

## Wetlands Forum 2009 summary notes

Categories of interest were narrowed into policy, education, consultant's and user groups.

### WHERE DO WE GO FROM HERE

Identify to Minister that there are new tools to adhere to regulations, be specific about which ones may need to be addressed.

- Take ideas from proponents and potential solutions
- Develop a working group
- Draft letter for review to be submitted to the Ministers

The ideas are detailed in the Wetlands Forum 2009 summary notes but fall into three categories:

- 1.0 Develop project package for beginners that could include one stop shop for development issues, regulations, information
  - 1.1.1 designed to be delivered in such a way that all parties are informed as early in their development planning as possible
  - 1.1.2 Provide consistent information to all parties involved → perhaps a package called a Wetland Kit that is readily available at regional offices, on-line at NBDENV web page, at planning commission offices etc.
- 2.0 Education
  - 2.1.1 Hold more forums and information sessions with all sectors involved in land (surveyors, realtors, real estate lawyers, planning commissions, etc.)
  - 2.1.2 Increase efforts to educate within NBENV and the public
  - 2.1.3 Have a pamphlet/brochure to hand out at the planning commissions or wherever there is a "first step" for developers
- 3.0 Develop a more accurate and comprehensive wetland mapping program for the province with improved user access.
  - 3.1.1 Develop ideas on how to implement

## Policy Issues

### 1.0 ISSUE – WETLAND POLICY

- 1.1 There is more wetland in NB than database information shows. Will that have an impact on the rationale and enforcement of the wetland policy?
- 1.2 Longer-term thinking is needed to balance the need for development with the need for wetland conservation. The system, as it now stands, seems to be more reactive than proactive. Where is this all going?
- 1.3 Large projects have more resources to proceed with policy requirements.
- 1.4 Sometimes the engineering and designs are changing faster than the regulations – ie.septic fields; Regulations should be reviewed in light of these changes and for their impact on smart design
- 1.5 Watercourse Act seems simpler. Why not wetlands?
- 1.6 Develop process for banking credits - donate property for credit/tax credit?
- 1.7 Look at more research of innovative ideas to put a cost of value
- 1.8 Review of NE plant list, hydric soils, Federal/Provincial responsibility
- 1.9 Update delineated mapped wetlands to the Provincial map
- 1.10 Classification of wetlands importance (ranking). Difficult to determine what is important
- 1.11 Disconnect between NBENV stating 4% of NB is wetland versus what delineators are seeing on the ground. Hard to convince people that it is only 4% and hard to argue with

“well, you’ve found more wetland than what was mapped, so does that mean that only what is mapped is protected or can I use the “extra” or “found” wetland as compensation...”

- 1.12 Issues around wetlands that have been formed due to improperly sized culverts or surface water drainage from adjacent landowners who have developed land that has resulted in increased runoff on to the adjacent property.

- 1.12.1 Existing Culverts with wetlands: culvert needs replaced should not trigger EIA for an area that is already predisturbed by roadway. All work should be done through WAWAP if affects are only temporary to the wetland.

- 1.13 Beaver management-information on how to stop beavers from creating more wetlands in potential development area

- 1.13.1 Outcome- usually those areas were low anyway and may have been technically wetlands before they were flooded by the beavers.

## 2.0 ISSUE – Access To Information

### 2.1 proposed solutions

- 2.1.1 On-line checklist of requirements for the early stage of development planning so that those involved know from the outset of these regulations and the implications (regulations at all levels of government in the checklist?).

- 2.1.2 Have a single source up-to-date mapping resource (i.e. SNB)

- 2.1.3 Delineate the whole province

- 2.1.4 Provide Depth to Water Table Mapping and all on-the-ground delineated wetlands in an accessible manner with GPS coordinates

- 2.1.5 Can mapping be understandable by lay people so that simple decisions can be made without the input of a costly consultant

- 2.1.6 On-line short cut for the smart design of a project to stream line the regular planning process

- 2.1.7 Sometimes the engineering and designs are changing faster than the regulations – ie. septic fields; Regulations should be reviewed in light of these changes and for their impact on smart design and the changes noted on-line

- 2.1.8 Availability of sites for compensation is very limiting/difficult  
Solution - Environment to keep database of potential compensation sites to facilitate development.

