



# Executive Order 12-04

## *Supporting and strengthening implementation of the state's wetland policy*

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### **Twin Cities Regional Meeting**

### **Shoreview Community Center, Shoreview, MN**

#### **Meeting Notes**

**October 16, 2012**

Dave Weirens began the meeting by asking everyone in attendance to introduce themselves and briefly state why they came to today's meeting. 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 by reviewing input that has been received at prior meetings. The first point of discussion was to ask those in attendance how would you measure improvements in wetland policies? The responses are listed below.

- More efficient process.
- Easy to explain.
- Consistency.
- Increase function and values of wetlands where needed particularly in the <50% pre-settlement areas for habitat.
- Lack of alteration of wetlands for human activity.
- Take better care of existing wetlands (weed control, invasive species, etc.).
- Recreation takes preference over production (conflict between preservation vs. conservation).
- Protection for landowner rights (there is no due process in WCA?).
- Conflict exists between WCA and Ditch Law (need to obtain consistency between the programs).
- One shop stop (need consistency between agencies).
- Maintain current environmental standards while simplifying the process.
- Water quality standards need to be met.
- Improve the COE decision making process (timelines an issue).
- Juridical boundary issues between WCA and Public Waters.

#### *Issue #1: De minimis Exemption.*

- Problem is that de minimis is overly complicated in an attempt to make it fair.
- Simplify the process by reducing the number values (20 sq. ft. impossible to capture).
- No net loss is not a practical way to apply protection of wetlands.
- Concept of no net loss as a goal takes away the practical nature of the rule?
- Need to build accountability into all the exemptions not just de minimis.
- Need to track and audit the program to gather a better sense where we are at and if we are doing a good job.
- Projects that impact wetlands but provide an overall improvement/enhancement should not be subject to mitigation (example RCWD's ditch rerouting project)

- Account for project purpose vs. standardized numbers
- Need to account for impacts associated with increasing hydrology to wetlands (water quality/flooding). Example increase in phosphorus loading to Bald Eagle Lake.
- Encourage property owners to report de minimis – need a simplified form to increase reporting.
- Excavation should be linked to quality vs. type (if poor quality allow excavation to occur).
- Eliminate the 5% provision under the wildlife habitat exemption.
- Mitigation cost are unrealistic (too expensive).
- Eliminate de minimis altogether.
- The utilization of wetlands as stormwater ponds should be allowed to be maintained/retrofitted in the rule without triggering mitigation.
- The law was written to address functions and values, why are we not doing that? Could be accomplished through local wetland plans.
- The main issue centers around “Trust”.
- Be practical in the approach.
- County road impacts should have a higher de minimis threshold due to public value.
- Road impacts should also apply to bicycle and walking paths because they are important means of transportation.

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

- Move towards a watershed approach.
- Makes sense to utilize a watershed base approach but concern about the added cost and administration issues.
- Changing boundaries is a good concept but might add more complexity to the process.
- Watershed approach is better ecologically vs. utilizing political boundaries.
- Anoka County is an odd fit and the boundary needs to be adjusted.
- What are the repercussions to counties if the boundaries are changed? Might be better to go with Bank Service Areas. Some concern that the bank service areas cover too large of a territory.
- Local plans are beneficial for sequencing.
- Current boundaries are not practical and should be changed.

*Issue #3: Consistent Review, Approval and Implementation.*

- The process is way too complicated and there are too many players to deal with. Need simplification.
- Reduce the number of agencies involved in the process to a three person panel approach (i.e. TEP).
- More consistency on a statewide basis is needed among BWSR staff. LGUs rely heavily on BWSR input.
- General consensus that TEPs work well particularly dealing with technical issues.
- The rule needs to be based on scientific principles. Concern is there is too much subjectivity in the rule.
- Need to keep in mind that the majority of the projects go smoothly. It's only a small percent that have issues and typically those tend to be the very complex projects, thus in need of additional review.
- It's a difficult process regardless. Sometimes it takes a variety of people/agencies due to the number of issues involved. Not always a bad thing.
- Establishment of certain standards/thresholds among agencies could be helpful (example stormwater requirements).
- Landowners should be compensated to preserve wetlands on their property similar to CRP

- There is a lot of physical disparity among land use?
- The 25 year provision in rule is essentially a land taking.
- Ditch law needs to be more sensible and balanced. There is a great deal of private rights in ditch law which creates problems.
- Statement that the costs to retrofit areas in the Metro are much higher in areas of intense development.

Issue #4: Adequacy of Wetland Bank Program Funding.

- Continued funding very important for maintaining bank sites.
- Continue to keep banking a private process.
- After a period of five years and the credits have been approved by TEP/LGU the property owner should no longer be liable for maintenance.
- Need for consistent funding (treat like a stormwater/sanitary sewer utility fee).
- Need to reduce the timelines associated with banking and provide more incentives.
- Marginal lands (wetlands) already have a lower tax rate (mixed review on additional tax base incentives).

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

- Local wetland plans work well in considering land use and finding high priority areas for replacement.
- Incentives/changes to >80% areas ok
- Wetland impacts in the Metro area need to be replaced in the Metro area. Should not be allowed to go outside the area for replacement.

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

No comments were made on this issue.

Other Issues.

- Additional funding for SWCDs and BWSR for program implementation.
- Requirements associated with excavation need to be addressed (relaxed).
- Eliminate the 5% provision under the wildlife habitat exemption.
- Need to consider tax implications.
- Establish funding for landowners to defend their property rights?????
- Lack of funding for government agencies (need more staff)
- Lack of participation by PCA under 7050 Rules. Tend to show up at the end of the process
- Legacy monies distributed through BWSR have been well received.