

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: 12-12-13

Via: Patrick Wussow, County Administrator

From: Patrick Wussow, County Administrator

Title of Item:

Wetland Mitigation Bank Siting

Requested Meeting Date: 12-17-13 Estimated Presentation Time: _____

Presenter: Aitkin County Staff & SWCD Staff

Type of Action Requested (check all that apply)

- For info only, no action requested
- For discussion with possible action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute _____
- Approve under Consent Agenda
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) _____

Fiscal Impact (check all that apply)

- Is this item in the current approved budget? Yes _____ No _____ (attach explanation)
- What type of expenditure is this? Operating Capital Other (attach explanation)
- Revenue line account # that funds this item is: _____
- Expenditure line account # for this item is: _____

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected. Yes No
- Applicable job description(s) may require revision. Yes No
- Item may impact a bargaining unit agreement or county work policy. Yes No
- Item may change the department's authorized staffing level. Yes No



Supporting Attachment(s)

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) _____

Provide (1) copy of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. (If your packet contains colored copies, please provide (4) paper copies of supporting documentation as we do not have a color printer or copier.) Items WILL NOT be placed on the Board agenda unless complete documentation is provided for the Board packets.

AITKIN COUNTY ADMINISTRATION

Aitkin County Courthouse
217 Second Street N.W. Room 130
Aitkin, MN 56431
218-927-7276
Fax: 218-927-7374

TO: Aitkin County Board of Commissioners

FROM: Patrick Wussow, Aitkin County Administrator; John Welle, County Engineer; Terry Neff Environmental, Services Director; Becky Sovde, Wetland Specialist; Steve Hughes, SWCD Manager

RE: Discuss and Possibly Approve Resolution Relating to Wetland Mitigation Bank Siting

DATE: December 12, 2013

Staff asks that the County Board adopt the attached resolution relating to wetland banking. Please review the proposed resolution and the attached related information. Additionally, staff is providing a resolution adopted by our SWCD, several years ago, that is relevant. We are concerned that we were not made aware of this study until recently and it has a relatively tight time line for Aitkin County to provide comments (County Engineer received email dated December 5th).

A meeting was held this morning with Aitkin County SWCD staff, County Engineer, Environmental Services staff and me to put together the attached resolution. In general staff agrees that the proposal is going in the right direction, but felt changes are needed and they are included in the proposed resolution.

Staff will be present to address any questions from the County Board.

By Commissioner: xx

121713-xxx

Wetland Mitigation

WHEREAS, impacts to wetlands in northeast Minnesota continue to create a high demand for compensatory wetland mitigation, and

WHEREAS, current state and federal compensatory wetland mitigation policies have resulted in large amounts of wetland impacts being replaced outside of the watershed boundary of the impacted wetland in low-priority areas of the state that have greater than 80% of their pre-settlement wetlands remaining, and

WHEREAS, approximately 11,000 acres of wetland credits have either been established or are in the process of being established in Aitkin County as mitigation for impacts in other drainage basins located outside of Aitkin County, and

WHEREAS, actual wetland impacts within Aitkin County total less than 100 acres since 1991, and

WHEREAS, the Interagency Northeast Mitigation Siting Team is a group of representatives of various state and federal regulatory agencies that have developed concepts for modifying current wetland mitigation requirements for impacts in the Lake Superior and Rainy River drainage basins, and

WHEREAS, comments regarding these concepts, dated November 20, 2013, have been solicited by the Interagency Northeast Mitigation Siting Team.

