
- 2) Prioritize Issues
- 3) Provide input and reaction
- 4) Listen



- Discussions should focus not only on what's important to us, but also what is important to others, what is best for the resource, and how can we implement wetland regulatory programs in a way that works for all Minnesotans?

# Meeting Participation Process

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- Only those at front table are directly involved in the discussions.
- Those in back can comment through their representative at the front table, or submit written comments.
- We will take breaks periodically to allow for communication.
- Anyone may submit written comments using the comment form provided or via e-mail.

# Ground Rules

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- 1) One speaker at a time.
- 2) Be brief and meaningful.
- 3) Allow participation by everyone – no one should dominate.
- 4) Listen to understand.
- 5) Seek common ground.
- 6) Remain open to new ideas.

# Expectations and Outcomes

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- Respectful and cooperative discussions are important in order to have an effective process with meaningful input. We hope all will participate.
- There will be disagreements and differences of opinion. We can disagree without being disagreeable!
- When general consensus is not achieved, the agencies will ultimately have to decide on next steps, using a balance of science and social considerations (including the consideration of stakeholder input).

# Input Received – Local Gov't Sector

## Summary of Main Points from July 23, 2014 Meeting

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- De minimis – difficult issue but should be simplified.
- Quality wetlands at reasonable costs.
- Establish wetland group similar to drainage mgmt. work group.
- Improved coordination of WCA and 404, Swampbuster.
- Support for mitigation in high priority areas in pothole region.
- Replacement should be function and value driven. Also need to address differences in land value.
- Potential issues with ILF, but could work well for non-traditional mitigation. Should have list of ready-to-go projects.
- Support electronic application/permitting system.

# Input Received – Ag Sector

Summary of Main Points from July 24, 2014 Meeting

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- Concern over constant changes to WCA.
- Promote private banking. Good start for ag banking but concern over competition from conservation programs.
- An ILF should address activities that banking does not do or do well. Ag interest in ILF will decrease if more ag banks are established.
- Use Outdoor Heritage or Clean Water Fund dollars to fund WCA.
- De minimis and pre-settlement zones low priority – don't jeopardize other important issues.
- Consider some alternative mitigation options statewide.
- 2015 ag drainage bill not needed.

# Input Received – Environment Sector

## Summary of Main Points from August 19, 2014 Meeting

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- Consider quality and function, not just area. Need better functional & qualitative assessment tools and use of them. Account for statewide functional value.
- Increased avoidance and/or ratios for difficult to replace wetlands, impaired watersheds, etc.
- Concern over mining, lack of avoidance, missing opportunities to use alternative technologies.
- Concern over DNR L&M implementation.
- Need start-up funding to support ILF program.
- Support for electronic application/permitting system and better data.

# Input Received – Bus/Industry Sector

## Summary of Main Points from August 21, 2014 Meeting

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- General support for high priority areas and alternative mitigation options in concept, but concerns over implementation.
- Watershed plan implementation project option makes most sense.
- There should not be penalties when mitigation is not available within the watershed – make it easier to go outside of the NE. Also recognize the value of large projects.
- Use private mitigation funds as a match for Clean Water Fund projects.

# Prioritization

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- The primary issues are grouped into 22 categories.
  - Each organization gets 5 sticky dots.
  - Place your dots on the 5 issues that are your organization's highest priorities to be addressed - **please write the corresponding issue # on each dot.**
- ❖ *Those organizations not in attendance will have one week to provide their priorities following today's meeting.*

# Prioritization

- 1) No Net Loss
- 2) Ag Drainage
- 3) De minimis
- 4) Pre-settlement Zones
- 5) WCA-404 Consistency
- 6) 404 Assumption
- 7) 401 Certification
- 8) WCA-Public Waters Consistency
- 9) WCA-Swampbuster Coordination
- 10) Local Road Replacement Program Review
- 11) Off-Site Wetland Replacement under Permit-to-Mine
- 12) Wetland Mitigation Siting
- 13) Wetland Mitigation Search Criteria
- 14) Alternative Mitigation Options in NE
- 15) NE Wetland Mitigation Cooperative
- 16) In-Lieu Fee Mitigation Program
- 17) Other Recommendations for Mitigation
- 18) Increase WCA Funding
- 19) Adequacy of Wetland Bank Program Funding
- 20) Funding and Tools for Wetland Restorations
- 21) Local Government Implementation of WCA
- 22) On-line Permitting and Reporting System

# PRIORITIZATION

## Initial Suggested Priorities for 2015

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1. Siting Criteria and Targeting of Mitigation.
2. In-Lieu Fee Mitigation Mechanism.
3. Alternative Options for Mitigation (*if time allows*).

