

# Crash Course in WCA Administration Virtual Training

# Crash Course in WCA Administration Virtual Training- February 15-16

## Day One

Wetland Regulatory Programs 101

LGU Duties & TEP Procedures

Application Procedures

Enforcement Procedures

Q/A & Quiz

## Day Two

Basic Decisions

Replacement Plans

Wetland Banking

Q/A & Quiz



[bwsr.state.mn.us/minnesota-wetland-professional-certification-program](https://bwsr.state.mn.us/minnesota-wetland-professional-certification-program)





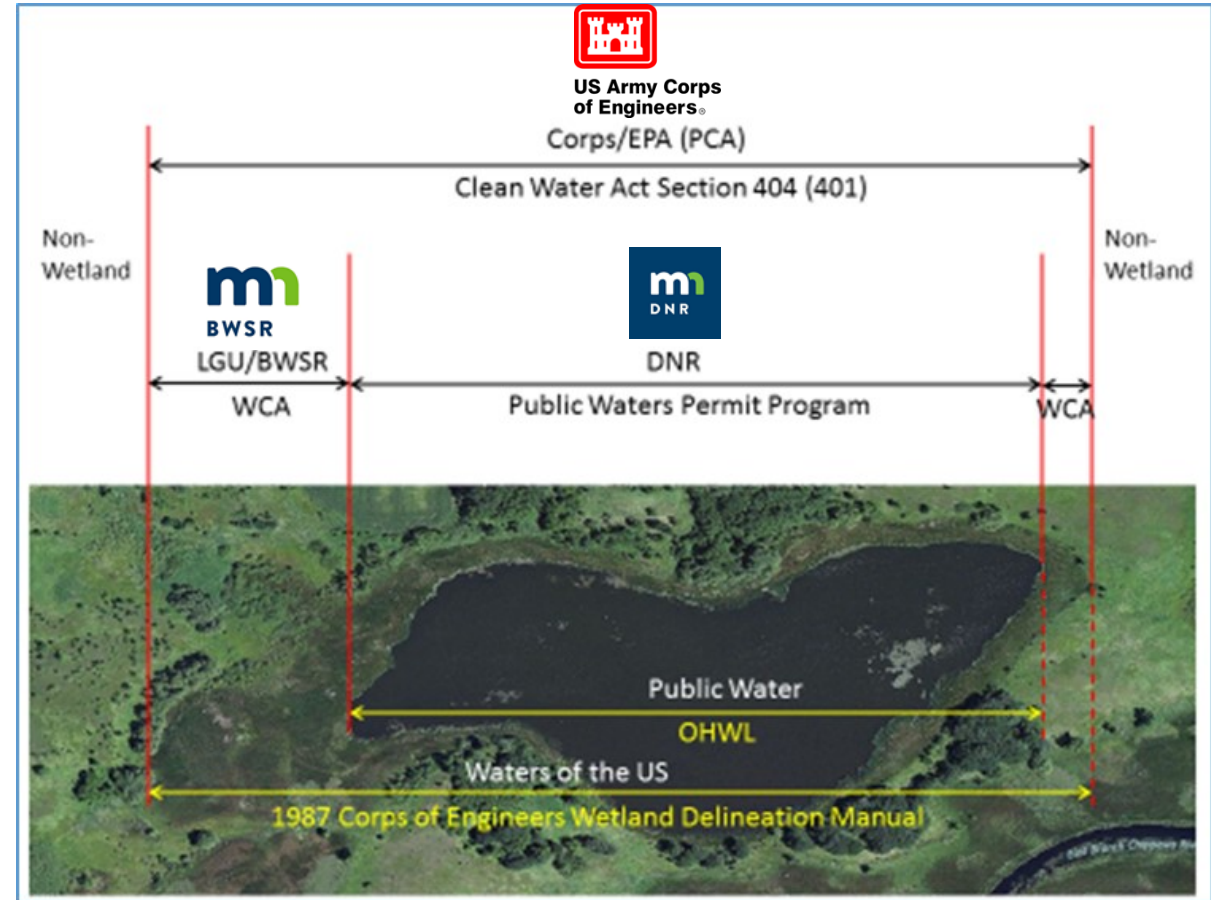
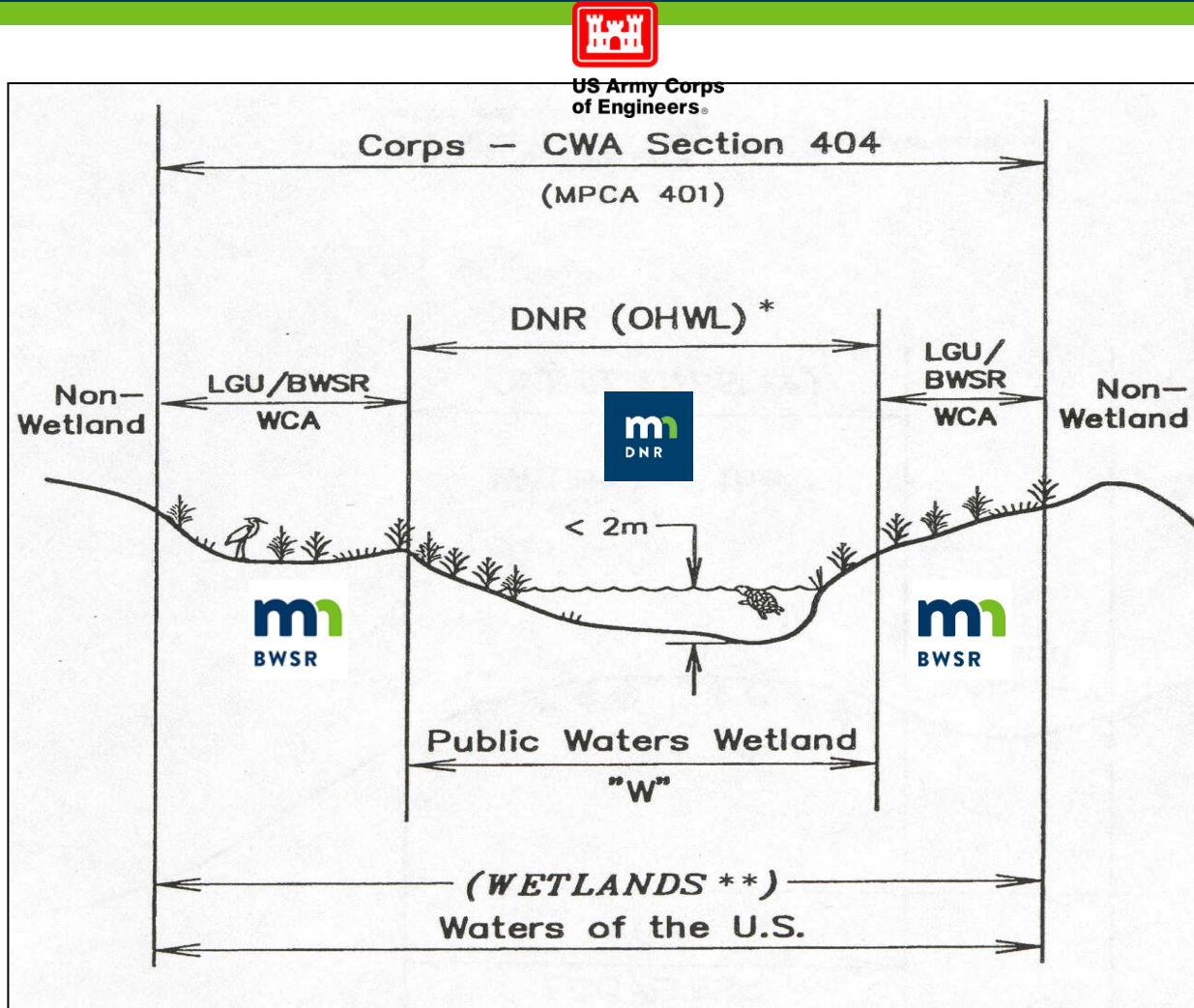
# Wetland Regulatory/Compliance Programs in Minnesota



- Public Waters Work Permit Program (PWWPP)
- Section 404 of the Clean Water Act (404)
- Swampbuster provisions of the Food Security Act (FSA)
- Minnesota Wetland Conservation Act (WCA)



# Jurisdiction





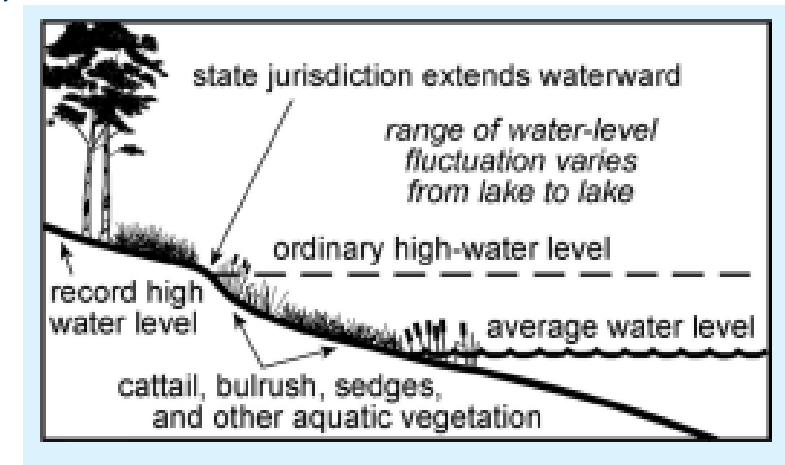
# Public Waters Work Permit Program (PWWPP)

Overview



# Public Waters Permit Program

- **Regulates:** changes to “course, current or cross-section”
- **Administered by:** DNR – Area Hydrologists
- **Authorities:** M.S. 103G; M.R. Chapter 6115
- **Jurisdictional boundary:** “Ordinary High Water Level”
- **Review standards:** Public interest; reasonable/practical, Riparian rights, Availability of feasible & prudent alternatives, Compensatory mitigation
- **Appeals:** Contested case hearing
- **Enforcement:** DNR Conservation Officers; cease & desist, restoration orders
- **Application:** on-line via “MPARS”



Program Element	WCA	PWWPP
Basis of Authority	Mn Rules Chapter 8420 and associated statutes	Mn Rules Chapter 6115 and associated statutes
Regulated Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Public Waters and Public Waters Wetlands (which includes deepwater habitats, streams and wetlands)
Jurisdictional Boundaries	Wetland Delineation per 87 Manual	OHWL
Regulated Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Changes in course, current or cross-section
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	DNR implementation
Type of Approvals	WCA decisions	Permit authorizations
Applying for Approval	WCA application or request for decision	MNPARS online application



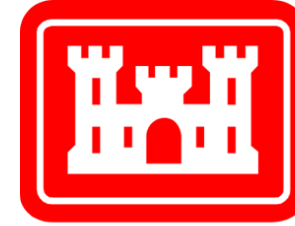


# Section 404 Clean Water Act (in MN)

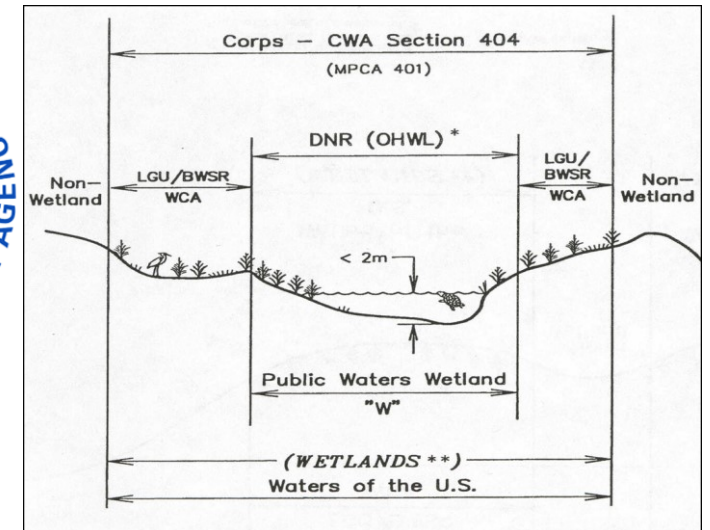
## Overview

# Clean Water Act Section 404

- **Regulates:** Discharges of dredged or fill material, including redeposit
- **Administered by:** U.S. Army Corps of Engineers – St. Paul District
- **Authorities:** 33 U.S.C. §1251; 33 CFR Parts 320-332; 40 CFR Part 230
- **Jurisdictional boundary:** 1987 Corps of Engineers Wetland Delineation Manual
- **Review Standards:** Sequencing, public interest, adequate compensatory mitigation
- **Appeals:** COE administrative appeal
- **Enforcement:** COE and USEPA; administrative orders
- **Application:** Joint Application Form for Activities Affecting Water Resources in Minnesota



**US Army Corps  
of Engineers®**





Program Element	WCA	404
Basis of Authority	State statutes and rule (Mn Rules Chapter 8420)	Clean Water Act
Regulated Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Waters of the U.S. (WOTUS)
Regulated Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Discharges of dredged or fill material
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	Corps Districts implement, EPA oversight
Type of Approvals	WCA decisions	Permit authorizations via IPs, GPs, NWPs
Applying for Approval	WCA application or request for decision	Pre-Construction Notification (PCN) for GPs/NWPs, Application for IP
Mitigation for Impacts	Replacement	Compensatory Mitigation



# Food Security Act (Wetland Conservation Provisions)



# How Does NRCS Evaluate Compliance?

Primarily through Certified Wetland Determination (CWD).

Involves identifying wetlands and then assigning a label that has implications for compliance. For example, if producer drains a wetland for crop production, that would result in a label change that could result in producer being ineligible.

**CWD does not relate to WCA jurisdiction!**



# Wetland Conservation Act (WCA)

## Overview



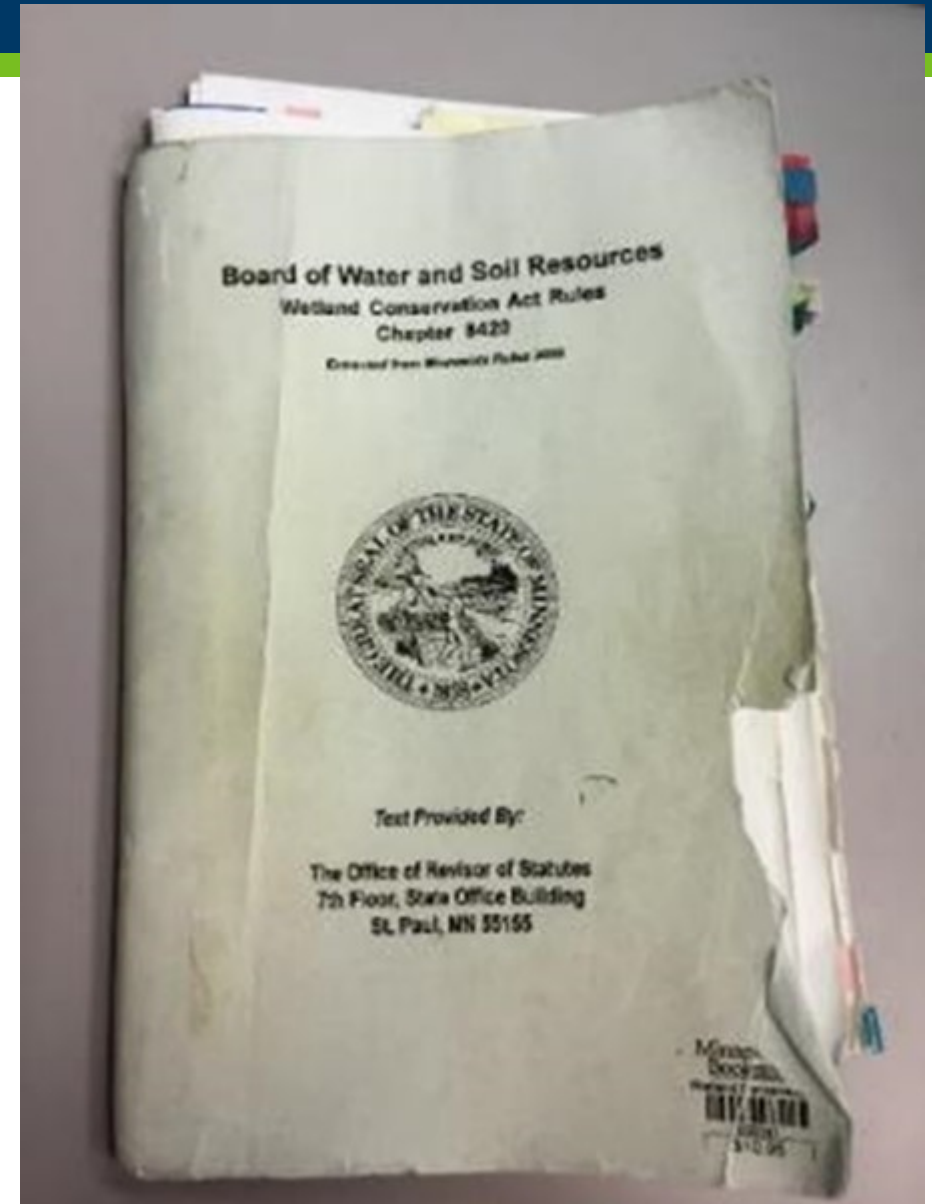
# Wetland Conservation Act

- **Regulates:** draining, filling, some excavation
- **Administered by:** Local Government Units, SWCDs, Watershed Districts
- **Oversight by:** MN Board of Water and Soil Resources
- **Authorities:** M.S. 103A, 103B, 103G; M.R. Chapter 8420
- **Jurisdictional boundary:** 1987 Corps of Engineers Wetland Delineation Manual
- **Review standards:** Avoid, minimize, replace (sequencing)
- **Enforcement:** DNR Conservation Officers; cease & desist, restoration orders
- **Application:** Joint Application Form for Activities Affecting Water Resources in Minnesota



# What is it?

- Series of laws passed in 1991
- Major component – wetland regulatory provisions, Minnesota Rules Chapter 8420.
- Regulatory provisions implemented under temporary rules in 1991 and permanent rules in 1993.





