

*April 2008 Newsletter* [www.mnwetlandprofessionals.org](http://www.mnwetlandprofessionals.org)

Volume 13, Number 1

**We are Growing!  
Help!**

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Attendance at the WPA's monthly forums has grown. In fact, we have pretty much out-grown our current meeting facilities in Golden Valley and Bloomington. If you have or know of a good meeting facility (holds up to 75 people) for WPA forums in 2008-09, please contact a WPA Board member. Forums are on the 1st Wed. of each month (Oct.-April) from 2 to 4:30.

**2008 WPA Conference - A Success** by Mark Perry

It all started last year when the WPA board reviewed the goals and objectives of the WPA. From that review, we reaffirmed that education of our members is one of our primary objectives. We felt that the monthly forums provided a good opportunity for education and personal growth but it was limited primarily to our metro area members. Let's face it, how many professionals want to drive 3-4 hours for a 2 hours education forum and then drive another 3-4 hours? The ensuing discussion spawned an idea for an all day conference. The board decided that it would be good to get comments from some of our members, associated businesses and cooperating agencies.



Conference Speakers: Dr. Glenn Guntenspergen, Michael Whited, Ralph Tiner, Dr. Ken Brooks, Jim Stark. Photo courtesy of WDCP

In August, with the assurance for assistance from the Rachel Rozina of the Wetland Delineators Certification Program (WDCP), we decided to proceed with preliminary planning.

Because the optimum time of year for this conference (January) was only 5 months away, there was some "trepidation" on the board that the conference could be a success.

Thanks to the cooperative efforts of the Conference Planning Committee, the WDCP, the University of Minnesota, and finally to all those who attended, I feel that it was a success. Attendance exceeded our goal of 200 participants and included WPA members plus professionals from several state and federal agencies as well as industry professionals. The speakers were all top quality speakers and the majority of participants stayed the entire day. Feedback was also very positive. A majority of participants took the time to fill out the survey and the response was very positive.

Thank you to all who participated in our first Annual Wetland Conference. It is because of you and your positive response that we feel that we made the right decision in scheduling this conference. And, it is because of you, the WPA members, that we have decided to proceed with planning the next Annual Wetland Conference. Due to the success of the 2008 Wetland Conference, the Board of Water and Soil Resources (BWSR) has enthusiastically offered to cooperate with us to offer a 2 day conference in 2009! Continue to check the WPA web site and watch for announcements regarding the 2009 Minnesota Wetland Conference.

**Later this summer, the WPA Board will be brainstorming forum topics for the 2008-09 forum season (Oct 08—April 09). Please contact any Board member with your ideas for forum topics and/or speakers. This is your chance to tell us what you want to learn about.**

## A Farewell to Antiquity by Steve Eggers

(The views expressed in this article are the personal views of the author and do not necessarily represent the views of the U.S. Army Corps of Engineers or the Department of Defense)

It is time for the 50<sup>th</sup> state to join the Union. No, not Hawaii; rather, it is time for Minnesota to become the 50<sup>th</sup> state that does not use Circular 39, a half-century old waterfowl habitat survey method. Circular 39 focused on one wetland function – waterfowl habitat. It was never a comprehensive classification system for wetlands. That came in 1979 with *Classification of Wetlands and Deepwater Habitats of the United States* by Cowardin *et al.*, which was quickly adopted as the standard around the nation, particularly for wetland regulatory purposes. Making the change in Minnesota requires legislative action as Circular 39 had been incorporated into Minnesota statutes/rules. Not an easy path certainly, but it has been nearly 30 years. A prime opportunity arose when Minnesota passed its Wetland Conservation Act in 1991 (WCA). Alas, Circular 39 was again written into Minnesota statutes/rules. This is not trivial as important components of Minnesota's evaluation and regulation of wetlands is based on wetland "types": exemptions, compensation ratios, replacement plans, etc.

Problems with using Circular 39 for wetland regulatory purposes include its illogical incongruity in lumping dissimilar wetlands. For example, forested, floodplain wetlands are lumped with non-forested, non-floodplain, isolated depressions (Type 1). Both vegetation (forested vs. herbaceous) and hydrology (flooding vs. ponding) are more opposites rather than the same "type." Circular 39 also muddies the water between acidic bogs (Type 8) and non-acidic coniferous forests (Type 7) because the descriptions for both include tamarack, black spruce and mosses. Neither Type 7 nor Type 8 wetlands are important for waterfowl habitat so it is understandable that Circular 39 did not clearly differentiate the two. However, differences in wetland types can be important factors for regulatory purposes.

