Crash Course in WCA Administration
Virtual Training
Online Training

The MWPCP has developed the following training videos related to wetland identification and Wetland Conservation Act regulatory administration. Viewing of these videos is not eligible for MWPCP continuing education credits because they do not provide verification of who viewed them. However, they provide useful information, particularly for individuals that are relatively new to WCA and wetland science.

**Wetland Delineation Videos:**
- [The Three Wetland Parameters](#) (10 mins, 37 sec)
- [Wetland Classification System](#) (32 mins, 27 sec)
- [Offsite Methods](#) (19 mins, 2 sec)

**Wetland Conservation Act (WCA) Videos:**
- [WCA 101 - Basic WCA Administration](#) (12 mins, 33 sec)
- [WCA Application Procedures](#) (14 mins, 5 sec)
- [WCA Basic Decisions](#) (16 mins, 44 sec)
- [Wetland Replacement Plans](#) (38 mins, 29 sec)
- [WCA Enforcement Procedures & Roles](#) (22 min, 31 sec)

**Recorded Presentations:**
- The following videos are recorded presentations from the spring 2021 MWPCP virtual training courses:
  - [Drainage Projects and WCA](#) (43 mins, 55 sec)
  - [Local Government Road Wetland Replacement Program](#) (51 mins, 50 sec)
  - [Overview of Wetland Conservation Act & Public Waters Work Permit Programs](#) (50 mins, 10 Sec)
- The following videos are excerpts of presentations MWPCP trainers gave during a recent Wetland Restoration webinar in collaboration with the BWSR Technical Training and Certification Program:
  - [Wetland Functions and Values](#) (8 mins, 37 sec)
  - [Introduction to the Hydrogeomorphic Method (HGM)](#) (8 mins, 19 sec)
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
Basic WCA Decision Types
Basic WCA Decision Types

- Boundary and Type
- No Loss
- Exemption
1. Is it a *Wetland*?
2. Is the activity *Regulated*?
3. Is the activity an *Impact*?
What is regulated by WCA?

What is considered Impact?

A loss in quantity, quality, or biological diversity of a wetland caused by draining or filling or by excavation in types 3, 4, or 5.
What is Drainage?

Any method for removing or diverting waters from a wetland

- Excavation of a ditch
- Tile Installation
- Filling
- Diking
- Pumping
- Diverted water
- Etc.
What is Fill?

Any solid material added or redeposited in a wetland

- Alters cross-section or hydrological characteristics,
- Obstructs flow patterns,
- Changes Boundary, or
- Converts to non-wetland.
Wetland Fill

- Does **not** include posts for walkways, bridges, powerline poles, etc.

- Does **not** include slash or woody vegetation as long as it originated from vegetation growing in the wetland and does not impair flow or circulation of water.
• Wetland fill *does not* include posts and pilings unless it turns wetland into a nonaquatic use or significantly alters its functions and value.
What is Excavation?

Removal of soil by any method if it results in an impact*.
• Boundaries must be delineated using USACE 1987 Manual and Supplements (8420.0405 subp 1)

• Types must be ID’d using FWS Circular 39 and Eggers and Reed (8420.0405 subp 2)

• Requires NOA and NOD.
  
  ** Should include site visit for confirmation

• Technical Decision
WCA decisions for wetland projects that DO NOT REQUIRE REPLACEMENT

- No-Loss
  - 8420.0415
- Exemption
  - 8420.0420
No Loss Activity Basics

**Defined:**

No permanent loss of, or impact to, wetlands from an activity.
No-Loss Criteria

"No-loss" means no permanent loss of, or impact to, wetlands from an activity according to the criteria in this part.

- **Will not impact a wetland** (8420.0415 Subp A.)

- **Excavation limited to removal of sediment or debris** Trees, logs, beaver dams, trash, blockage of culverts (8420.0415 Subp B.)

- **Water level management** (8420.0415 Subp C.)

- **Excavation limited to removal of sediment** in wetlands utilized as storm water basins. (8420.0415 Subp E.)

- **Operation, Maintenance or Emergency Repair.** (culverts) (8420.0415 Subp F.)

- **Temporary impact** if: Returned to previous conditions. Activity completed within 6 months (8420.0415 Subp H.)
• Temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activity does not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters (8420.0415 Subp G. G.)

• Activity conducted as part of an approved replacement or banking plan, conducted or authorized by public agencies for the purpose of wetland restoration or fish and wildlife habitat restoration (8420.0415 Subp D. D.)
No-loss and exemption conditions

• Every activity in wetland, regardless of whether an application is submitted must:
  • Implement erosion control measures to prevent sedimentation of wetlands
  • Not block fish activity
  • Comply with all other applicable local, State, Federal requirements, including best management practices

• Exemptions cannot be combined on a project!
General Exemption Requirements for ALL

- Only has to fit one; not disqualified if not exempt by another
- If impacts exceed max allowed = nothing is exempt
- Max may not apply to all situations or wetlands—very specific
- May not be combined on a project
- Must stabilized to prevent sedimentation/erosion.
• **Impacts** to wetlands that **DO NOT** require replacement
  • The activity is still regulated.
  • WCA does not REQUIRE an application; some LGU’s may.
  • May not be combined on a project.

