

**Wetland Advisory Council Meeting
Michigan Association of Realtors
Friday, March 26, 2010**

Meeting Notes

Council Members Present: Joseph Rivet; Jeff King; Dan Coffey, Jeff Auch; Grenetta Thomassey; John Niemela; Chris Reidy; Erin McDonough; Randy Gross; Tom Hickson; Mindy Koch; Stephen Shine; Carrie Vollmer-Sanders; Lee Schwartz; Don Uzarski; Gary Dawson; John Konik, Susan Harley

Council Members Absent: Sue Elston

Others Present: Kim Fish, Peg Bostwick, Wendy Fitzner, Kate Lederle, James Sallee, Michelle Hohn (all DNRE); Paul Zugger (MUCC); Steve Daunt (HRPO)

Meeting convened for technical presentations at 11:05 a.m. by Chair Joseph Rivet, prior to formal business meeting.

- Presentation by Dr. Donald Uzarski, CMU, on Wetland Ecology – see addendum for presentation summary; PowerPoint presentation posted on WAC Web page.

Summary of questions and responses: Council member asked for specific examples of rare species that are found in forested wetlands. Dr. Uzarski noted in general that various species of birds, plants, and invertebrates are dependent upon this habitat type. He also indicated that ecological services including flood storage and toxic impacts might be of greater interest.

- Presentation by James Sallee, DNRE, on Hydric Soils – see addendum for presentation summary; PowerPoint presentation posted on WAC Web page.

Summary of questions and responses: Questions from council member following Mr. Sallee's presentation focused on results of using a 3 parameter approach (vegetation, hydrology, and soils) versus a 2 parameter approach (vegetation, hydrology) for wetland delineation. In response to questions, Mr. Sallee indicated that about 80 – 90% of the time, use of the federal method would not result in a more accurate delineation than the state's previously used method. He pointed out that the presence of hydric soil was previously used by state staff as an indicator of hydrology. In other situations (10 - 20% of the time – particularly on problematic sites), Mr. Sallee indicated that use of soils as a primary indicator could make a difference, but that the difference was not likely to be large (movement of the wetland boundary on the order of 5-15 feet) and that the result could be delineation of either more or less area as wetland depending upon site specific conditions.

In response to a question regarding how soil evaluation for this purpose differs from work done by a sanitarian, Mr. Sallee indicated that the work is similar, but may be evaluating different factors depending upon the purpose of the evaluation.

A council member asked about DNRE staff knowledge of hydric soils. Mr. Sallee indicated that DNRE wetland program staff have received training in the identification of hydric soils, and Kim Fish added that the division has been providing hydric soil training for 20 years.

The Council meeting was formally called to order following technical presentations. Kim Fish and Peg Bostwick will take notes in the absence of Lynda Jones.

- Lee Schwartz referred to minutes of the February 12, 2010, meeting in noting that PA 120 and formation of the WAC resulted from a legislative workgroup, and that PA 120 reflects an understanding that further changes to the state wetland program would be deferred until after the WAC completes its work. Mr. Swartz expressed concern that the recently introduced HR 5992 proposes changes that have not been reviewed by the WAC. The Council discussed the events that led up to this legislation, what changes were proposed, and the current status of the legislation.

Mr. Schwartz offered a motion that WAC members agree not to support changes to the existing wetland program regulations until the work of the WAC is completed. After some discussion, Randy Gross seconded the motion. Mindy Koch noted that, should the Legislature form a workgroup, the DNRE would be compelled to participate. The Chair called the question and asked for a voice vote; the motion was passed with no dissenting votes.

- The Chair indicated that he had invited legislative staff to attend meetings of the WAC, and introduced Steve Daunt of the House Republican staff. He also reiterated that the meetings are open, and that a tribal representative is welcome to attend, even if not formally added to the Council as proposed HR 5992.

The Chair also indicated that he had been contacted by students seeking intern positions working with the Council; Steve Shine and Kim Fish will evaluate opportunities for such students.

- The Council discussed the draft minutes from the February 12, 2010 meeting.

Mr. Coffey wished to emphasize that the WAC makes recommendations but is not responsible for drafting regulatory language (referencing the last paragraph on page 5 of the February 12th minutes.)

Council members discussed actions in response to United States Environmental Protection Agency's (USEPA) program requirements as reported in the minutes at the top of page 2. The October 1, 2010, report will include recommendations by the WAC regarding the response to USEPA. The Chair summarized the discussion, stating that the DNRE is responsible for development of a draft response to USEPA requirements in coordination with USEPA. Draft documents should then be reviewed and discussed by the WAC. Ultimately, the Legislature will have responsibility for making many changes.

Carrie Vollmer-Sanders asked her name be listed correctly in the February 12 minutes.