# Purpose?

- Maintain and *increase* the quantity, quality and biological diversity of Minnesota's wetlands. (QQB)
- *Avoid* wetland impacts from activities that negatively effect quantity, quality and biological diversity.
- *Replace* wetland values where avoidance is not feasible and prudent.
- The sequence of avoid, minimize and then replace for wetland impacts is referred to as **Sequencing** in WCA rules.

# What does WCA regulate?

- **Wetland Impacts** are defined in WCA rule.
- **Wetlands** are identified and their boundaries determined by 87 Manual.
- Two exceptions:
  - Incidental wetlands
  - Wetland areas of DNR public waters and public waters wetlands unless regulatory jurisdiction waived by DNR to WCA.



# Incidental Wetlands

- Wetlands created in naturally non-wetland areas not on purpose.



Temporary puddles



Stormwater ponds



Sewage treatment wetlands



Roadside ditch in upland



# WCA Wetlands vs Public Waters

- DNR public waters regulated by the DNR Public Waters Work Permit Program (PWWPP) are generally pre-determined (they are on a map).
- WCA wetlands are identified and determined via the 87 Manual on a case-by-case basis.



# Implementation Structure

- Local Government Units (LGUs) are primarily responsible for implementing WCA.
- BWSR provides oversight and assistance to LGUs. BWSR implements certain limited provisions of WCA.
- DNR has an enforcement role in WCA.

# Implementation by LGUs

- LGU can be:
  - County, City/Town
  - Township (in certain 7-county metro areas only)
  - Watershed district, management organization or commission
  - State agency on state owned or administered lands
  - For projects that require a Permit to Mine under state law, DNR's Division of Lands and Minerals administers the provisions of the WCA under their Permit



# Applications and Decisions

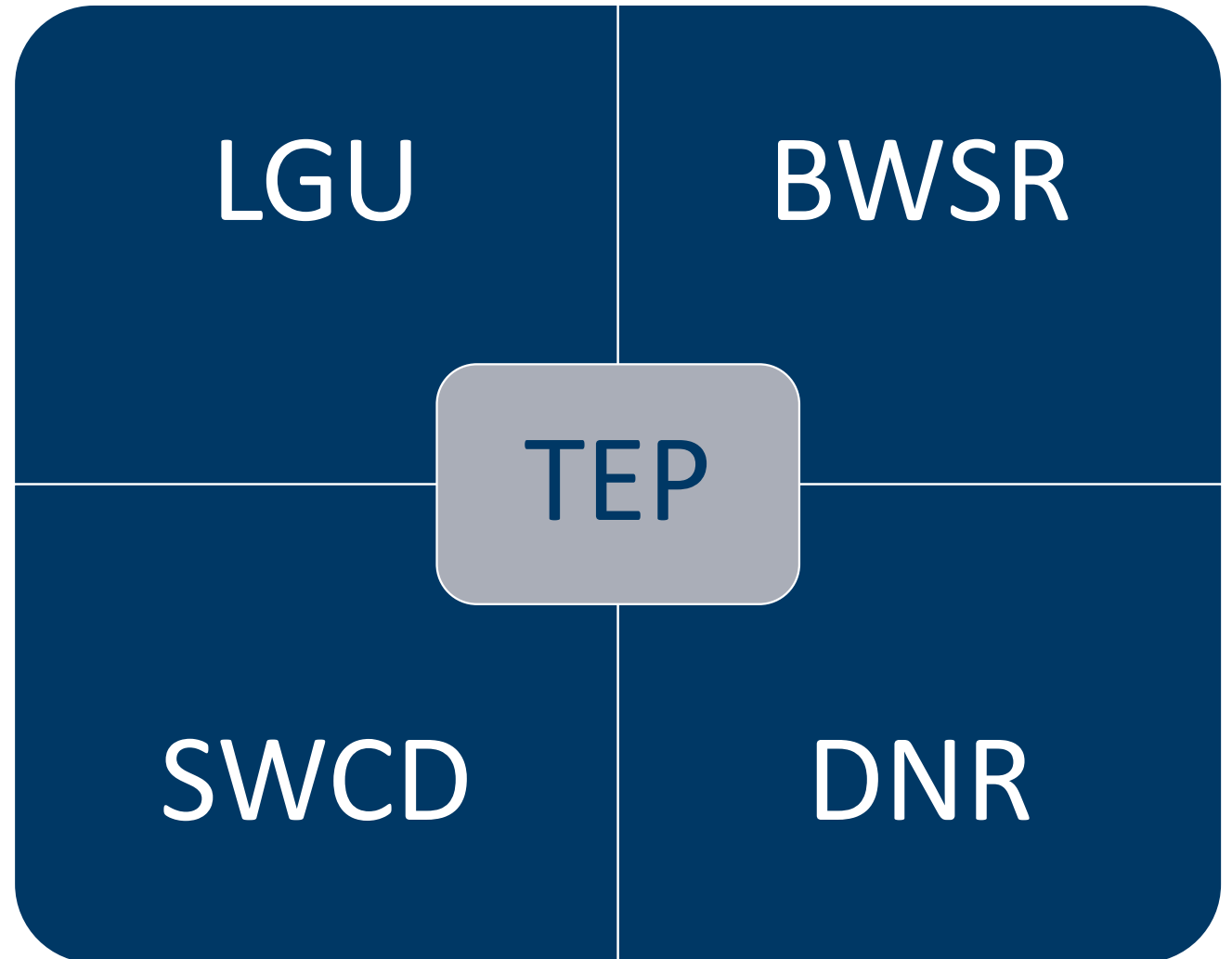
- In general, applicants demonstrate through their application submittal that they are compliant with WCA.
- An LGU's decision to approve, deny or approve with conditions is saying if the project complies with WCA or not.
- An LGU can take the WCA decision process and fold it into a permit that they issue for a project. This is optional, but common among watershed districts and counties that issue permits for various other things.
- In general, LGUs can have more restrictive local requirements, but not less restrictive requirements.

# WCA Decision Types and Application Requirements

Decision Type	Application Requirement
Wetland Boundary/Type	Application required
Exemption or No-Loss Provision	Application not required (unless LGU has more restrictive local requirement)
Replacement Plan	Application required
Banking Plan	Application required

# Technical Evaluation Panel

- Plays a key role in implementation.
- Representative from LGU, SWCD, BWSR and DNR (if project effects public waters and/or in shoreland zone).
- Primary role is to advise LGU on decisions. Some decisions depend on TEP recommendation/concurrence.
- TEPs often advise landowners/applicants during pre and post application reviews.





# Key Roles in WCA Implementation

- **LGU** – make WCA decisions, leads Technical Evaluation Panel
- **SWCD** – serve on TEP, write restoration plans for violation orders
- **BWSR** – serve on TEP, hear appeals, administer wetland bank, oversee and train LGUs.
- **DNR** – serve enforcement orders and coordinate/collaborate with TEP, LGU and SWCD on enforcement process.

# How many jurisdictions?







# WCA 101





# Wetland Conservation Act 101

Purpose

Method

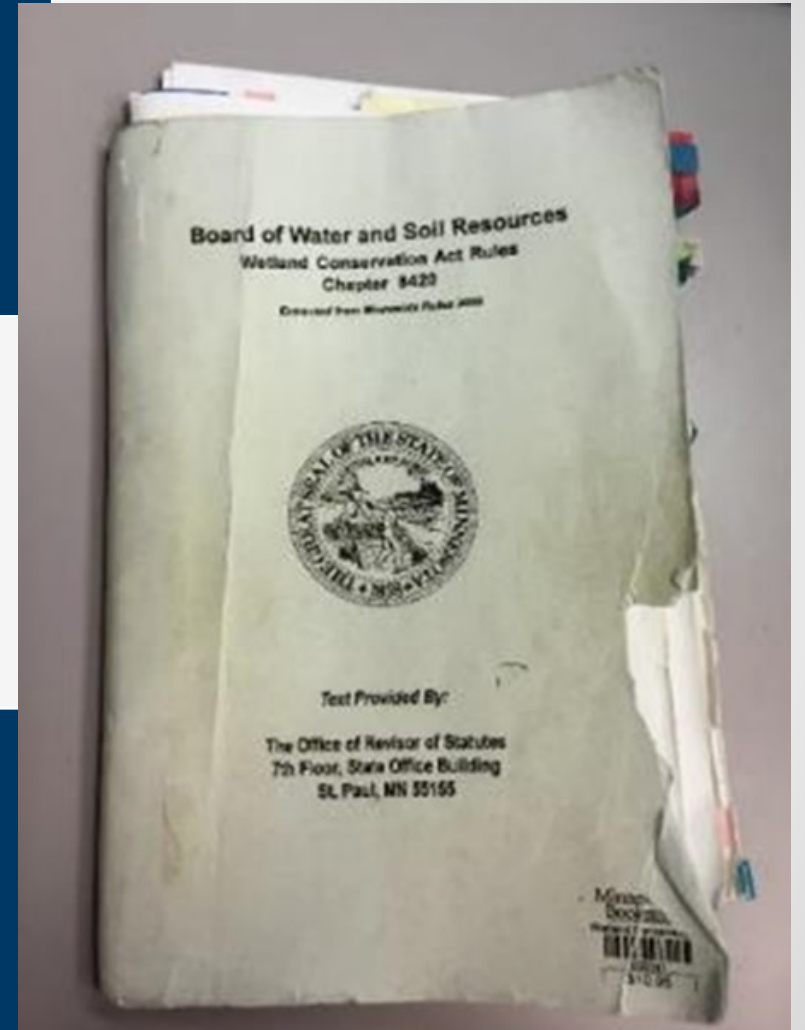
Scope

# WETLAND CONSERVATION ACT (WCA)

State Law passed in 1991

MN Statute 103G and  
parts of 103A,B,E,F

MN Rule Chapter 8420



# WETLAND CONSERVATION ACT (WCA) OF 1991

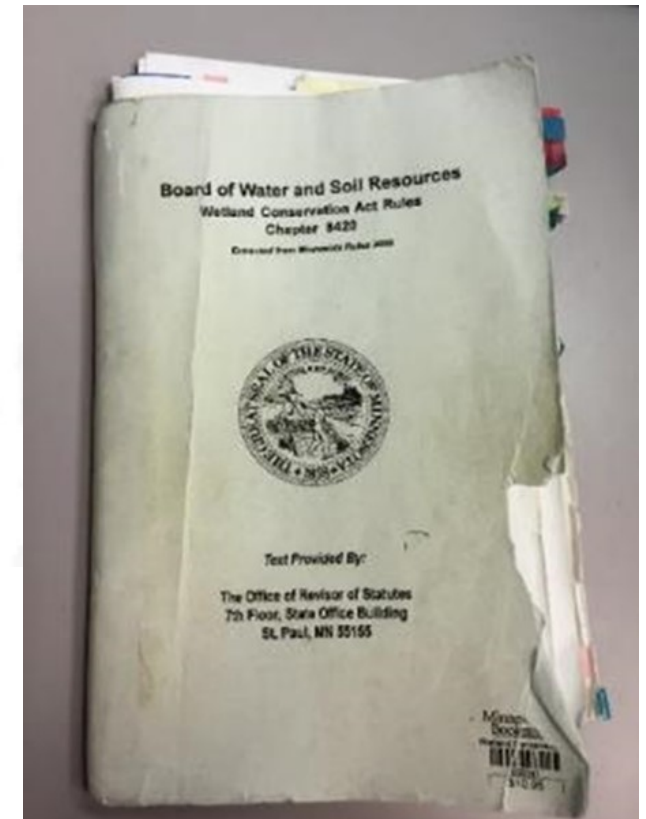
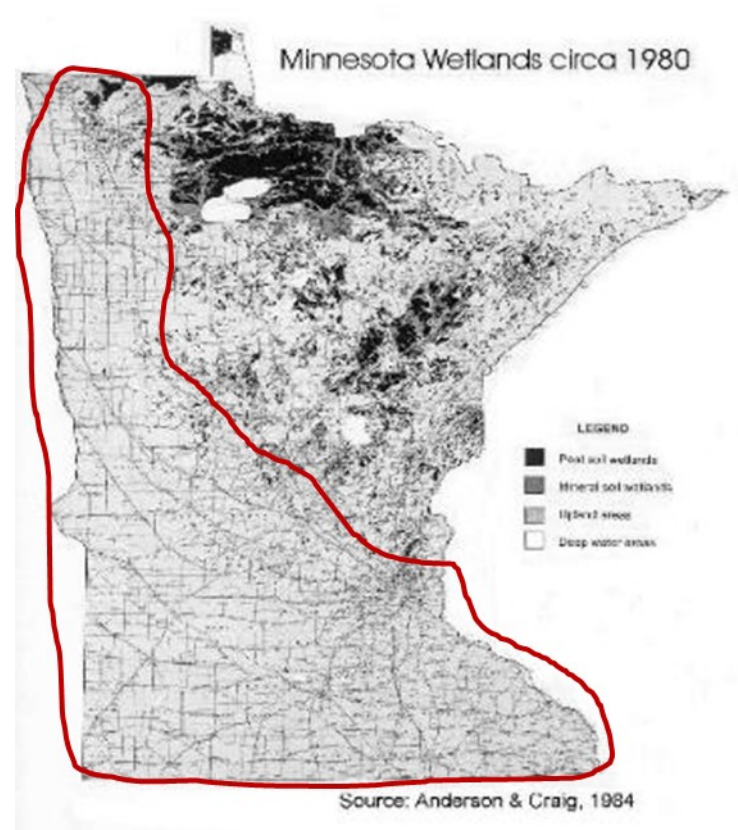
## Bipartisan Bill

- Passed in 1991
- Effective 1992

MN Statutes **103G** and parts of 103A,B,E,F

## MN Rule **8420**

- Statute changes
- Guidance Documents





# WCA Authority on Tribal Lands?

- Tribes have legal status as sovereign nations
- Many tribes have enacted their own environmental regulations
- Federal regulatory environmental laws apply on Tribal Lands
- Tribal lands are composed of Trust lands, allotted trust lands, fee lands



## American Indians, Indian Tribes, and State Government



About this Publication  
This guidebook discusses major issues involved in the relationship between Indian tribes, American Indians, and state government, including criminal and civil jurisdiction, employment, control of natural resources, gaming and liquor regulation, taxation, health and human services, child welfare, education, and civic engagement.

