

Minnesota Forest Resources Council Public Concerns Registration Process 2011 Annual Report

Overview

This is the thirteenth 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.
- 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 2010-2011

The MFRC renewed an agreement with the consultant, Bruce ZumBahlen, to provide service to the PCRCP effective July 1, 2010 for fiscal year 2011. Three new concerns were registered during the fiscal year.

Since its inception in 1998, the PCRCP has registered a total of 32 concerns. The PCRCP seems to be 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; seven of the nine most recent registered concerns were on private land. Interestingly, many of these were registered by the affected woodland owner.

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, 2010

One concern was registered during this reporting period via the MFRC website. The concern was over the condition of a grant-in-aid ski trail following logging on county land that is also used by hikers.

The logging company and county land department were sent letters with recommendations to prevent situations like this happening in the future along with copies of the *Visual Quality Best Management Practices for Forest Management in Minnesota*.

October 1 – December 27, 2010

There were no concerns registered during this period. Two items of note occurred during this period, though. One was the adoption by the Minnesota Certified Master Logger (MCML) program to use the PCRCP for investigating complaints about the practices of a MCML member. The MCML program adopted the policy as an outcome from the investigation completed and reported in the previous quarterly report. The other item was an article that appeared in the December 2010 issue of the Minnesota Logger Education Program (MLEP) eUpdate newsletter sent to the 500 plus members of MLEP that explains the purpose and benefits of the PCRCP. .

December 28, 2010 – March 31, 2011

No concerns were registered during this period. However, the PCRCP consultant and the MFRC office was contacted over a potential concern from logging on private land. Despite encouraging the party to register a concern based on the information provided, it was not registered until the next quarterly reporting period. .

April 1 – June 30, 2011

Two concerns were registered during this period. The first was related to the previous contact over logging on private land. The issue with the site in question was over severe rutting that occurred at a time when logging operations should not have been conducted due to unfrozen ground conditions. A consultant forester/wood dealer that arranged the harvest and the logger who bought the timber were sent letters emphasizing the importance of holding a pre-harvest meeting with the logger, forester, and landowner on site. The letter also included information on rutting and how to avoid it in the future.

The second concern is over a harvest on private land that has a complex financial history involving the landowner and a paper company. While the initial investigation of the concern did not identify a particular non-conformance issue with the FMGs, based on a discussion with the landowner, further investigation seems warranted. Allegedly, logging occurred on a wet site during unfrozen ground conditions without the landowner's approval. The registrant was asked to provide photographs of the logged site in order to see if further investigation is warranted. Further work and completion of this investigation may not occur for some time due to a potential shut down of state government until a new state budget is in place.

Descriptive Information on Registered Concerns

Solitude Area Ski Trail Damage, Cass County

The registrant was upset over the condition of a grant-in-aid ski trail following a harvest on county land along the trail. The trail is also used by hikers. The county is responsible for maintenance of the trail through the DNR's grant-in-aid program. The trail had been significantly widened in places to accommodate truck traffic, slash had been left on the trail, rutted in another place, and a "you are here" sign at a major intersection with another loop of the trail was laid on the ground as if knocked over by a bulldozer.

The investigation also uncovered performance problems with the logger for not following provisions in the timber sale contract requiring the logger to leave the trail in as good or better

condition following the harvest. Also, the rutting in one place on the trail was caused by a county forester who had been checking out the trail. The logger had to pull the county forester's truck out.

The logging company and the county land department were sent letters with recommendations to prevent the situation from happening again along with copies of the *Visual Quality Best Management Practices for Forest Management in Minnesota*.

Bad Winter Logging Sale, Morrison County

This concern took awhile before it was registered, though it was commonly known in the local forester community over concerns the harvest was being conducted on unfrozen ground that would lead to potential rutting. The logging company had been told to shut down operations on a neighboring private parcel because of unfrozen ground conditions. Yet, as soon as operations ceased on that property, the logging company started harvesting on an adjacent privately owned tract with the encouragement of a consultant forester/wood dealer who had bought the adjacent landowner's timber and then resold it to the logger.

It appears no pre-harvest meeting on the site occurred with the logger and the consultant forester/wood dealer before logging began that could have minimized rutting in the woods. Soon after logging began on the new tract, the hot-saw operator recognized that the ground was too wet to continue and stopped cutting. The most severe rutting occurred when the skidders went to retrieve and bring the cut wood to a landing in a nearby field where it was trimmed and loaded onto a truck. The truck got stuck on its way out and had to unload the wood where it remains in the field at the time of this report.

The consultant forester/wood dealer and the logger were sent letters emphasizing the importance of a pre-harvest meeting on the site that could have led to a better design for carrying out the harvest. Along with the letters, copies of information on rutting and how to avoid it were sent to each.

Financial Disaster Timber Harvest, Lake County

This concern involves a complex financial situation between a private landowner and a paper company which financed the purchase of equipment so the landowner could harvest their timber the way they wanted it done. The paper company has now taken 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 has just started. Based on information gained from the landowner during a phone call, further investigation seems warranted. Logging apparently occurred during unfrozen ground conditions on a wet site. Another issue is the apparent lack of communications between the logger, the paper company, and the landowner regarding the design of the harvest. The registrant has agreed to provide photographs of the site in question that will help in determine whether this concern is within the scope of the PCRCP for further investigation. Completion of this investigation may be delayed due to a possible shut down of state government in the absence of a new state budget.

Appendix A

Public Concerns Registration Process Log

Date	Description of Concern	Location	Type of Educational Communications and Materials Sent
July, 2010	Concern # 0111. Damage to a grant-in-aid trail on county lands also used by hikers. The trail was widened to accommodate truck travel, slash left on the trail, rutted in another place, and a recreational direction sign was damaged.	MFRC North Central Landscape Region, Cass County	Logger and county land department were sent letters with recommendations to prevent the situation from occurring in the future. Also, copies of the <i>Visual Quality Best Management Practices for Forest Management in Minnesota</i> were sent to each.
May, 2011	Concern # 0211. Severe rutting from harvesting private land under unfrozen ground conditions	MFRC East Central Landscape Region, Morrison County	Logger and consultant forester/wood dealer were sent letters emphasizing the importance of holding a pre-harvest meeting on site that could have resulted in a better design for carrying out the harvest. Also, copies of <i>Project Planning: Locating Roads, Landings, Skid Trails, and Crossings</i> and <i>DNR Rutting Guidelines</i> were sent to each.
Late May, 2011	Concern # 0311. Potential non-conformance with the <i>Voluntary Site-level Forest Management Guidelines</i> or the <i>Wetland Conservation Act</i> .	MFRC Northeast Landscape Region, Lake County	None at the time of this report. Investigation of this concern was ongoing at the end of fiscal year 2011.