



Bassett Creek Watershed Management Commission

MEMO

To: BCWMC Commissioners and Alternate Commissioners
From: Administrator Jester
Date: May 8, 2024

RE: BCWMC Role with Assessing Wetland Impacts and Buffers During Development Reviews

This item was tabled at the February 2024 meeting. Much of the content below is from the original memo in the February meeting packet, along with options recently developed by staff. Staff recommends that the Commission review these materials and options today and consider directing staff and the Plan Steering Committee to complete a more thorough gaps analysis on the issue. An analysis would allow the Commission to understand what's working or not working with current requirements and processes and determine if resource benefits might be gained through revising requirements and processes. Staff recommends incorporating changes to policies or requirements (if any) in the updated watershed management plan.

Recently commissioners have voiced questions about wetland impacts or wetland/stream buffer establishment resulting from development or redevelopment projects reviewed by the Commission Engineer. These are good questions. However, the current BCWMC project review process does not require project proposers to submit wetland impact information (unless the BCWMC is the local government unit responsible for administering the Minnesota Wetland Conservation Act (WCA)) or wetland/stream buffer information, and the process does not include direction to the Commission Engineer to review or report wetland or buffer information. (Currently the BCWMC acts as the local government unit (LGU) for administering the WCA for the cities of Medicine Lake, Robbinsdale, and St. Louis Park.)

While there are existing State and Federal wetland protection and mitigation programs, including the WCA, there may be advantages for additional Commission involvement in reviewing wetland impacts, or reviewing or strengthening wetland/stream buffer requirements during development.

As noted above, the Commission should identify potential gaps in existing wetland protection and buffer programs. This could be done as part of the watershed plan update. However, if there is a desire by the Commission to review wetland impact and/or buffer information right now, before the new watershed management plan is adopted, the Commission should provide clear direction on what information should be submitted by developers and what the Commission Engineer should report during project reviews. Updates to the BCWMC Requirements Document and project submittal form would be needed and a reassessment of project review fees may also be appropriate as noted below.

Options:

1. **Option 1. No change:** No changes to the wetland and wetland/stream buffer review process, requirements document, and the application fee.
2. **Option 2. BCWMC staff provides wetland and wetland/stream buffer summaries for projects on BCWMC meeting agenda:** Require that applicants submit WCA documentation and wetland and stream buffer plans, but only for projects included on the meeting agenda (i.e., projects that require review and approval at a BCWMC meeting). The Commission Engineer would review the wetland and wetland/stream buffer documents and summarize the information in the memorandum to the Commission. The Commission Engineer would not review the documents for completeness, accuracy, or compliance. A \$500 add-on fee is suggested as part of the application. The fee schedule and requirements document would be updated accordingly.
 - a. **Option 2a. Activity in Option 2 + BCWMC Staff Participates in WCA Technical Evaluation Panel (TEP) reviews:** TEP members review WCA applications and hold meetings, often on site, to review and discuss wetland delineations and potential wetland impacts. TEP members consist of technical representatives including the WCA LGU (if not BCWMC, this is a designated city staff representative and/or their consultants), Hennepin County staff, DNR staff, and Board of Water and Soil Resources staff. TEP meetings may also include coordination with U.S. Army Corps of Engineers staff, and project representatives. The BCWMC staff are sometimes invited to TEP meetings but have not been directed to attend and lend input on wetland buffers and impacts. BCWMC could be directed to participate in TEP meetings and report back to the Commission.
3. **Option 3. BCWMC reviews buffer requirements for streams and wetlands:** The BCWMC would review the BCWMC buffer requirements for streams and wetlands. This would be a change from current policy in the watershed management plan which states it is the cities' responsibility to adopt and enforce the buffer requirements. The Commission Engineer would review the wetland and stream buffer plans for compliance to a set of standards. The change would require revising the requirements document and watershed management plan policy to clarify the standards and the review responsibilities. However, each City would be responsible for enforcement action. The BCWMC would need to consider if its involvement includes all projects that trigger wetland/stream buffer requirements or only those projects that trigger existing BCWMC review criteria. Assuming only a desktop review is required, a \$500 add-on fee is suggested (perhaps more) as part of the application.
4. **Option 4. BCWMC is WCA LGU for all communities:** Currently, the BCWMC is the LGU responsible for administering the WCA in the cities of Medicine Lake, Robbinsdale, and St. Louis Park. It's possible the BCWMC could become the WCA LGU within the whole Bassett Creek watershed area. Moving WCA LGU delegation from cities to the BCWMC may take some negotiation with cities. Further, the change would require revising the requirements document and watershed management plan to clarify the standards and the review responsibilities. This option would likely include a separate and parallel application process. The Commission Engineer's involvement would likely vary for each project, but the cost is expected to be at least \$3,000. Review would include projects that typically do not trigger the BCWMC development review requirements.

