

## Lemm, Les P (BWSR)

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**From:** Matt Danzl <matt.danzl@co.todd.mn.us>  
**Sent:** Thursday, December 17, 2015 4:35 PM  
**To:** Lemm, Les P (BWSR)  
**Subject:** WCA Rule Comments

Mr. Lemm,

I have put much thought into identifying some problem areas that I see from the LGU side of the fence. I will provide some comments below to address a few of these concerns I've seen. If there are already answers out there for my questions/comments, forgive me as I am fairly new to WCA in the last six months, although well-versed in natural resource issues.

1. Drainage exemption-

- a. Private ditch maintenance (subp. 3 B) is a moving target which makes it near impossible to administer. Every year we need to look back 25 years to determine size of wetlands. It is extremely complicated when you add in factors such as changing climate patterns. If 25 years ago it was a dry year (ie. 1990), and presently (2015) it is a wet year then you can allow maintenance to remove the "extra" hydrology this year. Then you have an applicant come in the following year (2016) and review of the same wetland looks at (1991) and find it was a normal or a wet year, then there is potential that "allowed maintenance" would drain the wetland from what is "normal". It not only is a disservice of protecting the wetlands but also it doesn't give landowners a clear idea of what is allowed. One of the main reasons that this is difficult to administer is because the lack of evidence of wetland size 25 years before impact. We have aerial photographs but those often times do not have clear enough resolution, or not defensible enough because it is only veg. and not soil and hydrology. It sets up a system that relies on review in future years to see if the maintenance did indeed have a drainage impact. This guess and check system is not fiscally and logically practical, and also is not likely to bring penalties forth due to landowner changes etc. One way this could be potentially(?) be remedied is by putting a single date for wetland size or having language about average "normal" year wetland size etc.
- b. Sub C; this should not apply if the wetland was impacted in the past and thus allowing it to be cropped though.

2. General

- a. This comment refers to the process of exemption applications and decisions. Without requiring TEP review or noticing the application it can tend to lead the LGU to misuse the exemption. Exemptions clearly can impact greater acreage of wetlands than often times the amounts in replacement plans. This is also related to how people carry out their projects. Also, the LGU may have made an informed decision at the time based on the applicants ideas but the applicant didn't understand the importance of WCA and "took a mile, instead of an inch". With a more intense review process this may have thwarted. Because of political pressure and lack of hard evidence impacts that are discovered at a later time are often not able to be mitigated/rectified.
- b. Subsurface drainage or ditching can often put more water on other people's property/wetlands etc. People higher in the watershed may have qualified for an exemption or installed illegally. Either way the person lower now has more water than they did before and can now remove some of that hydrology back to "normal". When this happens on a whole watershed the effects are compounding. I suggest wording on what is allowed with the water when it qualifies for an exemption. These effects can have large implications for county waterplans.
- c. Regarding the prioritizing campaign. I think it's good to have goals but not at the expense of exiting good. I feel it's wrong to say "we don't value wetlands as much in >80 counties" in essence because they are not being prioritized. It is well documented that restorations are never as good as the original. I

would hate to lose pristine northern wetlands in order to increase sub-par restored prairie potholes. That being said, I am totally for protecting native, prairie potholes with high functions and values. My hope is that we don't devalue northern wetlands as development will continue to encroach there.

Thank you for your time and review.

Matt

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