



Executive Order 12-04

Supporting and strengthening implementation of the state's wetland policy

Agriculture Sector Meeting (Minnesota Agricultural Water Resources Center) Minnesota Corn Growers Association, Shakopee, MN

Meeting Notes

August 29, 2012

Mark Lindquist provided an overview of the Executive Order (EO) and the process and issues under consideration. The discussion proceeded based on the interests and concerns of the agricultural representatives. Input has been organized and categorized relative to the EO Issues.

Issue #1: De minimis Exemption.

- Simplification is generally a good thing.
- An informational matrix would be helpful to describe how different regulatory programs are treating de minimis.
- A visual aid to help describe the size of the various de minimis exemptions would be helpful.
- Concerns were raised about how Agricultural exemptions are reported and presented.
 - What constitutes a wetland loss? Many of the wetlands are farmed and considered prior converted by NRCS.

Issue #2: Alignment of Pre-Settlement Zones on Watershed Boundaries.

No comments were made on this issue.

Issue #3: Consistent Review, Approval and Implementation.

- Brown County is having cease and desist orders issued for legitimate agricultural wetland exemptions¹.
- More and better training for local governments by BWSR would help, different counties have different approaches.
- Landowners that qualify for agricultural exemptions should not be required to secure local government approval.
- Concerns were raised about the process (hoops) required to prove that projects are allowed under the law.
- Is there any overlap or increased regulation associated with feedlot rules 7020?
- There was a general feeling that rules, regulations, and processes relating to wetlands were too confusing and should be simplified. This applied not only to de minimis, but to everything from definitions to statutes/rules and procedures.
- Clarity and consistency around definitions.

¹ Further clarifications indicated that Brown County has adopted a more stringent ordinance than the minimum standards set forth under WCA.

Issue #4: Adequacy of Wetland Bank Program Funding.

- Agricultural mitigation is difficult, producers are anxious to see the agricultural mitigation bank get up and running.

Issue #5: Costs and Benefits of Wetland Mitigation Targeted to Specific Watershed.

- Participants provided little input, but were encouraged to consider further and share responses with project staff.

Related discussion included:

- Water quality impacts of wetlands: Management, placement and conditions of wetlands can have different water quality impacts (both positive and negative). Wetlands can be sources of phosphorous, organic matter and methyl mercury.

Issue #6: Strategic Use of Funding Sources to Achieve Continued Restoration of Drained Wetlands.

- Can we accomplish wetland restoration through removal of accumulated sediment, it would be fairly easy to remove such sediment during drought conditions, such as is being currently experienced – many basins are bone dry.
- Mitigated wetlands would be more valuable than farmed wetlands.
- Concerns were expressed that farmed wetlands that attract waterfowl could accelerate the spread of soybean cyst nematode. This is a tremendous economic risk.
- There was also discussion on what is accepted and considered a true wetland. There is general consensus that a “duck slough” is a wetland with public benefits, but the farmed wetlands are not seen by all parties as a wetland that provides public benefits.

EO 4. Identify opportunities to improve coordination of wetland regulatory efforts between state and federal agencies by improving the processes for landowners, permit applicants, local governments and regulators so that greater efficiency and cost-effectiveness are realized.

- Farmers enrolled in the farm program are subject to the “Swampbuster” wetland conservation provisions of the farm bill. Farmers still have a lot of incentive to stay in the farm program.
- Was WCA designed to fill the gaps not covered by other wetland protections such as Swampbuster, leading to the farmed wetland exemption?
- How are wetlands and wetland losses defined?
 - WCA and NRCS define wetlands differently. This is relevant to the measurement of wetland losses through exemptions. WCA will document some lost wetlands from agricultural exemptions that NRCS might not consider a wetland for farm program purposes (Prior Converted).
- Does a farmer have to tell anyone if they have NRCS clearance that they are draining a cropped wetland? Answer: Not under WCA.
- Are there opportunities to provide more clarity and direction on what is and is not covered under which program/policy and steps required to ensure compliance?
- Landowners and farmers are anxious to see the agricultural wetlands mitigation bank up and running.
 - Cropped wetlands (wet spots) are not providing any wetland value and create significant operational difficulties.
 - It is very expensive to mitigate these wetlands through the regular wetlands bank. \$20,000 for one acre.

Other Issues.

- There is a need for background information for many participants.
 - Examples of what are WCA exempt activities.
 - What does no-net loss mean?
 - Is there a baseline year – no,
 - What is a lost wetland
 - Drainage ditches should get credit in no-net-loss calculations because they are the only place holding water in this drought.
- The State needs to consider property rights of landowners as part of this discussion and process.
- The State needs to consider public health issues like West Nile disease which has had a bad outbreak this year.
- These are long term issues and concerns. It is important to look at these issues over time, but the political cycle makes it challenging to address in such a manner.
- Participants should be clear about what they want. An example was provided that controlled drainage can provide water quality benefits, but another “stakeholder” was not interested because they wanted to see more wetlands.
- One comment indicated frustration with fights between interest groups and even within our own government. Anything to make government better and work for the citizens is helpful, but “stakeholder groups” are listened to too much.