Background on existing requirements and programs:

For information on existing policies and requirements, below is the excerpt from the [BCWMC Requirements for Improvements and Development Proposals](#) regarding wetlands.

Section 2.5: Lakes, Streams, and Wetlands

Proposed projects that may affect the water surface elevation, outlet storage capability, shoreline or streambank, or be incompatible with existing or proposed land use around the lakes, streams, and wetlands in the Bassett Creek watershed shall be submitted to the BCWMC for review. The BCWMC will defer wetland issues in cases where the municipality acts as the local government unit (LGU) for administering the Wetland Conservation Act, unless BCWMC involvement is requested by the municipality. Lakes, Streams, and Wetlands requirements are included in Section 8.0.

The BCWMC does not specifically review buffers for proposed projects, but requires that member cities maintain and enforce wetland and streambank buffer requirements at least as stringent as the BCWMC requirements laid out in Appendix B. Specific wetland and stream buffer requirements and submittal information should be coordinated with the member city in which the project is located. BCWMC Buffer Requirements are included in Appendix B.

Additionally, the BCWMC policies regarding stream and wetland buffer requirements are found in Section 4 of the [2015 Watershed Management Plan](#).

Section 4.2.5 Stream Restoration and Protection Policies

Policy 64: Member cities shall maintain and enforce buffer requirements adjacent to priority streams for projects that will result in more than 200 yards of cut or fill, or more than 10,000 square feet of land disturbance. Buffer widths adjacent to priority streams must be at least 10 feet or 25 percent of the distance between the ordinary high water level and the nearest existing structure, whichever is less.

Allowable land uses, and vegetative criteria for buffers are specified in the BCWMC's Requirements for Development and Redevelopment (BCWMC, 2015, as amended). Member cities may allow exemptions for public recreational facilities parallel to the shoreline (e.g., trails) up to 20 feet in width, with that width being added to the required buffer width.

Section 4.2.6 Wetland Management Policies

Policy 68: Member cities shall maintain and enforce buffer requirements for projects containing more than one acre of new or redeveloped impervious area. Average minimum buffer widths are required according to the MnRAM classification (or similar classification system):

- An average of 75 feet and minimum of 50 feet from the edge of wetlands classified as Preserve (or comparable classification if BWSR's MnRAM is not used)*
- An average of 50 feet and minimum of 30 feet from the edge of wetlands classified as Manage 1 (or comparable classification if BWSR's MnRAM is not used)*
- An average of 25 feet and minimum of 15 feet from the edge of wetlands classified as Manage 2 or 3 (or comparable classification if BWSR's MnRAM is not used).*

Allowable land uses and vegetative criteria for buffers are specified in the BCWMC's Requirements for Development and Redevelopment (BCWMC, 2015, as amended).

Member cities may allow exemptions for public recreational facilities parallel to the shoreline (e.g., trails) up to 20 feet in width, with that width being added to the required buffer width.

Finally, although it was last updated in 2019, this publication by the MN Department of Natural Resources about wetland regulation in Minnesota is a good overview of the current State and Federal regulations:

[https://bwsr.state.mn.us/sites/default/files/2019-04/WETLAND General Wetlands Regulation in Minnesota v2.1 March 2019.pdf](https://bwsr.state.mn.us/sites/default/files/2019-04/WETLAND%20General%20Wetlands%20Regulation%20in%20Minnesota%20v2.1%20March%202019.pdf)