NOW, THEREFORE, BE IT RESOLVED, that Aitkin County hereby comments as follows:

1. The Interagency Northeast Mitigation Siting Team needs to be expanded to allow representation by all stakeholders affected by wetland impacts in the Lake Superior and Rainy River drainage basins.
2. The following problem statement needs to be added to concept document: "Current state and federal compensatory wetland mitigation policies have resulted in large amounts of wetland impact being replaced outside of the watershed boundary of the impacted wetland in concentrated low-priority areas of the state that are not lacking in wetland functions and values."
3. The alternative options for compensatory mitigation including the expanded use of preservation, restoration/protection of riparian corridors and streams, stabilization of natural hydrology, peatland hydrology restoration, and watershed plan implementation projects should be clearly limited only to mitigation sites located within the Lake Superior and Rainy River drainage basins.
4. Wetland impacts in the Lake Superior and Rainy River drainage basins that cannot practicably be mitigated within the same watershed should be required to be sited in high priority areas of the state that have less than 80% of pre-settlement wetland areas remaining. Mitigation for these impacts, even at higher replacement ratios, should not be allowed in the greater than 80% areas of the state.
5. To achieve more effective and efficient mitigation of wetland impacts in the Lake Superior and Rainy River drainage basins, mitigation should be based on a no-net loss of wetland functions and values rather than a no-net loss of wetland area. While this would potentially result in lower than 1:1 replacement ratios on an area basis, wetland functions and values would be maintained at greater than a 1:1 ratio.
6. Aitkin County continues to support the concept of the In-Lieu Fee Program for mitigation of wetland impacts in the Lake Superior and Rainy River drainage basins.

BE IT FURTHER RESOLVED, that the Aitkin County Board of Commissioners hereby thank the Interagency Northeast Mitigation Siting Team for addressing this important issue and encourages strong consideration of the recommendations contained herein.

Commissioner Niemi moved the adoption of the resolution and it was declared adopted upon the following vote

FIVE MEMBERS PRESENT _____ **All Members Voting Yes**

**STATE OF MINNESOTA)
County of Aitkin) ss.
Office of County Auditor,)**

I, Kirk Peysar, Auditor, of the County of Aitkin, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 17th day of December A.D., 2013, and that the same is a true and correct copy of the whole thereof.

WITNESS MY HAND AND SEAL OF OFFICE at Aitkin, Minnesota, this 17th day of December A.D., 2013

KIRK PEYSAR, County Auditor
BY _____, Deputy

Siting of Wetland Mitigation in Northeast Minnesota



Issues, Concepts, and Alternatives from the
Interagency Northeast Mitigation Siting Team

11-20-13

Today's Agenda

1. Review Meeting Purpose and Format for Input
2. Presentation of Key Concepts
3. Discussion
Break – 3:30 p.m.
4. Stakeholder Input
5. Meeting Wrap-up, Next Steps

The Purpose of Today's Meeting

1. Present the concepts and ideas developed by the interagency team before the report is completed.
2. Answer questions and ensure the concepts are well understood.
3. Obtain input/feedback.
4. Hear other ideas you may have.

Process for Stakeholder Input

You all have "Post-it Notes"

- Write one thought per note in complete sentences regarding an:
 - Opportunity
 - Challenge, or
 - Question
- Number your comment 1-12 (according to the corresponding concept from the agenda).
- Add your name (if willing).
- Hold your thoughts until we get to this part of the meeting.
- ❖ For those participating via web-ex, e-mail your thoughts to david.wejrens@state.mn.us

Interagency Northeast Mitigation Siting Team Members

- Les Lemm, BWSR
- Dale Krystosek, BWSR
- Doug Norris, DNR
- Kate Paul/Jennifer Engstrom/Colleen Allen, DNR
- Mark Gernes, PCA
- Tom Estabrooks, PCA
- Tim Smith, USACE
- Greg Larson, USACE
- Kerryann Weaver, USEPA

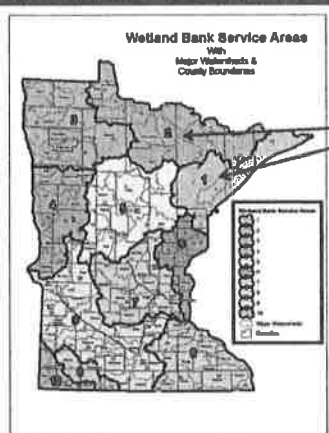
What we will Cover Today

1. Background
 2. Team Mission, Objectives, and Guiding Principles
 3. Concepts and Options
- We will not cover all the details – today's discussion is more conceptual. Most details will still need to be determined.

