Vulnerable Wetlands & Public Policy Working Group Meeting Summary
May 20, 2008. Missoula DNRC Conference Room.

Participants: Ethan Mace, DNRC, Missoula; Brianna Randall, Clark Fork Coalition, Missoula; Amy Chadwick; Watershed Consulting, Whitefish; Lynda Saul DEQ, Helena.

Lynda Saul chaired the Working Group meeting.

Commented that with peoples work load, interests, expertise, travel limitations, regional differences in issues etc. the Vulnerable Wetlands & Public Policy Working Group may function more like several ad hoc Working Groups each addressing 1-2 key issues important to gathered participants. Discussed DEQ's interest in identifying state issues that impede wetland protection for vulnerable wetlands and state public policy issues that affect wetlands as our initial work. The Working Group participants discussed the follow issues and identified next steps to address these issues:

Issue 1. Investigate created ponds and water availability.
The Bitterroot Valley Wetland Change Report (Kudray 2007) identified 921 new ponds of which less than 30% had a water right. Discussed the link between created ponds and the <35 gpm / 10 AF groundwater exemption. Impacts to natural wetlands from created ponds is often excavating a wet meadow or other existing wetland for created ponds and dewatering groundwater that recharges other natural wetlands. Missoula DNRC Regional Office processed 2,594 exempt well forms (form 602) from 2005-2007.
Next Steps
Create white paper (SD#6A)

- Increase in created ponds and effect on natural wetlands (Saul, Mace)
- Research means used to create ponds (Mace)
- Identify potential solutions (Randall)

Issue 2. Evaluate MDT mitigation wetland water rights bill draft request.
MDT has requested a 50 AF exemptions for water rights for CWA 404 required mitigation wetlands. Discussed water as a state resource with permit to other to use. Interested in ensuring the public trust for wetlands is being met and that the state should get some public benefit for people, wildlife for use of the public resource. Want to look at performance standards to ensure wetland functions and values are developed.
Next Steps (SD#6B, SD#7A)
Further issue research

- Discuss with MDT (Saul)
- Research performance standards w/ COE (Chadwick)
- Send bill draft to others (Randall)
- Review current MDT wetland mitigation monitoring reports (on web) (Chadwick)
- Internal review at DNRC, DEQ (Mace, Saul)

Issue 3. Provide input and assistance to DNRC as they investigate a strategy for establishing Administrative Rules for wetlands as a beneficial use.

Discussed DNRC draft proposal and pros and cons of the proposal. Concerned that voluntary wetland restoration is often most effective when the natural hydrology is restored and under normal circumstances natural hydrology does not have/need a water right. A better trigger for wetland water right may be a required CWA or other jurisdiction's mitigation. Often with mitigation the land is required to be permanently protected so regulating agency wants to ensure water is legally available as well since water is most limiting factor in wetland restoration in Montana.

Next Steps (SD#7A)

Develop problem statement and route (Mace)

Distribute ELI State Wetland Program Review (Saul)