

Minnesota Forest Resources Council Public Concerns Registration Process 2008 Annual Report

Overview

This is the tenth annual report of the Public Concerns Registration Process (PCRP) since it began serving the citizens of Minnesota in January of 1998. The Minnesota Forest Resources Council (MFRC) established the process to accept “comments from the public on negligent timber harvesting and forest management practices” (Minnesota Statutes 89A.07, Subdivision. 5). The PCRP allows citizens to register concerns about timber harvesting or forest management practices that they have observed. The MFRC worked closely with other environmental and forest management organizations to develop the process. The process is not punitive and the names of the parties involved are dealt with in a confidential manner. The focus of the PCRP is to inform and provide education to the involved parties. The involved parties are made aware of Minnesota’s *Voluntary Site-Level Forest Management Guidelines* (FMGs) and other information to help them protect Minnesota’s forest resources.

The Process

Citizens observing a practice that they object to or have concerns over, whether on public or private lands, initiate the process by calling MFRC’s 1-888-234-3702 phone number or by registering the concern on the web at <http://www.frc.state.mn.us>. If the citizen contacted the MFRC by phone, the MFRC office sends an information packet to the citizen requesting them to complete a “Public Concerns Registration Form.” The concern is tentatively registered when the completed “Form” is returned to the MFRC office or the concern is filed via the MFRC web site. MFRC staff determines whether the registered concern falls within the scope of the PCRP. If there is some uncertainty whether the concern is within the scope of the program, the MFRC staff will contact the citizen by phone as well as a neutral consultant retained by the MFRC to investigate concerns. If the concern is determined to be valid, the concern is officially registered and forwarded to the consultant for further investigation.

Investigation Protocol

Concerns are investigated under a protocol revised in April 2001 that was further revised in March 2004. The location of the concern and other information regarding the landowner are determined. The person who performed the forest management activity and the natural resource professional that supervised or was responsible for management of the property in question are also determined. If it involves a logger, the Minnesota Loggers Education Program (MLEP) is contacted to check on the logger’s status. If the concern involves a forester, their status with the Society of American Foresters is also checked. The concern also is reported to the organization that manages the property. For example, if the concern were over a harvest on state forestland, the Director of the Division of Forestry in the Minnesota Department of Natural Resources (DNR) would be informed.

During the investigation, any individual that may have information that relates to the concern or site in question may be contacted. The consultant attempts to ensure that those contacted provide accurate information by verifying the information with others knowledgeable about the site in question, the participants involved, or the particular practice that generated the concern. There are times when it becomes necessary for the consultant to personally visit the site that generated the concern.

Field Investigations

In September 2002, the MFRC established criteria to conduct a field investigation of a concern when the MFRC staff or PCRCP consultant feels that one or more of the following criteria justify an on-site visit:

- It is difficult to discern an accurate location or description of the area of the concern. This may result if there is no documentation of the activity, the parties involved will not make documentation available, or there are widely conflicting accounts of the situation that cannot be resolved with the parties.
- The harvest or forest management concern occurs on a visually sensitive site. This may apply to sites that are adjacent to heavily used recreation areas and travel routes.
- The concern is about a practice(s) that appears to be egregious – the degree of the issue may need to be validated on site. This may apply where application of site-level forest management guidelines have flexibility, and local factors that determine appropriate application should be assessed.
- The concern occurs in an area where timber harvesting and forest management are especially controversial. Investigation of the site may be considered necessary to alleviate any potential concerns about possible actions or inaction. This may be applicable in situations where high profile individuals raise a concern, or a concern is about a site that has high public visibility.
- Significant consideration in deciding on whether a field investigation or on-site visit is necessary will be given to photographs of the site or detailed first-hand observations from the site.

If a field investigation is warranted, the consultant will request the landowner's permission to conduct a site visit. If permission is granted, the consultant will invite MLEP staff to accompany the consultant during the site visit.

Confidentiality

The revised protocol includes measures to ensure the confidentiality of the registrant of the concern and other parties involved. Specifically, in the report to the MFRC that is generated after each investigation, the parties involved with the timber harvest or forest management activity are to be referred to as follows:

- Concern registrant
- Landowner (private or corporate); public agencies shall be identified by agency (e.g. DNR, USDA Forest Service, etc.)
- Forester, logger, land manager, or other appropriate title (not names or their gender). If more than one employee from the same agency or company is referenced, they shall be referred to numerically (e.g. forester #1 with the DNR).
- Other categories as necessary (e.g. concerned neighbor).

