

Memo from DNR Commissioner Landwehr dated July 31, 2013

Thank you for attending the July 17 meeting to kick off the rulemaking project for the Mississippi River Corridor Critical Area (MRCCA). We appreciated the opportunity to explain the project to you in person and hear your ideas for how to move forward with this renewed effort. We know that this project is important to your community and that there are a number of issues and concerns that we need to address before we can adopt rules. We appreciate your commitment to help us work through this process and develop rules that are reasonable and recognize the diverse range of interests in the corridor. As we move forward, we want to keep you informed about the project's progress and how your involvement affects rule development. In that vein I would like to recap the highlights of the meeting and next steps.

Project background & highlights:

As you know, the 2009 Legislature directed the DNR to adopt rules for the MRCCA. The DNR initiated a two-year process in 2009 that involved extensive stakeholder and public participation, resulting in a draft rule package. Due to the length of this process and the timing of the draft rule completion coinciding with a change in administration, the DNR's rulemaking authority expired and the effort was put on hold early in 2011. The 2013 Legislature renewed the DNR's authority and appropriated \$100,000 to complete rulemaking. We hope to complete this process by September 2014.

The draft rule package that resulted from the 2009-2011 rulemaking effort will be the starting point for the process moving forward. During the first phase of the rulemaking process, we will work individually with each local government to review the draft rules and identify ways to improve them. During later project phases we will work with other interested parties to get their input and revise the draft rules to the point where they can be adopted. We do expect to incorporate changes to the draft rules to address concerns stakeholders have made, some of which are mentioned below.

Summary of key issues discussed at the July 17th meeting

Nonconforming Uses – Many participants expressed concern that the rules will create nonconforming properties. We understand this concern. While some new nonconformities will result from the rulemaking, our goal is to continue working closely with communities and property owners to minimize nonconformities. We will also clarify what it will mean for properties that do become nonconforming. Nevertheless, it is important to keep in mind that nonconforming properties currently exist in every community, as cities are continually updating standards for development and redevelopment. Many changes (e.g., landscaping, lighting, parking, environmental protection, etc.) cities routinely make to their zoning codes result in nonconformities. State law offers many protections to nonconforming properties.

Previous Rulemaking Process – Some participants felt that the previous process was driven by special interests and that cities didn't have enough say in the development of the draft rules. We acknowledge this perception, and intend on redoubling our efforts to engage cities. We do want to emphasize, however, the need for participation of a broad range of interests in developing the draft standards. In addition to working directly with each city, we created advisory groups with representation by many interests, and held public meetings and open houses. The draft rules were shaped in large part by the ideas and feedback received from all individuals and groups that participated. The DNR's website was continually updated to reflect this information.

I recognize that a number of stakeholders have concerns with the draft rules and we will work to address those concerns as best we can. At the same time we all recognize that there is a range of stakeholders that will be affected by the rules and that it will not be possible to draft a proposal that will please everyone. That is why we intend to take the proposed rules to a public hearing. Ultimately an administrative law judge will make an objective determination on the need and reasonableness of the rules and offer a recommendation on whether to adopt, modify, or drop the rules.

Next steps:

The current rulemaking process will start in August with individual meetings with each community in the critical area. We will be contacting your staff soon to schedule these meetings, and will send materials ahead of time to help your staff prepare (including an annotated version of the draft rules, draft district maps, and draft bluff maps). The purpose of these meetings is to compare the draft districts, standards, and administrative provisions in the draft rules with those in existing local ordinances, and get input from local governments on how to improve them. We are also interested in feedback on the process and public outreach. Based on discussion at the July 17th meeting, we are adding another meeting with Metro City members to summarize the ideas generated by local governments. The DNR will use this feedback to develop recommendations for revising the draft rules.

My team is committed to working with you and other interested parties in an open and transparent process to develop rules as directed by the 2013 Legislature. Our goal is to balance the variety of interests along the corridor to ensure continued protection of this important natural resource. As our key partners in administering these rules, we are especially interested in your advice for developing rules that are practical to administer. I am very interested in seeing this project through to a successful completion and will remain involved. I look forward to continuing the conversation we started last Wednesday.

Tom Landwehr, Commissioner
Minnesota Department of Natural Resources

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