The most glaring problem with Circular 39 is its incomprehensible "Type 2." Lumped under this expansive "type" are: (1) the rarest wetland community in Minnesota, which supports a disproportionate number of listed rare plant species [calcareous fens]; (2) the second rarest wetland community in Minnesota, also supporting rare plant species [wet to wet-mesic prairies]; (3) a once abundant wetland community that has become uncommon in the intensive agricultural and urban areas [sedge meadows]; and (4) the most ubiquitous, disturbed wetland community dominated by an invasive species [wet meadows dominated by reed canary grass]. Many reed canary grass dominated wet meadows were originally wet prairies, sedge meadows, tamarack swamps and even marshes prior to artificial drainage and other disturbances post-European settlement.

Calcareous fen communities were exceptionally rare even prior to European settlement because the necessary components came together at so few places on the landscape. WCA includes special provisions for calcareous fen communities, but that assumes someone correctly identifies the indicator species of calcareous fens (mostly rare sedge family members) from other "Type 2" wetlands that may also be dominated by sedges. Unlike calcareous fen communities, Minnesota originally had millions of acres of wet to wet-mesic prairie communities, a dominant component of the 18 million acres of prairie in the state. Sedge meadow communities were abundant statewide at the time of European settlement as they extended from prairie pot-holes to the northern, forested regions of the state. Intensive drainage and urban development have made sedge meadows uncommon in agricultural and urban areas. Further, sedge meadows are very difficult to replace with in-kind compensation.

When a permit application, replacement plan, exemption confirmation, etc., is evaluated for a "Type 2" wetland, which wetland community is it? The exceptionally rare calcareous fen, the rare wet prairie, the uncommon and difficult to replace sedge meadow, or the ubiquitous reed canary grass wet meadow? If it is a calcareous fen community, WCA kicks in special provisions. If the site is a wet prairie or sedge meadow community, stringent avoidance and minimization should be applied. If the site is a reed canary grass wet meadow, standard avoidance and minimization can be applied with the knowledge that this community is less difficult to replace in-kind (hopefully, with a more diverse, native wet meadow community).

Switching to Cowardin *et al.* would be a major improvement, although the "PEMB" of that system (palustrine, emergent, saturated) has the same problem of lumping calcareous fen, wet to wet-mesic prairie, sedge meadow and wet meadow communities. Using the plant community names to differentiate wetland "types," as proposed by the MOU signed by BWSR and the St. Paul District (May 2007), would resolve this issue.

## WPA Board Members Selected for National Peer-Review Committee by Allyz Kramer

WPA Board Members Allyz Kramer, Barbara Walther, and Peter Miller were recently selected to serve on a technical peer-review committee for the U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual Northeast and North-central Regional Supplement. The Northeast (NE) and North-central (NC) Regional Supplement covers most of the northern part of Minnesota, much of Wisconsin, and eastward on to Maine. Their involvement on the peer-review committee is anticipated to begin sometime after July 1st, 2008. From the preliminary correspondence we have received, it appears that a total of seven (7) wetland professionals from the NE/NC region are serving on this committee. An employee from the Natural Resource Conservation Service in Pennsylvania will be the Team Leader for this peer-review committee. Anything in this process pertinent to WPA activities will be shared with the members. It is terrific that there is a strong showing from Minnesota and from the WPA!

### Army Corps of Engineers Issues New Federal Mitigation Guidance

The U.S. Army Corps of Engineers and U.S. Environmental Protection Agency released a new rule to clarify how to provide compensatory mitigation for unavoidable impacts to the nation's wetlands and streams. The rule will enable the agencies to promote greater consistency, predictability and ecological success of mitigation projects under the Clean Water Act.

Consistent with the administration's goal of "no net loss of wetlands" a Corps permit may require a property owner to restore, establish, enhance or preserve other aquatic resources in order to replace those impacted by the proposed project. This compensatory mitigation process seeks to replace the loss of existing aquatic resource functions and area.

Property owners required to complete mitigation are encouraged to use a watershed approach and watershed planning information. The new rule establishes performance standards, sets timeframes for decision making, and to the extent possible, establishes equivalent requirements and standards for the three sources of compensatory mitigation: permittee-responsible mitigation, mitigation banks and in-lieu-fee programs.

The new rule changes where and how mitigation is to be completed, but maintains existing requirements on when mitigation is required. The rule also preserves the requirement for applicants to avoid or minimize impacts to aquatic resources before proposing compensatory mitigation projects to offset permitted impacts.

