

WETLANDS AND WETLAND REGULATIONS IN MINNESOTA

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What is a Wetland?



- Official Definition:
 - “Areas that are inundated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”



- Include obvious “duck ponds” with standing water and cattails to areas that may have no standing water throughout most of the year

Wetland Characteristics

- Land that has:
 - Hydric soils
 - Develop under wet conditions
 - evidence of water levels near surface
 - Hydrology
 - standing water or soils saturated at the surface for 15 days a year
 - NOT ALWAYS WET!!
 - Dominance of Hydrophytic (water-loving) vegetation
 - Cattails, reed canary grass, sedges, bulrush, etc.





OCT 10 2006









OCT 12 2006





OCT 4 2006



SEP 29 2006









OCT 12 2006



Wetland Types/Vegetation Communities

- Determined by “wetness” and corresponding vegetation
- Classification may effect regulation of wetland based on rarity of type or vegetation communities
- Eggers and Reed Classification
 - Vegetation Community
- Circular 39
 - Wetland Type 1 through Type 8

Wetland Types/Vegetation Communities

These are obvious wetlands.....



Wetland Types/Vegetation Communities



These are wetlands too....



Regulation of Wetlands-MN

- Draining or filling of wetlands is regulated in most cases
- Overlapping Jurisdiction
 - Wetlands in MN are regulated under a variety of Federal/State/Local Agencies
 - Permits required prior to working in wetlands
- Federal
 - Army Corps of Engineers
 - Clean Water Act Section 404
 - Requires permit for discharges of dredged or fill material into “waters of the US” or wetlands that are tributary to “waters of the US”
 - Not all wetlands are under Army Corps jurisdiction
 - Some activities in wetlands are not regulated and do not require a permit

Regulation of Wetlands-State/Local

- State/Local
 - Minnesota Board of Water and Soil Resources (BWSR)
 - Wetland Conservation Act (WCA)
 - Adopted in 1991 to protect wetlands not protected by DNR or ACOE
 - Prohibits draining or filling of wetlands without mitigation
 - Some wetlands are exempt from WCA Regulation
 - De minimis
 - Incidentally created wetlands (stormwater ponds, impoundments, gravel pits)
 - Enforced by Local Government Unit (LGU)
 - City, Watershed, County
 - Minnesota DNR
 - Regulates “Public Waters” and “Public Water Wetlands”
 - Lakes, Streams, some Larger Permanent Wetlands
 - Local
 - Watershed Districts
 - Municipal Wetland Ordinances
 - Shoreland and Floodplain Ordinances

Are there wetlands in my project area?

- USFWS National Wetland Inventory
 - <http://www.fws.gov/wetlands/Data/Mapper.html>
- MN DNR-Public Water Inventory (PWI)
 - http://www.dnr.state.mn.us/waters/watermgmt_section/pwi/download.html

-PROVIDES ONLY AN ESTIMATE OF WETLANDS- NOT 100% ACCURATE



I Think This is a Wetland, What Do I Do Next?

- Wetland Delineation
- Jurisdictional Determination
- Determine Wetland Impact
- Prepare Permit Application and Wetland Replacement Plan

Wetland Delineation

- A determination of the jurisdictional boundary of a wetland.
- Site Visit by Certified Wetland Delineator
 - Documentation of vegetation, soils, and hydrology
- Wetland boundaries determined by change in vegetation, soils, hydrology indicators
 - Often corresponds to topographic change
 - Boundary is GPS recorded or surveyed
- Summary Report submitted for approval

Wetland Delineation



Jurisdictional Determination

- Not all wetlands are “Jurisdictional”
- Non-Jurisdictional Wetlands do not require a permit
- Location and Origin of Wetland Determines Jurisdiction
 - “Isolated” basins not under jurisdiction of Army Corps
 - Created basins typically not regulated
 - MN DNR only regulates Public Waters



Wetland Impacts

- Determine how proposed project would impact wetland
- Regulatory agencies require a demonstration of avoidance and minimization of wetland impacts if possible
- Not all wetland impacts are allowed
 - High value vegetation communities
 - Impact to important wetland functions (flood storage)

Permit Application/Wetland Replacement Plan

- Necessary if Impacts are Proposed
- Joint Permit Application for Federal/State/Local Agencies
 - <http://www.bwsr.state.mn.us/wetlands/wca/index.html>
- Required Information
 - Applicant Information
 - Project Summary (Plans/Specs)
 - Discussion of Wetland Impacts
 - Demonstration of Avoidance/Minimization of Wetland Impacts
 - Wetland Replacement Plan
 - Mitigation for wetland impacts

Permit Application/Wetland Replacement Plan

- Wetland Replacement Plan
 - Typically 2:1 Ratio Required (2 acres of mitigation for every 1 acre of impact)
 - Mitigation
 - Project Specific
 - Creation or Restoration of Wetland Basins On-Site
 - May be expensive and time consuming
 - Wetland Bank Credit Purchase
 - Purchase wetland credits created by a landowner who created or restored wetlands on their property
 - Price ranges from \$15,000 to \$45,000/acre in MN depending on location
 - Submit plan to regulatory agencies
 - Approvals require comment periods
 - Approval may take 30 to 120 days
 - WETLANDS MAY NOT BE IMPACTED UNTIL REPLACEMENT PLAN IS APPROVED BY ALL AGENCIES WITH JURISDICTION!

Summary

- Wetlands are regulated by multiple agencies in MN.
- Wetlands may not always be obvious.
- Permits are required prior to working in or near wetlands.
- Mitigation is required for wetland impacts.

Questions and Comments

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