## 3.0 ISSUE – Wetland Compensation

- 3.1 Availability of sites for compensation is very limiting/difficult

- Solution - Environment to keep database of potential compensation sites to facilitate development.

- 3.2 Identify process to identify projects and get government approval

- 3.3 Develop process for banking credits - donate property for credit/tax credit?

## 4.0 ISSUE – Interaction of Dept of Environment and Other Provincial Departments

- 4.1 Need increased awareness between and within NB departments with respect to environmental features and regulatory requirements.

- 4.1.1 Consolidate source of expertise within the government through improved communication between DENV and DNR or other departments

- 4.1.2 Engineers at DOT and biologists at NBDENV have different language and understandings of environmental constraints. What can be done to

encourage productive dialogue between these sister departments of government?

- 4.2 Up front planning. Who do you contact? Flow chart for regulators to show who is in charge of different roles within WAWA – DENV.
- 4.3 Service New Brunswick “PEELL” List of required fields to investigate prior to project
- 4.4 Reviewing parties need to be more flexible while moving to find design that meets all regulations. Turning back a project without providing useful and constructive advice isn't the best approach and could lead to project abandonment and/or attempts to circumvent the system. Some wetlands have been delineated by three or four different consultants because the proponent keeps hiring a new expert until he gets the desired result.
- 4.5 Land zoning is an issue. Roads vs pipelines vs public good. Development seems to be prioritized according to its purpose. Is it really who you know that gets an application fast tracked or is it that one project is deemed more important than another? It is that purpose plays a role in seeking approval from regulator?

## 5.0 ISSUE –Review Of Projects

### 5.1 Department of Environment is overloaded!!

- 5.1.1 More staff
- 5.1.2 More communication between everyone
- 5.1.3 Need to follow deadlines
- 5.1.4 Streamline the process for each industry, eg DOT, Agriculture, Energy

5.2 Large projects have more resources to proceed with policy requirements.

5.3 Open and timely communication is an issue. Staff may say that the caller needs to contact a wetland consultant to get answers. Tax payers feel that they deserve at least the minimum of assistance directly from their government rather than from a costly third party.

5.3.1 Language barrier between a wetland biologist and an engineer may also be an issue.

5.4 There are insufficient staff to carry out site inspections so some projects proceed when regulations are clearly being ignored while other projects seem to be targeted and faced with constant delays because they have “caught the eye” of the regulator (usually because of a complaint being made to the regulator)

5.5 Cases were presented where NBENV personnel have been providing advice outside their area of expertise. As members of the public, it is assumed that if one goes to NBENV and is provided with information, that information is accurate and can be relied upon. Several cases were presented where people were given direction from the NBENV regional offices only to have the approval to construct denied because they did not have a wetland delineation. Also, in one case, an approval to construct was issued only to be rescinded when it was determined wetlands were present.

5.6 The decisions made for development should be equitable and consistent.

- 5.6.1 The “Case by Case” approach may allow for flexibility within the department but it reduces the transparency of the process.
- 5.6.2 Streamlining the permit procedure for each industry and common practices; Potential conflict with other policies such as agricultural lands policy
- 5.6.3 Some projects circumvent regulations based on grandfathering. How can the public be clear about when this is possible and why?
- 5.6.4 The fact that NBDENV reviews each situation presented to them on a case by case basis is problematic because no one can predict the outcome of his or her submission based on previous departmental decisions.

## Education Issues

### 6.0 ISSUE - Public Education

6.1 Education about the NB Wetland Conservation policy is required for the following groups:

- bureaucratic system throughout the three levels of government in NB
- private land owners
- realtors and developers
- youth in schools
- NGO's
- Planning commissions
- banks
- surveyors

6.1.1 This education should be targeted at providing one stop data base information acquisition; stopping illegal dumping and backfilling of wetlands; best use of remaining developable land in the province. It should be comprehensive and include a message of wetland conservation; clear and consistent advise about development issues; and impact on property value.

6.1.2 Tradeshow with (consultant) delineator/regulatory rep

6.1.3 For the general public, distribute information in the mail with tax bills outlining environmental constraints

6.1.4 On-going workshops to exchange/discuss information and innovation

6.2 Targeting children with education about water quality, animal habitat and wetland ecology means finding a fit within the current science curriculum in schools...not just a few teacher packs that don't fit within the required learning outcomes. But how do you deliver this program and who pays for it to be created? Who pays for teacher professional development to see that it is implemented as intended?

