



# Wetlands Program

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Kate Kirkpatrick  
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# Michigan's Resource Program

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- Since the mid-1970's, special resources that exist at the interface between land and water have been protected by Michigan's Resource Program.
- Protects public trust resources and the surface waters of the state.
- Administered by EGLE's Water Resources Division (WRD)





# Michigan's Section 404 Program

- Has served as a national model of natural resource protection and streamlining of state, federal, and local regulations for nearly 40 years.
- Michigan's Wetland Protection Act was written specifically to support state assumption of the federal Section 404 Program.
- More on this at a later session!
  - "Michigan's Section 404 Program"

**The Michigan Legislature clearly recognized the benefits of wetlands (functions and values) in legislative findings incorporated into Part 303.**

A loss of a wetland may deprive the people of the state of some or all of the following benefits to be derived from the wetland:

- Flood and storm control
- Wildlife habitat
- Protection of subsurface water resources and recharging ground water supplies
- Pollution treatment
- Erosion control
- Nursery grounds and sanctuaries for fish



# Loss of wetland benefits may have far reaching impacts

## ***Cumulative Impacts:***

Historic cumulative loss of wetlands within a watershed contribute to loss of flood storage, water quality and pollution treatment, streamflow maintenance, sediment retention, fish and wildlife habitat, shoreline stabilization, and other wetland functions.



## ***Climate Change:***

The effects of climate change in Michigan are most likely to result in more severe storm events, flashier streams, exacerbated flooding problems after storm events, increased fragmentation of fish and wildlife habitat, and more. Watersheds that have lost significant wetlands functions are not well suited to adapt to these changes, and protection and restoration of these functions are recommended as some primary climate change adaptation priorities.

## ***Environmental Justice:***

*Many urban communities have already lost 99 percent of their wetlands.*

## Benefits of Michigan's 404 Program

- ✓ Provides clear definitions for regulation
- ✓ Provides faster permit decisions
- ✓ Reduces regulatory burden through a consolidated state permit process and a joint permit application with the USACE
- ✓ Maintains state control while remaining consistent with federal regulations
- ✓ Local field staff provide direct interaction with applicants
- ✓ Provides a court-style formalized appeal process
- ✓ Provides a stable and predictable regulatory framework
- ✓ Effective resource protection



# Effective Resource Protection

- Michigan contained approximately 10.7 million acres of wetland prior to European settlement, but that number had dropped to about 6,506,044 acres in 1978
- Michigan has about 6,465,000 acres of wetland (2005 estimate)
- Since the passage of Michigan's wetland protection law in 1979, the rate of wetland loss has declined:
  - 1978 – 1998: 1,642 acres of loss per year
  - 1998 – 2005: 1,157 acres of loss per year



# Program Development



OUTREACH AND  
EDUCATION



IMPROVING  
INFORMATION



MP/GP CATEGORIES



## USEPA



“The combined, incremental effects of human activity, referred to as cumulative impacts, pose a serious threat to the environment. While they may be insignificant by themselves, cumulative impacts accumulate over time, from one or more sources, and can result in the degradation of important resources.”

# Cumulative Impacts

- Cumulative impacts continue to be an issue.
- Loss of wetland function and quality due to conversion, fragmentation, stormwater, invasive species, and other secondary impacts.
- Continued loss of wetland acreage and certain kinds of wetlands that provide important functions, such as flood storage and groundwater recharge.

# Loss of wetland functions and values may have far reaching impacts

## *Environmental Justice*

Environmental Justice communities may be disproportionately impacted by environmental hazards, including higher pollution burden and vulnerability. This can exacerbate the cumulative impacts of wetland losses within these communities.

## *Justice40*

President Biden mandates that at least 40% of the benefits of certain federal programs must flow to disadvantaged communities.



# What is a Feasible and Prudent Alternative?

**R 281.922a (6):** An alternative is feasible and prudent if both of the following provisions apply:

(a) The alternative is available and capable of being done after taking into consideration cost, existing technology, and logistics.

(b) The alternative would have less adverse impact on aquatic resources. A feasible and prudent alternative may include any or all of the following:

(i) Use of a location other than the proposed location.

(ii) A different configuration.

(iii) Size.

(iv) Method that will accomplish the basic project purpose.

## Single and Complete Project (Piecemealing)

Piecemealing: when a project is broken up into smaller/separate pieces, resulting in avoidance of full regulatory oversight, processes, mitigation, or consideration of alternatives.

