



# Local Government Unit Instructions

## For Assistance and Review of the “*Replacement of Agricultural Wetland Impacts Using the Minnesota Wetland Bank*” Application Form

### Use of the Form:

This form was developed to be a simple and easy way for agricultural producers to apply for wetland replacement using the State Wetland Bank. It combines the replacement plan application and credit withdrawal forms into a single form. Qualifying agricultural projects are not required to avoid and minimize wetland impacts, allowing for a shorter application form. This form can be used when:

- ✓ The proposed impact is to a farmed wetland (FW) or other degraded wetlands in a cultivated field;
- ✓ The wetland is to be drained for agricultural production purposes and the land must remain in agricultural use;
- ✓ Wetland replacement (mitigation) is required under the Minnesota Wetland Conservation Act (WCA) and/or the Federal Farm Program as administered by the USDA Natural Resource Conservation Service (NRCS); and
- ✓ Replacement will consist of wetland credits in the Minnesota Wetland Bank, from an account consisting of a restored wetland. Credits from the Agricultural Bank automatically qualify. Credits from non-agricultural bank accounts may qualify but will need to be verified by the approving government agency.

### Some Possible Questions/Scenarios:

Most landowners will require some assistance. They want to drain a wetland and replace it using the bank, but don't know the process or any of the details. They could need help with some of the following questions or scenarios:

Who needs to approve their application?

- NRCS will need to approve wetland mitigation for all federal farm program participants.
- The LGU will need to approve wetland mitigation for projects that are not exempt from WCA.

Can't you just get the information from NRCS?

- No, unless you provide written authorization for NRCS to share your information with me. Otherwise, you will need to provide copies of your information to me.

Where can I purchase credits from?

- You need to look within the same Bank Service Area first (closest to the impact site is generally preferable). If nothing is reasonably available within the BSA, you can go to another BSA with a ½ to 1 replacement ratio penalty.

Am I limited to the Agricultural Bank?

- No. You may want to look for ag banks in the area first, but you are free to negotiate a credit purchase with a commercial bank as well, as long as it consists of a restored wetland. You have options.

I need to gain approval from the U.S. Army Corps of Engineers. Can I use this form?

- No. You will need to use the Joint Project Notification Form and/or provide information on project purpose and sequencing (avoidance and minimization).

Scenario: An applicant submits a completed agricultural application form, but the project is not eligible because it is not for agricultural purposes or the wetland doesn't meet the definition of “wetlands in a cultivated field.”

- Deem the application incomplete due to lack of sequencing and notify the applicant in writing within 15 business days per WCA procedures and MN Stat. 15.99.

## Step-by-Step Instructions:

1. Determine whether WCA has jurisdiction (whether its exempt or not). Get some basic information from the landowner (location, general cropping history, etc.) and quickly review available aerial photos to confirm. In the vast majority of situations, you should be able to give a quick answer as to whether or not one of the WCA cropping history exemptions apply. You should be able to provide one of the following answers:
  - a) Yes, it is exempt and you do not need LGU approval of the replacement plan. Work with NRCS. If you would like a formal decision and documentation, you can submit an application for approval of the exemption and I can issue a notice of my decision.
  - b) Based on the information available to me, it is not clear that an exemption would apply. If you have additional information to submit regarding cropping history or another exemption (drainage maintenance, restored wetlands, etc.), you will need to provide it. Otherwise, LGU approval of the replacement plan is required. *Note: This does not imply that a landowner must obtain approval of an exemption. Rather, this example is provided for when a landowner requests assistance but not enough information is available.*
  - c) No, unless there is something significant I am not aware of, your project is not exempt and will require LGU approval of a replacement plan.
2. Determine eligibility to use the abbreviated process and form. This should be fairly simple. Just confirm with the landowner that the wetland(s) proposed to be impacted is a farmed wetland (FW) or otherwise meets the WCA definition of “wetlands in cultivated field,” that the purpose of the project is agricultural production, and that it will be replaced through the ag bank or another bank site consisting of a restored wetland.
3. Determine the total area of impact. Ask the landowner to see his USDA certified determination with wetland areas identified. The landowner may already have this, or he may need to get it from NRCS. If the landowner is not in the farm program, he may need a Routine Level 1 or 2 delineation.
4. Assist the landowner in finding available credits. Depending on the landowner, this can be as simple as providing the appropriate BWSR website, or could involve sitting down with the landowner and quickly printing out the contact information for a few banks near his project. The new wetland bank mapping tool on the BWSR website should make this quick and easy. See the wetland banking section of the BWSR website at: <http://www.bwsr.state.mn.us/wetlands/index.html>. The landowner now knows how many credits he needs and can begin calling bank owners to negotiate a purchase.
5. Review and notice of application. The landowner should return after he has negotiated a credit purchase and obtained a purchase agreement. He may have the application form filled out completely, or he may need some assistance filling it out or assembling the attachments. Once the application is signed and complete, notice the application via normal WCA procedures (notice of application with minimum review period of 15 business days).
6. Make decision. Make the decision within 60 days (preferably sooner) as required by MN Stat. 15.99. Sign the application as approved, attach a copy of the signed form to the notice of decision, and send to all who require notice including the BWSR Banking Coordinator in St. Paul. Provide the original to the landowner along with the notice of decision. Keep a copy for your files.
7. Withdrawal of credits. The landowner will now purchase the approved credits and provide the form to the bank account owner. After the bank account owner completes the withdrawal information and signs the form, it will be sent it to BWSR along with the appropriate fee. Upon receipt of the form containing the necessary signatures and fee, BWSR will debit the bank account, stamp the form, and return it to the applicant with copy to the approving government agencies.