6.3 The wetland forum should be expanded to include all sectors involved in land management/ development.

6.3.1 Cost of getting information today – why do we have to pay to attend a session? The Department of Environment should be doing this for free as public service.

6.3.2 How about webinar to facilitate attendance and getting info out to people who need to be aware of this issue.

6.4 Education should be used to illustrate why cost cannot be used as an avoidance argument. As part of the education, the process for impacting buffer only should be outlined clearly

## Consultant's Role

### 7.0 ISSUES- CONSULTANT'S ROLE

7.1 A Planner from the Dieppe area is familiar with the process of delineating Zone A of dykelands but she finds that these are done only in sections of the dykes in her area which leads to inconsistency and voids in information. She wonders why the province, in conjunction with municipalities doesn't do this work so that there is a coordination of the records. She feels that there is much more need for the DENV to provide comprehensive education to the municipalities in this regard.

7.2 On-line up to date list of qualified delineators available for developers, etc.

7.3 Information of how to get on the list or how to appeal not being on the list

- 7.4 what is being done to insure that report writer of wetland status is qualified.
- 7.5 Cost: Since it is very costly to hire delineator, developers/proponent should be educated on how people qualify to be delineators
- 7.6 Constraint mapping on the part of consultants results in incomplete planning when DNR maps are used. This causes 11<sup>th</sup> hour worries to arise which usually have a significant budget impact. How can this be avoided at a reasonable cost?
- 7.7 Donate property for credit/tax credit?
- 7.8 Non compliant clients – they pay the bills but don't take professional advice

## User Issues by Sector

### 8.0 ISSUE – Private Landowners

- 8.1 Land ownership should have rights. Why is it that a wetland delineator now has the power to make decisions that determine what can be done on private land?
- 8.2 How does the private landowner pay? Are there going to be government grants available as incentives for landowners to proceed with their development plans according to regulations?
- 8.3 Getting accurate and understandable information is an issue, especially for land owners and developers who don't understand engineering or biological technical details. Wetland mapping should be readily available and understandable by lay people so that simple decisions can be made without the input of a costly consultant.
- 8.4 Provide information on tax incentives in smart design programs
- 8.5 Education should be used to illustrate why cost cannot be used as an avoidance argument
- 8.6 Beaver management-information on how to stop beavers from creating more wetlands in potential farmed or wooded area
- 8.7 Will the government provide funds to compensate for this loss of funds that are directly related to implementation of the wetland policy?

### 9.0 ISSUE – Realtors and Developers Education

- 9.1 Getting accurate and understandable information is an issue, especially for land owners and developers who don't understand engineering or biological technical details.
  - Proposed Solution Meet with NB Real Estate Association to get information out about wetland constraints
    - that wetlands are not always wet
    - the process for impacting buffer only should be outlined clearly
    - to illustrate why cost cannot be used as an avoidance argument
    - Provide information on tax incentives in smart design programs
- 9.2 Realtors are having a hard time advising customers – are sometimes told that their services are no longer needed, instead a different realtor will be hired to sell the “full” potential of the land as oppose to what may be developable.
- 9.3 Provide information on tax incentives in smart design programs
- 9.4 Bridge the knowledge gap between what municipalities/planning commissions may allow vs provincial approvals which may be required.
- 9.5 Responsibility in land sale – to real estate agent, surveyor – how long is the agent responsible?
  - 9.5.1 Solution - letter to purchaser advising them of the wetland policy
- 9.6 Education should be used to illustrate why cost cannot be used as an avoidance argument

