

Permit Processing and Efficiency Subcommittee Recommendations

The subcommittee makes the following comments and recommendations to the Wetland Advisory Council:

- 1) An evaluation of various wetland permit application processing issues should be continued since, due to the complexity of many of these issues and time constraints, the subcommittee was unable to complete as thorough and meaningful review as is necessary. We recommend a subcommittee be maintained or established to continue this evaluation and analyze the following issues:
 - What constitutes “administrative completeness” for a permit application.
 - Possible changes to the definition of the Part 13 “Application Period”.
 - Evaluate centralization or decentralization of permitting decisions, and better ways for the Department of Natural Resources and Environment (DNRE) to communicate with applicants.
 - Provide DNRE with authority to reject permit applications that do not have an acceptable minimum amount of information.
 - Review of the application form(s) by professionals with expertise in form design and analysis.

- 2) A subcommittee should also undertake a comparison of the current Michigan permit review process with the Corps of Engineers process and the processes used in other states, included New Jersey, to identify potential efficiencies. This evaluation should look at issues such as the amount of information required from an applicant, processing methods (centralized versus decentralized administrative duties), permit processing time frames, opportunities for staff and applicants to work out problems (time limits, and submittal of additional information, mitigation plans, or project modifications) and methods used to maintain DNRE decision consistency, use of a “joint planning model” for pre-application discussions or application review, .

- 3) A statutory change to Part 13, Section 1307(1) [MCL 324.1307(1)] to allow an applicant, with concurrence of the DNRE, the option of extending the permit processing period longer than the 20 percent of the processing period currently allowed. Such an amendment could be as simple as changing the language within Part 13 from *“If requested by the applicant, the department may extend the processing period for a permit by not more than 20%”*, to *“If requested by the applicant, the department may extend the processing period for a permit by not more than **one year from the date of the application being administratively complete.**”* Conversations between subcommittee members and various stakeholders (both inside and outside the Wetland Advisory Council) have indicated support for such an amendment.

- 4) Potential decentralization of the majority of the DNRE permit application review functions, leaving some administrative, oversight and review functions at the Lansing level. This change in permit processing will require sufficient training and quality control measures to assure consistency in the implementation of the program.

- 5) Expansion of the Minor Project and General Permit categories (memorialized in the PA 120 amendments) would be positive for all parties. The subcommittee

supports any work to be done by the DNRE, other subcommittees, stakeholder groups and the Wetland Advisory Council in this regard. The DNRE should regularly update and consult with the Wetland Advisory Council as new categories are developed.

- 6) There is a clear need for technology upgrades within the Land and Water Management Division, since many of the possible efficiencies and improvements identified by the subcommittee require improved technology (including the ability to successfully shift the majority of the permit application review operations to the field offices). The Wetland Advisory Council should consider support for the appropriation of funding and the implementation of procedures necessary for the acquisition of improved technology.
- 7) The process by which permit applications involving Wetland Restoration Projects are considered is currently problematic for many involved parties. The subcommittee received input from various users of this process, as well as a presentation from DNRE staff. While the actual number of permit applications that result from wetland restoration projects constitute a relative small percentage of current DNRE workload, there is considerable interest in this process by subcommittee members. An independent DNRE and stakeholder work group, ^{*} called the Wetland Restoration Work Group, was formed in 2000 to provide a forum for agencies involved in wetland restoration to share information and address issues of common concern. However to-date the Work Group has been unable to reach resolution of some of the concerns regarding permit processing. The subcommittee has requested the Work Group, through the DNRE Wildlife Division, to issue a report to the Wetland Advisory Council prior to August 1, 2010. The subcommittee recommends that any unresolved Work Group issues be taken up by the Wetland Advisory Council (and/or a subcommittee) for future consideration.
- 8) Pre-application meetings are beneficial to both the DNRE and applicants, especially those that are non-professionals. The Wetland Advisory Council should monitor the Pilot Project established under the recent program amendments that are being conducted by several Conservation Districts and a non-profit organization. If the Pilot Project is considered to be successful, expansion of the Project should be encouraged. If the Pilot Project is not considered to be successful, the Wetland Advisory Council should look for other, financially acceptable ways to expand the use of this process. ~~_____~~
- 9) The Wetland Advisory Council should support an immediate amendment to extend or remove the October 1, 2010 statutory sunset from Section 30306b of Part 303, Wetlands Protection; as well as Section 30104b of Part 301, Inland Lakes and Streams, so the DNRE can continue to conduct pre-application meetings when requested. Attached is a draft letter recommended by the subcommittee to the Wetland Advisory Council.

In summary, the Permit Processing and Efficiency Subcommittee recommends that a similar subcommittee be established or reconvened in order to continue to explore resolution of many of the issues that were discussed over the short course of our deliberations. The complexity of the issues, as well as the ability to openly debate the pros and cons of any given solution in a subcommittee setting, suggest an on-going subcommittee format could be successful in assisting the Wetland Advisory Council with its mandate to make recommendations for overall improvement of the DNRE administration of the wetland permitting program.