

## **Technical Evaluation Panel (TEP) Meetings – Procedures and Timing**

The technical evaluation panel provisions within the Minnesota Wetland Conservation Act are generally regarded to be one of the strengths of the Act. TEPs provide forums to discuss site-specific interpretations of laws, rules, and technical data. They also provide an opportunity for gaining consensus on a number of primarily technical issues in order to make a recommendation to the decision-maker.

In spite of the utility, they do come at a cost. Strained budgets have staff serving larger areas. Applicants incur additional consulting and time costs. It is in the interest of all involved to optimize both the number of TEP meetings and the amount of time each TEP meeting takes to reach a conclusion. Here are some recommendations:

### **WHY call a TEP**

- Complex projects where further explanation is necessary and where issues cannot be resolved with a phone call or other correspondence.
- Controversial projects where the TEP recommendation could aid the LGU or the applicant in interpreting WCA and/or reduce the likelihood of appeal.
- Difficult delineations in very altered settings or problem areas, or when contradicting delineations exist.
- The LGU doesn't know the answer and BWSR staff alone cannot provide a definitive answer.
- Impacts or replacement in uncommon settings such as fens, bogs, rare species, etc.
- Proposed credits from restoration of Exceptional Natural Resource Value (ENRV) wetlands.
- Incidental wetland issues or exemption decisions with a high chance of appeal.
- When sequencing flexibility is requested.
- Large complex violations, or situations where legal action is likely.
- When an LGU or staff is new to the administration of WCA.
- Where multiple perspectives are needed, or when differing opinions exist within the TEP.
- As a pre-planning session prior to beginning development of a Comprehensive Wetland Management Plan.
- Banking applications or requests for early withdrawal of mitigation sites from monitoring requirements.

### **WHEN to hold a TEP**

- After receipt of a complete application, accurate delineation, and supporting information. If a pre-application TEP is called, address all issues at that time so a second TEP is not necessary.
- When the issue(s) requiring TEP review and the meeting objectives are narrowly defined.
- When TEP members have received all applicable information with sufficient lead-time to review.
- With enough lead-time for the TEP members to fit the meeting into their schedules. Ask TEP members what days work for them before scheduling; avoid picking a day and expecting TEP members to make it.
- With enough lead-time for the applicant to revise or seek an extension before the LGU decision is made.
- Regularly scheduled (standing) TEP meetings are recommended to ease scheduling and improve efficiency in areas with high WCA workload. Standing TEPs should be coordinated with other LGUs in the area. (For example, a standing TEP meeting is held the third Wednesday of each month for all LGUs in Scott County, coordinated by the SWCD.)
- LGUs can call the SWCD or BWSR staff to ask if a situation warrants a TEP.

### **HOW to hold a TEP**

- Brief and to the point. The LGU (or designee) should run the meeting, keeping things moving and on track.
- Follow a timeline and specific agenda that lays out the issues to address and desired outcome. LGU staff should develop the agenda based on review of application and any questions raised by the TEP or others.
- On-site for those projects likely requiring a site visit. Try to avoid calling one TEP to review the application and a second for a site inspection.
- For wetland delineation reviews, require a representative transect(s) with sample points to be staked on site.
- LGU staff should take good notes, draft the minutes and/or findings (a TEP Findings of Fact Form is available on BWSR's website), and distribute to the other TEP members for comment. If minutes will not be kept, the LGU should inform the other TEP members.