What the Team Did NOT Address

- Existing requirements not related to compensatory mitigation, including the requirement to avoid and minimize impacts.
- Procedures relating to a permit-to-mine (i.e. Executive Order 12-04 Final Report Recommendations, Issue 3, Item VII, a & b).
- Other issues raised in the Governor's Executive Order process not directly related to mitigation of NE MN wetland impacts.

Northeast Minnesota = BSAs 1&2



Bank Service Areas 1 and 2 are the Lake Superior and Rainy River drainage basins.

Projected Future Impacts

- Over the next 20 years:
- 4,100 acres of wetland impacts from mining. Of this, 1,250 acres of mitigation already in process or approved, leaving 2,850 acres of impacts needing replacement.
- 2,400 acres of impacts for transportation and development projects in NE MN.
- **TOTAL: 5,250 acres.**

Problem Statement

- "Ongoing and projected impacts to wetlands in northeast (NE) Minnesota are creating high demand for compensatory wetland mitigation."
- "Due to the high prevalence of wetlands and the relative lack of drained wetlands in NE Minnesota, opportunities to efficiently achieve ecologically beneficial mitigation through traditional approaches are limited."
- "Improved coordination of federal and state wetland regulatory programs would provide for more effective management of these unique circumstances."

Existing Law/Policy

1. Wetland Regulations (WCA, PWPP, 404, 401, 7050)
 2. NPDES/SDS Permitting Program
 3. Mining Site Reclamation Requirements
- NPDES/SDS permitting and site reclamation requirements in combination with other regulatory requirements, such as wetland mitigation, are necessary to maintain water quality and watershed integrity.

Mission of the Interagency Team

- The mission of this interagency effort is to evaluate and reconcile federal and state wetland replacement siting requirements and provide recommendations for
 - 1) efficiently achieving high quality wetland replacement consistent with watershed needs as well as statewide wetland goals.
 - 2) while maintaining the ecological integrity of watersheds in NE Minnesota where impacts are permitted.

General Policy Objectives

Continuing the status-quo is an unacceptable outcome for the mitigation of large-scale wetland impacts in NE MN. In general, policies should be supported that improve:

- the clarity of information and expectations for project proponents;
- communication and coordination between agencies regarding the requirements of regulatory programs;
- the targeting and focus of mitigation to maximize overall aquatic resource benefits, including projects that may or may not be focused solely on wetlands; and
- the effectiveness of implementation and compliance.

Guiding Principles

1. The team will concentrate on compensatory mitigation and will not address other requirements such as avoidance and minimization.
2. Wetland replacement within the watershed is required under federal and state rules whenever practicable alternatives are available that offset the aquatic resource functions lost.
3. Mitigation opportunities in NE MN are limited by the amount of public land, the extent of aquatic resources that remain from the pre-settlement era, and the limited potential for generating mitigation credits.

Guiding Principles (cont'd)

4. When practicable opportunities are not available in the watershed where impacts occur that adequately compensate for the impacts, then mitigation should be pursued in priority areas.
5. Mitigation of impacts to water quality must occur within the watershed, and may be accomplished through various mechanisms not limited to wetland mitigation.
6. Mitigation site selection is fundamental to obtaining restorable, sustainable wetlands that provide functional benefits adequate to offset the aquatic resource functions lost as a result of a permitted activity.

Potential Solutions and Options

Five Main Areas for Further Consideration:

1. Wetland Mitigation Search Criteria
2. Alternative Options for Compensatory Mitigation within NE MN Watersheds
3. Replacement Wetland Siting Criteria
4. "Other" Recommendations for Program Improvement
5. Alternative Mechanisms for Providing Compensatory Mitigation

Wetland Mitigation Search Criteria

- Practicability: What constitutes a reasonable search adequate to comply with Federal and State law?
 - Agencies agree on a single definition of practicability.
 - Cost considerations, existing technology, and logistics.
- Quality of Replacement Wetland: What is acceptable?
 - Functional gain and benefits to the watershed are adequate to replace lost wetlands.
- ❖ Additional clarification and/or guidance is recommended for both practicability and quality.

