

If the above requirements are met, the BWSR shall compensate the applicant as required by law. This compensation will come within 90 days, provided that the applicant conveys a conservation easement to the State. If the BWSR does not provide the required compensation in exchange for the conservation easement, the applicant may drain or fill the wetland in the manner proposed without replacement.

An appeal of the BWSR decision is taken to the State Court of Appeals where it must be considered an appeal from a contested case decision for purposes of judicial review under MN Statutes.



Please note that the information in this brochure is only a summary. Contact the Environmental Services Department for more information.

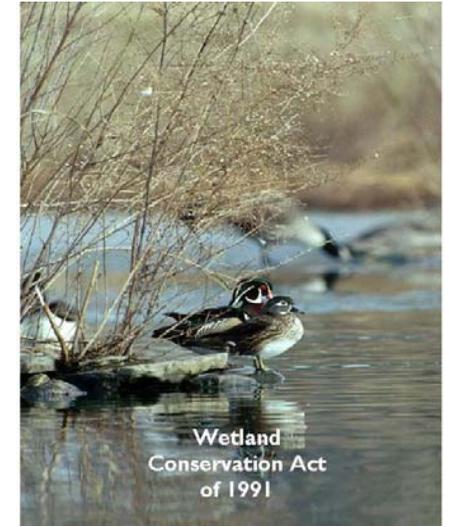
This guide was developed by the Anoka Conservation District through the 2002 Agricultural Preservation Program and adapted for the residents of Stearns County by Stearns County Environmental Services.

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All Stearns County Environmental Services programs and services are available without regard to race, color, national origin, religion, sex, age, marital status, or handicap. Copies of this brochure are available in their entirety at

www.co.stearns.mn.us



WETLAND REPLACEMENT AND APPEALS

Brochure #5

Stearns County Environmental Services

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Information is current as of April, 2011

WETLAND REPLACEMENT, APPEALS & COMPENSATION

Non-exempt wetland impacts determined by the Local Government Unit (LGU) as unavoidable must be compensated for through wetland replacement. Plans to replace lost wetland functions and values must be submitted to the LGU for approval prior to wetland impacts.

Replacement Plan Development

The rules for the Wetland Conservation Act (WCA) outline in great detail the necessary components of a replacement plan. The website of the MN Board of Water and Soil Resources (BWSR) has a complete description of the wetland replacement, appeals and compensation process at <http://www.bwsr.state.mn.us/wetlands/wca/index.html>

Application forms are available at the same website.

If wetland replacement will be done onsite, application requirements include, but are not limited to, maps, topographic survey, design specifications, the size, type and location of impacted wetlands and replacement wetlands, and a full monitoring plan for the replacement wetland. Wetland replacement can also be done through purchase of credits in private wetland banks. Private consultants will be able to assist in plan development.



A typical wetland restoration in Stearns County

Please contact the Stearns County Environmental Service for a list of consultants.

Notice Summary for WCA Replacement Plans

Several agencies and the general public must be given opportunity to comment on proposed Replacement Applications.

This can be a time consuming process, but careful planning can avoid unnecessary delays. The following chart summarizes the timeline:

| Activity Days | Activity | Responsible Party |
|---------------------------|---|---|
| Start | Complete replacement plan application is submitted to the LGU | Applicant |
| Within 15 business days | Project notification to Agencies and Public | LGU |
| At least 15 business days | Comment period | LGU |
| Within 10 business days | Decision mailed | LGU |
| 30 | Appeal Time Frame. | Landowner, agencies, 100 county residents |

Replacement Plan Evaluation/Decision

A replacement plan application must be evaluated with consideration of numerous factors identified in the WCA Rules. The Technical Evaluation Panel (TEP) will make technical findings and recommendations regarding the application.

The TEP is composed of people from three different agencies: the Local Government Unit, the MN Board of Water and Soil Resources and the Stearns Soil and Water Con-



servation District.

The TEP will record its findings and make a recommendation to approve, modify, or reject the proposed replacement plan.

The Stearns County Wetland Rules Committee will take into consideration the findings of the TEP and any comments received.

The Wetland Rules Committee will decide to:

- Approve the replacement plan as submitted, or
- Approve the replacement plan with conditions or modifications, or
- Deny the application with rationale.



Notification of the decision must be circulated and becomes final if it is not appealed within 30 days. The decision can be appealed by:

- the landowner/applicant,
- any party receiving notice of the decision, or
- 100 residents of the county.

Appeals

The decision of the Wetland Rules Committee to approve or deny a replacement plan may be appealed to the Stearns County Wetland Appeals Panel within 30 days of the mailing of the Wetland Rules Committee decision. The Wetland Appeals Panel must make a decision within 30 days of the date of filing of the appeal unless the appellant and the Wetland Appeals Panel agree to an extension of time.

The decision of the Wetland Appeals Panel is final if not appealed to the BWSR within 30 days of the date the Wetland Appeals Panel decision is sent. The BWSR must decide within 30 days of receiving the appeal petition whether to hear the appeal.

The BWSR will hear the appeal unless the appeal is deemed to be without sufficient merit, trivial, or brought solely for the purposes of delay; the petitioner has not exhausted all local administrative remedies; or the petitioner has not submitted the required filing fee.

Compensation

Replacement plan applicants who have completed the LGU process and the BWSR appeal process, may apply to the BWSR for compensation under MN Statutes, Sec. 103G.237 if their plan has not been approved as submitted. Compensation is made in the form of a monetary endowment in exchange for a perpetual conservation easement to the state in the form required by MN Statutes, Sec. 103F.516.

To receive compensation, the landowner must submit official documentation from all other authorities with jurisdiction showing that the proposed use of the wetlands are lawful under their respective requirements.

The applicant must demonstrate that the proposed impact is a feasible and prudent project and that the replacement plan as proposed is a reasonable good faith effort to fulfill the replacement requirements of the Wetland Conservation Act.

The landowner must submit evidence that the conditions of an approved replacement plan make the replacement unworkable or not feasible, such as:

- ⇒ when replacement must be on land applicant does not own,
- ⇒ when applicant has unsuccessfully attempted to acquire a replacement site, and there is no qualifying replacement credit available in the wetland bank, or
- ⇒ when the plan is impossible to be implemented for engineering reasons.