

CLFLWD Draft Rules: Review by TAC-CAC

Notes/Minutes from the March 4, 2008 TAC/CAC meeting

Topic:

- Follow-up from the February 19, 2008 TAC/CAC meeting
- Rule (3) Erosion Control
- Rule (6) Watercourse Crossing
- Rule (7) Floodplain Drainage
- Rule (9) Agricultural Wastes

Attendance:

Debbie Anderson-CLFLWD CAC
Randy Anhorn-CLFLWD Administrator
Doug Borglund-City of Forest Lake
Jack Frost-Met Council
Patrick C. Hollister-Chisago County
Anne Hurlburt-City of Scandia
Wade Klingsporn-DNR
Tom Lynch-CLFLWD Manager
Craig Mell-Chisago SWCD
Wayne Moe-CLFLWD Manager
Mike Mueller-DNR
Travis Thiel-WCD
Lisa Tilman-EOR

Comments:

Follow-up from the February 19, 2008 TAC/CAC meeting

Notes and minutes from the February 26, 2008 TAC/CAC meeting were handed out as well as a memo presenting TAC/CAC comments that were brought to the CLFLWD Board of Managers and resulting Board decisions on the presented comments and suggestions.

Lisa Tilman went through the latter memo highlighting the Boards decision (as recommended by the TAC/CAC) to move forward with implementing the District Rules through some sort of a permitting program.

The TAC/CAC members discussed the importance of having comparable timelines in the project review and permitting process. It can be difficult to always have District approval before City approval when watersheds only meet once a month. It was pointed out the Watershed District operates under the same timelines for review and action on a permit as do the cities and counties.

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Rule (3) Erosion Control

Lisa Tilman first asked the TAC/CAC if they felt that the District needed an erosion control rule. The TAC/CAC members unanimously answered yes.

There was some concern however, on the potential for overlap and/or inconsistencies.

Specific TAC/CAC member comments:

Anne Hurlburt

- Anne questioned how the rule would be implemented especially if a subdivision comes in on two (2) or more lots (as is stated in the current applicability), would the entire subdivision as a whole be subject to the erosion control (permit), or would each individual lot be subject to the rule/permit, or both.
- Anne stated that she thought the District's rule focusing on land disturbance on areas as small as ¼ acre would be time consuming and costly for the District when Cities already focus on smaller size disturbances. The District should focus on larger disturbances.
- Anne wondered why the rules choose 200 cubic yards as its regulatory standard? Anne thought that the area requirement was more important than the volume, but that the volume should be more consistent with that of the cities (thinking that they may ask for 150 cubic yards). The cities could say that if the volume exceeds X, the developer would need a watershed permit as well.

Doug Borglund

- Doug questioned the District would be better off focusing on larger scale projects and leaving the smaller scale issues to the cities to address (they already inspect). Doug mentioned that a focus on the smaller scale activities has a heavy time and dollar commitment and that the City is already focusing on this.
- What role does the District want to play? Because ultimately the District will have to enforce the rules as defined, the District may want to start smaller (focusing on larger projects) and can grow and amend the Rules as the District and District/LGU partnership grows.

Jack Frost

- Jack said that he thought that Doug and Anne had a good point, that the District's rule focusing on land disturbance on ¼ acre sets a rather small size project for the District's review, and that the lowest a watershed should go would be one (1) acre (matching the NPDES regulations), and that the cities should focus on the smaller sizes.
- The District and cities could re-evaluate after a year or two to determine how the partnership is working (cities smaller disturbances and watershed larger), and adjust if and where needed.

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- Should reference in the rule the need to see the SWPPP and meet NPDES requirements. The Rule could also be revised to use standards consistent with the proposed changes to the NPDES Construction Permit.

Craig Mell

- Craig mentioned that the City of Forest Lake is currently the only MS4 community and enforcement may vary from community to community.
- Craig also mentioned that in Chisago County, the Chisago SWCD does the majority of the erosion control enforcement.

Mike Mueller

- Maybe the rule could set up a dual track system where the District would not review projects for erosion control in cities that have ordinances and inspections one way (allow cities to continue to take care of it) and the District would actively implement the Erosion Control Rules in un-incorporated areas that have no current inspection program.

Other

- 3.3.7 is repetitive.

Rule (6) Watercourse Crossing

- General discussion on coordination and timing with DNR regulation (DNR has no standards for utility crossings or for stream crossings but does have standards for crossings of public lakes and wetlands for roadways). The DNR does not often permit a new road in a lake or wetland basin.
- The group thought it would be worthwhile to add language about applicant getting a DNR permit first, in order to reduce confusion. For example: “if a DNR permit is required, it would need to be obtained prior to receiving a District permit.”
- The group also discussed the need to coordinate with the local WCA LGU.