Alternative Options for Compensatory Mitigation within NE MN Watersheds.

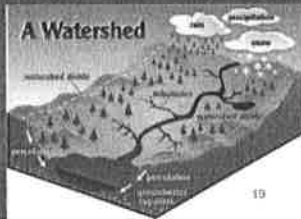
- Restoration preferred method for mitigation.
- Fewer wetland restoration opportunities in NE.
- Large projects = high credit needs.
- Water quality is important in NE watersheds.
- ❖ Concept: Other "non-traditional" resource improvement and protection options exist that can provide value and at least partly mitigate for wetland impacts.

Alternative Option: Expanded Use of Preservation

- Activities on adjacent uplands negatively affect wetlands and other aquatic resources, including lake and river fringe wetlands.
- Protecting some of the area's shoreline habitats and sensitive upland areas should be a priority.

Concepts:

1. Clarify and utilize existing preservation options.
2. Allow credit for protection of sensitive upland areas (headwaters, riparian areas, important wildlife corridors, etc)



Protect NE MN Shallow Lakes/Streams/Wetlands

Benefits

Water quality
Habitat for aquatic and riparian species
Hunting and other recreation opportunities

Scaup and ringneck ducks, bay of Northeast Minnesota wild rice lake

Example provided by DNR

Alternative Option: Restoration/Protection of Riparian Corridors and Streams

- Restoration of riparian corridors can provide multiple benefits to aquatic resources, including:
 - temperature moderation through shading,
 - reduced sediment loading in streams,
 - reduction in peak velocities,
 - in-stream structure from woody debris,
 - wildlife habitat, and
 - floodwater retention.
- Restoration activities can include wetlands and/or uplands.

Alternative Option: Restoration/Protection of Riparian Corridors and Streams

Concept: Allow mitigation credit for:

1. preservation of buffers adjacent to trout streams and other sensitive northeast streams.
2. buffer reforestation activities that improve shading, habitat, or water quality of trout streams and other sensitive northeast streams, including impaired streams with an established TMDL.
3. stream restoration projects that include such actions as re-meandering lost channels, stream bank stabilization, and day-lighting buried/piped streams.

Headwaters of Trout Streams: Options for Protection?



Channel Restoration

Mud Lake (Mud-Goose WMA) Leach Lake River



Example provided by DNR

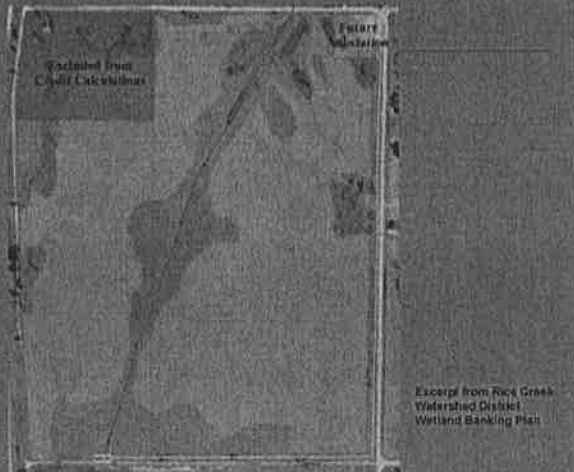
Alternative Option: Stabilization of Natural Hydrology

Concepts:

- Nearby ditching, channelization, or other modifications can indirectly impact the hydrology of existing wetlands.
- Restoration of the natural hydrologic regime can restore functionality and stabilize the hydrology, providing benefits to the watershed.