❖ We will begin discussing these in detail today.

# Siting Criteria and Targeting of Mitigation

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- Siting Criteria
- Potential Process for Establishing Priority Areas
- Replacement Ratios
- Targeting
  - Factors affecting acceptance
  - Implementation
- Discussion Questions

# Siting Criteria

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## Proposed Siting Criteria (M.S. 103G.222, Subd. 3):

- 1) On-site or in the same minor watershed as the impact.
- 2) In the same major watershed as the impact.
- 3) In the same bank service area as the impact.
- 4) In an area of the state that has been designated as high priority for wetland restoration.\*
- 5) In another bank service area.

\*Under current siting criteria, step 4 allows mitigation statewide.

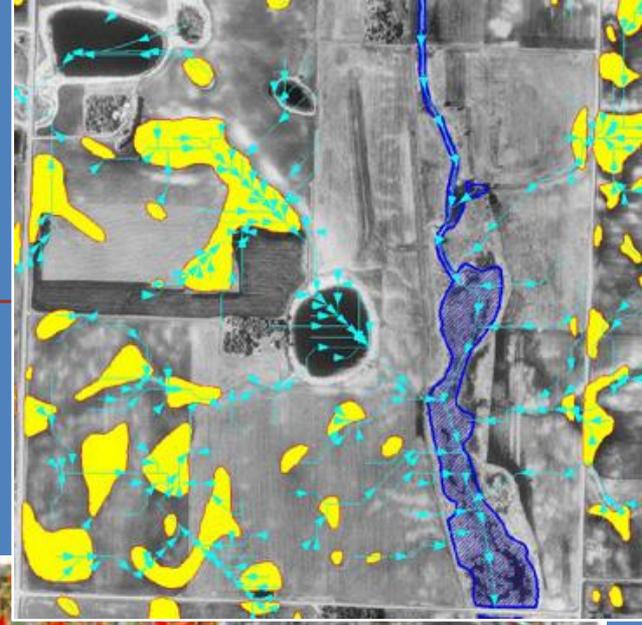
# Potential Process for Establishing Priority Areas