February 2020

- WCA does not have jurisdiction on Trust lands
- Fee lands are held by an owner (tribal member or not)
- Authority of state environmental laws on tribal land is limited to fee lands held by a non-tribal owner

# PURPOSE

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graph TD; PURPOSE[PURPOSE] --- subp1[8420.0100 subp 1]; PURPOSE --- subp1A[8420.0100 subp 1A]; PURPOSE --- subp1B[8420.0100 subp 1B]; PURPOSE --- subp1C[8420.0100 subp 1C]; PURPOSE --- subp1D[8420.0100 subp1D];
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8420.0100 subp 1

**No Net Loss**

8420.0100 subp 1A

**Increase quantity,  
quality, diversity**

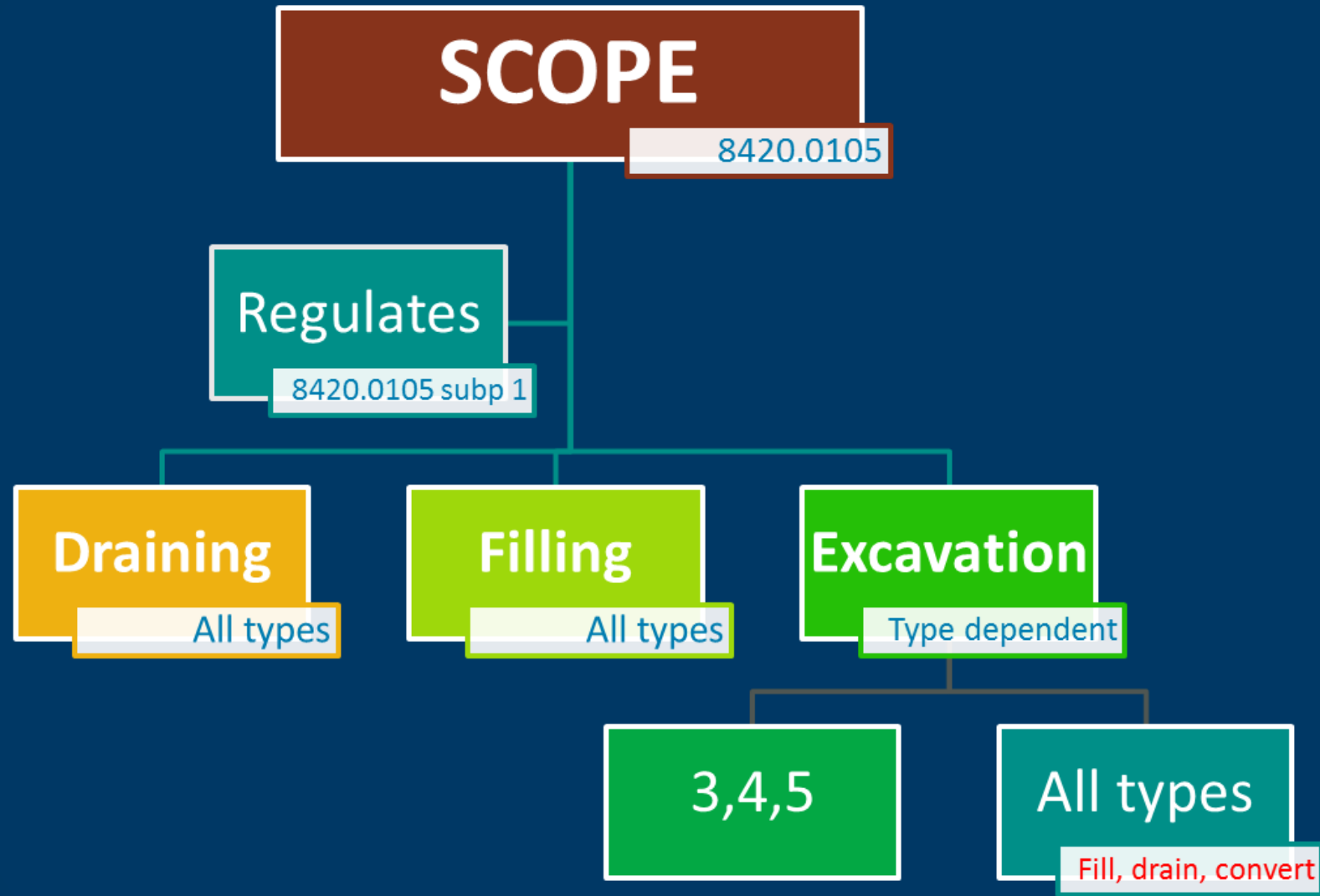
8420.0100 subp 1B

**Avoid impacts**

8420.0100 subp 1C

**Replace**

8420.0100 subp1D





# SCOPE

8420.0105

Does NOT  
Regulate

Use for  
Pasture/Cropland

8420.0105 Subp 2A

Normal Farming

8420.0105 Subp 2B

Noxious Weed  
Control

8420.0150 Subp 2C

Incidental  
Wetlands

8420.0105 Subp 2D

Public Waters &  
PWW's

8420.0150 Subp 2E

Peat Mining

8420.0105 Subp 2G

# What Does WCA Regulate?

Draining or filling of wetlands (wholly or partially)

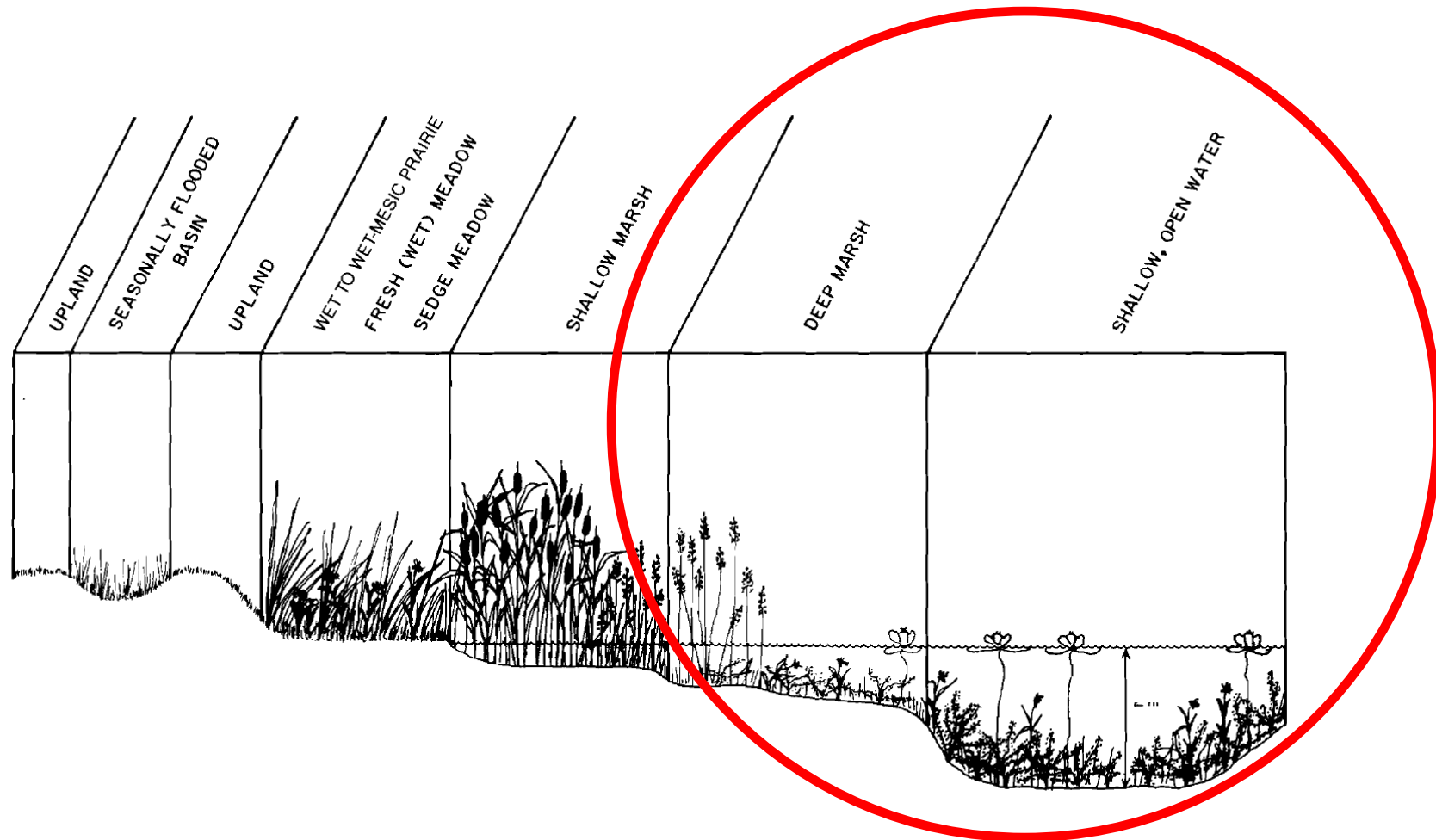
Excavation of wetlands (under certain conditions)



WCA regulates excavation in *permanently* and *semi-permanently* flooded areas of *Type 3, 4, or 5* wetlands and in all wetland types if the excavation results in conversion to nonwetland (i.e. deepwater habitat which is defined as average water depth of 8.2 feet or greater).

# Excavation

What is permanently and semi-permanently flooded?





# What WCA Does NOT Regulate

- The use of wetlands for pasture or cropland
- Normal farming practices (plowing, seeding, timber harvesting, etc.)
- Control of noxious weeds
- Impacts to created (non-natural) wetlands (ditches, ponds, etc. created in upland areas)

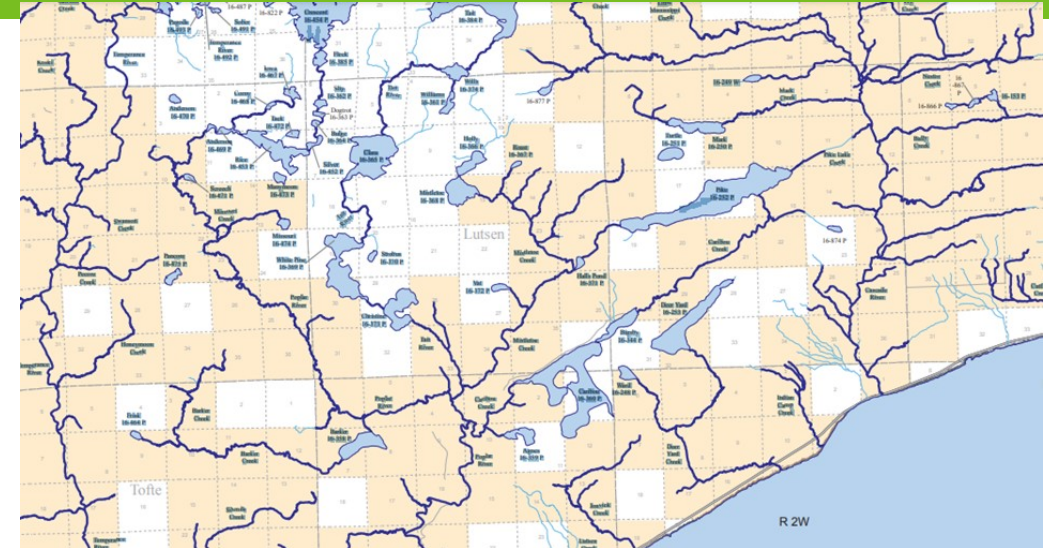


# WCA

Does NOT regulate

## DNR Public Waters & PWW

- DNR can waive to WCA for public water wetlands

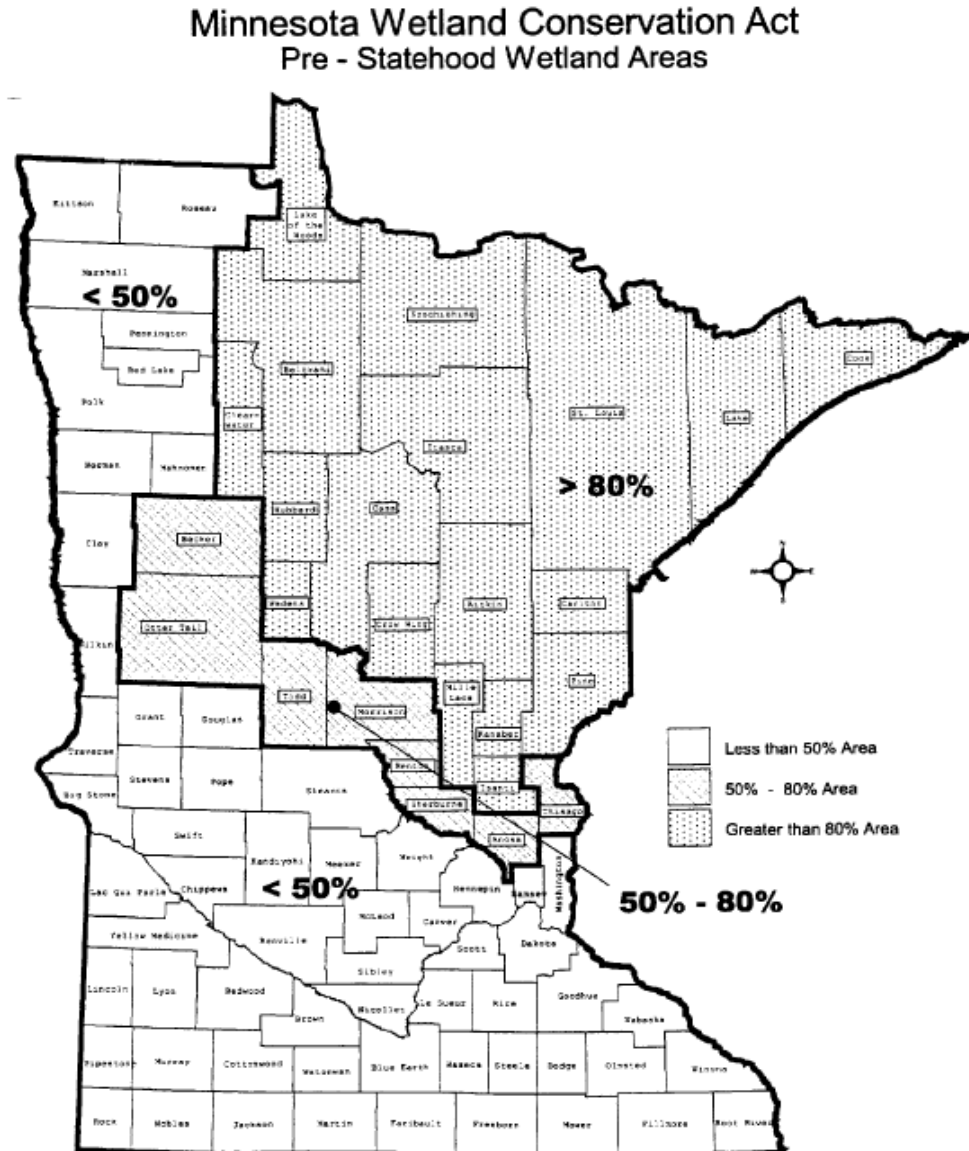


## Peat Mining

- Subject to DNR permit to mine under MN Statute 93.44-93.51
- WCA applies if project does not require DNR permit to mine