Team Recommendation: Provide clarification to allow mitigation credit for stabilization of hydrology through ditch "de-coupling" or other means

Example: Stabilization of Natural Hydrology



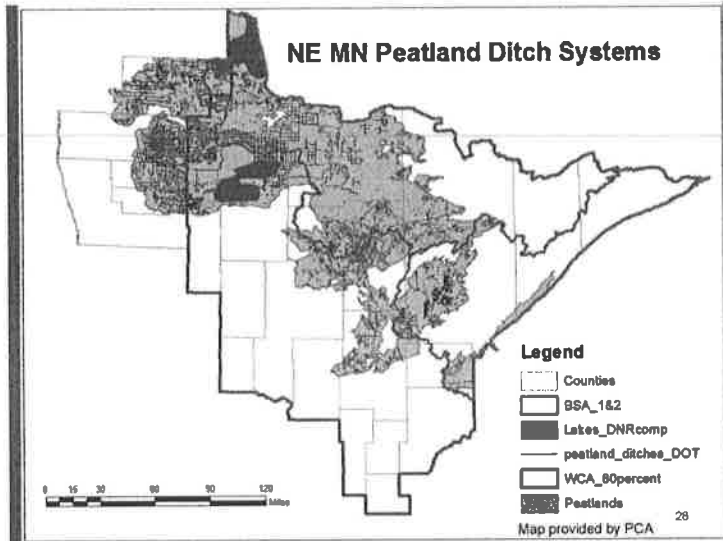
Alternative Option: Peatland Hydrology Restoration

Concepts:

- Significant ditching of NE peatlands through early 1900s. Drainage efforts largely unsuccessful.
- Significant effects on peat quality, water quality, and peatland hydrology in some areas.
- Restoration of peatland hydrology can provide water quality and quantity benefits to the watershed and downstream resources.

Team Recommendation: Clarification and consistency in allowing mitigation credit for restoring peatland hydrology

1. Functional evaluation
2. Guidance



1 Restored Peatland Wetland Mitigation Site



Alternative Option: Approved Watershed Plan Implementation Projects

Concept: Approved watershed plans often identify specific projects that benefit the overall ecological functioning of aquatic resources. Implementation of those projects by applicants could generate credit.

- TMDL implementation plans
- Resource management plans
- Basin plans
- Local water plans
- Habitat conservation or improvement plans

Alternative Option: Approved Watershed Plan Implementation Projects

Team Recommendation:

- Allow mitigation credit for the completion of certain approved watershed plan implementation projects.
- Components of this recommendation include:
 - policy changes,
 - promotion of wetland planning,
 - guidance and crediting procedures,
 - and the identification of specific projects or types of projects that can obtain credit.

Replacement Wetland Siting Criteria

Concepts:

1. Maintain requirement/incentives to replace wetland impacts within the watershed of impact when practicable options are available (do not "give up" on the NE).
2. Protecting water quality is particularly important in the NE.
3. When adequate mitigation is not available within the same major drainage basin, it should be directed to areas of the state that will maximize public benefits.

Siting Criteria

Proposed Siting Criteria:

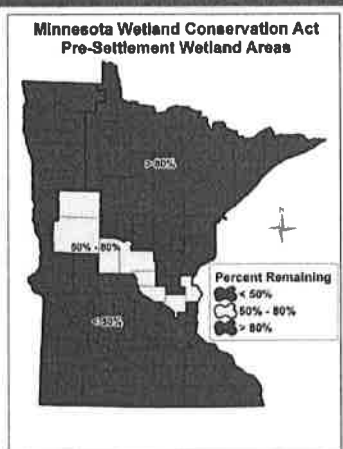
- 1) On-site or in the same minor watershed as the impact.
- 2) In the same major watershed as the impact.
- 3) In the same bank service area as the impact.
- 4) In an area of the state that has been designated as high priority for wetland restoration.*
- 5) In another bank service area.

*Under current siting criteria, step 4 allows mitigation statewide.

One Possible Example of how the Siting Criteria could Work

- 1) Replace wetland impacts within the same BSA at 1:1. All actions eligible for credit are available, including alternative actions, except the "Approved Watershed Plan Implementation Project" option. If adequate mitigation isn't available, proceed to step 2.
- 2) Replace wetland impacts in a priority area at 1:1, and within NE MN, implement:
 - a. one or more approved watershed plan implementation projects focused on maintenance or improvement of water quality;
 - b. any alternative options for mitigation credit equivalent to a 0.5:1 ratio; or
 - c. any combination of a and b.
- 3) Replace wetland impacts in a priority area at 1.5:1.
- 4) Replace wetland impacts in another BSA at a higher ratio.