• Exemptions do not apply to: calcareous fens, wetland bank sites, project-specific replacement sites (8420.0420 Subp 1B)
Impacts from Agricultural Activities

- 8420.0420 Subp 2
- (A) Type 1,2 Planted 6 of 10 prior to 1991
- (B) Agricultural pasture land, except bottomland hardwood type 1
- (C) SWCD conservation practices
- (D) Wheeled booms on irrigation
- (E) Aquaculture
- (F) Wild rice
- (G) Farm program MOU
Exemptions

• Drainage Exemption
  • 8420.0420 Subp 3

• Public drainage maintenance

• Private drainage maintenance

• Planted 8 of 10 years

• Assessed benefits

• Reminder – review the WCA language details and project specifics
Private Drainage/Ditch Maintenance

Replacement not required for maintenance or repair of existing private drainage systems

WHEN:

The work does not drain Wetland that have existed more than 25 years.
Private Drainage/Ditch Maintenance Illustration

Size of Wetland 25 yrs. ago; must remain; any type

Private Ditch

Size of Wetland Today
Private VS. Public Drainage Ditch Maintenance Illustration

PUBLIC Ditch

Size of Wetland
Today (Type 2)

Maintained within 25 yrs

>25 yrs
CONDITIONS:

• Spoil must be placed and stabilized to minimize impacts.
  ~ Remove
  ~ place on existing spoil
  ~ incorporate
  ~ side cast

• Ditch must be stable and not degrade water quality downstream.
What items may be needed to demonstrate this exemption is met?

• Past records of maintenance (receipt to contractors)
• Aerial Photos with review
• Amount of Sediment Proposed to be removed (can be critical)
• Depth of ditch/soil types
• Site visit/confirmation of wetland type (growing season)
• Lateral Effect Calculations or estimates
Exemptions

- **Federal Approvals 8420.0420 Subp 4**
  - Impacts authorized by Corps of Engineers that meet standards agreed to by BWSR, Dept. of Ag., DNR, and MPCA.
    - Pipelines, electrical, telephone, etc.

- **Utilities 8420.0420 Subp 6**
  - Installation, maintenance, repair or replacement of utility lines if impacts are avoided and minimized and less than ½ acre.
## Exemptions

**De minimis 8420.0420 Subp 8**

- The de minimis exemption covers small impacts to wetlands typically used for driveways, roads, small projects by landowners, etc.
- Very specific requirements depending on location in state, local area, shoreland, etc.
- Review all nuances of each part for every project

### Table 1: Base de minimis exemption amounts for all of Minnesota

<table>
<thead>
<tr>
<th>Non-Shoreland Areas</th>
<th>Types 1, 2, 6, 7 (excluding white cedar and tamarack wetland and any Type 7 wetland in a &lt; 50% metro county)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10,000 ft² in all &gt; 80% counties</td>
</tr>
<tr>
<td></td>
<td>5,000 ft² in non-metro 50-80% counties</td>
</tr>
<tr>
<td></td>
<td>2,500 ft² in metro 50-80% counties</td>
</tr>
<tr>
<td></td>
<td>2,000 ft² in non-metro &lt; 50% counties</td>
</tr>
<tr>
<td></td>
<td>1,000 ft² in metro &lt; 50% counties</td>
</tr>
<tr>
<td></td>
<td>100 ft²</td>
</tr>
<tr>
<td>Types 3, 4, 5, 8, and white cedar and tamarack wetland (excluding any Type 7 wetland in a &lt; 50% metro county)</td>
<td>100 ft²</td>
</tr>
<tr>
<td>Within Shoreland, but beyond structure setback</td>
<td>Types 1, 2, 6, 7</td>
</tr>
<tr>
<td></td>
<td>400 ft² *(1,000 ft²)</td>
</tr>
<tr>
<td></td>
<td>100 ft²</td>
</tr>
<tr>
<td>Within Shoreland and structure setback</td>
<td>All wetland types</td>
</tr>
<tr>
<td></td>
<td>20 ft² *(100 ft²)</td>
</tr>
</tbody>
</table>

*Increased amounts shown in parenthesis may be allowed if wetland is isolated from the public water, or if permanent water runoff retention or infiltration measures are established in proximity to the impact and approved by the shoreland management authority.*
De Minimis Exemption

- Can’t be combined
- 5% limitation if shared
- May not divide property simply to get more
Subp. 7. **Forestry.** The exemption under this subpart is for roads and crossings *solely constructed, and primarily used, for the purpose of providing access for the conduct of silvicultural activities.* A replacement plan is not required for impacts resulting from construction of forest roads and crossings *so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not include, or result in, the access becoming a dike, drainage ditch, or tile line; impacts are avoided wherever possible; and there is no drainage of the wetland or public waters.*
**Wildlife Habitat** 8420.0420 Subp 9

- Lesser of 5% or ½ acre of Type 3,4,5
- No adverse effect on T&E
- **Certified by SWCD or TEP**
- All spoil must be stabilized with native, noninvasive vegetation.

