

Minnesota Forest Resources Council Public Concerns Registration Process 2010 Annual Report

Overview

This is the twelfth 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;
- *Marketing Timber from the Private Woodland*, by the ME;
- *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.

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. In last year's report, it was noted that the DNR had not seen much interest in utilizing woody biomass on DNR's timber harvests. But, this is changing. The DNR now reports that interest has grown in utilizing woody biomass; biomass utilization on DNR's timber sales has increased by a third over the year before.

So far, the issue of taking too much woody biomass from a site affecting its long-term productivity or negatively impacting wildlife habitat has not resulted in a new focus to the PCRP. As demand for woody biomass increases for energy, time will tell whether increased biomass utilization results in an overall change in the number of concerns registered with the MFRC.

Activities during 2009-2010

The MFRC renewed an agreement with the consultant, Bruce ZumBahlen, to provide service to the PCRP effective July 1, 2009 for fiscal year 2010. Only one new concern was registered during the fiscal year.

Since its inception in 1998, the PCRP has registered a total of 29 concerns. It is apparent that the PCRP remains a relatively obscure program to the public and many in the forestry community as well. It could be that implementation of the FMGs has so improved forest management, that 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. Recent history of concerns registered with the MFRC attests to this challenge; five of the six most recent registered concerns were on private land.

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 has now begun the process to revise the FMGs and publish new FMGs by October 2012.

Following is an activity summary for the fiscal year ending June 30, 2010 based on the consultant's quarterly reports to the MFRC.

July 1 – September 30, 2009

No concerns were registered during this first reporting period. The main activity during this period was a program review arranged by the MFRC staff in July with the consultant and one member of the MFRC. A compilation of work since the current consultant assumed PCRP duties in 2002 showed that there were 16 registered concerns over the period from FY 2002 – 2009.

Of the sixteen concerns, eight involved private lands, five involved state lands, two involved county lands and one involved federal lands. The source of the registrations came from the following: six from private land owners, five from the general public, four from environmental

activists, and one from forest industry. No changes were recommended to change the PCRCP as a result of the program review.

October 1 – December 31, 2009

There were no concerns registered during this period. The only activity that the consultant participated in that might have had a bearing on the PCRCP was a meeting with a sub-committee of the Minnesota Forestry Association concerned over loggers taking advantage of woodland owners unfamiliar with the value of their timber as well as hardwood management. Ultimately, the sub-committee decided the best approach was to improve education of woodland owners rather than pursue legislation or argue for the FMGs to also address silviculture matters.

January 1 – March 31, 2010

Concern # 0110 was registered December 23, 2009, but was not addressed by the MFRC office until after the Christmas – New Year holiday. The concern was over the rutted condition of a recreational trail that was also used for hauling timber. The rutted condition was observed by a recreational user of the trail in early November before snow fall.

Due to the delay of the registrant to register the concern before snow fall and the registrant's confusion over the exact location of the rutting, it was difficult to identify the site and the parties that might be involved. Completion of the investigation was postponed until after break-up when the location could be determined.

April 1 – June 30, 2010

No concerns were registered during this period to the consultant's knowledge. However, investigation of Concern #0110 was completed. The investigation was completed following spring break-up and after road restrictions to the area in question were lifted. The following section briefly describes the outcome.

Descriptive Information on Registered Concerns

Bear Hunter Trail Rutting – Carlton County

As previously explained, a recreational user of a trail had observed considerable rutting of a ATV trail that was also used to haul timber. The rutting was observed in early November prior to snow fall. It turned out that the rutted area had been smoothed over by the logging operation that had caused the rutting shortly after it was observed by the registrant. That was part of the problem of determining the location of where the rutting occurred.

The rutting had occurred when the logger had moved the logging operation off of DNR timber sale because of extremely wet conditions. The fall of 2009 was particularly a problem for the entire logging community. Upon returning to the site shortly afterwards, the logger voluntarily spent considerable time smoothing out the ruts caused by the earlier movement of equipment.

The registrant revisited the site after road restrictions were lifted for the area and called the consultant to report that the site looked much better and was pleased with the loggers work.

Appendix A

Public Concerns Registration Process Log

Date	Description of Concern	Location	Type of Educational Communications and Materials Sent
May 2010	Concern # 0110. Extreme rutting of a recreational trail on state land used to haul timber. .	MFRC East Central Landscape Region, Carlton Co.	None needed. The logger was quite familiar with the FMGs and had voluntarily smoothed out the ruts prior to being required to do so.