In regard to the completion of Michigan's wetland inventory as reported in the February 12, 2010, minutes, a Council member asked what percentage of the 2006 inventory was jurisdictional? DNRE staff responded that the inventory does not identify boundaries for jurisdictional purposes, but only provides the best available information regarding location of wetland systems. Another Council member noted that the inventory did need to be completed before the Part 303 regulations took effect in all counties.

A Council member recommended that technical presentations be summarized as an addendum to the minutes, rather than be included as part of the minutes. This would help to differentiate between discussion among Council members, and other opinions presented by non-council members.

The Chair requested that the minutes of the February 12, 2010, meeting be corrected for review and approval at the April meeting of the Council. He asked council members to e-mail corrections to Lynda Jones.

- The Council briefly discussed transition to use of the Federal Wetland Delineation Manual and Supplements, as required by PA 120. The Chair asked whether the PA 120 legislative workgroup had been informed that using soils as is done in the federal system (i.e. the three parameter approach) would make the delineation process more complicated?

DNRE staff indicated that the legislative group was told that the federal manual would increase the time needed for delineation.

A council member asked whether DNRE staff are tracking their experience in using the federal method? Staff responded that those responsible for wetland permitting are formally tracking time spent on wetland program requirements, and are also providing anecdotal reports of experience with the federal methods. A council member noted that staff may get quicker over the summer with experience. The Chair stated that while documentation being collected will by necessity be general and anecdotal (as opposed to a research project) it is important to attempt to identify the cost associated with this change in procedures.

- Presentation by Wendy Fitzner and Kate Lederle, DNRE, Regarding the Permit Process. See addendum for summary of presentation; PowerPoint presentation posted on WAC Web page.

Summary of questions and responses: A council member asked whether the department has recommendations to increase the rate of complete applications. Staff suggested that training and education in the permit process will help. Council asked whether applications from consultants are more complete than those from small landowners? DNRE staff responded that because consultants often worked with larger, more complex projects, that applications prepared by consultants often require additional information.

The Council asked about the utility of pre-application meetings. Staff indicated that although we have only been holding these meetings formally for a couple of years, to date the DNRE has not seen a significant impact on the rate of correction returns. Pre-application meetings do provide other benefits.

A council member suggested providing permitting information through Web pages, and also working with local units of government, during the phase when building permits are sought. DNRE staff indicated that the department currently works with county health departments (including holding an annual workshop with health departments), with local building inspectors, and other local agencies. Staff also referred Council members to DNRE Web pages and brochures, including information on "EZ Guides" for permit applications.

- Kim Fish distributed annual legislative reports on permitting activities from the past three years, summarizing the department's success in processing applications within required timeframes. She noted that this report is department wide, and advised the Council to focus on LWMD programs.
- Council inquired about the cost for pre-application meetings. DNRE staff explained that there is no fee for small landowners meeting in state offices; a scale of fees is provided for on-site meetings and larger projects.

- Jeff King indicated that the permitting process is complex, and that the Council should take time to understand and discuss many details of the process. He suggested that this might best be done in a subcommittee. The Chair agreed, and indicated that Mr. King should chair that subcommittee.
- Discussion of Agenda for Next Meeting. The Council agreed to meet on April 30, 2010, at the same time (11:00 a.m. – 2:00 p.m.) at the Michigan Farm Bureau.

Agenda will include a presentation by Elizabeth Browne regarding the DNRE “wish list” to improve efficiency of the permit process. Ms. Browne was unable to attend the March 26 meeting.

A council member suggested that in the future, any and all presentations be at the beginning of the meeting, followed by Council business.

The Chair then indicated that he planned to form subcommittees at the April 30th meeting, and then to suspend meetings of the full Council until July. In the interim, subcommittees would proceed. Mr. Rivet suggested three subcommittees to consider:

- Response to EPA requirements.
- The permit process and ways to improve permitting efficiency.
- Options to improve overall program efficiency.

Mr. Schwartz indicated that he would like to invite Russ Harding to make a presentation on April 30 regarding his experiences with the program while Mr. Harding was Director. The Chair agreed.

Meeting was adjourned at 2:00 p.m.

Addendum
March 26, 2010 Meeting of the Wetland Advisory Council
Presentation Notes

Dr. Donald Uzarski, Central Michigan University – *Introduction to Wetland Ecology*
[See WAC Web page for PowerPoint presentation]

Dr. Uzarski discussed various ecological types of wetlands (e.g. forested, scrub shrub, wet meadow, emergent, aquatic bed), and explained the relationship between hydrology and the wetland type that exists. He discussed how wetlands develop and evolve over time based on various factors.

The water supply for different wetland types varies; some are predominantly fed by precipitation (e.g. bogs). Others are fed by groundwater (fens, forested swamps). Surface water is the dominant source for floodplain forest, marshes, and Great Lakes coastal wetland. A change in water supply will alter the biological communities that are present. Dr. Uzarski's powerpoint presentation includes information regarding various wetland types.

