

May 4, 2000 Draft Wetlands Task Force Meeting Notes

Attendees: J. Reitsma, J. Frisella, P. Holmes, M. Elliot, C. Mason, S. Coffey, C. Horbert, K. Beaver, E. Marks, D. Riding, K. Ayers, A. Good, B. Wolfenden, E. Holland, M. Wencek, H. Ellis, F. Golet, R. Gagnon, J. Boehnert, A. Walsh, C. Murphy, D. Esposito, J. Perkins, R Chateaufneuf, J. Martiesian, Beavers, T. Getz

The Wetlands Task Force May meeting focussed on reviewing four working group reports. Brian Wolfenden reviewed the salient points from the Outreach Working Group. The full working group had not reviewed the recommendations, so he went through the issues that were considered to be in draft form. He mentioned the report should be finalized in about two weeks. The following are some of the recommendations from this group:

1. DEM should generate a process flow diagram of all the Wetlands applications types that would indicate the timeline of each portion of the review process.
2. Use the best available technology to provide mapping resources on the Internet, adding the appropriate warning and disclaimer concerning the information.
3. Separate the internal administrative procedures from the regulations.
4. Assign the task of increasing public awareness and education to a Education Advisory Committee. This group would be composed of public and private sector partners as well as education professionals, and would assist DEM in developing an education and outreach strategy related to wetlands.
5. DEM should determine the available wetland mapping resources, and make available those that most effectively meet customer needs and place them on the Internet for informational purposes and a general planning tool. These tools should be user-friendly and promoted for public use.

A general discussion followed the presentation and the following points were raised:

1. Outreach and education programs should be geared towards an adult audience. Adults learn differently than children. Techniques that are successful with children will not work with adults.
2. With respect to mapping, it was mentioned that a NOAA habitat restoration grant would link different map sources. The RIGIS wetland maps were discussed and it was indicated that they are a good planning tool, but not detailed enough for regulatory purposes.

Ron Gagnon then reported on the Inclusive Meetings Working Group. He developed a policy on the use of pre-application meetings in the wetlands application process. It was generally thought that pre-application meetings were helpful in the larger projects especially if the wetlands program staff could give detailed technical suggestions early in the process and the meetings are results oriented. These meetings are not the total solution to the problem and it was suggested that clearly written regulations and appropriate guidance would go a long way to improve applications. In addition, it was suggested the policy should be expanded to cover single family lots, since this is a major

component of the Wetlands Program application mix. Meetings for single family lots do entail a lot of staff time, because most people only go through the process once. There is a need, however, to develop additional guidance for this sector of the program.

Concerns were raised that public policy was being discussed at these private meetings and there needs to be a way to factor in public input. This may not be a problem with formal applications, but could be an issue with other applications. The issue was raised that not all applicants would want these pre-application meetings to be a stakeholder forum. It was suggested that OTCA needs to determine when to inform the municipalities of potentially controversial issues.

The use of RIGIS mapping was further discussed. The director questioned the need to continue to support this technology if it could not be used in the permitting program. It was mentioned that this technology was useful for analysis of wetlands systems. Questions were also raised on the ability of using the maps within a range of accuracy say plus or minus five feet.

The need for DEM delineation of edges was discussed. Permit applications tended to get moved along faster and pre-meetings are more productive if the edges are verified. However, they also drove up the cost of an application, since the applicant needed to pay for the edge determination. DEM should consider evaluating lowering fees for edge verifications as an incentive to speed up the review process. The director suggested that DEM should look at other techniques, including certification of the work of private biologists for wetland edge delineation.

Russ Chateaufneuf reviewed the recommendations of the Beneficial Project / Exemptions working group. The first item was the exemptions for building additions. The current exemption allows for a two-story addition to a single-family home, limited to 600 SF in footprint. There is no need to revise the exemption language to include two-story additions.

Multi-family residential buildings and commercial and industrial buildings may expand to two stories but may not be expanded in footprint. The reason for the height limitation is the concern that shading may impact nearby wetland values.

The second item concerned the replacement of shoreline walls and protective revetments. This activity is also currently exempt. A clarification is requested concerning the apparent limitation that the replacement structure must be "in-kind". Inferior building materials should not be replaced in-kind. In addition, modern technical standards and practices may call for a different material that may prove superior in many respects to the original materials.

Many specific activities were discussed or mentioned for consideration under the exempt or other simplified review category. These include: footpaths, dry-hydrants, planting projects, low-volume water withdrawals, walkways to pond edges, habitat restoration,

water quality restoration, monument placement, placement of picnic tables, view corridors. For those activities that were discussed in detail, there was not agreement that these activities should be made exempt. Habitat restoration projects and water quality restoration projects in wetlands, in particular, are generally not thought of as low impact projects.

Substantial discussion occurred on a new permit category or permit type for low impact activities. It was often referred to as a FONSI (Finding of No Significant Impact). The FONSI permit type would have the following attributes: low or no fee, simple application submittal requirements, and expeditious or priority processing. In order to limit the scope of projects that might qualify for a FONSI, and allow a clear distinction from the Preliminary Determination (PD) application type, these projects or activities should be specifically listed in the Rules (e.g. foot paths, plantings, etc.) as is done with exemptions. The extent to which non-jurisdictional activities should be included needs further discussion.

The Task Force commented that DEM should be specific and list activities that will be covered by the FONSI process. It was also suggested that the applications should not be automatically approved if the application is not acted upon within 30 days.

Russ indicated that the working group recommended that DEM should encourage environmentally beneficial projects whose sole purpose is to restore wetland habitat or restore water quality, and which would involve a high degree of impact. DEM should strongly encourage pre-application meetings, prepare fact sheets targeted for commonly proposed projects, providing a suggested best design approach (BMPs) and have a significantly reduced fee structure. The working group did not recommend any application process changes for these projects.

There was also a suggestion made that the concerns about vertical expansions of properties could be handled by the development of a chart that would plot building height with distance to a wetland.

Some other issues raised were that beneficial projects were often less time sensitive, but were sensitive to permit fees, since many of the projects involved community projects. Caution was also raised that beneficial projects should be beneficial to wetlands and not be used as a planting project or species management tool. The director expressed that wetlands restoration plans should be part of a watershed plan and that it should be pre-evaluated in terms of permitting. Additional thought should be put into defining beneficial alterations.

Sean Coffey gave a brief summary of the Statutory Working Group. It was agreed that the Declaration of Intent needs to be revised, but there will be no push for statutory change this year.

At the conclusion of the meeting, the Director led a discussion of the work output of the Wetlands Task Force. The members recommended the following:

1. DEM should develop a plan for education and outreach strategies for municipalities, applicants, developers and the public.
2. DEM should encourage pre-application meetings and educate the public on the application process.
3. DEM should develop guidelines and BMP's for projects and improve the predictability of the decision making process.
4. There was a concern raised that DEM can not regulate more upland areas and are limited by the statute.
5. Make the regulations clearer and pull out the operational procedures from the regulations, increase the use of BMP's.
6. Develop additional program guidance.
7. Increase the use of a science-based approach on wetlands regulations.
8. Acknowledge that bordering lands should be treated differently than wetlands.
9. Minimize the dual jurisdiction issues between DEM and CRMC.
10. DEM should conduct a survey prior to the development of wetlands workshops.
11. Regulations should include an index.
12. More work should be done on wetlands banking, use of wetlands mapping, and further streamlining of the permitting process.

The meeting was adjourned. There would be no June meeting. Tom Getz would collect final reports from the working groups, compile a final report and reconvened the group in six to eight weeks.