For more information on the compensatory mitigation guidelines go to: [www.usace.army.mil/cw/cecwo/reg/citizen.htm](http://www.usace.army.mil/cw/cecwo/reg/citizen.htm) or [epa.gov/wetlandsmitigation](http://epa.gov/wetlandsmitigation)

### WPA Field Trip

This year's field trip will be held at the beautiful Cloquet Forestry Center in Cloquet, Minnesota on **May 30**. Join us for a day of discussion and field application of the Minnesota Floristic Quality Assessment (FQA). The field trip will be a hands-on experience with some of the State's top botanists. Registration is due in the WPA mailbox by **May 21**. Go to the WPA website ([www.mnwetlandprofessionals.org](http://www.mnwetlandprofessionals.org)) for registration information.

### Wetland Conservation Act (WCA) Permanent Rulemaking Update by Ken Powell

The Minnesota Board of Water & Soil Resources (BWSR) is immersed in the permanent WCA rulemaking process. The 3 major committees involved in the process include the BWSR rule team (composed of selected BWSR staff), technical advisory committee (composed of selected consultants & local govt. staff), and WCA Permanent Rule Advisory Committee (composed of selected stakeholder group representatives). Each committee meets monthly to review and comment on sections of the WCA rule. The BWSR Rule Team provides the initial rule edits that are then brought to the Technical Advisory Committee. Further edits are made by BWSR staff based on the Technical Advisory Committee's comments, and then the draft rule changes are brought to the Permanent Rule Advisory Committee. Detailed notes and action items are identified at the Permanent Rule Advisory Committee meeting for consideration and action by BWSR staff in late summer of 2008.

You can follow the progress of the permanent rule proposals by going to the [www.bwsr.state.mn.us/](http://www.bwsr.state.mn.us/) and clicking on "Wetlands" and then "WCA Rulemaking". Meeting notes, draft rule changes (by section), and other discussion points presented at the WCA Permanent Rule Advisory Committee meetings are posted. Comments on these draft rules are always welcome. Contact Les Lemm, WCA Coordinator at BWSR with your comments.

## Science, Policy, & Wetland Regulations

By Ken Powell

Wetland regulations and other environmental regulations/rules are where science and policy meet. Certainly the justification for regulating wetlands is based on our scientific understanding of the ecological importance of wetlands. Equally important is the contribution of wetlands to things that we value as a society (clean water for fishing, swimming, drinking, etc.). As a scientist I have always focused on the ecological value of wetlands and pushed for more science-based regulations. However, I have also come to realize that the infusion of science into wetland regulations has its limits. I think that in some instances scientific concepts cannot be effectively integrated into wetland policy.

The instances where science cannot be effectively integrated into policy primarily occur when the science is new and still evolving, cannot be effectively translated into regulatory units of measurement, and/or is too difficult to measure and determine. An example of this would be the scientific concept of temporal wetland loss. Current Federal and State wetland regulatory programs have incorporated this concept by varying wetland replacement ratios to compensate for temporal wetland loss. In particular, when wetland mitigation/replacement is not completed prior to the wetland impact it is replacing, the applicant is required to provide more wetland replacement to compensate for temporal loss of wetland functions.

In my opinion the science related to temporal wetland loss is still evolving and cannot be effectively translated into current regulatory units of measurement. It is unclear how providing more replacement compensates for temporal wetland loss. Also, I question the validity of translating temporal loss into "acres" of replacement. What about temporal wetland gain due to wetland banks? How does that get factored into the concept of temporal loss? Because many wetlands provide different levels of wetland functions at different points in their developmental/successional stages, how do we account for these temporal changes? My point is that there are many unresolved questions related to this concept. Although it appears to be a logical concept, I question whether we know enough about it to incorporate it into wetland regulatory programs in a meaningful way that achieves stated policy goals. I also question if it is even a significant factor in the replacement of lost wetland functions and values.

We are often eager to incorporate new scientific concepts into our policy decisions. However, it is important to first consider whether or not these concepts are fully understood, can be meaningfully integrated into the regulatory program, and ultimately contribute to meeting policy goals.