- 9.7 Issues around wetlands that have been formed due to improperly sized culverts or surface water drainage from adjacent landowners who have developed land that has resulted in increased runoff on to the adjacent property.
  - 9.7.1 Existing Culverts with wetlands: culvert needs replaced should not trigger EIA for an area that is already predisturbed by roadway. All work should be done through WAWAP if affects are only temporary to the wetland.
- 9.8 Beaver management-information on how to stop beavers from creating more wetlands in potential development area
  - 9.8.1 Outcome- usually those areas were low anyway and may have been technically wetlands before they were flooded by the beavers.
- 9.9 Will the government provide funds to compensate for this loss of potential development that are directly related to implementation of the wetland policy?
- 11.0 **ISSUE – Surveyors**
- 11.1 Need to note the date of a wetland delineation on the legal survey, especially if the information is only valid for 5 years following the delineation.
- 11.2 It isn't always clear as to when a land surveyor has to survey delineation points for a project. This is something that surveyors need to be telling their clients about but NBDENV, in conjunction with the province's land surveyor association, should be designating a consistent procedure for this which is also clearly explained to wetland delineators.
- 11.0 **ISSUE – Forestry, Other Sectors And Wetlands**
- 11.1 Forestry -Inconsistencies with how the regulation is applied to the forestry industry and other industries. It was felt that with respect to wetlands, it is hard to view forestry as a “renewable” resource.
- 11.2 Agriculture
  - 11.2.1 Environment farm plan promotes education
  - 11.2.2 Need for further awareness
  - 11.2.3 Interest on artificial wetland
  - 11.2.4 30 m buffer is greatly impacting agriculture practices
  - 11.2.5 Competition with development regarding wetland conservation lands
  - 11.2.6 Conflict with other policies
- 11.3 NGO - Watershed Group
  - 11.3.1 Planning issue
  - 11.3.2 Education is lacking with municipal politicians
  - 11.3.3 Provide great classroom opportunity
- 11.4 Dept of Transportation
  - 11.4.1 High cost to implement
  - 11.4.2 DOT tries to avoid wetlands as much as possible
    - 11.4.2.1 but they base decisions in this regard on DNR mapping which they find isn't accurate enough to prevent them from finding very different situations when they actually move from a desk top investigation to the field. What can be done to facilitate DOT having accurate ground-truthed information to base their long-term planning on?
  - 11.4.3 Big concern regarding Provincially Significant Wetlands
  - 11.4.4 Maintenance concern
- 11.5 Banks – should they be notified of the potential impact on development?

- 12.0 ISSUE –Municipalities And Planning Commissions**
- 12.1** Municipalities and Planning Commissions need more education and consistent communication with NBDENV.
- 12.1.1** Projects can be approved on a municipality or planning commission level and then be tied up by NB DENV.
  - 12.1.2** Perhaps they can distribute their information to clients in their normal communicate or through the provincial gov in tax notices
- 12.2** There is inconsistency with implementation of the wetland policy in urban areas and an inconsistency with who is supposed to do delineations on urban/municipally owned land. Does the province do it or does the municipality?
- 12.2.1** Require each municipality to have some sort of “trigger” for wetlands
  - 12.2.2** Can NBDENV mandate that each regional planning office and each municipality is current with wetland policy and able to transform the technical details of it for the public?
- 12.3** Dieppe just went ahead and zoned conservation lands without any guidance from NBDENV.
- 12.3.1** Is this a model to use in order to protect wetlands in municipalities?
  - 12.3.2** Why did Dieppe do this and how has it been received?
  - 12.3.3** Should NBDENV talk to Dieppe more about this and consider running a collaborative pilot project?
- 12.4** Wetlands on a property mean that land use and development are impacted in such a way that there might be a reduction in the property taxes that are expected by a municipality. If a wetland means that development is stopped on a piece of land, then the potential taxes that would have been derived from the development aren't available for municipal use. Will the government provide funds to compensate for this loss of funds that are directly related to implementation of the wetland policy?
- 12.5** Planning Act (2007) Bill 77 “Regulation has not been prepared” – revisit last paragraph
- 12.6** Municipalities and developers need an incentive to align their plans.
- 12.7** If one can't develop land, its potential to generate dollars is low.  
Solution - Develop a tax incentive/credit to the owner (or lower tax rate) similar to farmland ID program.
- 12.8** Planning before subdividing: Can the government encourage developers to begin their planning as per conservation design theories and practices?
- 13.0 ISSUE -UNAUTHORIZED USE FOR RECREATION**
- 13.1** ATVs and motorbikes are impacting wetlands along trails over crown land. Who is responsible for monitoring this and fining the perpetrators?

### SUMMARY OF GREEN GROUP – CAHILL

Summary of Red Group – Quigley

Summary of Brown Group-Coleman

Summary of Black Break out Group – C. LaFlamme

Summary of Yellow Group-McKay

Summary of Blue Group-Peck