*Section 30306(2): “a proposed use or development of a wetland shall be covered by a single permit application under this part if the scope, extent, and purpose of a use or development are made known at the time of the application for the permit.”*

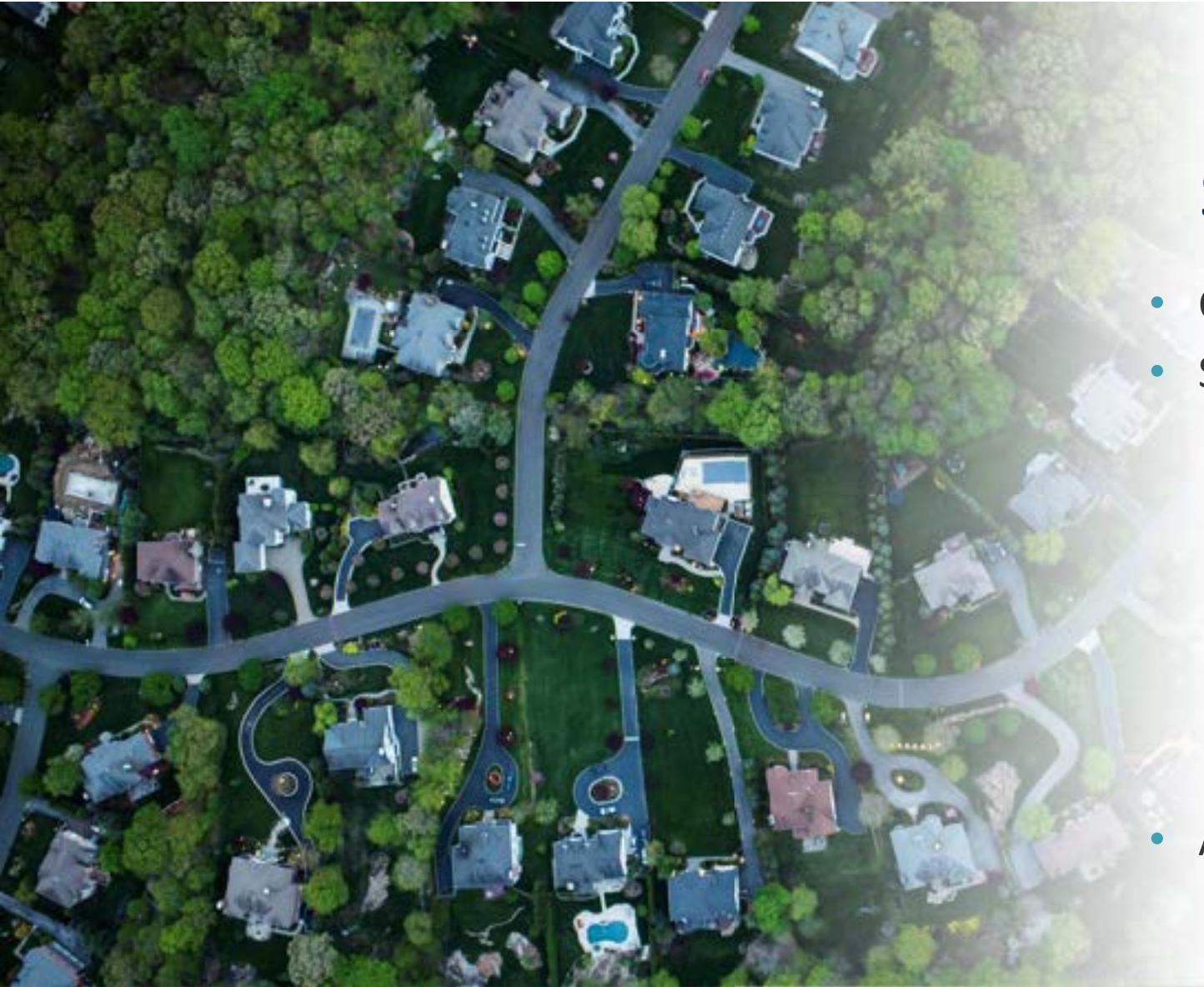
*Section 30311(2) Public Interest Considerations, includes:*

*(d) the probable effects of each proposal in relation to the cumulative effects created by other existing and anticipated activities in the watershed must be considered in the application review.*

The project to be reviewed by EGLE should be a single and complete project and include the cumulative total of impacts for review (i.e., projects cannot be piecemealed to avoid simultaneous review of all impacts, avoid red-filing, avoid impact thresholds for mitigation, etc.).