Specific TAC/CAC member comments:

Mike Mueller

- Mike stated that he liked the criteria, that they were reasonable goals for non-public water impact in addition to public water impacts..

Rule (7) Floodplain Drainage

Specific TAC/CAC member comments:

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Anne Hurlburt

- Anne wondered how many Cities do not have a floodplain ordinance. The response from the TAC/CAC members in attendance indicated that all have floodplain ordinances, although the City of Forest Lake is not a participant in FEMA. Forest Lake does have a floodplain ordinance that requires much of what is required in FEMA and includes additional standards.
- A District Floodplain Rule seems redundant. If the cities/counties have ordinances and DNR modeling provides information, the District's rule seems redundant.
- Anne feels that the District's rule is a duplicate to the cities involvement in FEMA and to City floodplain ordinances.
- Anne wanted to be sure that, as stated in the rule, if the City is covered by an State-approved floodplain ordinance, that the District's Floodplain Rule would not apply, only the City's ordinance would.

Doug Borglund

- Although the City of Forest Lake does not participate in FEMA, it does have a floodplain ordinance and requires certain basement (lower level) freeboard for lakes, wetlands, and stormwater ponds.
- Similar to that stated by Mike Mueller, Doug thought that the watershed could assist the communities by developing flood elevations for waterbodies that do have them set and providing support.
- Doug asked about District liability if lenders used the District's elevations from the H & H study. Anne thought that it was up to the lenders to determine the usability of the provided information.

Craig Mell

- Chisago County is a participant in FEMA; however, the accuracy on the mapping is suspect. For example, Comfort Lake isn't even mapped. The County will be initiating new FEMA mapping in 2009.

Mike Mueller

- Because the District has a recently completed H & H study providing flood elevations (which has been submitted to the DNR for use in the revised FEMA mapping), the City can use the "best available information" in supporting their ordinance. In this case they could use the District's H & H study.
- Maybe the District's best position would be as a partner, assisting the communities. The District could develop elevations for waterbodies/areas which do not have flood elevations set by FEMA.

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- Mike asked if the Rule would apply to properties just outside the 100-year floodplain itself. He felt that the Rule is very restrictive since it applies outside the actual extent of the 100-year floodplain.

Jack Frost

- Jack asked about the size of storm used to evaluate landlocked basins and indicated that low floor elevation two (2) feet above outflow would be adequate, but a standard 100-year event is smaller than most areas use to evaluate landlocked basins.

Other

- FEMA allows for some filling of floodplain volume capacity.
- Discussion was held as to the numerous civil drainage issues the cities receive phone calls on a weekly basis. They thought that the watershed would not/and should not want to get involved in the small civil issues that the cities currently handle.
- Re-word section 7.2 to clarify “remove surface water from the upper land to and across lower land”.

Rule (9) Agricultural Wastes

The TAC/CAC felt that management of agricultural wastes is certainly an important issue to address, but that it may not need to be done through a rule.

Specific TAC/CAC member comments:

Anne Hurlburt

- Anne asked if the rule was to apply to feedlots or all livestock, and suggested that the Rule format and language be changed to clarify where each portion of the Rule would apply.
- If the watershed is truly looking at issuing permits for this, how would it be enforced? Who would look for violations? Would it consist of simply follow-up on complaints?
- Anne mentioned the issue of the application of lime sludge and other sludge as an issue of concern to some of the residents in Scandia.

Doug Borglund

- The rule/policy reads more like a zoning ordinance.

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- The Watershed District should look at what every city s currently requiring and work together (as new comprehensive plans are developed) to formulate new ideas and incorporate those into the municipalities zoning ordinances.
- The City issues the conditional use permit, so the city could require exclusion fencing as part of that permit.

Craig Mell

- Craig thought that education and incentives maybe the best way to address these issues. The SWCDs would be willing to work with the Watershed District in incorporating such education and help in developing an incentive program (grants?).

Other

- Discussion was held as to the Rule actually being a District policy as opposed to a Rule meant to relate to the issuing of permits.
- The group discussed the cost for exclusion fencing for all waterbodies and wetlands. This can especially be a hardship for hobby farmers with one to three horses. Discussion continued on the best alternative which may be education and an incentive program especially for exclusion fencing and buffers.
- The group discussed the importance of keeping animal units out of waterbodies and the resulting nutrient load potential when animals are allowed in waterbodies.
- It was suggested to contact the Department of Agriculture to get more information on what the District could issue permits for with respect to animals in waterbodies and feedlots.
- Add mention to the application of lime sludge would need to follow MPCA regulations

Common themes

District should concentrate on the larger projects and leave the smaller projects to th municipalities.

If cities/counties have approved floodplain ordinance, they should be the floodplain permitting authority. The District's assistance in determining floodplain elevations would be a benefit to the municipalities.

After implementing the Rules for a year or two, re-convene with cities to determine how partnerships and roles are working and revise Rules and coordination as needed.