



Minnesota Wetland Conservation Act

Stakeholder Input for Program Changes

Local Government Sector Meeting

12:30 p.m.
July 23, 2014

Association of Minnesota Counties
125 Charles Avenue
St. Paul, Minnesota

Meeting Notes

Participants: Rich Sve, Commissioner, Lake County; Keith Carlson, Metropolitan Inter-County Association; Shelia Vanney, Mn Association of Soil and Water Conservation Districts; Josh Stromlund, Lake of the Woods County; Jennifer Engstrom, DNR; Doug Norris, DNR; Colleen Allen, DNR; Tim Smith, U.S. Army Corps of Engineers; Annalee Garletz, Association of MN Counties; Julie Ring, Association of Mn Counties; Representative Paul Torkelson; Ron Harnack, Red River Watershed Management Board; Ray Bohn, Mn Association of Watershed Districts; Craig Johnson, League of Mn Cities; Les Lemm, BWSR; Dave Weirens, BWSR.

1. Background and purpose of this process and today's meeting.

Dave Weirens and Les Lemm provided an overview of the purpose of today's meeting and reviewed the following reports, with a focus on recommendations:

- Executive Order 12-04, Supporting and Strengthening the Implementation of the State's Wetland Policy; and
- Siting of Wetland Mitigation in Northeast Minnesota .

2. Discussion/Comments/Questions.

- Q. What issues are under consideration?
- The de minimis exemption was a difficult issue in the 2012 Legislative session.
- Is the current regulatory process giving us quality wetlands at a reasonable cost? Are we getting the desired results?
- Simplify the de minimis exemption and the approval process – this is in the Assoc. of Mn Counties platform.
- Wetland quality comes at a cost – getting quality wetlands at a reasonable cost is a big deal in NE MN. As an example, an ATV trail would have had to pay for mitigation at \$2.00 per square foot, but was fortunate to get a waiver and only pay \$.40. This issue needs to be addressed, particularly for public projects or projects using taxpayer funding.
- Consistent review of mitigation projects, defining who the LGU is, regionalizing wetland specialists and/or combining implementation among small counties, and increasing funding for LGUs and SWCDs are all important/priority issues.

- No net loss - there is a tendency to view it too narrowly. Look at public value and public interest; currently we look at things like replacing type for type rather than looking regionally at what provides value from a statewide perspective.
- Wetlands on ag land: what does that mean (permanent, intermittent, drained, farmed)? WCA should differentiate between real function and value vs. those farmed year-in/year-out.
- Designated wetlands on ag land cannot be tiled under the U.S Farm Bill.
- Its not just what is exempt or not, but what is regulated and what is not. There is a lot of arguing over 5 to 10 feet – it would streamline the process if the federal government or local government could accept each other’s delineations.
- There may be some value in taking another look at 404 assumption.
- There are frustrations over WCA/404 coordination, particularly for transportation.
- Recent legislation re-affirmed that DNR can delegate certain functions to local governments. Coordination with the Corps through a general permit to LGUs would improve the efficiency by which a permit could be processed. Even if it costs more, it may be acceptable to applicants in exchange for increased efficiency and timeliness.
- Current coordination over ag wetlands is made difficult by private data issues involving NRCS. USDA-FSA should be added to list of agencies to coordinate with, and FSA should encourage/give landowners an opportunity to share information voluntarily.
- What successes has DNR Lands & Minerals had in coordinating with the Corps/404? What problems has L&M had with implementing WCA? I get the impression that L&M is making independent determinations on how to implement/administer WCA.
- Local implementation of WCA makes it challenging, but DNR electronic permitting should be brought into WCA. There should be one common application that can be used by all local administrators.
- NE Report prepared by Barr Engineering - the regional assessment goes a long ways towards addressing the availability of opportunities to meet mitigation needs.
- Rather than assessing practicability on an individual basis, look at a regional basis. Instead of siting mitigation in >80% areas, put it in <50% areas. Its all about function and value, and what we are trying to get in return.
- Of the priority areas identified in state plans, none are in the NE. So why not find a way to get it there (to parts of the state where we need wetlands)? Let them go there at 2:1 or 3:1 when really 1:1 will get you there in terms of functions and values outcomes.
- Prairie Plan and related efforts should be used for mitigation siting outside of NE, but an effort needs to be made to counter the economic disincentive.
- High priority/value resources in NE should be replaced with high priority/value resources elsewhere, replacement should be function and value driven.
- I would rather see the bank in place rather than a fee collected for someone to go replace the wetland later. It may be tougher to address no-net-loss with an in-lieu-fee program.
- Address water quality in the watershed where the impact occurs, replace the wetlands elsewhere.
- The burden should not be placed on applicants to look at the same sites again; resource managers should identify important resources (like buffers to trout streams) and provide those options to applicants. The perspective should be broadened to look at all aquatic resources, not just wetlands.