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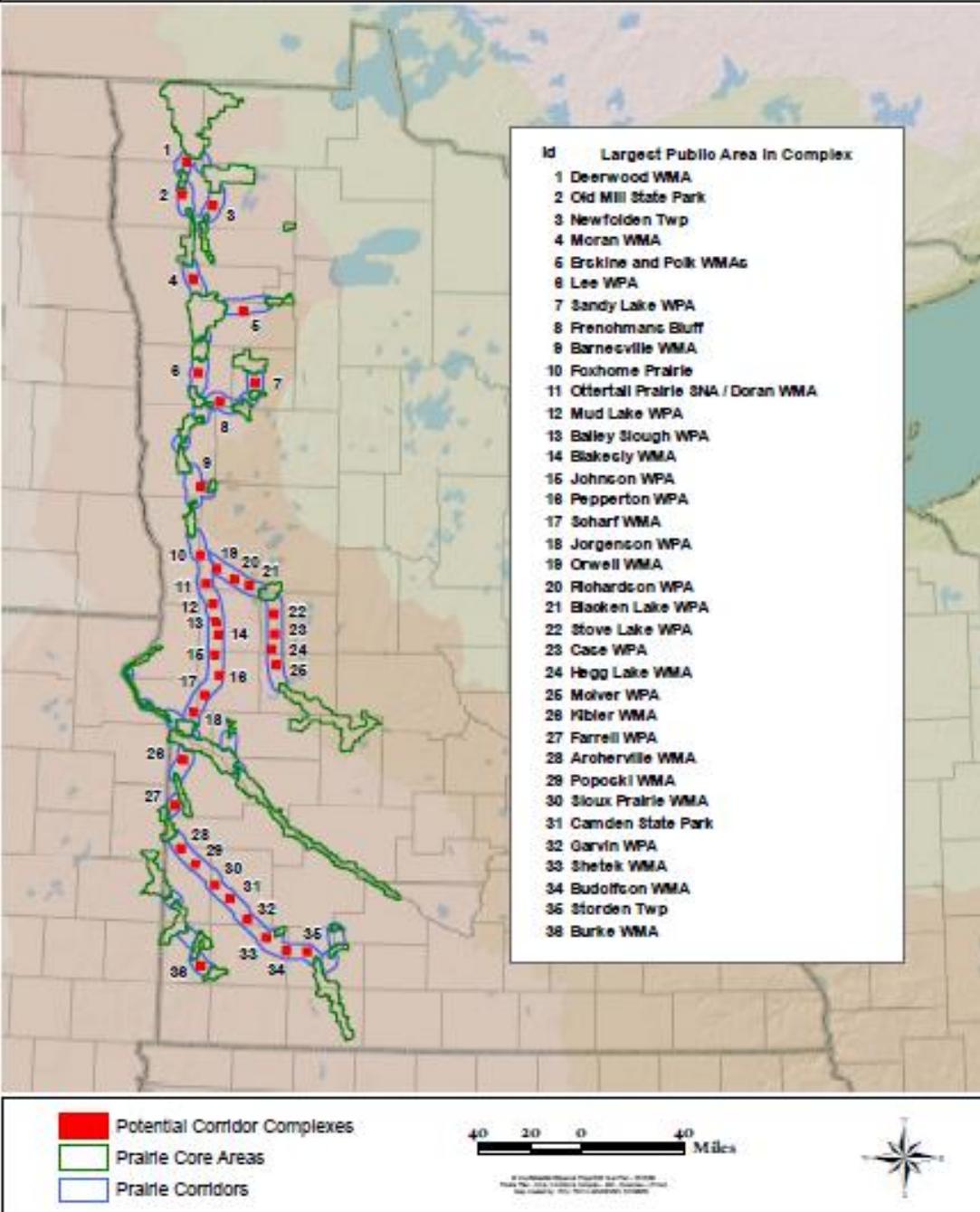
- 1) Establish interagency team.
  - 2) Review information from agency staff, state-wide plans, and State-approved local plans.
  - 3) Recommendation to and approval by BWSR Board.
  - 4) Publish in State Register and BWSR website.
  - 5) Targeting and project implementation begins.
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- ❖ The Corps would be involved in the process (likely per an interagency MOU) and incorporate the priority areas into District Policy.

# Prairie Pothole Region

- Very Broad Scale.
- Virtually unlimited restoration opportunities.
- Not very targeted.



## Map 7. Potential Corridor Complexes



# Minnesota Prairie Conservation Plan

- Smaller and much more specific scale.
- Improved targeting and coordination.
- Significant restoration opportunities and process in place to implement.