Reports on Registered Concerns

After the concern is investigated, the consultant prepares a report that is sent to the MFRC office. From there, copies of the report are sent with a cover letter to the involved parties. This report follows the protocols above and includes the following information:

- Front page
- Confidentiality measures
- Description of the concern(s)

- Description of the site
- Timber harvesting/forest management guidelines or BMP's that would have applied
- Permits/ordinances/laws/contractual obligations violated
- Contacts with the landowner, logger or other forest practitioner, and forester or other
- Findings

Information regarding the identities of the people contacted in regards to a registered concern is transmitted to the MFRC staff as part of a "Concern Summary" separate from the report. Requests for identities must be made directly to the MFRC.

Education

As determined by the consultant, educational materials about forest management in Minnesota are also sent directly by the consultant to the involved parties specifically matched to their needs. The consultant has obtained a number of publications that are available to address some of those information needs, including but not limited to:

- *Managing Water and Crossing Options* – Forest Management Practices Fact Sheet Series by the DNR and the University of Minnesota Extension Service (MES);
- *Protecting Water Quality and Wetlands in Forest Management (BMPs)* by the DNR;
- *Visual Quality Best Management Practices for Forest Management in Minnesota* by the DNR;
- Tree Management fact sheets (for individual species, e.g. aspen, birch) by the DNR;
- Timber Stand Improvement Fact Sheets by the DNR;
- *Marketing Timber from the Private Woodland*, by the MES;
- *2008 Minnesota Forest Resources Management Directory*, published by MLEP and the Minnesota Forestry Association;
- *Sustaining Minnesota Forest Resources: Minnesota Voluntary Site-Level Forest Management Guidelines*, DNR and MFRC (new addition, July 2005)
- *Biomass Harvesting Guidelines for Forestlands, Brushlands, and Open Lands*. December 2007.

The MFRC approved guidelines for the sustainable removal of woody biomass from forest and brush lands at their May 16, 2007 meeting. The 2005 legislature mandated that best management practices for the removal of woody biomass be adopted by the DNR and the MFRC by July 1, 2007. The guidelines were developed to address concerns over woody biomass harvests' impacts on soil productivity, biological diversity, and wildlife habitat. These new woody biomass guidelines are now available for insertion as chapters in the current FMGs.

This past spring, MLEP offered training of the biomass guidelines at two logging conferences for its members. About 150 attended each conference. The training was open to foresters, too – but, only 36 foresters, primarily employed by forest industries, took advantage of the training. The Sustainable Forestry Education Cooperative offered three additional classes on the guidelines for those who could not attend the conferences this past June.

So far, few DNR foresters have received the training, though in areas where there is market for woody biomass from state timber sales, most DNR foresters are familiar with the guidelines. The DNR will be addressing biomass policy issues and the need for training by December 2008.

With the increasing costs of generating power from non-renewable sources, its only a matter of time before recovery of woody biomass associated with timber harvests will become more common. Biomass utilization can be a boon to the managing Minnesota's forests or present another problem if recovery of the biomass is not carried out well.

On one hand, increasing markets to use woody biomass could help to improve the aesthetics of harvested sites by removing unsightly woody debris that, in the past, contributed to some PCRCP concerns being registered with the MFRC. On the other hand, failure to remove or process woody debris concentrated for that purpose can and has resulted in additional concerns being registered with the PCRCP. As yet, the issue of taking too much woody biomass affecting a site's long-term productivity or wildlife habitat has not resulted in a new focus to the PCRCP. Time will tell whether application of the woody biomass guidelines results in an overall change in the number of concerns registered with the MFRC.

Activities during 2007-2008

The MFRC renewed an agreement with the consultant, Bruce ZumBahlen, to provide service to the PCRCP effective August 1, 2007 for fiscal year 2008. Three concerns were registered during the fiscal year.

Its interesting to note that all three concerns were registered by the landowner's affected by harvesting activities on their own land. Retaining the confidentiality of the registrants' identities when the registrant is the landowner is problematic. The parties involved in the harvest know the source of the information could only come from what a landowner likely knows.

Since its inception in 1998, the PCRCP has received a total of 27 concerns. Following is an activity summary for the fiscal year ending June 30, 2008 based on the consultant's bi-monthly reports to the MFRC.

August 1 – August 31, 2007

No concerns were registered during this first reporting period.

September 1 – October 31, 2007

There was one concern (#0108) registered near the end of this period that was deferred until the next reporting period.

November 1 – December 31, 2007

Concern #0108 was primarily over the logging enterprise leaving a large slash pile that was to be chipped with the chips hauled away. Counting concern #0108 mentioned above and another concern registered (#0208) shortly after the beginning of the reporting period, two registered concerns were addressed during this period. Due to difficulties in reaching all of the parties involved in the concern #0108, completion of the investigation was postponed until the consultant's return from Texas with the concurrence of the registrant who also was spending part of the winter in the south.

Investigation of concern #0208 was completed during this period. The concern was over an unauthorized construction of a road and invasion of wetlands in the process of harvesting timber on the registrant's property. The wetland invasion was in violation of the Wetland Conservation Act (WCA). The registrant was issued a Restoration Order and retained the services of a restoration consultant to prepare a restoration plan.

