



MEMO

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Date: June 12, 2009

To: WCA Local Government Units and Soil and Water Conservation Districts

From: CAPT John Hunt, DNR Enforcement
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Phone: 651-259-5040

Subject: Wetland Conservation Act Violations

Beginning in April of 2009, the DNR Division of Enforcement began to use a different procedure in the handling of wetland, public waters and aquatic plant management violations.

In the past, a Cease and Desist Order (CDO) was issued for the above violations, whether the violation was in progress or not. Concerns were raised about this process as part of the WCA rule revision, and subsequently procedural changes were implemented.

Officers responding to potential violations that are not in progress and not likely to continue will no longer issue a CDO. The responding officer will complete an initial case report (ICR) and forward it to the Water Resource Enforcement Officer (WREO) for their area. The WREO will then forward it to the Local Government Unit (LGU) and members of the Technical Evaluation Panel (TEP).

Communication will be an extremely important part of this process, not only with the enforcement officer, but with the landowner and members of the TEP as well. For an LGU, the first step after being informed of a potential violation through receipt of an ICR will be to determine whether the project has received prior approval or qualifies for an exemption. This should include communication with the landowner to inform them of the potential violation and give them the opportunity to provide supporting information and/or apply for LGU approval. BWSR will develop a form letter template for LGUs to use in this regard. Once the status of the project has been determined (previously approved, exempt, violation), the LGU can e-mail the WREO and the TEP to close the case or indicate what the next action will be (after-the-fact application, restoration/replacement order, etc.).

Each LGU will need to implement an internal process for tracking and handling these cases. When a CDO is issued to a landowner, it includes information regarding timelines for applying for exemptions etc. In those instances when an ICR is completed rather than



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the issuance of a CDO, the land owner will not receive this information from DNR Enforcement, as the LGU will be responsible for initial landowner communication. This process does not, however, limit or impede the ability of an enforcement officer to communicate with the landowner or conduct investigatory work prior to completion of an ICR or issuance of a CDO.

While this only applies to “old” work that has been completed and is not likely to resume, we realize that this is a change in how business has been done. These changes should, however, not only streamline the process and keep responsibilities where they belong, but ensure that the authority to stop work without a court order is not compromised.

If there are any questions or concerns, please feel free to call or e-mail us at john.hunt@dnr.state.mn.us or les.lemm@state.mn.us