



November 21, 2011

Corps of Engineers
Regulatory Branch
10867 East Gull Lake Drive NW
Brainerd, MN 56401

Attn: Mr. Leo Grabowski

Re: Reply to Public Notice for Project Number **2009-03719-LAG**

Dear Mr. Grabowski:

The following is a reply/comment related to the Corps of Engineers Public Notice for project number **2009-03719-LAG**. The public notice identifies the applicant as Todd County Public Works and describes a project consisting of 12.25 acres of wetland impact for the construction of a new road adjacent to Hayden Creek.

The comments provided here are made by the Wetland Credit Agency, L.L.C. acting as account manager for the Dale Jones wetland bank (account #146) located in Douglas County, Minnesota and within Bank Service Area (BSA) 5. The Dale Jones wetland bank account currently has approximately 11.10 acres of Corps approved wetland credit available for sale and is located within the same BSA as the impact.

While the public notice does not specify what wetland bank account(s) will be used to replace for wetland impacts, it is apparent from the average ratio given in the public notice (2.46:1) that the credits to be used are not located within the same BSA as the impact. Use of wetland bank credits from outside the BSA when Corps approved credits are available for sale within the same BSA as the impact conflicts with both the federal compensatory mitigation rule (33 CFR Parts 325 and 332) and the Final St. Paul District Policy for Wetland Compensatory Mitigation in MN (2007-1101-SDE).

With respect to the federal compensatory mitigation rule, there is a directive for a “watershed approach to compensatory mitigation” and required compensatory mitigation should be located within the same watershed as the impact site. While there are no wetland bank sites located within the same major watershed as the impact, the Dale Jones account is Corps approved and located within

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the same BSA as the impact. The use of credits from the Dale Jones account would satisfy the directive for a watershed approach.

With respect to the Final St. Paul District Policy for Wetland Compensatory Mitigation in MN,

Section II item F states:

“To achieve the highest likelihood of replacing lost functions, Project Managers will direct applicants/permittees to the nearest, practicable bank site in relation to the impact site.”

Furthermore, the St. Paul policy states:

“Cases may arise where an applicant/permittee proposes to debit from a more distant 8-digit HUC watershed even though there are practicable, closer bank credits within that particular bank service area. This should be discouraged...”

The Dale Jones account has approximately 11.1 acres of Corps approved wetland bank credits available within the same BSA as the impact. Both the federal mitigation rule and the St. Paul District’s policy on wetland mitigation direct the applicant to utilize these Corps approved wetland bank credits from within the same BSA as the impact. Allowing the applicant to purchase wetland credits from outside the impact’s BSA conflicts with the federal compensatory mitigation rule and St. Paul District policy and should not be allowed.

Sincerely yours,

Eric Trelstad
Owner
Wetland Credit Agency

Cc: Kelly J. Urbanek

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