Excavation in Types 1, 2, 6, 7, 8 not regulated unless deeper than 8.2 feet depth
• Located in >80% area
• Not in shoreland
• Proposed impact=7,490 SF
• Landowner’s portion=154,223 SF
Exempt?

- Located in >80% area
- Not in shoreland
- Proposed impact=7,490 SF
- Landowner’s portion=154,223 SF

Yes.
5% of 154,223=7,711
Proposed impact is less
Qualifies for de minimis exemption
MN Rule 8420.0420 Subp. 8 C (2)
Summary of Basic WCA Decisions

• Boundary/Type: approving wetland delineation that followed 3 parameter approach

• No-loss: activity that does not result in wetland impacts

• Exemptions: wetland impacts that are exempt from replacement
Replacement Plan Applications
8420.0330 REPLACEMENT PLAN APPLICATIONS.

Subpart 1. **Requirement.** A landowner proposing a wetland impact that requires replacement under this chapter must apply to the local government unit and receive approval of a replacement plan before impacting the wetland.
• Prior to preparation of an application;

• Meet with the LGU/TEP, provide basic information of the project

• LGU/TEP inform the applicant of sequencing requirements and criteria to evaluate the replacement plan
• Information necessary to be considered a complete application (a lot of this info can be pulled from the delineation report)

• For the **impacted** Wetland:

  1. The amount of wetland impact (in sq ft or acres) by type
  2. Minor/Major watershed, County, and Bank Service Area (BSA)
  3. Soil survey of site, identify hydric soils
  4. Hydrologic inlets and outlets, adjacent Public Waters (shoreland), floodplain
5. Information pertaining to special considerations (8420.0515) (T & E, rare communities, cultural resources, etc.)

6. List of known local, state, and federal permits required for the activity

7. Identify project purpose and need and alternatives considered
• C. for the replacement wetland when the replacement consists of wetland bank credits:

• (1) the wetland bank account number;

• (2) the minor watershed, major watershed, county, and bank service area; (3) the amount of credits to be withdrawn in square feet; and

• (4) a completed application for withdrawal of wetland credits from the wetland bank in a form provided by the board or a purchase agreement signed by the applicant and bank account holder; and

• D. a description of the required replacement as determined according to the proposed replacement actions and the replacement standards in part 8420.0522.
LGU **MUST NOT** approve a wetland replacement plan unless the LGU finds the project complies with sequencing.
• Sequencing is a MUST for all replacement plans
• TWO avoidance alternatives
• Evaluate projects...can wetlands be avoided?
• Are impacts minimized?
• Long term effects
• 8420.0520 Subp C – Page 45 of 2009 Rule book
• Avoid
• Minimize
• Replace
How does applicant *demonstrate* sequencing?

- Clearly define the **purpose** of the project.
- Identify the physical, economic, and/or demographic **requirements** of the project.
- **Justify** why this project should or must go on this site.
- Show (concept plans, discarded grading plans, etc.) and describe other **reasonable alternatives** that were considered or could be considered.
If LGU finds that a Feasible and Prudent Alternative exists that avoids impacts, the application must be denied.
• LGU must determine if feasible and prudent alternatives are available that avoid wetland impact
Alternatives Analysis

What is *feasible* and *prudent*?

**WCA rule tells us** (8420.0520 subp 3C(2)):

- Can be done from an engineering perspective
- Is in accordance with accepted engineering standards and practices
- Is consistent with public health, safety, and welfare requirements
- Is environmentally preferable based on social, economic, and environmental impacts
- Would not create any truly unusual problems
• LGU must consider (8420.0520 subp 3C(3)):

  • Could the size, configuration, or density of the project be modified to avoid wetlands?

  • Has the applicant made efforts to remove constraints (zoning restrictions, ordinance requirements, etc.) that are causing wetland impacts (i.e. request for variances, PUD, conditional use permit, etc.)?
What if an avoidance alternative DOES exist?

• If the LGU determines that a feasible and prudent alternative exist that avoids wetland impacts, it MUST DENY the replacement plan.
Offsite Analysis

Avoidance
0 ft^2 impact
Did not accomplish purpose - too small build site
Alternative (70,000 ft^2 impact)

Preferred alternative (49,000 ft^2 impact)
Alternatives Analysis Continued...

Future considerations when reviewing a site and potential off-site impacts
Alternatives Analysis Continued...

