



February 27, 2014

Mr. John Jaschke, Executive Director
Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155

Re: Public Competition in Wetland Banking

Dear Mr. Jaschke:

I am writing this letter on behalf of myself and a coalition of concerned wetland bankers throughout the state of Minnesota. We are writing to express our collective concern over government entities (local or state) establishing wetland banks and selling credits in what, until recently, has been a private banking market.

The significant majority of wetland banks on account with BWSR that sell to private buyers are owned by private wetland bankers. These bankers are entrepreneurs who invest a significant amount of time and money in their projects, while encumbering their land with a perpetual easement that prevents the property from generating future revenue. Private bankers are responsible for the purchase costs of their property, they personally bear all design and construction costs, and are subject to an application process which government agencies have authority to approve or deny.

Recently, it has come to our attention that a new wetland bank is being established not only within Aitkin County, but by Aitkin County. We have two main concerns regarding this bank, as well as the already established Aitkin County Highway Department Bank #1485, Lake of the Woods County Bank #1498, and a handful of other publically held banks.

Our first main concern is that our private sector companies are competing with public entities. Establishing publically owned banks on public lands owned or purchased with public funds, and using government staff or funds to pay for project development costs creates an unfair competitive environment. Government banks don't incur the same expenses as private banks and therefore they are able to charge below true market value.

Our second main concern is an obvious, inherent conflict of interest. In the case of the proposed Aitkin County bank, Aitkin County itself will serve as their own Local Government Unit (LGU) and will authorize their very own plan applications and deposits, with no requirement of public notification. Not only this, but as the LGU is very often the first to be notified of a potential new impact, there is ample opportunity for these LGUs to pressure a credit buyer to purchase from their banks, or even potentially unduly require it. Even if an impact applicant is not directly influenced to buy an LGU's credits, they could feel that doing so will make the LGU more likely to approve their project.

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Private bankers make their business decisions after considering financial factors, state and federal rules, and are willing to compete with other accounts subject to the same rules and costs. When public entities establish a wetland bank they are at a distinct financial and procedural advantage over private bankers, especially when the bank is on tax forfeit property as is the case with the new Aitkin County bank. Further stacking the deck against them, private bankers are forced to seek approval for their project or deposit from a competing account holder.

We ask that you stop the practice of government wetland banks being allowed to compete on the open market with private accounts, beginning with the new Aitkin County bank. We can think of no other examples where government agencies are allowed to approve their own projects and sell commodities within an open market in direct competition with private businesses.

This letter is not expressing concern with counties establishing accounts for their own use in road project mitigation or other public projects however allowing a public entity to compete in the private marketplace sets a precedent that could undermine wetland banking in Minnesota as we know it.

Since 1955 the federal government has had a policy that prevents them from starting or carrying on any commercial activity that provides a product or service that can be procured from private enterprises through ordinary business channels. In fact, the Minnesota Legislature recently took action to stop this practice when the State of Minnesota was competing with private nurseries, selling trees to the public.

We are asking that BWSR take the initiative and immediately stop the unfair practice of allowing government banks to directly compete with private enterprise.

Respectfully yours,

Eric Trelstad
Wetland Credit Agency, LLC

Account Owners:

Robert & Joan Burns, Account #1538
Lori & Dick Brink, Account #1443
Dale Jones, Account #146
Lee Perrault, Account #1427
Larry Jaycox, Account #1528
Tim & Mark Sorenson, Account #1541
Frank Jerkovich, Account #183

Terry & Melissa Dean, Account #1362
Dan Ruby, Account #1475
Brent & Jane Strand, Account #1523
John Erickson, Account #1266
Bruce Paakh, Account #1440
Ray Berger, Account #1320
Bruce Hasbargen, Account #1505

Cc:

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