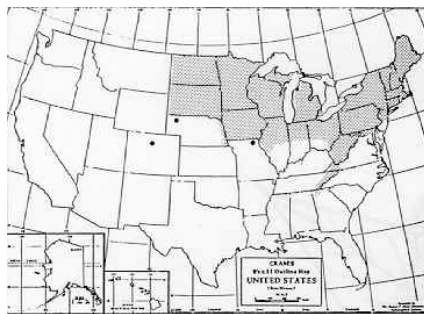
### Wetland News & Information (from all Hydrologic Regimes)

- ⇒ The annual State **Wetland Banking** Program **RFP** will be announced and posted on the BWSR website in May. BWSR will again be accepting proposals to supply the State's Cooperative Wetland Replacement Program with wetland credits. Approximately \$2.5 million in funding is available. These wetland credits are used to replace wetland impacts resulting from maintenance or reconstruction work on existing public roads within the state. Contact Dan Girolamo at BWSR for more information.
- ⇒ A practical guide to creating **ephemeral wetlands** (vernal ponds) can be found at [www.fs.fed.us/r8/boone/resources/](http://www.fs.fed.us/r8/boone/resources/).
- ⇒ **Travis Germundson** is the new WCA appeals coordinator at BWSR. He replaces **Jim Haertel** who is now the Metro Region Supervisor. Travis was previously an area hydrologist with the MN DNR and prior to that worked for the Wabasha County SWCD.
- ⇒ The Army Corps of Engineers, St. Paul District, regulatory staff issued **new guidelines** this spring for submitting **jurisdictional determination requests** in order to assist applicants in obtaining timelier Section 404 authorizations. Go to [www.mvp.usace.army.mil/regulatory/default.asp?pageid=1405](http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=1405).
- ⇒ The St Paul District Army Corps of Engineers has an **updated project manager list** and map. Go to [www.mvp.usace.army.mil/regulatory/default.asp?pageid=687](http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=687). BWSR has recently updated the **WCA work area map** for BWSR staff. Go to [www.bwsr.state.mn.us/aboutbwsr/workareas/WCA\\_areas\\_2008.pdf](http://www.bwsr.state.mn.us/aboutbwsr/workareas/WCA_areas_2008.pdf) to find the BWSR representative for your County.
- ⇒ The U.S. Fish & Wildlife Service has developed a draft recovery plan for the rare **copper-belly snake** which lives in **shallow wetlands** in the Midwest (Michigan, Ohio, Indiana).

Highlighted Plant Species

**Nannyberry (*Viburnum lentago*)**

FAC+ native shrub/tree



Source: [www.npwrc.usgs.gov/resource/plants/floramw/species/vibulent.htm](http://www.npwrc.usgs.gov/resource/plants/floramw/species/vibulent.htm)

- **Family:** Honeysuckle (Caprifoliaceae)
- **Flowering:** May-June.
- **Field Marks:** This *Viburnum*, with finely toothed leaves, differs further by its wavy-edged leaf stalks and its long-pointed leaves.
- **Habitat:** Along streams, low woods.
- **Habit:** Small tree up to 25 feet tall; crown rounded.
- **Bark:** Red-brown, broken into an irregular pattern.
- **Buds:** Red, nearly smooth, long-pointed.
- **Leaves:** Opposite, simple, ovate, long-pointed at the tip, tapering or rounded at the base, finely toothed, smooth or slightly hairy, up to 3 inches long, up to 1 1/2 inches broad; leaf stalks wavy-edged.
- **Flowers:** Many, in broad, round-topped clusters, up to 1/3 inch wide, white.
- **Sepals:** 5, minute.
- **Petals:** 5, white, united.
- **Stamens:** 5, attached to the petals.
- **Pistils:** Ovary inferior.
- **Fruits:** Drupes oval to ellipsoid, blue-black, up to 1/2 inch long.

**Notes:** The fruits are edible. The leaves turn purple-red in the autumn.

Source: [www.uwgb.edu/biodiversity/herbarium](http://www.uwgb.edu/biodiversity/herbarium)



buds



branch



flower



← Not a Plant



# Wetland Professionals Association



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## CODE of ETHICS

Each member, in striving to meet the objectives of the WPA, pledges to:

- 1) subscribe to the highest standards of integrity and conduct;
- 2) recognize research and scientific methodology of wetland science;
- 3) disseminate information to promote the understanding of and appreciation for wetland science;
- 4) strive to increase knowledge and skills to advance the practice of wetland science;
- 5) promote confidence in the field of wetland science by supporting high standards of education, employment, and performance;
- 6) encourage the use of scientific information in regulatory decisions; and
- 7) support fair and uniform standards of employment and treatment of those professionally engaged in the practice of wetland science

## MEMBERSHIP RENEWALS

If you haven't renewed your membership, please do it now. Members enjoy free admission to monthly forums, reduced admission to the annual conference & field trip, listing on the web site for consultants (if relevant), e-mail updates/notifications of wetland news, and the WPA newsletter. Send renewal forms (available at [www.mnwetlandprofessionals.org](http://www.mnwetlandprofessionals.org)) and checks to: Wetland Professionals Association, P.O. Box 131282, Roseville, MN 55113-0011