

Minnesota Forest Resources Council Public Concerns Registration Process 2012 Annual Report

Overview

This is the fourteenth 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 purpose of the PCRP is intended to be educational in nature and precludes becoming involved in contract disputes or issues such as trespass that would more appropriately be dealt with in civil courts. 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 of those involved 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 (ME);
- *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;
- *2010 Minnesota Forest Resources Management Directory*, published by the 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*, by the MFRC, December 2007;
- *Wetland Conservation Act Requirements and the Silvicultural Exemption – Guidance for Loggers*, June 2007 by the MLEP;
- *Temporary Stream, Wetland & Soft Soil Crossings*, December 2009 by the Minnesota Erosion Control Association.
- DNR Forestland Rutting Guidelines.

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. The woody biomass guidelines are

now incorporated as chapters in the FMGs. Through MLEP, many in the logging community and industry foresters have received training on the new woody biomass guidelines.

According to *Minnesota's Forest Resources 2010* report published by the MN DNR, "Woody biomass is increasingly being used in renewable energy producing facilities in the state." The report also states that "rising fossil fuel prices, climate change concerns and other factors have resulted in wood energy markets expanding significantly over the past three years. The outlook is for continued expansion."

Removing and utilizing logging slash can minimize the visual impacts from a timber harvest. On the other hand, removing this woody biomass can impact other resources. The issue of taking too much woody biomass from a site affecting its long-term productivity or negatively impacting wildlife habitat has not surfaced as a registered concern, so far.

Activities during 2011-2012

The MFRC renewed an agreement with the consultant, Bruce ZumBahlen, to provide service to the PCRCP effective September 1, 2011 for fiscal year 2012. No concerns were registered during the fiscal year. However, work was completed this period on a concern registered the year before.

Since its inception in 1998, thirty two concerns have been registered under the PCRCP. The PCRCP continues to be a relatively obscure program to the public and many in the forestry community as well. Part of the reason may lie with lessened concerns by the public on timber harvest overall. Visible activity in the woods isn't as great as it was prior to the recent recession. Minnesota's forest industries have struggled the past 4 years; the capability to process over 1 million cords a year has been lost with the closing of a number of manufacturing facilities.

And, coupled with the implementation of the FMGs resulting in fewer complaints, citizens haven't noticed much to be concerned about. The *2009 Monitoring Implementation Results*, a report by the DNR submitted to the MFRC on how well the FMGs are being implemented, noted that implementation of many of the guidelines is high

While there are a few guidelines where implementation could be improved, overall implementation is impressive given the voluntary nature of the FMGs. Implementation of some guidelines on private woodland ownerships is low and is particularly challenging.

The MFRC first published FMG's in 1999 and published a revised edition in 2005. During the revision process, peer and public reviews were critical that the FMG's did not adequately address protection of riparian forest functions and values. To address these criticisms, the MFRC convened a Riparian Science Technical Committee (RSTC) of nine scientists in 2004. After the RSTC reported their findings and recommendations in August 2007, the MFRC began the process to revise the FMGs and publish new FMGs by December 2012.

The public review period of the proposed changes to the guidelines is now closed and the MFRC will consider the comments in finalizing the changes. The proposed changes may modify the 1) amount of roads and landings allowable in a harvest area, 2) the retention of live trees in the harvest area, 3) biomass guidelines related to slash retention, and 4) characteristics of riparian management zones.

Following is an activity summary for the fiscal year ending June 30, 2012 based on the consultant's quarterly reports to the MFRC.

September 19- 30, 2012

The state shutdown caused a delay in approving a new contract agreement with the PCRCP program consultant. And, without a new agreement, work on a concern registered the previous fiscal year was not possible.

October 1 – December 31, 2012

There were no concerns registered during this period. However, an upset citizen did attempt to register a concern over a county selling timber as a matter of policy; this kind of issue is precluded from involving the PCRCP. And, another person contacted the MLEP office with a complaint on the harvest of their land which MLEP referred to the MFRC. At the end of this reporting period, the person had not attempted to register a concern.

But, an investigation of a concern registered during the previous fiscal year was completed during this reporting period. This concern involved a complex financial arrangement with the landowner resulting in a paper company obtaining a court judgment to liquidate timber in recapturing the value of a loan to the landowner. Silviculture considerations were not a factor in designing this "liquidation harvest" according to the paper company forester. The harvest during a period of very deep snow resulted in rutting that was not apparent until after the snow melted.

The logging firm and the paper company were sent letters with recommendations along with handouts on the DNR's rutting guidelines and a fact sheet on planning landings and skid trails.

January 1 – March 31, 2012

No concerns were registered during this period. However, the PCRCP consultant and the MFRC office spent some time in addressing a landowner's attempt to register a concern that was more of a contract dispute over not receiving money from the salvage of wind storm damaged timber. This is same case mentioned above that had been referred by the MLEP office to the MFRC.

April 1 – June 30, 2012

No concerns were registered during this period. But, more time was spent addressing the same case mentioned above by the same person still attempting to register a concern.

Descriptive Information on Registered Concerns

Financial Disaster Timber Harvest, Lake County

This concern was registered during the previous fiscal year. It involved a complex financial situation between a private landowner and a paper company that financed the purchase of equipment so the landowner could harvest their timber the way they wanted it done. The paper company took over the harvest on the property by obtaining a court judgment rendered against the landowner for not meeting loan obligations.

The investigation of this concern was delayed pending the registrant sending a video taken of the site in question after the snow melted. The investigation was further delayed without having a new contract agreement in place as a result of the state shutting down without a new budget. The paper company considered this a liquidation harvest; silviculture was not a factor in designing

the harvest. And, it occurred during unfrozen ground conditions on a wet site during a period of very deep snow.

The logging firm and the paper company were sent letters with recommendations on avoiding situations like this again along with the DNR's rutting guidelines and a fact sheet on planning landings and skid trails.

Appendix A

Public Concerns Registration Process Log

Date	Description of Concern	Location	Type of Educational Communications and Materials Sent
May 2011	Concern # 0311.	MFRC Northeast Region, Lake County	Logging firm and paper company were sent letters with recommendations to prevent the situation from occurring in the future. Also, copies of <i>Project Planning: Locating Roads, Landings, Skid Trails, and Crossings</i> and <i>DNR Rutting Guidelines</i> sent to each.