

# **Minnesota Forest Resources Council Public Concerns Registration Process 2009 Annual Report**

## ***Overview***

This is the eleventh 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 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;
- *2009 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*, by the MFRC, December 2007;
- *Wetland Conservation Act Requirements and the Silvicultural Exemption – Guidance for Loggers*, June 2007 by the Minnesota Logger Education Program.

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.

Through MLEP, many in the logging community and industry foresters have received training on the new woody biomass guidelines. In last year's annual PCRCP report, it was noted that few DNR foresters had received training on the guidelines at the time, despite opportunities provided by MLEP at two logging conferences and three additional classes offered by the Sustainable Forestry Education Cooperative for those not able to attend the conferences. According to the DNR Timber Sales Program Supervisor, that has been remedied through either MLEP training or DNR in-house training this past year that included other DNR resource managers as well as foresters..

As yet, the DNR has noticed only a small increase in interest in utilizing woody biomass as part of timber harvest operations. DNR sales are routinely offering woody biomass as an optional product now. As energy costs increase and the economy recovers, it's 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 2008-2009**

The MFRC renewed an agreement with the consultant, Bruce ZumBahlen, to provide service to the PCRCP effective July 15, 2008 for fiscal year 2009. One new concern was registered and work on another concern from the previous fiscal year was completed during fiscal 2009.

Since its inception in 1998, the PCRCP has received a total of 28 concerns. It's interesting to note that of those 28 concerns, the last 5 were all registered by individual landowners affected by harvesting activities on their own land. It appears that the landowners' motivations to register the concerns were often driven by disputes with the loggers over timber sale contract issues.

However, in the process of determining whether those concerns merited further investigation, issues over the implementation of the *Minnesota Voluntary Site-level Forest Management Guidelines* or interpretations of the *Minnesota Wetland Conservation Act* also surfaced that made it appropriate for the PCRCP to become involved.

Retaining the confidentiality of the registrants' identities when the registrant is the landowner is problematic in these cases. The logger involved in the harvest likely knows that the source of the concern could only come from what a landowner observed (e.g. an oil spill in a wooded wetland that would be undetectable by the traveling public).

Following is an activity summary for the fiscal year ending June 30, 2009 based on the consultant's quarterly reports to the MFRC.

### **July 15 – September 26, 2008**

No concerns were registered during this first reporting period. However, investigation of Concern # 0308 initiated the previous fiscal year was completed during this period. Concern # 0308's issues involved rutting from skidding and the deposit of chips and logging debris while installing a culvert in a wetland that blocked a stream's flow in violation of the WCA. The wetland turned out *not* to be protected wetlands. Information was provided to the landowner and logging company forester on: DNR Rutting Guidelines, the WCA and the silvicultural exemption, de minimus exemption and the definition of MN wetland types.

### **September 27 – December 22, 2008**

There were no concerns registered during this period. However, at the request of the MFRC, the consultant had conversations with a logger pursuing a claim against a landowner's property insurance policy for failure to point out the hazard from a small pond covered by snow. The logger's equipment suffered serious damage when the equipment broke through the ice. The logger did not register a concern and no further action resulted from contact.

The consultant also attended a county land planning committee hearing at the request of the MFRC. The land planning committee was proposing a change to a county ordinance requiring a permit to harvest timber that seemed to be directed towards loggers. One of the reasons for the permit came from county residents' concerns over environmental impacts from timber harvests that followed wide-spread wind damage.

The planning committee was not aware of the availability of the PCRCP to address citizen's concerns. The consultant provided information on the PCRCP as a resource that could address concerns and handed out copies of the PCRCP brochure to the committee members and the county's zoning administration staff.

### **December 23, 2008 – April 3, 2009**

Concern # 0109 was registered during this period. The concern involved an oil leak or spill under the logger's equipment on a wetland while harvesting a private landowner's timber during the winter. The degree of the seriousness of the leak/spill was not able to be determined due to a heavy snowfall after it was reported.

The logger was provided information and recommendations on how to minimize damage from such occurrences.

### **April 4 – June 30, 2009**

No concerns were registered during this period to the consultant's knowledge.

## ***Descriptive Information on Registered Concerns***

### **Windemere Township Timber Harvests – Pine County**

This concern was initiated during the previous fiscal year and required a site visit to complete the investigation. The initial concern was over rutting on the registrant's property and the blockage of a small stream flowing through the property. The registrant's timber was landed on a neighbor's property upstream to the registrant's property and was also the location of the blockage. The neighbor had also retained the same logging company to harvest their timber.

The blockage occurred during the installation of a culvert in a wetland on the neighbor's property that could have been a violation of the WCA. However, further investigation revealed that the wetland in question was not a protected wetland. The registrant, the neighbor, and the logging company forester were provided with information on rutting guidelines, de minimus exemptions for working in wetlands, WCA requirements and the silvicultural exemption.

**Oil Leak on Ash Harvest – St. Louis County**

Concern #0109 was registered by a landowner mainly unhappy over payment for wood hauled from the site, not within the protocol for further investigation. However, the concern also mentioned that there was an oil spill or leak under logging equipment parked on the landing which was an appropriate issue for the PCRP. .

In the process of investigation, the landowner also mentioned the possibility that a more serious oil spill occurred during the harvesting operation. While the landowner was at the landing one day to check on the operation, the logger returned to the landing with a broken hydraulic hose on the feller –buncher. It was an extremely cold morning and equipment failures of this type aren't unusual.

The harvest operation was in a wetland to harvest ash. The landowner had no idea where the potential spill might have occurred in the cutover. In follow-up discussions with the logger, the logger did not admit to any such occurrence. The consultant asked the landowner to provide photos of the spill at the landing and see if any could be taken of the site where the more serious spill might have occurred. Before the landowner was able to take photos, a major snowfall occurred that made it impossible to visit the site so close to break-up.

Regardless of whether the broken hose incident occurred, the logger was sent a letter with information on harvesting on organic soils along with recommendations on how to minimize damage and deal with oil contaminated soils.

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## Appendix A

### *Public Concerns Registration Process Log*

<b>Date</b>	<b>Description of Concern</b>	<b>Location</b>	<b>Type of Educational Communications and Materials Sent</b>
January 2008	Concern # 0308. Rutting and blocked drainage of a small stream. Blockage was caused by wood chips deposited in the stream while installing a culvert to cross a wetland. Private land.	MFRC East Central Landscape Region, Pine Co.	Letters were sent to the registrant, a neighbor, and the logger's forester along with the following documents: <i>WCA and Silvicultural Exemption</i> , and the <i>DNR Rutting Guidelines</i> . The logger's forester also received information on the <i>Definition of MN Wetland Types</i> , and <i>De Minimus Exemption</i> .
March 2009	Concern # 0109. Oil leak or spill in a wetland while harvesting ash timber. Private land.	MFRC North Central Landscape Region, St. Louis County.	Letter was sent to the logger with information of minimizing damage on organic soils along with the following documents: <i>Cleaning up small petroleum spills</i> , and <i>Thin-spreading small quantities of petroleum contaminated soils</i> .