- Direct and secondary impacts – A wetland may not be directly impacted (filled/drained/excavated) but can be impacted through loss of hydrology
What if an avoidance alternative does NOT exist?

• LGU evaluates:
  • Minimization
  • Rectification
  • Reduction/Elimination of impacts over time
  • Replacement
• Temporary impacts must be rectified by repairing, rehabilitating, or restoring the affected wetland to pre-project conditions
Reduction or Elimination of Impacts Over Time

• Once complete, further impacts must be reduced or eliminated and preserve or maintain wetland functions
• Best Management Practices (BMP)
  • Silt fence
  • Storm-ponds
  • Buffers
  • Rip-Rap
• Allowed at the discretion of the LGU if:

1. Impacted wetland degraded;
2. Avoidance results in severe degradation;
3. Upland site of the project or replacement has greater function and value;
4. Human health and safety is a factor.
These factors must be considered by the applicant before submitting a replacement and by the LGU during the review:

1. Endangered and threatened species (DNR natural heritage/nongame)
2. Rare natural communities (DNR natural heritage)
3. Special fish and wildlife resources (fish spawning, water birds, waterfowl, deer wintering/wildlife corridor)
4. Archaeological, historic, or cultural resource sites (National Register of Historic Places, State Historical Preservation Office)
5. Groundwater sensitivity (Decorah edge, Geologic Sensitivity)
6. Sensitive surface waters (trout stream)

7. Education or research use (Cedar Creek, Anoka Co)

8. Waste disposal site (former dump, superfund, TCAAP/AHATS)

9. Consistency with other plans (watershed management, land use, planning and zoning)
Final Review Step

LGU must evaluate if unavoidable impacts will be adequately **replaced** AND if correctly **sited**.

Adequate Replacement

- Must replace the functions and values at an equal or greater level than that which was lost.
- Uses wetland area as the unit of measurement (acreage or sq. ft.)
• Must follow a priority order:
  • Minor watershed
  • Major watershed
  • Same BSA
  • Another BSA
Replacement Ratios

<table>
<thead>
<tr>
<th>Location of impact</th>
<th>Replacement</th>
<th>Minimum replacement ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;80% area or agricultural land</td>
<td>Outside bank service area</td>
<td>1.5:1</td>
</tr>
<tr>
<td></td>
<td>Within bank service area</td>
<td>1.1</td>
</tr>
<tr>
<td>&lt;50% area, 50-80% area, and nonagricultural land</td>
<td>Outside bank service area</td>
<td>2.5:1</td>
</tr>
<tr>
<td></td>
<td>Within bank service area</td>
<td>2:1</td>
</tr>
</tbody>
</table>

Must follow a priority order:
- Minor Watershed
- Major Watershed
- Same BSA
- Another BSA
A formal NOD document that summarizes the decision, is supported by technical findings and is valid for 5 years.
Application to withdraw wetland credits
Wetland Banking
• Purpose of Wetland Banking
• Types of Wetland Banks
• Actions Eligible for Credit
• Establishing a Wetland Bank
• Certification and deposit of credits
• Withdrawals and transfers
• Replacement for Public Road Projects
- **Wetland Bank Guidance and Information**

This page contains guidance and general information on wetland banking in Minnesota. Forms associated with wetland banking can be found on the WCA Forms and Templates page.

- [Vegetation Monitoring for Wetland Banks Guidance](/pdf) - Comprehensive guidance document on the process of establishing a wetland bank.
- [Establishing a Wetland Bank](/pdf) - Summary of different methods to generate wetland credit in accordance with WCA rules.
- [Credit in Cultivated Fields](/pdf) - Special guidance document on alternative crediting methods for wetland restorations involving hydrologic restoration in cultivated fields.
- [Purpose and Need Summary for Credit in Cultivated Fields](/pdf) - Document explaining the basis and need for the crediting in cultivated fields guidance.
- [Aerial Imagery](/link) - Link to aerial imagery from the University of Minnesota. There are many aerial images available via this link from around the state.
- [Preservation Site Selection - BWSR/Corps](/pdf) - Joint guidance issued by BWSR and Corps on selecting preservation sites as a means to generate wetland credits.
- [Preservation Guidance - BWSR](/pdf) - BWSR guidance on preservation as a means to generate wetland credits.
- [Exceptional Natural Resource Value Guidance](/pdf) - BWSR guidance on ENRV as a means to generate wetland credits.
- [Performance Standards and Credit Release Schedules](/pdf) - Joint BWSR and Corps guidance on standards and credit release schedules required for most wetland banks.
- [Frequently Asked Questions on Wetland Banking](/pdf)
- [Wetland Bank Service Area Map](/pdf)
- [Minnesota Mitigation Newsletter - Spring 2021](/pdf)
- [Minnesota Mitigation Newsletter - Fall 2020](/pdf)
- [Minnesota Mitigation Newsletter - Spring 2020](/pdf)
- [Minnesota Mitigation Newsletter - Fall 2019](/pdf)
What is Wetland Banking?