- Why would replacement ratios be increased if mitigation is going to a priority area? The penalty is a higher cost - it should not also be more area.
- Our goals should be to “restore” in the SW and “maintain” in the NE. If we export wetlands from the NE, at what point do we degrade NE watersheds?
- There is a need to balance economic development with environmental protection.
- If all of the buildable area in Lake County was developed (80% public, 90%+ presettlement wetlands intact), it would still be a >80% county.
- I agree with trout stream protection, etc., but to protect every little thing? Where do we draw the line?
- Some of the current problem is that some groups just don’t want mining – some want mining companies to die on the vine because of the lack of wetland mitigation.
- Establish a greater than 90% area and create a higher de minimis.
- 5,000 acres in NE MN is not a big number.
- Allow other environmental benefits to offset wetland impacts – septic systems – although it would be very difficult to get Corp and EPA support for doing this.
- The crediting of preservation tells us how important we think preservation is. How we credit alternative actions will be important – if you can only get a small amount of credit, are they really as important as you say?
- DNR has identified the RRV as a high priority for stream restoration – should that mitigation option be allowed there? Agencies should prioritize resource protection over just wetlands.
- The value of restoring the cold water fishery is the same as for a warm water fishery. Some mitigation options should be restricted regionally; place a higher priority on other areas.
- Could biological indices be used to provide equivalence to different actions in different water bodies? If an action addresses a biological impairment, give it credit.
- Can/should the Iron Range Resources and Rehabilitation Board fund a mitigation cooperative? One problem is that funds cannot be spent outside of the taconite tax area.
- Involving public money with wetland mitigation makes me nervous. But we could look at mixing and matching state and federal conservation funds with mitigation funds to leverage other dollars towards a common goal – just keep the credits separate.
- Mitigation must be started within 3 years under an in lieu fee program according to the federal rule.
- It is a slippery slope when using public money – no net loss.
- Other options for mitigation should be evaluated prior to going for an in lieu fee program, due to complexity and no net loss assurances.
- There is a need to have a list of ready to go projects when money is paid in to an in lieu fee program – how is this work to be paid for?
- An in lieu fee program will be viewed as competition with wetland banks, but an in lieu fee program would work well for nontraditional mitigation options.
- Could mining companies front-end load an in lieu program (i.e. make payment now, and use the credits later when needed)? Payments to a program would need to be tied to a permit.
- In lieu fee programs can typically only buy existing credits when in default or as directed by the Corps.
- In lieu programs need to be put in context with other public ownership programs.

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- If restoring wetlands in priority areas is really important, the public should pay for the added value; how address a one-time payment in a manner that addresses ongoing value and income off the land? For example, if we have land valued at \$5,000/acre – instead of paying the landowner \$5,000/acre once, we should pay him \$7,000 because of the significant public return moving forward. Land values in the metro fringe are higher, should high priority areas be any different? *Note: this comment appears to be more in the context of payments for voluntary restoration programs.*
- Should we not do a better job of prioritizing and then pay more for the benefits we want to achieve?
- Should a group similar to the drainage management work group be established to address wetland/WCA issues? This process would allow addressing issues one by one over time and may be a better way to develop consensus recommendations.

3. Wrap-up and next steps

Dave Weirens will send the PowerPoint used during the meeting along with a request for people to identify priorities for work under this Stakeholder process.