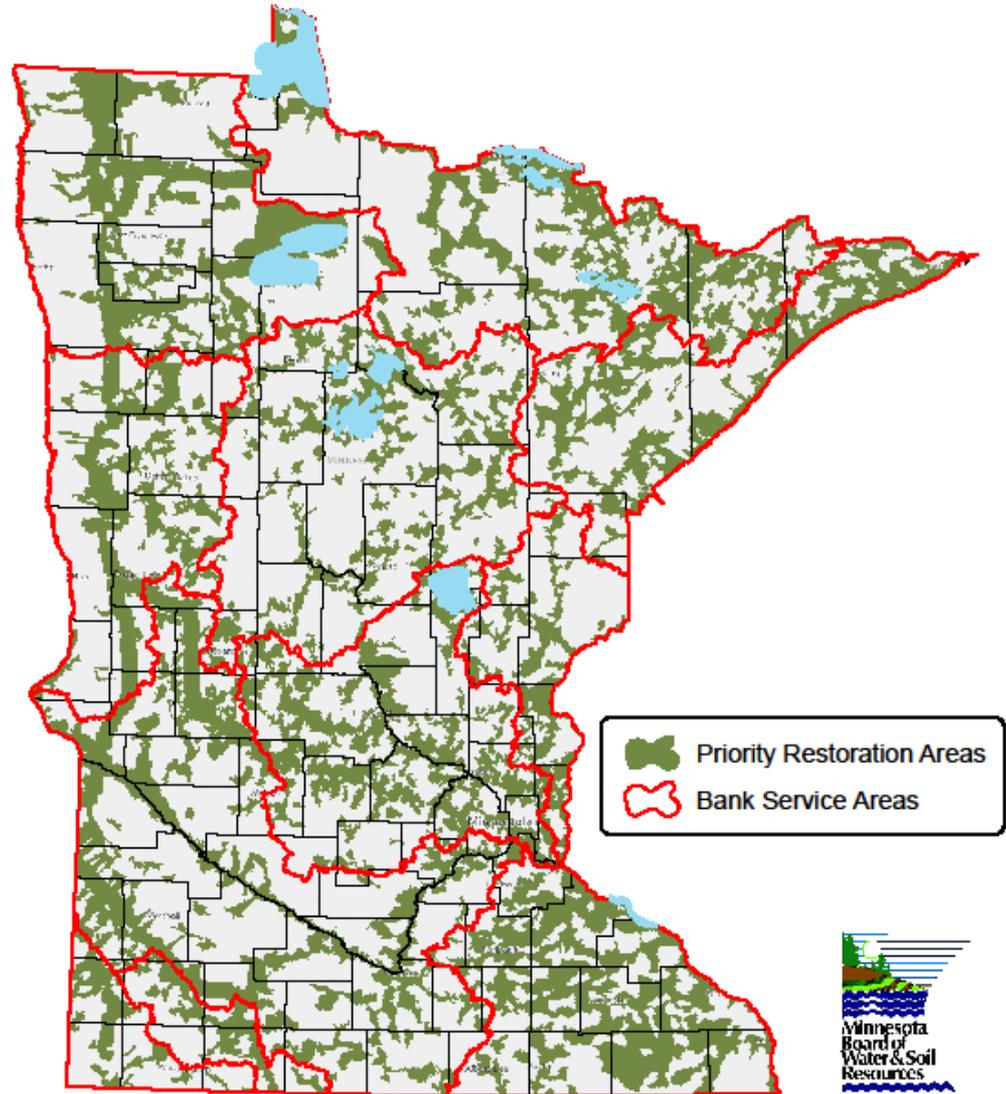


# Additional info can be considered.

Data sets incorporated in this example:

- Nature Conservancy Core Areas, Corridors, and Corridor Complexes.
- MPCA Impaired Waters (subwatersheds).
- DNR Ecological Patches and Connections (using modified version of 2006 National Land Cover Database).

## ILF Priority Wetland Restoration Areas



**Data Sources:**  
TNC - MN Prairie Conservation Plan Core Areas, Corridors and Corridor Complexes  
DNR - Ecological Patches and Connections  
DNR - Level 8 - All Catchments  
MPCA - Impaired Lakes, Streams and Wetlands



April 2014

# Priority Areas Discussion

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- What is the appropriate scale?
- Is it as easy as adopting the prairie plan?
- What factors should be considered in identifying priority areas?
- How hard should it be to expand or change the priority area?
- Should there be the ability to tie to local plans?

# Replacement Ratios

## General Order and Discussion Questions

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- 1) When adequate mitigation is available, replace wetland impacts within the watershed (BSA) at the base ratio.
- 2) When leaving the BSA for a portion of the mitigation, at least do something (alternative options) within the watershed.
- 3) **When replacing outside the BSA in a priority area, what should the replacement ratio be?**
  - ❖ What are the reasons for little to no penalty?
  - ❖ What are the reasons for a more substantive penalty?
- 4) When replacing outside the BSA in a non-priority area, what should the ratio be?

## *One Possible Example*

### of how the Siting Criteria could be implemented.

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- 1) **Replace wetland impacts within the same BSA at 1:1.** All actions eligible for credit are available, including alternative actions, except the “Approved Watershed Plan Implementation Project” option. If adequate mitigation isn’t available, proceed to step 2.
- 2) **Replace wetland impacts in a priority area at 1:1, and within NE MN, implement:**
  - a. one or more approved watershed plan implementation projects focused on maintenance or improvement of water quality;
  - b. any alternative options for mitigation credit equivalent to a 0.5:1 ratio; or
  - c. any combination of a and b.
- 3) **Replace wetland impacts in a priority area at 1.5:1.**
- 4) **Replace wetland impacts in another BSA at a higher ratio.**

# More Discussion Questions

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- When mitigation is split (some within the BSA and some in priority area) how much should stay in-watershed and how should that affect replacement ratios?
- Should some BSAs be off limits all together (i.e. impacts in southern MN watersheds cannot replace in far NW MN regardless of ratio)?
- How should BSA limitations and/or ratio incentives be set to make siting more efficient (for use of bank credits)?

# Thank You!

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- Post-meeting comments can be sent to:  
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