- WCA rule: “The purpose of the state *wetland banking* system is to provide a market-based structure that allows for replacement of unavoidable impacts with pre-established replacement wetlands.”

- Federal Mitigation Rule definition (33 CFR 332.2): “A *mitigation bank* sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor.”
• Private
  • Standard- Landowners establish bank on private land to mitigate impacts on non-ag or transportation projects
  • Agriculture- Credits can only be used for Ag projects

• In-lieu Fee (proposed)
  • Open to only government and NGOs, mitigation completed in advance, requires compensation planning framework

• Local Government Road Wetland Replacement Program
  • Replaces impacts resulting from local transportation projects
Quick facts on ILF (as proposed)

Minnesota In-Lieu Fee Program

A program in which wetland replacement requirements are satisfied through payment of money to the board or a board-approved sponsor to develop replacement credits according to section 103G.2242, subdivision 12. (Minn Stat.)

In-lieu fee versus banking, major differences

- Mitigation is completed in advance with banking, after sale of credits with ILF
- Banking is for profit, ILF is open only to government and NGOs
- Corps is involved in finances with ILF, no involvement in banking
- ILF requires development of a compensation planning framework for program approval, banking does not
Eligibility to USE the Ag Bank:

✓ The wetland must be proposed to be drained for agricultural use.

✓ The land must remain in agricultural use.

✓ The wetland must be a farmed wetland (FW) or otherwise degraded wetland on existing agricultural land.

Differences with Standard Bank:

• Credits can only be used for Ag projects

• Flexibility on Vegetation Standards

• Expired CRP sites could be eligible “as-is”
Local Government Road Wetland Replacement Program

- WCA exempts certain local road projects from State wetland replacement requirements.
- BWSR is required to replace the associated wetland impacts so the local governments don’t have to.
- These wetland credits also satisfy Corps of Engineers’ Section 404 permit requirements.
What projects Qualify?

• Repair, rehabilitation, reconstruction or replacement of currently serviceable existing State, City, County or Town public road.
  
  • Provided that:
    • Project *minimizes impacts*
    • Plans are provided to the LGU

• What doesn’t qualify?
  
  • New roads
  • Roads expanded solely for additional capacity lanes
Reviewing Local Road Projects

1. Annual meeting with Local Road Authority
2. Review & approve delineation
3. Receive joint application with completed Attachment E
4. TEP determines whether impacts are eligible for program
5. TEP signs Attachment E
6. LGU returns signed Attachment E to Road Authority
7. Road Authority sends signed Attachment E with project plans to BWSR Central
8. BWSR & Corps determine mitigation requirements per Federal Mitigation Rule
Joint Application Form for Activities Affecting Water Resources in Minnesota

This Joint application form is an addendum to the Joint application form that may affect a water resource (aquifer, 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 MN-03 and the MPCA online permitting system for submitting applications to the DNR. Applicants can use the information entered into MPCA to substitute for completing parts of this joint application form (see the paragraph on MPCA at the end of the joint application form for 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 types 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

Exist

The St. Paul District of the U.S. Army Corps of Engineers (Corps) is the federal agency that regulates discharges of dredged or fill materials into waters of the United States (swamps, 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 metropolitan area regulatory program (MAP) that regulates activities within the Twin Cities Metropolitan Area. The Minnesota Department of Natural Resources (DNR) issues permits for work in state-owned lands, including public waters, and the Minnesota Pollution Control Agency (MPCA) under Section 401 of the Clean Water Act certifies that discharges of dredged or fill material authorized by the Corps permit 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 encouraged to seek input from the Corps Project Manager and LID staff to identify regulatory issues and required application materials for their proposed project. Project proponents may request a pre-application consultation with the Corps and LID to discuss their proposed project by providing the information required in Sections 1 through 4 of this joint application form to facilitate a meaningful discussion about their project. Many LID projects provide a similar (such as a regularly scheduled technical evaluation panel meeting) for potential applicants to discuss their projects with multiple agencies prior to submitting an application. Contact information is provided below.

The following bullets outline the information generally required for the most common types of discharges/authorizations:

- For erosion controls and/or subaqueous discharge, submit Parts 2, 3, and 4, and Attachment B.
- For activities involving CWA/WRP exemptions, WCA non-construction, and activities not requiring mitigation, submit Parts 1 through 5, and Attachment B.
- For activities involving CWA/WRP exemptions, submit Parts 2, 3, and Attachment B.
- For activities involving CWA/WRP exemptions, submit Parts 2, 3, and Attachment B.
- For all other activities affecting water resources, submit Parts 1 through 5, and Attachment B.

For local road authority activities that qualify for the state's local road wetland replacement program, submit Parts 1 through 5, and Attachment C, to both the Corps and the LID.