# Where you are in the State matters

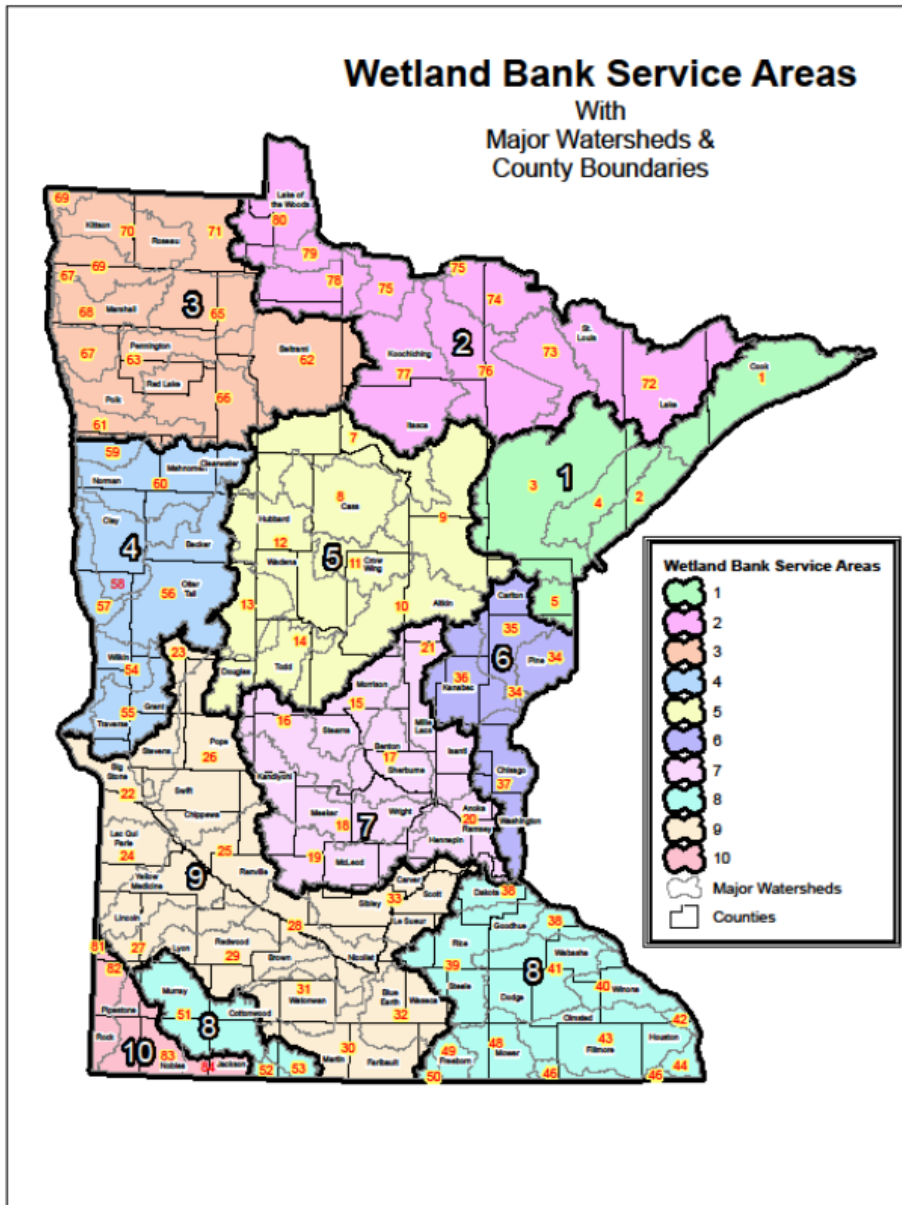


Different regulations apply depending on whether you are in a <50% area, 50 – 80% area, or >80% area.

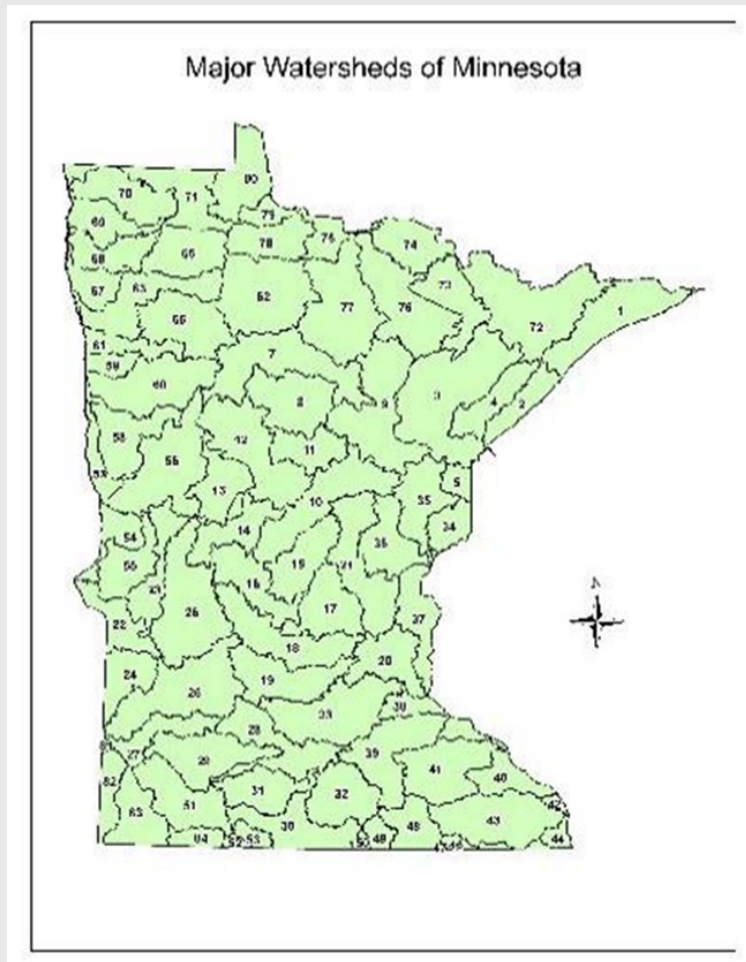


# Bank Service Areas

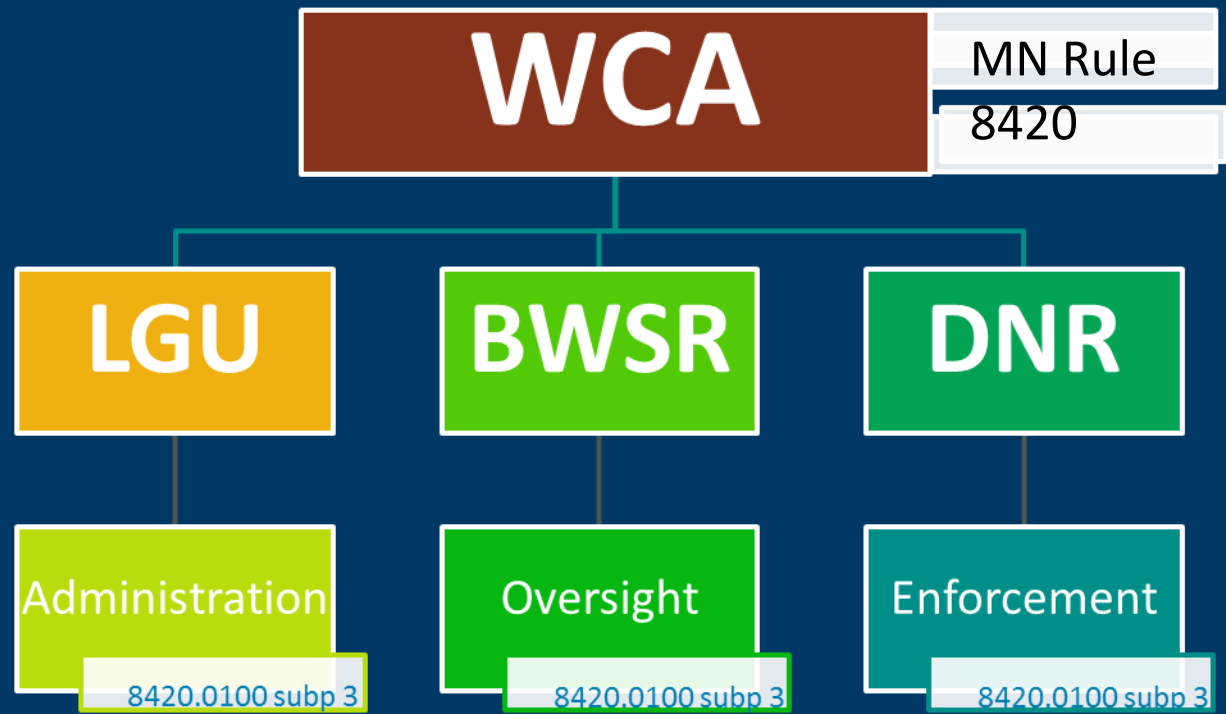
- Used in wetland mitigation siting



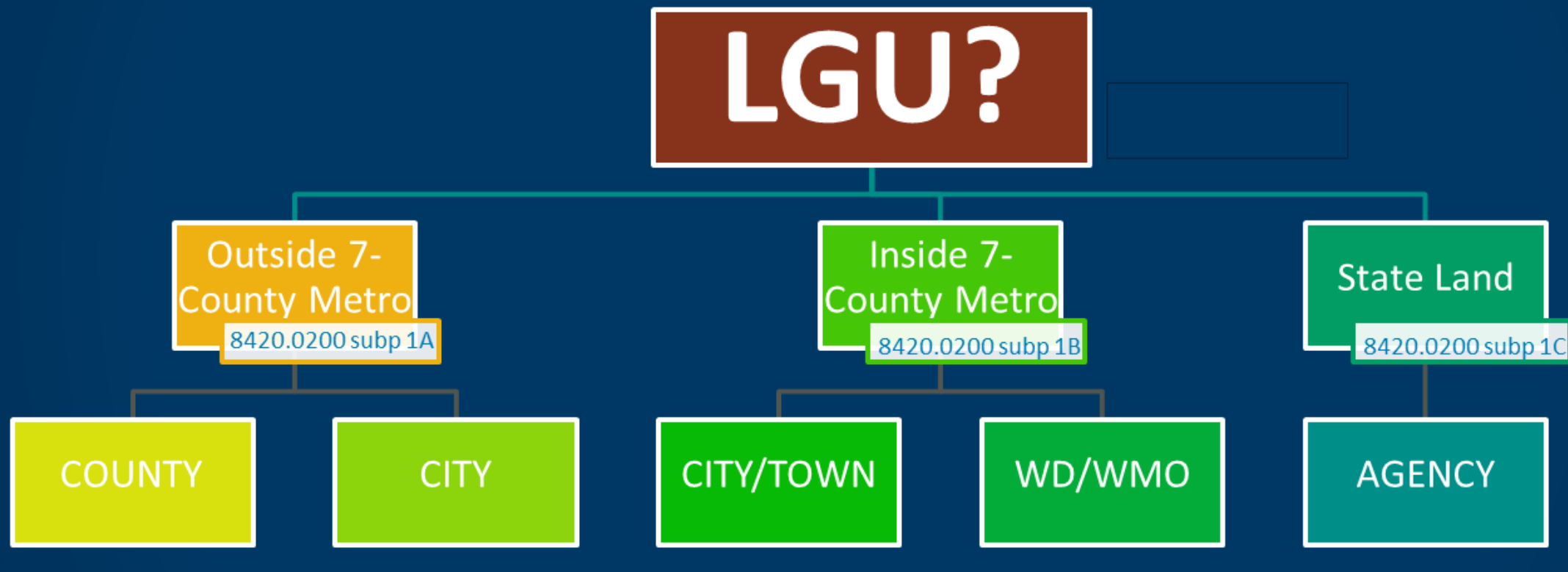
# Watersheds



- Factored into project-specific replacement siting



# LGU?





# LGU?

Local Government Unit

Mining

8420.0200 subp 1D

DNR

Delegation

8420.0200 subp 1E

By  
resolution

Multiple  
Jurisdiction

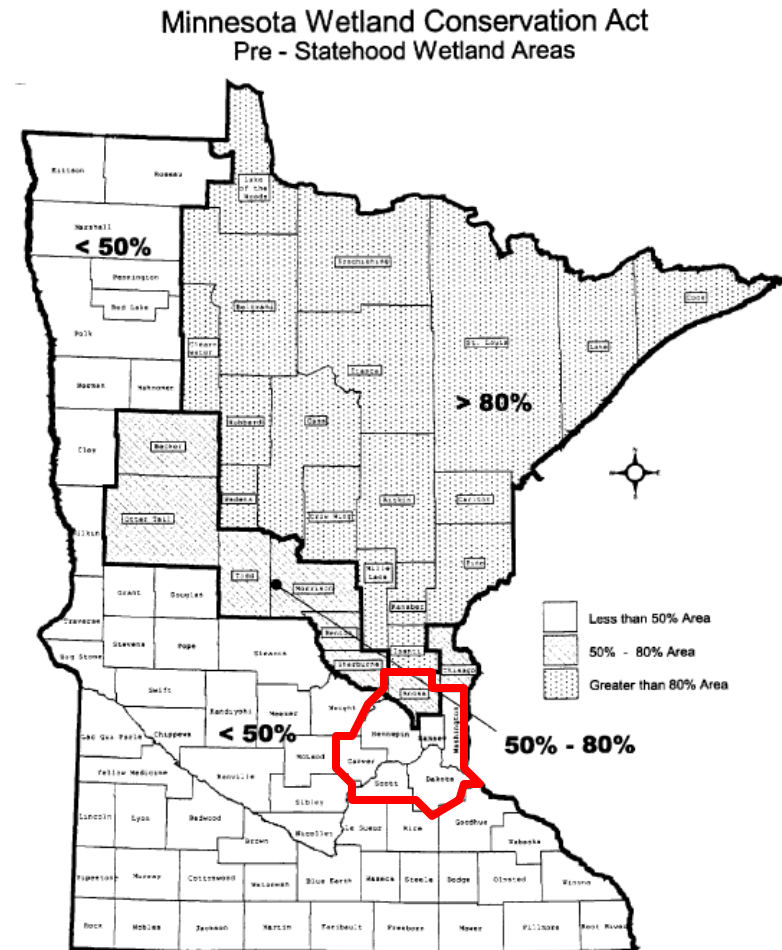
8420.0200 subp 1F

Zoning  
authority

Most  
impacts

# Who is the LGU?

- Outside the 7-County Metro area – County or City
- Inside 7-County Metro – City, town, or WMO



## Who is the LGU (cont.)

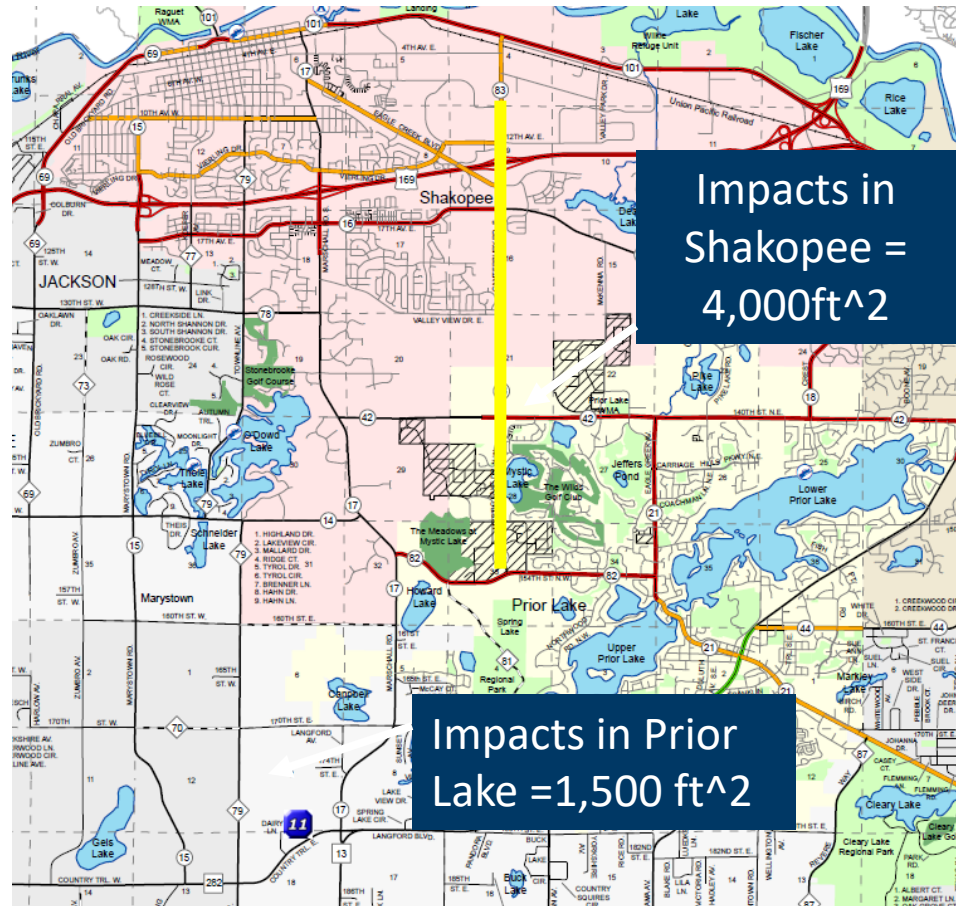
- In 7-County Metro, watershed plan will indicate LGU, but lacking an indication, LGU must be City or town.
- For activities on State land, the LGU is the State agency with administrative responsibility for the land (e.g. DNR, MnDOT). However, State agencies must coordinate with LGU that would otherwise have jurisdiction.