Prioritization and Targeting of Out-of-Watershed Mitigation

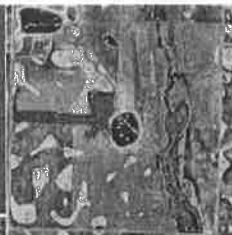


- Existing plans and documents generally identify the prairie pothole region as a high priority area.
- For example, current WCA Rules identify the entire <50% area of the state as high priority for wetland restoration.

Prairie Pothole Region

More drained wetlands =

- More restoration opportunities.
- More available information.



Alternative Mechanisms for Providing Compensatory Mitigation

- The way we make mitigation decisions now may not be the preferred method in the future.
- An alternative implementation mechanism may be more effective in producing outcomes consistent with mitigation goals.
- The team identified two primary options:

NE Regional Wetland Mitigation Cooperative (Umbrella Bank) Option

- Recommended by NE MN Wetland Mitigation Inventory & Assessment Report (BWSR, January 2010).
- Cooperative/partnership between private entities with private funding.
- In-advance banking credits, primarily in NE.
- Direction and guidance provided by an interagency wetland mitigation committee.



In-Lieu Fee Program Option

- Could have NE or Statewide context.
- Mitigation can occur after credits have been "purchased."
- Could be non-federal public entity or non-governmental organization.
- Advantages for targeting of mitigation sites and funding.



Questions?



Process for Stakeholder Input

You all have "Post-it Notes"

- Write one thought per note in complete sentences regarding an
 - Opportunity
 - Challenge, or
 - Question
- Number your comment 1-12 (according to the corresponding concept from the agenda)
- Add your name (if willing)
- Hold your thoughts until we get to this part of the meeting.
- ❖ For those participating via web-ex, e-mail your thoughts to david.weirens@state.mn.us

Next Steps

1. Consider input from stakeholders, agency staff, and others.
2. Agency concurrence on the way forward.
3. Complete the Interagency Team Report.
4. Prioritization and planning for implementation.
5. Continue work and collaboration on details and outstanding issues.*

*Note: Most implementation items will have some type of public input process associated with them (i.e. via Rulemaking).

RE-FOCUSING WETLAND REPLACEMENT EFFORTS IN MINNESOTA

WHEREAS, the Minnesota Wetland Conservation Act seeks to avoid and minimize wetland impacts and to replace wetland functions and values when avoidance cannot be achieved;

AND WHEREAS, wetlands provide flood storage, groundwater recharge, wildlife habitat, and other benefits;

AND WHEREAS, northern Minnesota counties still retain 80% or more of pre-European settlement wetlands;

AND WHEREAS, many portions of Minnesota retain less than 50% of their historic wetlands and are most in need of replacement of wetland functions and values;

AND WHEREAS, the greatest benefit to the environment and the citizens of the state will be realized by focusing wetland replacement efforts in those areas that are most in need;

THEREFORE BE IT RESOLVED, that MASWCD seek changes in state and federal policies to allow wetland replacement on a statewide basis in order to replace wetland functions and values where they have been most negatively impacted and the replacement wetlands will provide the most benefit;

BE IT FURTHER RESOLVED, that the new replacement policy be administered by the MN Board of Water and Soil Resources and include an "in lieu of" fee for wetland replacement patterned after the statewide road impact replacement program, commonly referred to as the "road bank".

Submitted by: Aitkin County SWCD

Area Association: Northeast Area III

Date Adopted: _____

Reviewed by: MASWCD Board of Directors

MASWCD Annual Convention

Date: _____

Action: _____

Date: _____

Cost to implement: no cost to include this focus in existing wetland discussions.

For more information contact:

Mike Lentz, Aitkin County SWCD Supervisor (218) 697-8214

Steve Hughes, Aitkin County SWCD Manager (218) 927-6565