Efforts to contact and provide WCA educational material to the logger who harvested the timber failed. Apparently, the logger had gone out of business.

January 1 – April 4, 2008

Due to the consultant's medical condition upon returning from Texas, there was a delay in the preparing the bi-monthly report and an investigation of concern #0308 registered just before the consultant left for Texas.

Concern #0308 was over chips left in a small creek that blocked drainage and some rutting on the registrant's land. The logger apparently suspended operations due to wet conditions leaving some cut wood to be taken care of upon returning to complete operations. The logger never returned.

Due to uncertainty over how serious the damage was, the registrant agreed to furnish photographs of the damage to the consultant when there was no more snow cover on the site.

April 5 – May 6, 2008

There were no concerns registered during this period. No action on investigating concern #0308 was done until photographs promised by the registrant could be reviewed.

May 7 – June 30, 2008

Activities during this period were spent on the investigation of concern #0308 that included a trip to view the site(s) in question. The registrant's timber was landed on a neighbor's property who had timber harvested by the same logging company. The neighbor also had issues with the logging company alleging that a promise to replace a culvert and smooth out ruts was not honored. Completion of the investigation will need to be reported after July 1, 2008 under a new contract with the consultant.

Descriptive Information on Registered Concerns

Slash Pile Timber Sale – Cass County

This concern was over a large slash pile that a logging enterprise left to be chipped and hauled away from the registrant's property. The registrant was also upset that trophy trees that were to be left during a thinning operation were cut. The concern also mentioned that roads were left rutted and a fence was damaged which the registrant later said were not important issues.

The logger belonged to a logging cooperative at the time the harvest began. The intent of depositing the slash in a concentrated manner was to enable the slash to be economically grinded or chipped for biomass and removed from the site at a later time. The logger temporarily ended operations and left the property before the harvest was completed.

The logger returned to complete the operation without contacting the landowner/registrant or the logging cooperatives' forester as required in the timber sale contract. In thinning the last stand of pine, the logger departed from taking smaller stems while thinning pine stands “from below” as had been done previously and harvested some larger trees by “thinning from above.” Shortly after, the logger quit the cooperative.

The landowner has retained the services of a consultant to find a market for the concentrated slash, though it is unlikely one can be found due to low prices for biomass and the cost of hauling it away. The pile will remain a fire hazard until it is removed. While the slash pile is quite large, it can not be readily seen by the public from roads or trails and it is too dry for serving as a food source for pine bark beetles.

While a particular method of thinning is not normally something that the PCRP is intended to address, to help alleviate the landowner's/registrant's concerns over the long-term impacts from "thinning from above," information was provided on recent research findings that influenced the logger to do the "thinning from above." The logger was also sent information on guidelines to prevent potential damage from bark beetles.

Wetland Invasion Timber Sale - Cass County

The concern was over violation of the Minnesota Wetland Conservation Act and building an unauthorized road while harvesting the registrant's property. The registrant notified the local government authority about the violation and was issued a Restoration Order, but not fined because of the self reporting.

The landowner/registrant retained the services of a restoration consultant to prepare a restoration plan. Efforts to contact the logger were not successful since it appears that the logger went out of business. Advice was given by phone to an industry procurement forester to consult with the local SWCD when dealing with wetlands.

Unfinished Timber Sale – Pine County

This concern was over chips deposited in a small creek that blocked drainage and some rutting caused by the logging. According to the registrant, the logging company ended operations due to wet conditions with a promise to return and complete what was unfinished, including the hauling of a small amount of harvested timber that still remains on the site, unpaid for.

Due to confusing information provided by the registrant, the consultant requested the MFRC to approve a visit to view the site in question first hand. The results of that visit will be reported on during the next reporting period under a new contract with the consultant.

Appendix A

Public Concerns Registration Process Log

Date	Description of Concern	Location	Type of Educational Communications and Materials Sent
Sept. 2007	Leaving a huge slash pile that was supposed to be chipped with chips to be hauled away. Also, cutting trophy trees to be left uncut during thinning.	MFRC North Central Landscape Region, Cass Co.	Information on recent research on thinning mailed to the landowner. Information on preventing bark beetle damage mailed to logger.
Nov. 2007	Building an unauthorized road and invasion of a wetland in violation of the Wetland Conservation Act.	MFRC North Central Landscape Region, Cass Co.	Logger went out of business. Advice by phone was given to industry procurement forester to consult with local SWCD when dealing with wetlands.
Jan. 2008	Chips deposited in a small creek that block drainage and some rutting caused by logging.	MFRC East Central Landscape Region, Pine Co.	None as yet – any needed information will be provided upon completion of the investigation.