# Who is the LGU (cont.)

- LGU's can delegate some or all of their authority to another entity provided that both parties pass resolutions (see BWSR website for example resolutions).
- If project overlaps LGU jurisdiction, then the LGU is:
  - One with zoning authority over the project
  - If both have zoning authority, then the one in which the most impact occur.
  - Both LGUs can maintain separate jurisdiction if agreed upon.



# Example

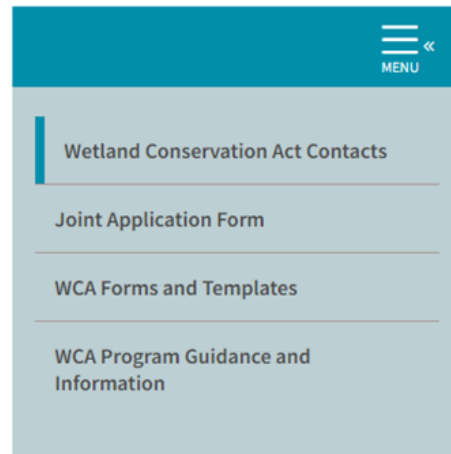


Scenario 1 – Cities agree that both review and approve application within their respective jurisdictions, and both administer LGU duties.

Scenario 2 – Cities agree to have Shakopee review entire application and be responsible for LGU duties (most impact).

## WCA Contacts

## Wetland Conservation Act Contacts



The regulatory provisions of Minnesota's Wetland Conservation Act (WCA) are primarily administered by local government units (LGUs) with oversight by the Board of Water & Soil Resources (BWSR). State agencies administer WCA on state-owned or controlled lands. Each LGU has an associated Technical Evaluation Panel (TEP) to provide technical expertise, advise and make recommendations to the LGU on WCA compliance. The TEP includes a BWSR wetland specialist as well as representatives from the Minnesota Department of Natural Resources (DNR), the local Soil and Water Conservation District (SWCD) and the LGU. DNR provides enforcement for the regulatory provisions of the act. The following documents provide key contact information.

**WCA Local Government Unit (LGU) Directory** - This is where you determine the LGU that makes WCA decisions in different geographic areas in the state.

[LGU Directory \(xls\)](#) 2/4/2022   [LGU Directory \(pdf\)](#) 2/4/2022   [LGU Directory Overview \(pdf\)](#) 12/12/19

The [Metro Watershed Authority Map](#) of watershed management authorities in the 7-county Minneapolis-St. Paul metro area should be used in conjunction with the LGU Directory for determining the appropriate LGU for a project or property in those counties.

### Other Wetland Contacts

[BWSR Wetland Specialist Work Areas \(pdf\)](#) updated 1/10/22

[DNR TEP Representatives \(pdf\)](#) updated 1/28/2022

[DNR Water Resource Enforcement Officer Work Areas \(pdf\)](#) 9/27/19

[MNDOT Contacts \(pdf\)](#) updated 12/13/2021

# LGU Duties

8420.0200 Subp 2

Make Decisions

8420.0200 Subp 2A

Provide Staff\*

8420.0200 Subp 2B

May place decision  
authority with  
staff\*\*

8420.0200 Subp 2C

May use the TEP

8420.0200 Subp 2D

# LGU Duties

8420.0200 Subp 2

Enlist fair  
preponderance of  
Evidence

8420.0200 Subp 2E

Evaluate  
landowner request

8420.0200 Subp 2F

Maintain Records  
10 years

8420.0200 Subp 2G

May charge fees

8420.0200 Subp 2D

Annual Report

8420.0200 Subp 2I



# Delegation of Decision-Making Authority to Staff

- Decision authority by default rests with the elected/appointed governing board (City Council, County Board, WMO Board, etc.)
- However, the LGU *may*, through resolution, rule, or ordinance, place decision-making authority with staff according to procedures it establishes.

If the LGU is not following WCA:

- 1) BWSR notify LGU in writing of its concerns
- 2) File Review spot check
- 3) Can then impose moratorium on making decisions

- WCA provides minimum standards
- Local governments may require more procedures and more wetland protection, but not less

# Technical Evaluation Panel “TEP”

8420.0240 A

## LGU

City, WD, County, SWCD

## BWSR

Wetland Specialist, etc.

## SWCD

Technical Staff, manager

## DNR

Area Hydro, wildlife, etc

+ Watershed District  
+ US Army Corps of Engineers





↗  
A TEP



↗  
Too many people for a TEP

# TEP Roles

- Determine technical issues
- Generates findings, Documents specific evidence
- Makes recommendations to LGU
- Operate objectively, clearly, concisely, and timely

## The TEP does not:

- Make decisions
- Perform LGU duties (notices, extensions, etc.)

## Minnesota Wetland Conservation Act Technical Evaluation Panel Form

This form can be used to document TEP findings and recommendations related to WCA decisions, determinations, enforcement and pre-application reviews.

Local Government Unit: Click here to enter text.	County: Click here to enter text.
Landowner or Project Proposer: Click here to enter text.	Agent/Representative(s): Click here to enter text.
Project Name: Click here to enter text.	Project No. (if any): Click here to enter text.
Project Location: Click here to enter text.	

### Purpose of TEP Findings/Recommendation - check all that apply and describe

<input type="checkbox"/> Pre-application review	<input type="checkbox"/> Application Review (related to WCA Decision)
<input type="checkbox"/> Local Government Road Wetland Replacement Program Eligibility	<input type="checkbox"/> WCA Determination Request
<input type="checkbox"/> Other (specify): Click here to enter text.	
Describe: Click here to enter text.	

### Meeting Type – check all that apply and specify dates as applicable

<input type="checkbox"/> In-Person Meeting(s) Date(s): Click here to enter text.	<input type="checkbox"/> E-mail Exchanges
<input type="checkbox"/> Onsite Review(s) Date(s): Click here to enter text.	<input type="checkbox"/> Other (specify): Click here to enter text.

### Findings and Recommendations

Click here to enter text.

☐ Attachment(s) (specify): Click here to enter text.

### DNR Protected Waters and Shoreland Protection Zone

Will the project/activity affect DNR public waters, DNR public waters wetlands or wetlands within the shoreland protection zone? ☐ Yes ☐ No If yes, DNR representative is a member of the TEP.

### Signatures

<input type="checkbox"/> LGU TEP Member: Click here to enter text.	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:	Date:
<input type="checkbox"/> SWCD TEP Member: Click here to enter text.	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:	Date:
<input type="checkbox"/> BWSR TEP Member: Click here to enter text.	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:	Date:
<input type="checkbox"/> DNR TEP Member: Click here to enter text.	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature:	Date:

## Who can Request a TEP?

- LGU
- TEP member
- Landowner





- Step 1: Define purpose of TEP discussion/review (set a formal agenda)
- Step 2: Have an open discussion (there will be disagreements)
- Step 3: Summarize and agree to conclusions (find common ground)
- Step 4: Write Findings Report (be clear and concise)



# TEP Meetings



## Minnesota Wetland Conservation Act Technical Evaluation Panel Form

This form can be used to document TEP findings and recommendations related to WCA decisions, determinations, enforcement and pre-application reviews.

Local Government Unit: <a href="#">Click here to enter text.</a>	County: <a href="#">Click here to enter text.</a>
Landowner or Project Proposer: <a href="#">Click here to enter text.</a>	Agent/Representative(s): <a href="#">Click here to enter text.</a>
Project Name: <a href="#">Click here to enter text.</a>	Project No. (if any): <a href="#">Click here to enter text.</a>
Project Location: <a href="#">Click here to enter text.</a>	

### Purpose of TEP Findings/Recommendation - check all that apply and describe

<input type="checkbox"/> Pre-application review	<input type="checkbox"/> Application Review (related to WCA Decision)
<input type="checkbox"/> Local Government Road Wetland Replacement Program Eligibility	<input type="checkbox"/> WCA Determination Request
<input type="checkbox"/> Other (specify): <a href="#">Click here to enter text.</a>	
Describe: <a href="#">Click here to enter text.</a>	

### Meeting Type – check all that apply and specify dates as applicable

<input type="checkbox"/> In-Person Meeting(s) Date(s): <a href="#">Click here to enter text.</a>	<input type="checkbox"/> E-mail Exchanges
<input type="checkbox"/> Onsite Review(s) Date(s): <a href="#">Click here to enter text.</a>	<input type="checkbox"/> Other (specify): <a href="#">Click here to enter text.</a>

### Findings and Recommendations

<a href="#">Click here to enter text.</a>
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<input type="checkbox"/> Attachment(s) (specify): <a href="#">Click here to enter text.</a>
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### DNR Protected Waters and Shoreland Protection Zone

Will the project/activity affect DNR public waters, DNR public waters wetlands or wetlands within the shoreland protection zone?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If yes, DNR representative is a member of the TEP.
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### Signatures

<input type="checkbox"/> LGU TEP Member: <a href="#">Click here to enter text.</a>	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____	Date: _____
<input type="checkbox"/> SWCD TEP Member: <a href="#">Click here to enter text.</a>	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____	Date: _____
<input type="checkbox"/> BWSR TEP Member: <a href="#">Click here to enter text.</a>	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____	Date: _____
<input type="checkbox"/> DNR TEP Member: <a href="#">Click here to enter text.</a>	Agree with Findings & Recommendations: <input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____	Date: _____

# TEP recommendations

- TEP may recommend approval, approval with conditions or denial
- LGU must consider TEP findings and recommendations
- TEP cannot make findings without having at least one member make a site visit
- Findings and recommendations must be endorsed by a majority of members



# What if the LGU doesn't agree with TEP?

- The LGU must provide detailed reasons for rejecting the [TEP] finding of fact or recommendation in its record of decision; otherwise, the LGU has not sufficiently considered the TEP report.

"QUOTESVALLEY.COM"

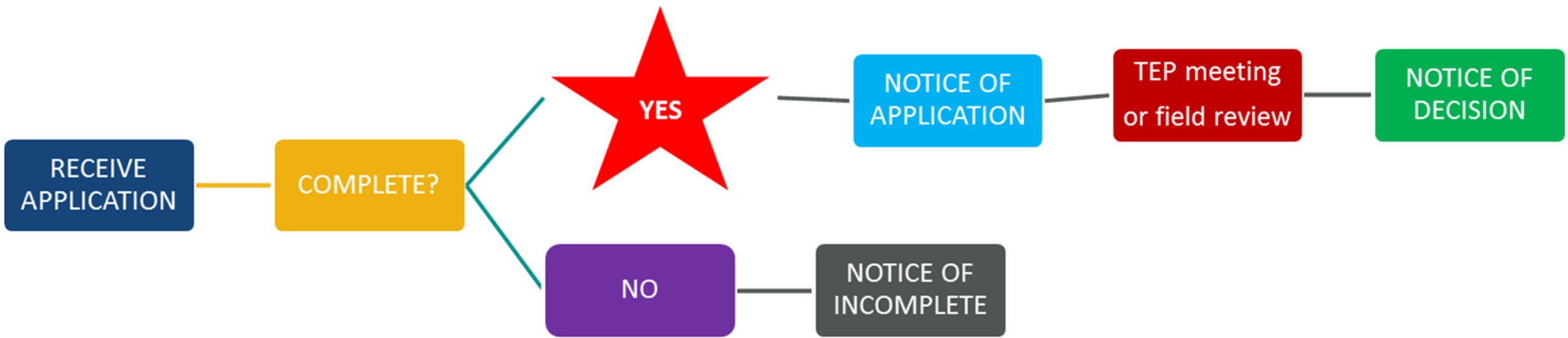
I'm not arguing,  
I'm just explaining  
why I'm right.

# Detailed reasons for not following TEP recommendation?

“The Board felt that the TEP’s recommendation to deny the application was unreasonable and therefore we approve the application.”

# Reasons for not following TEP recommendation

“The Board finds that the TEP’s recommendation to reject the application based on the availability of a reasonable and prudent alternative alignment to the proposed road (impacting less wetland) did not give due consideration to the decreased public safety associated with alternative alignments. The alternative alignments mentioned in the TEP’s recommendation result in unsafe sighting distances at road intersections according to national safety standards. Therefore, the Board finds that there are no feasible and prudent alternatives and approves the application.”

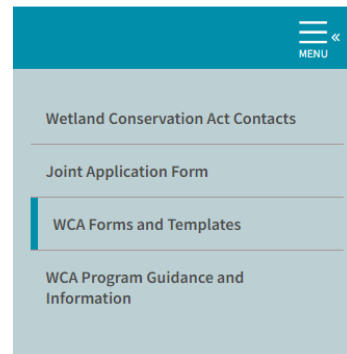


# WCA Application Procedures



- [WCA Forms and Templates](#)

## WCA Forms and Templates



This page contains links and summaries of forms and templates associated with the implementation of the Wetland Conservation Act (WCA). Note that forms associated with wetland bank credit transactions are located on the [Wetland Bank Transaction Forms page](#) and forms associated with wetland mitigation easements are on the [Wetland Bank and Mitigation Easements page](#). The joint application form for projects and activities affecting wetlands is on the [Joint Application Form page](#).

### 2021 WCA Reporting Form

[2021 WCA Reporting Form with Instructions](#)

Form must be completed by all WCA Local Government Units and returned to BWSR at [WCA\\_Reporting@state.mn.us](mailto:WCA_Reporting@state.mn.us) by **February 4, 2022**.

### Notice Forms

[WCA Notice of Application Form \(docx\)](#) (11/12/19) and [Instructions](#) - This form is to be used by Local Government Unit (LGU) representatives to notify Technical Evaluation Panel (TEP) members and others required to receive notice of applications for WCA decision items. WCA decision items are wetland boundary/type, replacement plan, bank plan, exemption and no-loss. WCA rules require the LGU to issue a notice of application within 15 business days of receipt of a complete application for wetland boundary/type, replacement plan and bank plan decision types. Wetland exemption and no-loss decisions do not require a notice of application, but LGUs are encouraged to provide notice of application either formally or informally to solicit input from the TEP.

[WCA Notice of Decision Form \(docx\)](#) (11/12/19) and [Instructions](#) - This form is to be used by LGU representatives to notify TEP members and others required to receive notice of WCA decision items. WCA decision items are wetland boundary/type, replacement plan, bank plan, exemption and no-loss. WCA rules require the LGU to issue a notice of decision within 10 business days of the date of decision.

[WCA Determination Notice Form \(docx\)](#) (11/12/19) and [Instructions](#) - This form is to be used by LGU and Soil and Water Conservation District (SWCD) representatives to notify TEP members, applicants, landowners and others of determinations requested or made by the LGU, TEP or SWCD. Determinations include but are not limited to construction certification, local government road wetland replacement program qualification, certification of successful replacement and restoration, preservation credit action eligibility, sequencing flexibility, partial drainage impacts, financial assurance release, wetland bank credit deposits and extension of temporary impact time period. The form serves the dual purpose of notifying and requesting review of determination requests and providing notification of determinations that were made.

### TEP and Enforcement Forms

[Technical Evaluation Panel Form \(docx\)](#) (10/29/19) - This form is to be used by the TEP to document findings and recommendations.

[Wetland Restoration Order Form \(pdf\)](#) (10/29/19) and [Instructions](#) - This form is used to order a landowner or responsible party to restore wetlands impacted in violation of the WCA. The form is typically completed by the SWCD and served by an enforcement officer.

[Wetland Replacement Order Form \(pdf\)](#) (10/29/19) and [Instructions](#) - This form is used to order a landowner or responsible party to replace wetlands impacted in violation of the WCA. The form is typically completed by the SWCD and served by an enforcement officer.

