



Executive Order 12-04

Supporting and strengthening implementation of the state's wetland policy

Southern Minnesota Regional Meeting Blue Earth County Library, Mankato, MN

Meeting Notes September 27, 2012

Dave Weirens began the meeting by asking everyone in attendance to introduce themselves. He then reviewed the origination of Executive Order 12-04, its contents, and the process that is being used to comply with it. Mark Lindquist began the discussion of the Order's issues by reviewing the input that has been received at prior meetings.

Issue #1: De minimis Exemption.

No comments were made on this issue.

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

No comments were made on this issue.

Issue #3: Consistent Review, Approval and Implementation.

- Farmers don't understand who is in charge. Who has the final say - NRCS, WCA local government? No agency has sole authority.
- Redwood SWCD – we are doing 1026 Determinations for NRCS. NRCS sends the determination letter out separate from the SWCD WCA letter. This confuses some farmers.
- Terminology is confusing to many people; Restore, Create, Replace - don't they mean the same thing?
- Area II projects: multipurpose flood control. Some projects change wetlands - are these impacts or not? Is it possible to get wetland credit for these projects?
- Concerns about the ability of farmer to mitigate farmed wetlands without the agriculture bank. It is almost impossible to mitigate on site, it take 3-4 years of effort to get final approval.
- The local government makes a difference in how the wetland rules are implemented.
- Brown County was identified as a county where more stringent rules were applied.
- There can be inconsistency between local governments and how they define wetlands.
 - There are differences over time and example was that for one project a new delineation was required after 3 years and it changes substantially.
- How handle multiple land uses in a single basin? Can still do projects, but different local governments give different answers.
- WCA is not a yes or no program. It is a program that gets the project to a minimum impact and then offsets the impact.
- Lyon County just took WCA implementation over from the SWCD. We cannot get a map from FSA without landowner approval.
- Question: Are counties concerned about the tax base issues associated with wetland banking? Not at this time, the level of activity is still small (37 acres in Lyon County).
- NRCS is not calling linear areas wetlands.

- NRCS-local government relationships/coordination is different in every county.
- There is a lot of change in USDA approach. People change, Administrations change, Farm Bills change.
- How align with NRCS? When land comes out of CRP, then Swampbuster and other programs consider status of the land pre-CRP (i.e. cropping history)
- Farm programs will be reduced due to federal budget issues.
- Current drought will force farmers to stay in the farm program.
- Do we have the resources to enforce the laws that are on the books?
- Do not use conservation dollars for mitigation projects. (This is a firm policy line now)

Issue #4: Adequacy of Wetland Bank Program Funding.

No comments were made on this issue.

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

- What is close for WCA mitigation? Answer: (1) on-site; (2) same county or watershed; and (3) bank service area.
- Discussion of expiring CRP contracts for use for mitigation.
 - Question: Can you develop bank credits. Answer: Yes at a 75% rate.
 - This should not be allowed, as the public has already paid for the restoration. However, the contract specifically allows these wetlands to be drained or filled after the contract has expired. So preserving them is creditable.
- Flexibility – maybe we need smaller replacement ratios if we understand the science (impacts to wetlands can eliminate negative effects of wetlands)
 - Is it ok if the flexibility works the other way, how would people feel if science says the laws should be tightened (i.e. increase replacement ratios)?
- Concerns about metro wetland banking. The value added for land developers in the metro area is significant. Benefits in the metro need to be balanced with the benefits in Sibley County.
 - Metro will become a desert, wetlands are needed here too.
 - They need ground water recharge, (i.e. might benefit White Bear Lake).
 - An economic parity factor should ne explored. Some kind of pricing system that captures the land value increment when a metro wetland is impacted (increase in land value that results from a wetland impact).
- Targeting mitigation from NE Minnesota into Southern Minnesota:
 - Does this need to be permanent? Once mining is NE MN is done and the site restored, can the mitigation a site in southern MN be “undone”?
 - The agriculture mitigation bank is just getting started. If we bring a new form of mitigation (i.e. mining bank) on-line, will that negatively impact the agriculture bank?
 - Replacement ratios should be changed to help northern Minnesota; there should be opportunities for landowners to replace wetland impacts that occur in the north in the south.
 - Mitigation should be managed for wildlife, not just human needs.
- Can a wetland bank be undone, i.e. returned to agricultural production?

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

- How much land is needed for environmental purposes?
- There are still some good restoration opportunities out there. For example old tile systems from early 20th Century – that are not able to handle the drainage, but the viewing process indicates that the benefits do not outweigh the costs. These poorly drained farmlands could be a good target.
- Where CRP expires, why not use these areas for mitigation? Public funds have already been spent.
- Individual wetlands can make a big habitat difference.

- Drainage Law 103E – makes restoration a challenge for private landowners, how are the benefits calculated?

Other Issues.

- What is behind this process? Is the thought that the current Policy is not working?
- How do we define success? If a threshold is established and it is met is WCA no longer needed because goal has been met?
- Data is not clear on if we are at a net loss, it is difficult to track wetland gains and losses.
- What is no-net loss – is a wetland that forms on CRP land counted?
- Additional issues that need to be defined -
 - What is a wetland?
 - What is an impact?
- When we think about the total maximum daily load (TMDL) process we need to think about where wetlands have a negative impact. If wetlands are a source of phosphorus in a TMDL, is this natural background?
- Personal experience:
 - Confused, he is being forced to buffer one side of a highly erodible slough where he is taking CRP out, but the county is filling in the other side with a road project. It is for safety? There have only been four accidents that he knows of.
 - People have problems that they cannot solve.
- Conservation drainage – an opportunity to hold water on the landscape which is important during a drought. This is working well in Indiana.
- Local governments noted that state payment rates for managing WCA (\$8,700) only cover about 15% of the program cost.
- Watonwan County had more than 100,000 acres of wetlands in 1864, now has less than 1,000 acres, we don't have any way to control the Mn River, and people still use tile lines to move manure.
- Water quality has changed, more sediment now. Rivers rise rapidly after a rain event.
- Issues involving lakes and rivers are similar, sediment is out of control, and wetlands do not stand in the way of development.
- The best priorities are measurable ones.