Great Lakes coastal areas can support a full range of wetland types, from forested, scrub shrub, and wet meadows on the landward side, to emergent and open water moving into the lakes. Groundwater has a greater influence on the landward plant communities, while surface water plays a greater role moving lakeward.

The public values or ecological service of wetlands were discussed. Dr. Uzarski cited the importance of Great Lakes coastal wetland in supporting a \$7.5 billion fishing industry, noting that 90% of Great Lakes fish use coastal wetlands for some aspect of their life history. He also noted that wetlands play an important role in toxicant retention and burial – an often overlooked value. Other ecological services were listed.

A Canadian study cited by Dr. Uzarski values the ecological services of Great Lakes coastal wetlands at \$69 billion per year.

Another recent study of the value of inland wetlands in west Michigan valued the ecological services of these systems at \$1300 per acre per year.

Dr. Uzarski noted that 50% of wetlands in the coterminous United States have been lost since European settlement, and that the 50% loss figure is also applicable to Michigan. He also noted that while wetlands make up only about 3.5% of the land area in the United States, more than 33% of currently listed threatened and endangered species are wetland obligates, and more than 50% of listed species make use of wetlands at some point during their life cycle.

Mr. James Sallee, DNRE – *Hydric Soils*
[See WAC Web page for PowerPoint presentation]

Mr. Sallee reviewed the requirements of PA 120, under which the DNRE has adopted the United States Army Corps of Engineers' (USACE) 1987 Delineation Manual, with new regional supplements. The regional supplements bring wetland delineation up to the state of the current science. There are two regional supplements for Michigan; most of the state is covered by the Northcentral-Northeast supplement, but a portion of lower Michigan is covered by the Midwest supplement.

Mr. Sallee discussed the difference between the 2 parameter and 3 parameter approach to delineation. Prior to PA 120, the DNRE used a 2 parameter approach, in which soils were used as an indicator of wetland hydrology. Under the 3 parameter approach, soils are treated as a primary indicator of wetlands.

Mr. Sallee discussed the impact of the change on the state delineation method; in his estimation, the more complex federal method does not result in a more “accurate” wetland boundary at 80-90% of the sites investigated. The exception are sites that are defined as naturally problematic or atypical sites. At these sites, one or more indicators may be missing or altered. Hydric soils persist after hydrology has been altered; vegetation may be a better indicator of recent hydrology. [In response to WAC questions, Mr. Sallee noted that at these sites, use of the federal manual may result in a modest change in the wetland boundary – on the order of up to 15 feet – and that this change may result either in a larger or smaller area being defined as wetland depending upon circumstances.]

Overall impacts of PA 120 and the shift to use of the federal delineation manual are expected to include an increase in documentation required; longer delineation times, especially during a learning curve; and an increase in expertise required to complete delineations. The department anticipates more incomplete applications (with incomplete data forms) and some delays in permit application processing, especially as consultants are transitioning to the federal system.

Mr. Sallee then provided a technical review of hydric soils, which are formed as a result of saturation, flooding, or ponding during the growing season long enough to result in anaerobic conditions in the upper part of the soils. He discussed different types of hydric soils (organic, sandy, loamy/clayey); soil chemistry; and field indicators of hydric soils. The process for sampling soils and examining samples for hydric soil indicators was discussed.

Mr. Sallee is engaged in ongoing research with the Natural Resources Conservation Service and the USACE to further document problematic hydric soils in Michigan.

Wendy Fitzner and Kate Lederle (DNRE) – Permit processing

[See WAC Web site for PowerPoint presentation]

Ms. Fitzner provided an overview of Michigan’s joint permit application process. She referred the members of the Council to the joint permit application Web site: www.michigan.gov/jointpermit. This site is used to provide information to the public regarding the permit application process. The department also maintains a dedicated e-mail box and phone lines for permittee questions.

The current permit application form was reviewed, including a flow chart of the permit process.

Permits are tracked through CIWPIS (Coastal and Inland Water Permit Information System) and CIWPIS on-line.

Ms. Lederle reviewed various aspects of the CIWPIS tracking system. Although the system has significant capabilities, it is based on an old (mid 70s) database and should be upgraded.

Permit processing deadlines were reviewed.

Of 4226 permit applications received in 2009, 67% were incomplete; requests for additional information were required. The ten most common missing items were listed, the first being a complete description of the project.

Past improvements in the efficiency of the wetland program were noted. These include the consolidated permit process; pre-application meetings; clarification of the application form; ability to accept electronic payment of fees; improvements in the permit tracking system; dissemination of public notices primarily through e-mail; development of an expedited review process for some minor and general permits; and use of GIS technology to obtain information.

Education and outreach efforts include local workshops for contractors and others; training in the permit application process; development of written manuals and EZ Guides for some projects; and use of MI Business One Stop.

Permit processing could be improved by modernization of the permit database, providing GIS capability among other improvements; by providing more staff training; and by providing more public education.