# Speculative Development

- End users not identified
  - Unable to properly evaluate feasible and prudent alternatives
    - Purpose/scope too narrowly defined;
    - Applicant is unable to confirm whether lesser footprints can achieve project purpose;
- Available upland being "held" for future, unconfirmed development
- Planned Unit Developments (PUDs)



## Subdivisions

- Cumulative impacts
- Secondary impacts
  - Stormwater management
  - Wetland impact amounts within parcel
    - Depends on size of lot, location of wetland, etc.
- All wetland lots

# Megasites

- Coordination with EPA, USFWS, utilities, MEDC, WLSU, etc.
- Pre-application meetings
- Avoidance and minimization
  - Onsite and offsite alternatives
  - Stormwater BMPs, green infrastructure
- Avoid phasing/piecemealing projects
  - Submit complete applications with delineations of entire site



# Wetland Delineations

- Complete applications
  - USACE manual, regional supplements, data sheets
  - Must be completed or verified during growing season
- Farmed Wetlands
  - Must be delineated
  - Regulated and require a permit if the project is not farming related
  - Mitigation over 1/3 ac of impact



# Outreach

Specific stakeholders

Wetland professionals

Local Governments

# Utilities

- Meetings with ITC, Consumers, DTE, etc.
  - Route Feasibility Studies
  - Specific project and processing concerns
  - Upcoming projects
- Early coordination with EGLE, USEPA and USFWS
  - Pre-application meetings



# County Drains



LETTERS OF COMMITMENT  
BETWEEN EGLE AND MACDC



PRE-APPLICATION MEETINGS



DISTRICT MEETINGS, CONFERENCE  
PRESENCE

# WRD Letter of Commitment

It is the intent of the WRD to continue our past initiative of collaboration through the following commitments:

1. Provide technical training to EGLE staff and MACDC members, as well as training on authorities provided by the Michigan Drain Code and by the state and federal environmental regulations and how both parties can work together.
2. Identify technical issues that commonly occur and cause conflict between EGLE staff and drain commissioners and find mutually agreeable paths forward available for use by EGLE staff and drain commissioners.
3. EGLE will continue to invest in staff training to improve consistency and efficiencies in permit processing and increase staff retention.
4. EGLE will work with the MACDC to find and provide opportunities for EGLE staff and MACDC members to develop relationships (e.g., trainings, district meetings, etc.).
5. EGLE will continue to identify and provide contacts to facilitate good communication and cooperation. For the WRD, these are Kate Kirkpatrick, EGLE Drain Commissioner Liaison, Wetlands, Lakes, and Streams Unit, WRD; and Amy Lounds, Manager, Field Operations Support Section, WRD.
6. EGLE will work with the MACDC to discuss and address issues related to permit applications and correction requests in an effort to minimize the number of correction requests and the timing of response from both parties.

# Partners in Outreach & Education

01



## Michigan Wetlands Association

- Jurisdictional training
- GIS
- Feasible and Prudent Alternatives

02



## Stewardship Network

- Mitigation, Easements, Preservation, etc.
- Rare and Imperiled Wetlands
- Local Government Workshops

## ***Local Governments: Outreach and Education***



Local governments well suited to integrate local resource protection into land use decisions and site planning.  
Local level knowledge and support.

# Benefits of Wetland Protection at the Local Level

Benefits wetlands by  
filling gaps in state  
and federal law and  
increasing support

Benefits applicants  
by addressing  
wetlands early in  
project

Benefits community  
by enhancing  
wetland protection

# Vernal Pools

- Isolated wetlands provide valuable functions.
- Isolated wetlands become more important for habitat and flood storage as area develops.
- The 5-acre standard in Part 303 was a political compromise not based on function.
- Local governments well suited to protect isolated wetlands.
  - Important vernal pools may not be regulated under state and federal law.
- Can use the model wetland ordinance, but encouraged to protect wetlands less than 2 acres in size.

# Recent Outreach Efforts

- Webinars
  - TSN x EGLE Wetland Protection series
  - MWA/EGLE series
- Hiring additional EGLE staff
- Staff Training
- Improved MiEnviro Documents Publication
- More coordination on big or complex project reviews
- Non-Regulatory
  - Wetland monitoring around the state; NWCA
  - Partnering on tools and BMPs
    - Herp HAT, MI Herp Atlas
- GIS and Technology
  - Improvements to WMV, LiDAR, improved GPS data collection, Survey123 apps, etc.

A landscape photograph showing a stream flowing through a lush green meadow. The stream is in the foreground, winding through tall grasses. The meadow is filled with various green plants and grasses. In the background, there is a dense forest of evergreen trees, likely spruce or fir, under a cloudy sky. The overall scene is a natural, serene environment.

***Questions?***