



December 18, 2015

Les Lemm  
Wetland Conservation Act Coordinator  
Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
Saint Paul, MN 55155

RE: Preliminary Input on Wetland Conservation Act Rulemaking

Dear Mr. Lemm,

I am writing on behalf of the Minnehaha Creek Watershed District (MCWD) to contribute to the initial scoping discussion for the Board of Water and Soil Resources (BWSR) process for amending the Wetland Conservation Act (WCA) Rules (MN Rule Chapter 8420). The District understands that BWSR will be coordinating throughout the rule drafting process with groups of external stakeholders (WCA Rule Advisory Committee) and LGU staff responsible for implementing the rules (Technical Review Committee), and is very interested in formal participation in both committees. In the meantime, the MCWD would like to offer preliminary input for consideration during the rulemaking process.

In recent years, the MCWD has established a brand as a leader in innovative and collaborative water resource management. This has been accomplished, in part, through an initiative to bridge the gap between land use change and water resource improvement by proactively partnering to produce natural resource outcomes that exceed those possible through compliance with regulation alone.

In the past year, for example, the MCWD has partnered with the local development community on two major wetland restoration projects that will help conserve local wetland functions and values and reverse the current trend for wetland replacement to be achieved outside of the MCWD boundaries. The first project, proactively identifying and nurturing a potential wetland banking applicant within the MCWD, saw the District develop a creative land use plan enabling the applicant to achieve its economic goals while simultaneously restoring 45 acres of degraded land into the first wetland bank within the MCWD. The second project, proactively partnering with a national developer to produce a mixed on-site wetland replacement project and MCWD capital project, will provide 15 acres of wetland restoration within the MCWD boundaries that would otherwise be replaced for in a different watershed.

This approach of forming creative partnerships to produce exceptional natural resource outcomes motivates the District's interest in seeing two major subjects addressed in the upcoming WCA amendments. The first major priority for the District is the efficient coordination of WCA with other regulatory programs. The MCWD is currently conducting a concerted, exhaustive effort to align our permitting program with those of the Department of Natural Resources (DNR) and Army Corps of Engineers (ACOE) in order to efficiently

*The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.*

capitalize on partnership opportunities. This alignment effort includes a DNR General Permit and frequent DNR waiver of Public Water Wetland regulation to the MCWD, as well as the development of an ACOE Special Area Management Plan and potential General Permit for the MCWD's priority subwatershed. The District's close regulatory coordination with these two agencies depends, in part, on our administration of current WCA rules; thus, the WCA rule changes serve as an opportunity to enhance MCWD's aligned administration of WCA, DNR, and ACOE regulation to effectively partner for improved natural resource outcomes.

The second subject of major interest to the District during the WCA rulemaking process is the opportunity the revisions present for WCA to appropriately review resource improvement projects in addition to regulating resource impacts. The District's particular interests in this regard are that rules written to manage impacts from land development not inadvertently impede resource improvement; that regionalizing wetland replacement or introducing an In-Lieu Fee program not create disincentives for local partnerships; and that flexibility be provided for local capacity and knowledge to operate. To these ends, several WCA rule topics that the MCWD looks forward to discussing include:

- Adjustment of WCA no-loss, replacement, or other criteria to appropriately accommodate wetland disturbance for resource improvement projects;
- Structuring of the In-Lieu Fee program to support both WCA compliance as well as local partnerships that achieve results exceeding compliance;
- Designation of High Priority Areas and siting of replacement wetlands; and
- The capacity of local government units to fully implement WCA to achieve exceptional resource outcomes.

The District believes that addressing these two major subjects during WCA rulemaking will foster both water resource improvement and innovative ways of partnering to achieve such improvement.

Additionally, a number of topics related to streamlining WCA administration that the MCWD also looks forward to discussing include:

- Clarification of wetland buffer standards;
- Refinement of actions eligible for credit;
- Handling of mixed wetland types;
- Duration of different types of approvals; and
- Requirements for re-noticing and electronic transmission of notices.

Thank you for the opportunity to provide input during this informal, pre-rulemaking comment period. We look forward to learning about next steps the MCWD can pursue to get involved in the review committees, and further engaging with you throughout the rulemaking process!

Sincerely,

A handwritten signature in blue ink, appearing to read "Lars Erdahl".

Lars Erdahl  
District Administrator