For Local Road Projects:

- Parts 1-5; Attachments C and E
- May need Attachment D if there will be impacts that do not meet the Local Road Program eligibility requirements

Minnesota Interagency Water Resource Application Form February 2014
Local Road Unit should provide TEP the following:

- Project plans depicting wetland boundaries
- Description of wetland impacts by type
- Information demonstrating wetland impact minimization
- Only one alternative is required
MnDOT’s Road Design Manual (2000) also recommends turn and/or bypass lanes for rural undivided roadways with traffic volumes over 1,500 ADT and speed limits above 45 mph. Current road condition compared with required and proposed are laid out in the table below.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lane Width (ft)</td>
<td>12</td>
<td>11-12</td>
<td>12</td>
</tr>
<tr>
<td>Shoulder Width (ft)</td>
<td>0-6</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>In-Slope</td>
<td>1:4</td>
<td>1:4</td>
<td>1:4</td>
</tr>
</tbody>
</table>

This project is proposed to improve CSAH 18 to meet today’s State Aid Standards and improve safety along the corridor.
Attachment E – Joint Application

Attachment E
Local Road Replacement Program Qualification

Complete this part if you are a local road authority (county highway department, city transportation department, etc.) seeking verification that your project (or a portion of your project) qualifies for the MN Local Government Road Wetland Replacement Program (LGRWRP). If portions of your project are not eligible for the LGRWRP, then Attachment E should be completed and attached to your application.

Discuss how your project is a repair, rehabilitation, reconstruction, or replacement of a currently serviceable road to meet state/federal design or safety standards/requirements. Applicants should identify the specific road deficiencies and how the project will rectify them. Attach supporting documents and information as applicable:

Provide a map, plan, and/or aerial photograph accurately depicting wetland boundaries within the project area. Attach associated delineation/determination report or otherwise explain the method(s) used to identify and delineate wetlands. Also attach and discuss any type of review or approval of wetland boundaries or other aspects of the project by a member or members of the local Technical Evaluation Panel (TEP) or Corps of Engineers:

In the table below, identify only the wetland impacts from Part 4 that the road authority has determined should qualify for the LGRWRP.

<table>
<thead>
<tr>
<th>Wetland Impact ID</th>
<th>Type of Impact (fill, excavate, drain)</th>
<th>Size of Impact (square feet or reflect to 0.01)</th>
<th>Existing Plant Community Type(s) in Impact Area</th>
<th>County, Major Watershed #, and Bank Service Area # if of Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>

1 Use Wetland Plants and Plant Community Types of Minnesota and Wisconsin 3rd Ed. as modified in MN Rules 6400.406 Subp. 2.
2 Refer to Major Watershed and Bank Service Area maps in MN Rules 6420.0522 Subp. 7.

Upon approval and signature by the TEP, application must be sent to: Wetland Bank Administration Minnesota Board of Water & Soil Resources 520 Lafayette Road North Saint Paul, MN 55116

Can also be sent via email to Amy Walters: Amy.Waters@state.mn.us

Submit
Signed Attachment E
Copy of project plans
Copy of application

Technical Evaluation Panel Concurrence:

<table>
<thead>
<tr>
<th>TEP member</th>
<th>Representing:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LGU Admin has to sign</td>
</tr>
</tbody>
</table>

Concur with road authority’s determination of qualification for the local road wetland replacement program? Yes No

Signature: Date:

<table>
<thead>
<tr>
<th>TEP member</th>
<th>Representing:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SWCD Rep (if applicable)</td>
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</table>

Concur with road authority’s determination of qualification for the local road wetland replacement program? Yes No

Signature: Date:

<table>
<thead>
<tr>
<th>TEP member</th>
<th>Representing:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SWSR Wetland Specialist must sign</td>
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</tbody>
</table>

Concur with road authority’s determination of qualification for the local road wetland replacement program? Yes No

Signature: Date:

<table>
<thead>
<tr>
<th>TEP member</th>
<th>Representing:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DNR Rep signs if win 300 feet of PWW</td>
<td></td>
</tr>
</tbody>
</table>

Concur with road authority’s determination of qualification for the local road wetland replacement program? Yes No

Signature: Date:

Project Name and/or Number:

Use SAP/AP Number and Project Name
• Restoration of completely drained wetland
• Restoration of partially drained wetland
• Vegetative restoration of farmed wetlands
• Protection of wetland previously restored via conservation easements
• Wetland Creations
• Restoration and protection of Exceptional Natural Resource Value
• Preservation of wetlands
• Upland buffer areas
<table>
<thead>
<tr>
<th>Subpart</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Buffer</td>
</tr>
<tr>
<td>3</td>
<td>Restoration, Completely Drained or Filled</td>
</tr>
<tr>
<td>4</td>
<td>Restoration, Partially Drained or Filled</td>
</tr>
<tr>
<td>5</td>
<td>Vegetative Restoration of Farmed Wetland</td>
</tr>
<tr>
<td>6</td>
<td>Protection of Wetlands Previously Restored</td>
</tr>
<tr>
<td>7</td>
<td>Wetland Creation</td>
</tr>
<tr>
<td>8</td>
<td>ENRV</td>
</tr>
<tr>
<td>9</td>
<td>Preservation</td>
</tr>
</tbody>
</table>
Establishing a Wetland Bank

