



Environmental Review and Permitting of Stream Restoration/Enhancement Projects

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- Regulatory landscape for Stream Restoration/Enhancement Projects
- Environmental Review and Work in Public Water Permitting Connections to Stream Restoration/Enhancement Projects
- Continuous Improvement Efforts
- Recommendations

Authorizations Potentially Needed:

- **Environmental Review (EAW or EIS)**
- **Work in Public Waters Permit**
- **Threatened and Endangered Species Takings Permit**
- **US Army Corps 404 permit and MPCA 401 water quality certification**
- **Wetland Conservation Act**
- **Various local government authorizations (grading permit, vegetation removal, etc.)**

EAW Mandatory Categories

- Stream realignment of 500' of natural watercourse or any realignment of a trout stream
- Changing the course, current, or cross-section of one acre or more of public water

Environmental Review

- There is no exemption from Environmental Review for “good” projects.
- Stream restoration/enhancements are physical manipulation of the environment that require governmental approvals.
- Environmental Review can ensure or improve proper design and construction techniques.
- Provides the public with systematic access to governmental decision makers.

Work in Public Waters

Minnesota Rules Chapter 6115.0215 – .0217 require specific standards restoration of public waters.

- Goals – protection of habitat, preserve natural character, water quality, etc.
- Prohibitions - obstructs navigation, non-essential creation of upland, adversely impacting public infrastructure.
- Minimal impact solution
- Consistency with floodplain and shoreland standards
- Many more specific standards for different types of restoration activities

Environmental Review and Work in Public Waters

- These are long standing regulatory processes that have served Minnesotans well for generations.
- These DNR regulatory programs provide a neutral evaluation of projects.
- Each project is measured against the applicable laws and rules to determine compliance.
- The intent of the completed project is not a significant factor, besides determining the minimal impact solution to meet the project purpose.

Environmental Review – EAW (6-12 months)

- Complete data submittal by proposer
- 30-day public comment period
- 30-day timeline to make a decision on the need for an EIS
- Timeline depended on proposer data submittal completeness, proposer responsiveness to RGU identification of needed information, and number/nature of public comments received.

Work in Public Waters

- 30 days to determine application complete.
- 30 day request for comments from DNR technical staff and local government units.
- 150 day goal, from complete application, to issue a decision.
- DNR submits annual permit efficiency reports to the legislature on how well we meet the 150 day goal
- **FY23 = 96% of decisions met the goal (out of a total 532 decisions)**
- **FY24 = 95% of decision met the goal (out of a total of 481 decisions)**

Environmental Review Example

Topics identified as part of Environmental Review:

- Riparian ownership
- Cultural Resources
- Rare Resources
- In-water construction activities

Work in Public Waters Example

Middle Sand Creek Corridor Restoration Project

- Initial application October 2019, final permit issued June 2020
- Application submitted prior to Environmental Review being complete
- Threatened and Endangered Species issue identified, but deferred to permitting phase
- Initial permit issued December 2019, amendment requested March 2020
- Amendment required additional flood no-rise analysis

Continuous Improvement Efforts

Environmental Review

- EAW mandatory categories determined by Environmental Quality Board (EQB) rules. EQB regularly evaluates these categories and have determined the categories related to stream restoration/enhancement do not warrant any revisions.
- DNR staff have discussed specialized EAW forms or alternative environmental review processes. Both of these would need to be approved by EQB. Neither concept has matured to an actual proposal.

Continuous Improvement Efforts

Work in Public Waters

- Continual efforts to increase efficiency and effectiveness (i.e. Monthly Field Hydro Calls, Operation Dashboard Relief, annual programmatic training)
- Recent legislation clarify rule making authority for M.R. Chapter 6115. Currently evaluated areas of potential revision, such as additional allowances for use of natural materials.

Recommendations

- Early Coordination – prior to grant submittal
- Process coordinator on stream restoration/enhancement teams
- Proposed alternate EAW form or alternate environmental review process to EQB

Thank You!

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