[Certificate of Satisfactory Restoration/Replacement](#) - use the above WCA Determination Notice Form, check the appropriate box, and add description as necessary



# WCA Application Procedures

LGU Roles

Application Procedures

Agency Action Deadlines

Noticing Requirements

Technical Evaluation Panel

# Application Types and Procedures

```
graph TD; A[Application Types and Procedures] --> B[Boundary/Type]; A --> C[No-Loss]; A --> D[Exemption]; A --> E[Sequencing]; A --> F[Replacement Plan]; A --> G[Banking]; B --- B1[8420.0310]; C --- C1[8420.0315]; D --- D1[8420.0320]; E --- E1[8420.0325]; F --- F1[8420.0330]; G --- G1[8420.0700];
```

Boundary/Type

8420.0310

No-Loss

8420.0315

Exemption

8420.0320

Sequencing

8420.0325

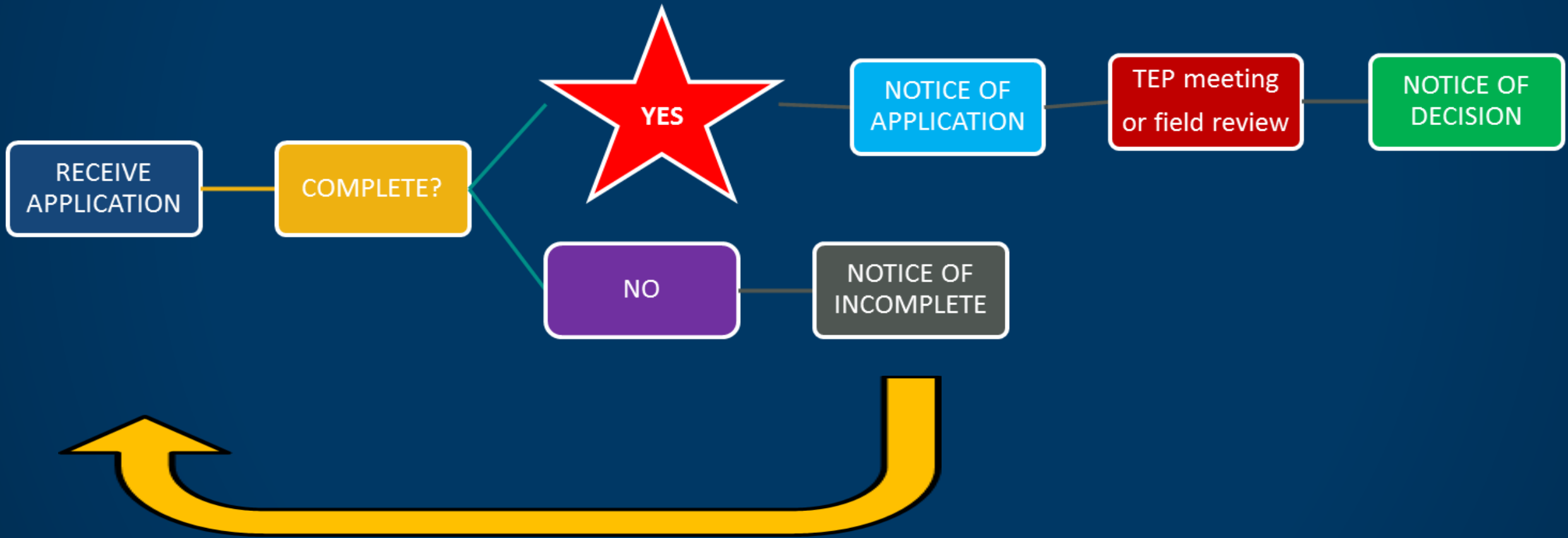
Replacement  
Plan

8420.0330

Banking

8420.0700

# Procedures and Process



# Timelines and deadlines

## Determine Complete Application

- **15** Business days from the date of receipt (date stamp!)

## Send the Notice of Application

- **15** Business days from date of receipt of a complete application

## Set the Comment Period

- **MINIMUM 15** Business days from the date of sending the Notice of Application
- Can be longer

## Make a Decision

- **60** Calendar days from the receipt of a complete application
- Can extend 60 days, additional extension requires applicant approval

## Send the Notice of Decision

- **10** Business days from date of decision

## Appeal a Decision

- **30** Calendar days from the date of decision

## How long is the Decision Valid?

- **5** Years
- Unless longer is specified by LGU when TEP advises longer period

## How long do I (LGU) keep all this paperwork?

- **10** Years



# Now you've got yourself an application

- You should receive:

1. A "Joint Application"
2. Applicable attachment(s)
3. Supporting documentation

## Joint Application Form for Activities Affecting Water Resources in Minnesota

This joint application form is the accepted means for initiating review of proposals that may affect a water resource (wetland, tributary, lake, etc.) in the State of Minnesota under state and federal regulatory programs. Applicants for Minnesota Department of Natural Resources (DNR) Public Waters permits **MUST** use the MPARS online permitting system for submitting applications to the DNR. Applicants can use the information entered into MPARS to substitute for completing parts of this joint application form (see the paragraph on MPARS at the end of the joint application form instructions for additional information). This form is only applicable to the water resource aspects of proposed projects under state and federal regulatory programs; other local applications and approvals may be required. Depending on the nature of the project and the location and type of water resources impacted, multiple authorizations may be required as different regulatory programs have different types of jurisdiction over different types of resources.

### Regulatory Review Structure

#### Federal

The St. Paul District of the U.S. Army Corps of Engineers (Corps) is the federal agency that regulates discharges of dredged or fill material into waters of the United States (wetlands, tributaries, lakes, etc.) under Section 404 of the Clean Water Act (CWA) and regulates work in navigable waters under Section 10 of the Rivers and Harbors Act. Applications are assigned to Corps project managers who are responsible for implementing the Corps regulatory program within a particular geographic area.

#### State

There are three state regulatory programs that regulate activities affecting water resources. The Wet (WCA) regulates most activities affecting wetlands. It is administered by local government units (LGUs) townships, cities, watershed districts, watershed management organizations or state agencies (on state Minnesota DNR Division of Ecological and Water Resources issues permits for work in specially-designated Public Waters Work Permit Program (DNR Public Waters Permits). The Minnesota Pollution Control Act 401 of the Clean Water Act certifies that discharges of dredged or fill material authorized by a federal permit with state water quality standards. One or more of these regulatory programs may be applicable to an

### Required Information

Prior to submitting an application, applicants are **strongly encouraged** to seek input from the Corps PM to identify regulatory issues and required application materials for their proposed project. Project pro application consultation with the Corps and LGU to discuss their proposed project by providing the info Sections 1 through 5 of this joint application form to facilitate a meaningful discussion about their project venue (such as regularly scheduled technical evaluation panel meetings) for potential applicants to discuss multiple agencies prior to submitting an application. Contact information is provided below.

The following bullets outline the information generally required for several common types of determin

- For delineation approvals and/or jurisdictional determinations, submit Parts 1, 2 and 5, and A
- For activities involving CWA/WCA exemptions, WCA no-loss determinations, and activities not

through/ requiring authority of Attach  
TEP meeting or field review  
on/repl for the s  
NOTICE OF DECISION  
Parts 1 thru 5, and replacement p  
the LGU.

Project Name and/or Number:

### PART ONE: Applicant Information

If applicant is an entity (company, government entity, partnership, etc.), an authorized contact person must be identified. If the applicant is using an agent (consultant, lawyer, or other third party) and has authorized them to act on their behalf, the agent's contact information must also be provided.

Project Name and/or Number:

### PART FOUR: Aquatic Resource Impact<sup>1</sup> Summary

If your proposed project involves a direct or indirect impact to an aquatic resource (wetland, lake, tributary, etc.) identify each impact in the table below. Include all anticipated impacts, including those expected to be temporary. Attach an overhead view map, aerial photo, and/or drawing showing all of the aquatic resources in the project area and the location(s) of the proposed impacts. Label each aquatic resource on the map with a reference number or letter and identify the impacts in the following table.

Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) <sup>1</sup>	Size of Impact <sup>2</sup>	Overall Size of Aquatic Resource <sup>3</sup>	Existing Plant Community Type(s) in Impact Area <sup>4</sup>	County, Major Watershed #, and Bank Service Area # of Impact Area <sup>5</sup>

Project Name and/or Number:

## Attachment A Request for Delineation Review, Wetland Type Determination, or Jurisdictional Determination

By submission of the enclosed wetland delineation report, I am requesting that the U.S. Army Corps of Engineers, St. Paul District (Corps) and/or the Wetland Conservation Act Local Government Unit (LGU) provide me with the following (check all that apply):

☐ Wetland Type Confirmation

☐ Delineation Concurrence. Concurrence with a delineation is a written notification from the Corps and a decision from the LGU concurring, not concurring, or commenting on the boundaries of the aquatic resources delineated on the property. Delineation concurrences are generally valid for five years unless site conditions change. Under this request alone, the Corps will not address the jurisdictional status of the aquatic resources on the property, only the boundaries of the resources within the review area (including wetlands, tributaries, lakes, etc.).

☐ Preliminary Jurisdictional Determination. A preliminary jurisdictional determination (PJD) is a non-binding written indication from the Corps that waters, including wetlands, identified on a parcel may be waters of the United States. For purposes of computation of impacts and compensatory mitigation requirements, a permit decision made on the basis of a PJD will treat all waters and wetlands in the review area as if they are jurisdictional waters of the U.S. PJDs are advisory in nature and may not be appealed.

☐ Approved Jurisdictional Determination. An approved jurisdictional determination (AJD) is an official Corps determination that jurisdictional waters of the United States are either present or absent on the property. AJDs can generally be relied upon by the affected party for five years. An AJD may be appealed through the Corps administrative appeal process.

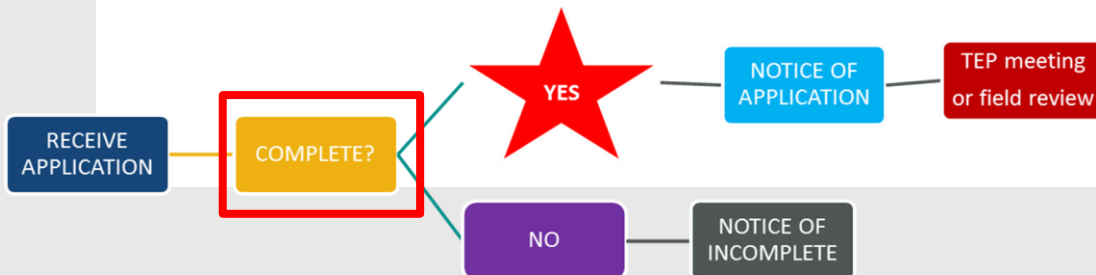
In order for the Corps and LGU to process your request, the wetland delineation must be prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, any approved Regional Supplements to the 1987 Manual, and the *Guidelines for Submitting Wetland Delineations in Minnesota* (2013).

<http://www.mvp.usace.army.mil/Missions/Regulatory/DelineationJGuidance.aspx>



# Is the application complete?

- Application must contain sufficient/required information found on 1<sup>st</sup> page of application
- Consider what is being asked, where it fits in Rule, what information the Rule requires
- Local application requirements such as fees?



## Joint Application Form for Activities Affecting Water Resources in Minnesota

This joint application form is the accepted means for initiating review of proposals that may affect a water resource (wetland, tributary, lake, etc.) in the State of Minnesota under state and federal regulatory programs. Applicants for Minnesota Department of Natural Resources (DNR) Public Waters permits **MUST** use the MPARS online permitting system for submitting applications to the DNR. Applicants can use the information entered into MPARS to substitute for completing parts of this joint application form (see the paragraph on MPARS at the end of the joint application form instructions for additional information). This form is only applicable to the water resource aspects of proposed projects under state and federal regulatory programs; other local applications and approvals may be required. Depending on the nature of the project and the location and type of water resources impacted, multiple authorizations may be required as different regulatory programs have different types of jurisdiction over different types of resources.

### Regulatory Review Structure

#### Federal

The St. Paul District of the U.S. Army Corps of Engineers (Corps) is the federal agency that regulates discharges of dredged or fill material into waters of the United States (wetlands, tributaries, lakes, etc.) under Section 404 of the Clean Water Act (CWA) and regulates work in navigable waters under Section 10 of the Rivers and Harbors Act. Applications are assigned to Corps project managers who are responsible for implementing the Corps regulatory program within a particular geographic area.

#### State

There are three state regulatory programs that regulate activities affecting water resources. The Wetland Conservation Act (WCA) regulates most activities affecting wetlands. It is administered by local government units (LGUs) which can be counties, townships, cities, watershed districts, watershed management organizations or state agencies (on state-owned land). The Minnesota DNR Division of Ecological and Water Resources issues permits for work in specially-designated public waters via the Public Waters Work Permit Program (DNR Public Waters Permits). The Minnesota Pollution Control Agency (MPCA) under Section 401 of the Clean Water Act certifies that discharges of dredged or fill material authorized by a federal permit or license comply with state water quality standards. One or more of these regulatory programs may be applicable to any one project.

### Required Information

Prior to submitting an application, applicants are **strongly encouraged** to seek input from the Corps Project Manager and LGU staff to identify regulatory issues and required application materials for their proposed project. Project proponents can request a pre-application consultation with the Corps and LGU to discuss their proposed project by providing the information required in Sections 1 through 5 of this joint application form to facilitate a meaningful discussion about their project. Many LGUs provide a venue (such as regularly scheduled technical evaluation panel meetings) for potential applicants to discuss their projects with multiple agencies prior to submitting an application. Contact information is provided below.

Following bullets outline the information generally required for several common types of determinations/authorizations.

- For delineation approvals and/or jurisdictional determinations, submit Parts 1, 2 and 5, and Attachment A.
- For activities involving CWA/WCA exemptions, WCA no-loss determinations, and activities not requiring mitigation, submit Parts 1 through 5, and Attachment B.
- For activities requiring compensatory mitigation/replacement plan, submit Parts 1 thru 5, and Attachments C and D.
- For local road authority activities that qualify for the state's local road wetland replacement program, submit Parts 1 through 5, and Attachments C, D (if applicable), and E to both the Corps and the LGU.