State and Federal Review Process in Minnesota

- Draft Prospectus
  - State: Optional
  - Federal: Optional
- Prospectus
  - State: Optional
  - Federal: Required
- Mitigation Plan/Draft MBI
  - State and Federal: Required
- Final Mitigation Plan and MBI
  - Federal only and required

[Diagram showing the review process for WCA and Corps with the steps listed above]
## Roles in Establishing a Wetland Bank

<table>
<thead>
<tr>
<th>Draft Prospectus</th>
<th>Prospectus</th>
<th>Mitigation Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td></td>
<td>BWSR</td>
</tr>
</tbody>
</table>

*BWSR*
Draft Prospectus

- Optional
- No decision required
- Help sponsors
- Complex or difficult projects
- Minimal investment
• Basic project information
• Easement questionnaire
• Basic Features
• Why is it a good bank project
• Constraints
• Existing wetlands
• BWSR provides “Discussion Items”
• WS uses discussion items at TEP meeting
• TEP writes Findings based on discussion
• Sponsor receives TEP findings and decides what to do
Prospectus

• Required by Corps
• No decision required
• Baseline Information
• Justify Credit Actions
• Justify Credit Allocation
• General Concept Plans
Prospectus

- Crediting
- Topographic Information
- Wetland Determination
- Title Opinion
- Site Hydrology Information
Roles for reviewing prospectus

TEP/LGU Roles:

• Verify previous comments addressed
• Verify sponsor adequately described the site
• Review wetland delineation or determination
• Review crop history (if necessary)
• Provide LOCAL perspective on project and eligibility

BWSR Role:

• Evaluate easement issues
• Vegetation, Engineering, and Bank Coordinator comments included
• Statewide consistency
• Technical answers and interpretations
• Coordination with Corps
• Comments become more direct
• Baseline information must justify credit actions and allocations
• Some credit actions require more information
• Project takes shape but detailed plans not required
• Balance information needs versus sponsor’s cost
Mitigation Plan

• Document of record
• Required for both programs
• LGU Decision Required
• Section 15.99 time limits!
• Attached to Corps’ MBI
Mitigation Plan

Required:

• Detailed vegetation plans
• Detailed construction plans
• Detailed monitoring plans
• Performance standards
• Credit release schedule
• Verify Corps has completed Prospectus phase
• Verify Prospectus information carried forward and comments addressed
• Verify Baseline Information is complete and adequate
• Wetland delineation approval
• Review detailed plans to your comfort level
Mitigation Plan

- Monitoring plan must relate to performance standards
- Performance standards must relate to credit releases
- The Mitigation Plan is the basis for implementation, credit releases, and allowable actions into the future
- DOCUMENTATION IS CRITICAL

“Plans are nice but performance releases credits.” J. Overland

Table 1: Credit Release Schedule Example

<table>
<thead>
<tr>
<th>Type of Compensation</th>
<th>Total Projected Acreage</th>
<th>Type of Wetland Credit</th>
<th>Credit Ratio</th>
<th>Initial Release (15%)</th>
<th>Hydrology Performance Standards (release of additional 20% of total projected credits, excluding buffer)</th>
<th>Interim 1 Vegetation Performance Standards (release of additional 20% of total projected credits for wetland, 30% for buffer)</th>
<th>Interim 2 Vegetation Performance Standards (release of additional 20% of total projected credit for wetland, 30% buffer credit)</th>
<th>Final Vegetation Performance Standards &amp; Approval of Final Wetland Delineation Report (final release)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-establishment/Restoration of Completely Drained Wetland</td>
<td>5.0</td>
<td>Shrub-carr</td>
<td>100%</td>
<td>5.0000</td>
<td>0.7500</td>
<td>1.0000</td>
<td>1.0000</td>
<td>1.0000</td>
</tr>
<tr>
<td>Re-establishment/Restoration of Completely Drained Wetland</td>
<td>20.0</td>
<td>Wet Meadow</td>
<td>100%</td>
<td>20.0000</td>
<td>3.0000</td>
<td>4.0000</td>
<td>4.0000</td>
<td>5.0000</td>
</tr>
<tr>
<td>Rehabilitation/Restoration of Partially Drained Wetland</td>
<td>5.0</td>
<td>Hardwood Swamp</td>
<td>50%</td>
<td>2.5000</td>
<td>0.3750</td>
<td>0.5000</td>
<td>0.5000</td>
<td>0.6250</td>
</tr>
<tr>
<td>Upland Buffer (may not contribute to more than 25% of total bank credits)</td>
<td>10.0</td>
<td>Shrub-carr</td>
<td>17%</td>
<td>0.4250</td>
<td>0.0637</td>
<td>0.0000</td>
<td>0.1275</td>
<td>0.1275</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wet Meadow</td>
<td>25%</td>
<td>1.6500</td>
<td>0.2475</td>
<td>0.0000</td>
<td>0.4950</td>
<td>0.4950</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hardwood Swamp</td>
<td>17%</td>
<td>0.4250</td>
<td>0.0638</td>
<td>0.0000</td>
<td>0.1275</td>
<td>0.1275</td>
</tr>
<tr>
<td>Total</td>
<td>40.0</td>
<td></td>
<td></td>
<td>20.0000</td>
<td>4.5</td>
<td>5.5000</td>
<td>6.2500</td>
<td>6.2500</td>
</tr>
</tbody>
</table>
Mitigation Plan Decision