# Application Review

- Use checklists/guidance
- Missing Information = Incomplete Application
- Notify applicant
  - Within 15 business days of receipt
  - Provide list of what is missing

Check yes or no or leave blank if not applicable:

GENERAL APPLICATION REQUIREMENTS		
Item #	Yes	No
1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Item # Yes No

9) ☐ ☒ Square feet or acres of wetland proposed to be impacted by

10) ☐ ☒ The minor watershed, major watershed, county, and bank s

11) ☐ ☒ A soil survey map of the site showing soil type and identify

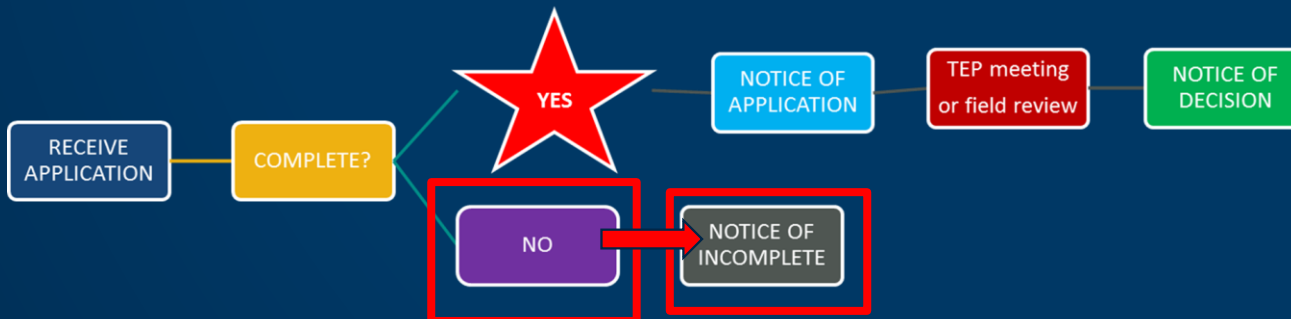
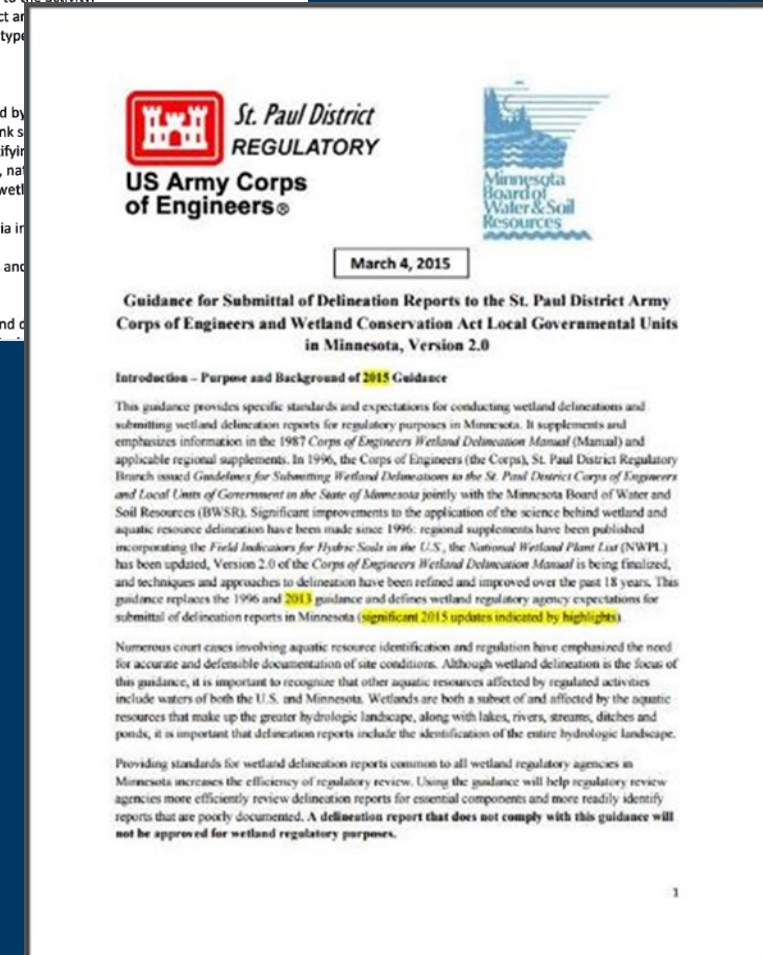
12) ☐ ☒ A map showing locations of any surface inlets or outlets, nat

13) ☐ ☒ Information concerning the special considerations criteria in

14) ☐ ☒ A list of all other known local, state, and federal permits and

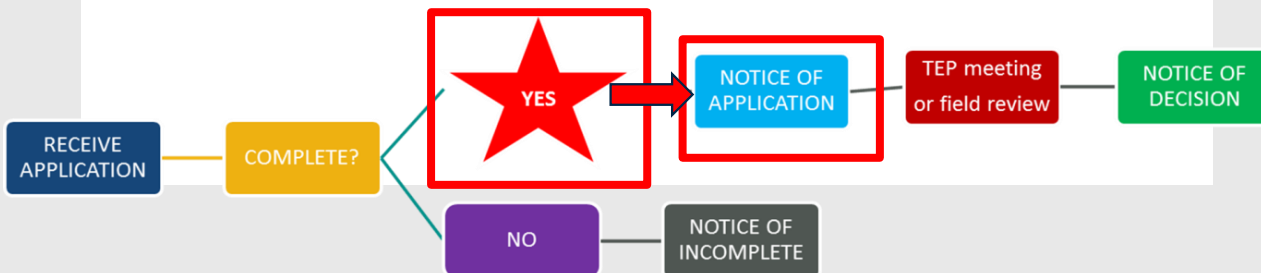
Sequencing Analysis:

15) ☐ ☒ Project purpose and relevant requirements identified, and c



# It's Complete! Notice of Application

- Complete BWSR form
- Mark all decision types
- Specify comment Period (min 15 days)
- Decision time information
- Send to applicant, agent, TEP and others who requested notice



**m BOARD OF WATER AND SOIL RESOURCES**

**Minnesota Wetland Conservation Act  
Notice of Application**

Local Government Unit: Click here to enter text.	County: Click here to enter text.
Applicant Name: Click here to enter text.	Applicant Representative: Click here to enter text.
Project Name: Click here to enter text.	LGU Project No. (if any): Click here to enter text.
Date Application Received By LGU: Click here to enter text.	
Date Notice Sent: Click here to enter text.	
Comments Must Be Received By <sup>1</sup> : Click here to enter text.	

<sup>1</sup> minimum 15 business day comment period for Boundary & Type, Sequencing, Replacement Plan and Bank Plan Applications

**WCA Decision Type - check all that apply**

<input type="checkbox"/> Wetland Boundary & Type	<input type="checkbox"/> Sequencing	<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Bank Plan (not credit purchase)
<input type="checkbox"/> No-Loss (8420.0415)	<input type="checkbox"/> Exemption (8420.0420)		
Part: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H		Subpart: <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9	

**Replacement Plan Impacts (replacement plan decisions only)**

Total WCA Impact Area Proposed: Click here to enter text.
---

**Application Materials**

<input type="checkbox"/> Attached <input type="checkbox"/> Other <sup>2</sup> (specify): Click here to enter text.
--

<sup>2</sup> Link to ftp or other accessible file sharing sites is acceptable.

**Comments on this application should be sent to:**

LGU Contact Person: Click here to enter text.
E-Mail Address: Click here to enter text.
Address and Phone Number: Click here to enter text.

**Decision-Maker for this Application:**

<input type="checkbox"/> Staff <input type="checkbox"/> Governing Board/Council <input type="checkbox"/> Other (specify): Click here to enter text.
---

**Notice Distribution (Include name)**

**Required on all notices:**

<input type="checkbox"/> SWCD TEP Member Click here to enter text.	<input type="checkbox"/> BWSR TEP Member Click here to enter text.
<input type="checkbox"/> LGU TEP Member (if different than LGU contact) Click here to enter text.	
<input type="checkbox"/> DNR Representative Click here to enter text.	
<input type="checkbox"/> Watershed District or Watershed Mgmt. Org. Click here to enter text.	
<input type="checkbox"/> Applicant (notice only) Click here to enter text.	<input type="checkbox"/> Agent/Consultant Click here to enter text.

**Optional or As Applicable:**

<input type="checkbox"/> Corps of Engineers Click here to enter text.	
<input type="checkbox"/> BWSR Wetland Mitigation Coordinator (required for bank plan applications only) Click here to enter text.	
<input type="checkbox"/> Members of the Public (notice only) Click here to enter text.	<input type="checkbox"/> Other Click here to enter text.

Signature	Date
	Click here to enter text.

This notice and accompanying application materials may be sent electronically or by mail. The LGU may opt to send a summary of the application to members of the public upon request per 8420.0255, Subp. 3.

Summary of LGU Application Types		
Decision Type	NOA Required	NOD Required
Boundary or Type	Yes	Yes
No-Loss	No	Yes
Exemption	No	Yes
Sequencing	Yes	Yes
Replacement Plan	Yes	Yes
Bank Plan	Yes	Yes



# Technical Evaluation Panel “TEP”

8420.0240 A

## LGU

City, WD, County, SWCD

## BWSR

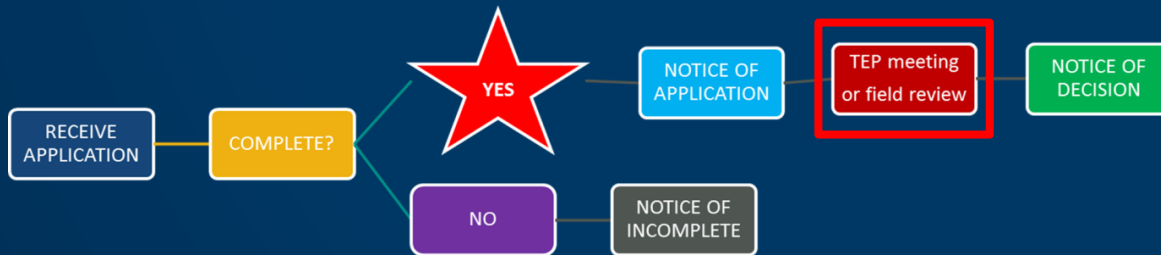
Wetland Specialist, etc.

## SWCD

Technical Staff, manager

## DNR

Area Hydro, wildlife, etc



+ Watershed District  
+ US Army Corps of Engineers

# Notice of Decision



## Minnesota Wetland Conservation Act Notice of Decision

Local Government Unit:	Click here to enter text.	County:	Click here to enter text.
Applicant Name:	Click here to enter text.	Applicant Representative:	Click here to enter text.
Project Name:	Click here to enter text.	LGU Project No. (if any):	Click here to enter text.
Date Application Received By LGU:	Click here to enter text.		
Date of LGU Decision:	Click here to enter text.		
Date this Notice was sent:	Click here to enter text.		

### WCA Decision Type – Check all that apply

<input type="checkbox"/> Wetland Boundary & Type	<input type="checkbox"/> Sequencing	<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Bank Plan (not credit purchase)
<input type="checkbox"/> No-Loss (8420.0415)	<input type="checkbox"/> Exemption (8420.0420)		
Part: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H		Subpart: <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9	

### Replacement Plan Impacts (for replacement plan decisions only)

Total WCA Wetland Impact Area:	Click here to enter text.
Wetland Replacement Type:	<input type="checkbox"/> Project Specific <input type="checkbox"/> Bank Credits
Bank Name & Number(s):	Click here to enter text.

### Technical Evaluation Panel Findings and Recommendations (Attach)

<input type="checkbox"/> Approve	<input type="checkbox"/> Approve w/Conditions	<input type="checkbox"/> Deny	<input type="checkbox"/> No TEP Recommendation
----------------------------------	---	-------------------------------	--

### LGU Decision

<input type="checkbox"/> Approved with Conditions (specify below) <sup>1</sup>	<input type="checkbox"/> Approved <sup>1</sup>	<input type="checkbox"/> Denied
Click here to enter text.		
Decision-Maker for this Application:	<input type="checkbox"/> Staff <input type="checkbox"/> Governing Board/Council <input type="checkbox"/> Other Click here to enter text.	
Decision is valid for:	<input type="checkbox"/> 5 years (default) <input type="checkbox"/> Other (specify): Click here to enter text.	

<sup>1</sup> Wetland Replacement Plan approval is not valid until BWSR confirms the withdrawal of any required wetland bank credits. For project-specific replacement a financial assurance per MN Rule 8420.0522, Subp. 9 and evidence that all required forms have been recorded on the title of the property on which the replacement wetland is located must be provided to the LGU for the approval to be valid.

LGU Findings – Must attach document(s) providing the basis for the LGU decision. Findings must consider any TEP recommendations if applicable.

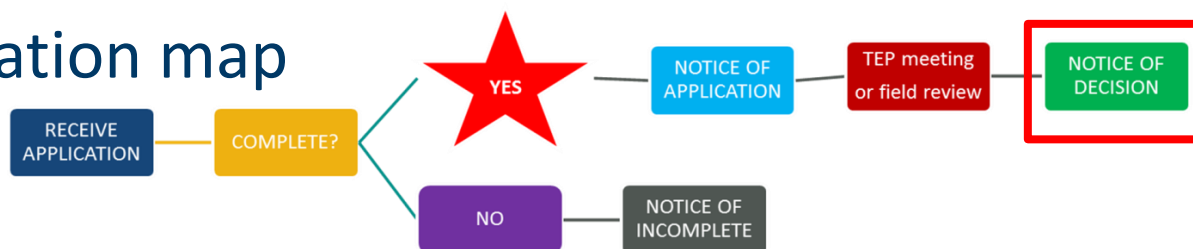
<input type="checkbox"/> Attachment(s) (specify):	Click here to enter text.
---	---------------------------

### Attached Project Documents

<input type="checkbox"/> Site Location Map <input type="checkbox"/> Project Plan(s)/Descriptions/Reports (specify):	Click here to enter text.
---	---------------------------

Notice of Decision (NOD) should include:

- Summarize the project- Decision type requested, proposed impact including wetland type and amount
- Clearly state the decision
- Applicable rule citation(s)
- TEP findings
- Conditions of approval
- Location map



# LGU Decision

- Based on standards and procedures in WCA, TEP Findings, and Recommendation.
- Must occur within 60 day of complete application (or as extended)
- Requires a Notice of Decision within 10 days



# General Appeal Process

- 30 day appeal window following NOD
  - Any work completed during this period may be at risk.
- 30 days starts from postmarked date of mailing or date of electronic transmission
- Extension possible by mutual agreement



- Appeals may be made by
  - landowner,
  - those required to be noticed (TEP/other), or
  - 100 residents in county where wetland is located.
- Appeal goes to BWSR.
- Heard by Dispute Resolution Committee with final decision by full BWSR Board.



# WCA Application Procedures Review

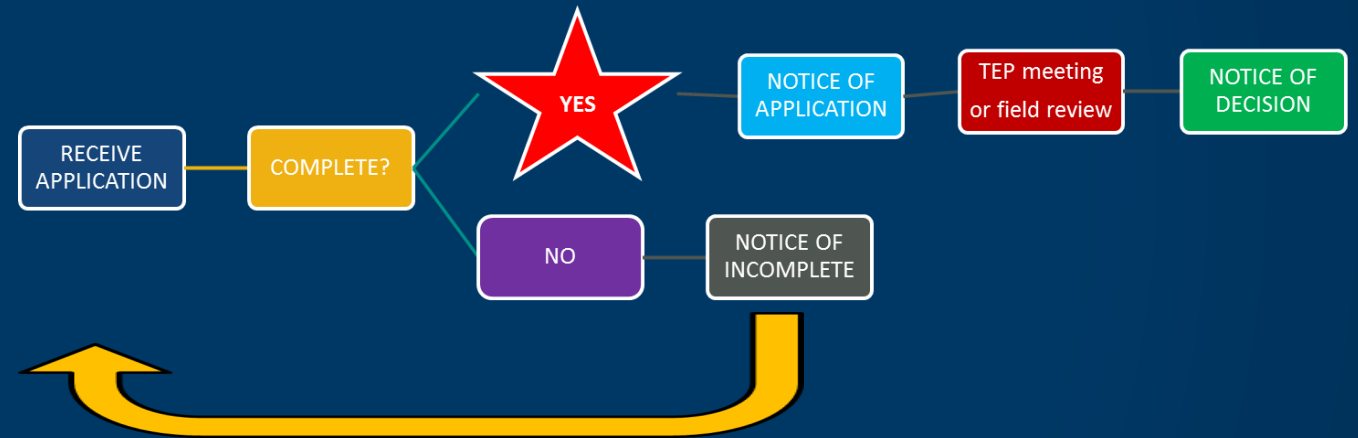
LGU Roles

Application Procedures

Agency Action Deadlines

Noticing Requirements

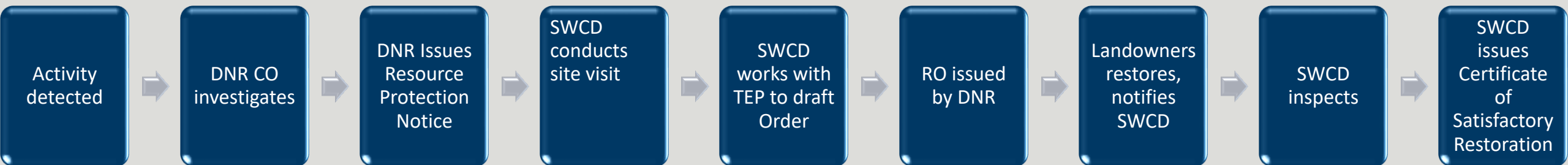
Technical Evaluation Panel





# WCA Enforcement

# Enforcement Procedure Overview



## 8420.0900 Subp. 3. Restoration and Replacement orders.

- B. Promptly upon being informed by the enforcement authority or the local government unit of the need, a soil and water conservation district staff person **must** inspect the site and prepare a plan in consultation with the local government unit and the enforcement authority for restoring the site to its prealtered condition.

# SWCD Role in a violation

- Landowner contact for CDO or RPN
- Site visit- gather information/evidence
- Prepare Restoration/Replacement Order
- Monitor restoration/ replacement site.
- Certificate of Satisfactory Completion
- Track the cases.



# LGU Role in a violation

- Help Determine if site has permit for work or prior work done.
- Assist SWCD on Restoration/Replacement Orders
- Assist with gathering evidence
- Receive application from landowner for exemption, no-loss determinations, and replacement plans
- Track the cases

# BWSR's Role in a violation

- Rule interpretation
- Bounce ideas back and forth (appropriate seed mixes)
- May contact more specialist BWSR staff to assist in difficult projects
- Assist SWCD/LGU in developing RO's
- Assist in technical findings

# DNR Enforcement Role

- Landowner contact if Cease and Desist Orders
- Write Summary of information on violation
- Gather Evidence of the violation including contractors info
- Issue Restoration and Replacement Order
- Grant Extensions
- Initiate enforcement action
- Follow and track all violation cases
- Issue RPN for after the fact cases. (not in progress)

# Resource Protection Notices

DNR ENFORCEMENT Resource Protection Notification			
NA-01199-DH		RPN # 883041	
Date: 4/29/15	<input checked="" type="checkbox"/> Wetland (WCA) <input type="checkbox"/> Public Waters (PW) <input type="checkbox"/> Aquatic Plant (APM)		
Time: 1235	<input type="checkbox"/> Airplane Used <input checked="" type="checkbox"/> Pictures Taken <input type="checkbox"/> Video Taken		
Citation #:	ICR #: 15002990		
<input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Landowner <input type="checkbox"/> Responsible party <input type="checkbox"/> Other			
First [REDACTED] Middle [REDACTED] Last [REDACTED]			
Address - Street, Apt # [REDACTED]			
City [REDACTED] State [REDACTED] ZIP Code [REDACTED]			
[REDACTED]			
County: Washington		County No: 82	
PWI No:			
Location (Address/Twp/Sec/Range, GPS, or PID): [REDACTED]			
Narrative: Possible unpermitted work within wetland			
Local Government Unit/DNR Contact:		Phone:	
[REDACTED]			
Address: [REDACTED]			
Issuing Officer: (signature) [REDACTED]		Badge No: [REDACTED]	Agency: [REDACTED]
Officer's Name: (printed) [REDACTED]	Station No: 1319	Phone No: [REDACTED]	



## Minnesota Department of Natural Resources

### Wetland CEASE AND DESIST ORDER

Date [REDACTED]	Time 1221 PM	Issued To Landowner	Phone Number [REDACTED]	CDO# [REDACTED]
First Name / Business Name [REDACTED]		Middle [REDACTED]	Last Name [REDACTED]	
Address [REDACTED]		City Lino Lakes	State MN	Zip Code [REDACTED]
<b>VIOLATION INFORMATION:</b>				
County Washington County		PWI No. [REDACTED]	<input type="checkbox"/> Airplane Used	
Address [REDACTED]		City Forest Lake	State MN	Zip Code [REDACTED]
Location Description(T-R-S or PID) [REDACTED]				
Violation (Type) Description Excavating work to better route water flow, dirt moved to remove garbage, culvert installed to create crossing according to landowner. Possible violation.				
<b>CEASE AND DESIST ORDER (CDO):</b> The above, and his/her/its agents, contractors, heirs, successors, and assigns, are hereby ordered, pursuant to Minnesota Statutes, Section 103G.2872 or 103G.615, immediately cease and desist any illegal activity adversely affecting groundwater quantity, a wetland, public waters or the illegal gathering, harvesting, planting or transplanting, or destroying of aquatic vegetation or organisms in public waters.				
Local Government Unit Forest Lake, City of - 220 N Lake St, Forest Lake, MN 55025 (651) 464-3551		LGU Contact [REDACTED]	LGU Contact Phone [REDACTED] Ext. [REDACTED]	
[REDACTED]		Officer Name [REDACTED]	Badge [REDACTED]	Officer's Phone [REDACTED]

**ANY VIOLATION OF THIS ORDER IS A MISDEMEANOR**

# Cease & Desist Orders



Who – landowner and/or responsible party, contractor

- RO will go to all

What – type of disturbance or activity that occurred

- Useful for determining impact

Why – purpose of action? Were goals achieved? (i.e. some drainage is not effective...)

When – estimated time of activity occurrence

- Helpful in determining responsible party if ownership change has occurred
- Aerial photos/PID information
- Did the activity work?

Where – Property location (critical), but also landscape position, slope, etc.

# Data Collection

- Maps
- Illustrations
- TEP Findings and Recommendation
- Discussions with landowner/responsible party
- Survey information
- You may only have one opportunity to be on site

**m BOARD OF WATER AND SOIL RESOURCES**

### Minnesota Wetland Conservation Act Determination Notice Form

This form can be used to provide notice on WCA-related determinations. DO NOT use this form for notices on WCA decisions. WCA decisions are replacement plans, wetland boundary/type, wetland banks, exemption, no-loss and sequencing. Some WCA determinations can be incorporated into a WCA decision, while others can or must be made separate from the associated decision.

Local Government Unit: May Twp	County: Washington
Applicant Name: Chuck Wacker	Applicant Representative:
Project Name: Wacker Shoreline Violation	LGU Project No. (if any):
Date Request Received by LGU: 9-9-20	
Date this Notice was Sent: 9-9-20	

**Notice Type - check one**

☐ Notice of Determination Request. Determination has not been made.  
☒ Notice of Determination. Determination has been made.

**WCA Determination Type - check all that apply**

☐ Construction Certification ☐ Incomplete Application ☐ Local Govt. Road Repl. Program Qualification  
☐ Successful Replacement/End of Monitoring ☐ Credit Deposit ☐ ENRV/Preservation Eligibility  
☐ Financial Assurance Release ☐ Partial Drainage Impacts ☐ Sequencing Flexibility  
☐ Temp. Impacts Extension ☒ Certificate of Successful Restoration ☐ Other (specify):

**Note:** All listed determination types are either made by the TEP or require TEP concurrence except for Construction Certification, Incomplete Application, Certificate of Successful Restoration (issued by SWCD) and Financial Assurance Releases. Use "other" for determinations that are not listed.

**Technical Evaluation Panel**


TEP Has Concurred with Determination: ☒ Yes ☐ No; if yes, attach findings or other documentation  
TEP Concurrence Needed: ☐ Yes ☒ No; if yes, specify deadline date for concurrence:

**Determination Materials and Findings**

☒ Attachment(s) (specify): Shoreline Restoration Photo  
Notes: The requirements of the WCA Shoreline Restoration Order have been met. The attached photo also shows the requirements of the DNR RO appear to have been met as well. WCA RO: F890548823602

**Notice Distribution (Include name)**

<input checked="" type="checkbox"/> SWCD TEP Member: Jay Riggs	<input checked="" type="checkbox"/> BWSR TEP Member: Ben Meyer
<input checked="" type="checkbox"/> LGU TEP Member (if different than LGU contact): Bill Voedisch	
<input checked="" type="checkbox"/> DNR Representative: Jennifer Sorensen	
<input checked="" type="checkbox"/> Watershed District or Watershed Mgmt. Org.: Mike Isensee	
<input checked="" type="checkbox"/> Applicant:	<input type="checkbox"/> Agent/Consultant:
<input type="checkbox"/> Other:	<input type="checkbox"/> Army Corps:

Signature 	Date: 9-9-20
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BWSR Determination Form – November 12, 2019

## Restoration Order Gives the Landowner Options

- Restore
- Apply for replacement, exemption, no-loss
- Appeal- w/in 30 days + \$500 fee
- Court/Deed Restriction if no action is taken by landowner

After-the-fact replacement ratio must be twice the ratio otherwise required

**mn** BOARD OF WATER AND SOIL RESOURCES

**mn** DEPARTMENT OF NATURAL RESOURCES

### Minnesota Wetland Conservation Act Restoration Order

Pursuant to Minn. Stat. § 103G.2372 and MN Rule part 8420.0900, this order is being issued by the Minnesota Department of Natural Resources to restore wetland that was impacted in violation of the Minnesota Wetland Conservation Act. Violation of this order is a misdemeanor.

Date Issued: Click here to enter text. ☐ In-person ☐ By certified mail

Ref # Click here to enter text. CDO# Click here to enter text. RPN# Click here to enter text.

**This order is issued to:**

Name: Click here to enter text.
Address: Click here to enter text.

**This order is for wetland impacts that have occurred at the following location:**

County: Click here to enter text.
Legal Description: Click here to enter text.
Address or Parcel ID: Click here to enter text.

**Findings of Fact** (facts that demonstrate the existence of a violation):

Click here to enter text.

You are hereby ordered to restore impacted wetlands in conformance with the following plan and specifications (actions needed to restore including any referenced attachments):

Click here to enter text.

**This order must be complied with by this date:** Click here to enter text.

**Compliance Options:**

- Comply with the restoration order by the date indicated above.
- Submit an after-the-fact application to the Local Government Unit (see following instructions)

BWSR-DNR Form 10-1-19 Page 1 of 2

**This Order was Prepared by:**

Name: Click here to enter text. Signature: Click here to enter text. Date: Click here to enter text.

Contact Information: Click here to enter text.

**This Order was Served by:**

Name: Click here to enter text. Signature: Click here to enter text. Date: Click here to enter text.

Badge Number: Click here to enter text.

**After-the-Fact Application Instructions**

If you wish to submit an after-the-fact application for Wetland Conservation Act compliance, you need to submit all required application materials per Minnesota Rules 8420 and any local requirements to the following Local Government Unit (LGU) that administers the Wetland Conservation Act for this area by the date indicated.

**Due Date for After-the-Fact Application Submittal:** Click here to enter text.

LGU Name: Click here to enter text.
LGU Representative: Click here to enter text.
LGU Address: Click here to enter text.
LGU e-mail: Click here to enter text.

**Appeal Information**

If you wish to appeal this order, you must provide a written request within 30 calendar days of the date you received the order. All appeals must be submitted to the Board of Water and Soil Resources Executive Director along with a check payable to BWSR for \$500. The check must be sent by mail and the written request to appeal can be submitted by mail or e-mail. The appeal should include a copy of this order, name and contact information of appellant(s) and their representatives (if applicable), a statement clarifying the intent to appeal and supporting information as to why the terms and conditions of the order are in error. Send to:

Executive Director c/o Appeals and Regulatory Compliance Coordinator  
Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, MN 55155  
[travis.germundson@state.mn.us](mailto:travis.germundson@state.mn.us)

Cc: DNR Conservation Officer  
DNR Water Resource Enforcement Officer  
BWSR Wetland Specialist  
Local Government Unit Representative  
Soil and Water Conservation District

BWSR-DNR Form 10-1-19 Page 2 of 2

- Send RO to the Officer OR WREO ASAP Enforcement will serve the order (must be served in person or certified mail)
  - We recommend to officers to use only certified mail
  - Easy for everyone to track time line
- MAKE SURE YOU SIGN YOUR COPY BEFORE SENDING IT TO CO OR WREO.
- Extensions are issued **only** by enforcement and if:
  - The landowner has a good reason for not getting it done
  - Has made some progress
  - Maybe weather related (heavy rains, early freeze)
  - Submitted application
  - Filed an Appeal



# Is a formal Restoration Order Always Required?

- No, voluntary restoration is allowed but should consider
  - Willingness to cooperate
  - Past history
  - Shortened timeframe for completion to allow for formal RO process
  - Some kind of written plan or agreement with deadlines
  - Communication and agreement with DNR Enforcement



WASHINGTON  
CONSERVATION  
DISTRICT

455 HAYWARD AVE N  
OAKDALE, MN 55128  
651-330-8220 (PHONE)  
651-330-7747 (FAX)  
WWW.MNWCD.ORG

September 7, 2021

Sent via email to: [redacted]

RE: NOTICE OF WETLAND CONSERVATION ACT VIOLATION AT [redacted] FOREST LAKE

Dear [redacted],

Thank you for discussing the unpermitted fill within wetland on the property noted above that is a violation of Wetland Conservation Act (WCA). Based on a historical aerial photo review, topographic data, and site visit, the total Wetland/Waters fill estimate is 2,423 Square Feet (SF). Part of this fill (~777 SF) is adjacent to the new blacktop parking area and the majority (~1,646 SF) is in the southwest corner of the wetland. See the attached figure.

To expedite the process a voluntary restoration approach will be allowed if the following items are addressed by September 30, 2021. If these items are not addressed satisfactorily by that date a Restoration Order will be served by the DNR Conservation Officer.

**Wetland Restoration Requirements:**

- Remove the 1,646 SF of non-native fill material from the SW corner of the impacted wetland (the fill depth is estimated to be between 6 and 12 inches). The fill shall be moved to non-wetland.
- The restored wetland shall be seeded with a native wet meadow seed mix
- The fill adjacent to the parking lot is below the De Minimus threshold of the WCA and may be allowed to remain if you receive confirmation of the exemption from the City of Forest Lake. Send this request to [redacted] who serves as the WCA Local Government Unit (LGU) contact.

Please contact me at [redacted] to meet onsite and discuss the wetland restoration process. Please note there may be additional Watershed District or City requirements in addition to the WCA requirements related to the parking lot construction. The City and Watershed are copied on this communication.

Respectfully,

Washington Conservation District

Cc: [redacted]

Supervisors: Bob Rosenquist • John Rheinberger • Jim Levitt • Diane Blake • Tim Behrends

# Voluntary Restoration





# Certificate of Satisfactory Restoration

Prepared and issued by the SWCD



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Local Government Unit:	County:
Applicant Name:	Applicant Representative:
Project Name:	LGU Project No. (if any):
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### Technical Evaluation Panel

- TEP Has Concurred with Determination: ☐ Yes ☐ No; if yes, attach findings or other documentation  
TEP Concurrence Needed: ☐ Yes ☐ No; if yes, specify deadline date for concurrence:

### Determination Materials and Findings

- ☐ Attachment(s) (specify):  
Notes:

### Notice Distribution (Include name)

- ☐ SWCD TEP Member: ☐ BWSR TEP Member:  
☐ LGU TEP Member (if different than LGU contact):  
☐ DNR Representative:  
☐ Watershed District or Watershed Mgmt. Org.:  
☐ Applicant: ☐ Agent/Consultant:  
☐ Other: ☐ Army Corps:

Signature	Date
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# RO Non-Compliance

The landowner does not comply with the RO. Now what?

- Enforcement will work with you!
  - CO Sends a Letter
  - CO Makes a Phone call
  - Deed restriction in some cases
  - Landowner Served a Criminal Citation
  - Court

# Contractors Responsibility



- Prior to working they:
- Must have obtained signed statement from landowner
- Mailed a copy to the LGU
- They do not need to verify if the landowner has a permit or not. Just have the signed form and mailed it.



# Appeals

- Landowner has 30 days to appeal Order
- RO must allow >30 days to comply with Order

Which of the following is not a LGU's role in administering the WCA:

- a) Make decisions on applications made under the WCA
- b) Completely fill out a joint application for the landowner
  - c) Coordinate TEP meetings when needed
  - d) Provide knowledgeable and trained staff

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- c) Coordinate TEP meetings when needed
- d) Provide knowledgeable and trained staff

Sometimes referred to as the “60 day Rule”, this Minnesota State Statute determines the agency action deadline for all WCA LGUs to make a decision on a wetland application:

a)MN Statute 8420

b)MN Statute 15.99

c)MN Statute 404

d)MN Statute 103G

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a) MN Statute 8420

b) MN Statute 15.99

c) MN Statute 404

d) MN Statute 103G



For a project in a shoreland area, the Technical Evaluation Panel consists of:

- a) The LGU, Army Corps and DNR.
- b) The LGU, SWCD, BWSR and Army Corps.
- c) The LGU, SWCD, BWSR and DNR.
- d) The Army Corps and DNR.

For a project in a shoreland area, the Technical Evaluation Panel consists of:

- a) The LGU, Army Corps and DNR.
- b) The LGU, SWCD, BWSR and Army Corps.
- c) The LGU, SWCD, BWSR and DNR.
- d) The Army Corps and DNR.