- Track 15.99 time limits, extensions needed
- Most Mitigation Plans will require some revision
- Make final decision in accordance with section 15.99
- Clearly identify and retain approved Mitigation Plan
- When possible the WCA and Corps approved plans should be the same
Easement Acquisition

GENERAL PROCESS INFORMATION

• Easement acquisition is typically initiated after mitigation plan approval

• Easement acquisition does not have to be completed prior to construction

• The process is managed at BWSR by Easement Section Staff, not Wetland Specialists

• It is the responsibility of the sponsor/landowner to initiate the easement acquisition process
LGU role in Easement Acquisition

- Help the sponsor find the “Conservation Easement Acquisition Overview for Private Wetland Banks”
- BWSR easement staff will take it from there
The significant steps in the easement acquisition process include:

1. **Sponsor** submits initial $1,000 Easement Acquisition Fee to **BWSR** along with application
2. **BWSR** performs a preliminary review of ownership information to identify potential issues
3. **Sponsor** provides DRAFT Certificate of Survey in required format for **BWSR** review & comment
4. **BWSR** provides sponsor with instructions to obtain Title Commitment
5. **Sponsor (landowner) provides** Title Commitment to **BWSR** for State Attorney General (AG) review & comment
6. **BWSR prepares** Conservation Easement document to be signed by landowner
7. **Landowner signs Easement and returns to BWSR** with $2,400 Easement Acquisition Fee balance
8. **BWSR sends** instructions to record the Easement and issue a Title Insurance Policy
9. **BWSR notifies sponsor** that easement acquisition process is complete
Construction Certification

• LGU must certify the initial construction
  • Documentation:
    • as-built drawing
    • surveyed map
    • Delineation
    • seed tags
    • construction photos

• Site Visit with TEP
  • Recommend TEP Findings of Fact
• Up to 15% of the credits are eligible for deposit after the certification of construction

• Remaining credits are eligible for deposit based on the credit release schedule and performance standards in the approved bank plan

• Subject to review by the LGU & TEP

• After certifying the credit for deposit, the LGU must forward to BWSR banking administrator
Credit Withdrawal and Transfer

• Submitted as part of Replacement Plan to LGU with jurisdiction of impact site
• Reviewed and approved by the LGU with TEP input
• Processed and entered into official ledger by BWSR
• BWSR coordinates approved transactions with Corps
Help us improve transaction processing efficiency.

Make sure all requested information is provided

Make sure account information is provided and each column is filled out

Don’t worry about fees – BWSR will handle that
Transaction forms cannot be processed without required signatures

When processing transactions we need LGU name and contact. Typed or printed information makes it easier to figure out
• Types of Wetland Banks
  • Standard
    • Private and Agriculture
  • In Lieu of Fee (proposed)
  • Local Road Program
• Replacement for Public Road Projects
  • Repair, rehabilitate, reconstruction of currently serviceable roads
• Actions Eligible for Credit
  • Restoration of drained wetlands, vegetation restoration, protection, ENRV, Preservation, upland buffer

• Establishing a Wetland Bank
  • Draft Prospectus
  • Prospectus
  • Mitigation Plan
• LGU and TEP procedures for banking
  • Construction Certification, deposit of credits, withdrawal of credits
Questions?
An exemption is:

a) An activity that no matter how large of an impact requires replacement.
   b) A regulated activity that does not require replacement.
   c) An activity that requires an application everywhere in the State.
   d) An activity occurring in a calcareous fen.
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b) A regulated activity that does not require replacement.

c) An activity that requires an application everywhere in the State.

d) An activity occurring in a calcareous fen.
During the review of a replacement plan application, LGUs must use this process to determine whether a project avoids, minimizes then replaces wetland impacts:

a) No-loss criteria  
b) Sequencing  
c) Exemption standards  
d) Replacement order
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a) No-loss criteria  
b) Sequencing  
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Which member of TEP is responsible for writing a WCA restoration Order?

a) LGU
b) BWSR
c) SWCD
d) Army Corps
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a) LGU
b) BWSR
c) SWCD
d) Army Corps